

IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-VI

CP (IB) No.1277/MB/2022

[Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016]

IN THE MATTER OF

GAUDER & CO. S.A.

[ENTERPRISE NO.:0416.481.574]

Registered Office: Quai des Venues
18-2-,4020 Liège
Belgium.

...Operational Creditor

Vs.

ISINOX LIMITED

[CIN:U27100MH1990PLC057523]

Registered Office: Office Nos. 301 and 304
3rd Floor, A Wing, Naman Midtown
Off SB Marg, Elphinstone Road
Mumbai-400013
Maharashtra.

...Corporate Debtor

Pronounced:18.07.2024

CORAM:

HON'BLE SHRI K. R. SAJI KUMAR, MEMBER (JUDICIAL)

HON'BLE SHRI SANJIV DUTT, MEMBER (TECHNICAL)

Appearances : Hybrid

Operational Creditor: Adv. Vinodini Srinivasan.

Corporate Debtor: Adv. Sushant Kareer.

ORDER***[Per: SANJIV DUTT, MEMBER (TECHNICAL)]*****1. BACKGROUND**

- 1.1 This Application bearing C.P.(IB) No.1277/MB/2022 was filed by Gauder & Co. S. A., the Operational Creditor on 30.08.2022 under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 through its CEO, Mr. Thierry Collard for initiating Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) in respect of Isinox Limited, the Corporate Debtor.
- 1.2 The Operational Creditor is a limited company incorporated under Belgian law. A foreign entity named Gaudery Immo S.A. entered into a Contract dated 04.11.2015 (as amended by Amendment No.1 dated 29.02.2016) with the Corporate Debtor for supply of certain equipment for cable manufacturing. Accordingly, a Schumag Peeling Machine was sold and delivered to the Corporate Debtor and invoice was raised on the Corporate Debtor on 24.11.2015. The Corporate Debtor was required to make payments on deferred basis in various installments. The Corporate Debtor made initial payments and committed defaults to the extent of principal amount of EUR 142,045.86 from 28.02.2019 excluding interest.
- 1.3 By a transfer agreement dated 30.11.2020, Gaudery Immo S.A. transferred all its rights and obligations under the Contract dated 04.11.2015 in favour of the Operational Creditor and informed the Corporate Debtor of such transfer *vide*

letter dated 22.11.2020. Thus, the Operational Creditor became entitled to receive amounts from the Corporate Debtor under the Contract. An amount of EUR 1,99,046.37 (which amounts to Rs.1,59,23,680/-) together with further interest @1% per month fell due from the Corporate Debtor to the Operational Creditor on 01.06.2022 but the same was not paid. The said amount is based on four half-yearly installments remaining unpaid by the Corporate Debtor during the period from 28.02.2019 to 31.08.2020. The date of default as mentioned in Part-IV of the Application is 28.02.2019 i.e., the date on which seventh installment fell due as per the Contract.

- 1.4 Subsequently, the Operational Creditor issued Demand Notice dated 08.06.2022 to the Corporate Debtor, as required under Section 8 of the Code seeking payment of outstanding operational debt within 10 days of receipt of the notice. As the Corporate Debtor failed to make payment of the aforementioned operational debt due and payable to the Operational Creditor even after the receipt of the said notice, the latter has preferred the present Application seeking the commencement of CIRP in respect of the Corporate Debtor.

2. AVERMENTS OF OPERATIONAL CREDITOR

- 2.1 As per Clauses I and II of the Contract dated 04.11.2015, the total value of the contract amounts to EUR 400,000. It was agreed that 15% of the amount would be paid in advance with the remaining 85% to be financed over 5 years in 6-month (half yearly) installments, as specified in Clause V of the Contract. This totalled EUR 373,237 to be paid in 10 half-yearly installments starting from 29.02.2016 and concluding on 31.08.2020. A contractual interest rate of 1% per month was also agreed upon for delayed payments.

- 2.2 Pursuant to the Contract, an invoice dated 24.11.2015 was raised on the Corporate Debtor and on 03.12.2015, the machinery as promised was delivered to the Corporate Debtor by Gauder Immo S.A., the original supplier. The Corporate Debtor duly received and accepted the Machine and the said invoice without any protest or demur.
- 2.3 On 29.02.2016, the Contract terms were amended, reducing the total payment amount from EUR 373,237 to EUR 370,110.31. The Corporate Debtor made payments for six installments up to 31.08.2018. However, no payments were received after 28.02.2019, despite reminders sent by Gauder Immo S.A.
- 2.4 The original supplier, Gauder Immo S.A. sent a written reminder to the Corporate Debtor for payment of EUR 36,393.22 due on 28.02.2019. In response, the Corporate Debtor neither denied nor disputed the payment in any manner. Instead, by e-mail dated 13.03.2019, the Corporate Debtor admitted that "it would revert on the date of payment". Again, the default was admitted by the Corporate Debtor on 17.03.2019. Thus, the debt and the default have been admitted.
- 2.5 By a transfer agreement dated 30.11.2020, Gauder Immo S.A. transferred all its rights and obligation under the Contract in favour of the Operational Creditor and also informed the Corporate Debtor *vide* letter dated 22.12.2020.
- 2.6 Thereafter, several other reminders were sent to the Corporate Debtor in which the Corporate Debtor again admitted the debt and default. Consequently, a Demand Notice dated 08.06.2022 as required under Section 8 of the Code was served upon the Corporate Debtor. In response to the statutory notice, the Corporate Debtor *vide* letter dated 11.07.2022 for the first time as an

- afterthought claimed that the entire amount had been paid to the Operational Creditor. The Operational Creditor by its Advocates' letter dated 05.08.2022 rebutted the said claim and asserted that no part of the payment demanded in the statutory notice had been received from the Corporate Debtor.
- 2.7 In its Written Submissions, the Operational Creditor has rebutted the various objections raised by the Corporate Debtor. It is submitted that the Application has been duly signed by Mr. Thierry Collard, the sole director of the Operational Creditor and is supported by a resolution authorizing him to act on behalf of the Operational Creditor. This resolution has been signed and ratified by the sole shareholder of the Operational Creditor, i.e., GSP Holding. Further, under Belgian Law, a company is allowed to nominate a "permanent representative" for legal affairs which is communicated through the Official Commercial Register. The Operational Creditor has placed on record copy of the said Official Commercial Register in French language along with its English translation showing Mr. Thierry Collard as its permanent representative. Thus, it is submitted that Mr. Thierry Collard is sufficiently authorized to file the Application.
- 2.8 As regards the Corporate Debtor's claim that it is already under CIRP, the Operational Creditor points out that this is not the correct position, as evidenced by the absence of representation by a Resolution Professional in the proceedings and the Corporate Debtor's repeated commitments to make payments of outstanding dues. The judgment of Hon'ble NCLAT cited by the Corporate Debtor in this regard actually supports the case of the Operational Creditor.

- 2.9 On the issue of Corporate Debtor's claim of payment being a "legal impossibility" due to pending RBI permission, the Operational Creditor submits that the Corporate Debtor cannot use this as an excuse for its own default. The Corporate Debtor, being an Indian entity, was aware of the legal requirements for payment to a foreign entity and had made foreign remittances in the past between 2016 and 2019. Any failure to comply with these requirements is attributed to the Corporate Debtor's own dishonest conduct and dilatory tactics. It is settled law that where an event is frustrated by a party's own conduct, such a party cannot take the defence of alleged "impossibility" [***Ganga Saran Vs. Ram Charan Ram Gopal 1951 SCC 1053***].
- 2.10 The Application cannot be said to be not maintainable under the Code due to the existence of an arbitration clause in the Contract. The Hon'ble NCLAT vide its judgment dated 14.02.2022 has ruled in ***Hasan Shafiq Vs. CT-Technologies ApS*** [CA (AT)(Ins.) No.802 of 2020] that an Application under Section 9 of the Code remains maintainable despite there being an arbitration clause in a contract.
- 2.11 There is no dispute that the Corporate Debtor owes money to the Operational Creditor. The defences raised by the Corporate Debtor are dishonest and deserve rejection. Therefore, the instant Application deserves to be admitted.

3. CONTENTIONS OF CORPORATE DEBTOR

The Corporate Debtor *vide* its Affidavit-in-Reply dated 30.10.2023 outrightly denied the debt as claimed by the Operational Creditor and raised the following contentions:-

- 3.1 The Corporate Debtor is already admitted under CIRP *vide* order of co-ordinate Bench (Court-IV) of NCLT, Mumbai dated 17.03.2023 in CP (IB) No.216/MB/C-IV/2022 and interim moratorium had already commenced. Although an appeal was filed before Hon'ble NCLAT which *vide* its order dated 11.04.2023 granted a stay on the CIRP proceedings, it is argued that there cannot be two simultaneous CIRP proceedings against a single corporate debtor. It is thus submitted that the matter may be stayed till a final decision is arrived at before the Hon'ble NCLAT. Reference is made to the judgment of Hon'ble NCLAT dated 21.11.2022 in the matter of ***Ashok Kumar Tyagi Vs. UCO Bank & Anr. [2022 SCC OnLine NCLAT 4588]*** and it is submitted that on stay of an admission order of CIRP, the corporate debtor is not put back in the same position as it was before the passing of the CIRP order. Even if there is a stay, the Resolution Professional is not completely out of the picture and as such another CIRP ought not to be initiated in the present matter.
- 3.2 The amount claimed is barred by the Law of Limitation, as the demand raised by the Operational Creditor pertains to the year 2019, with the date of default being 28.02.2019, as specifically mentioned in the present Application. Further, the Operational Creditor cannot take advantage of the extension of the limitation period allowed by the Hon'ble Supreme Court in its suo motu order during the pandemic, since the alleged default occurred in February, 2019 much before the pandemic. The intention of the Code is not to give a new lease of life to time-barred debts.
- 3.3 Appendix 2 to the Contract clearly mentions that all disputes between the parties should be referred to arbitration according to the conciliation and arbitration

rules applied by CEPANI (Belgian Center for Arbitration and Mediation). The jurisdiction clause of the Contract specifically states that the said Contract would be subject to the jurisdiction of Belgium and accordingly the present Application is invalid. Thus, the Notice issued under Section 8 of the Code does not hold water.

- 3.4 In its Written Submissions, the Corporate Debtor submits that it entered into Consent Terms with the Operational Creditor on 30.10.2023, agreeing to make payment of outstanding operational debt in three installments starting from 05.11.2023 and ending on 05.01.2024. It claims to have made genuine efforts to seek RBI approval for making foreign remittance to the Operational Creditor but had not received it so far. The Corporate Debtor expresses willingness to make the payment but requests for time to obtain RBI approval. Alternatively, it suggests that the Operational Creditor may share details of an Indian entity/group company of Operational Creditor so as to enable the Corporate Debtor to make payments as per the Consent terms.
- 3.5 At the time of hearing, the Learned Counsel for the Corporate Debtor placed reliance on the judgment of Hon'ble Supreme Court in ***State Bank of Travancore Vs. Kingston Computers India Private Limited [(2011) 11 SCC 524]*** and contended that in the absence of resolution by Board of Directors of the Company delegating authority to file Application under the Code on its behalf, such Application filed by the person not duly authorised by the Company is not maintainable.

4. ANALYSIS AND FINDINGS

- 4.1 Upon due consideration of the pleadings along with the materials available on record and hearing the Ld. Counsel for the Operational Creditor and the Corporate Debtor, our findings in the matter are as under:-
- 4.2 The first point for determination is whether the present Application has been filed by a person duly authorised by the Operational Creditor. In this connection, it is observed that the Application in Form-5 has been signed by one Mr. Thierry Collard in his capacity as CEO of the Operational Creditor. Annexed to the Application is copy of the extract from the official records of Registered Entity Data of the Belgian Chamber of Commerce showing Mr. Thierry Collard as permanent representative of the Operational Creditor which is a foreign/Belgian entity. It is submitted that under Belgian law, a Company is permitted to nominate a “permanent representative” to represent it in all its legal affairs. The Operational Creditor has provided evidence that Mr. Thierry Collard, the sole director of the Operational Creditor, is authorised to act as the permanent representative, as per the official commercial register called “Banque Carrefour des Enterprise” (akin to Master Data maintained by the MCA in India). While the Corporate Debtor contends that a Board Resolution must authorise Mr. Thierry Collard in this behalf, the Operational Creditor submits that such a rule cannot be applied in its case as the Operational Creditor has only one director i.e., Mr. Thierry Collard. It is seen from the record that the Operational Creditor has furnished a Board Resolution dated 11.01.2024 authorising Mr. Thierry Collard to act on behalf of the company, *inter alia*, in relation to proceedings against the Corporate Debtor under the provisions of the Code. It is noticed from perusal of the said Resolution that all acts done in the past by Mr.

Thierry Collard with respect to the Corporate Debtor have been ratified by the sole shareholder of the Operational Creditor i.e., GSP Holding. Therefore, the present Application is deemed to have been filed with the requisite authority.

- 4.3 The next point for adjudication is whether the instant Application is barred by the law of limitation, as vehemently contended by the Corporate Debtor. It is seen from the record that the Operational Creditor in Part-IV of the Application has mentioned the first date of default as 28.02.2019 when the seventh installment of outstanding debt under the Contract fell due and payable but the same was not paid by the Corporate Debtor. It is also noticed that the Corporate Debtor committed default in payment of the remaining three installments falling due on 31.08.2019, 29.02.2020 and 31.08.2020 indicating continuous defaults by the Corporate Debtor. We find that the present Application was filed by the Operational Creditor on 30.08.2022 i.e., after expiry of more than three years from the said date of default. However, it is noticed from the record that the Operational Creditor has annexed to the Application certain emails exchanged with the Corporate Debtor reminding the latter about overdue payments and seeking clearance of outstanding dues. In this connection, the Operational Creditor has invited attention specifically to an email dated 10.04.2019, which was sent by the Operational Creditor to the Corporate Debtor as a reminder of non-payment of seventh installment since 28.02.2019, and which also called upon the Corporate Debtor for immediate settlement of the outstanding dues. In response to this reminder, the Corporate Debtor through its email on 17.04.2019 replied as under:-

“Noted your email. Due to some exigencies, there is delay in the payment. We would arrange the payment.. by 10th May 2019. Regret the inconvenience.”

- 4.5 A careful perusal of the aforementioned email dated 17.04.2019 reveals that the Corporate Debtor not only acknowledged receipt of the email dated 10.04.2019 from the Operational Creditor but also admitted delay in payment and provided assurance to the Operational Creditor to clear the outstanding dues within a specified time. In other words, the Corporate Debtor admitted the outstanding amount that was due and payable to the Operational Creditor as on 28.02.2019 and promised to arrange for its payment by 10.05.2019. It is settled law that once a jural relationship of debtor and creditor is expressed in a written communication within the three-year period prescribed for recovering debts under the Limitation Act, 1963, it can be treated as an acknowledgment of debt under Section 18 of the Limitation Act and a fresh period of limitation will start from the date of the acknowledgement. It is also well-established that acknowledgment of debt by way of letters and e-mails will also fall within acknowledgment of debt under Section 18 of the Limitation Act, 1963. Reference is made in this regard to the judgment of the Hon'ble NCLAT in ***M. M. Ramachandran Vs. South Indian Bank Ltd & Ors.*** in CA (AT)(Ins.) No.1509 of 2019 which was upheld by the Hon'ble Supreme Court. Hence, in the present matter, the email dated 17.04.2019 constitutes an acknowledgment of the debt under Section 18 of the Limitation Act, 1963 read with Explanation thereto and, therefore, a new period of limitation will commence from 17.04.2019.

4.6 Thus taking into account the acknowledgment of debt vide e-mail on 17.04.2019, it is evident that a new limitation period commenced which lasted until 17.04.2022. It is noted that the time limit from commencement of the fresh limitation period on 17.04.2019 till its expiration on 17.04.2022 in present case includes the COVID-19 period. Therefore, the Operational Creditor will be entitled to the benefit of the order of Hon'ble Supreme Court dated 10.01.2022 passed in **M.A. No.21 of 2022 in M.A. No. 665 of 2021 in Suo Motu Civil Writ Petition No.03/2020** relevant extract of which is reproduced below:-

- I. *“.it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded from the period of limitation prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.*
- II. *As a result, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022...”.*

The effect of the above-referred order of the Hon'ble Apex Court in the facts of the present case is that the balance period of limitation remaining as on 03.10.2021 would become available w.e.f. 01.03.2022. The balance period of limitation remaining on 03.10.2021 can be calculated by computing the number of days between 03.10.2021 and 17.04.2022 which is the day when the limitation period would have come to an end under ordinary circumstances. The balance period thus comes to 196 days which becomes available to the Operational Creditor from 01.03.2022, thereby providing an extended period for filing the Application until 12.09.2022. The present Application filed on 30.08.2022, thus, falls well within this

- extended limitation period and, accordingly, the plea raised by the Corporate Debtor on this count is found to be untenable and is hence dismissed.
- 4.7 Coming now to the merits of the present case, the next issue for consideration is whether the Operational Creditor has been able to establish the existence of operational debt along with the occurrence of default on part of the Corporate Debtor. Upon careful perusal of the record, we find that the Operational Creditor has annexed to the Application necessary documentary evidences in order to prove the existence of operational debt as well as default in payment thereof viz., e-mail dated 24.04.2014; containing detailed commercial offer for supply of machines; Contract for supply of machinery dated 04.11.2015 executed between the parties; Invoice dated 24.11.2015 evidencing supply of machine; Final Acceptance Protocol dated 03.12.2015 showing acceptance of the machine by the Corporate Debtor; Amendment to Contract dated 29.02.2016 modifying the existing terms of payment; E-mails dated 13.03.2019 and 17.04.2019 with trailing e-mails by way of reminders for release of payment; Transfer of Contract Agreement dated 30.11.2020 transferring all rights and obligations related to the original Contract to the Operational Creditor; Demand Notice dated 08.06.2022 issued by the Operational Creditor to the Corporate Debtor demanding payment of the unpaid operational debt; reply thereto received from the Corporate Debtor *vide* letter dated 11.07.2022 denying its liability; and letter dated 05.08.2022 issued by the Operational Creditor to the Corporate Debtor in rebuttal of the alleged 'false' claims made by the latter in its reply.
- 4.8 There can be no doubt that the amount of debt claimed by the Operational Creditor in Part-IV of the Application in terms of the contract for supply of machinery to the

Corporate Debtor represents “operational debt” within the meaning of Section 5(21) of the Code. It is noticed from the record that as per the agreed terms of payment under the Contract, down payment was to be made of only 15% of the price of the machinery and the remaining 85% price was payable in 10 half-yearly instalments along with interest starting from 29.02.2016 and ending on 31.08.2020. It is an undisputed fact that the Corporate Debtor paid six installments as agreed until 31.08.2018 but defaulted in payment of subsequent installments from 28.02.2019 onwards. It is observed that in Part-IV of the Application, the Operational Creditor has claimed the total amount of debt in default at Euro 199,046.37 (equivalent to Rs.1,59,23,680/-) along with interest in terms of the contract. In other words, the Corporate Debtor is found to be in default of payment of operational debt owed to the Operational Creditor exceeding the pecuniary threshold of one crore rupees under Section 4 of the Code.

- 4.9 For an application to succeed under Section 9 of the Code, another relevant issue for examination is whether the claim of unpaid operational debt is marred by any pre-existing dispute between the parties. It is noticed from the record that the statutory Demand Notice was issued to the Corporate Debtor on 08.06.2022 and the Corporate Debtor in reply to the notice vide letter dated 11.07.2022 contended that every penny had already been paid. However, it is pertinent to note that the Corporate Debtor failed to provide any concrete details or credible proof of payments to substantiate the claim that the outstanding operational debt owed to the Operational Creditor had been paid in full. Moreover, it is also noticed from the record that the parties entered into a settlement agreement/ Consent Terms dated 30.10.2023 for payment of outstanding debt of Euro 1,99,046.37 to the Operational

Creditor in three monthly instalments between 05.11.2023 and 05.01.2024 which clearly indicates the Corporate Debtor's acknowledgement of debt and admission of liability, notwithstanding the fact the Corporate Debtor failed to make payment of the very first monthly instalment due on 05.11.2023. Thus, it clearly emerges that the operational debt in question is an undisputed and admitted debt and the claim made in reply to the demand Notice by the Corporate Debtor of having paid every penny to the Operational Creditor was only a bald and hollow assertion of fact unsupported by any evidences on record. It was nothing more than a spurious defence which was mere bluster. This is also borne out from perusal of the affidavit of the Operational Creditor under Section 9(3)(b) of the Code annexed to the Application.

4.10 The existence of debt and default having been proved and the Corporate Debtor failing to show even an iota of pre-existing dispute in this regard, the Corporate Debtor's professed inability to obtain RBI permission for making the required remittance of payment to the Operational Creditor in regard to the outstanding debt is of no consequence. The Corporate Debtor having already made payments of six out of ten installments of the operational debt owed to the Operational Creditor between 2016 and 2019, cannot now plead ignorance of "procedures to be followed for foreign remittance". Thus, being well aware of the legal requirements for several years, the Corporate Debtor cannot set it up as an excuse for its own default. We find that it was the Corporate Debtor's own failure to obtain permission in time that has resulted in the present default. We also find that the Operational Creditor has rightly relied on the judgment of Hon'ble Supreme Court in **Ganga Saran** (supra) wherein it was held that the doctrine of frustration cannot avail a

- defendant when the non-performance of a contract is attributable to his own default.
- 4.11 As regards the plea that multiple CIRP proceedings cannot proceed against a single corporate debtor, it is found that the appeal filed by the Corporate Debtor in instant case is pending with the Hon'ble NCLAT against the order of this Tribunal admitting it under CIRP and it is not represented by any RP. Therefore, its contention that the Corporate Debtor is already under CIRP cannot be accepted.
- 4.12 As regards the maintainability of present Application under Section 9 of the Code in view of the arbitration clause in the contract between the parties, it is now settled that presence of an arbitration clause in an agreement does not bar an operational creditor from filing an application under Section 9 of the Code. There is no embargo on the Operational Creditor to file a Section 9 Application under the Code even if there is an arbitration clause under the agreement. Therefore, the contention regarding the availability of an arbitration clause in the contract and the parties' obligation to refer their dispute arbitration is dismissed based on legal precedents, such as ***Hasan Shafiq v. CT Technologies [Company Appeal (AT) (Insolvency) No.802 of 2020]***.
- 4.13 From the above discussions, it is evident that there was a default on the part of the Corporate Debtor in the payment of undisputed operational debt to the Operational Creditor exceeding Rupees One Crore, being the threshold monetary limit under Section 4 of the Code prevailing on the date of the present Application. The Application is complete in all respects and has been filed in the prescribed form. There is no payment of the unpaid operational debt. The statutory Demand Notice dated 08.06.2022 was duly delivered by the Operational Creditor to the Corporate

Debtor. No notice of a real or genuine dispute has been received by the Operational Creditor. In view of the above position, we find that the matter is fit for admission under Section 9(5)(i) of the Code.

4.14 The Operational Creditor has not proposed the name of any interim resolution professional (IRP) in Part-III of the Application and has instead, left it to the Adjudicating Authority to appoint an IRP. Accordingly, an IRP from the panel approved by the IBBI is being appointed.

ORDER

In view of the aforesaid findings, this Application bearing C.P.(IB) No.1277/MB/2022 filed under Section 9 of the Code by Gauder & Co.S.A., the Operational Creditor, for initiating CIRP in respect of Isinox Limited, the Corporate Debtor is **admitted**.

We further declare moratorium under Section 14 of Code with consequential directions as follows:

- 1 We prohibit-
 - a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - b) transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - c) any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including

- any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- 2** That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- 3** That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the Code or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.
- 4** That the public announcement of the CIRP shall be made in immediately as specified under Section 13 of the Code read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.
- 5** That this Bench hereby appoints **Ms. Gauri Pankaj Deshpande, a registered Insolvency Professional having Registration Number IBBI/IPA-001/IP-P-02865/2024-2025/14414 and e-mail address gpdeshpandeca@gmail.com** having valid Authorisation for Assignment up to 30.06.2025 as the IRP to carry out the functions under the Code.

- 6** That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.
- 7** That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the Code. The officers and managers of the Corporate Debtor are directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. They shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP within a period of one week from the date of receipt of this Order and shall not commit any offence punishable under Chapter VII of Part II of the Code. Coercive steps will follow against them under the provisions of the Code read with Rule 11 of the NCLT Rules for any violation of law.
- 8** That the IRP/IP shall submit to this Tribunal periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.
- 9** In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Operational Creditor is directed to deposit a sum of Rs.5,00,000/- (Five Lakh Rupees) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Operational Creditor on priority upon the funds available with IRP/RP from the Committee of

Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.

- 10 A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai for updating the Master Data of the Corporate Debtor.
- 11 A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.
- 12 The Registry is directed to immediately communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.
- 13 **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-

**SANJIV DUTT
MEMBER (TECHNICAL)**

//deepa/JNK//

Sd/-

**K. R. SAJI KUMAR
MEMBER (JUDICIAL)**