



VAS INFRASTRUCTURE LTD.

CIN NO : L65100MH1994PLC076538

Regd. Office: Madhav Niwas CHSL, Flat No.B-1B, 1st floor, Natakwala Lane, Opp S.V.Rd,

Borivali (W), Mumbai - 400 092. Tel. : 022-2899 3092 / 0841 Fax : +91-22-2899 7806

Email : cs@vasinfrastructureltd.com # Website : www.vasinfrastructureltd.com

REF.NO:VAS/BOMSTOCK/2024

March 11, 2024

The Listing Manager
Bombay Stock Exchange Ltd,
Phiroze Jeejeebhoy Towers,
Dalal Street,
Mumbai -400 001

Dear Sir,

Sub: Intimation under Section 30 of SEBI (LODR) 2016, for commencement of
Corporate Insolvency Resolution Process (CIRP) against our Company vide
NCLT Order dated 11.03.2024 , in C.P. (IB) 314/MB/2023

Ref : Company No. 531574

We have to inform you that, pursuant to Regulation 30 SEBI (Listing Obligation and Disclosure Requirements) 2015, the Corporate Insolvency Resolution Process is initiated against Vas Infrastructure Ltd. vide Order of the NCLT Mumbai dated 11.03.2024 (Order received under email dated 11.03.2024) in C.P. (IB) 314/MB/2023 filed by Canara Bank under Section 7 of the "Insolvency and Bankruptcy Code 2016".

In terms of the said order, the Hon'ble NCLT has appointed Mr. Ashok Kumar Golechha, as Interim Resolution Professional, Registration No.IBBI/IPA-002/IP-N000932/2019-2020/12973 to carry out the responsibilities as set out under Code and the Regulation made thereunder.

Copy of the NCLT Order dated 11.03.2024 is attached for your information and record.

Please arrange to upload on our website.

Thanking you,

Yours faithfully,
For VAS INFRASTRUCTURE LIMITED


(HK BIJLANI)

AUTHORIZED SIGNATORY
(FCS-3893)



cc shri Ashok Golechha - IRP



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II**

CP (IB) 314/MB/2023

Under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of

Canara Bank, having its Head Office at: -
112, Jayachamarajendra Road, Bangalore-
560002 and Having its Branch Office at
Maker Tower F, Second Floor, Cuffe Parade,
Colaba, Mumbai-400005.

**..... Applicant/ Financial
Creditor**

Versus

VAS Infrastructure Limited,
Having its Registered Office at:
Jwala Estate, Ground Floor, Plot No. 757
and 758, Near Kora Kendra, Off. S.V. Road
Borivali West, Mumbai-400092.

..... Corporate Debtor

Order Delivered on :- 11.03.2024.



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT-II

CP(IB) No. 314/MB/MAH/2023

Coram:

Mr. Anil Raj Chellan
Member (Technical)

Mr. Kuldip Kumar Kareer
Member (Judicial)

Appearances (Hearing in Physical Mode):

For the Financial Creditor: Counsel Mr. Mahesh H. Chandanshiv and Shri.
S. Anil Kumar Nair, Dy. General Manager.

For the Corporate Debtor: Counsel Shri. Nausher Kohli a/w Ashwini Gawde
and Nashka Siddiqui i/b ASR & Associates.

ORDER

Per: - Kuldip Kumar Kareer, Member (Judicial)

1. This is an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called "Code") read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 filed by **Canara Bank** (hereinafter referred to as "Financial Creditor") seeking initiation of Corporate Insolvency Resolution Process (CIRP) against M/s. **VAS Infrastructure Limited** (hereinafter referred to as "Corporate Debtor") for the reason that the Corporate Debtor has committed a **default** of **INR 301,06,84,507.23/-** (Rupees Three Hundred and One Crores, Six Lakhs, Eighty-Four Thousand, Five Hundred and Seven, and Twenty-Three paise only) in repayment of total outstanding debt under various loan facilities. According to the



application of the Applicant, the date on which the default first occurred in all the term loan facilities is 31.08.2022.

Facts of the Case as pleaded by the Financial Creditor in its Application u/s 7 are briefly stated hereunder:

2. The erstwhile Financial Creditor-Syndicate Bank had sanctioned a non-fund based working capital loan to the tune of Rs. 55 crores vide Sanction Letter dated 26.06.2012 bearing Reference No. 1519/LCB/VAS/2012. Subsequently, Syndicate Bank merged with the Financial Creditor herein and therefore, the debts owed by the Corporate Debtor to the Syndicate Bank are now owed to the Applicant herein. The working capital loan of rupees fifty-five crores is comprised of the Inland Letter of Credit to the extent of Rs. 45 crores and Bank Guarantee of Rs. 10 crores. The said facility was enhanced to Rs. 60 crores vide Sanction Letter dated 11.03.2013 for the purpose of procuring raw materials for construction of projects undertaken by the Corporate Debtor and the same was granted through Loan Account No. Q24OSLB131190002 (New No. EB40SLB192840442).
3. The Term Loan of Rs. 75 crores was sanctioned and granted on 01.03.2013 for the purpose of redevelopment of a real estate project named Pushp Vinod through Loan Account No. Q24OSLB130740001 (New No. EB40SLB192560198) maintained with the Financial Creditor. Similarly, the term loan of Rs. 40 crores was sanctioned and granted on 15.07.2013 for the purpose of upcoming projects of the Corporate Debtor viz. Pushp Vinod- 8, 10, 15 & 17 through Loan Account No. Q24OSLB131190002 (New No. EB40SLB192840442)



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT-II

CP(IB) No. 314/MB/MAH/2023

maintained with the Financial Creditor. The additional term loan in the nature of Inland Letter of Credit of Rs.30 crores was sanctioned and granted on 18.07.2014 through Loan Account No. Q24OSLB142820001 (New No. EB4OSLB192560197) for the purpose of financing cost escalation on account of increased cost of construction, BMC premium and TDR cost in respect of the projects of the Corporate Debtor undertaken in the name of Pushp Vinod- 2, 3 & 4 situated at Borivali West. Another term loan of Rs. 57 lakhs was sanctioned and granted on 16.12.2014 vide Loan Account No. 50457790000386 for the purpose of purchase of cars by the Corporate Debtor. The loan facilities are secured by simple mortgage, guarantees and composite hypothecations.

4. The table below shows loan-wise default committed by the Corporate Debtor as on 31.08.2022:

<u>Sr. No.</u>	<u>Loan Account No.</u>	<u>Amount in Default (in INR) as on 31.08.2022</u>	<u>Date of Classification as NPA</u>
1.	Q24OSLB133450001 (New No. EB4OSLB192560177)	97,89,55,700.75/-	29.08.2015
2.	Q24OSLB130740001 (New No. EB4OSLB192560198)	61,85,03,117.67/-	29.08.2015
3.	Q24OSLB142820001 (New No. EB4OSLB192560197)	60,02,01,193.37/-	29.08.2015
4.	Q24OSLB131190002 (New No. EB4OSLB192840442)	81,30,24,495.44/-	29.08.2015
5.	50457790000386	15,22,626.55/-	-
	TOTAL	301,06,84,507.23/-	



5. The loan accounts referred to in the table above were classified as Non-Performing Assets by Syndicate Bank, the erstwhile Financial Creditor, on 29.08.2015. The Corporate Debtor had issued a Revival Letter dated 28.05.2018 to the Syndicate Bank for revival of four term loans, thereby acknowledging its debt for the purpose of section 18 of the Limitation Act, 1963. The Demand Notice dated 11th October, 2018 for the Account Nos. 01 to 04 referred to in the table above were issued u/s 13(2) of the SARFAESI Act, 2002 by the erstwhile Financial Creditor to the Corporate Debtor for recovery of its debts.
6. The Financial Creditor further issued a Demand Notice dated 03.10.2022 to the Corporate Debtor in respect of unpaid debts due from the Corporate Debtor to the tune of Rs. 298,66,10,342.23/-. However, since the debts have not been repaid by the Corporate Debtor, the Applicant/Financial Creditor herein was constrained to move an application u/s 7 of the Code seeking to trigger the Corporate Insolvency Resolution Process against the Corporate Debtor. Hence this application.
7. The Applicant has filed Additional Affidavit on record annexing the financial statements of the Corporate Debtor from FY 2014-15 to FY 2022-23. According to the Applicant, the Corporate Debtor has in its financial statements, acknowledged the debt due towards the Financial Creditor.

Reply on Behalf of the Corporate Debtor:

8. The Corporate Debtor objects to the maintainability of the above-captioned Company Petition on the following grounds:
 - a. That the Petitioner has identified the debt as an 'Operational debt' at Part IV and Part V of the said Petition, which exhibits the



particulars of the debt. Furthermore, the Petitioner has identified itself as an Operational Creditor in the cause title of the Petition. It is pertinent to mention that the Petitioner issued demand notice in Form 3 under rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and the same has been annexed as Exhibit-"30" in the Petition. The Respondent, therefore, submits that the Petition is heavily defective as Form 3 was issued by the Petitioner and relied upon. The Respondent submits that the Petitioner identifies the debt as an operational debt and hence the Petition is not maintainable under section 7 of the Insolvency and Bankruptcy Code, 2016 and deserves to be dismissed on this ground alone.

- b. The Petitioner claims the date of default to be 31.08.2022. However, the Respondent submits that the date of default is incorrect and the Petitioner has not provided any explanation as to how the date of default came as 31.08.2022. The documents annexed by the Petitioner in the Petition show that the alleged default took place much prior to 31.08.2022. The Respondent states that it is a settled position of law that the Petitioner Bank cannot change the date of default as per its convenience and, therefore, this Petition is not maintainable in the eyes of law. The Respondent relies on the judgment passed by the Hon'ble Apex Court in the matter of Ramesh Kymal Vs. Siemens Gamesa Renewable Power Pvt. Ltd., (2021) 3 SCC 224 wherein the same has been categorically held that the date of default cannot be changed.
- c. The Respondent submits that as per the Petition, the account of the Respondent was classified as Non-Performing Assets



("NPA") on 29.08.2015. The Respondents submit that as per law, the period of limitation commenced therefrom and the said period of limitation came to an end on 29.08.2018. That the Petitioner has filed this Petition on 01.11.2022, which is far beyond the period of limitation. The Respondent submits that the Petitioner has wrongly claimed 31.08.2022 as the date of default to circumvent and create a new period of limitation. The Respondent submits that the present petition is hopelessly barred by limitation and thereby deserves to be dismissed.

- d. The Respondent further submits that to initiate Insolvency Proceedings against any Corporate Debtor, there should be a specific authority to that effect. On perusal of the Letter of Authority annexed to the Petition at Exhibit-I at Page 13, the said letter of authority only provides the Authorized Person to represent the Petitioner in matters / cases that are to be filed on behalf of the bank or against the bank in Civil or Criminal matters only. The said letter of authority does not provide any authority to initiate insolvency proceedings against the Respondent. The Authorized Person, therefore, has no authority to represent and file a Petition under section 7 of the Insolvency and Bankruptcy Code, 2016 to initiate insolvency proceedings against the Respondent. The Respondent would like to rely on the Order passed by this Hon'ble Tribunal in the matter of Mis. Rushabh Civil Contractors Private Limited versus Centrio Lifespaces Limited in CP (IB) 2161 I MB I 2019, wherein the co-ordinate Bench of this Hon'ble Tribunal has dismissed the Petition on similar ground.



9. That, the Petitioner had issued notices u/s 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) dated 11.10.2018 to the Respondent with respect to the debt. Acting in furtherance to the notice bearing reference no: DN/5808/38672078/5088/1 (the same has been annexed in the Petition as Annexure-29), the Petitioner has already realised money by selling off the assets of the Respondent/Corporate Debtor bearing Survey No. 18/05/A(2), 18/5/B(1), 21/1(p), 21/10, 21/12 situated within the village limits of Anjap, Taluka: Karjat, District & Registration District: Raigad in the state of Maharashtra mortgaged vide simple mortgage deed dated 17.10.2013 for term loan of Rs.40,00,00,000/- (Rupees Forty Crore Only) through Loan Account No. Q24OSLB131190002 (New No. EB4OSLB 192840442). The Petitioner has not disclosed the amount realised by the Petitioner after the sale of the aforementioned property of the Respondent Corporate Debtor while filing this petition and is, therefore, guilty of suppressio veri suggestio falsi.

Rejoinder on behalf of the Financial Creditor (in brief):

10. In the rejoinder, the Petitioner submits that even after the classification of loan accounts as NPA, the Corporate Debtor has been regularly making payment in the said Loan Accounts. Therefore, the Petitioner submits that there is a fresh cause of action at each deposit of amount in the said loan account. Further, the Corporate Debtor has been showing the financial debts owed by it in its balance sheets regularly. Therefore, the same can be treated as an acknowledgment of debt apart from the fact that there is a continuing cause of action in favour of the



**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT-II**

CP(IB) No. 314/MB/MAH/2023

Financial Creditor. The Petitioner states and submits that the Corporate Debtor has vide its Letter dated 07.11.2020 given an offer of Rs. 104 crores as against the entire loan liability. The Letter dated 07.11.2020 is also an acknowledgment of debt by the Corporate Debtor.

11. At request of the Corporate Debtor, the Petitioner Bank issued an OTS sanction letter dated 14.02.2022. In pursuance thereto, the Corporate Debtor agreed to make payment of Rs. 111.50 crores towards the full and final settlement of entire loan liability of the Corporate Debtor. Pursuant to the aforesaid OTS sanction letter dated 14.02.2022, the Corporate Debtor also deposited an amount of Rs. 6 crores with the Financial Creditor. The Corporate Debtor also passed the circular resolution dated 11.04.2022 thereby sanctioning the payment schedule of the said OTS amount as per the OTS sanction letter dated 14.02.2022. However, since the Corporate Debtor failed to comply with the other terms and conditions of the OTS sanction letter, the same got lapsed and now the Corporate Debtor cannot take benefit of the said letter.
12. The defect of classifying the financial debt as operational debt and the financial creditor as the operational creditor, is merely a typographical error and the same cannot jeopardize the rights of the Financial Creditor for claiming relief under this Petition.
13. The Petitioner claims date of default to be 31.08.2022 as the last payment was made by the Corporate Debtor on that date. The Petitioner submits that as per law, the date of default cannot necessarily be the date of classification of account as NPA.



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT-II

CP(IB) No. 314/MB/MAH/2023

14. The Petitioner denies that it has issued any demand notice u/s 13(2) of the SARFAESI Act, 2002 to the Corporate Debtor. Therefore, there is no question of realizing money by selling off the assets of the Respondent for recovering a sum of Rs. 40 crores, as is alleged by the Respondent/Corporate Debtor. As regards the property bearing Survey No. 18/05/A(2), 18/5(B) 1, 21/1(p), 21/10, 21/12 situated within the village limits of Anjap, Taluka: Karjat, District: Raigad, the same has been released by the Bank to the Corporate Debtor pursuant to the OTS proposal on payment of Rs.6 crores. The said payment of Rs. 6 crores were paid by the Corporate Debtor on 25.03.2022 and therefore, the Bank has released the said property on 25.03.2022. As stated above, since the other terms and conditions of OTS proposal dated 14.02.2022 were not complied with by the Corporate Debtor, the said proposal stands lapsed.

ANALYSIS AND FINDINGS

15. We have heard the counsel for the parties and gone through the records.

16. During the course of arguments, the Counsel for the Applicant submits that the Corporate Debtor has committed a default of over Rs. 301 crores in repayment of financial debt which was due and payable to the Financial Creditor/Applicant and hence, the Corporate Debtor is liable to be admitted into Corporate Insolvency Resolution Process ('CIRP'). Counsel for the Applicant further submits that the debt is within limitation as the Corporate Debtor had issued a Revival Letter dated 28.05.2018, thereby acknowledging its liability to pay the term loans. The Ld. Counsel for the Applicant further submits that the Corporate Debtor has acknowledged the debt due to the Financial Creditor in its



books of accounts year after year from 2014-15 onwards. Counsel for the Applicant also drew our attention to the Offer Letter dated 07.11.2020 issued by the Corporate Debtor proposing to settle the dues of the Financial Creditor for Rs. 104 crores which is yet another acknowledgment within the period of 3 years. Counsel for the Applicant submits that though the accounts of the Corporate Debtor were classified as Non-Performing Assets on 29.08.2015, the Corporate Debtor had been making part payments towards the repayment of loans and it is only after 31.08.2022 that the Corporate Debtor completely stopped making payments. Hence, the date of default is 31.08.2022 and not the date of NPA. Even otherwise, due to acknowledgment of debts in the balance sheet and OTS proposals submitted by the Corporate Debtor, the present petition must be held to have been filed within the period of limitation.

17. On the other hand, Counsel for the Corporate Debtor submits that the present petition has been filed beyond the period of limitation as prescribed under Article 137 of the Limitation Act, 1963. Counsel for the Corporate Debtor contends that the date of default mentioned in the application (i.e. 31.08.2022) has not been explained. Counsel for the Corporate Debtor further contends that the default first took place in 2015, which is why the loan accounts were classified as NPAs and since the present petition has been filed on 02.11.2022, the Petition is hopelessly barred by the law of limitation. Counsel for the Corporate Debtor alleges that the date of default has been fabricated as 31.08.2022 only to save the present petition from being dismissed on the ground of limitation.



18. Counsel for the Corporate Debtor further submits that in the present petition, on perusal of Part IV and V of the application, it is clear that the debt has been classified by the Applicant as an operational debt (and not financial debt) and the fact that the Demand Notice dated 03.10.2022 issued by the Applicant Bank in Form 3 makes it clear and evident that the debts owed by the Corporate Debtor have been treated as operational debts. Hence, the Petition u/s 7 of the Code is liable to be dismissed.

19. We have carefully examined the rival contentions and now, we proceed to give our findings hereinbelow.

20. On perusal of records, we find that the Applicant-Financial Creditor has mentioned the date of default in Part IV of Form I as 31st August, 2022 for all the four loan facilities and the date of classification of the account of Corporate Debtor as Non-Performing Asset is 29.08.2015. We also find that the Corporate Debtor has issued a Revival Letter dated 28.05.2018 to the Syndicate Bank, the erstwhile Financial Creditor who later got merged with the Financial Creditor herein. As on the date of revival letter, the Corporate Debtor had acknowledged its liability to Syndicate Bank in respect of the existing credit facilities to the extent of INR 164,95,18,831.63 (Rupees One Hundred and Sixty-Four Crores, Ninety-Five Lakhs, Eighteen Thousand, Eight Hundred and Thirty-One only and sixty-three paise). The said letter in unequivocal terms mentions, *“We acknowledge for the purpose of Section 18 of the Limitation Act, 1963 and like limitation law in order to preclude any question of Limitation Law, that we are liable to Syndicate Bank for the payment of all outstandings in respect of the present as well as the future indebtedness and liabilities with interest costs, charges, and expenses and other*



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT-II

CP(IB) No. 314/MB/MAH/2023

monies due and payable by me/us to you in respect of the said credit facilities granted and/or to be granted under the said documents or in any other manner and which said documents shall remain in full force with all relative securities, agreements and oblige.” It is pertinent to note that the Revival Letter dated 28th May, 2018 has been stamped, and signed on behalf of the Corporate Debtor by its Promoter named Mr. Jayesh V. Valia. Also, the said letter has been issued within the period of limitation i.e. within 3 years from the date of first default. Thus, even if the first default was committed 90 days prior to classification of loan accounts as NPA (somewhere around 29.05.2015), even then the Revival Letter dated 28th May, 2018 signed, stamped and issued by the Corporate Debtor, will act as an acknowledgement of debt u/s 18 of the Limitation Act, 1963 thereby renewing the period of limitation and accordingly, the limitation would now be computed from 28.05.2018.

21. We further refer to the OTS proposal of the Corporate Debtor vide Letter dated November 07, 2020 to the Financial Creditor, annexed by the Petitioner in its rejoinder. The Corporate Debtor has not denied the execution or contents of the said letter. On perusal of the contents of the aforesaid letter, we observe that the Corporate Debtor proposed to settle the dues of the Financial Creditor for a sum of Rs. 104 crores. This letter too has been issued on the letter head of the Corporate Debtor, bearing the signature of its Promoter named Mr. Jayesh Valia and since the aforesaid letter has been issued within three years from 28.05.2018, it also amounts to acknowledgment of liability u/s 18 of the Limitation Act, 1963 and therefore, the period of limitation stands renewed once again and now it will be computed from 07.11.2020. The present petition was filed on 02.11.2022, that is within three years from



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT-II

CP(IB) No. 314/MB/MAH/2023

07.11.2020, and therefore, the same is held to be within limitation under Article 137 of the Schedule to the Limitation Act, 1963.

22.As regards the objections of the Corporate Debtor as to the maintainability of the present application on the ground that the Petitioner has identified the debt as 'Operational Debt' at Part IV and V of the application, we have carefully scrutinized the instant application filed by the Applicant/Petitioner. The present Petition has been filed u/s 7 of the Code vide Form 1 as prescribed under Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. It is true that in Part IV and Part V of the application, the Petitioner has mentioned the word 'Operational Debt' instead of 'Financial Debt'. However, the Petitioner in its rejoinder has clarified that the same was a typographical error and, therefore, we are not inclined to dismiss the present petition on this hyper-technical ground. It is true that the Petitioner in the instant case had issued a Demand Notice dated 03.10.2022 in Form 3 as prescribed under Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. It is also true that such a Form is issued by an Operational Creditor and certainly not by the Financial Creditor. However, the sum and substance of the transaction shall prevail over its form. The nature of debt in the present case is, in substance, a 'financial debt' as defined u/s 5(8) of the Code since money has been disbursed by the Financial Creditor to the Corporate Debtor against the consideration of time value of money. Therefore, since the nature of debt in the present case is financial debt, the petition u/s 7 of the Code is definitely maintainable and the same cannot be dismissed on technical grounds taken by the Corporate Debtor. It is well settled



position in law that procedure is a hand-maiden of justice and it must never be allowed to defeat the substantive right of the party. In the present case, the Financial Creditor has a substantive right to trigger CIRP against the Corporate Debtor as the Corporate Debtor has committed a default in repayment of financial debt which is due and payable to the Financial Creditor; and this substantive right of the Financial Creditor cannot be allowed to be defeated on the grounds of procedural defects such as issuance of Demand Notice by the Petitioner in Form 3 as prescribed under Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and erroneous mention of the word 'Operational Creditor' at Parts IV and V of the Application.

23. The Corporate Debtor has taken a plea that the Letter of Authority annexed to the Petition, only authorizes the Authorised Person to represent the Petitioner in matters/cases that are to be filed by or against the Bank in Civil or Criminal matters only. It is submitted on behalf of the Corporate Debtor that the said letter does not provide any authority to initiate insolvency proceedings against the Respondent/Corporate Debtor. This plea is also devoid of any merit in as much as it is frivolous. Further, on reading the Letter of Authority, it is abundantly clear that Mr. Manoj Kumar Gupta, Chief Manager of Canara Bank, Stressed-Asset Management Branch, Mumbai has been authorized to appear and represent Canara Bank before any Tribunal. Further, Mr. Gupta has been authorized to sign, verify, affirm and file all applications, petitions, affidavits, vakalatnama and any other document which may be required to institute or defend the suits or proceedings by or against the Bank. Hence, the plea taken by the



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT-II

CP(IB) No. 314/MB/MAH/2023

Corporate Debtor that no proper authority has been given by the Applicant to the Authorized Person, who has signed this petition, is meritless and frivolous and is accordingly being rejected.

24. The Corporate Debtor accuses the Financial Creditor of suppressio vari and suggestio falsi for the reason that according to the Corporate Debtor, the Financial Creditor has realized money by selling off the assets of the Corporate Debtor being the immovable property situated at Survey Nos. 18/05/A(2), 18/5(B) 1, 21/1(p), 21/10, 21/12 situated within the village limits of Anjap, Taluka: Karjat, District: Raigad, which was a mortgaged property for term loan of Rs. 40 crores vide Loan Account No. Q24OSLB131190002 (New No. EB4OSLB192840 442). However, the Corporate Debtor has not stated the amount realized from such sale which has not been reduced from the loan liability. On the other hand, the Applicant in its rejoinder has stated that the above-referred property has been released by the Applicant Bank to the Corporate Debtor pursuant to the OTS proposal on payment of Rs.6 crores. This has not been rebutted or disputed by the Corporate Debtor. Therefore, even the allegation of suppressio vari and suggestio falsi are not sustainable.

25. No other contentions touching upon the merits of the matter have been raised by the Corporate Debtor.

26. On examination of various Sanction Letters, Simple Mortgage Deeds, Composite Hypothecation Agreements and the Statement of Account of the Term Loans, we conclude that the existence of financial debt owed and its default by the Corporate Debtor over the minimum threshold of Rs. 1 crore has been satisfactorily and sufficiently



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT-II

CP(IB) No. 314/MB/MAH/2023

established from the records. Further, the disbursement of debt advanced by the Financial Creditor and the default in repayment of loans have not been denied by the Corporate Debtor. The present Petition has been filed within the period of limitation for the reasons stated in the foregoing paragraphs. Therefore, it is a fit case to admit the Corporate Debtor into Corporate Insolvency Resolution Process and hence, we pass the following orders:

ORDER

- (a) The petition bearing **CP(IB)-314/MB/2023** filed by **CANARA BANK**, the Financial Creditor, under Section 7 of the IBC, 2016 read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor M/s. **VAS INFRASTRUCTURE LIMITED** [CIN: L65100MH1994PLC076538] is hereby **admitted**;
- (b) **Mr. Ashok Kumar Golechha**, an Insolvency Professional having registration No. **IBBI/IPA-002/IP-N000932/2019-2020/12973**, (email: akgolecha9@gmail.com), having his address at: B-703/704, River Park CHS Ltd, Dattani Park Road, Thakur Village, Kandivali East, Mumbai-400 092; **is hereby appointed as Interim Resolution Professional** to carry out the functions as mentioned under IBC, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20,21 of the IBC.



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT-II

CP(IB) No. 314/MB/MAH/2023

- (c) The Financial Creditor shall deposit a sum of ₹ 5,00,000/- (Rupees Five Lakhs only) with the IRP towards the initial **CIRP costs** by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- (d) There shall be a moratorium under Section 14 of the IBC, in regard to the following:
- (i) 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;
 - (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - (iii) 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;
 - (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (e) Notwithstanding the above, during the period of moratorium-
- i. 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;



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT-II

CP(IB) No. 314/MB/MAH/2023

- ii. That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (f) The 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 sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (g) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (h) 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 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (i) The Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT-II

CP(IB) No. 314/MB/MAH/2023

- (j) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor.

Sd/-

ANIL RAJ CHELLAN
(MEMBER TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
(MEMBER JUDICIAL)