NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – II
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 07.08.2026 AT 10.30 A.M. THROUGH VIDEO CONFERENCING:

CORAM : SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)
SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)

APPLICATION NUMBER	**: --**
PETITION NUMBER	**: CP(IB)/148(CHE)2022**
NAME OF THE PETITIONER	**: M/s Mahadhan Energy Pvt Ltd**
NAME OF THE RESPONDENT(S)	**: --**
UNDER SECTION	**: Sec 10 Rule 7 of IBC, 2016**

ORDER

Vide separate order pronounced in open court, **CP/(IBC)/148/CHE/2022** is allowed.

-SD-	**-SD-**
RAVICHANDRAN RAMASAMY	**JYOTI KUMAR TRIPATHI**
Member (Technical)	**Member (Judicial)**

kg

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI

CP(IBC)/148(CHE)/2022

(Filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the matter of ***M/s. Mahadhan Energy Private Limited***

MAHADHAN ENERGY PRIVATE LIMITED,
Represented by its Director D. Manikandan,
Having its Registered Office at
Bascon Futura SV, 4th floor, 10/1,
Venkatnarayana Road, T. Nagar, Chennai — 600 017.

... *Applicant/ Corporate Debtor*

Order Pronounced on ***7th August 2026.***

CORAM

SHRI. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)
SHRI. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present:

For Applicant: *M/s.Shivakumar, Suresh Advocates.*
For SVL Ltd: *Mr. S. Sidhartha Vishnu& V. Thamizhanban, Advocates.*

ORDER

(Heard through hybrid mode)

The present application has been filed by Mahadhan Energy Private Limited ("the Corporate Debtor") under Section 10 of the Insolvency and Bankruptcy Code, 2016 ("the Code"), read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against it. The application has been filed through one of its Directors and authorised signatory, Mr. D. Manikandan Kumar, by a Resolution of the Board of Directors of the Corporate dated 04.04.2022 and shareholders/members resolution dated 28.04.2022.

2. SUBMISSIONS OF THE APPLICANT:

2.1. The Corporate Debtor is a private company incorporated under the provisions of the Companies Act, 1956. **Part-I** of the application sets out the particulars of the Corporate Debtor i.e. Mahadhan Private Limited. It was incorporated on 04.01.2010 having its Office at Bascon Futura SV, 4th Floor, 10/1, Venkatnarayana Road, T-Nagar, Chennai-600017 with Authorized Capital as Rs.10,00,000/- and Paid-up Share capital as 1,00,000/-. **Part-II** of the application sets out the particulars of the Proposed Interim Resolution Professional viz., Mr. Ajay S Jain having Reg. No. IBBI/IPA-001/IP-P01684/2019-2020/12631. **Part-III** of the application lists the particulars of the Financial / Operational Creditors (**Annexure VI),** amount of debt in default as Rs.95,02,13,737/- (**Annexure VI)** and date of debt incurred in 30-06-2015 (**Annexure VI)**.

2.2. It is submitted that the Corporate Applicant has Committed default and owes a sum of Rs. 95,02,13,737/- (Ninety-five crores Two Lakhs Thirteen Thousand Seven Hundred and Thirty-seven Rupees) to financial creditor company SVL limited and the amount due is financial debt. The Corporate

Applicant has also produced the details of debt liable to be paid to its creditors in the present application.

2.3. It is submitted that the M/s. Mahadhan Energy Private Limited issued compulsorily Convertible Debenture ('herein referred as CCD") with Zero Coupon Rate for an amount of Rs.95 crores comprising of Rs. 9.50 lacs CCD of Rs.1000 each to SVL Limited. As per Terms and conditions of the issue the said CCD must be converted into Equity shares with in the period of Sixty (60) months from the date of such allotment i.e., 30.06.2014 at a price based on the fair value as determined by the valuer at the time of conversion.

2.4. It is further submitted that in view of negligible share values M/s. Mahadhan Energy Private Limited has failed to redeem the CCD and further unable to meet the current liabilities and is unable to carry out any further business activities.

2.5. It is also submitted that the during the year 2022, the SVL limited has opted for return of the CCD's subscribed by it in view of corporate debtor not able to return the CCD's subscribed by SVL limited.

2.6. It is submitted that as on the date of filing of the petition, the total amount in default towards financial creditor, aggregates to Rs. 95,02,13,737/- (Ninety-five crores Two Lakhs Thirteen Thousand Seven Hundred and Thirty seven Rupees)

2.7. It is submitted that the financial position of the company has deteriorated to such an extent that it is no longer in a position to service its debts and continue its business operations in the ordinary course.

2.8. It is submitted that they have annexed various documents including copies of Audited Financials and provisional Balance sheet, copies of statement of Affairs as on 10.05.2022, copies of assets and liabilities, copy of list of financial creditors and shareholders and copy of CCD certificate issued to SVL limited.

2.9. It is also submitted that a Special Resolution was passed by the shareholders on 28.04.2022 approving the initiation of the CIRP under section 10 of IBC, 2016, and a Board Resolution dated 04.04.2022 authorized Mr. D. Manikandan, Director of the Corporate Debtor, to file the present application.

2.10. The Applicant has enclosed the details of total financial debts which is extracted hereinbelow:

MAHADHAN ENERGY PRIVATE LIMITED

Mahadhan Energy Private Limited

Financial Creditors As on 09-05-2022	Amt in Rs.
Compulsorily Convertible Debentures 950000 CCDs of Rs. 1000 each issued to SVL Ltd	95,00,00,000
SVL Limited	2,13,737
	95,02,13,737
Operational Creditors	NIL

For MAHADHAN ENERGY PVT LTD

J. KOTTESWARI
Director
DIN:02155868

MAHADHAN ENERGY PRIVATE LIMITED

MAHADHAN ENERGY PRIVATE LIMITED

Assests and Liabilities As on 09-05-2022	
Assets	Amt in Rs.
Cash in hand	16,500
Liabilities	
Compulsorily Convertible Debentures 950000 CCDs of Rs. 1000 each issued to SVL Ltd	95,00,00,000
SVL Limited	2,13,737
Total	95,02,13,737

For MAHADHAN ENERGY PVT LTD

2.11. The Applicant has also placed the relevant books of accounts evidencing the default, and they have attached copy of the audited financial statements from 31.03.2020 up to 31.03.2022 and its Statement of Affairs up to 09.05.2022.

2.12. It is submitted that notice of the petition was directed to be served on the Financial Creditors.

2.13. It is also submitted that the Corporate Debtor is no longer viable to continue its operations outside of a formal resolution framework, and has therefore sought admission of the present application for initiation of CIRP under Section 10 of the Code.

2.14. It is further submitted that all the statutory requirements for filing the present application under Section 10 of the Code have been duly complied with. The existence of debt and default is established, and the Corporate Debtor is not hit by the disqualifications under Section 11 of the Code.

3. SUBMISSIONS OF THE RESPONDENT No. 1:

3.1. The Respondent No.1 has filed the present counter opposing the application filed by the Corporate Debtor.

3.2. It is stated that in the year 2014, the Corporate applicant herein invited SVL Limited, the respondent company herein [Formerly known as Shriram Industrial Holdings Limited] to subscribe for 9,50,000 "Zero Coupon rate Compulsorily Convertible Debenture (CCD)" of Rs.1,000/- each and the same has been subscribed by Respondent company.

3.3. Further on 30th day June 2014, the Respondent company has been allotted with 9,50,000 CCD at a price of Rs.1,000/- each and the total amount aggregating to Rs. 95 Crore.

3.4 It is stated that the terms and conditions of issuance of CCD are extracted and as follows:

"a. Compulsorily Convertible Debenture (CCD) shall carry a Zero Coupon rate.

b. The Compulsorily Convertible Debentures will be converted into Equity Shares within a period of 60 months from the date of such allotment at a price based on the fair value as determined by the valuer at the time of conversion and as may be determined by the Board and by giving a notice of at least 30 days to the Company.

c. The issue of Equity Shares in the manner aforesaid shall be governed by the respective provisions of the Companies Act, 2013, Memorandum of Association, Articles of Association and other applicable laws or any modification thereof".

3.5. It is further stated that the Debenture Certificates are issued to the Debenture holder in form SH 1 as required under Section 46 (3) of the Companies Act, 2013.

3.6. It is further submitted that as per the Clause b of the above terms and conditions agreed, the said CCD ought to have been converted into Equity Shares at a price based on fair value as may be determined by an approved valuer.

3.7. It is stated that that the terms further stipulated that the corporate applicant has to issue notice at least 30 days before the date of conversion i.e. 30th June 2019. But unfortunately till date the corporate applicant has not taken any steps to convert the CCDs into Equity Shares and had violated the terms and conditions of the issuance of Debenture.

3.8. It is stated that during the year 2022, the respondent company had opted for return of the CCDs subscribed by it, in view of the corporate applicant had not taken any steps to convert the CCDs into Equity Shares.

3.9. It is further stated that the corresponding application filed by the corporate applicant under part 3 of Form No.6 of the said application, the corporate applicant has admitted the default amount of Rs.95 Crore which is due towards the respondent company.

3.10. The corporate applicant had violated the terms and conditions as stated supra by not converting CCDs into Equity Shares, neither it had redeemed the Debenture and not converted into Equity Shares within the stipulated time.

3.11. Further as required under Section 71 (10) of the Companies Act 2013, in case if the company fails to redeem the Debenture on the maturity date, the Tribunal has got the power on an application by the Debenture holder, by direct, by order, the corporate applicant to redeem the debentures and forthwith make payment to the Respondent Company.

3.12. It is stated that despite repeated opportunities and indulgence shown by the Respondent Bank, the Corporate Debtor failed to redeem the debentures and committed persistent defaults in repayment of the outstanding dues.

4. SUBMISSIONS OF RESPONDENT NO. 2:

4.1. The Respondent No.2, Income Tax officer (P. Mohan ram), corporate ward- 4(1) Chennai has filed its reply opposing the application filed by the Corporate Debtor.

4.2. It is stated that the assesse Company had sent a notice to the Income Tax Department, to communicate that the assesse Company had filed an application seeking appropriate order to initiate CIRP proceedings under the provisions of IBC Code, 2016. Thus, the above objection is filed to claim the payment of tax arrears that arose under the provisions of the Income Tax Act before initiating CIRP proceedings.

4.3. It is stated that on verification of assesse Company records, an assessment order was passed making an addition for the Assessment Year(AY) 2015-16 vide order dated 31.03.2023 under sec.147 r.w.s 144 read with section 144B of the Income Tax Act. In this regards, a demand notice was also issued under sec 156 of the Income Tax Act to the assesse company. Thus, there is income tax dues for the assessment year as follows:

Assessment year	Demand made under section	Date of assessment order	Demand outstanding as on date
2015-16	Sec. 68 and 56 of IT Act.	31.03.2022	Rs. 69,30,18,640

It is also stated that these amounts are liable to be paid along with interest as prescribed under section 220(1) of the Income Tax Act, 1961 by the assesse Company. Further penalty proceeding has been initiated separately and the same is pending adjudication. The copy of assessment order dated 31.03.2022 is enclosed as (Annexure 1). The copy of demand notice issued to the assesse company is enclosed as (Annexure 2). Further the Computer Generated Computation Sheet reflecting the dues of the assesse company is enclosed as (Annexure 3)

4.4. It is stated that assesse is well aware of the income tax proceedings as assesse participated in assessment proceeding and filed their objections. It is further submitted that against the said order of Assessment, the assesse company had filed an appeal before the Commissioner of Income Tax (Appeals) [CIT(A)] and the said proceedings is pending for adjudication. The proof of appeal filed by the assesse Company is enclosed as (Annexure 4).

4.5. It is submitted that in order to escape from the huge tax liability and to defray the tax dues to the Income Tax Department, the assesse company had filed this application to initiate CIRP proceedings.

4.6. It is stated that the requirement to send notice to the concerned department is a procedural requirement and it does not curtail the right to proceed under the provisions of Income Tax Act. The scheme of arrangement should not be interpreted in a manner which is inconsistent with the provisions of Income Tax Act. Thus, the Hon'ble Tribunal may take note of above income tax dues and permit the Income tax department to continue with its Recovery Proceedings against the assesse company. It is also submitted that the filing of this objection is to ensure that the right of the Income Tax Department to proceed under the Income Tax Act should not be interrupted by initiation of CIRP proceedings.

<u>5. FINDINGS OF THE TRIBUNAL:</u>

5.1. We have heard the submissions made by the learned counsel appearing for the Corporate Debtor and the learned counsel appearing for the Respondents and have perused the pleadings and documents placed on record.

5.2. The present application has been filed by the Corporate Debtor Mahadhan Energy Private Limited, under Section 10 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against itself on account of its inability to discharge its financial obligations.

5.3. Section 10 of IBC, 2016 provides as under:

"Section 10. Initiation of corporate insolvency resolution process by Corporate Debtor.

(1) Where a corporate debtor has committed a default, a Corporate Debtor thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.

(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.

(3) The Corporate Debtor shall, along with the application furnish the information relating to-

(a) its books of account and such other documents relating to such period as may be specified; and

(b) the resolution professional proposed to be appointed as an interim resolution professional.

(c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.

(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order--

(a) admit the application, if it is complete; [2][and no disciplinary proceeding is pending against the proposed resolution professional]; or

(b) reject the application, if it is incomplete: [2][or any disciplinary proceeding is pending against the proposed resolution professional:]

Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.

(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section."

5.4. The issues that arise for consideration before this Tribunal are:

(i) Whether the present application filed by the Corporate Debtor under Section 10 of the Code satisfies the requirements prescribed under the Code and the applicable rules;

(ii) Whether the Corporate Debtor has established the existence of financial debt and default; and

(iii) Whether there exist any legal impediments warranting rejection of the present application.

5.5. In so far as the first issue is concerned, Section 10 of the Code enables a Corporate Debtor to initiate CIRP against it when it has committed a default. The Corporate Debtor is required to comply with the requirements stipulated under Section 10(3) of the Code read with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, including furnishing its books of account, financial statements, details of financial creditors, and a special resolution or board resolution authorising the filing of the application.

5.6. Upon perusal of the records placed before this Tribunal, it is observed that the Corporate Debtor has placed on record the necessary documents including financial statements, statement of affairs, details of its creditors, and the authorisation for filing the present application by filing Resolution of board of directors of the Corporate dated 04.04.2022 and special resolution holders/members dated 28.04.2022 and the said resolutions extracted below:

MAHADHAN ENERGY PRIVATE LIMITED

Certified True Copy of the Special Resolution passed at the ExtraOrdinary General Meeting of Mahadhan Energy Private Limited held on Thursday the 28th of April 2022 at 03:00 P.M. at Bascon Futura SV, 4th Floor, No.10/1, Venkatanarayana Road, T Nagar, Chennai 600017.

Filing of Application for Corporate Insolvency Resolution Process U/S 10 of the Insolvency and Bankruptcy Code 2016 as amended - Special Resolution.

"**RESOLVED THAT** pursuant to Section 10 of the Insolvency and Bankruptcy Code, 2016 ("Code"), the approval of the members of the Company be and is hereby accorded to file an application before the National Company Law Tribunal, Chennai, on behalf of the Company."

"**RESOLVED FURTHER THAT** Ms. J Kotteswari and Mr. D Manikandan, Directors of the Company, be and are hereby severally authorised to make an application before the Hon'ble National Company Law Tribunal for initiating the Corporate Insolvency Resolution Process in respect of M/s. Mahadhan Energy Private Limited."

"**RESOLVED FURTHER THAT** Ms. J Kotteswari and Mr. D Manikandan, Directors of the Company, be and are hereby severally authorised to represent the Company and is accordingly empowered to sign, execute, file affidavit, applications, affirm, depose, appear, represent and proceed with the said application and to do all such acts, deeds and things which may consider necessary."

"**RESOLVED FURTHER THAT** Ms. J Kotteswari and Mr. D Manikandan, Directors of the Company be and are hereby severally authorized to give instructions or directions and to settle all questions, difficulties or doubts that may arise in regard to the resolutions being contemplated herein above and to do everything that is necessary and required in connection with such application, including acceptance of notice and do all such acts, deeds, matters, as may be necessary".

//Certified True Copy//
For Mahadhan Energy Private Limited

D Manikandan
Director
DIN: 07701027

MAHADHAN ENERGY PRIVATE LIMITED

EXPLANATORY STATEMENT PURSUANT TO SECTION 102(1) OF THE COMPANIES ACT, 2013

M/s. Mahadhan Energy Private Limited issued Compulsorily Convertible Debenture with Zero Coupon rate for an amount of Rs.95 Crores comprising of Rs.9.50 Lacs CCD of Rs.1000 each to SVL Limited. As per Terms & Conditions of the issue the said CCD must be converted into Equity Share with in the period of Sixty (60) Months from the date of such allotment i.e., 30/06/2014 at a price based on the fair value as determined by the valuer at the time of conversion. In view of negligible share values M/s. Mahadhan Energy Private Limited has failed to redeem the CCD and further unable to meet the current Liabilities and is unable to carry out any further business activities.

Therefore the Board of Directors at its meeting held on 04th April 2022 approves for the initiation of Corporate Insolvency Resolution Process ('CIRP') subject to the approval of shareholders and to file an application before the National Company Law Tribunal (NCLT) under section 10 of Insolvency and Bankruptcy Code, 2016 (Code) for resolving the corporate insolvency of a corporate debtor in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 (Code).

None of the Directors or Key Managerial Personnel, or their relatives are, in any way, are concerned or interested in this resolution.

For Mahadhan Energy Private Limited

D Manikandan
Director
DIN: 07701027

5.7. With regard to the existence of financial debt and default, it is evident from the material placed on record that the Corporate Debtor had issued compulsorily Convertible Debenture ('herein referred as CCD") with Zero Coupon Rate for an amount of Rs.95 crores comprising of Rs. 9.50 lacs CCD of Rs.1000 each to SVL Limited. As per Terms& conditions of the issue the said CCD must be converted into Equity shares with in the period of Sixty (60) months from the date of such allotment i.e., 30/06/2014 at a price based on the fair value as determined by the valuer at the time of conversion .

5.8. The records further indicate that the Corporate Debtor has failed to redeem the CCD as a result of which during the year 2022, the SVL limited has opted for return of the CCD's subscribed by. The report of the registrar of company (ROC) is evidencing negative net worth is extracted below:

It is submitted that as per the records of the Registrar of Companies, Chennai, the following are the details with respect to the subject Company:

i. The Statutory returns i.e., Balance Sheet & Annual Return were filed up to the financial year 2021-22 and 2022-23 respectively.

Financial Position of the Company as on 31.03.2023	
Turnover	0
Net worth	-95,04,54,000.82
Paid- up Capital	1,00,000

5.9. Hence the existence of financial debt and default is established.

5.10. With regard to RoC objections that the compulsorily convertible Debentures (CCD's) would be treated only as an equity but not as a debt, thiss tribunal had sought a clarification memo to applicant vide order dated 30.10.2025, On compliance of the same the applicant had filed the clarification memo by stating that compulsorily Convertible Debenture (CCD) is treated as a debt instrument when it has not yet been converted after its maturity date and if the maturity date passes without conversion , it is still in the form of a debt.

5.11. With regard to 2nd Respondent objections it is been placed on our records that appeal was filed on 30.04.2022 numbered as NFAC/2014-15/10143495 before the Commissioner of Income Tax (Appeals) challenging the Order passed under Section 147 read with Section 260 and Section 144B of the IT Act for the AY 2015 - 2016. Commissioner of Income Tax (Appeals) was allowed the Appeal filed by the Applicant herein and the demand was set aside by virtue of an Order dated 26.02.2024. Accordingly, objections raised by 2nd respondent have been met.

5.12. The Corporate Debtor has disclosed that the total amount in default towards financial creditors aggregates to Rs. 95,02,13,737/- (Ninety-five crores Two Lakhs Thirteen Thousand Seven Hundred and Thirty-seven Rupees). The material on record sufficiently establishes that the Corporate Debtor is unable to service its debts and has committed default within the meaning of Section 3(12) of the Code.

5.13. It is further observed that the Respondents have not placed any material on record to demonstrate that the present application has been filed with any fraudulent or malicious intent so as to attract the provisions of Section 65 of the Code. Mere pendency of recovery proceedings or enforcement actions by creditors cannot by itself be construed as a ground to reject an application filed under Section 10 of the Code.

5.14. In view of the foregoing discussion, this Tribunal is satisfied that the Corporate Debtor has established the existence of financial debt and default and that the application filed under Section 10 of the Code is complete in all respects. Accordingly, this Tribunal is of the considered view that the present application deserves to be admitted.

5.15. In the instant case, the amount of debt is more than Rs. 1.0 Crore i.e. more than the minimum threshold. The Applicant has also given the date of default in redeem of CCD and there are no suspicious/ fraudulent transactions; and the valuation of inventories was carried out independently by the auditors.

5.16. The Hon'ble National Company Law Appellate Tribunal (hereinafter, Hon'ble NCLAT), New Delhi in ***M/s. Unigreen Global Private Limited vs. Punjab National Bank and others (Company Appeal (AT) (Insolvency)***

81/2017), held that if an application under Section 10 is complete and in absence of any ineligibility of Corporate Debtor, the Adjudicating Authority is bound to admit the application. The relevant portion of the judgement is reproduced hereunder,

> *"22. Section 10 does not empower the Adjudicating Authority to go beyond the records as prescribed under Section 10 and the informations as required to be submitted in Form 6 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 subject to ineligibility prescribed under Section 11. If all informations are provided by an applicant as required under Section 10 and Form 6 and if the Corporate Debtor is otherwise not ineligible under Section 11, the Adjudicating Authority is bound to admit the application and cannot reject the application on any other ground"*
> *sss*

5.17. In the case of "***Go Airlines (India) Limited, CP/IB-264(PB)/2023",*** which was affirmed by the Hon'ble NCLAT in *Company Appeal (AT) [Insolvency] No. 593 of 2023*, it was held as under:

> *"34. Further, we are conscious of the fact that hearing each and every Creditor, under Section 10 of IBC 2016, can cause an inordinate delay in the conclusion of the proceeding, which may result in the erosion of the value of the assets and defeat the very purpose of value maximization and ultimately, the revival of the Corporate Debtor, which is not the objective of the IBC. As we have seen above, in the Application to Adjudicating Authority Rules, 2016, even the right to serve a copy of a Section 10 Application is not conferred to the Creditor(s). Hence, in view of the above, we conclude that in Section 10 proceedings, though there is no mandatory requirement of issuing notice to the Creditor(s) at the pre-admission stage, rather giving notice to the Creditor(s) is a matter of discretion to be exercised on a case-to-case basis on valid grounds. Wherever there is a clear apprehension of deterioration of assets of the Corporate Debtor/Debtor and larger public interest is involved,*

issuance of notice at the pre-admission stage cannot be claimed as a matter of right.

(…)

43. We observe that Section 65 only uses the word "initiates", and does not make any distinction like the stage of pre-admission or post admission of CIRP, and from the reading of Sub-section (1), it transpires that the provision is applicable not only on the date on which a financial creditor / operational creditor or Corporate Debtor, as the case may be, makes an application to the Adjudicating Authority for initiating corporate insolvency resolution process but certainly, not limited to and may extend to the period of Liquidation, as the case may be. Needless to say, that fraud vitiates all acts. There could be instances where the fraudulent act is detected much after the commencement of CIRP. If a narrow interpretation of Section 65 of IBC 2016 is taken i.e., limiting its applicability to the pre-admission stage, then Section 65 will have no relevance. Therefore, Section 65 of IBC can be resorted by an aggrieved party at any stage, be it preadmission or post-admission. ***Accordingly, we conclude that there is no bar in entertaining/considering/adjudicating a Section 65 Application after the initiation of the CIR Process.***

44. Further, as we have noted earlier, as of the date of the hearing, there was no Section 65 Application filed/pending/listed before this Adjudicating Authority. Keeping in mind the urgency of the instant case, to protect and maximize the value of the Assets in line with the objectives of IBC, employment involved, and the larger public interest, the judicial propriety demands it will not be apt to wait for the filing of the Section 65 Application. Hence, we would like to proceed ahead with the examination of the Section 10 Application on merits."

5.18. This Tribunal is satisfied that there is a default in the repayment of debt and the application filed under Section 10 is complete with all the necessary information. Further, the Corporate Debtor is not ineligible to make an application as per Section 11 of IBC, 2016. Therefore, we are of the view that this Company application is required to be admitted u/s 10 of the Code. The circumstances justify the initiation of CIRP against the Corporate Debtor so that an effective resolution plan can be explored in the larger interest of all stakeholders. We order accordingly.

5.19. The Corporate Debtor has proposed the name of **Mr. Ajay S Jain,** having **Regn. No. IBBI/IPA-001/IP-P01684/2019-2020/12631** as the Interim Resolution Professional (IRP). Mr. Ajay S Jain has not been appointed as a IRP as recommended by applicant, since he does not possess a valid AFA as reflected in the IBBI. We appoint **Mr. Ramji M**. having registration no: **IBBI/IPA-001/IP-P-01507/2018-2019/12258 (E-mail:** yahooramji@gmail.com **) (AFA valid up to 31-12-2026)** forming part of the Panel of IPs recommended by IBBI in accordance with, "Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2024", as the IRP in the present application. The IRP who is appointed shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15, 17, 18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

5.20. Consequently, the application filed by the Corporate Debtor under Section 10 of the Insolvency and Bankruptcy Code, 2016 is admitted and the Corporate Insolvency Resolution Process shall commence in respect of **Mahadhan Energy Private Limited** in accordance with law.

5.21. As a consequence of the Application being admitted in terms of Section 10 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent in respect of its property including any action under the Securitization 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 the possession of the respondent.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

5.22. However, during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

(3) The provisions of sub-section (1) shall not apply to

(a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;

(b) a surety in a contract of guarantee to a corporate debtor.

5.23. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

> (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:
>
> *Provided that* where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

5.24. The Corporate Debtor is directed to pay a sum of **Rs.2,00,000/- (Rupees Two Lakh only)** to the Interim Resolution Professional to meet out the expenses and to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Based on the above terms, the Petition stands **admitted** in terms of Section 10 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim

Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

5.25. Accordingly, **CP(IBC)/148(CHE)/2022** stands **admitted**.

-Sd-	**-Sd-**
RAVICHANDRAN RAMASAMY	**JYOTI KUMAR TRIPATHI**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)