**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:**

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

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| **APPLICATION NUMBER** | **: --** |
| **PETITION NUMBER** | **: CP/(IBC)/240/CHE/2024** |
| **NAME OF THE PETITIONER** | **: Sical Iron Ore Terminal (Mangalore) Ltd** |
| **NAME OF THE RESPONDENT(S)** | **: --** |
| **UNDER SECTION** | **: Sec 10 Rule 7 of IBC, 2016** |

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**ORDER**

Present : Ld. Counsel Mr. Surya Teja SS Nalla for the Petitioner.

Vide separate order pronounced in open court, **CP/(IBC)/240/CHE/2024** is allowed.

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

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# IN THE NATIONAL COMPANY LAW TRIBUNAL
# DIVISION BENCH – II, CHENNAI
# CP(IBC)/240(CHE)/2024

*(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 Sical Iron Ore Terminal (Mangalore) Limited***

**M/s SICAL IRON ORE TERMINAL (MANGALORE) LIMITED,**
Represented by its Director, S Rajappan,
Having office at: South India House 73, Armenian Street,
Chennai, Tamil Nadu, India – 600 001.

***… Applicant/ Corporate Debtor***

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

**CORAM**

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

*Present:*

*For Applicant: Surya Teja Ss Nalla & Tulesh Baiaje R, Advocates*
*For The Assistant Commissioner (ST): Dheenadayalan, Assistant Commissioner, GST*

**ORDER**

***(Heard through hybrid mode)***

The present application has been filed by M/s Sical Iron Ore Terminal (Mangalore) 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 Director and authorised signatory, Mr. S Rajappan, by a Resolution of the Board of Directors of the Corporate dated 23.09.2024 has been duly annexed as **Annex 6**.

***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. M/s Sical Iron Ore Terminal (Mangalore) Limited. It was incorporated on 09.10.2009 having its Office at South India House 73, Armenian Street, Chennai, Tamil Nadu, India – 600 001, with Authorized Capital as Rs.36,50,00,000/- and paid-up Rs.36,50,00,000/-. **Part-II** of the application sets out the particulars of the Proposed Interim Resolution Professional viz., Smt. Rongali Sridevi having Reg. No. IBBI/lPA-003/lP-N000172/2018-2019/12105. **Part-III** of the application list the particulars of the sole Operational Creditor, that is, the Assistant Commissioner (State Tax) (GST), amount of debt in default as Rs.7,11,19,324/- and date of default as 13.08.2024.

2.2. It is submitted that a statutory demand has been raised against it by the Office of the Assistant Commissioner (State Tax), Broadway Assessment Circle, Chennai, in respect of the GST liability for the financial year 2018-19. The assessment order dated 26.04.2024 under Section 73 of the applicable GST enactment raised a demand comprising

CGST and SGST, aggregating to Rs. 7,11,19,324/-, including tax of Rs. 3,54,89,656/-, interest of Rs. 3,20,80,704/- and penalty of Rs. 35,48,964/- and submits that the said amount constitutes the default relied upon for the purpose of the present Application.

2.3. It is submitted that the aforesaid GST demand is disputed by it and that it had, at the relevant time, taken steps before the GST authorities for rectification of the assessment.

2.4. It is further submitted that Applicant had furnished its books of account, ledger copies and other supporting documents and had specifically pointed out discrepancies relating to input tax credit, levy of tax on trade payables and the treatment of amounts reflected in the Profit and Loss Account and had also requested rectification of the assessment order dated 26.04.2024.

2.5. It is also submitted that the Applicant's business could not be commenced on account of the ban on export of iron ore and, consequently, the Applicant had not carried on any business activity giving rise to the income alleged in the assessment. According to the Applicant, the audited financial statements for the relevant years disclose that no business operations were commenced and, therefore, the assessment of tax on the basis of the Profit and Loss Account was erroneous.

2.6. It is submitted that the amount shown as capital work-in-progress represented cumulative expenditure and was incorrectly treated by the assessing authority as expenditure incurred during the relevant financial year.

2.8. It is further submitted that the assessing authority had proceeded on the basis that proper accounts had not been maintained and that sufficient evidence had not been produced in support of the transactions and input tax credit.

2.9. It is also submitted that the requisite financial statements, ledger copies, invoices and other documents had been furnished to the department and that the nature of the transactions and the financial position of the Company had been explained during the assessment proceedings.

2.10. It is submitted that it is not in a financial position to discharge the aforesaid demand. As per the financial statements as at 31.08.2024, the Company had no revenue from operations or other income and had incurred losses, while its available cash and cash equivalents were only about Rs. 9.02 lakhs. The Company had no trade payables, while its other current financial liabilities were approximately Rs. 3.25 lakhs. Its accumulated negative other equity stood at approximately Rs. 3,644.23 lakhs.

2.11. It is submitted that in view of its inability to meet the statutory demand and its overall financial position, the aggregate amount of default as on 13.08.2024 is Rs. 7,11,19,324/-. The said amount has been disclosed in the application served upon the Insolvency and Bankruptcy Board of India, wherein the Office of the Assistant Commissioner (State Tax) is identified as the operational creditor.

2.12. It is also submitted that a Special Resolution was passed by the shareholders on 23.09.2024 approving the initiation of the CIRP under section 10 of IBC, 2016, and a Board Resolution dated 23.09.2024 authorized S. Rajappan, Director of the Corporate Debtor, to file the present application.

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

(Amount in Rs.)

| Sr. No. | Tax Rate (%) | Turnover | Tax Period | | Act | POS (Place of Supply) | Tax | Interest | Penalty | Fee | Others | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | From | To | | | | | | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| 1 | 0 | 0.00 | APR 2018 | MAR 2019 | CGST | NA | 1,77,44,828.00 | 1,60,40,352.00 | 17,74,482.00 | 0.00 | 0.00 | 3,55,59,662.00 |
| 2 | 0 | 0.00 | APR 2018 | MAR 2019 | SGST | NA | 1,77,44,828.00 | 1,60,40,352.00 | 17,74,482.00 | 0.00 | 0.00 | 3,55,59,662.00 |
| Total | | | | | | | 3,54,89,656.00 | 3,20,80,704.00 | 35,48,964.00 | 0.00 | 0.00 | 7,11,19,324.00 |

2.14. The Applicant has not placed the relevant books of accounts evidencing the default but they have attached copy of the audited financial statements from 31.03.2022 upto 30.04.2024 and its Statement of Affairs upto 14.10.2024.

2.15. It is submitted that notice of the petition was directed to be served on the Financial Creditors and the major Operational Creditors.

2.16. 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:***

3.1. The Respondent, Assistant Commissioner (ST), has filed the present counter opposing the application filed by the Corporate Debtor.

3.2. It is stated that the Application has been filed with a malicious intent and amounts to a blatant misuse of the process of law. According to the Respondent, the object of the Application is not resolution of the insolvency of the Corporate Applicant, but to evade legitimate statutory dues and to stall the ongoing legal proceedings for recovery thereof.

3.3. It is further stated that there are substantial statutory dues payable by the Corporate Applicant which have not been disclosed in the Section 10 Application. The Respondent refers to various demands raised under the CGST/TNGST Acts, 2017, including demands pertaining to the periods July 2017 to March 2018, April 2018 to March 2019 and April 2019 to March 2020. The Respondent contends that the aggregate statutory dues, including tax, interest and penalty, amount to approximately Rs. 7,97,22,400/-, and that the said dues remain outstanding and are legally enforceable.

3.4. It is alleged that the Corporate Applicant has deliberately suppressed the aforesaid material facts and has thereby misled this Tribunal and contended that the pending statutory dues, including proceedings/ appeal before the departmental authorities, have not been disclosed in the Application, though the said liabilities have attained finality to the extent stated by the Respondent. Such suppression, according to the Respondent, materially affects the maintainability and credibility of the Application and demonstrates that the Applicant has not approached the Tribunal with clean hands.

3.5. It is further stated that the Application does not satisfy the mandatory requirements prescribed under Section 10(3) of the Code and the applicable Rules. In particular, the Respondent alleges that there is no valid special resolution of the shareholders authorising initiation of CIRP in accordance with the statutory requirement and that the Applicant has failed to make the requisite disclosure of pending proceedings as contemplated under Rule 7(2)(h) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

3.6. It is stated that the Corporate Applicant is seeking to take shelter under the provisions of the Code while continuing to evade legitimate recovery proceedings and statutory liabilities payable to the Government exchequer and contended that the statutory tax dues arising from the assessed demands under the CGST/ TNGST Acts remain unpaid, despite orders having been passed and recovery proceedings having been initiated.

3.7. The Respondent places reliance on the judgment of the Hon'ble NCLAT in ***Pr. Commissioner of Income Tax v. Monnet ISPAT and Energy Ltd., Company Appeal (AT) (Insolvency) No. 708 of 2018***, and submits that the IBC cannot be utilised as a mechanism to defeat or avoid lawful statutory dues or proceedings initiated by the tax authorities.

3.8. It is stated that the present Application is liable to be rejected under Section 65 of the Code, as the same has allegedly been filed for a purpose other than genuine resolution of insolvency. Reliance is placed upon the judgment of the Hon'ble Supreme Court in ***Swiss Ribbons Pvt. Ltd. v. Union of India, (2019) 4 SCC 17***, to contend that Section 65 operates as a safeguard against fraudulent or malicious initiation of insolvency proceedings.

3.9. The Respondent also relies upon ***Action ISPAT and Power Pvt. Ltd. v. Shyam Metalics and Energy Ltd., Company Appeal (AT) (Insolvency) No. 36 of 2019***, and submits that a Section 10 Application cannot be permitted to be used to frustrate recovery proceedings of creditors or otherwise abuse the insolvency process.

3.10. It is further stated that the Corporate Applicant has failed to place sufficient material establishing "default" within the meaning of Section 3(12) of the Code and also contended that the Applicant has not furnished updated financial statements, bank records or audited accounts sufficient to demonstrate its alleged inability to discharge its debts and to establish the foundational requirements for admission of a Section 10 Application.

***4. FINDINGS OF THE TRIBUNAL:***

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

4.2. The present application has been filed by the Corporate Debtor, M/s Sical Iron Ore Terminal (Mangalore) 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.

4.3. 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."*

4.4. The principal question that arises for consideration is whether the Corporate Applicant has established the existence of default and whether the Application satisfies the statutory requirements prescribed under Section 10 of the Code.

4.5. The Corporate Applicant has pleaded that the Office of the Assistant Commissioner (State Tax) (GST), being the sole Operational Creditor, had raised two separate demands against the Corporate Applicant, namely, Rs. 85,89,298/- for the Financial Year 2017-18 pursuant to the demand order dated 27.12.2023 and Rs. 7,11,19,324/- for the Financial Year 2018-19 pursuant to the demand order dated 26.04.2024. The Applicant has, however, clarified that the demand pertaining to FY 2017-18 is not being relied upon as the operational debt in the present proceedings, since an appeal has been preferred against the said demand after making the requisite statutory pre-deposit and the operation of the said demand stands stayed in terms of Section 107(6) of the CGST Act, 2017.

4.6. Insofar as the demand pertaining to FY 2018-19 is concerned, the Applicant has categorically stated that the demand of Rs. 7,11,19,324/- was subjected to a Rectification Application before the competent authority, which came to be rejected. It is further noted that no appeal was preferred against the demand order dated 26.04.2024 within the prescribed period and no further challenge was made against the rejection of the Rectification Application.

4.7. Consequently, the said demand has attained finality. The Applicant has therefore confined the operational debt relied upon in the present proceedings to the said amount of Rs. 7,11,19,324/-.

4.8. We find that the aforesaid clarification materially distinguishes the two demands. The demand pertaining to FY 2017-18, which is stated to be under statutory appeal with the benefit of stay, cannot be treated as the basis of default in the present Application. On the other hand, the demand pertaining to FY 2018-19, amounting to Rs. 7,11,19,324/-, having remained unchallenged after rejection of the Rectification Application, has been stated by the Applicant to have attained finality. The said amount is therefore the debt which falls for consideration for determining the existence of default in the present proceedings.

4.9. It is relevant to note that under Section 5(21) of the Code, "operational debt" includes a claim in respect of the provision of goods or services, including employment, or a debt in respect of repayment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority. The corresponding claimant is an "operational creditor" within the meaning of Section 5(20) of the Code. Thus, the statutory dues claimed by the State Tax Department, once crystallised and payable, fall within the ambit of operational debt for the purposes of the Code.

4.10. The Respondent has, however, opposed the Application principally on the ground that the Corporate Applicant had failed to disclose the statutory liabilities in its financial statements and had approached this Tribunal with suppression of material facts. It has also been contended that the present proceedings amount to an abuse of the process of the Code and that the Application has been filed with a view to defeat or delay recovery of statutory dues. The Respondent has, inter alia, sought rejection of the Application by invoking the principles underlying Section 65 of the Code.

4.11. We have carefully considered the aforesaid objection. It is not in dispute that the GST demands were raised by the concerned statutory authority. The Corporate Applicant had also disclosed the existence of the GST proceedings in the course of the present proceedings. More importantly, pursuant to the directions of this Tribunal, the Applicant has placed on record the Statutory Auditor's Report dated 10.12.2025 explaining the accounting treatment adopted in respect of the GST demands. The Applicant has specifically submitted that the demand of the Operational Creditor was reflected as a contingent liability in the financial statements for FY 2024-25.

4.12. In our considered view, the non-recognition of the disputed GST demand as an accrued liability in the financial statements, by itself, cannot be equated with deliberate suppression of material facts or fraudulent conduct, particularly when the Applicant has subsequently furnished the clarification of its Statutory Auditor and has placed the relevant liability before this Tribunal.

4.13. The accounting treatment adopted by the Corporate Applicant may have its consequences under the applicable accounting and tax laws, however, for the limited purpose of the present Section 10 proceedings, we are concerned with whether there exists a crystallised debt and default and whether the statutory requirements for initiation of CIRP are fulfilled. The Statutory Auditor's clarification also demonstrates that the GST demands had not been completely omitted from the financial disclosures but were dealt with as contingent liabilities.

4.14. We further note that the Corporate Applicant has not sought to have the correctness of the GST assessment adjudicated by this Tribunal. On the contrary, with regard to the FY 2018-19 demand, the Applicant itself has categorically acknowledged that the demand order dated 26.04.2024 attained finality and has treated the amount of Rs. 7,11,19,324/- as the operational debt for the purposes of the present Application. The Applicant has also candidly distinguished the FY 2017-18 demand, which remains subject to statutory appellate proceedings and stay. Such clarification, in our considered view, substantially addresses the objection regarding the existence and nature of the debt relied upon in the present proceedings.

4.15. As regards the objection under Section 65 of the Code, the mere fact that the Corporate Applicant has approached the Adjudicating Authority under Section 10 after incurring statutory liabilities cannot, in the absence of cogent material, lead to a conclusion that the Application has been filed fraudulently or with malicious intent. Section 65 is intended to prevent insolvency proceedings from being initiated for purposes other than resolution of insolvency or liquidation.

4.16. In the present case, apart from the allegation that the Applicant seeks to avoid payment of statutory dues, the Respondent has not placed sufficient material before us to establish that the present Application has been instituted for a purpose other than resolution of the Corporate Applicant in accordance with the scheme of the Code. The mere existence of statutory recovery proceedings cannot, by itself, render a Section 10 Application mala fide.

4.17. We also take note of the fact that the Corporate Applicant has placed on record the requisite corporate authorisation for initiation of CIRP and the consent of the proposed Interim Resolution Professional, and has asserted compliance with the requirements of Section 10 of the Code. The Applicant has relied upon the decision of the Hon'ble NCLAT in ***M/s. Unigreen Global Private Limited v. Punjab National Bank & Ors., Company Appeal (AT) (Insolvency) No. 81 of 2017***, in support of its contention that where the requirements of Section 10 are duly complied with and the Corporate Applicant is not otherwise ineligible under Section 11, the Application is required to be considered in accordance with the statutory mandate.

4.18. In the present case, the default relied upon by the Corporate Applicant is Rs. 7,11,19,324/- arising from the demand order dated 26.04.2024 for FY 2018-19. The said demand has attained finality, as stated by the Applicant, and remains unpaid. The amount of default is substantially above the threshold prescribed under Section 4 of the Code. Thus, the requirement relating to the existence of a default is satisfied on the facts placed before us.

4.19. We are also conscious that the jurisdiction of this Tribunal under Section 10 is not one for adjudicating upon the correctness of the underlying tax assessment once the relevant statutory demand has attained finality. The present proceedings are concerned with the existence of a debt and default and the fulfilment of the statutory requirements for commencement of CIRP. In the circumstances of the present case, the FY 2018-19 demand has attained finality and constitutes an operational debt payable to the State Government. The Corporate Applicant has admittedly failed to discharge the same.

4.20. Upon consideration of the Application, the Counter Affidavit, the Memo and the Clarification Memo, and the documents placed on record, we are satisfied that the Corporate Applicant has established the existence of default and has fulfilled the requirements contemplated under Section 10 of the Code. We find no sufficient basis on the present record to hold that the Application has been filed with fraudulent or malicious intent so as to warrant rejection under Section 65 of the Code. The objection relating to non-disclosure of the GST demand also stands substantially addressed by the clarification furnished by the Statutory Auditor and the disclosure of the demand as a contingent liability.

4.21. 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.

4.22. 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 repayment of loans. It has been submitted that the credits taken are genuine; the money was pumped into the Company through proper banking channels; the proceeds were used for repayment to the lenders and for the operations; there are no suspicious/ fraudulent transactions; and the valuation of inventories was carried out independently by the auditors.

4.23. 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"*

4.24. 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."*

4.25. 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.

4.26. The Corporate Debtor has proposed the name of **Smt. Rongali Sridevi,** having Reg. No. **IBBI/lPA-003/lP-N000172/2018-2019/12105** as the Interim Resolution Professional (IRP) and we appoint ***Smt. Rongali Sridevi,*** having **Registration No. IBBI/lPA-003/lP-N000172/2018-2019/12105** ***(E-mail ID:*** *srica_2003@yahoo.co.in****) (AFA Valid till 30.06.2027)*** 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.

4.27. 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 **M/s Sical Iron Ore Terminal (Mangalore) Limited** in accordance with law.

4.28. 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;

4.29. 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.

4.30. 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.

4.31. 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.

4.32. Accordingly, **CP(IBC)/240(CHE)/2024** stands **admitted**.

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