NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT VI

Item No. P-5

C.P. (IB)/72/MB/2026

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **06.10.2026**

NAME OF THE PARTIES: **Israel Discount Bank Limited**

Vs.

Hella Infra Market Limited

Under Section 7 of the IBC, 2016

ORDER

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, *vide* separate order. A detailed order is being uploaded on the NCLT portal today.

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

//AS//

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

C.P. (IB)/72/MB/2026

[Under Section 7 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016]

ISRAEL DISCOUNT BANK LIMITED

[Company No.: 520007030]

A Company incorporated under the

laws of the State of Israel,

having its registered office at:

1 Discount Street, Discount Campus

Rishon Lezion, 7574602, Israel. **…Financial Creditor**

V/s

HELLA INFRA MARKET LIMITED

[CIN No.: U46632MH2016PLC283737]

4th Floor, Opal Square, Plot No. C-1

S.G. Barve Road, Opp. Railadevi TMC Office

Wagle Industrial Estate, Thane West

Thane – 400604, Maharashtra, India. **...Corporate Debtor**

Pronounced: 06.10.2026

CORAM:
HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)
HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid

For FC: Adv. Nausher Kohli, Adv. Jeehan Fouzadar a/w Adv. Aniketh Nair & Adv. Nikhil Shirsekar i/b Link Legal.

For CD: Adv. Shyam Kapadia a/w Adv. Tejas Agarwal, Adv. Anushka Singh & Adv. Darshi Thaveri i/b IC Legal.

ORDER

[PER: CORAM]

1. BACKGROUND

1.1 This is an Application under Section 7 of the Insolvency and Bankruptcy Code, 2016 filed on 07.11.2025 by Israel Discount Bank Limited *(hereinafter referred to as "the Applicant"),* a company incorporated under the laws of the State of Israel, having Company No.: 520007030, seeking commencement of CIRP, appointment of IRP and declaration of moratorium upon Hella Infra Market Limited *(hereinafter referred to as "the Corporate Debtor/CD)* having CIN No.: U46632MH2016PLC283737.

1.2 The Applicant has proposed Mr. Vikash Gautamchand Jain, having Registration No. IBBI/IPA-001/IP-P00354/2017-18/10612, to act as the Interim Resolution Professional (IRP), in case the Application is admitted. The proposed IRP has given his consent in Form No. 2. The AFA of the proposed IRP is valid till 30.06.2027.

1.3 As per Part IV of the Application, the amount claimed to be in default is USD 7,801,096.2 (Seven Million Eight Hundred One Thousand Ninety-Six Dollars and Twenty Cents only), i.e., Rs. 69,20,00,138.97/- (Sixty-Nine Crores Twenty Lakhs One Hundred Thirty-Eight Rupees and Ninety-Seven Paisa only) with an exchange rate of INR 88.71 per USD at the time of filing of this Application. The date of default is stated as 07.06.2025.

2. CONTENTIONS OF FC

2.1 It is stated that the total amount of debt granted was USD 10,000,000 (US Dollars Ten Million) and the date of such disbursement was 10.06.2024.

2.2 P. Marom Construction Service Limited (hereinafter referred to as 'P. Marom/Seller') executed a Master Supply Agreement dated 20.12.2023 (hereinafter referred to as 'Agreement/MSA') with Hella Infra Market Singapore Pvt. Ltd. (hereinafter referred to as 'Hella Singapore'). Under the terms of the Agreement, P. Marom agreed to provide Hella Singapore with services for the procurement and supply of certain metals and chemicals and the provision of logistics services on a worldwide basis. P. Maron in turn was to procure these supplies from various third-party suppliers.

2.3 Under the terms of the Agreement/MSA and in order to facilitate the arrangement, P. Marom agreed to open a credit line with an Israeli Bank in favour of the CD for a maximum amount of USD 10,000,000 (US Dollars Ten Million), which represents 85% of the total transaction amount. The total transaction amount was USD 11,765,000.

2.4 The credit line was subject to a maximum tenure of twelve (12) months, and a maximum annual credit of USD 10,000,000.

2.5 Subsequently, a Notice of Acceptance was issued by Hella Singapore to P. Marom confirming that the supplies under the Agreement had been received. The invoices raised by P. Marom, as set out in Schedule B of the Notice of Acceptance, amounted to USD 11,765,000. Under the Notice of Acceptance, Hella Singapore confirms its obligation to pay the amount of USD 10,000,000.

2.6 Consequently, the Financial Creditor was requested to discount the promissory note for an aggregate amount of USD 10,000,000. Pursuant thereto, a Discounting Agreement dated 26.05.2024 ("Discounting Agreement") was executed between the Financial Creditor and P. Marom.

In accordance with clause 7 of the Discounting Agreement, the discounting interest was to be calculated as the sum of a margin at the rate of 1.4% and the financial creditors/Bank's cost.

2.7 Under the Discounting Agreement, it was agreed between the parties that the Seller shall sell and assign to the Financial Creditor all right, title and interest, including arrears interest and all sums which may become due to the Seller in connection with the payment obligation of Hella Singapore with respect to the promissory note, together with all related rights.

2.8 Accordingly, a Promissory Note dated 07.06.2024 ("Promissory Note") was issued by Hella Singapore, pursuant to which it was unconditionally promised to pay to P. Marom the sum of USD 10,000,000. Under the terms of the Promissory Note, interest in the event of default shall accrue at the rate of 2% from the due date up to the date of actual payment.

2.9 A Corporate Guarantee dated 07.06.2024 ("Corporate Guarantee") was executed between the CD and P. Marom, whereby, under Clause 2 of the Corporate Guarantee, the CD irrevocably and unconditionally guaranteed that, in the event Hella Singapore fails to make timely and full payments under the Promissory Note, including default interest and other liabilities, the CD shall pay such amounts to the extent of the shortfall.

2.10 Further, pursuant to Clause 22 of the Corporate Guarantee, the parties agreed to execute a Transfer Deed with the Financial Creditor to irrevocably and unconditionally transfer in favour of the Financial Creditor the Promissory Note issued by Hella Singapore; together with all rights, title and interest in all monies due and payable to P. Marom from Hella Singapore, including any interest accrued or accruing and interest accruing thereon.

Pursuant thereto, Hella Singapore issued a letter of consent for endorsement and transfer of the Promissory Note and the Endorsement for Promissory Note, both dated 07.06.2024.

2.11 Pursuant to the above, the Financial Creditor, CD and P. Marom entered into a Transfer Deed dated 10.06.2024.

2.12 Subsequently, Hella Singapore failed to make the payment as per the Promissory Note. Thereafter, the Financial Creditor, through an email dated 08.05.2025, sent a payment request along with a payment request letter calling upon Hella Singapore and the CD to make the due payments.

2.13 By email dated 16.05.2025, one Mr. Manish Porwal, on behalf of the CD acknowledged receipt of the email dated 08.05.2025.

2.14 By email dated 10.06.2025 and 17.06.2025, the CD addressed an email stating that, due to financial hardships, it requires an extension until 30.06.2025 to make payments due to the Financial Creditor.

2.15 By email dated 29.06.2025, the Financial Creditor reminded the CD about the due payment. Through email dated 29.06.2025, the CD again sought an extension till 15.07.2025 to complete the payment.

2.16 On 14.07.2025, the Financial Creditor received part-payment for a sum of USD 2,500,000 towards the outstanding debt.

2.17 Through an email dated 23.07.2025, the Financial Creditor demanded repayment of the balance outstanding amount from the CD.

2.18 The CD addressed the email dated 23.07.2025, assuring the Financial Creditor that it would make the payment at the earliest. However, no such payment was made.

2.19 Consequently, the Financial Creditor, through an email dated 11.08.2025, demanded immediate repayment of the outstanding balance together with all accrued interest and further indicated that, in the absence of such payment, enforcement of the guarantee would be initiated.

2.20 The CD, through an email dated 12.08.2025, informed that it would make the payment by the end of August 2025. However, the said payment has not been made.

2.21 Accordingly, on failure by the CD to make any payments towards the outstanding debt, the Financial Creditor was left with no other alternative but to issue a Demand Notice dated 20.08.2025 to the CD ('Demand Notice') in terms of the Corporate Guarantee. As per the Demand Notice, the CD had to make payment immediately and not later than 2 (two) working days of receipt of the Demand Notice.

2.22 The said Demand Notice was duly delivered to the CD on 05.09.2025, and was received by one Ms. Pavithra.

2.23 The Demand Notice was also sent to the CD through an email dated 21.08.2025. The. CD, however, has failed to make any repayment towards the outstanding debt despite receipt of the Demand Notice.

2.24 Accordingly, the outstanding debt stands at USD 7,801,096.2 (US Dollars, Seven Million Eight Hundred One Thousand Ninety-Six Dollars and Twenty Cents). The said amount is calculated as follows:

a) Principal balance amounting to USD 7,500,000

b) Accrued interest/Default charges amounting to USD 301,096.2

2.25 The accrued/default interest charges referred to in 2.24 have been calculated in the following manner:

a) As the CD made part-payment of USD 2,500,000, interest has been computed for the period from 07.06.2025 to 14.07.2025 (i.e. the date of part-payment, which is 38 days from the due date), applying a combined rate comprising a margin of 1.40% and bank's cost of 5.03% (as per the Discounting Agreement), and a default interest rate of 2% (as per the Promissory Note).

b) For the outstanding debt of USD 7,500,000, interest was computed for the period from the due date, i.e. 07.06.2025 to 06.11.2025 (i.e. 153 days), applying the combined rate comprising a margin of 1,40% along with the bank's cost of. 5 26% (as per the Discounting Agreement), and a default interest rate of 2% (as per the Promissory Note).

c) The total accrued default interest thus amounts to USD 298,224.16. Additionally, legal fees of EUR 2,500, equivalent to USD 2,872.04, as per the Corporate Guarantee, have been added, bringing the total accrued/default interest to USD 301,096.2.

2.26 Exhibit – Z of the Petition records the following Computation of Amount of Default:

Interest (Promissory Note)	Margin Cost (Discounting Agreement)	Bank's Cost (Discounting Agreement)	Total Interest	PERIOD		Days	Interest charged on the amount (in USD)	Total Interest (in USD)
2%	1.40%	5.03%	8.640700 %	07/06/2025	14/07/2025	38	2,500,000 (part payment)	22,801.85
2%	1.40%	5.26%	8.640700 %	07/06/2025	06/11/2025	153	7,500,000 (outstanding payment)	275,422.31
								298,224.16
							Cost of Legal Fees as per the Corporate Guarantee	+ 2872.04
Total Interest = USD 301,096.2 (Three Hundred One Thousand Ninety-Six Dollars and Twenty Cents Only)								

Total Outstanding Debt (in USD)	Total Interest (In USD)	Outstanding Debt (in USD)
7,500,000	301,096.2	7,801,096.2

2.27 The FC has attached the following supporting documents along with the Application:

a) Copy of the authorization, authorizing the representative of the Application/Financial Creditor to sign the present Application.

b) The Vakalatnama authorising Link Legal to represent the Financial Creditor.

c) Copy of Master Supply Agreement dated 20.12.2023.

d) Copy of the Notice of Acceptance issued by Hella Singapore to P. Marom.

e) Copy of Discounting Agreement dated 26.05.2024.

f) Copy of Promissory Note dated 07.06.2024.

g) Copy of the Deed of Corporate Guarantee dated 07.06. 2024.

h) Copy of the letter of consent for endorsement.

i) Copy of the transfer of Promissory Note and the Endorsement for Promissory Note.

j) Copy of the Transfer Deed dated 10.06.2024.

k) Copy of Notice of repayment dated 08.05.2025.

l) Copy of email dated 08.05.2025 addressed by the Financial Creditor to Hella Singapore and CD, respectively.

m) Copy of email dated 16.05.2025 addressed by Mr. Manish Porwal to the Financial Creditor.

n) Copy of emails dated 10.06.2025 addressed by the CD to the Financial Creditor.

o) Copy of email dated 17.06.2025 addressed by the CD to the Financial Creditor.

p) Copy of emails dated 29.06.2025 addressed by the Financial Creditor to the CD.

q) Copy of emails dated 29.06.2025 addressed by the CD to the Financial Creditor.

r) Copy of the SWIFT message dated 14.07.2025.

s) Copy of email dated 23.07.2025 addressed by the Financial Creditor to the CD.

t) Copy of email dated 23.07.2025 addressed by the CD to the Financial Creditor.

u) Copy of email dated 11.08.2025 addressed by the Financial Creditor to the CD.

v) Copy of email dated 12.08.2025 addressed by the CD to the Financial Creditor.

w) Copy of Demand Notice dated 20.08.2025.

x) Copy of proof of delivery of the Demand Notice.

y) Copy of email dated 21.08.2025 addressed by the Financial Creditor to the CD.

z) Computation of the Amount of Default.

aa) Copy of the written communication (consent letter) from the proposed Interim Resolution Professional in Form 2, in terms of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicatory Authority) Rules, 2016 along with the certificate of Registration and authorisation for assignment of the IRP.

3. CONTENTIONS OF CD

3.1 Affidavit-in-Reply dated 11.03.2026 was filed and affirmed by one Ms. Samiksha Ambade, who is stated to be the Assistant Legal Manager and authorised signatory of the CD.

3.2 The Petitioner does not satisfy the statutory definition of a "Financial Creditor" within the meaning of Section 5(7) of the Code, nor does the alleged claim constitute a "Financial Debt" under Section 5(8). The Petition represents an impermissible attempt to convert a commercial supply transaction coupled with a non-recourse transfer of receivables into an insolvency trigger, which is contrary to the express language of the statute as well as settled judicial interpretation. There has never been any borrowing by the Respondent from the Petitioner, nor any disbursement made by the Petitioner to the Respondent against consideration for time value of money. Further, serious and bona fide disputes exist in relation to the underlying transaction, and civil proceedings have already been instituted prior to invocation of the present proceedings. Thus, Petition therefore deserves rejection at the threshold.

3.3 In order to properly appreciate the nature of the controversy and the true character of the transaction sought to be re-labelled as a financial debt, it is necessary to narrate the factual sequence in its entirety and in its proper chronological order which is as follows. One P. Marom Construction Services Limited, a company incorporated under the laws of Israel (hereinafter referred to as "PMCSL"), entered into a Master Supply Agreement dated 20.12.2023 with one Hella Infra Market Singapore Pte. Ltd. (hereinafter referred to as "Hella Singapore") for the supply of edible

grade palm oil. The said arrangement was a pure commercial contract for sale and purchase of goods. It was governed by detailed terms relating to specification standards, shipment obligations, quality compliance, warranty representations, indemnity protections and performance timelines. The Respondent herein was not the buyer under the said agreement and was not a contracting party to the supply transaction itself.

3.4 As part of the commercial structuring of the supply arrangement, PMCSL opened a credit line facility through an Israeli bank acceptable to it, i.e., the Petitioner. This facility was not a loan extended by the Petitioner to the Respondent; rather, it was a trade-linked credit mechanism intended to facilitate supply, but the availability of such facility was made conditional upon issuance of certain security documentation. Accordingly, Hella Singapore was required to issue a Promissory Note in favour of PMCSL. In addition thereto, the Respondent company agreed to stand as a corporate guarantor solely in respect of payment obligations arising under the supply transaction. It is of fundamental importance that the guarantee was issued in connection with a trade supply arrangement and not in relation to any borrowing or financial facility extended by the Petitioner to the Respondent. Other than the fact that the Petitioner is an assignee of receivables, payments were made by the Petitioner to PMSCL for onward payment to the supplier, that too against invoices for goods, and certainly not the Respondent.

3.5 Pursuant to execution of the requisite documentation, the goods were procured by Hella Singapore from PMCSL and were thereafter sold onward to various third-party buyers in the ordinary course of business. The

transaction was structured as a bill-to-ship-to arrangement. Consequently, Hella Singapore did not have direct physical custody or inspection opportunity prior to onward shipment. It relied entirely upon the representations, assurances and contractual warranties provided by PMCSL in respect of quality, conformity and compliance with agreed specifications. The commercial viability of the entire chain of transactions depended upon strict adherence to those specifications.

3.6 Subsequent to execution of the supply arrangement and issuance of the Promissory Note and corporate guarantee, PMCSL entered into a Transfer Deed whereby it transferred its entitlement under the Promissory Note as well as its rights under the corporate guarantee in favour of the Petitioner, Israel Discount Bank, on a non-recourse basis. Under this arrangement, PMCSL irrevocably and unconditionally sold, assigned and transferred to the Petitioner its rights, title and interest in and to the Promissory Note and in respect of all sums of money due or which may become due from Hella Singapore. The transaction is a Transfer of Receivables, and categorises the alleged debt as a debt arising out of a transaction of sale of goods being receivables. The Petitioner did not disburse any funds to the Respondent, the Respondent did not receive any money from the Petitioner, and hence, no borrowing relationship can ever be claimed to exist between the Petitioner and the Respondent at any point in time.

3.7 It is further material to note that just prior to entering into the Transfer Deed, PMCSL procured an acceptance certificate dated 31.05.2024 from Hella Singapore under the representation that the goods supplied would meet all agreed specifications. This acceptance certificate was subsequently found

to have been obtained under a misapprehension, as serious defects in the goods came to light after onward delivery to downstream buyers.

3.8 Upon receipt of the goods by third-party purchasers, significant concerns were raised regarding discoloration, mismatch of specifications and non-conformity with contractual quality parameters and hence, these downstream buyers threatened to withhold payment. Under such circumstances, Hella Singapore immediately brought these issues to the notice of PMCSL and sought rectification and resolution. However, despite repeated communications, PMCSL failed to provide any meaningful resolution and instead sought to rely upon the earlier acceptance certificate and the non-recourse nature of the transfer to shield itself from responsibility.

3.9 Faced with mounting commercial exposure and refusal on the part of PMCSL to address the defects, Hella Singapore and the Respondent were constrained to institute Civil Suit No. 428 of 2025 before the competent Civil Court at Ahmedabad seeking declaratory reliefs that no payment was payable either to PMCSL or to its transferee being the Petitioner, seeking discharge of the corporate guarantee and seeking damages arising from defective supply. The said civil proceedings were instituted prior to invocation of the present insolvency Petition and hence, the disputes are real, substantial, and pre-existing.

3.10 Against this factual background, the present Petition under Section 7 is wholly unsustainable in law, more particularly, since the statutory definition of "financial debt" under Section 5(8) requires a disbursement against consideration for time value of money. In the present circumstances, there

has been no such disbursement to the Respondent, and the Petitioner merely purchased receivables from PMCSL. Hence, such purchase of receivables does not create a borrowing relationship with the Respondent and does not satisfy the essential ingredients of a financial debt. Moreover, Section 5 (8)(e) of the Code expressly addresses receivables sold or discounted and specifically excludes receivables sold on a non-recourse basis from the definition of financial debt. The transaction in the present case is admittedly a non-recourse transfer and once the statute expressly excludes such transactions, the Petition cannot be maintained under Section 7 since the legislative intent is clear and leaves no scope for judicial re-characterisation. The Petitioner cannot seek refuge under Section 5(8)(f) by contending that the transaction has the "commercial effect of borrowing", more particularly, where the legislature has specifically carved out a category of transactions and excluded non-recourse receivables from the ambit of financial debt. The residuary clause cannot be invoked to override that exclusion and to permit such an argument would render Section 5 (8)(e) otiose and defeat the scheme of the Code.

3.11 It is further submitted that assignment does not alter the character of the underlying obligation since the Petitioner, as assignee, merely steps into the shoes of PMCSL. Under such circumstances, if the underlying obligation arises out of a sale of goods transaction and is subject to dispute on account of defective performance, the assignee acquires no greater rights than the assignor. Hence, the intrinsic character of the alleged debt remains that of a trade receivable and does not transform into a financial debt by virtue of assignment.

3.12 It is also required to be noted that the corporate guarantee executed by the Respondent is accessory and derivative in nature and a guarantee cannot travel beyond the scope and character of the principal obligation. In the present circumstances, the principal claim itself is disputed and is statutorily excluded from the definition of financial debt, and hence, the guarantee cannot independently generate a financial debt. In view of such facts, the enforceability of the guarantee is contingent upon the existence of valid and enforceable receivables, which are presently the subject matter of civil adjudication.

3.13 The dispute in the present case relates to quality of goods, breach of warranties, contractual representations and damages flowing from defective supply. These are matters requiring detailed evidentiary adjudication, and they do not fall within the summary insolvency jurisdiction of this Hon'ble Tribunal and otherwise do not fall within the ambit of Section 7 of the Code. Under such circumstances, the insolvency framework cannot be invoked in a case where the very existence and enforceability of the debt is seriously contested.

3.14 In view of the above facts and the settled legal position, it is respectfully submitted that the present Petition lacks the foundational requirement of a financial debt, lacks a financial creditor, is barred by statutory exclusion under Section 5(8)(e), is vitiated by serious pre-existing disputes and constitutes a misuse of the insolvency process. The Petition is therefore not maintainable and deserves to be rejected at the admission stage itself with appropriate costs.

3.15 The CD has attached the following supporting documents along with the Reply:

a) A copy of the board resolution dated 29.01.2025 authorising Ms. Samiksha Ambade to represent the CD in this matter.

b) A copy of the Plaint filed in the Civil Suit No. 428 of 2025.

4. REJOINDER

4.1 Rejoinder dated 15.04.2026 was filed and affirmed by one Mr. Gajendra Harakchand Golchha, who is stated to be the authorised signatory of the Applicant.

The transaction between the Applicant and the CD constitutes a 'Financial Debt' under Section 5(8) of the IBC

4.2 It is the case of the CD that the debt in the present matter constitutes an operational debt under Section 5(21) of the IBC. It is submitted that the CD has deliberately attempted to mischaracterise the nature of the transaction and has failed to properly appreciate the true nature and structure of the financial arrangement between the Financial Creditor and the CD.

4.3 If the contention of the CD were to be accepted, every bank or financial institution which advances funds to a borrower who subsequently utilizes such funds for purchasing goods or paying suppliers would be treated as an operational creditor. Such an interpretation would be contrary to the scheme and legislative intent of the IBC, which clearly distinguishes between financial creditors who provide financial accommodation and operational creditors who are primarily engaged in supply of goods or services. The

Financial Creditor, having merely extended financial assistance towards the supply of goods, cannot be recharacterized as an operational creditor.

4.4 For the sake of brevity, I hereby adopt, repeat and reiterate what is stated in the Company Petition as if the same is reproduced herein *in seriatim*. I say that the transactions as set out in the Company Petition have not been disputed by the CD in its Affidavit in Reply. Accordingly, the said transactions stand admitted and accepted by the CD.

4.5 Since the Corporate Debtor has attempted to mischaracterize the true and correct nature of the transaction, it is necessary to set out the proper flow of transactions in order to understand their true financial substance:

a) P. Marom Construction Services Ltd. ("P. Marom") entered into a Master Supply Agreement dated December 20, 2023 ("MSA") with Hella Infra Market Singapore Pte. Ltd. ("Hella Singapore"), under which P. Marom agreed to provide certain services relating to the procurement and supply of specified metals and chemicals, along with the provision of worldwide logistics services. It is pertinent to note that the said Master Supply Agreement was solely an arrangement between P. Marom and Hella Singapore, and the Financial Creditor was not a party thereto.

b) As per clause 2 of the Master Supply Agreement, and in order to facilitate business operations between P. Marom and Hella Singapore, it was agreed that P. Marom shall open a credit line facility with an Israeli bank. The said arrangement was separate and independent and had no nexus with the goods and/or services or any component of the Master Supply Agreement.

c) It was further agreed under the Master Supply Agreement that Hella Singapore would issue a promissory note in favour of P. Marom, which would be presented to the said Israeli bank for discounting. Upon such issuance and presentation, the Israeli bank would discount the promissory note, and the same would thereafter be assigned and/or transferred in favour of the Israeli bank. Consequently, Hella Singapore, as the issuer of the promissory note, would be liable to make payment thereunder directly to the Israeli bank. The relevant clauses are reproduced hereinow:

> *"2. The Financing Facility and Payment to Suppliers*
> *2.1 In order to facilitate the purchase and delivery of the Supplies pursuant to each Supply Agreement, P. Marom shall open a credit-line facility in an Israeli Bank acceptable to P. Marom (the "Bank") (the "Facility").*
> *2.2. The Facility shall include a credit line in a maximum total amount of US$ 10,000,000 (ten million USD), which represents 85% of the Total Transaction Amount. "Toral Transaction Amount" shall mean US$ 11,765,000, excluding Bank fees and insurance premiums paid to ICIC (as defined and provided below). The Facility shall be subject to the following terms: (i) a maximum credit period of twelve (12) month; and (ii) a maximum annual credit period of US$ 10,000,000 (ten million USD)*
> *2.3. Subject to the foregoing, the Bank will fund 85% of the invoice issued by P. Marom. The funding will be made subject to the delivery of the following documents and the completion of the following*

conditions precedent prior to payment to each Supplier according to its respective payment terms:

(i) Hella has to paid to P. Marom an advance payment of 15% of the Total Transaction Amount;

(ii) Notice of Acceptance to P. Marom (in the form provided by the Bank and approved by ICIC) (the "Notice of Acceptance"), executed by Hella, confirming that the Supplies have been received and approved;

(iii) Promissory Note to P. Marom (in the form provided by the Bank) in an amount of US$ 10,000,000 (ten million USD), executed by Hella, in force for a period of 12 months (the "Promissory Note");

(iv) Endorsement Letter (Assignment) of the Promissory Note by P. Marom to the Bank (in the form provided by the Bank), executed by P. Marom;

(v) Consent to Endorsement (in the form accepted to the Bank) executed by Hella in connection with the endorsement of the Promissory Note by P. Marom to the Bank;

(vi) Undertaking from Hella which confirms that the Consent to Endorsement and other funding procedures set forth above are legally valid, binding, and enforceable against Hella;

(vii) a Guarantee in the form attached hereto as Exhibit B executed by the Guarantor (as defined therein); and

(viii) any other authorization or document, opinion, or assurance which P. Marom, the Bank and/or ICIC (as defined below) consider to be necessary or desirable in connection with the entry and performance of the transactions contemplated by

the documents under the Facility or this Agreement or for the validity and enforceability of any such documents.

2.4. ***Subject to the foregoing, the Bank shall transfer to P. Marom 100% of the Promissory Note submitted to the Bank, out of which 10% shall be kept and deposited in the Bank (the "10% Deposit") and P. Marom shall pay to the Suppliers in accordance with the respective payment terms for each PO****.*

2.5. Hella shall pay directly to the Bank, in accordance with the Promissory Note and Endorsement Letter. Such payment shall be made within twelve (12) months from the day of the Promissory Note.

2.6. Upon receipt of payment from Hella to the Bank (in accordance with the Promissory Note), the Bank shall release to P. Marom the 10% Deposit.

2.7. All payments, including any applicable sales tax and VAT, owed by Hella to P. Marom, or the Bank (as advised by P. Marom) shall be made in USD, against original invoices, and, where appropriate, with shipping documents duly issued by P. Marom.

2.8. ***For the purposes of Section 2.3(ii) above (execution of Notice of Acceptance), it is clarified that Hella shall be the sole responsible, at its sole expense, to inspect the Supplies and execute the Notice of Acceptance prior to payment by P. Marom to the respective Supplier****."*

(Emphasis Supplied)

At this juncture, it is pertinent to point out that the CD, in a desperate attempt to wriggle out of the present financial debt, is seeking to conflate two distinct transactions. The MSA executed between P. Marom and

Hella Singapore was solely for the purpose of procurement of services. Whereas the discounting of the promissory note and the credit line facility is a separate and independent financing arrangement for the benefit of Hella Singapore by the Israeli bank (i.e. the Financial Creditor). The present Financial Debt stems from the following documents, i.e. Discounting Agreement dated 30.04.2024 ("Discounting Agreement"), Promissory Note dated 07.06.2024 ("Promissory Note"), Corporate Guarantee, Letter dated 07.06.2024 for consent and transfer of Promissory Note, and Transfer Deed dated 10.06.2024 ("Transfer Deed"), which are enumerated in detail hereinbelow.

d) In accordance with the aforesaid arrangement, P. Marom approached the Financial Creditor with a request to discount the promissory note to be issued by Hella Singapore, pursuant to which a Discounting Agreement came to be executed between the Financial Creditor and P. Marom. Under the said Discounting Agreement, the Financial Creditor agreed to discount the promissory note at 100% of its face value. The relevant portion of the Discounting Agreement is as under:

> *"(C) The Company has requested the Bank to discount the promissory note, in the form attached hereby as Exhibit D1 (the "Promissory Note") up to a total amount of UDS 10,000,000 (the "Facility") and the Bank has agreed to discount the Promissory Note as to 100% of its face value on a non-recourse basis (other than a stated in Clause 10 set forth below), provided that, inter alia, the Facility shall be covered as stated in Clause 6 below by a policy to be issued by B.S.S.CH — The Israeli Credit Insurance Company Ltd. (the "Policy" and "ICIC" respectively), and subject*

to the other terms and conditions of this Agreement. The amount of the Facility stated above shall not include financing of the Down Payment."

4.6 Further, for the purpose of discounting the promissory note, a discounting consideration was to be charged by the Financial Creditor, which unequivocally constitutes the component of time value of money in the said transaction. The relevant clause from the Discounting Agreement is as follows:

"7. Discounting Consideration:
The discount consideration shall be calculated as follows: (a) the Promissory Note face-value multiplied by (b) the Discounting Interest, as specified in this Clause 7 below (the "Discounting Interest"). The Discounting Interest rate will be notified by the Bank to the Company within two Business Days prior to the discounting, calculated as follows, from the date of discounting until the due date plus additional 7 business days of the Promissory Note, according to a discount to yield method (based on a year of 360 days and the actual number of days elapsed) (the "Discount Consideration")
The Discounting Interest valid until 30/4/2024 shall be an annual fixed rate of interest which is the sum of (i) a margin at a rate of 1.4% (one point four percent) (the "Margin "); and (ii) the Banks's Cost as defined below:

"Bank's Cost" shall mean: the cost of raising of the money for the Bank or the Cost of alternative use of Bank's money, determined by the Bank, according to the relevant period in US Dollars, as will be customary and accepted at the Bank,

according to its determinations, decisions and the Bank's discretion only."

(Emphasis Supplied)

4.7 Pursuant to the aforesaid, Hella Singapore issued a Promissory Note in favour of P. Marom, whereby Hella Singapore unconditionally promised to pay a sum of USD 10,000,000 to P. Marom. The Promissory Note further provides that, in the event of any default in payment, a default interest of 2% p.a. will be payable. The relevant paragraph for the Promissory Note is as under:

"If applicable to the Holder under any applicable law, it is established that the obligation herein contained shall not extinguish even in the case that this Promissory Note had suffered any detriment due to Holder's fault. ***If the Issuer fails to pay any payment mentioned in this Promissory Note on its due date, default interest shall accrue on the overdue amount from the date of actual payment (both before and after judgment) at a rate which is 2% (two per cent.) per annum****."*

(Emphasis Supplied)

4.8 It is submitted the Discounting Agreement, read together with the Promissory Note, demonstrates the element of time value of money. As per Clause 7 of the Discounting Agreement interest is computed on the face value of the Promissory Note for the relevant period, namely from the date of discounting (07.06.2024) until the due date (07.06.2025). Furthermore, the Promissory Note stipulates that, upon failure by Hella Singapore to make payment on the due date, default interest at the rate of 2% p.a. becomes payable until actual payment. Accordingly, the transaction not only

contemplates consideration for the time value of money by way of discounting interest, but also default interest in the event of non-payment.

4.9 Further, a Corporate Guarantee was executed between the CD and P. Marom, whereby the CD unconditionally agreed that, in the event Hella Singapore fails to make payment under the Promissory Note, then the CD shall be liable to make all such payments. The relevant clauses of the Corporate Guarantee read as under:

> *"**1. Definitions***
> *... "Guaranteed Obligations" shall have the meaning as ascribed in Clause 2 herein:*
> ***2. Guarantee***
> *... Subject to the provisions hereof, the Guarantor hereby irrevocably and unconditionally guarantees to the Beneficiary **that in the event Hella Singapore fails, neglects, or refuses to timely or fully make payments under the Promissory Note(s) (including any default interest and other liabilities thereunder), the Guarantor shall, upon the Beneficiary's first written demand, pay the Beneficiary, such amounts to the extent of the shortfall (the "Guaranteed Obligations)**.*
> ***3. Demands***
> *... If at any time. Hella Singapore fails Hella Singapore fails, neglects, or refuses to timely or fully perform any of the Guaranteed Obligations, Guarantor shall, upon the first written demand from the Beneficiary substantially in the format as set out in Schedule I hereto ("Demand Notice") and without demur, presentment, protest or other notice of any kind, discharge the Guaranteed Obligations and*

> *immediately pay to the Beneficiary the demanded amount.*
>
> ***4. Consents and Waiver***
>
> *4.1* ***Guarantor hereby waives any right to require that any action or proceeding be bought against Hella Singapore, prior to making any demand against Guarantor****."*
>
> *(Emphasis Supplied)*

4.10 *Vide* letter dated 07.06.2024, Hella Singapore consented to P. Marom transferring all its rights under the Promissory Note in favour of the Financial Creditor and endorsed the Promissory Note. Pursuant thereto, a Transfer Deed was executed by P. Marom in favour of Financial Creditor, and was confirmed by the CD, whereby P. Marom transferred all of its right under the Promissory Note and Corporate Guarantee to Financial Creditor. The relevant clauses from the Transfer Deed are as follows:

> *"1. The Transferor hereby absolutely, irrevocably and unconditionally transfers to the Transferee and the Transferee hereby acquires from the Transferor, free and clear of any security:*
>
> *(a) all the benefits arising out of the Guarantee to which the Transferor is or shall be entitled to (including any amounts now or hereafter receivable by the Transferor under the Guarantee) vis-a-vis the Endorsed Promissory Note: and*
>
> *(b) all of the Transferor's rights, title and interest in and to the Guarantee (including but not limited to the right to issue a Demand Notice and enforce the Guarantee) vis-a-vis the Endorsed Promissory Note.*
>
> *…..*
>
> *3. On and from the Effective date, vis-a-vis the Endorsed Promissory Note:*

(a) the Transferee shall be deemed to be the sole beneficiary to the Guarantee;

(b) the Transferee shall be entitled to all benefits of the Guarantee and shall be entitled to exercise all the rights and powers vested in the Transferor (including the right to enforce the Guarantee) under the Guarantee; and

(c) the rights vested in favour of the Transferee may be exercised by the Transferee in its sole discretion in accordance with the terms of the Guarantee; as if the Guarantee had originally been executed in favour of and for the benefit of the Transferee (vis-a-vis the Endorsed Promissory Note)

4. This Transfer Deed shall be co-terminus with the Guarantee."

4.11 Upon execution of the Transfer Deed, the Financial Creditor on June 10, 2024, discounted the Promissory Note and made payment to P. Marom. A perusal of the Corporate Guarantee, read together with the Transfer Deed, shows that since P. Marom had transferred all rights under the Corporate Guarantee and the Promissory Note to the Financial Creditor, Hella Singapore, being the issuer of the Promissory Note, was liable to make payments to the Financial Creditor. In the event of default by Hella Singapore, the Corporate Guarantor was responsible for fulfilling the obligations.

4.12 On perusal of the Corporate Guarantee, it reflects that the Corporate Debtor has guaranteed the "Loan Amount" in the sum of USD 10 million / Rs. 83 Crores (Pg. No. 52 of the Petition). Further, admittedly, stamp duty in the sum of Rs. 21,00,000/- has been paid on the Corporate Guarantee. A perusal of the Corporate Guarantee and its various clauses unequivocally

establish that the said Corporate Guarantee is a financial instrument containing the necessary ingredients of a financial debt including the mode of repayment along with interest. In addition, the Corporate Guarantee also imposes obligations towards default interest in the event of failure to make repayment.

4.13 The aforesaid understanding, i.e. the subject transaction is in the nature of a financial debt, is also buttressed from a perusal of the Transfer Deed, also executed by the Corporate Debtor in its capacity as a "Guarantor". The relevant portion of the Transfer Deed is read as follows:

> *"D.* ***For the purpose of securing all payments by Hella Singapore under the Promissory Note (issued from time to time), the Guarantor (of which Hella Singapore is wholly owned subsidiary) has furnished in favor of PMCL, as deed of corporate guarantee dated 7/6/2024 ("Guarantee", which expression shall include all amendments and supplements thereto, from to time) upto the overall capped liability of USD 10 Million (USD Dollar Ten Million only) during the Validity Period (the "Guaranteed Amount")."***

4.14 The aforesaid understanding has also been confirmed by Hella Singapore itself. When, by its email dated 23.07.2025 (Exhibit S of the Petition), the Financial Creditor called upon the CD to pay the "...**loan together with the default interest**", the CD responded *vide* email dated 23.07.2025 by stating "... **We are working towards clearing entire balance outstanding**".

4.15 To summarise, the entire transaction flows in the following manner:

a) As per the Master Supply Agreement, and to facilitate business operations between P. Marom and Hella Singapore, P. Marom agreed

to open a credit line facility with an Israeli bank. To which effect Hella Singapore would issue a promissory note in favour of P. Marom, which would be presented to the said Israeli bank for discounting, and the same would thereafter be assigned and/or transferred in favour of the Israeli bank.

b) P. Marom approached the Financial Creditor for financial assistance to facilitate its business operations with Hella Singapore.

c) A credit line facility was established through a Discounting Agreement, under which the Financial Creditor agreed to discount Promissory Note at their face value.

d) Hella Singapore issued a Promissory Note in favour of P. Marom, which was presented to the Financial Creditor for discounting.

e) The Financial Creditor discounted the Promissory Note and made payment on June 10, 2024. The disbursement made by the Financial Creditor had the commercial effect of borrowing for the benefit of the Corporate Debtor and included discounting interest.

f) The Corporate Debtor executed a Corporate Guarantee securing payment of the amounts due under the Promissory Note in case of default by Hella Singapore.

g) P. Marom assigned all its rights under the Promissory Note and Corporate Guarantee to the Financial Creditor by way of a Transfer Deed.

h) On default by Hella Singapore, the Corporate Debtor became liable for the payment. A part payment was made by Hella Singapore, thereby

acknowledging the debt. Despite issuance of a Demand Notice, the Corporate Debtor failed to repay the outstanding financial debt.

i) Therefore, the entire transaction contemplates that IDB, having disbursed the money under the Promissory Note, has the right to receive the amount payable thereunder from Hella Singapore, and in the event of any default by Hella Singapore, the Corporate Debtor shall be liable to make payment to the Financial Creditor along with interest as per the Discounting Agreement and default interest as per the Promissory Note.

The debt in the present case squarely falls within the definition of financial debt under the provisions of IBC for the following reasons:

4.16 Liability arising out of Corporate Guarantee: Section 5(8)(i) of IBC –

a) The liability of the Corporate Debtor arises pursuant to the Corporate Guarantee executed in favour of P. Marom, which has subsequently been validly assigned to the Financial Creditor under the Transfer Deed. The said Corporate Guarantee is unconditional and irrevocable in nature, and obligates the Corporate Debtor to make payment upon default by Hella Singapore under the Promissory Note.

b) In this regard, Section 5(8)(i) of the IBC states that a guarantee provided to any of the underlying financial transactions mentioned under Section 5(8)(a) to Section 5(8)(h) is a "financial debt".

c) In the present case, the Corporate Guarantee has been issued in respect of the discounting of a Promissory Note, which is in the nature of a transaction falling within Section 5(8)(c) of the IBC, being pursuant to a note purchase facility or a similar instrument. Without prejudice, and in the event this Tribunal comes to the conclusion that the underlying

financial transaction does not fall strictly within Section 5(8)(c), the same would, in any event, fall within Section 5(8)(f) of the Code, as a transaction having the commercial effect of a borrowing. Consequently, the liability of the Corporate Debtor under the present Corporate Guarantee constitutes a financial debt within the meaning of Section 5(8)(i) of the Code.

4.17 Financing through financial instrument (i.e. Promissory Note): Section 5(8)(c) of IBC

a) the Corporate Guarantee was issued in respect of a financing transaction which squarely satisfies the requirements of Section 5(8)(c), as the entire financing arrangement was structured through the issuance and discounting of a Promissory Note.

b) Accordingly, the debt arises from a financial instrument in the nature of a note, thereby satisfying the requirement under Section 5(8)(c) of the IBC which includes amounts raised pursuant to the issuance of notes or similar financial instruments.

4.18 Existence of a credit line facility and disbursement against consideration of time value of money: Section 5(8)(b)

a) Further, the Financial Creditor discounted the Promissory Note through a credit line facility. The said arrangement was accepted by Hella Singapore and subsequently secured by the Corporate Debtor through the Corporate Guarantee. The existence of such a financing arrangement through a credit facility satisfies the requirement contemplated under Section 5(8)(b) of the IBC. It is pertinent to note that the Financial Creditor disbursed funds against the Promissory Note, and

in consideration thereof, charged a discounting consideration, which is in the nature of interest calculated based on a discount to-yield method for a defined credit period of twelve (12) months. This clearly establishes that the disbursement was made against consideration for the time value of money.

The present debt does not constitute an Operational debt under Section 5(21) of the IBC

4.19 Operational debt requires direct transactional nexus between the creditor and the goods/service supplies, which is absent in the present case:

Operational debt necessarily requires a direct transactional nexus between the creditor and the supply of goods or services. Such a nexus is completely absent in the present case. The claim in the present matter does not arise from the supply of goods or services by the Financial Creditor to the Corporate Debtor. Instead, the liability of the Corporate Debtor arises from the discounting of the Promissory Note, the execution of the Corporate Guarantee, and the Transfer Deed. The Financial Creditor, being a banking institution, merely extended financial assistance and had no involvement whatsoever in the underlying commercial transaction relating to the supply of goods between the parties.

4.20 End use of funds does not determine the nature of the debt:

The character of the debt must be determined from the nature of the disbursement and the underlying financial arrangement, and not from the purpose for which the borrower subsequently utilized the funds. The debt in the present case arises from a financial disbursement carrying the commercial effect of borrowing and therefore cannot be recharacterized as

an operational debt merely because the funds were used in the course of business operations.

4.21 Acceptance of the CD's contention would defeat the scheme of the IBC:

If the contention of the Corporate Debtor were to be accepted, every bank or financial institution which disburses funds on behalf of a borrower for purchase of goods or paying suppliers would be treated as an operational creditor. Such an interpretation would be contrary to the scheme and intent of the IBC, which clearly distinguishes between financial creditors who provide financial accommodation and operational creditors who supply goods or services. The Financial Creditor, having merely extended financial assistance, cannot be recharacterized as an operational creditor.

Therefore, the transaction between the Financial Creditor and the Operational Debtor clearly constitutes a Financial Debt within the meaning of section 5(8) of the IBC and does not falls within the ambit of an operational debt under section 5(21) of the IBC.

Civil Suit No. 428 of 2025 filed by the CD before the Civil Court at Ahmedabad, Gujarat does not bar this Tribunal from proceeding with the present matter

4.22 At the outset, it is submitted that the Corporate Debtor has attempted to obstruct the present proceedings before this Hon'ble Tribunal by contending that the present petition is not maintainable in view of a Civil Suit instituted by the Corporate Debtor post issuance of the Demand. The said contention is wholly misconceived and deserves to be rejected.

4.23 The filing of the Civil Suit has no bearing and/or does not bar this Hon'ble Tribunal from proceeding with the present matter for the following reasons:

a) As per Clause 16 of the Master Supply Agreement any dispute arising out of the said agreement is governed by the laws of England and Wales. No courts in India have jurisdiction to entertain and/or adjudicate on the disputes arising out of the said agreement. Therefore, a suit filed before the Civil Court or any other court/tribunals in India is prima facie not maintainable. Clause 16 of the Master Supply Agreement reads as under:

> *"**16. Governing Laws and Jurisdiction***
> ***This Agreement shall be governed by and construed in accordance with the laws of England and Wales**, without giving affect to the principles thereof relating to conflict of laws. **Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Rules of Arbitration of the International Chamber of Commerce, which Rules are deemed to be incorporated by reference into this Section. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London, UK and the language to be used in the arbitral proceedings shall be English**"*

b) Secondly, the Financial Creditor is not privy to the MSA. Therefore, CD's liability towards the Financial Creditor remains unaffected by any dispute regarding the quality of goods supplied or any other related circumstances. It is important to note that, Financial Creditor merely extended financial assistance and was not involved in the underlying operations between P. Marom and Hella Singapore. Therefore, the

alleged dispute of quality of goods and services does not extinguish liability of the Corporate Debtor under the Deed of Corporate Guarantee dated June 07, 2024 (`Corporate Guarantee'). The attempt of the Corporate Debtor to merge two independent transactions into one is wholly misconceived, as the Corporate Guarantee constitutes an independent and binding contract.

c) Thirdly and without prejudice to the Financial Creditor's rights and contentions, the copy of plaint annexed to the said Affidavit in reply fails to disclose any single cogent material/evidence/ correspondence to substantiate the allegations regarding defective goods. The entire Civil Suit is based on bald and unsubstantiated allegations which have been raised belatedly, nearly a year after the transactions in questions. It is only after the institution of the present proceedings that such allegations have been raised by the CD. The same clearly demonstrates a deliberate attempt on the part of the CD to create an illusory dispute in order to evade its admitted liability. In any event, and without prejudice to the aforesaid, the said proceedings are otherwise not maintainable and do not in any manner affect the maintainability of the present proceedings, as already stated hereinabove.

d) Fourthly, the Civil Suit is clearly an afterthought on the part of the Corporate Debtor to prevent the Financial Creditor from taking lawful action for recovery of its debt. It is only after the demand notice dated 20.08.2025 ("Demand Notice") was served upon the CD *via* email on 21.08.2025 that the Civil Suit came to be instituted on 01.09.2025. The said suit has been filed solely with the intention of creating a facade of

dispute and to disable the Financial Creditor from enforcing its lawful rights against the CD.

e) Lastly, the conduct of the CD clearly demonstrates acknowledgment of the debt. Hella Singapore has already made part payments towards the Financial Creditor's outstanding dues, proof of which is annexed as Exhibit - R to the Company Petition. Such payments unequivocally establish the existence of a financial obligation, and the belated allegations now raised appear to be a mere afterthought intended to evade liability in the present proceedings.

4.24 The Applicant states that the contention of the CD is untenable, since direct disbursement to the CD is not an indispensable requirement where the CD has assumed liability as a guarantor; further, the underlying transaction of discounting of the promissory note is, on its true nature, a financing transaction bearing the commercial effect of borrowing and is therefore capable of constituting a financial debt within the meaning of Section 5(8) of the Code. In the present case, the Financial Creditor made disbursement against the Promissory Note and in consideration thereof, charged a discounting consideration, which is in the nature of interest computed on a discount-to-yield basis for a defined credit period of twelve months. This clearly establishes that the disbursement was made against consideration for the time value of money, thereby satisfying the essential requirement of a financial debt under the IBC. Further, the initiation of Civil Suit by the CD has no bearing whatsoever on the maintainability of the present Petition. The said Civil Suit has been instituted solely with a view to evade and delay the legitimate liability owed to the Financial Creditor. Notably, the same has

been initiated only after the receipt of the Demand Notice, which clearly demonstrates the *mala fide* and vexatious intent of the CD.

4.25 The reliance placed by the CD on the alleged non-recourse clause is entirely misplaced. It is submitted that the said non-recourse clause is not applicable to the CD and has been selectively relied upon in an attempt to distort the true nature of the transaction. The said clause merely governs the inter se arrangement between the Financial Creditor and P. Marom and limits the recourse of the Financial Creditor against P. Marom in the event of non-payment by Hella Singapore and the CD. Clause 10 of the Discounting Agreement reads as follows:

> *"10. No Recourse*
> *Except with respect to the Residuary Risk, the Bank will have no recourse to the Company in case of non-payment by the Buyer of any amount owed under the Promissory Note."*

Accordingly, the non-recourse arrangement operates strictly inter se between the Financial Creditor and P. Marom and has no bearing whatsoever on the liabilities and obligations undertaken by the CD. The CD cannot seek to take shelter under such an arrangement to evade its contractual obligations. It is submitted that the said provision cannot be construed in a manner so as to extinguish, limit, or dilute the independent and co-extensive liability arising under the Corporate Guarantee executed by the CD, which remains fully enforceable in accordance with its terms.

4.26 In the present case, the CD voluntarily executed the Corporate Guarantee securing the repayment obligations arising under the Promissory Note. The liability arising from such guarantee squarely falls within the ambit of Section

5(8)(i) of the IBC, which expressly includes liabilities in respect of guarantees for financial obligations.

4.27 Attached with this Rejoinder is the proof of disbursement of the discount consideration to P. Marom on 10.06.2024.

To

Whom it may be concerned

The undersigned P. Marom Construction Services Ltd hereby approve that in accordance with the terms of the Discounting Agreement by and between Israel Discount Bank Ltd and P. Marom Construction Services Ltd, dated 26/5/2024, we received a total of USD 8,989,564.19 as the discount consideration on June 10, 2024.

Regards

P. Marom Construction Services Ltd

P. Marom Construction
Services Ltd
513298190

5. WRITTEN SUBMISSIONS (FC) dt. 06.07.2026

5.1 The Financial Creditor at the outset relies on the judgment passed by the Hon'ble Supreme Court in ***Power Trust (Promoter of Hiranmaye Energy Ltd.) v. Bhuvan Madan*** (2026 SCC OnLine SC 248), the scope of enquiry at the stage of admission of a Petition under Section 7 of the Code is limited. At this stage, this Hon'ble Tribunal is only required to examine two things: first, whether a financial debt exists; and second, whether a default has occurred in respect of such debt. The Adjudicating Authority is not required

to enter into disputed questions on merits or any alleged pre-existing dispute between the parties. Both the elements have been satisfied in the present factual scenario and have been substantiated hereunder.

5.2 The transaction in question constitutes a financial debt under Section 5(8) of the Code:

a) The Master Supply Agreement was solely for procurement and supply of goods/services, whereas the Promissory Note discounting and credit line facility constituted an independent financing arrangement extended by the Financial Creditor.

b) The Financial Creditor, disbursed monies against discounting of the Promissory Note, transferring all its rights under the Promissory Note and Corporate Guarantee in favour of the Financial Creditor. Further, on default by Hella Singapore, the Corporate Debtor became liable for the payment. Therefore, the disbursal made by the Financial Creditor therefore had the commercial effect of borrowing for the benefit of Hella Singapore and the Corporate Debtor.

c) Thus, the transaction forming subject matter of the present Petition is a financing arrangement involving disbursal against the Promissory Note with an agreed return, thereby, squarely constituting a financial debt.

5.3 The Hon'ble NCLAT in ***Dhruv Harjai v PPG Asian Paints Pvt. Ltd.*** (2025 SCC OnLine NCLAT 1150) held that where an upfront contribution is secured by a promissory note and carries a repayment obligation with interest upon breach, the arrangement has the commercial effect of borrowing and falls within the ambit of financial debt.

5.4 In view of the aforesaid settled principles, the present transaction squarely falls within the ambit of "financial debt" under Section 5(8) of the Code, for the following reasons:

a) The Corporate Guarantee unequivocally secures the repayment of the underlying financial transaction and expressly covers the principal amount, interest and default interest. Consequently, the liability of the Corporate Debtor qualifies as a financial debt under Section 5(8)(i) of the Code, which expressly includes guarantees in respect of financial transactions.

b) The Corporate Guarantee was issued in relation to a financing arrangement structured through the issuance and discounting of a Promissory Note, thereby satisfying the requirements of Section 5(8)(c) of the Code.

c) The Promissory Note was discounted by the Financial Creditor under a credit line facility, which arrangement was duly accepted by Hella Singapore and secured by the Corporate Debtor through the said Corporate Guarantee. Such a structured credit facility independently meets the ingredients of Section 5(8)(b) of the Code.

5.5 The presence of a pending dispute between the parties, does not affect the validity and admission of a Section 7 Application:

a) CD's liability towards the Financial Creditor remains unaffected by any dispute regarding the quality of goods supplied or any other related circumstances. It is important to note that the Financial Creditor merely extended financial assistance and was not involved in the underlying operations between P. Marom and Hella Singapore. Therefore, the

alleged dispute of quality of goods and services does not extinguish the liability of the CD under the Corporate Guarantee.

b) The proceeding initiated by the CD is an afterthought, as the proceeding was filed on September 01, 2025, post the demand notice dated August 20, 2025 was served upon the CD. Without prejudice to the aforesaid, prior to the filing of the civil proceeding, the CD or Hella Singapore has failed to issue any correspondence raising a claim in relation to the quality of the goods. Furthermore, the CD has also failed to put forth any correspondence to further its case in the present proceedings.

c) At the stage of admission under Section 7 of the IBC, the Adjudicating Authority is not required to examine any alleged dispute between the parties, and such defence is irrelevant once the financial debt and default are established. In the present case, the CD's reliance on a civil suit and alleged dispute is wholly baseless and is only an attempt to avoid its admitted liability under the Promissory Note, the Transfer Deed and the Corporate Guarantee.

6. AFFIDAVIT (CD) dated 27.07.2026

6.1 Affidavit dated 27.07.2026 was filed and affirmed by Ms. Samiksha Vijay Ambade, who is stated to be the Assistant Manager-Legal and Authorised Signatory of the CD for the limited purpose of placing on record the *bona fides* of the CD.

6.2 As submitted before this Hon'ble Tribunal on the previous occasion, without prejudice to the rights and contentions of the CD and without any admission of liability whatsoever on its part, a proposal has been placed before the

Petitioner with a view to exploring an amicable settlement of the disputes between the parties. The said proposal, inter alia, contemplates payment of the principal sum forming the subject matter of the proposed settlement, upon the terms and in the manner proposed therein. It is expressly clarified that the CD continues to dispute any and all liability or obligation sought to be fastened upon it in respect of the underlying transaction and the claims forming the subject matter of the present Company Petition.

6.3 As part of the aforesaid without-prejudice settlement proposal, the CD has proposed an upfront payment of USD 500,000, equivalent to approximately INR 5,00,00,000/-, subject to the settlement being accepted and finalised between the parties.

6.4 Accordingly, and with a view to demonstrate bona fides in relation to the ongoing settlement discussions, I say and submit that during the course of the day, Hella Infra Market Singapore Pte. Ltd. ("Hella Singapore"), being the entity which had entered into the underlying transaction for the purchase of goods forming the subject matter of the present proceedings, shall independently cause a payment of USD 100,000, equivalent to approximately INR 1,00,00,000/-, to be made to the Petitioner. It is expressly clarified that the said payment is being made by Hella Singapore from its own account and on its own behalf, and the CD, Hella Infra Market Limited ("Hella India"), has no role whatsoever in making or effecting the said payment.

6.5 Hella India was neither a party to nor did it undertake any financial obligation under the underlying transaction between Hella Singapore and the Petitioner, and has no role in the financial transaction forming the subject

matter of the present proceedings. Hella India continues to dispute, in its entirety, any liability or obligation sought to be fastened upon it in respect of the underlying transaction and/or the amounts claimed by the Petitioner in the present Company Petition. Accordingly, the payment of USD 100,000 being made by Hella Singapore shall not, in any manner whatsoever, be construed as an admission, acknowledgment or acceptance of any debt, default, liability or obligation on the part of Hella India.

6.6 The aforesaid payment of USD 100,000 is being made solely and exclusively by Hella Singapore, as a gesture of bona fides and goodwill and with a view to demonstrate its genuine intent to explore an amicable resolution of the disputes between the parties. The said payment is being made strictly without prejudice to all rights and contentions of Hella Singapore and Hella India, and shall not constitute or be construed as an admission or acknowledgment of the allegations, claims, debt, default or liability asserted against Hella India in the present proceedings.

7. ANALYSIS & FINDINGS

7.1 We have heard the Learned Counsel appearing for the Applicant/FC as well as the Learned Counsel appearing for the CD and have carefully perused the pleadings & documents placed on record.

7.2 Before examining the factual foundation of the claim, it is necessary to consider whether the jurisdictional requirements prescribed under the IBC stand satisfied.

7.3 It is well settled that the jurisdiction of the Adjudicating Authority under Section 7 is summary in nature. The enquiry is confined to determining

whether there exists a financial debt within the meaning of Sections 5(7) and 5(8), whether such debt is owed by the corporate debtor against whom CIRP is sought, and whether a default has occurred. The Tribunal is not expected to undertake an elaborate adjudication of disputed contractual rights. In ***Innoventive Industries Ltd. v. ICICI Bank & Anr***., (2018) 1 SCC 407 and ***M. Suresh Kumar Reddy v. Canara Bank***, (2023) 7 SCC 252, the Hon'ble Supreme Court reiterated that proceedings under Section 7 are confined to these statutory requirements. Accordingly, the controversy in the present matter must be examined only to the extent necessary for determining whether the jurisdictional requirements under Section 7 of the IBC stand satisfied.

7.4 The undisputed/admitted facts in this matter are:

i) The Applicant, Israel Discount Bank Limited, has filed the present Application under Section 7 of the Code seeking initiation of CIRP against the Corporate Debtor, Hella Infra Market Limited.

ii) P. Marom Construction Services Limited entered into a Master Supply Agreement (MSA) with Hella Infra Market Singapore Pvt. Ltd. for procurement and supply of goods/services.

iii) Under the financing structure, a credit-line facility of up to USD 10 million was arranged through the Applicant, against which Hella Singapore issued a Promissory Note for USD 10 million.

iv) The Promissory Note was discounted by the Applicant pursuant to a Discounting Agreement, and the Applicant made payment to P. Marom on 10.06.2024.

v) The Discounting Agreement provided for discounting consideration calculated with reference to the period for which the funds remained outstanding, thereby incorporating a time-value-of-money component.

vi) The CD executed a Corporate Guarantee dated 07.06.2024 securing the payment obligations arising under the Promissory Note, including default interest and other liabilities.

vii) The rights under the Promissory Note and Corporate Guarantee were subsequently transferred to the Applicant under the Transfer Deed, pursuant to which the Applicant became entitled to enforce the Guarantee.

viii) Hella Singapore failed to make payment under the Promissory Note and the Applicant thereafter called upon the CD to discharge its liability under the Corporate Guarantee.

ix) A part-payment of USD 2.5 million was made towards the outstanding amount, leaving the balance claimed by the Applicant.

x) The Applicant thereafter issued a Demand Notice and, upon non-payment of the outstanding amount, filed the present Section 7 Application.

7.5 The principal disputes which arise for determination are:

i) Whether the transaction relied upon by the Applicant constitutes a financial debt within Section 5(8) of the Code and, consequently, whether the Applicant qualifies as a Financial Creditor of the CD.

ii) Whether the reliance placed upon Sections 5(8)(b), 5(8)(c) and 5(8)(f), and the judgments relied upon by the Applicant, is sufficient to bring the

transaction within the definition of financial debt notwithstanding the specific statutory treatment of receivables under Section 5(8)(e).

iii) Whether the Applicant can invoke Section 5(8)(i) on the strength of the Corporate Guarantee when the underlying transaction is a non-recourse discounting/assignment of receivables and no amount was disbursed by the Applicant to the CD.

iv) Whether the Applicant is a "Financial Creditor" under Section 5(7) of the IBC, 2016 and whether disbursements were made to the CD or Hella Singapore.

v) Whether default under Section 7 can consequently be considered.

7.6 The first and fundamental question which arises for consideration is whether the Applicant has established the existence of a financial debt owed by the CD. The consequence of default under Section 7 can arise only after this statutory requirement is satisfied. Section 7 does not provide a general remedy for enforcement of every monetary or contractual claim. The Applicant must establish that the liability sought to be enforced answers the definition of "financial debt" under Section 5(8) and that the CD is the person who owes such debt. Section 5(8) defines "financial debt" as a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes the transactions specifically enumerated in clauses (a) to (i). The statutory definition is therefore concerned not merely with the existence of a monetary obligation, but with the disbursement of funds.

7.7 In the present case, the nature of the transaction is therefore required to be examined before the question of default can arise. The documents show

that the original commercial transaction was between P. Marom and Hella Singapore. The Promissory Note was issued by Hella Singapore in favour of P. Marom to secure the debt arising out of the operational transaction. The Applicant thereafter entered into the Discounting Agreement with P. Marom and made the disbursement to P. Marom. No disbursement was made to Hella Singapore or the CD herein. The rights under the Promissory Note and the Corporate Guarantee were subsequently transferred to the Applicant. Thus, the Applicant's claim against the CD is not founded upon a loan or other financial facility directly advanced by the Applicant to the CD, but upon rights acquired under the aforesaid operational transaction.

7.8 This distinction is critical because the Applicant's case proceeds on the footing that the discounting arrangement itself constituted a financial transaction and that the subsequent Corporate Guarantee brings the liability within Section 5(8)(i). In our considered view, the statutory character of the transaction cannot be determined merely from the fact that the Applicant charged discounting consideration or that the transaction involved a defined period of credit. The nature of the underlying arrangement and the rights acquired by the Applicant have to be examined as a whole.

7.9 The Discounting Agreement itself contains the provision relating to “No Recourse”, under which, except in respect of the stipulated residuary risk, the Bank had no recourse to P. Marom in case of non-payment by the Buyer under the Promissory Note. The Applicant has sought to contend that this clause governs only the relationship between the Applicant and P. Marom and cannot affect the independent liability of the CD under the Corporate Guarantee.

7.10 This distinction is material because the requirement under Section 5(8) is not satisfied merely by showing that money moved pursuant to a financing arrangement somewhere within the commercial transaction. The Applicant must establish that the liability claimed against the CD has the character of a financial debt contemplated by the provision.

7.11 The position is reinforced by the recent judgment of the Hon'ble NCLAT, Principal Bench, New Delhi, in ***Canbank Factors Ltd. v. Brijesh Singh Bhaduria, Resolution Professional & Ors.***, Company Appeal (AT) (Insolvency) No. 742 of 2025 decided on 28.01.2026. In the said judgment, the Hon'ble NCLAT, after considering its earlier decision in ***Mudraksh Investfin Pvt. Ltd. v. Brijesh Singh Bhadauriya***, Company Appeal (AT) (Insolvency) No. 1671 of 2023, observed that the issues relating to invoice discounting/factoring through the TReDS platform had already been conclusively determined. In *Mudraksh Investfin*, the NBFC had advanced amounts pursuant to discounting of invoices raised by suppliers of the Corporate Debtor and had contended that, by virtue of assignment of receivables, it stood in the position of a financier and ought to be treated as a Financial Creditor. The Appellate Tribunal rejected the contention and held that the amounts paid under the invoice discounting/factoring arrangement were in the nature of Operational Debt, since the underlying debt arose from the supply of goods or services. It was further held that the assignment of receivables does not alter the underlying character of the debt.

7.12 More importantly, in paragraph 40 of *Canbank Factors*, the Hon'ble NCLAT observed that where no disbursement was made to the Corporate Debtor, the transaction could not be treated as a financial debt, and that subsequent

assignment of trade receivables did not change the fundamental nature of the debt. The principle emerging from the decision is that the statutory character of the debt must be determined from the substance of the transaction and cannot be altered merely by the subsequent assignment or discounting of an existing commercial obligation.

7.13 The present case must be tested on the same statutory principle. The Applicant provided the financial accommodation to P. Marom and thereafter acquired rights arising from the Promissory Note and the guarantee extended by Corporate Guarantee. The Applicant has not demonstrated that the CD borrowed the amount from it or that the amount disbursed constituted a borrowing by the CD. The absence of such disbursement is therefore not a mere technicality; it goes to the character of the debt sought to be brought within Section 5(8).

Accordingly, the first issue stands answered.

7.14 The Applicant has alternatively relied upon Sections 5(8)(b), 5(8)(c) and 5(8)(f). The mere presence of a credit-line facility, Promissory Note or discounting consideration does not, however, conclude the enquiry. Each provision has to be applied to the transaction in substance.

7.15 As regards Section 5(8)(b), the Applicant has not established that the liability of the CD represents money borrowed against time value of money. The existence of a Promissory Note or a facility associated with the underlying commercial transaction cannot substitute for proof that the CD itself borrowed the amount from the Applicant.

7.16 Similarly, Section 5(8)(c) cannot be invoked merely because the transaction involved a deferred or structured payment obligation. The provision

contemplates a liability arising in respect of a note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument. Those ingredients have not been established in the present case.

7.17 The Applicant's principal alternative appears to be Section 5(8)(f), namely, a transaction having the commercial effect of a borrowing. The expression is deliberately broad, but it cannot be read in isolation from the opening part of Section 5(8). There must still be a debt arising from a transaction which, in substance, has the commercial effect of borrowing. It cannot ordinarily be utilised to obliterate an express statutory exclusion contained in another clause of the same definition. To hold otherwise would render the specific exclusion contained in Section 5(8)(e) substantially ineffective. The fact that the Applicant provided liquidity to one party against a Promissory Note does not establish borrowing by the CD where the funds were not disbursed to it.

7.18 The Applicant has relied upon *Dhruv Harjai v. PPG Asian Paints Pvt. Ltd.*, 2025 SCC OnLine NCLAT 1150, where the Hon'ble NCLAT, on the facts of that case, found that an arrangement involving an upfront contribution, Promissory Note and repayment obligation carrying interest had the commercial effect of borrowing. The decision does not dispense with the requirement of examining the actual transaction. In the present case, the absence of disbursement to the CD and the structure by which the Applicant acquired rights against the CD through the Corporate Guarantee materially distinguish the transaction.

7.19 We therefore find that the Applicant has not established that the liability of the CD falls within clauses (a) to (h) of Section 5(8), nor has it established that the transaction has the commercial effect of borrowing within clause (f).

Accordingly, the second issue stands answered.

7.20 The Applicant next relies upon Section 5(8)(i), contending that the liability under the Corporate Guarantee constitutes financial debt. The provision covers liabilities in respect of guarantees for transactions referred to in clauses (a) to (h). The statutory language therefore requires the underlying transaction to be one which falls within the preceding clauses of Section 5(8).

7.21 Section 5(8)(i) cannot be construed as creating an independent category in which every liability under a guarantee becomes financial debt. The guarantee provision operates by reference to the transaction guaranteed. Consequently, unless the underlying obligation is shown to arise from a transaction falling within Section 5(8)(a) to (h), the guarantee cannot, by itself, satisfy Section 5(8)(i).

7.22 In the present case, the underlying transaction has not been established as a financial debt within Section 5(8). The Corporate Guarantee therefore cannot independently cure that deficiency. Its existence may confer contractual rights upon the Applicant, but contractual enforceability is distinct from statutory classification as financial debt under the Code.

7.23 The subsequent assignment or transfer of the Corporate Guarantee likewise does not alter this position. An assignee obtains the rights transferred to it; the assignment does not change the statutory character of the underlying obligation. This is consistent with the principle recognised in *Canbank Factors* and *Mudraksh Investfin* that assignment of an existing receivable does not, by itself, convert the underlying debt into financial debt.

Accordingly, the third issue stands answered.

7.24 Section 5(7) defines a Financial Creditor as a person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred. The provision therefore proceeds on the existence of a financial debt as its starting point.

7.25 The Applicant may have acquired contractual rights under the Promissory Note and Corporate Guarantee by transfer. However, an assignment can transfer an existing debt; it cannot create the statutory character of a financial debt where that character has not been established in the first place. Since the liability sought to be enforced against the CD has not been shown to constitute a financial debt under Section 5(8), the Applicant does not qualify as a Financial Creditor in respect of the present claim merely by virtue of the transfer. In our view, the debt arose due to a trade transaction between Hella Singapore and P. Marom; hence, the underlying transaction is not a financing transaction.

Accordingly, the fourth issue stands answered.

7.26 Section 7 permits a Financial Creditor to initiate proceedings upon occurrence of default. The existence of default is therefore consequential upon the existence of financial debt. Since the Applicant has failed to establish the foundational requirement of financial debt, it is unnecessary to undertake a separate determination of default for purposes of Section 7.

7.27 The Civil Suit relied upon by the CD does not alter this conclusion. We are conscious that, unlike Section 9, the existence of a pre-existing dispute is not the statutory test under Section 7. We therefore do not reject the Application merely because the CD has instituted a Civil Suit or because

contractual disputes exist between the parties. The merits, maintainability or outcome of those proceedings are matters for the competent forum.

7.28 The relevance of the Civil Suit is limited to the context in which the contractual liability is being asserted. In any event, the present Application fails independently on the statutory requirement of financial debt. It is therefore unnecessary for this Tribunal to adjudicate upon the allegations concerning the underlying commercial transaction or the validity of the Corporate Guarantee.

Accordingly, the fifth issue stands answered.

7.29 The statutory sequence thus leads to a clear conclusion. The Applicant has not established a financial debt within the meaning of Section 5(8) owed by the CD. Consequently, the Applicant cannot derive the status of a Financial Creditor under Section 5(7), and the question of default under Section 7 does not arise.

7.30 The limited nature of the Section 7 enquiry, as explained in *Power Trust*, does not warrant admission of an Application where the statutory foundation itself is absent. Determining whether the claim satisfies Section 5(8) is not an adjudication of the underlying contractual dispute; it is the threshold determination necessary to ascertain whether the Applicant is entitled to invoke the insolvency jurisdiction at all.

7.31 Accordingly, we hold that the Applicant has failed to establish that the liability sought to be enforced against the CD constitutes a financial debt under Section 5(8) and that it is a Financial Creditor under Section 5(7). This Application under Section 7 is therefore not maintainable.

7.32 The Applicant is at liberty to take other appropriate remedies as known to law and is so advised.

ORDER

In view of the aforesaid findings, the Application bearing **C.P.(IB) No. 72/MB/2026** filed under Section 7 of the IBC, 2016 by Israel Discount Bank Limited, the Financial Creditor, for initiating CIRP in respect of Hella Infra Market Limited, the Corporate Debtor, is hereby **rejected as non-maintainable.**

Sd/-	**Sd/-**
NILESH SHARMA	**SAMEER KAKAR**
MEMBER (JUDICIAL)	**MEMBER (TECHNICAL)**