IN THE NATIONAL COMPANY LAW TRIBUNAL

DIVISION BENCH, COURT NO. I

KOLKATA

Interlocutory Application (IB) No. 411/KB/2026

In

Company Petition (IB) No. 81/KB/2025

An Application under Section 7 of the Insolvency and Bankruptcy Code, 2016, read with Rule 4 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016.

IN THE MATTER OF:

Assets Care & Reconstruction Enterprise Limited

... Financial Creditor/ Applicant

Versus

Wizard E-Marketing Private Limited

... Corporate Debtor/ Respondent

Interlocutory Application (IB) No. 411/KB/2026

AND IN THE MATTER OF:

An Application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Rule 11 of the National Company Law Tribunal Rules, 2016

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA

IA (IB) No. 411/KB/2026
In
CP (IB) No. 81/KB/2025

Wizard E-Marketing Private Limited

... Corporate Debtor/ Applicant

Versus

Assets Care & Reconstruction Enterprise Limited

... Financial Creditor/ Respondent

Date of Pronouncement: 07.10.2026.

Coram:

SMT. BIDISHA BANERJEE, MEMBER (JUDICIAL)

MS. REKHA KANTILAL SHAH, MEMBER (TECHNICAL)

Appearance:

Ms. Manju Bhuteria, Sr. Adv.] For the Financial Creditor

Mr. Avishek Guha, Adv.]

Ms. Arundhati Barman Roy, Adv.]

Ms. Ankita Agrahari, Adv.]

Ms. Sweta Majumdar, Adv.]

Ms. Anusha Nayek, Adv.]

Mr. Krishnaraj Thakkar, Sr. Adv.] For the Corporate Debtor

Mr. Shaunak Mitra, Adv.]

Mr. Rajdip Mantha, Adv.]

Mr. Soumik Sengupta, Adv.]

Mr. Sumit Biswas, Adv.]

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA



IA (IB) No. 411/KB/2026
In
CP (IB) No. 81/KB/2025

Ms. Rajashree Bhowmick, Adv.]

Mr. Purnankar Biswas, Adv.]

ORDER

PER BIDISHA BANERJEE, MEMBER (JUDICIAL)

1. The Court congregated through hybrid mode.

2. The Learned Counsels for both the parties were heard at length.

3. **Factual matrix:**

The instant company petition has been filed under Section 7 of the Insolvency and Bankruptcy Code, for brevity I&B Code, read with Rule 4 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, by **"Assets Care & Reconstruction Enterprise Limited."**, hereinafter referred to as **"Financial Creditor"/ "Applicant"** against **"Wizard E-Marketing Private Limited.",** hereinafter referred to as "**Corporate Debtor"/ "Respondent"** seeking initiation of Corporate Insolvency Resolution Process (for brevity "CIRP") in respect of the Corporate Debtor due to a default in repayment of a financial debt amounting to Rs. 32,35,19,938.35/-.

4. **Submissions of the Applicant**:

4.1. It is submitted that the FC is the assignee of the debt originally extended by Indiabulls Commercial Credit Limited, claiming a total default of Rs.

32,35,19,938.35/-, which comprises principal of Rs. 21,37,19,947/- and interest of Rs. 10,97,99,991.35/- calculated up to 02.01.2025.

4.2. Further that the Indiabulls Commercial Credit Limited (the original lender) and the CD entered into the following four loan agreements:

i. Loan Agreement dated 30.12.2016 for sanctioning loan facility of Rs. 17,02,93,681/- ("Loan Agreement No. 1", HLLAKLM00307988),

ii. Loan Agreement dated 31.05.2018 for Rs. 2,00,50,774/- ("Loan Agreement No. 2", HLLAKLM00443995),

iii. Loan Agreement dated 08.02.2021 for Rs. 2,75,00,000/- ("Loan Agreement No. 3", HLLAKOL00496799),

iv. Loan Agreement dated 29.09.2021 for Rs. 2,42,00,000/- ("Loan Agreement No. 4", HLLAKOL00503612),

4.3. Pursuant to the aforesaid agreements, the FC has disbursed an aggregate sum of Rs. 23,09,27,990/-.

4.4. It is submitted that the Loan Facility Nos. 2 and 3 were initially classified as NPA on 18.08.2021 and 09.08.2021 respectively, and notices under SARFAESI was issued on 26.08.2021 by the predecessor in interest of the FC. Thereafter, the CD attempted to regularise the loan accounts.

4.5. As regards Loan Facility No. 1, the loan account statement from 30.12.2016 to 31.03.2022, as maintained by the original lender (Pg 128-142 of the Rejoinder), shows the following:

i. The CD failed to pay the instalments due on 10.05.2021, 10.06.2021, 10.07.2021 and 10.08.2021, and the cheques given by the CD were dishonoured.

ii. The cheque presented towards the instalment due on 10.09.2021 was also dishonoured.

iii. On 30.09.2021, the CD paid only Rs. 28,95,000/-, and the FC has taken 30.09.2021 as the date of default.

iv. Thereafter, Rs. 17,45,125/- was paid by cheque on 21.10.2021 and Rs. 88,23,890/- by cheque on 31.10.2021.

4.6. Further that the CD failed to pay the EMIs for more than 90 days, the accounts of the CD were classified as NPA on 10.02.2022 (Loan Facility No. 2), 11.02.2022 (Loan Facility Nos. 3 and 4) and 16.02.2022 (Loan Facility No. 1).

4.7. Further that the notices under Section 13(2) of the SARFAESI Act were issued on 16.02.2022 for Loan Facility No. 1, on 12.02.2022 for Loan Facility No. 2, Loan Facility No. 3 and Loan Facility No. 4. The notices were also published in newspapers in February 2022.

4.8. It is further submitted that by an Assignment Agreement dated 23.03.2022, Samman Finserve Ltd. /Indiabulls Commercial Credit Ltd. assigned the loans and security to Indiabulls Asset Reconstruction Company Limited. Indiabulls ARC issued a notice under Section 13(4) of the SARFAESI Act on 12.05.2022.

4.9. By a further Assignment Agreement dated 29.06.2022, Indiabulls ARC assigned the debt to the FC, and the FC stepped into the shoes of the financial creditor.

4.10. The CD has acknowledged the outstanding debt in its Financial Statements for FY 2022-23.

4.11. The date of default is 30.09.2021, as stated at Pg 14 of the Petition.

4.12. It is submitted that although the NeSL record of default in Form-D was annexed to the supplementary affidavit filed by the FC, the FC does not place any reliance on it in view of the order dated 04.08.2026 of the Hon'ble High Court at Calcutta in WPA 13257 of 2026. The FC relies on the other evidence on record to establish debt and default.

4.13. It is further submitted that the CD's contention that the default occurred during the COVID period and that the petition is barred by Section 10A is incorrect, and the CD has not furnished any particulars in support of the contention. The documents on record show that the date of default is 30.09.2021, and the petition is therefore not hit by Section 10A.

4.14. It is submitted that the contention that the petition is defective for not stating the date of default was not taken in the reply and was raised only during arguments. It is contrary to the record, as the date of default (30.09.2021) is stated at Pg 14 of the Petition. Further, in para (xxxiv) at Pg 14 of its Reply, the CD itself records that the FC has stated

the date of default as 30.09.2021, being the day the CD failed to repay the monthly instalment in the first loan account.

4.15. Further that the FC submitted that the CD's contention that it has failed to prove default is contrary to the record and untenable in law for the following reasons:

i. In respect of Loan Facility No. 1, the loan account statement from 30.12.2016 to 31.03.2022, as maintained by the original lender, shows the following

   a. The CD failed to pay the instalments due on 10.05.2021, 10.06.2021, 10.07.2021 and 10.08.2021, and the cheques given by the CD were dishonoured.

   b. The cheque presented towards the instalment due on 10.09.2021 was also dishonoured.

   c. On 30.09.2021, the CD paid only Rs. 28,95,000/-, and the FC has taken 30.09.2021 as the date of default.

   d. Thereafter, Rs. 17,45,125/- was paid by cheque on 21.10.2021 and Rs. 88,23,890/- by cheque on 31.10.2021.

ii. Ld. Counsel relied on Clause 4.2.7 of the RBI Master Circular on Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances (Annexure B). It provides that all facilities granted to a borrower must be treated as NPA, and not only the particular facility that has become irregular, since asset classification is borrower-wise and not facility-wise.

Ld. Counsel further placed reliance on the judgment dated 30.10.2025 of the NCLT, Mumbai Bench in *HDFC Bank Ltd. v. Shree Sant Kripa Appliances Pvt. Ltd.*.

iii. The CD attempted to regularise the accounts but failed to pay EMIs for more than 90 days, and the accounts were classified as NPA on the dates stated above.

4.16. Further it is not the CD's case that it has paid off the dues. In paras 4(xxi) to 4(xxxi) of its Reply (Pg 9-11), the CD has itself admitted the default.

4.17. It is further submitted that the contention of the CD that the assignment was on "no-recourse" basis is contrary to records and untenable in law.

4.18. Further that by the Assignment Agreement dated 23.03.2022, the debts were assigned by Indiabulls Commercial Credit Limited to Indiabulls ARC, which in turn assigned them to the FC by the Assignment Agreement dated 29.06.2022. The FC thereby became the only person legally entitled to the outstanding loans.

4.19. The CD's interpretation of the assignment agreements is untenable. Clause 2.1.1 of the Assignment Agreement dated 29.06.2022 (Pg 92 of the Petition) provides that the Assignee *"shall hereafter be deemed to be the full and absolute legal and beneficial owner, and the only person legally entitled to the Loans"*, with the right *"to recover and receive all Amounts due … in its own name and right and as an assignee, and not*

as a representative or agent of the Assignor". It is therefore incorrect to suggest that the FC has no recourse against the CD.

4.20. As regards the CD's contention that the assignment agreements dated 23.03.2022 and 29.06.2022 are insufficiently stamped, the FC submits that both are registered documents. When a document is presented for registration, the Registering Authority must satisfy itself about the stamp duty payable, and if it finds the document inadequately stamped it refers the matter to the Collector. Both agreements were registered without any objection on the ground of inadequate stamping, and no question of insufficient stamping arises. Ld. Counsel further placed reliance on the judgment dated 28.05.2024 of the Hon'ble NCLAT in *EMTA Coal Ltd. v. L&T Finance Ltd. & Anr.*.

4.21. As regards the CD's contention that there is no clarity on the date of NPA, because the Assignment Agreement dated 23.03.2022 mentions February 2022 whereas the Section 13(2) notice (Pg 551 of the Petition) mentions 09.08.2021 and 18.08.2021, the FC submits that this is contrary to the record.

4.22. Loan Facility Nos. 3 and 2 were initially classified as NPA on 09.08.2021 and 18.08.2021 respectively, and a SARFAESI notice was issued on 26.08.2021. The CD thereafter attempted to regularise the accounts.

4.23. As the CD failed to pay the EMIs for more than 90 days, the accounts were classified as NPA on 10.02.2022, 11.02.2022 and 16.02.2022, as

stated above, and the newspaper publications of February 2022 are consistent with these dates.

5. **Submissions of the Respondent:**

5.1. There is no date of default specified, and the instant application is liable to be dismissed.

i. It is argued that since Part-IV of Form-1 statutorily requires the amount in default and the date of default to be provided by the FC, but the copy of the petition served upon the CD by email dated 20.01.2025, neither gives the amount nor the date of default. Hence the Petition is liable to be dismissed.

ii. The copy of the petition which was received by WhatsApp on 20.04.2026 had insertions made by hand in para 2 of Part-IV of Form-1 to record amount and date of default. The insertion made in hand at pg. 14 does not bear any signature of the deponent or notarial stamp. Only the initials of the advocate-on-record of the FC are present. The CD argues that if a date of default was not provided in the application filed under Section 7, such purported date of default could not have been incorporated at the stage of removal of defects and could only have been incorporated by making an application for amendment. That the insertion of date of default i.e. 30th September, 2021 without any appropriate application or leave from this Tribunal renders the instant

application defective and liable to be dismissed on this ground alone. Further assuming the date of default was stated in hand in the petition when it was originally filed, the petition is liable to be dismissed as there is no record of default as the FC has given an undertaking not to rely on Form D issued by NeSL.

iii. In terms of Rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, a financial creditor shall make an application for initiating CIRP under Section 7 in **Form-1** accompanied by the documents and records required therein and as specified in the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. In terms of Regulation 2A(a) of the said Regulations, the FC is to furnish a certified copy of the entries in the relevant account in the bankers' book as defined in clause (3) of Section 2 of the Bankers' Books Evidence Act, 1891 as record of default. The only document referred to in para 2 of Part-IV of Form-1 at pg. 14 as record of default is Annexure "N" at pgs. 786 to 789, volume-5. This document does not have any record of default on 30.09.2021. Thus, in the absence of any record, any proof of default or date of default in the application under Section 7 and the same is liable to be dismissed on this ground alone.

5.2. Different/Inconsistent dates of default given by the FC:

i. The accounts turned Default during the period covered by Section 10A and no proceeding under IBC can be instituted.

ii. It is the further case of the CD that the NPA declaration was belatedly made by notice dated 26.08.2021, declaring the account to have been classified as NPA on 09.08.2021, so as to wrongfully evade the consequences of Section 10A, and even that declaration has been suppressed by the FC.

iii. The FC has relied on para 8 of the rejoinder, where it is inter alia alleged that the loan accounts were classified as NPA on August 18, 2021, August 9, 2021, February 11, 2022, and February 15, 2022. Thus the date of default is 10.02.2022 and not 30.09.2021 as pleaded in the petition without any supporting record of default.

iv. The FC is only an assignee and not the original lender. NPA classification was made by the FC's predecessor-in-interest, Indiabulls, on 10.02.2022 and this date is recorded in the assignment agreement by which the FC acquired the loan accounts. The FC, being the assignee of Indiabulis, cannot challenge the date of classification of NPA made by Indiabulls prior to the assignment.

v. That on 30.09.2021, being the alleged date of default, Indiabulis sanctioned an additional facility in loan a/c HLLAKOL00503612. Thus the date of default can never be 30.9.2021.

vi. It is submitted that after the entries shown by the FC in a/c no. HLLAKLM00307988 ending on 30.09.2021, the CD has made payment in excess of Rs. 88,23,890/-on 31.10.2021. Therefore, there is neither NPA nor default as on 30.09.2021.

5.3. Importance of Pleadings in a summary proceeding

i. It is stated that IBC proceedings are summary in nature and are adjudicated on the basis of pleadings and documentary evidence / record only. It is for this purpose that statutory forms are prescribed along with the documentary evidence and the particular record which is required to be produced, to enable the Tribunal to carry out the adjudication in a summary manner.

ii. Whereas, in the petition, the date of default (even if mentioned) is not borne out from any record of default, the date of default given in the petition is different from the date of default pleaded in para 8 of the rejoinder, the date of default given in the petition is prior to the NPA classification date made by the original lender and given in the assignment agreement by which the FC acquired the loan.

iii. Further that the date of default given in the petition is sought to be established on the basis of purported accounts given for the first time in the rejoinder. Thus, the CD has had no opportunity to deal with the same. Indeed, a rejoinder is not allowed as a matter of course in a summary proceeding u/s 7 of the IBC.

iv. It is trite law that there cannot be any argument beyond pleadings. The record of default described and disclosed in the petition is only Annexure "N" of the petition. The FC cannot argue on the basis of any other purported record that the date of default given in the petition is correct

v. It is the categorical case of the CD that the default is within the Section 10A period and therefore no IBC proceedings lie. There are numerous discrepancies in the documents produced by the FC, indicated as follows:

Loan a/c no.	**Sanction date**	**Sanctioned/Outstanding Amount**
HLLAKOL00496799 (Loan Agreement-3)	08.02.2021 as at pg. 230, vol-2 and as recited in para 2 of the notice dated 26.08.2021 at pg. 11 of the supplementary affidavit & 22.02.2021 as at pg. 790, vol-5	Rs. 2,75,00,000/- sanctioned as at pg. 790, vol-5 & only Rs. 2,46,00,000/-disbursed as at pg. 9 of the supplementary affidavit

HLLAKOL00503612 (Loan Agreement-4)	29.09.2021 as pleaded in Part-IV of Form-1 & 30.09.2021 as at pg. 795, vol-5	Rs. 9,42,00,000/-as pleaded in Part-IV of Form-1 & Rs. 2,42,00,000/- as at pg. 795, vol-5
2021051851-T10211 (composite NeSL entry)	Debt start date recorded as 31.05.2018 at pg. 810, vol-5, though the first facility is of 30.12.2016	Rs. 24,83,00,000/- at pg. 810, vol-5 & between Rs. 24,83,00,000/- and Rs. 36,32,63,498/-across 25 Form C submissions at pgs. 6 to 8 of the supplementary affidavit

vi. The documents disclosed by the FC are themselves riddled with discrepancies. No reliance ought to be placed on such documents, and more so in a summary proceeding where there is no scope to lead evidence, and which results in the serious consequence of the promoter being deprived of his company.

5.4. That the instant application under Section 7 is a recovery proceeding in disguise and is not maintainable.

i. Placing reliance on Form I, it is submitted that the instant application has been filed primarily as a recovery proceeding where petitioner has stated that it was vested "with all powers of

recovery of outstanding amounts under the loans and enforcement of security interest on secured assets".

ii. It is argued that the foundation of the present application is therefore the exercise of a right of recovery, which is wholly alien and contrary to the objectives of the Code (*Jaypee Kensington Boulevard Apartments Welfare Assn. v. NBCC (India) Ltd., (2022) 1 SCC 401, Para 88.2; HPCL Bio-Fuels Ltd. v. Shahaji Bhanudas Bhad, 2024 SCC OnLine SC 3190: 2024 INSC 851, Para nos. 103-106).*

6. **Analysis and Findings:**

6.1. We have heard the arguments, perused the written arguments put forth by the Learned Counsels for the parties, considered the rival contentions, and gone through the case file carefully, including the pleadings and documents placed on record by the parties. We shall now proceed to deal with the merits of the present petition.

6.2. At the outset, it is pertinent to note that the scope of enquiry under Section 7 of the Insolvency and Bankruptcy Code, 2016 is limited to ascertaining the existence of a 'financial debt' and the occurrence of 'default'. The solvency of the Corporate Debtor or the feasibility of recovery are not determinative factors at the stage of admission. The relevant extract of Section 7 of the I&B Code, 2016 with newly introduced amendments are as follows:

"Section 7(4). The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the ***existence of a default*** *from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3)*

Section 7(5). The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order—

(a) ***admit the application****, if it is satisfied that* ***a default has occurred*** *and the application under sub-section (2) is complete, and there is no disciplinary proceeding pending against the proposed resolution professional; or*

(b) reject the application, if it is satisfied that a default has not occurred or the application under sub-section (2) is incomplete or a disciplinary proceeding is pending against the proposed resolution professional:

……."

6.3. It is the case of the Financial Creditor ("FC") that the original lender, Indiabulls Commercial Credit Limited, and the CD entered into four loan agreements, namely, dated 30.12.2016 (Rs. 17,02,93,681/-), 31.05.2018 (Rs. 2,00,50,774/-), 08.02.2021 (Rs. 2,75,00,000/-) and 29.09.2021 (Rs. 2,42,00,000/-), pursuant to which an aggregate sum of Rs. 23,09,27,990/- was disbursed to the CD, and that as on 02.01.2025 a sum of Rs. 32,35,19,938.35/-, comprising principal of Rs. 21,37,19,947/- and interest of Rs. 10,97,99,991.35/-, remains unpaid.

6.4. The sums were advanced against interest and, therefore, against the consideration for the time value of money. It has not been the case of the CD before us that the facilities were not availed or that the dues have been repaid.

6.5. By an Assignment Agreement dated 23.03.2022, the loans and the security were assigned by Samman Finserve Ltd./Indiabulls Commercial Credit Ltd. to Indiabulls Asset Reconstruction Company Limited, which, in turn, assigned the debt to the FC by an Assignment Agreement dated 29.06.2022.

6.6. A person to whom a financial debt has been legally assigned or transferred is a "financial creditor" within the meaning of Section 5(7) of the I&B Code. Clause 2.1.1 of the Assignment Agreement dated 29.06.2022 provides that the Assignee shall hereafter be deemed to be the full and absolute legal and beneficial owner and the only person legally entitled to the Loans, with the right to recover all amounts due in its own name and right and as an assignee, and not as a representative or agent of the Assignor. The FC has thus stepped into the shoes of the original lender and is entitled to maintain the present petition.

6.7. The contention of the CD that the assignment was on a "no-recourse" basis is misconceived. Whether an assignee has, or has not, recourse against its assignor is a matter *inter se* the assignor and the assignee, and concerns the allocation of the risk of recovery between them. It has no bearing on the liability of the borrower, which remains intact irrespective of the terms on which the debt changed hands. The CD, which is a stranger to the assignment agreements, cannot derive from them any defence to its own obligation to repay.

6.8. The CD has itself acknowledged the outstanding debt in its Financial Statements for FY 2022-23, that is to say, after both assignments had been executed.

6.9. As regards the contention that the Assignment Agreements dated 23.03.2022 and 29.06.2022 are insufficiently stamped, the FC has pointed out that both are registered documents, having been registered without any objection on the ground of inadequate stamping. The assignor and the assignee have not disputed the assignment, and the CD has not shown how the alleged deficiency, if any, affects the existence of the debt or the occurrence of default.

6.10. The principal objection of the CD is that Part-IV of Form-1 does not state the amount and date of default, that the copy served by e-mail dated 20.01.2025 was blank in this regard, and that the copy received by WhatsApp on 20.04.2026 bore manual insertions which were neither signed by the deponent nor notarised, being initialled only by the advocate-on-record of the FC.

6.11. A defect in a Section 7 application is a matter to be cured by giving the applicant an opportunity to rectify it, and not a ground for summary dismissal where the particulars are otherwise available on record and the opposite party is not prejudiced.

6.12. The want of separate attestation of a manual insertion is a formal irregularity of a curable nature and does not render the application "incomplete" within the meaning of Section 7(5)(b). Procedural

requirements are meant to advance, and not to defeat, the object of the Code.

6.13. The loan account statement of Loan Facility No. 1 from 30.12.2016 to 31.03.2022, maintained by the original lender records that the instalments due on 10.05.2021, 10.06.2021, 10.07.2021 and 10.08.2021 were not paid and the cheques given by the CD were dishonoured, and the cheque presented towards the instalment due on 10.09.2021 was also dishonoured, and that on 30.09.2021 the CD paid only Rs. 28,95,000/-. The FC has taken 30.09.2021 as the date of default.

6.14. The other facilities were also classified as NPA and notices under Section 13(2) of the SARFAESI Act were issued in August 2021 and again in February 2022, followed by a notice under Section 13(4) on 12.05.2022 after the first assignment. The FC has also pointed out that the CD attempted to regularise the accounts but failed to pay the EMIs for more than 90 days.

6.15. The FC has stated that although the NeSL record of default in Form-D was annexed to its supplementary affidavit, it does not place any reliance on it in view of the order dated 04.08.2026 of the Hon'ble High Court at Calcutta in WPA 13257 of 2026. We accordingly have not taken the NeSL record of default into consideration.

6.16. Section 7(4) expressly permits the Adjudicating Authority to ascertain default also on the basis of other evidence furnished by the financial

creditor. The loan agreements, the loan account statement, the dishonoured cheques, the notices under the SARFAESI Act, the two assignment agreements and the acknowledgement in the Financial Statements of the CD for FY 2022-23 are all on record.

6.17. Section 10A of the Code bars the filing of an application for initiation of CIRP for any default arising on or after 25.03.2020, for a period of six months or such further period, not exceeding one year, as may be notified. By the successive notifications issued under that Section, the bar operated for the full period of one year from 25.03.2020, that is, till 24.03.2021.

6.18. The CD has merely asserted that the default occurred "during the COVID period" and has not furnished any particulars in support of the contention, nor has it pointed to any instalment falling due in the Section 10A window that remained unpaid. The record shows the first unpaid instalment on Loan Facility No. 1 as that due on 10.05.2021, and the FC has taken the later date of 30.09.2021 as the date of default.

6.19. Every date relied upon in the record and in the submissions of both sides, namely 10.05.2021 to 10.09.2021 for the instalments, 09.08.2021 and 18.08.2021 for the initial NPA classification of Loan Facility Nos. 3 and 2, 26.08.2021 for the first SARFAESI notice, and 10.02.2022, 11.02.2022 and 16.02.2022 for the classification of the accounts as NPA, fall after 24.03.2021.

6.20. The alleged "belated" declaration of NPA by notice dated 26.08.2021 of a classification as on 09.08.2021, even if true, would in any case leave the default well outside the Section 10A window. The plea under Section 10A is therefore untenable and is rejected.

6.21. The CD has relied on *Jaypee Kensington Boulevard Apartments Welfare Assn. v. NBCC (India) Ltd.*, (2022) 1 SCC 401 and *HPCL Bio-Fuels Ltd. v. Shahaji Bhanudas Bhad*, 2024 SCC OnLine SC 3190, to contend that the application is a recovery proceeding, contrary to the objectives of the Code.

6.22. A financial creditor is entitled to invoke Section 7 when a debt has become due and has not been paid, and the fact that the financial creditor also has remedies for recovery under other statutes does not disentitle it.

6.23. In view of the aforesaid documentary evidence, this Adjudicating Authority is satisfied that the Financial Creditor has established the existence of a financial debt.

6.24. Once the "debt" and "default" are admitted or established, the petition must be admitted.

6.25. We are fortified in our view with the decisions of Hon'ble Supreme Court which define "Financial Debt" for initiation of a Corporate Insolvency Resolution process, as under:

(a) ***Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Limited reported in (2020) 8 SCC 401*** in para 43*:*

"*the basic elements are that it ought to be a disbursal against the consideration for time value of money.*"

(Emphasis added)

(b) ***Indus Biotech Private Limited*** **v.** ***Kotak India Venture (Offshore) Fund*** reported in (2021) 6 SCC 436: MANU/SC/0231/2021 (para 14) that:

"*14.* *… in order to trigger an application, there should be in existence four factors: (i) there should be a 'debt' (ii) 'default' should have occurred (iii) debt should be due to 'financial creditor' and (iv) such default which has occurred should be by a 'corporate debtor…*"

(Emphasis added)

(c) ***Innoventive Industries Ltd.*** **v.** ***ICICI Bank*** **reported in (2018) 1 SCC 407: MANU/SC/1063/2017** has laid down that:

"*27.* *The scheme of the Code is to ensure that when a default takes place, in the sense that a debt becomes due and is not paid, the insolvency resolution process begins. …'*

"*28.* *… the corporate debtor is entitled to point out that a default has not occurred in the sense that the "debt", which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, …*"

xxx xxx xxx xxx

"30. *On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the*

information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e., payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise."

(Emphasis added)

7. In terms of the foregoing discussion, we **ALLOW** the application bearing **Company Petition (IB) No. 81/KB/2025** filed under **Section 7 of the I&B Code**, and accordingly, we order the initiation of **Corporate Insolvency Resolution Process (CIR Process)** in respect of the Corporate Debtor by the following **Orders**:

i. The Application filed by **Assets Care & Reconstruction Enterprise Ltd. (Financial Creditor),** under Section 7 of the Insolvency & Bankruptcy Code, 2016, is hereby, **ADMITTED** for initiating the **Corporate Insolvency Resolution Process** in respect of **Wizard E-Marketing Pvt. Ltd. (Corporate Debtor).** The pending IA being **IA (IB) No. 411/KB/2026** is dismissed in terms of the above.

ii. As a consequence of this Application being admitted in terms of Section 7 of the I&B Code, moratorium as envisaged under the provisions of Section 14(1) of the Code, shall follow in relation to the Respondent/(CD) as per clauses (a) to (d) of Section 14(1) of the

Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come into force.

iii. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016, prohibits the following, as:

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

[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 license, permit, registration, quota, concession, clearances 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, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;]

iv. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

v. The provisions of sub-section (1) of the Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator**.**

vi. The Applicant has proposed the name of Mr. Raj Singhania, Reg. Address: Central Plaza, 41, BB Ganguly Street, 5th Floor, Room No. – 5A, Kolkata-700012, IBBI Registration no. IBBI/IPA-001/IP-P00188/2017-2018/10367 (Email Id: rajsinghaniaca@yahoo.co.in), as the "IRP". We have perused that there is a written communication and consent of IRP in Form 2. (Annexure D at page 53-56 of the Application), as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that there are no disciplinary proceedings pending against him with the Board or IPA with whom the member is registered. In addition, further necessary disclosures have been made by Mr. Raj Singhania as per the requirement of the

IBBI Regulations. Accordingly, he satisfies the requirement of Section 7(3)(b) of the Code. Hence, we appoint Mr. Raj Singhania as the Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the I&B Code subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20, 21 and other provisions of the I&B Code.

vii. In pursuance of Section 13 (2) of the Code, we direct the IRP or the RP, as the case shall cause a public announcement immediately with regard to the admission of this application under Section 7 of the Code and call for the submission of claims under Section 15 of the Code. The public announcement referred to in Clause (b) of sub-section (1) of Section 15 of the Insolvency & Bankruptcy Code, 2016, shall be made immediately. The expression immediately means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

viii. During the CIR Process period, the management of affairs of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, in terms of Section 17 of the I&B Code. Any person who is or has been personnel of the Corporate Debtor or its promoter, or is associated with the management of the Corporate Debtor, or engaged under a contract for service with the Corporate Debtor, shall provide all documents in their possession and furnish all information within their knowledge, and extend all assistance and cooperation to the Interim Resolution Professional as may be required for managing the affairs of the Corporate Debtor or performing the duties conferred upon the Interim Resolution Professional within one week from the date of receipt of this Order, in default of which coercive steps will follow. There shall be no future opportunities in this regard.

ix. The Interim Resolution Professional is also free to take police assistance to take full charge of the Corporate Debtor, its assets and its documents without any delay, and this Court hereby directs the concerned Police Authorities and/or the Officer-in-Charge of Local Police Station(s) to render all assistance as may be required by the Interim Resolution Professional in this regard.

x. The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIR Process in respect of the Corporate Debtor.

xi. The Financial Creditors shall be liable to pay to IRP a sum of Rs. 3,00,000/- (Rupees Three Lakh Only) as payment of his fees as advance, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment. The expenses relating to the CIRP are subject to the approval of the Committee of Creditors (CoC).

xii. In terms of sections 7(5) and 7(7) of the Code, the Registry of this Adjudicating Authority is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by Speed Post and through email immediately, and in any case, not later than two days from the date of this Order.

xiii. Additionally, the Registry of this Adjudicating Authority shall serve a copy of this Order upon the Insolvency and Bankruptcy Board of India (IBBI) for their record and also upon the Registrar of Companies (RoC), to whom the company is registered with, by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

xiv. The Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

xv. The IRP/RP shall be liable to submit the periodical report including the minutes of the CoC of the Corporate Debtor, with regard to the progress of the CIR Process in respect of the Corporate Debtor to this Adjudicating Authority from time to time.

xvi. The order of moratorium shall cease to have effect as per Section 14(4) of the I&B Code.

8. Certified copies of this order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.

9. Post the Company Petition on 23/11/2026 for filing the Periodical Progress Report by the IRP/RP as appointed herein.

REKHA KANTILAL SHAH
MEMBER (TECHNICAL)

BIDISHA BANERJEE
MEMBER (JUDICIAL)

This Order is signed on this, the 7th Day of October, 2026.

Sagar M. (LRA)