IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT-III (DIVISION BENCH)

ITEM No. 304
IB-534/ND/2025

IN THE MATTER OF:

Bank of Baroda .... Petitioner/Applicant
Vs.
Nextgen Textile Park Private Limited .... Respondent

Order under Section 7 of the Insolvency and Bankruptcy Code, 2016.

Order delivered on 23.07.2026

CORAM :
SHRI BACHU VENKAT BALARAM DAS
HON'BLE MEMBER (JUDICIAL)

SHRI RAVINDRA CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

HYBRID HEARING (PHYSICAL & VC)

PRESENT:

For Applicant : Ms. R. Gayathri Manasa, Mr. Navneet Kumar, Advs.
For C.D. : Mr. Rajat Srivastava, Adv.

ORDER

1. This application has been filed by Bank of Baroda, the Financial Creditor herein under Section 7 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of CIRP against M/s. Nextgen Textile Park Pvt. Ltd, the Corporate Debtor herein for the alleged default of Rs. 36,87,73,542/- (Rupees Thirty Six Crores Eighty Seven Lakhs Seventy Three Thousand Five Hundred and Forty Two Only) as on 25.08.2025.

2. The facts of the case as stated in Part – IV of the present application are as under:

PART – IV

	PARTICULARS OF FINANCIAL DEBT			
1.	**TOTAL AMOUNT OF DEBT GRANTED DATE(S) OF DISBURSEMENT**	**Account No.**	**Amount Sanctioned (in Rs. Lakhs)**	**Date of Sanction**
		22750600001210	1000.00	15.01.2018
		22750600000235	300.00	15.01.2018
		22750600001216	1500.00	28.03.2019
		22750600001243	30.00	19.05.2020
		22750600001809	200.00	31.10.2020
		Total	3030.00	

2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM)	Amount in default: Rs. 36,87,73,542/- (Rupees Thirty Six Crores Eighty Seven Lakhs Seventy Three Thousand Five Hundred and Forty Two Only) as on 25.08.2025. The date of default by the Corporate Debtor is 03.10.2022. That the accounts of the Corporate Debtors have been classified as non-performing asset on 29.07.2022. That the Financial Creditor on 03.08.2022 issued notices in accordance with provisions of Section 13(2) of SARFAESI Act, 2002 to Corporate Debtor/Guarantors and recalling entire outstanding amount of Rs 25,86,08,099.67/- (Rupees Twenty-Five Crores Eighty-Six Lakhs Eighty Thousand Ninety-Nine and Sixty Seven Paisa Only) outstanding as on 02.08.2022 (inclusive of interest upto 30.07.2022) within a period of 60 days. The said notice was dispatched vide speed post on 03.08.2022 to the registered address of the Corporate Debtor. However, the Corporate Debtor failed to pay the amount demanded within the stipulated time i.e. by 03.10.2022. The default continues till date. Accordingly, Corporate Debtor has defaulted in payment of Rs 25,86,08,099.67/-(Rupees Twenty-Five Crores Eighty-Six Lakhs Eight Thousand Ninety-Nine and Sixty Seven Paisa Only) on 03.10.2022. The claim that shall be filed by the Financial Creditor in the event of admission of CIRP shall include further interests and costs upto the date of filing the claim. The total claim of the Financial Creditor as on 25.08.2025 is Rs 36,87,73,542/- (Rupees Thirty Six Crores Eighty Seven Lakhs Seventy Three Thousand Five Hundred and Forty Two Only) as calculated hereunder. Total principal amount of default is Rs. 24,20,80,344.24/- (Rupees Twenty-Four Crore Twenty Lakhs Eighty Thousand Three Hundred Forty Four and Twenty Four Paisa Only). Plus Total Interest amount Rs. 10,78,04,087.10/- (Rupees Ten Crove Seventy Eight Lakhs Four Thousand Eighty Seven and Ten Paisa Only). Plus Penal Interest amount Ra 1,81,84,110.26- (Rupees One Crore Eighty One Lakhs Eighty Four Thousand One Hundred Ten and Twenty Six Paisa only).

		Aggregating to Total Amount of Debt in Default is Rs 36,87,73,542/-(Rupees Thirty Six Crores Eighty Seven Lakhs Seventy Three Thousand Five Hundred and Forty Two Only) as on 25.08.2025. Copy of notice dated 03.08.2022 issued under section 13(2) of SARFAESI Act, 2002 issued by the Financial Creditor along with copy of speed post receipts are annexed herewith as Annexure A3 (Colly), Copy of notice issued to Corporate Debtor and Guarantor u/s 13(4) of SARFAESI Act, 2002 on 10.11.2022 are annexed herewith as Annexure A4 (Colly). Copy of OTS proposal dated 22.02.2023 by the Corporate Debtor and Copy of rejection dated 21.03.2023 to the proposal for OTS. Annexure AS (Colly). Computation of Financial Debt as on 25.08.2025 is annexed herewith as Annexure A6.

3. It is the case of the Applicant that the loan facilities were sanctioned to the Corporate Debtor vide sanction letter dated 15.01.2018 for an amount of Rs. 1000 Lakhs (10 Crores) (Account No. 22750600001210) and 300 Lakhs (3 Crores) (Account No. 227500400000235) respectively towards Term Loan and Overdraft facility. The Applicant also sanctioned the credit facilities to the Corporate Debtor vide sanction letter dated 28.03.2019 for an amount of Rs. 1500 Lakhs (15 Crores) (Account No. 22750600001216). The Applicant also sanctioned the loan facilities namely BCECL to the Corporate Debtor vide sanction letter dated 19.05.2020 for an amount of Rs. 30 Lakhs (Account No. 22750600001243). The Applicant also sanctioned the loan facilities to the Corporate Debtor vide sanction letter dated 31.10.2020 an amount of Rs. 200 Lakhs (2 Crores) (Account No. 22750600001809).

4. Since, the Corporate Debtor failed to repay the outstanding amount and interest, the account of the Corporate Debtor was classified as a Non-Performing Asset on 29.07.2022. The Applicant/Financial Creditor issued notices under Section 13(2) of SARFAESI Act, 2002 to Corporate Debtor on 03.08.2022, recalling entire outstanding amount of Rs 25,86,08,099.67/- (Rupees Twenty-Five Crores Eighty-Six Lakhs Eight

Thousand Ninety-Nine and Sixty-Seven Paisa Only) outstanding as on 02.08.2022 (inclusive of interest upto 30.07.2022) payable within a period of 60 days. Further, a notice under Section 13(4) of SARFAESI Act, 2002 was also issued by the Applicant to the Corporate Debtor and Guarantor on 10.11.2022.

5. Thereafter, the Corporate Debtor offered an OTS proposal for an amount of Rs. 19.00 Crores as a One-Time Settlement against the total outstanding of Rs. 40.45 Crores. The Applicant/Financial Creditor rejected the said OTS proposal on 21.03.2023. Thereafter, the Applicant/Financial Creditor filed Original Application No. 398 of 2023 before the Debt Recovery Tribunal – II, Delhi.

6. The Respondent/Corporate Debtor in its reply affidavit contended that the present application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 is pre-mature and has been filed with an intention to recover the amount, but not for resolution of the Corporate Debtor. It is also submitted that the Respondent/Corporate Debtor is a going concerned, financially viable and the default has occurred due to circumstances beyond its control, Covid-19, disruption etc.

7. We have heard the submissions of Ld. Counsel appearing on behalf of the parties at length and perused the records.

8. The Applicant in order to substantiate its case has placed on record the copies of notices issued under Section 13(2) SARFAESI Act, 2002, copy of possession notice dated 10.11.2022 issued under Section 13(4) SARFAESI Act, 2002, copy of request letter for OTS dated 22.02.2023 and the reply of the Applicant/Financial Creditor dated 21.03.2023 rejecting the offer.

9. Ld. Counsel appearing on behalf of the Applicant on the basis of the documents which are placed on record, submitted that a case under Section 7 has been established, the debt and the default, as required under Section 7(4), has also been established and therefore CIRP ought to be initiated against the Corporate Debtor.

10. Ld. Counsel appearing on behalf of Corporate Debtor on the other hand has not disputed the fact that the credit facilities in questions have been extended to the Corporate Debtor by the Applicant. Ld. Counsel submitted that while admitting the application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, the Court has to be flexible and also have to consider the financial health and viability of the Corporate Debtor.

11. Be that as it may, there is no dispute that the financial facilities were extended to the Corporate Debtor by the Applicant. Thereafter, as held by the Hon'ble Supreme Court in *Power Trust Versus Bhuvan Madan*, Civil Appeal Nos. 2211/2024, the test for admitting an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 is whether a financial debt is due and payable and whether a default has occurred. The relevant paragraphs of the mentioned judgement are extracted hereunder:

*"**34**. In a similar vein, the Adjudicating Authority is not required to go into the inability of a corporate debtor to pay its debt. This is a clear departure from the scheme of winding up envisaged under Section 433(e) of the erstwhile Companies Act, 1956 which required the Adjudicating Authority to come to a finding with regard to the inability of the company to pay the debt and thereby arrive at a requisite satisfaction whether it is just and equitable to wind up the company. The Code restricts the scope of enquiry for admission of an insolvency process by a financial creditor merely to the existence of default of a debt due and payable and nothing more. The legislative intent behind such prompt and summary intervention is "to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation.*

***35.** The Appellant has heavily relied on Vidarbha (supra) to argue that the Adjudicating Authority has ample discretion to apply its mind to relevant factors including the feasibility of initiation of insolvency process* *notwithstanding the existence of default on a debt due and payable by the Corporate Debtor. In Vidarbha (supra), this Court observed:-*

*"**61**. In our view, the Appellate Authority (NCLAT) erred in holding that the adjudicating authority (NCLT) was only required to see whether there had been a debt and the corporate debtor had defaulted in making repayment of the debt, and that these two aspects, if satisfied, would trigger the CIRP. The existence of a financial debt and default in payment thereof only gave the financial creditor the right to apply for initiation of CIRP. The adjudicating authority (NCLT) was required to apply its mind to relevant factors including the feasibility of initiation of CIRP, against an electricity generating company operated under statutory control, the impact of MERC's appeal, pending in this Court, order of Aptel referred to above and the overall financial health and viability of the corporate debtor under its existing management.**...**...**...***

90. We are clearly of the view that the adjudicating authority (NCLT) as also the Appellate Tribunal (NCLAT) fell in error in holding that once it was found that a debt existed and a corporate debtor was in default in payment of the debt there would be no option to the adjudicating authority (NCLT) but to admit the petition under Section 7 IBC."

***36.** However, in review, this Court clarified that observations made in Paragraph 90 are restricted to the facts of Vidarbha (supra):-*

"6. The elucidation in para 90 and other paragraphs [of the judgment under review] were made in the context of the case at hand. It is well settled that judgments and observations in judgments are not to be read as provisions of statute. Judicial utterances and/or pronouncements are in the setting of the facts of a particular case."

***37**. Finally, the apparent dichotomy between Innoventive (supra) and Vidarbha (supra) was set at rest in M. Suresh Kumar Reddy (supra), wherein this Court observed:-*

"14. Thus, it was clarified by the order in review that the decision in Vidarbha Industries was in the setting of facts of the case before this

Court. Hence, the decision in Vidarbha Industries cannot be read and understood as taking a view which is contrary to the view taken in Innoventive Industries and E.S. Krishnamurthy. The view taken in Innoventive Industries still holds good." (emphasis supplied)

***38**. In light of the ratio in M. Suresh Kumar Reddy (supra) there is no cavil that the ratio in Innoventive (supra) lays down the correct proposition of law and the observations in Vidarbha (supra) were made in the facts of the case and do not operate as binding precedent. "*

12. In the present case, both these requirements stand duly established from the material placed on record. Therefore, we are constrained to admit the present application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016.

13. The Applicant has proposed the name of Mr. Rahul Jindal, having registration IBBI/IP A-00l/IP-P02649/202l-2022/14048 Email Id- jindalrahul60@gmail.com, the Insolvency Professional to be appointed as the Interim Resolution Professional. Therefore, we appoint Mr. Rahul Jindal as the Interim Resolution Professional.

14. In pursuance of Section 13 (2) of the Code, we direct that public announcement shall be made by the Interim Resolution Professional immediately (3 days as prescribed by Explanation to Regulation 6(1) of the IBBI Regulations, 2016) with regard to admission of this application under Section 7 of the Insolvency & Bankruptcy Code, 2016.

15. We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

(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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

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

16. It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period.

17. The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day to day affairs of the 'Corporate Debtor'. In case there is any violation committed by the ex-management or any preferential/ undervalued/ tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional shall make an application to this Adjudicating Authority (Tribunal) with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

18. The office is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCT of Delhi & Haryana at the earliest possible but not later than seven days from today. The Registrar of Companies shall update its website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified to the public at large.

-Sd-
(RAVINDRA CHATURVEDI)
MEMBER (TECHNICAL)

-Sd-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

ANAND/ANUSHI