IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT – II)

Item No. 204
IB-134/ND/2025

IN THE MATTER OF:

Tata Capital Limited
11th Floor, Tower A, Peninsula Business Park
Ganpatrao Kadam Marg, Lower Parel, Mumbai
City, Mumbai, Maharashtra, India, 400013
Also at: 7th Floor, Videocon Tower,
Block 7 E, Jhandewalan Extension,
Karol Bagh, New Delhi -110 055 **... Applicant/Financial Creditor**

Versus

Uttam Cylinders Private Limited
Having its registered office at
38, Rajinder Park, New Delhi- 110060 **...Respondent/Corporate Debtor**

Under Section: 7 of IBC, 2016

Order delivered on 11.09.2025

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)
MS. REENA SINHA PURI, HON'BLE MEMBER (T)

PRESENT:

For the Applicant	**:**	Ms. Ekta Bhasin, Ms. Aastha Trivedi, Mr. Kanishk Pandy, Advs. for the Tata Capital Ltd.
For the CD	**:**	Mr. Prashant Katara, Ms. Sakshi Jain, Advs.

Hearing Through: VC and Physical (Hybrid) Mode

ORAL ORDER

1. On 04.09.2025, after hearing the submission made by the parties, including Mr. Prashant Katara, Ld. Counsel for the Corporate Debtor, we passed the following order:-

Present petition has been preferred under Section 7 of IBC, 2016 for initiating the CIRP qua the Corporate Debtor. Our attention is drawn to Part-IV of the application wherein the amount of debt and default has been mentioned. The relevant clause of Part-IV reads thus:-

Part IV

PARTICULARS OF FINANCIAL DEBT

1.	TOTAL AMOUNT OF DEBT GRANTED	Total Amount of Debt Granted: Rs. 25,00,00,000/- (Rupees Twenty-Five Crores Only)
	DATE(S) OF DISBURSEMENT	Date of Disbursements:

Date of Disbursement	Amount (In Rs.)
31/05/2023	21,48,86,153 /-
17/08/2023	3,51,13,847 /-

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)	Total Amount Claimed to be in Default The total amount claimed to be in default is Rs. 19,23,29,846/- (Rupees Nineteen Crores Twenty Three Lakhs Twenty Nine Thousand Eight Hundred Forty Six Only) as of 07.12.2024. Date of Default The default is considered to have occurred on 05.09.2024. The default occurred for the first time on 05.09.2024 and thereafter, the Corporate Debtor again defaulted for the instalments due in October and November and the default is still continuing. A true copy of the workings for computation of the amount and days of default in tabular format is annexed herewith and marked as **Annexure 30.**

2. Ld. Counsel for the Applicant could draw our attention to the ledger maintained by the creditor regarding disbursement of amount to the Corporate Debtor. She could refer to entries dated 31.03.2023 and 17.08.2023 to show the disbursement of an amount of Rs. 19,23,29,846/- to the debtor on the said date. She could also refer to entry dated 17.08.2023 to show the disbursement of another amount of Rs. 24,46,27,846/- qua the Corporate Debtor. Our attention could also be drawn to the NeSL report, placed on record as Annexure-33 to the petition to establish the disbursement of amount of debt to the Corporate Debtor. Having referred to Page-38 of the rejoinder, Ld. Counsel for the creditor/applicant submitted that the Corporate Debtor acknowledged the amount of debt and offered to settle the same. The relevant excerpt of the letter reads thus:-

Current Proposition:

We hereby wish to submit that Tata being a big conglomerate of business is in the best position to appreciate the circumstances with Uttam and Uttam shall be obliged in case Tata could offer them a viable and workable solution by extending it's support with the involvement of other Lenders of Uttam as All of them are in a better position to appreciate the following:

i) Sincerity, Seriousness, and Commitment of the Promoters towards the business;
ii) Feasibility and Economic Viability of the Business of Uttam;
iii) Technical and Commercial Soundness of the business activities of Uttam;
iv) Fact that Plant & Machinery for the manufacturing operations is already in transit from US to India for manufacturing of Composites;
v) Fact that the level of security with the Lenders will only suffice for part payments;
vi) Fact that Uttam has got a USP in its business activity and its clients are ready to work with it even at premium costs.
vii) Fact that the industry and national interest is best served with the ongoing operations with its expert team of management.
viii) Fact that after experiencing all these hits, kicks and severe disruptions, the management is more experienced and focussed;
ix) Opportunities available in the market are diverse and manifold;
x) Opportunity to revive the JV talks with IFC
xi) Lastly, appreciating that only Going Concern will be able to serve all stakeholder's interest to the fullest and may be with a premium.

We hope for a positive response on the above contentions.

Further, we would submit that in case we are left with no option, then the last resort with us will be to offer a one-time settlement to your esteemed institution for Rs. 11.50 Crore as full and final settlement of the outstanding dues in respect of the above-mentioned credit facility sanctioned to us and also in respect of the personal/corporate obligations/guarantees of the promoters/directors/others involved.

Considering the above submissions, we humbly request you:

a) To withdraw all the ongoing judicial proceedings against the company/guarantors;
b) To release the guarantees or such other obligations, as may be binding on the company/ promoters/guarantors upon the payment of the OTS amount;
c) To issue 'No Dues Certificate' and release the charge on the asset(s) mortgaged under the said facility.

The offer is confidential and is without prejudice to our rights and remedies available in law. We expressly acknowledge that this letter is an expression of interest and subject to acceptance of the final agreement by both parties in writing.

We sincerely look forward to your acceptance of the offer.

Thanking You
Yours Faithfully

For Uttam Cylinders Private Limited

Karan Bhatia
Director

3. According to Ld. Counsel for the Petitioner, the Corporate Debtor could commit default on 05.09.2024 when the instalment due was not paid. It is stare decisis that when there is default in payment of any of the instalment of debt,

there would be default constituted qua the entire balance amount payable by the Corporate Debtor.

4. It is the case of the Respondent that as on 05.09.2024 the default amount payable by the Corporate Debtor to the creditor was only Rs. 41,93,047/- and since the financial facility was not recalled, no default can be said to be committed by the Corporate Debtor regarding the entire balance amount. In sum and substance, the submission raised on behalf of the Corporate Debtor is that the amount of default does not meet the threshold limit specified in Section 4 of IBC, 2016. Nevertheless, the Ld. Counsel for the creditor could draw our attention to the judgment of Hon'ble Supreme Court in **M. Suresh Kumar Reddy vs. Canara Bank & Ors.** (Civil Appeal No. 7121 of 2022) to espouse that while considering an application preferred under Section 7 of IBC, 2016 on admission, this Tribunal need to form opinion regarding the default occurred. Para 10 of the Judgment reads thus:-

> *"**10.** Thus, once NCLT is satisfied that the default has occurred, there is hardly a discretion left with NCLT to refuse admission of the application under Section 7. Default is defined under sub-section 12 of Section 3 of the IB Code which reads thus:*
>
> > *"**3. Definitions:** - In this Code, unless the context otherwise requires,-*
> >
> > .. ..
> >
> > ***(12)** "default" means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not [paid] by the debtor or the corporate debtor, as the case may be;"*
>
> *Thus, even the non-payment of a part of debt when it becomes due and payable will amount to default on the part of a Corporate Debtor. In such a case, an order of admission under Section 7 of the IB Code must follow. If the NCLT finds that there is a debt, but it has not become due and*

payable, the application under Section 7 can be rejected. Otherwise, there is no ground available to reject the application."

5. We may also not ignore the letter of acknowledgement written by the Corporate Debtor to the financial creditor acknowledging the liability to pay the amount of debt and offering an amount of Rs. 11,50,00,000/- to settle the amount of debt. The amount of debt was also reported to NeSL.

6. As can be seen from the provisions of Section 7(3) & (5) of IBC, 2016, while considering an application for admission, this Tribunal need to satisfy itself regarding:- 1) the record of debt; 2) there is default in repayment of the same; 3) the name of IP is proposed to be appointed as RP and no disciplinary proceeding are pending against him.

7. To prove the amount of debt, the requisite evidence need to be produced by the creditor are:- NeSL report and entry regarding loan disbursement in Banker's book. In the present case, Ld. Counsel for the Corporate Debtor could draw our attention to both the documents. Reference could also be made to the letter in terms of which amount of debt was sanctioned to the Corporate Debtor.

8. At this stage, the Ld. Counsel for the Corporate Debtor entered appearance through mobile phone. Though we had already shown enough indulgence in the matter in extending time for filing the reply. Today also we accommodated the Corporate Debtor to participate in the proceedings through mobile phone, but only in due deference to principle of natural justice and fairness, we defer the hearing to **11.09.2025**, only to enable the Ld. Counsel for the Corporate Debtor to remain present physically to make his submissions, subject to payment of cost of Rs. 25,000/- to be deposited in Prime Minister's National Relief Fund.
List on **11.09.2025.**

As Mr. Prashant Katara wanted to make a further submission, we deferred the hearing for today.

2. Today. Mr. Prashant Katara Ld. Counsel for the Corporate Debtor relied upon the judgments of Hon'ble NCLAT passed in ***Mr. Deepak Mahadev Shirke Vs. Unity Small Finance Bank Limited and Ors*** in MANU/NL/0312/2025 and submitted that the default has to be there as on the date of filing the application, and the subsequent events which could take place during pendency of the petition, could

not be relied upon to make the default good, and in such a situation, the fresh application, regarding the subsequent default would be required to be filed.

Para 21 and 22 of the judgment relied upon reads thus: -

> *"21. It is therefore the contention of the Appellant, keeping in mind the ratio of the Bishal Jaiswal judgment, the reliance placed by the Adjudicating Authority on the arbitral award to extend the limitation period without any specific pleading to that effect by the Respondent No. 1 amounted to misinterpretation of law and procedure.*
>
> *22. From a reading of the above-quoted paragraphs of the Bishal Jaiswal judgment supra, it is clear that the Hon'ble Supreme Court did not allow the date of default to be amended merely on the basis of oral arguments. For extending the period of limitation, the concerned parties were directed by the Hon'ble Apex Court to necessarily amend their pleadings. Once the Section 7 application is filed, the date of default in Part-IV becomes binding. We however, notice that in the instant case, the Respondent No. 1 failed to bring about change in the date of default through a formal amendment in the Section 7 petition. The date of default has been held to be the date of arbitral award by the Adjudicating Authority without the Respondent No. 1 having made a formal pleading to that effect. The Respondent No. 1 not having amended their petition or made pleadings to the effect that the date of default had changed, the Adjudicating Authority could not have held that the arbitral award of 28.04.2022 had resent the limitation period. In the given facts and circumstances, we are therefore inclined to agree with the Appellant that the Adjudicating Authority has erred in extending the period of limitation basis the arbitral award."*

3. Ld. Counsel for the Financial Creditor made a reference to the definition of default given in the Insolvency and Bankruptcy Code, 2016 (IBC). In her submission, in terms of the provision of Section 3(12), default means no payment of debt when whole or any part or instalment of the amount of debt has become due and

payable and is not paid by the debtor or the corporate debtor, as the case may be. Section 3(12) of the IBC code reads thus: -

> *"(12) "**default**" means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not [paid] by the debtor or the corporate debtor, as the case may be"*

4. She also places reliance upon the order dated 24.03.2025, passed by Hon'ble NCLAT in ***Nakul Bharana Vs. National Asset Reconstruction Company Limited, Company Appeal (AT) (Insolvency) No. 1930 of 2024 and I.A. No. 7495 of 2024*** to buttress that the acknowledgement of debt, even the during pendency of the petition under Section 7 of the IBC (ibid), would also constitute a default. Para 7 and 8 of the order relied upon her reads thus: -

> *"7. There is no dispute between the parties regarding financial facilities extended by the SBI. The amount disbursed by the SBI to the corporate debtor. The accounts were declared NPA by the financial creditor on 26.07.2017. Loan recall notice was issued by the SBI on 11.01.2019 and on behalf of the all the consortium lenders demanding a payment of amounts of ₹2078.04 Crore. Section 7 application was filed by the SBI for a default of ₹1049.72 Crore. Before the Adjudicating Authority itself, the corporate debtor pleaded that corporate debtor has submitted one-time proposal before the lenders. During the course of the hearing of Section 7 application, OTS proposal dated 03.08.2024 was given which was rejected by the consortium of bank, which facts have been noticed in paragraph 12 of the judgment of the Tribunal which is to the following effect:*
>
> > *"12. During the course of hearing, it was pointed out by the Ld. Counsel for the CD that they had given one time settlement proposal to consortium of banks and they wanted the same to be considered primarily on the plea that the arbitral proceedings against the NHAI may result in their favour and upon the same all the debts of the FC could be extinguished. The first OTS proposal was given on 03.08.2024 that was rejected by the consortium of banks. CD upon rejection of proposal filed a Writ*

Petition No. WP (Civil) No. 11150/2024 titled as Bareilly Highways Project Ltd. vs RBI & Ors. The Hon'ble High Court of Delhi passed first order on 12.08.2024 & 13.08.2024 more particularly para 12 & 13 which read as under:-

"12. In view of peculiar facts and circumstances of the matter, the petitioner company is granted liberty to submit another 'OTS' with the lead banker i.e. respondent No. 2/SBI within a week and the matter may be considered thereafter by the Settlement Advisory Committee within two weeks after affording an opportunity of hearing to the petitioner company. This is without prejudice to rights and contention of the parties.

13. In view of the above, the learned NCLT may proceed as per law after four weeks."

8. Adjudicating Authority has also noticed the submissions on behalf of the corporate debtor that they have not serious objection to the contention that the debt and default is an accepted fact. Para 16 of the judgment is as follows:

"16. Coming on the issue of debt and default, it is fairly stated across the bar by the CD that they have no serious objection to contention that the debt and default is an accepted fact. The argument of Mr. Fernandes, Ld. Sr. Counsel for the CD primarily revolves around the pending arbitration against National Highway Authority of India in a sum of ₹9819.18 Crores before the sole arbitrator and if that amount comes in the favour of CD, the entire debt in this case would be wiped out. Therefore, this Adjudicating Authority should adjudicate the matter in the light of this stand. This contention is based on the judgment of Hon'ble Supreme Court in the case of Vidarbha Industries Power Limited vs Axis Bank Limited (2022) 8 SCC 352. However, the position in Vidarbha has been clarified in M. Suresh Kumar Reddy vs Canara Bank & Ors. Civil Appeal No. 7121 of 2022 primarily on the ground that the decision in Vidarbha was in view of the set of facts in that matter and cannot be taken to be

view contrary to what has been laid in Innovative Industries Ld. Vs ICICI Bank Ltd & Anr. (2018) 1 SCC 407. In the case of Vidarbha there was an order in favor of CD from the APTEL."

5. Indubitably, the instalment due as on 05.09.2024 was not paid. It is also clear from the definition of default given in IBC (ibid), once a default is committed in payment of any instalment, the same would be in respect of the entire amount of remaining debt. The definition of default given in IBC doesn't say that default can be perceived only after re-calling of the financial facility extended by the creditor to the debtor, even otherwise also recall notice could be issued on 11.11.2024, and the present petition was filed on 31.12.2024. Thus, apparently, on the date of filing present petition there was a default on the part of the Corporate Debtor. As far as the judgment relied upon the Ld. Counsel for the Corporate Debtor in ***Deepak Mahadev Shirke Vs. Unity Small Finance Bank Limited and Ors (MANU/NL/0312/2025)***, is concerned the same is in distinct facts. In ***Collector of Central Excise Calcutta vs. M/s Alnoori Tobacco Products and Anr., [Civil Appeal- 4502-4503 of 1998]*** passed on 21.07.2004 Hon'ble Supreme Court ruled that the judicial precedent sought to be relied upon by the party to buttress a plea can be relied upon with reference to the facts involved therein and only if it is applicable to the facts of the case before the court to be decided by it. Para 11-14 of the judgment reads thus: -

"11. *Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark on lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton [1951 AC 737: (1951) 2 All ER 1 (HL)] (AC at p. 761), Lord Mac Dermott observed: (All ER p. 14 C-D)*

> *"The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J., as though they were part of an Act of Parliament and applying the rules of interpretation*

appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished Judge.…"

12. *In Home Office v. Dorset Yacht Co. [(1970) 2 All ER 294: 1970 AC 1004: (1970) 2 WLR 1140 (HL)] Lord Reid said (All ER p. 297g-h), "Lord Atkin's speech … is not to be treated as if it were a statutory definition. It will require qualification in new circumstances". Megarry, J. in Shepherd Homes Ltd. v. Sandham (No. 2) [(1971) 1 WLR 1062: (1971) 2 All ER 1267] observed: "One must not, of course, construe even a reserved judgment of Russell, L.J. as if it were an Act of Parliament." And, in British Railways Board v. Herrington [(1972) 1 AC 877: (1972) 2 WLR 537: (1972) 1 All ER 749 (HL)] Lord Morris said: (All ER p. 761c)*

"There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case."

13. *Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.*

14. *The following words of Hidayatullah, J. in the matter of applying precedents have become locus classicus: (Abdul Kayoom v. CIT [AIR 1962 SC 680] , AIR p. 688, para 19)*

"19. … Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

* * *

"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."

6. In view of the aforementioned, we are satisfied that the defaulted amount of debt is more than Rs.1 Crore. The application is accordingly **admitted**. **Ordered**

accordingly. In the wake, moratorium provided under Section 14 of IBC, 2016 is declared qua the CD and as a necessary consequence thereof the following prohibitions are imposed, which must be followed by all and sundry:

a) The institution of suits or continuation of pending suits or proceedings against the Respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority:
b) Transferring, encumbering, alienating or disposing of by the Respondent any of its assets or any legal right or beneficial interest therein;
c) Any action to foreclose, recover or enforce any security interest created by the Respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the Respondent.

7. As proposed by the Petitioner, Mr. Rajesh Ramnani, having Registration No. IBBI/IPA-002/IP-N00993/2020-2021/13187 & email rajeshramnani2407@gmail.com is appointed as IRP, subject to the condition that no disciplinary proceeding is pending against him and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order.

8. It is further ordered that Mr. Rajesh Ramnani shall take charge of the CIRP of the Corporate Debtor with immediate effect and would take steps as mandated under the IBC, specifically under Sections 15, 17, 18, 20 and 21 of IBC, 2016, read with extend provisions of IBBI (Insolvency Resolution of Corporate Persons) Regulations, 2016.

9. The Petitioner is directed to deposit Rs. 2,00,000/- only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

10. A copy of this Order shall immediately be communicated by the Registry/Court Officer of this Tribunal to the Petitioner/Financial Creditor, the Respondent/Corporate Debtor, and the IRP mentioned above.

11. In addition, a copy of this Order shall also be forwarded by the Registry/Court Officer of this Tribunal to the IBBI for their records.

-Sd/-
(REENA SINHA PURI)
MEMBER (T)

-Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)

Poonam/ Anant Bajpai