



NATIONAL COMPANY LAW TRIBUNAL
INDORE SPECIAL BENCH
COURT NO. 1

ITEM No.301
CP(IB)/14(MP)2025

Order under Section 7 IBC

IN THE MATTER OF:

HDFC Bank Ltd
V/s
M/s Nilshikhaa Projects Ltd

.....Applicant

.....Respondent

Order delivered on 28/04/2025

Coram:

Shammi Khan, Hon'ble Member(J)
Sanjeev Kumar Sharma, Hon'ble Member(T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

Neeraj

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH AT INDORE**

CP (IB)/14(MP)2025

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

In the matter of **NILSHIKHAA PROJECTS LIMITED**

HDFC Bank Limited

Having its Head Office at:
HDFC Bank House,
Senapati Bapat Marg,
Lower Parel (West), Mumbai,
Maharashtra, India—400013.

...Applicant/Financial Creditor

VERSUS

Nilshikhaa Projects Limited

(Erstwhile- Nilshikhaa Infra India Limited)

(CIN: U74999MP2016PLC041388)

Having its Registered Office at:
R-211, Mahalaxmi Nagar,
Near Bombay Hospital, Indore,
Madhya Pradesh, India, 452010.

...Respondent/Corporate Debtor

Order pronounced on: 28.04.2025

C O R A M:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

SH. SANJEEV KUMAR SHARMA, HON'BLE MEMBER (TECHNICAL)



A P P E A R A N C E:

For the Applicant/ FC: Mr. Rohit Dubey, Adv.

For the Respondent/CD : **Ex-Parte.**

O R D E R

1. The present Petition is filed on 28.01.2025 by the Applicant- **HDFC Bank Limited** (hereinafter referred to as “**Financial Creditor**”) against the Respondent- **Nilshikhaa Projects Limited** (hereinafter referred to as “**Corporate Debtor**”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**IBC, 2016**”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as “**IB (AAA) Rules, 2016**”) for initiation of Corporate Insolvency Resolution Process (**CIRP**), to appoint Interim Resolution Professional (hereinafter referred to as “**IRP**”) and declare the moratorium for having defaulted payment of its outstanding dues of **Rs.7,56,26,739.48ps.** including interest as on 30.09.2024.
2. On perusal of Part-I of the Form-1 indicated that the Financial Creditor i.e. HDFC Bank Limited, is a body



corporate constituted under the Banking Companies (Acquisition & Transfer of Undertakings) Act of 1970, which was incorporated on 30.08.1994. The registered office of the Financial Creditor is situated at: HDFC Bank House, Senapati Bapat Marg, Lower Parel (West), Mumbai, Maharashtra, India—400013.

3. The Petition is affirmed by Mr. Sunil Bhanushali, being the Authorized officer of the Financial Creditor who is authorized to sign the documents on behalf of the Financial Creditor in terms of the Board Resolution dated 28.07.2023. A copy of the same is annexed with the Petition as **Annexure-A8** at Pages 517 to 519.
4. Perusal of Part-II of the Form-1 states that the Corporate Debtor – M/s. Nilshikhaa Projects Limited was incorporated on 13.06.2016 under CIN: U74999MP2016PLC041388, having its registered office at: R-211, Mahalaxmi Nagar, Near Bombay Hospital, Indore, Madhya Pradesh, India, 452010. The Nominal Share Capital of the Company is Rs.25,00,00,000/- and the Paid-Up Share Capital is Rs.21,00,00,000/-. Copy of the Master of the Corporate Debtor as



available on the MCA Portal is attached with the Petition as **Annexure-A1**.

5. Perusal of **Part-III of the Form-1** reveals that the Financial Creditor has proposed the name of **Ms. Chaya Gupta**, having Registration No.IBBI/IPA-002/IP-N00984/2020-2021/13133 (Email: guptachayacs@gmail.com) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). She has filed her written communication annexed with the Petition as Form-2 as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. A copy of Form-2 is attached with the Petition as **Annexure-A2**. Her AFA is valid up to 30.06.2025 as per data available on the official website of the IBBI ibbi.gov.in.
6. Part-IV of the Form-1 reveals that total dues as claimed by the Financial Creditor is **Rs.7,56,26,739.48ps.** consisting of principal and interest up-to 30.09.2024. The date of default is stated to be 15.11.2022.
7. It is stated that the Corporate Debtor availed the following Credit Facilities from the Financial Creditor through Sanction



Letters dated 18.07.2018, 05.12.2018, 18.03.2020, 16.08.2020, and 08.09.2021. The said facilities are mentioned hereunder: -

- (i) Initially, a Cash Credit and Term Loan of Rs. 5,00,00,000/- each, plus a Performance Bank Guarantee, was granted to the Respondent vide sanction letter dated 18.07.2018, which was renewed from time to time, for which various loan security documents were executed by the Respondent.
- (ii) Lastly, vide sanction letter dated 08.09.2021, Credit Facilities of Rs.22,00,00,000/-, comprising a Cash Credit Limit, Dropline Overdraft Facility, and Performance Bank Guarantee, were granted to the Respondent, for which again various loan security documents were executed by the Respondent.
- (iii) These facilities were secured by personal guarantees and equitable mortgages of properties owned by individuals associated with the Corporate Debtor, as detailed in the application's annexures. The copy of said sanction letters dated 18.07.2018, 05.12.2018, 18.03.2020, 16.08.2020 and 08.09.2021, as well as other loan security documents, are annexed with the Petition as **"Annexure A3 Colly.**

8. However, after availing of the aforesaid Credit Facilities, the Corporate Debtor failed to maintain financial discipline as per



the terms and conditions of the loan agreement due to which the loan accounts became irregular and committed default in servicing interest and re-payment of instalments. Consequently, the said accounts of the Corporate Debtor were classified as NPA on 27.02.2023 as per the Reserve Bank of India (RBI) guidelines.

9. Thereafter, the Financial Creditor served a Demand Notice dated 30.10.2024 U/s 13(2) of the SARFAESI Act, 2002 upon the Corporate Debtor and Guarantors to repay the outstanding dues, which is annexed with the Petition as **Annexure-A5**. The Financial Creditor also served a Legal Notice dated 06.11.2024 to the Corporate Debtor and Guarantors to repay the outstanding dues, which is annexed with the Petition as **Annexure-A6**. However, the Respondent failed to respond or repay the outstanding dues.
10. The Financial Creditor has also placed on record a copy of the Computation Sheet of Accounts along with a Certificate as per provisions of the Bankers' Books Evidence Act, 1891 of the Corporate Debtor, which is annexed with the Petition as **Annexure-A4**.



11. The Financial Creditor has also filed **Form-D** as a record of debt and default issued by National E-Governance Services Limited (“**NeSL**”) in which the date of default is recorded as 15.11.2022 with status “**Authenticated**”. A copy of the same is annexed with the Petition as **Annexure-A7**.

12. The Financial Creditor has relied upon the following documents: -

- A copy of the Authority letter to submit the Petition on behalf of the financial creditor.
- Written Communication of the Proposed Interim Resolution Professional in Form 2.
- Loan Sanction documents in 18.07.2018, 05.12.2018, 18.03.2020, 16.08.2020 and 08.09.2021.
- Copies of the Financial Loan Contract documents.
- Statement showing total amounts of debt granted and Outstanding as on 30.09.2024.
- Copies of Bank Statement in accordance with the Banker Books Evidence Act 1891.
- Demand Notice & Legal Notice.
- Record of Default as available with the Information Utility.
- Vakalatnama in favour of the Advocate.



- Service of Proof.

- 13.** It is noted that advance notice and a copy of the Petition in terms of Rule 4(3) of IB (AAA) Rules, 2016 was already served on 27.01.2025 and amended Copy on 20.03.2025 through e-mode upon the Corporate Debtor as per proof of email service filed along with the Petition on 28.01.2025. However, despite advance notice by the Financial Creditor & Service of the Petition, no one has appeared on behalf of the Corporate Debtor on 05.03.2025 and 07.03.2025.
- 14.** Therefore, a formal notice in the Petition was also issued on 21.03.2025 to the Corporate Debtor, who was directed to file a reply within seven days. The Corporate Debtor was served on 03.04.2025 through registered post and e-mode on 04.04.2025 as per the Service Report Affidavit filed on 23.04.2025. Thereafter, on 25.04.2025, the matter was listed, but neither the Respondent/CD appeared, nor filed any reply during the intervening period or on that day. Therefore, vide order dated 25.04.2025, the right to file the reply of the Corporate Debtor was closed. Further, the Corporate Debtor was proceeded **Ex-parte**.



15. We heard the oral submissions of Ld. Counsel for the Financial Creditor, ex-parte against the Corporate Debtor, and perused the material available on record. The Observations of the Tribunal are followed as under: -

- (i) On perusal of the records, it is found that the Corporate Debtor had availed various credit facilities from the Financial Creditor, including Dropline Overdraft Facility, and Performance Bank Guarantee amounting to Rs.22,00,00,000/-.
- (ii) The loan amount was disbursed to the Corporate Debtor. However, the Corporate Debtor defaulted on 15.11.2022 in servicing the interest as well as in repayment of instalments, as reflected in the A/c Statement annexed as **Annexure- A4**.
- (iii) Therefore, loan accounts were classified as NPA on 27.02.2023 and recalled by Financial Creditor vide Demand Notice dated 30.10.2024 U/s 13(2) of the SARFAESI Act, 2002 and by Legal Notice dated 06.11.2024 which were served to the Corporate Debtor and Guarantors to repay the outstanding dues but no payment was made which is annexed with Petition as **Annexure-A5 & A6**.
- (iv) The outstanding liability as of 30.09.2024 amounts to Rs.7,56,26,739.48ps. which include principal, interest, and charges.



(v) The Financial Creditor has also filed **Form-D** as a record of debt and default issued by National E-Governance Services Limited ("**NeSL**") in which the date of default is recorded as 15.11.2022 with status "**Authenticated**". A copy of the same is annexed as **Annexure-A7** with the Petition.

16. It can be seen from the judgment of the Hon'ble **Supreme Court** in the matter of ***M. Suresh Kumar Reddy Vs Canara Bank & Ors. (Civil Appeal No. 7121 OF 2022*** decided 11 May, 2023) stating that in the matter of Section 7, the only thing which is to be seen while ordering in Section 7 matters is whether there is a debt and default.

17. Further, the Hon'ble **Supreme Court** in the case of ***Innoventive Industries Limited v. ICICI Bank Limited***, where it has discussed extensively the scope of the Adjudicating authority under section 7 of the IBC is limited to assessing the records provided by the financial creditor to satisfy itself that the default has occurred: -

28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor – it need not be a debt owed to the financial creditor. Under Section 7(2), an application



is to be made under sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the application is made by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in part III, particulars of the financial debt in part IV and documents, records and evidence of default in part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has occurred, that 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, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under sub-section (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.

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.

- 18.** In view of above, the present Petition is complete in terms of Section 7 (5) of the Code. The Financial Creditor is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. The outstanding financial debt is more than rupees one crore, which meets the threshold limit as per section 4 of the Code and is well within the limitation for filing the present Petition. Moreover, the said default is not covered under the period exempted under Section 10A of the IBC, 2016.
- 19.** Hence, the Petition filed under section 7(2) of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the Corporate Debtor deserves to be admitted.



20. Accordingly, in light of the above facts and circumstances, it is **hereby ordered** as under: -

- (i) The Respondent/Corporate Debtor **Nilshikhaa Projects Limited** is **admitted** in the Corporate Insolvency Resolution Process (**CIRP**) under section 7 of the IBC, 2016.
- (ii) As a consequence, thereof, an Interim Resolution Professional (**IRP**) is appointed, moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the IBC, 2016.
 - 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.*
 - e. *The provisions of sub-Section (1) shall however, not apply to such transactions, agreements as may be notified by the Central Government in consultation with any financial sector regulator, and to a surety in a contract of guarantee to a Corporate Debtor.*
- (iii) The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.
- (iv) However, in terms of Section 14(2) and 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period. The corporate debtor is to provide effective assistance to the IRP as and when it takes charge of the assets and management of the corporate debtor.
- (v) As proposed by the Financial Creditor, we appoint **Ms. CHAYA GUPTA**, having Registration No.IBBI/IPA-002/IP-N00984/2020-2021/13133, having the address:



I, Bima Nagar, 202, Almas Dreams Apartment, Near Anand Bazaw, Indore, Madhya Pradesh, 452018 (**e-mail:** guptachayacs@gmail.com) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). She shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

- (vi) The IRP so appointed shall make a public announcement of the initiation of the Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.
- (vii) The IRP shall perform all its functions as contemplated, *inter alia*, by sections 17, 18, 20, and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation, as per section 19 of the Code, to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or co-operate with the IRP do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.



- (viii) The IRP is expected to take full charge of the corporate debtor's assets and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- (ix) The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of the obligation imposed by section 20 of the Code.
- (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 CIRP in respect of the Corporate Debtor.
- (xi) We direct the financial creditor to pay IRP a sum of **Rs.3,00,000/- (Rupees Three Lakh Only)** in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims etc. till the CoC decides about his fees/expenses.
- (xii) The Registry is directed to communicate this order to the financial creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within



seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in the MCA portal, specifically mentioning regarding admission of this Application, and shall forward the compliance report to the Registrar, NCLT.

(xiii) The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST (centre), State Trade Tax, Provident Fund etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/employees associations so that they are informed of the initiation of CIRP against the Corporate Debtor timely.

(xiv) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

23. Accordingly, this Application **CP(IB)/14/MP/2025** is hereby **admitted**. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-
SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

Sd/-
SHAMMI KHAN
MEMBER (JUDICIAL)