



NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)
IN
Company Petition No. (IB)-637(ND)/2024

IN THE MATTER OF:

Srei Equipment Finance Limited

'Vishwakarma', 86C, Topsia Road, (South)
Kolkata, West Bengal – 700046

... Applicant/Financial Creditor

Versus

Coronation Infrastructure Private Limited

E-0, Meera Corporate Suites,
1 And 2, Ishwar Nagar,
New Delhi-110065

... Respondent/Personal Guarantor

Order Delivered on: 17.09.2025

Under Section: 7 of IBC 2016

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

MS. REENA SINHA PURI, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Adv. Anirban Bhattacharya, Adv. Priyanka
Bhatt, Adv. with Adv. Rajeev Chowdhary

For the Respondent : None



ORDER

PER: SHRI ASHOK KUMAR BHARDWAJ, MEMBER (J)

Sans irrelevant details, the case of the applicant set up in the application preferred under section 7 of IBC is that the corporate debtor committed default in repaying the amount of debt. Clause 2 of part IV of the application reads thus :-

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 as on 03-04-2024 : Rs. 80,41,64,116/- (Rupees Eighty Crores Forty One Lakhs Sixty Four Thousand One Hundred Sixteen Only).	
	Particulars	Amount (Rs)
	Overdue Instalments	Rs.16,46,70,538/-
	Principal Outstanding	Rs.5,79,94,329/-
	Overdue Charges	Rs.58,00,62,047/-
	Other Charges	Rs.14,37,202/-
	Total Amount	Rs. 80,41,64,116/- (Rupees Eighty Crores Forty One Lakhs Sixty Four Thousand One Hundred Sixteen Only)
Default computed upto: 03-04-2024		
Date of Default: 12.01.2024		
A computation of the amount of Rs. 80,41,64,116/- (Rupees Eighty Crores Forty One Lakhs Sixty Four Thousand One Hundred Sixteen Only) is annexed herewith and marked as ANNEXURE-30.		

2. In the wake of the aforementioned, the applicant has sought commencement of CIRP qua the Corporate Debtor. To bring home its case, the applicant could enclose with application, to prove the debt in default, the documents and evidences as per Part V of the application.



3. In the reply filed on the behalf of the corporate debtor, it has been espoused thus:-

- i. The application has been filed without due authorisation from the applicant and is founded on unstamped/insufficiently stamped loan agreements.
- ii. The default alleged in the application could occur during the period mentioned in Section 10A of IBC, 2016 and for such default no application under section 7 of the code would lie.
- iii. The respondent sold its secured property being Land admeasuring 8 Bigha and 3 Biswas (approx. 1.70 acres) out of entire land 13 Bigha 1 Biswa, comprised in Mustatil No. 35, Killa No. 18 (4-0) and 23 Min (4-3), situated in village Mehrauli, Tehsil Mehrauli, New Delhi together with a G+ 1 building admeasuring 4.710 Sq. Ft. (Built Up area) ("Secured Property") to meet its debt obligations qua the Applicant by way of a full and final settlement, only for the Applicant to renege on their in-principle understanding to the effect that subject to realization of the sale proceeds of the said Secured Property by the Applicant, the Applicant shall have no further claim against the Respondent and all accounts between the parties shall be deemed to have been settled and squared up.
- iv. Between 03.07.2019 to 15.03.2020, the Applicant disbursed multiple financial facilities to the tune of INR 46 Crores to the Respondent, vide Loan cum Hypothecation Agreements bearing nos. 178606, 178716, 178717, 178723, 178724, 178733, 178732, 178745 and 187117 respectively ("Loan Agreements").



- v. To secure the financial facility, the respondent mortgaged property to the Applicant as a security.
- vi. Due to unprecedented global pandemic i.e. Covid-19 and nationwide lockdown declared by the Government of India in 2020, the business of Respondent came to standstill. Resultantly the Respondent could not service the loan account with the Applicant properly and certain amounts became due and payable by the Respondent. As a consequence thereof the account of the Respondent could slip in the category of NPA and was classified as such by the Applicant on 05.12.2020.
- vii. Subsequently, the Applicant issued to the Respondent a recall notice dated 02.03.2021 for an amount of INR 22,15,01,427/- qua the loan agreement no. 187117, and another recall notice dated 27.04.2021 for an amount of INR 36,99,36,001/- qua the loan agreement nos. 178606, 178716, 178717, 178723, 178724, 178733, 178732 and 178745, thereby seeking repayment of all the financial facilities extended to the Respondent.
- viii. Thereafter, on multiple occasions, the parties attempted to explore the possibility of arriving at an amicable out of court settlement, but despite repeated parleys the parties were not in a position to reach any consensus and no settlement could thus be arrived at.
- ix. In the meantime, in terms of the order dated 08.10.2021, CIRP could commence qua the Applicant/Financial Creditor.
- x. Then to meet the debt obligation, the Respondent approached the Applicant with an offer that the Respondent be allowed to sell the



secured property to clear the dues of the Applicant. On being permitted by the Applicant, the Respondent sold secured property for INR 45.3 crores, the proceeds of which went entirely to the Applicant on 30.6.2023.

- xi. Thereafter the Applicant issued a fresh recall notice dated 28.12.2023 seeking payment of the alleged balance outstanding loan amount of Rs. 75,75,14,032 within 15 days i.e. by 12.01.2024.
- xii. The loan agreement being not sufficiently stamped cannot be relied upon and need to be impounded under Section 33 of Stamp Act for being referred to adjudication of duty and penalty to the Collector under Section 38 (2) of the Act.
- xiii. The loan account of Respondent turned NPA on 05.12.2020 i.e. during the period covered by Section 10A of IBC, 2016 (25.03.2020 to 25.03.2021), thus the present application is not maintainable.
- xiv. In view of the Judgment of Hon'ble Supreme Court in Babulal Vardharji Gurjar vs. Veer Gurjar Aluminium Industries (P) Ltd., (2020) 15 SCC 1 and Jagdish Prasad Sarada vs. Allahabad Bank, CA (AT) (Ins) No. 183 of 2020 ordinarily date of NPA can be considered as date of default and same would not shift.
- xv. In view of the Judgment of Hon'ble NCLAT in Milind Kashiram Jadhav vs. State Bank of India, CA (AT) (Ins) No. 1589 of 2023, not the date of recall of loan facility, but the date of NPA need to be treated as date of default.
- xvi. In terms of the Judgment of Hon'ble Supreme Court in Laxmi Pat Surana vs. Union Bank of Ors., (2021) 8 SCC 481, Page 1, Section 7 of



IBC, 2016, comes into play when, Corporate Debtor commits default. The expression default and not NPA/recall notice could be used in the provision consciously.

- xvii. In Bank of Maharashtra vs. Avivet Nutritional Services Pvt. Ltd. CP (IB) No. 1137/MB/2022 it could be ruled that the date of declaring the account as NPA is not of much relevance for the purpose of Section 7 of IBC, 2016 and the date of default will represent the actual or specific date on which the debt or part thereof fell due and payable by the CD in terms of the loan agreement but the same was not paid. Section 10A categorically provides that no application for initiation of CIRP qua a CD u/s 9 or 10 shall ever be filed for any default arising during the period between 25.03.2020 and 24.03.2021.
- xviii. Issuance of fresh Recall Notice subsequent to part payment of NPA debt would not shift the date of default.
- xix. In IDBI Trusteeship Services Ltd. vs. Direct Media Distribution Ventures Pvt. Ltd., it could be viewed that subsequent realisation of part amount of debt which fell due during the period covered by the provisions of Section 10A would not lead to the conclusion that the application was not barred by Section 10A of the Code.
- xx. The default is not reported to IA.
- xxi. With payment of Rs. 45.30 crores to the Applicant, the entire amount of debt was settled.

4. In the rejoinder filed by it, the Applicant has espoused that:-



- i. The date of default in the present case is 12.01.2021 and the same is not covered by the period mentioned in Section 10-A of the Code viz. 25.03.2021 to 24.03.2021.
- ii. There is nothing on record to suggest that the Applicant shall have no claim against the Respondent and all accounts between the parties shall be deemed to have been settled and squared up. On the contrary, it is the admitted case of the CD itself that the sale of the secured property was for the purpose of pay off part dues of Applicant, which is evident from the letter dated 07.12.2022.
- iii. In terms of the view taken by Hon'ble NCLAT IN Hiren Meghji Bharani vs. Shankeshwar Properties Pvt. Ltd., Company Appeal (AT)(Insolvency) No. 446/2023, non-stamping of document does not render the corporate insolvency resolution process as not maintainable, where there exists other material on record to prove existence of debt in payment of default.
- iv. The amount of loan was repayable between the year 2020 to 2023, thus the default occurred after 25.03.2021 cannot be said to be covered by Section 10A of the Code. The default would finally occur only when the CD failed to act upon the arrangement arrived at between the FC and the CD pursuant to exchange of letters dated 07.12.2022, 23.12.2022 and 27.06.2023.
- v. In terms of the view taken by Hon'ble NCLAT in Indiabulls Housing Finance Ltd. vs. Revital Realty Pvt. Ltd., Company Appeal (AT)(Insolvency) No. 994 of 2022, it is not necessary for the Appellant to



file an application u/s 7 of the Code, on the happening of first default of amount due and it is discretion of the FC to decide filing of an application u/s 7 as per the facts and his legal rights.

5. We heard the counsels for the parties and perused the records. When the CD has admitted the amount of debt and has also accepted the fact that the default could take place regarding the amount of debt, the date of default was covered by Section 10A of IBC, 2016, the plea raised by the CD that the loan agreement was not stamped is of no consequence. The Applicant could also enclose with the rejoinder, the board resolution passed by it, authorising Mr. Shamic Roy, the CEO of the Company to initiate or withdraw litigation on behalf of the company. Thus, there is also no force in the plea raised on behalf of the CD that the application for initiation of CIRP was preferred without due authorisation. The Ld. Counsel for the Applicant could also give the computation regarding the amount and according to him, the amount qua which the default could take place after 25.03.2021 is more than Rs. 1 Crore, viz. 4,08,13,392/- thus, even for said amount, the present application is maintainable.

6. Though, there is objection raised on behalf of the Respondent that the application for correctly calculated amount should be filed separately and such plea may be plausible, but when it is not in dispute that certain amount could fell due and payable by the CD after 25.03.2021, merely for technical reason it may not be proper to reject the present petition and to ask the Applicant to file fresh petition for the amount which could fell due after the period covered by Section 10A of IBC, 2016. The amount calculated by the



Applicant as payable is on account of principal outstanding and over due charges. In **Vinod Kumar vs. Omkara Asset Reconstruction Pvt. Ltd. & Anr.** in Company Appeal (AT) (Insolvency) No. 2265 of 2024, Hon'ble NCLAT viewed that the default occurred after Section 10A of IBC, 2016, can very well be made a basis for an application under Section 7 of IBC, 2016. Para 15 of the judgment reads thus:-

“15. Learned Counsel for the Appellant sought to distinguish the above judgment stating that the term of loan credit facility in the present case is distinctive from the term of repayment in the above case. It is true that in the present case, principal amount of loan was payable in one installment after 48 months, which default fell on 11.02.2021. What is prohibited by Section 10A is not to initiate any Application for default committed by CD during 10A period. In event, the CD defaults after the end of 10A period, the said default can very well be made basis for any Application under Section 7 and in the present case, finding of the Adjudicating Authority is that amount of default from 26.03.2021 to 31.05.2021 was Rs.9,38,44,668/-. The interest liability shall not come to an end merely on the ground that default of principal amount fell during 10A period. The interest was payable on outstanding loan as per the terms of the Facility Agreement as noted above. Prohibition to initiate Section 7 Application for default under 10A period, cannot mean that liability is wiped out. If the outstanding amount continues even after 10A period, the interest liability on outstanding amount on the CD shall not come to an end.”

7. Thus, for the amount which could fell due and payable by the CD after 25.03.2021 but not paid, the present application would lie.

8. We could also satisfy ourselves regarding non-pendency of legal proceedings against the IP proposed to be appointed as IRP. The consent given



by IP in the prescribed form i.e. Form-2 is placed on record at page 474 of Vol. III of the petition and the declaration given by the IP regarding non-pendency any legal proceedings against it reads thus:-

“(iv) certify that there are no disciplinary proceedings pending against me with the Board or ICSI Institute of Insolvency Professionals.”

9. We are satisfied that the application meet the requirement of the provisions of Sec. 7(3) & (5) of the Code. **In view of the aforementioned, we are left with no option but to admit the present application. 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.



10. As proposed by the Petitioner **Mr. Manish Agarwal** having Registration No. IBBI/IPA-002/IP-N00223/2017-2018/10904 & email manishfcs@gmail.com is appointed as IRP. It is further ordered that Mr. Manish Agarwal shall take charge of the CIRP of the Corporate Debtor with immediate effect and would take steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016 read with extend provisions of IBBI (Insolvency Resolution of Corporate Persons) Regulations, 2016.

11. The Petitioner is directed to deposit Rs. 1,00,000/- 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.

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