

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH -I**

CP(IB)No. 548/MB/2024

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

In the matter of

Canara Bank

.....**Applicant/
Financial Creditor**

Versus

M/S Syska E-Retails LLP

.....**Corporate Debtor/
Respondent**

Order Delivered on : 17.06.2025

Coram:

Prabhat Kumar

Hon'ble Member (Technical)

Justice V.G Bisht, (Retd).

Hon'ble Member (Judicial)

Appearances:

For the Financial Creditor : Mr. Brijesh Kumar a/w Mr. Nehal Rajput,
Ld. Adv

For the Corporate Debtor : Mr. Manoj Garg, Adv

ORDER

1. This Company Petition has been filed by Canara Bank ("**Financial Creditor**"), is seeking to initiate Corporate Insolvency Resolution Process ("**CIRP**") against M/S Syska E-Retails LLP. ("**Corporate Debtor**") by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for having committed a default in repayment of total outstanding debt of **INR 10,70,26,0611- (Rupees Ten Crores Seventy Lacs Twenty-Six Thousand Sixty-One Only)**
2. The date of default of according to part 4 of the Petition is 21.11.2023 and same date where the account of the Corporate Debtor was classified as Non-Performing Asset ('NPA')
3. The record of default is recorded with the Information Utility "NeSL" as of 13.06.2024.

Facts of the Case and Submissions made by Ld. Counsel for the Applicant

4. The Corporate Debtor was incorporated on 01.10.2015 under the provisions of the Limited Liability Partnership Act, 2008, and is registered with the Registrar of Companies, Pune.
5. The Corporate Debtor availed multiple credit facilities from Canara Bank under the category of Advances against Supply Bills for trading activities, as sanctioned by the letter dated 24.08.2022.
6. The Corporate Debtor and guarantors have executed the following documents in favor of the Financial Creditor:
 - a) Agreement for CDB/SDB/BE/ADVANCES dated 24.08.2022.
 - b) Counter Indemnity Letter dated 24.08.2022.

- c) Agreement Re:Advances against Book debts as primesecurity dated 24.08.2022
- d) Guarantee Agreement dated 24.08.2022 executed by Sh. Honey Uttamchandani.
- e) Guarantee Agreement dated 24.08.2022 executed by Smt. Gitika Uttamchandani
- f) Guarantee Agreement dated 24.08.2022 executed by Sh. Rajesh Uttamchandani.
- g) Guarantee Agreement dated 24 08.2022 executed by Sh. Govind Uttamchandani.
- h) Guarantee Agreement dated 24.08.2022 executed byM/s Syska LED Lights Pvt. Ltd
- i) Pronote dated 24.08.2022.
- j) Letter of Undertaking re: Loans/Advances dated 24.08.2022
- k) Common Hypothecation Agreement dated 24.08.2022.

7. The Corporate Debtor has created a security interest in form of Charges on Supply Bills and Hypothecation of goods to secure the loan facilities availed from the consortium banks/Financial Creditor, and the said charge has been registered under CERSAI:

8. Pursuant to the loan sanctioned by the Financial Creditor, the loan amount was disbursed to the Corporate Debtor on various dates. The details of the disbursements are as follows:

Account No. 120001738211	
Date of Disbursement	Amount (in Rupees)
CURRENT A/C	NO DISBURSEMENT APPLICABLE

Account No. 217ISBC231795001	
Date of Disbursement	Amount (in Rupees)
27-06-2023	1,49,27,437.00

Account No. 217ISBC231815002	
Date of Disbursement	Amount (in Rupees)
28-06-2023	2,28,64,635.00

Account No. 217ISBC231775001	
Date of Disbursement	Amount (in Rupees)
13-06-2023	2,46,63,127.00

Account No. 217ISBC231745001	
Date of Disbursement	Amount (in Rupees)
05-06-2023	5,89,16,404.00

9. Since the Corporate Debtor failed to maintain financial discipline, the Financial Creditor classified the loan account as a Non-Performing Asset (NPA) on 21.11.2023. This date is stated as date of default date of default in part IV of Form 1.
10. The Financial Creditor issued a loan recall notice dated 16.12.2023, demanding repayment of the entire loan facilities granted to the Corporate Debtor. However, the Corporate Debtor failed to make the required payment as per the recall notice.

11. It is stated in the Application that the Financial Creditor also issued a notice to the Guarantors under Section 13(2) of the SARFAESI Act, 2002, for the enforcement of the security interest on 16.12.2023, and thereafter the Financial Creditor filed an Original Application (O.A. NDN 1721 of 2024) on 08.04.2024 for the recovery of dues from the Corporate Debtor. As of the date of filing the present Section 7 application, the Original Application is stated to be pending before the Hon'ble Debt Recovery Tribunal-II, Delhi.

Affidavit of reply on behalf of Corporate Debtor

12. The Corporate Debtor has filed a reply raising following issues –
- a. The present application is not maintainable due to lack of proper authorization or a valid Power of Attorney, as the Power of Attorney annexed to the application was executed on 12.04.2011 by the Financial Creditor in favor of Mr. Paritosh Kumar, prior to the incorporation of the Corporate Debtor and the enactment of the Insolvency and Bankruptcy Code, 2016. Additionally, the Power of Attorney does not mention any validity period.
 - b. The total debt amount claimed in Part IV, along with the stated date of default, is incorrect, misleading, and vexatious. These inaccuracies render the application fundamentally flawed. As a result, the application is legally unsustainable.
 - c. The total amount claimed by the Financial Creditor in Part IV of the application does not match the statement of dues or the data recorded in the NeSL annexed to the application. The total claim amount stated in Part IV of the application is Rs. 10,70,26,06.11/-, whereas the amount recorded in the NeSL records is only Rs. 26,84,191.26/-.
 - d. The Corporate Debtor has not committed any payment in default. The date of default stated in Part IV is 21.11.2023, while the NeSL records show 29.08.2022, creating a clear inconsistency. Furthermore, the Financial Creditor admits the credit facility was sanctioned on 24.08.2022, yet the disbursement dates in Part IV fall in 2023. A default on 29.08.2022—prior to disbursement—is logically impossible. These

contradictions render the application fundamentally flawed, unsustainable in law.

- e. The statement clearly shows that the Corporate Debtor made several payments after the alleged default date of 21.11.2023, indicating ongoing repayments. These entries demonstrate that the Corporate Debtor has been regularly servicing the debt, further undermining the Financial Creditor's claim.
- f. No notice or letter declaring the account as NPA has been filed with the application, nor has the Corporate Debtor received any such communication.
- g. The Financial Creditor's Loan Recall Notice dated 16.12.2023 cites two different claim amounts:

In Paragraph 8:

"My client has also served you a loan recall notice on 23.11.2023, whereby an amount of Rs. 11,38,81,200.00 + Penal Interest was recalled, and you were liable to make payment within 5 days."

In Paragraph 10: "As on 15.12.2023, a sum of Rs. 10,12,92,000.00 + Penal Interest (Ten Crores Twelve Lakhs and Ninety-Two Thousand Rupees Only) is due and payable by all the addressees to my client named above on account of the loan sanctioned and disbursed by Canara Bank."

This discrepancy shows the Corporate Debtor made payments after the alleged default date of 21.11.2023. It also indicates deliberate concealment of material facts by the Financial Creditor. The application is therefore defective, misleading, and not maintainable in law, and should be dismissed with exemplary costs.

- h. The Financial Creditor has failed to submit a complete statement of dues/accounts with the Section 7 application. Additionally, no calculations or details have been provided to justify the claimed amount of Rs. 10,70,26,06.11/-. The amount stated in Part IV is unsupported by documentary evidence. The Corporate Debtor denies the claim, as it does not match the NeSL records.

Findings

13. Heard learned counsel for the both the parties and perused the materials on record.
14. This Company Petition has been filed by Canara Bank ("Financial Creditor") seeking to initiate the Corporate Insolvency Resolution Process ("CIRP") against M/s Syska E-Retails LLP ("Corporate Debtor") under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC"). The Financial Creditor has claimed a default in repayment of a total outstanding debt of ₹10,70,26,061.11 (Rupees Ten Crores Seventy Lakhs Twenty-Six Thousand Sixty-One Only), and the date of default is stated as 21.11.2023.
15. The Clause 10 of Power of Attorney 12.04.2011 authorizes the grantee *"to initiate and prosecute Insolvency proceedings, winding up proceedings against debtors of the BANK"*, accordingly, the signatory of present application Mr. Paritosh Kumar is competent to file the Application under the Code. It is not relevant that the said Power Of Attorney was executed prior to the Incorporation of the Debtor or IBC coming into force.
16. On the Persual of statement of accounts attached to the application, it is noted that some payments were made by the Corporate Debtor from 24.11.2023 to 14.12.2023, which resulted into the reduction of total outstanding between two dates i.e. 23.11.2023 and 15.12.2023, as stated in the recall notice dated 15.12.2023. In our considered view there is no discrepancies. The account wise outstanding as well as the detailed ledger of each account are annexed to the present Application and the amount outstanding under each account is clearly ascertainable therefrom.
17. The NESL certificate pertains to the default in current account balance of Rs. 26,84,191.26/- as on 26.08.2022. The outstanding dues pertaining to current account as well as other loan accounts are stated

at Page 7 of the Application and such details clearly shows the outstanding of Rs. 26,33,315.99 in current account as on 28.03.2024. In relation to default in four loan accounts, no NESL certificate has been attached, however the default in those accounts is ascertainable from the loan agreements, statement of accounts and recall notice. There is no requirement under terms of loan to issue a notice or a letter to the borrower upon declaration of Borrowers' account as NPA.

18. On perusal of reply of the Corporate Debtor we couldn't find any substantive objections to the existence of the Financial Debt and default in payment thereof. It is pertinent to note that the Corporate Debtor have sought adjournment citing submission of OTS proposal and pendency thereof, however the Financial Creditor had not conveyed positive consideration of any such OTS proposal.
19. The Hon'ble Supreme Court in *M. Suresh Kumar Reddy v. Canara Bank (2023) Company Appeal (AT)(CH)(Ins) No.315/2022* held that if the existence of a financial debt and its default on the part of the corporate debtor is proven, the National Company Law Tribunal (NCLT) has no discretion but to admit the petition under Section 7 of the IBC. The Court clarified that the NCLT's role is to assess the existence of a debt and default. If these elements are established, the application must be admitted.
20. From perusal of the record and the documents relied upon by the Applicant it stands proved that there has been a financial debt in respect of which default has been committed by the Corporate Debtor and further that the Application has been filed within the period of limitation. Therefore, the Application u/s 7 of the Code, deserves to be admitted. It is ordered accordingly in the following terms:

ORDER

- a. The petition bearing CP (IB) 548/MB/C-I/2024 filed by **Canara Bank**, the Financial Creditors, under Section 7 of the Code read with Rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process against **M/S Syska E-Retails LLP**, the Corporate Debtor, is admitted.
- b. This Bench hereby **appoints** Mr. Vijay **Pitamber Lulla** as the **Interim Resolution Professional having Registration No: IBBI/IPA001/IP-P00323/2017-18/10593** **having email: - Vijayplulla@rediffmail.com**, Mobile No 9920279899 ;Address at 201, Satchitanand Buliding, 2nd Floor, 12th Road, Khar (West) Mumbai-400052 to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. There shall be a moratorium under section 14 of the IBC, in regard to the following:
 - i. 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;
 - ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - iii. 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 (SARFAESI) Act, 2002;
 - iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

- d. Notwithstanding the above, during the period of moratorium: -
- i. The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
 - ii. That the provisions of Sub-Section (1) of Section 14 of the Code shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- e. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under Sub-Section (1) of Section 31 of the Code or passes an order for liquidation of Corporate Debtor under Section 33 of the Code, as the case may be.
- f. Public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code read with Regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- g. The Financial Creditor shall deposit an amount of **Rs. Three Lakhs** towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The said amount shall be adjusted towards his fees and expenses subject to ratification thereof by CoC. CoC, at its first meeting, decide the remuneration payable to Interim Resolution Professional.
- h. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 of the Code. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

- i. The Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by speed post and email immediately, and in any case, not later than two days from the date of this Order.
- j. IRP is directed to send a copy of this Order to the Registrar of Companies, Maharashtra, Mumbai, 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.

Sd/-
PRABHAT KUMAR
Member (Technical)

Sd/-
JUSTICE V.G. BISHT
Member (Judicial)