



IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

*(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)*

CP (IB) No.34/BB/2024

*(Application u/s. 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:

Indian Bank

Having Corporate Office at:
254-260 Avvai
Shanmugam Salai, Royapettah,
Chennai-600014.

Represented by Shri Bheem Prasad N,
Chief Manager & Authorised Officer,
Indian Bank,
Stressed Assets Management Branch
No. 10, 1st Floor, Indian Bank Buildings
K.G. Road, Bangalore- 560009.

...Financial Creditor/Petitioner

VERSUS

SSJV Projects Private Limited

Having Registered Office at:
12th Floor, S.N. Towers,
25/2, M.G. Road,
Bangalore -560001

... Respondent/Corporate Debtor

Order delivered on: 04/07/2025

Coram:

Hon'ble Shri. Sunil Kumar Aggarwal, Member (Judicial)
Hon'ble Shri. Radhakrishna Sreepada, Member (Technical)

PARTIES/COUNSELS PRESENT:

For the Petitioner : Shri H.R. Katti
For the Respondent : Ms. Nupoor Maharaj

ORDER

1. The present Petition is filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC'/Code) read with Rule 4 of the Insolvency & Bankruptcy



(Application to Adjudicating Authority) Rules 2016 on 05.12.2022 by **Indian Bank** (herein after referred as the ‘Petitioner/Financial Creditor’) seeking to initiate Corporate Insolvency Resolution Process in respect of **SSJV Projects Private Limited** (hereinafter referred to as ‘Corporate Debtor/Respondent’) for the default amount of Rs. 412,59,38,084/- (Rupees Four hundred and Twelve Crores Fifty Nine Lakhs Thirty Eight Thousand and Eighty Four Only) as on 31/08/2022 with further interest accruing thereon and date of default being 30.09.2010, as per Part IV of Form No. 1.

2. The facts of the case are discussed below:

- i. The Petitioner/Financial Creditor is a body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 having its corporate office at 254-260 Avvai Shanmugam Salai Royapettah, Chennai- 600014 and one of the Branch at Indian Bank, Stressed Assets Management Branch, No. 10, 1st Floor, Indian Bank Buildings, K. G. Road, Bengaluru-560009.
- ii. The Respondent/ Corporate Debtor, incorporated on 10.08.1998 and engaged in business of Infrastructure Project Contractors. The Respondent had approached the Allahabad Bank, which has now merged with Indian Bank w.e.f 01.04.2020 vide gazette notification dated 04.03.2020, copy whereof is **Annexure B** to the Petition, for grant of certain loan facilities viz. Bank Guarantee of Rs. 100 Crores and Letter of Credit of Rs. 10 Crores, in 2003.
- iii. The Financial Creditor sanctioned a loan facility of Rs. 110.00 Crore (Rupees One Hundred and Ten Crores Only) for the purpose of working capital requirements vide sanction letter Ref. No.: BNG/ADV/83 dated 19.09.2003. The loan facility was sanctioned as under:

Sl. No.	Account Type	Limit (Rs. In Crore)
1.	Bank Guarantee	100.00
2.	Letter of Credit	10.00
	Total	110.00



- iv. The Sanction letter dated 06.01.2005 increased the Bank Guarantee limit to Rs. 200 crores, the loan facilities were reviewed and renewed by the Financial Creditors vide letters dated 23.09.2006 and 27.03.2008.
 - v. The Financial Creditor had also sanctioned a corporate loan of Rs. 10 crore vide the Sanction letter dated 16.01.2007 and the same was repaid and closed as per the condition stipulated in the subsequent sanction letter dated 27.03.2008.
 - vi. The Financial Creditor vide letter dated 11.11.2008 sanctioned a fresh Term Loan of Rs. 20 crores and reduced the existing bank guarantee limit of Rs. 200 crores to Rs. 180 crores. Additionally, by the letter dated 01.06.2011, the Bank Guarantee was further renewed for a period of one year at outstanding level of Rs. 128.34 crores and the Letter of Credit limit of Rs. 10 crore was cancelled.
 - vii. Due to irregularities in the loan account and failure of Corporate Debtor to regularise the Account, the loan facilities were classified as NPA on 30.09.2010. Various follow up letters were also issued by Financial Creditor to the Corporate Debtor to regularise the account.
 - viii. The Petitioner has also filed OA No. 636 of 2013 before the Debt Recovery Tribunal, Bangalore and subsequently converted into TA No. 522 of 2017 claiming therein INR 157,22,06,000/- as on 02.11.2012 plus accrued interest, which is pending for adjudication.
3. The Respondent has filed objections on 20/05/2024 stating as under:
- i. The petition is not maintainable under law and is barred by limitation, as the Petitioner has filed the application at a belated stage.
 - ii. The Respondent is a company registered as an MSME under Ministry of Micro, Small and Medium Enterprises vide Udhyam Registration No. UDHYAM-KR-03-0202181.
 - iii. The Respondent had issued various Bank Guarantees in favour of National Highways Authority of India (NHAI), National Thermal Power Corporation Limited (NTPC) and National Hydro Power Corporation Limited (NHPC Ltd.)



among others. When some of the beneficiaries invoked the bank guarantees, the Respondent apprised the Petitioner on several occasions that large amounts of money on account of receivables from the projects and awards were pending from Government Authorities. The Petitioner is also aware of the said fact. The Respondent has relied on the receivables due from Government agencies towards repayment of the outstanding amount to the Petitioner. Therefore, it could not meet its obligations to repay the loans in time due to inordinate and unexpected delay on part of the Government agencies in releasing payments.

- iv. The Petitioner has already initiated proceedings before Hon'ble Debts Recovery Tribunal ('DRT') in the year 2013 which is currently pending adjudication. O.A No. 636 of 2013 was filed by the Petitioner seeking payment of INR 157,22,06,000/- and now the Petitioner has come before this Hon'ble Tribunal which clearly reflects the intent of the Petitioner to use this Hon'ble Tribunal as a recovery forum.
 - v. The Respondent has approached the Petitioner on various occasions seeking restructuring of debt and by way of One Time Settlement offer however, the Petitioner has neither accepted the offers made by the Respondent nor rejected them.
4. The Petitioner has filed rejoinder on 28.05.2024 and a memo explaining the issue of Limitation on 29/02/2024 stating as under:
- i. The Financial Creditor sanctioned Non-fund based facilities of Rs. 110 crores comprising Bank Guarantee Limit of Rs. 100 crore and Letter of Credit limit of Rs. 10 crore vide sanction letter dated 19/09/2003. The said limits were reviewed/ renewed/ enhanced from time to time vide sanction letters dated 06.01.2005, 23.09.2006, 16.01.2007, 27.03.2008 and 11.11.2008 along with additional facility of short term loan of Rs. 20 crore.
 - ii. Further, the Financial Creditors vide sanction letter dated 01.06.2011, renewed the Bank Guarantee limit for a further period of one year at the outstanding level of Rs. 128.34 crore as on 09.05.11 and cancelled the Letter



of Credit limit of Rs. 10 crore and reviewed the existing term loan of Rs. 20 crore.

- iii. It is submitted that the Corporate Debtor has executed letter of undertaking dated 22.11.2008 and acknowledgement of debt letters dated 31.10.2008, 31.03.2011 and 13.12.2011 confirming the correctness of the outstanding balance in the term loan account as on respective dates. These letters are marked as **Annexure-E** to the Petition.
- iv. It is submitted that due to irregularities in the loan account and failure of Corporate Debtor to regularise the Account, the loan facilities were classified as NPA on 30.09.2010. Various follow up letters were also issued by Financial Creditor to the Corporate Debtor to regularise the account.
- v. The Financial Creditor has filed audited financial statements from the FY 2010-11 to FY 2022-23 of the Corporate Debtor in which the loan liability has been acknowledged. Further, the contingent liabilities on account of Bank Guarantee issued by Financial Creditor to Corporate Debtor from time to time forms part of disclosure in the audited financial statement, reproduced as under:

ABS for FY	Particulars
2014-15	The contingent liabilities on account of Bank Guarantees at Rs. 44.79 crore.
2017-18	The contingent liabilities on account of Bank Guarantees at Rs. 45.36 crore
2020-21	The contingent liabilities on account of Bank Guarantees at Rs. 47.97 crore
2021-22	The contingent liabilities on account of Bank Guarantees at Rs. 48.11 crore
2022-23	The contingent liabilities on account of Bank Guarantees at Rs. 48.11 crore



- vi. The existence of debt due from Corporate Debtor also finds mention in the Independent Auditor's Report on the audit of the Standalone Financial Statements, as given below:
- a. As per Independent Auditor Report dated 31.03.2023 at page No.9 it is reported that the Corporate Debtor has defaulted in repayment of loans or borrowings or in the payment of interest of Rs. 127.82 crore to Indian Bank (formerly Allahabad Bank as Principal from FY 2010-11.
 - b. As per Independent Auditor Report dated 31.03.2022, at page No.9 it is reported that the Corporate Debtor has defaulted in repayment of loans or borrowings or in the payment of interest for Rs. 127.82 crore to Indian Bank (formerly Allahabad Bank) as Principal from FY 2010-11.
5. Heard the Ld. Counsel for the Petitioner and the Respondent and perused the material on record. The Petitioner has filed following citations vide on 13.01.2025:
- a. *Laxmi Pat Surana vs Union of Indi and Ors., 2021 8 Supreme Court Cases 481- SCC Online*
 - b. *Dena Bank vs Shivakumar Reddy and another, 2021 10 SCC 330 SCC Online*
- Further pursuant to order dated 26.02.2025 the Petitioner has filed compliance memo on 25.03.2025.
6. At the outset, the Objection of Respondent that the petitioner has chosen this Authority as a recovery forum is belied by the fact that recovery proceedings have independently been initiated by the petitioner much earlier before DRT. The initiation of steps under the provisions of Insolvency & Bankruptcy Code indicate its intention to maximize the value of Corporate Debtor before it is too late. The concept & object of two proceedings is altogether distinct as has been observed by Hon'ble Supreme Court in the context of petition under section 7 of IBC in ***Innoventive Industries Ltd. vs. ICICI Bank and Anr. (2017) ibclaw.in 02 SC:***

“29. The scheme of Section 7 stands in contrast with the scheme under Section 8 where an operational creditor is, on the occurrence of a default, to first deliver a demand notice of the unpaid debt to the operational debtor in the

manner provided in Section 8(1) of the Code. Under Section 8(2), the corporate debtor can, within a period of 10 days of receipt of the demand notice or copy of the invoice mentioned in sub-section (1), bring to the notice of the operational creditor the existence of a dispute or the record of the pendency of a suit or arbitration proceedings, which is pre-existing – i.e. before such notice or invoice was received by the corporate debtor. The moment there is existence of such a dispute, the operational creditor gets out of the clutches of the Code.

*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.***

Therefore, in accordance with the aforementioned, the existence of a pre-existing dispute does not constitute a bar to the maintainability of an application under Section 7.

7. It is noticed that the Petitioner has mentioned 30.09.2010 as the date of default in Form 1, Part IV, which is a statutory form for filing Application u/s 7. The date of default is also the date of NPA of the loan account. The authenticated Record of Default (ROD) issued by NESL in Form D mentions the default date as 20.06.2022. Further, SARFAESI Notice under section 13(2), dated 14.08.2012 along with demand notice issued by Indian Bank on 23.09.2022 both mention NPA date as 30.09.2010. Hon'ble Supreme Court in *Laxmi Pat Surana vs. Union Bank of India & Anr.*- (2021) 8 SCC 481 has held “*that ordinarily, upon declaration of the loan account/debt as NPA that date can be reckoned as the date of default to enable the Financial Creditor to initiate action under Section 7 of the Code*”. Therefore, the date of default is taken as 30.09.2010.
8. Under Section 7 of the IBC, in order to initiate CIRP, it is essential that the Applicant proves that there is a financial debt as defined under Section 5(8) of the IB Code and that a default under Section 3(12) has been committed in respect of that financial debt. In the present case the material on record clearly goes to show that Corporate Debtor



had availed loan facilities and has committed default in repayment of the outstanding loan amount. The Corporate Debtor has admitted debt and default as may be gauged from order dated 11.02.2025 of this Authority as reproduced below:

“In this case, the Respondent has accepted the debt and default, which is evidenced by their reply as well as the Counsel stated that they are admitting the debt and default.”

9. Now the question is whether the present petition satisfies the Limitation period of 3 years from the date of default being 30/09/2010. The Petitioner has placed on record the financial statements from FY 2010-11 to FY 2022-23, wherein the loan liability is reflected in the balance sheet of the Corporate Debtor. As per the decision of Hon’ble Apex Court in the case of ***Dena Bank v. C. Shivakumar Reddy (2021) 10 SCC 330***, *“It is well settled that entries in books of accounts and/or balance sheets of a Corporate Debtor would amount to an acknowledgment under Section 18 of the Limitation Act... ..and held that an acknowledgement of liability that is made in a balance sheet can amount to an acknowledgement of debt.”*
10. For FY 2012-2013, as at 31.03.2013, in the audited financial statements the long-term borrowing and secured borrowing acknowledges a liability of INR 390.85 crores and INR 349.55 crores respectively. It is further acknowledged in the notes to FY 2013-14 balance sheet, where long-term borrowing to Allahabad Bank for INR 130.05 is mentioned. This document amounts to acknowledgment of debt by the Corporate Debtor and extends the limitation till 31.03.2016.
11. Similarly, for the next FY 2014-15, as at 31.03.2015, in the audited financial statements the secured borrowing acknowledges a liability of INR 350.17 crores respectively. This further extends the limitation till 31.03.2018. For FY 2017-18, as at 31.03.2018, the audited financial statement again mentions a liability of INR 318.45 crore under the secured borrowings, thereby extending the limitation to 31.03.2021.
12. The Hon’ble Supreme Court in MA 29 of 2022 in MA 665 of 2021 in Suo Motu Writ Petition (C) No.3 of 2020, has given directions regarding excluding limitation period, which are as under: -



- i. *The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.*
- ii. *Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*
- iii. *In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days, that longer period shall apply.*

This further extends the limitation till 29.05.2022. Additionally, financial statements for FY 2021-22, as at 31.03.2022, and 2022-23, as at 31.03.2023, both acknowledge in the Long Term Borrowing an amount of INR 127.82 crores to Indian Bank (formerly Allahabad Bank). Thereby satisfying limitation.

13. Moreover, in its Reply dated 13th October 2022 to the Demand Notice of petitioner, the respondent has mentioned about multiple OTS proposals to the Petitioner, as follows:

“8. Continuous rejection of several OTS Proposals given by Our Client:
8.1 Please note that our Client in their continuous efforts for having good relation with you have submitted One Time Settlement (‘OTS’) proposal vide several letters dated 12.10.2012, 03.07.2013, 13.10.2015, 19.10.2015, 15.12.2015, 14.03.2016, 15.03.2016, 16.12.2019, 17.12.2019, 27.01.2020, 17.02.2021, 22.07.2021, 11.08.2021, 24.08.2021, 08.09.2021, 13.12.2021 and 22.04.2022. However, due to reasons best known to you, none of the OTS proposals were accepted by you.”

14. Therefore, as laid down by the Hon’ble Supreme Court in the case of *Dena Bank v. C. Shivakumar Reddy (2021) 10 SCC 330*, and the decision of Hon’ble NCLAT, New Delhi in *Tejas Khandhar v. Bank of Baroda in CP(AT)(Ins) No. 371 of 2020*, the OTS proposal falls within the ambit of ‘acknowledgement of debt’ as defined under Section 18 of the Limitation Act, 1963. Hence the limitation period stood revived every time an OTS proposal was sent by the respondent. In the light of the above discussions we hold that the present Company Petition filed on 05/12/2022 is within limitation. The OTS proposal further establishes the existence of the **Debt** and the **Default**.



15. In the given facts and circumstances, the present petition being complete and having established the default in payment of the financial debt and for the default amount being above Rs. 1,00,00,000/-, the petition is liable to be admitted in terms of Section 7 of the IBC, 2016.
16. Accordingly, the Company Petition is hereby admitted enjoining **SSJV Projects Private Limited** to undergo **Corporate Insolvency Resolution Process**. Simultaneously moratorium is declared under Section 14 of the Code. As a necessary consequences following prohibitions are imposed for being followed by all and sundry:
 - (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;
17. It is directed that the supply of essential goods or services to the Corporate Debtor as may be specified, shall not be terminated or suspended or interrupted during the moratorium period in accordance with sub-section (2) of Section 14 of the Code;
18. The provisions of sub- section (3) of Section 14 shall however, not apply to such transactions 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;
19. The order of moratorium shall have effect from the date of this order till completion of the Corporate Insolvency Resolution Process or until this Bench approves the



Resolution Plan under sub-section (1) of Section 31, or passed an order for liquidation of Corporate Debtor under Section 33 of the IB Code, 2016 as the case may be;

20. In Part-III of Form No.1, **Shri. Ravi Sankar Devarakonda**, bearing Registration No. **IBBI/IPA-001/IP-P00095/2017-18/10195** has been proposed as Interim Resolution Professional (IRP). Form No.2 Written Communication by the IRP has been filed along with the Petition. In view of the above, we appoint Shri Ravi Sankar Devarakonda Registration No. IBBI/IPA-001/IP-P00095/2017-18/10195, contact no. 9844102554, email id: ravicacsma@icai.org having registered address at 41/1, 2nd Floor, 8th Main, 11th Cross, Jayanagar 2nd Block, Bengaluru, Karnataka-560011 as the Interim Resolution Professional. The IRP is directed to take the steps as mandated under the IBC, especially under Sections 15, 17, 18, 20 and 21 of IBC, 2016 and strive to complete the process within prescribed timeline.
21. The Financial Creditor shall deposit a sum of Rs. 2,00,000/- (Rupees Two Lakhs Only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors. **In addition, the RP shall issue individual notices to Jurisdictional Income Tax Authority; Principal Commissioner of Income Tax (Judicial), Bengaluru; Regional Provident Fund Commissioner; GST Commissioner; Commercial Tax Authority; recognized Labour Unions.**
22. The Interim Resolution Professional shall after collation of all the claims received against Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days for filing the report of Constitution of the Committee. The Interim Resolution Professional is further directed to send monthly progress reports to this Authority without annexing a copy hereof.
23. A copy of the order shall be communicated to both the parties. The learned Counsel for the Petitioner shall deliver a copy of this order to the Interim Resolution Professional



forthwith. The Registry is also directed to send a copy of this order to the Interim Resolution Professional at his e-mail address, *ravicacscma@icai.org*.

-Sd-

**RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)**

-Sd-

**SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)**