

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

**CP (IB) No.1047/MB-IV/2021**

Under Section 7 of the IBC, 2016

*In the matter of*  
Assets Care and Reconstruction Enterprise  
Limited

...Financial Creditor

v/s

Lakshya Forum for Competition Private  
Limited

...Corporate Debtor

Order Delivered on: 20.01.2023

*Coram:*

Mr. Prabhat Kumar

Mr. Kishore Vemulapalli

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

*Appearances (via videoconferencing):*

For the Petitioner:

Mr. Dhiraj Mhetre, Ld.Counsel.

For the Respondent:

Mr. Rohit Gupta a/w Adv.  
Tasneem Zariwala, Mr. Saurabh  
Nikalje and Mr. Rushab Chopra, Ld  
Counsel

**ORDER**

***Per: Kishore Vemulapalli, Member (Judicial)***

1. This is a Company Petition filed under section 7 of the Insolvency & Bankruptcy Code, 2016 (IBC) by Assets Care and Reconstruction Enterprise

Limited (Trustee of ACRE-115-TRUST), (“the Financial Creditor”), seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Lakshya Forrum for Competition Private Limited, (“the Corporate Debtor”).

2. The Corporate debtor together with its holding company along with M/s MT Educare Limited was sanctioned an amount of INR 110,00,00,000 under a common facility agreement dated 12.04.2017 by M/s Xander Finance Private Limited (Original Lender). Out of this the Corporate Debtor availed INR 33.25 Crores. The total default amount as on 14.10.2021 as per Part IV of Form 1 is Rs.13,87,59,120/-.
3. The Date of default as per Part IV is 01.03.2021. The record of Financial information maintained by NESL placed at Pg. No 31-33 of the Company Petition is 01.03.2021.
4. This credit facility was subsequently assigned to the applicant by Deed of Assignment dated 23.08.2021. The present application is by filed by the Assignee on 02.11.2021.
5. The Corporate Debtor has filed detailed reply objecting to the present petition stating that demand notice was issued during the moratorium period by the Lender and challenged the petitioner’s locus to file the present petition amongst the other objectors.
6. The Financial Creditor has filed the Rejoinder 24.06.2022. Thereafter the Corporate Debtor has filed another written submission 28.12.2022 re-iterating its defence submitted in the earlier reply.

7. We have heard both the Counsel and perused the material on record. The Financial Creditor has filed present application stating the date of default to be 01.03.2021 in part IV of Form 1 and enclosed record of default maintained by information Utility confirming 01.03.2021 to be the date of default. Sec 10A of Insolvency and Bankruptcy Code, 2016 bars the filing of an application for initiation of CIRP of Corporate Debtor for any default arising on or after 25.03.2020 until 24.03.2021. Proviso of Sec 10 A bars filing of any application forever for such default occurring during the said period.
8. Since, this application has been for the default arising on 01.03.2021. The present application is dismissed as not maintainable in terms of provision contained u/s 10A of the Code.

**ORDER**

9. The petition bearing CP(IB) 1047/MB-IV/2020 filed by Assets Care and Reconstruction Enterprise Limited (“the Financial Creditor”), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against Lakshya Forum for Competition Private Limited (“the Corporate Debtor”), is **Dismissed**.
10. We make it clear that any observations made in this order should not be construed as expressing opinion on merits. The right of the petitioner before any other judicial forum shall not be prejudiced on the grounds of dismissal of the present petition as it barred by the law, in view of insertion of Sec 10A of IBC 2016.

Sd/-

**PRABHAT KUMAR**  
**Member (Technical)**  
**20.01.2023.**

Sd/-

**KISHORE VEMULAPALLI**  
**Member (Judicial)**