

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: MS. REETA KOHLI,
HON'BLE JUDICIAL MEMBER

MS. KAVITA BHATNAGAR
HON'BLE TECHNICAL MEMBER

CP No. (IB)- 51/7/JPR/2024

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

IN THE MATTER OF:

M/S MANASVINI INFRA PRIVATE LIMITED

...Financial Creditor/ Petitioner

VERSUS

M/S ALANKRIT ROAD DEVELOPERS PVT. LTD.

...Corporate Debtor/ Respondent

MEMO OF PARTIES

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M/S MANASVINI INFRA PRIVATE LIMITED

R/o- 9, Jalam Vilas Scheme, Paota-B Road,
Jodhpur, Rajasthan- 342001.

... Petitioner

VERSUS

M/S ALANKRIT ROAD DEVELOPERS PVT. LTD.

R/o- 318, 4th A Road Sardarpura, Jodhpur – 342003,
Rajasthan.

...Respondent

For the Petitioner : Arpit Mathur, Adv.

For the Respondent : Rishi Raj Maheshwari, Adv.

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Order Pronounced On: 25.04.2025


ORDER

1. The instant Petition having *CP No. (IB)- 51/7/JPR/2024* has been filed by *M/s Manasvini Infra Private Limited* ('Petitioner'/ 'Financial Creditor') against *M/s Alankrit Road Developers Private Limited* ('Respondent'/ 'Corporate Debtor') under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the 'IBC'/ 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Petition to Adjudicating Authority) Rules, 2016 seeking initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor.
2. The Petitioner is a Private Limited Company incorporated under the Companies Act, 2013 on 12.03.2016 and duly registered with the Registrar of Companies, Jaipur bearing CIN: U45201RJ2016PTC049577. The registered office of the Petitioner Company is at *9, Jalam Vilas Scheme, Paota-B Road, Jodhpur, Rajasthan - 342001*.
3. The Corporate Debtor is a Private Limited Company, incorporated under the Companies Act, 2013 on 09.06.2017, duly registered with the Registrar of Companies, Jaipur having CIN: U45309RJ2017PTC058270. The Registered Office of the Company is situated at *318, 4th A Road Sardarpura, Jodhpur – 342003, Rajasthan*. The authorized share capital of the Corporate Debtor Company is Rs. 1,00,000/- (Rupees One Lakh Only), and the paid-

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up share capital is Rs. 1,00,000/- (Rupees One Lakh Only). The same has been verified from the online database maintained by the Ministry of Corporate Affairs.

4. The details of the transactions leading to the filing of this Petition as averred by the Financial Creditors are as follows:

4.1. In the year 2021, the Corporate Debtor had approached the Petitioner to seek funds for the required working capital. Subsequently, both the parties entered into a Memorandum of Inter-Corporate Loan Agreement dated 19.10.2021. As a result, the Petitioner agreed to lend a sum of Rs. 1,02,10,000/- (Rupees One Crore Two Lakh Ten Thousand Only) for a period of 2 years, with an interest rate of 18% per annum, payable annually. The Corporate Debtor agreed to repay the full amount along with interest to the Petitioner on or before 25.10.2023.

4.2. After availing the loan, the Corporate Debtor failed to adhere to the repayment schedule and violated the terms of the Loan Agreement executed between the parties. Subsequently, demand notices dated 15.05.2023, 31.05.2023, and 20.02.2024 were issued by the Petitioner to the Corporate Debtor. The Corporate Debtor in its reply dated 12.07.2023, to the demand notice dated 31.05.2023 agreed and assured the Petitioner that the matter would be resolved. Despite the issuance

of the demand notices, the due amount was not discharged by the Corporate Debtor.

4.3. The relevant details as reflected in Part IV of the Petition are as follows:

Part IV

PARTICULARS OF FINANCIAL DEBT

| | | |
|----|--|---|
| 1. | Total Amount of Debt Granted Date(s) of Disbursement | Total amount due as on 29 th February 2024 is Rs. 1,44,98,200/- Principal amount is 1,02,10,000/- along with Interest of Rs. 42,88,200/- @ 18% calculated till- 29 th February 2024. The amount was disbursed on 25 th October 2021 in 3 tranches. Ledger is attached as Exhibit "D" |
| 2. | Amount Claimed to be in Default and the date on which default occurred | Total amount due as on 29 th February 2024 is Rs. 1,44,98,200/- Principal amount is 1,02,10,000/- along with Interest of Rs. 42,88,200/- @ 18% calculated till- 29 th February 2024. Statement of Account/Summary of Account if the Petitioner is annexed as Exhibit "E" Date of Default – 25.10.2023 |


5. Consequent to the notice issued by this Adjudicating Authority, the Corporate Debtor filed its Reply *vide* Dairy No. 42/2025 dated 06.01.2025 stating as follows:

5.1. The Corporate Debtor admitted that the Petitioner and the Corporate Debtor entered into a Memorandum of Inter-Corporate Loan Agreement dated 19.10.2021. However, the Corporate Debtor

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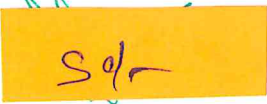


contended that there was no default and that payments were being made according to the schedule outlined in the loan agreement.


- 5.2. Further, it is submitted that the Corporate Debtor had a long relationship with the Petitioner over more than 7 years. The Petitioner had previously advanced separate loans and financial facilities to the Corporate Debtor which were repaid timely. Further, it is contended that if the Corporate Debtor had been a defaulter or lacked adequate liquidity, as well as visibility of funds and cash flows, the Petitioner would not have extended such a loan amount or entered into the loan agreement.
- 5.3. It is submitted by the Corporate Debtor that due to the COVID-19 pandemic a large number of creditors remained unpaid including the Petitioner. The outstanding amount, as claimed by the Petitioner, has remained unpaid. Nevertheless, the Corporate Debtor is willing to make outstanding amount claimed by the Petitioner.
- 5.4. Corporate Debtor alleged that the Petitioner has failed to demonstrate any default whatsoever, while the Corporate Debtor has been making payments to the Petitioner as well as to other creditors from time to time.
6. This Adjudicating Authority has perused all the relevant papers and found them in order. The Registered Office of the Corporate Debtor is situated in the state of Rajasthan. Therefore, this Adjudicating Authority has the **CP No. (IB)- 51/7/JPR/2024**



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jurisdiction to entertain this Petition. Further, this matter is within the purview of the Laws of Limitation, as the default arose in 2023, and the Petition was filed before this Adjudicating Authority in 2024. Hence, the period of three years after the default occurred had not been exhausted at the time of filing this Petition.

7. In order to affirm that this Petition falls within the ambit of Section 7 of Code, this Adjudicating Authority has to ascertain whether there is a 'debt' owed to the Financial Creditor and whether there is a 'default' with respect to such debt.
8. In the instant case, there is no dispute that the Financial Creditor and the Corporate Debtor entered into a Memorandum of Inter-Corporate Loan Agreement dated 19.10.2021. Subsequently, the Petitioner transferred the loan amount to the Corporate Debtor on 25.10.2021, the same is corroborated by the summary of accounts annexed with the Petition. Thus, the existence of the first ingredient i.e. financial debt is nowhere in dispute among the parties.
9. In so far as the existence of default is concerned, as per the aforementioned Memorandum of Inter-Corporate Loan Agreement, the parties agreed that the loan amount under the agreement including the accrued interest shall be repaid by the Corporate Debtor to the Petitioner on or before the repayment date which was fixed as 25.10.2023.

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10. However, the Corporate Debtor failed to adhere to the repayment scheduled and violated the terms of the Loan Agreements. This is further corroborated by the letter dated 12.07.2023 from the Corporate Debtor, in which it admitted that it had not paid the interest due for the periods of 2022 and 2023. Additionally, the non-payment of the outstanding amount is also corroborated from the statement of account maintained by the Petitioner dated 29.02.2024. Thus, it transpires that the Corporate Debtor has failed to make the payment of the outstanding amount as provided in the inter-corporate loan agreement and has defaulted in payment of the financial debt owned to the Financial Creditor.

11. At this juncture, it is important to refer to landmark judgment of the Hon'ble Supreme Court in *Innoventive Industries Limited v. ICICI Bank and Another* 2017 SCC OnLine SC 1025 wherein it was held that once Adjudicating Authority is satisfied that the default has occurred, there is hardly a discretion left with Adjudicating Authority to refuse admission of the Petition under Section 7 Code, 2016. The relevant excerpts from the judgment are as below:

*“28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. 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. **The moment the adjudicating authority is satisfied that a default has occurred, the Petition must be admitted unless it is incomplete, in which case it***

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may give notice to the Petitioner to rectify the defect within 7 days of receipt of a notice from the adjudicating authority.

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 Petition and not otherwise."

(emphasis added)

12. Further, the Apex Court in the case of *E S Krishnamurthy & Ors. vs. M/s Bharath Hi Tech Builders Pvt. Ltd., Civil Appeal No. 3325 of 2020*, dated 14.12.2021, relied upon the judgment of *Innoventive (supra)* and had held as below:


"25. In Innoventive Industries (supra), a two-judge Bench of this Court has explained the ambit of Section 7 of the IBC, and held that the Adjudicating Authority only has to determine whether a "default" has occurred, i.e., whether the "debt" (which may still be disputed) was due and remained unpaid. If the Adjudicating Authority is of the opinion that a "default" has occurred, it has to admit the Petition unless it is incomplete. Speaking through 27. The Adjudicating Authority has clearly acted outside the terms of its jurisdiction under Section 7(5) of the IBC. The Adjudicating Authority is empowered only to verify whether a default has occurred or if a default has not occurred. Based upon its decision, the Adjudicating Authority must then either admit or reject an Petition respectively. These are the only two courses of action which are open to the Adjudicating Authority in accordance with Section 7(5). The Adjudicating Authority cannot compel a party to the proceedings before it to settle a dispute."

(emphasis added)

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13. Thus, upon conclusion of the fact that the debt which becomes due or payable, in law and in fact, and if there is incidence of non-payment of the said debt in full or even part thereof, CIRP may be triggered by the financial creditor as long as the amount in default is above the threshold limit of Rs. 1 crore. Once the Adjudicating Authority is subjectively satisfied that there is a debt and a default has been committed by the Corporate Debtor and the Section 7 Petition is complete in all respects, the Adjudicating Authority in the exercise of summary jurisdiction has to admit the Section 7 Petition.
14. In the instant case, the Corporate Debtor had availed a sum of Rs. 1,02,10,000/- (Rupees One Crore Two Lakh Ten Thousand Only) for a period of 2 years, with an interest rate of 18% per annum, payable annually. The said loan agreements form part of the record. Further, as observed above the instant Petition meets the mandatory requirement of Section 7 i.e. debt and default.
15. Moreover, after examining the aforementioned facts and judgments, the present Petition made by the Financial Creditor is complete in all respects as required by law. Under such circumstances, the Corporate Insolvency Resolution Process can be initiated against the Corporate Debtor, as it has committed a default. Therefore, the Adjudicating Authority is of the view that the Corporate Insolvency Resolution Process of the Corporate Debtor should be initiated. Thus, we are inclined to admit this Petition and accordingly, same is being admitted and the Corporate Insolvency

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Resolution Process against the Corporate Debtor is hereby initiated. Since the Petitioner has proposed the name of the IRP, therefore, we appoint *Mr. Rishab Chand Lodha* having Registration Number *IBBI/IEA-001/IP-P01075/2017-18/11766*, duly registered with ICAI Insolvency Professional Agency, to be appointed as the Interim Resolution Professional. The Petitioner has filed Consent in Form 2 under Insolvency and Bankruptcy Board of India (Petition to Adjudicating Authority) Rules, 2016, stating that no disciplinary proceedings are pending against the above-named IRP.

16. Consequences of initiation of CIRP shall be inter-alia as follows:


i) The Resolution Professional proposed by the Petitioner is *Mr. Rishab Chand Lodha*, who is an IP registered with ICAI Insolvency Professional Agency having Registration No *IBBI/IEA-001/IP-P01075/2017-18/11766*, he is hereby appointed as the Insolvency Resolution Professional (IRP) to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of IBC, 2016, including the issue of the publication in widely circulated Newspaper as contemplated under the provisions of IBC, 2016 and calling for the claims from the creditors of Corporate Debtor and collation of the same shall be done.

ii) Further, as a sequel of admission, moratorium as envisaged under Section 14 of IBC, 2016 is invoked concerning the Corporate Debtor, which will be in vogue during the Corporate Insolvency Resolution

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Process of the Corporate Debtor. The IRP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of IBC, 2016 in relation to the Corporate Debtor.

- iii) The said IRP shall act strictly in compliance with the provisions of IBC, 2016 and defray his expenses to be incurred and fees on the account. The Petitioner is directed to act in accordance with Regulation 33(1) of the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Petitioner shall deposit the fees of Rs. 1,00,000/- (Rupees One Lakh Only) initially to the account of IRP within three days from the date of this order. The IRP shall duly file a status report from time to time appraising this Adjudicating Authority about the progress of CIRP unfolded in relation to the Corporate Debtor. In terms of Section 17 & 19 of IBC, 2016, all personnel of the Corporate Debtor including promoters and Board of Directors, whose powers shall stand suspended, shall extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.
- iv) In terms of Section 7 of IBC, 2016, this order shall be communicated to the Petitioner, Corporate Debtor, and the Interim Resolution Professional (IRP) appointed by this Adjudicating Authority to carry out the CIRP at the earliest, not exceeding one week from today.



17. Copy of this order shall also be communicated to IBBI for its record, and to any other body/entity to whom the Corporate Debtor is under legal/contractual obligation to inform/update.
18. In the circumstances, CP No. (IB) 51/7/JPR/2024 is admitted.

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**REETA KOHLI
JUDICIAL MEMBER**

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**KAVITA BHATNAGAR
TECHNICAL MEMBER**