



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT III**

C.P.(IB)-129(MB)/C-III/2024

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

In the matter of

The South Indian Bank Limited

Having Registered Office at:

SIB House, T.B Road, Mission Quarters,
Thrissur, Kerala- 680001.

Branch Office:

8 Ground Floor, Embassy Centre, Nariman
Point, Mumbai 400021.

....Financial Creditor/Petitioner

Vs

Nisa Industrial Services Private Limited

Having Registered Office at:

FL 1, Mangal Bhandar, Ground Floor, Plot
539, 13th Road, TPS 3, Khar West, Mumbai
City, Mumbai, Maharashtra, India,
400052.

.... Corporate Debtor/Respondent

Order Pronounced on: 11.03.2025



CORAM:

Ms. Lakshmi Gurung, Member (Judicial)

Sh. Hariharan Neelakanta Iyer (Technical)

APPEARANCES:

For the Financial Creditor: Adv. Narpat Singh, Adv. Abdulla Qureshi,
Adv. Malvika Sachin i/b India law LLP

For the Corporate Debtor: Adv. Aditya Raut, Adv. Yaksh Garg i/b Desai
Desai Carrimjee & Mulla

PER: CORAM

1. The Present Company Petition (IB) 129 (MB)/2024 is filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("**IBC/Code**") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by **The South Indian Bank Limited ("**Financial Creditor/Petitioner**")** for initiating Corporate Insolvency Resolution Process ("**CIRP**") against M/s. Nisa Industrial Services Private Limited ("**Corporate Debtor/Respondent**") for a default amount of **Rs.6,09,34,982.93/-** (Six Crores, Nine Lakhs, Thirty-Four Thousand, Nine Hundred Eighty-Two and Ninety-Three Paise Only) as on 01.01.2024.

Brief Facts:

2. A Facility Agreement dated 29.09.2017 was executed between the Corporate Debtor and M/s. Clix Finance India (hereinafter referred to as the "**Original Lender**") whereby the the Original Lender agreed to provide a term loan facility of an amount not exceeding Rs. 80,00,00,000/- in two tranches comprising of Tranche 1 of upto Rs. 62,00,00,000.- and Tranche 2 of upto Rs. 18,00,00,000/-.
3. Further, vide Security Trustee Agreement dated 29.09.2017 Axis Trustee Services Limited was appointed to act as trustee and to hold the security interest.



4. The Petitioner agreed to sanction term loan of Rs.20,00,00,000/- out of the first Tranche of Rs. 62,00,00,000/- with an option to extend the facility to Rs.80,00,00,000/- (Tranche 2 of Rs. 18,00,00,000/-).
5. A Novation Deed 20.02.2018 was executed between the Corporate Debtor and the Petitioner wherein it is mentioned that the Petitioner has acquired the rights and obligations of the Original Lender in relation to Rs.20,00,00,000/- term loan and the Corporate Debtor (Borrower) consented to the Novation of the Novated debt in favor of the Petitioner.
6. Thereafter, the Financial Creditor entered into a Deed of Adherence dated 07.03.2018 and executed Amended and Restated Security Trustee Agreement on 28.03.2018. The Petitioner acceded to the said Amended and Reinstated Security Trustee Agreement vide the Deed of Accession dated 10.04.2018.
7. Subsequently the Corporate Debtor failed to repay the said loan therefore the Petitioner vide its Recall Notice dated 15.11.2022 recalled the aforementioned term loan facility.
8. As per Part IV of the instant application under section 7 of the Code, the date of default is 01.11.2022 which has not been rebutted by the corporate Debtor.

Findings

9. Heard the Ld. counsel for the Petitioner and also the Corporate Debtor and perused the record.
10. It is pertinent to mention that five opportunities were given by this Tribunal to the Corporate Debtor to file the reply. However, the Corporate Debtor did not file reply. Therefore, this Tribunal vide order dated 17.01.2025 forfeited the right of the Corporate Debtor to file reply. However, the Corporate Debtor was given liberty to make oral submission at the time of hearing of the Company Petition.
11. The Petitioner has annexed as Exhibit H to the application, the Record



of Default issued by NeSL (Form D) wherein the status of default is stated as “**AUTHENTICATED**”; date of default is mentioned as 01.11.2022 and the default amount mentioned is Rs.5,70,43,011.93.

12. This Tribunal notes that a recall notice dated 15.11.2022 was issued to the Corporate Debtor asking it to pay the outstanding amount of Rs.5,08,88,299.53. Despite serving of the recall notice the Corporate Debtor has failed to repay the outstanding amount.
13. During the course of the hearing on 19.07.2024, it was noted that the Petitioner had received One Time Settlement (OTS) proposal from the Corporate Debtor.
14. Further, it was recorded in the order dated 05.09.2024 that the default amount has been settled for Rs.4,00,00,000/- out of which part payment of Rs.14,00,000/- was paid to the petitioner and time was jointly sought for reporting settlement and the matter was posted for 25.10.2024
15. Thereafter the Corporate Debtor, vide email dated 01.10.2024 sought extension of time upto 31.10.2024 to complete payments under OTS. However, the Petitioner vide its email dated 15.10.2024 rejected the request for extension of OTS and asked the Corporate Debtor to clear total outstanding dues of Rs.6,44,22,079.93/- as on 14.10.2024.
16. We note that, during the course of hearing on 17.01.2025 Ld. Counsel appearing on behalf of the Corporate Debtor has admitted its default as recorded in the order dated 17.01.2025 which is reproduced herein under:

“1. Ld. Counsel for the corporate debtor submits that the default is admitted and there is bona-fide intention to pay to the financial creditor. However, he seeks some more time to make the payment to the financial creditor.”

17. Thus none of the averments made by the Petitioner have been rebutted by the corporate Debtor. In fact, the Corporate Debtor has admitted its



liability by OTS proposal as well as during hearing on 17.01.2025. Thus debt and default is established. The date of default is 01.11.2022; the amount of default amount is in excess of Rs. 1.00 crore and the petition is filed within limitation.

18. It is a well-settled position that the Adjudicating Authority has to determine whether there is debt and default and if it is satisfied that a default has occurred, then the application under section 7 of the Code must be admitted unless it lacks other necessities as mandated thereunder.
19. In this context, we note that the Hon'ble Supreme Court in ***Innovative Industries Limited vs. ICICI Bank and Anr [(2018) 1 SCC 407]*** has held as follows:

28. ... ***The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted*** unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days' 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 application and not otherwise.”

(Emphasis Provided)

20. Given the facts and circumstances of the case and discussions hereinabove, the Company Petition bearing no.129 of 2024 is **admitted** and ordered as follows:

ORDER

- i. The above Company Petition No. (IB) 129(MB)/2024 is hereby **admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Nisa Industrial Services Private Limited**.
- ii. The Petitioner has proposed the name of **Mr. Gajesh Labhchand Jain**, Chartered Accountant having Registration No. **IBBI/IPA-001/IP-P016997/2019-2020/12588** to be appointed as an Interim Resolution Professional (IRP) of the Corporate Debtor. The proposed IRP has filed his Written Communication dated 06.10.2023 in Form 2 as required under Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The Written Communication is accompanied by Authorization for Assignment (**AFA**) which is valid upto 22.09.2024. However, on our perusal, from IBBI website we note that AFA is valid upto 31.12.2025. Accordingly, we appoint **Mr. Gajesh Labhchand Jain as the Interim Resolution Professional (IRP)** to carry out the functions as per the Insolvency & Bankruptcy Code, 2016.
- iii. The Financial Creditor shall deposit an amount of Rs. 5 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favor of the Interim Resolution Professional (IRP) appointed herein, immediately upon communication of this Order.



- iv. There shall be a moratorium under section 14 of the Code prohibiting the following:
- 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.
- v. 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.
- vi. The provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vii. The order of moratorium shall have effect from the date of pronouncement of this order till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under sub-section (1) of section 31 or passes an order



for Liquidation of Corporate Debtor under section 33, as the case may be.

- viii. The public announcement of the Corporate Insolvency Resolution process shall be made as specified under section 13 of the Code. This public announcement shall be made immediately.
- ix. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP in terms of section 17 of the Code. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- x. The Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- xi. The Registry is further directed to communicate this order to the Financial Creditor, the Corporate Debtor and the IRP immediately.
- xii. The Registry is also directed to send a copy of this order to the Insolvency and Bankruptcy Board of India (IBBI) for their record.
- xiii. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.
- xiv. Accordingly, the Petition is **Admitted**.

SD/-

Hariharan Neelakanta Iyer
Member (Technical)

Apurva, LRA

SD/-

Lakshmi Gurung
Member (Judicial)