



NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT VI

Item No. P1.

C.P. (IB)/195(MB)2025

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **17.07.2025**

NAME OF THE PARTIES: **Union Bank of India**

Vs

Matoshri Laxmi Sugar Co-Generation Industries Limited

Under Section 7 of the Insolvency and Bankruptcy Code, 2016.

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, *vide* separate sheet. Detailed order is being uploaded on the NCLT portal today.

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

//SVG//

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI - BENCH-VI

CP (IB) No. 195/MB/2025

*[Under Section 7 of the Insolvency and Bankruptcy Code, 2016
r/w Rule 4(1) of the Insolvency and Bankruptcy (Application to
Adjudicating Authority) Rules, 2016]*

In the matter of:

UNION BANK OF INDIA,

Having the Head Office at:

Union Bank Bhavan, 239,

Vidhan Bhavan Marg, Mumbai-400021.

...Applicant/Financial Creditor/Petitioner

Vs.

**MATOSHRI LAXMI SUGAR CO-GENERATION
INDUSTRIES LIMITED,**

[CIN: U15424PN2008PLC133527]

Registered Office: Satling Nagar,

At Ruddewadi Post Dhudhani, Taluka: Akkalkot,

District: Solapur, Maharashtra-413220.

...Respondent/Corporate Debtor

Pronounced On: 17.07.2025.

CORAM:

SHRI NILESH SHARMA, MEMBER (JUDICIAL).

SHRI SAMEER KAKAR, MEMBER (TECHNICAL).

Hearing: Physical.

Appearances:

Financial Creditor: Adv. H.P. Kar a/w Ms. Nirupama Kar and Mr. Omesh Singh

i/b INTERJURIS.

Corporate Debtor: Adv. Aishwarya Darda.

ORDER

[PER: CORAM]

1. This is an application filed by the **Applicant- Union Bank of India** (hereinafter also referred to as the “**Financial Creditor**” or “Petitioner”), against the **Respondent- Matoshri Laxmi Sugar Co-Generation Industries Limited** (hereinafter also referred to as the “**Corporate Debtor**”), under Section 7 of the Insolvency & Bankruptcy Code 2016 (in short, ‘the Code’) r/w Rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 on 05.09.2024 seeking commencement of the Corporate Insolvency Resolution Process (‘CIRP’) of the Corporate Debtor, appointment of Interim Resolution Professional (‘IRP) and declaration of moratorium. The amount claimed to be in default as on 10.08.2024 is INR 56,00,99,701/-. The date of default in respect of CC Pledge facility is 24.03.2023 and the date of default in respect of the Term Loan Facility is 06.12.2023.
2. On perusal of Part-I of the revised Form 1, it is seen that the present application is filed by **Union Bank of India** and the person authorised to file this application is one Shri. Vikas Srivastava, who is posted as the Chief Manager of the Applicant Bank and in whose favour the Applicant Bank has issued an Authority Letter dated 13.05.2024. Further, an affidavit in support of the application dated 14.05.2025 is affirmed by the above-named authorised representative of the Applicant.
3. A perusal of Part II of the application in Form 1 reveals that the Respondent/Corporate Debtor i.e. Matoshri Laxmi Sugar Co-Generation Industries Limited, is a public limited company having its registered office at Satling Nagar, at Ruddewadi Post Dhudhani, Taluka-Akkalkot, District: Solapur, Maharashtra-413220.



4. On perusal of Part-III of the application in Form 1, it appears that the Applicant has proposed the name of Mr. Ram Singh Setia, having registration no. IBBI/IPA-001/IP-P-01189/2018-19/11935, to be appointed as the IRP of the Corporate Debtor in the event that this petition gets admitted. The Applicant has also obtained the Written Consent from the proposed IRP above-named in Form 2 on 31.07.2024, the copy of which is annexed to this application as Annexure 'C'.
5. A perusal of Part IV of the application vide Form 1 reveals that the amount claimed to be in default by the Applicant/Financial Creditor is INR 56,00,99,701/-. As evident from Part IV of the Application, the total amount of debt granted is INR 85,30,00,000/- consisting of Term Loan I of INR 16.82 crores, Term Loan II of INR 3.48 crores, Cash Credit WHR of Rs.50 crores and STL (H&T Loan)(Hyp) of INR 15 crores. The date of default in respect of CC Pledge facility is 24.03.2023 and the date of default in respect of the Term Loan Facility is 06.12.2023.
6. The facts narrated by the Applicant in Part IV of the Application are stated hereinbelow:
 - i. The Applicant/Financial Creditor is a body corporate constituted under Banking Companies (Acquisition & Transfer of Undertaking) Act, 1970. The Corporate Debtor, i.e. Matoshri Laxmi Sugar Co-Generation Ind. Ltd, is a company engaged in the business of sugar production, power cogeneration and introducing the farmers to the modern agricultural technology and providing employment in the rural Area.
 - ii. The Corporate Debtor had from time-to-time availed various credit facilities under a Consortium Arrangement consisting of Applicant Bank, Punjab National Bank and Vijaya Bank (now Bank of Baroda), wherein Punjab National



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH, COURT VI

Bank was the lead bank. The Applicant Bank have from time-to-time sanctioned term loan of Rs.20,30,00,000/- vide sanction letter dated 09.06.2011 under consortium arrangement, wherein Punjab National Bank is the leader of consortium with their share being Rs. 27.10 Crores and the share of Vijaya Bank (now Bank of Baroda) being Rs. 14 Crore. The said Term loan granted by the Financial Creditor was disbursed in November 2011 and was repayable in 84 installments starting January-March 2013 quarter. During May 2012, the Financial Creditor sanctioned Cash Credit (Pledge) WHR limit of Rs. 9.90 Crores which was enhanced to Rs.50 Crores vide the Sanction letter dated 07.02.2013. At the further request of the Corporate Debtor the Financial creditor had approved STL (H&T Loan) of various amounts from time to time, lastly aggregating Rs. 25 Crores vide sanction letters dated 07.02.2013 and 07.11.2015.

- iii. It is further pleaded that at the request of the Corporate Debtor, the Financial Creditor sanctioned a Soft Loan (Term Loan) credit facility of Rs. 6,08,00,000/- (Rupees Six Crores Eight Lakhs Only) vide sanction letter dated 27.05.2016, which was repayable in sixteen quarterly installments of Rs. 38 lakhs each commencing from Oct-Dec, 2016.
- iv. The total amount of debt granted to the Corporate Debtor as per the Sanction Letter dated 07.02.2013 is INR 85.30 crores, which is comprised of the following: (i) Term Loans aggregating to INR 20,30,00,000/- being (a) Term Loan I of INR 16.82 crores and (b) Term Loan II of INR 3.48 crores; (ii) Cash Credit (CC) PLEDGE WHR of Rs.50 Crores; and (iii) STL (H&T Loan) (Hyp) Rs.15.00 Crores.



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH, COURT VI

- v. Further, the Corporate Debtor has subsequently granted an outlay of INR 20 crores and INR 5 crores respectively under the scheme for financing the Harvest & Transport (H&T) contractors under tie up arrangement with the company. At the further request of the Corporate Debtor, the Financial Creditor has also sanctioned a Soft Loan credit facility (Term Loan) amounting to Rs. 6.08 crores vide Sanction Letter dated 27.05.2016.
- vi. The dates of disbursement of the aforesaid principal amounts of debts, as given in the tabular form in Annexure E to the petition, are as follows:

Loan A/c	Loan A/c no.	Loan Amount	Date of Sanction	Date of Disbursal
Soft Loan	321606390001013	6,08,00,000/-	27.05.2016	31-05-2016
Term Loan	321606390000004	4,79,58,465	09.06.2011	16-11-2011
CC Pledge	321605050000101	3,44,80,748/-	07.02.2013	18-03-2013

- vii. After availing the credit facilities, the Corporate Debtor started defaulting in loan repayments. The initial default in respect of the credit facilities was when the account of the Corporate Debtor was declared as Non-Performing Asset ('NPA') i.e. on 30.06.2017. The Financial Creditor issued a demand notice dated 01.07.2019 demanding the outstanding dues aggregating Rs.44,33.53,241.11 and even offered the Corporate Debtor to avail the "Centenary Settlement Scheme for Doubtful and Loss Assets". However, the Corporate Debtor neither paid the amount demanded nor availed of the Scheme offered by the Financial Creditor.
- viii. Pursuant to filing the debt recovery proceedings by the Applicant against the Corporate Debtor before the Hon'ble Debts Recovery Tribunal, Pune ('DRT'), the Hon'ble DRT was pleased to pass decree in favour of the Applicant vide the



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH, COURT VI

Judgements dated 24.03.2023 and 06.12.2023. Hence, the date of default mentioned in the application are that of the date of Judgements of the Hon'ble DRT as stated above.

- ix. The date of default in respect of CC Pledge facility is the date of the judgement passed by the Hon'ble DRT, Pune, in OA no. 1367 of 2020 i.e., on 24.03.2023. Further, the date of default in respect of the Term Loan facility is the date of the judgement passed by the Hon'ble DRT, Pune, in OA no. 1366 of 2020 i.e., on 06.12.2023. It is further pleaded that the debt and default is further established vide Recovery Certificate being RC No.148/2024, which has been issued by the Hon'ble DRT, Pune in OA No. 1367 of 2020 for an amount of Rs. 27,74,10,028.00/- on 25.10.2024.
- x. It is further averred that the date of default in respect of the Soft Loan facility is the date of declaration of NPA, i.e. 30.06.2017. However, an Original Application pertaining to the default in the said Soft Loan facility was filed by the Financial Creditor for an amount of Rs. 3.44 crores along with future interest @ 16.15% p.a. with monthly rests, on or about 27.02.2020 in OA No.235 of 2021 before Hon'ble DRT, Pune, within the period of limitation and the said OA is still pending for adjudication. Further, in the interregnum the Corporate Debtor has submitted an OTS proposal, vide letter dated 21.02.2024, admitting its liability pertaining to the Soft Loan facility of Rs.6.08 Crores availed in FY 2016-17 apart from admission of liability towards the others facilities availed. Thus, the cause of action has continued vide the OTS proposal letter dated 21.02.2024. It is further submitted that the cause of action in respect of the liability of the Corporate Debtor towards the CC Pledge account and the Term



Loan account are the dates of the DRT Orders dated 24.03.2023 and 06.12.2023 respectively, while in respect of the Soft Loan facility is a continuous one and the present application has been filed within the period of Limitation as prescribed under the IBC, 2016.

- xi. Pursuant to the NPA declaration of the account of the Corporate Debtor, the Corporate Debtor made various payments in the loan accounts from time to time, lastly on 27.08.2021 in account no. 321606390001013. However, the Corporate Debtor has failed and neglected to fully repay the outstanding dues to the Financial Creditor in full. Hence this application.
- xii. The Corporate Debtor has also executed simple Debit Balance Confirmation dated 28.03.2018 acknowledging the debt of Rs. 48.62 crores as on 31.03.2018.

7. Reply Affidavit dated 16th April, 2025 was filed and affirmed by one Mr. Shivraj Mhetre, the Authorised Signatory acting in his capacity as the Director of the Corporate Debtor. The above-named deponent is authorised by a board resolution passed at the meeting of the board of directors of the Corporate Debtor held on 02.04.2025, the copy of which is attached to the reply affidavit at Annexure 'A'-Page 9. The contentions of the Respondent in the aforesaid Affidavit are summarised hereinbelow:

- i. The present Company Petition is barred by time as it has been filed after three years from the date of default without establishing any fresh cause of action that would extend or renew the limitation period. The date of default as per Part IV of the Company petition is 30th June 2017, on which date the Respondent's Loan account was classified as NPA. The limitation period for the filing of an application under section 7 ended on 30th June, 2020. Even if the alleged balance confirmation



dated 28.03.2018 is taken into consideration, the claim is still beyond the limitation period of three years. Given the multiple claims of the Petitioner, it is not clear if the OTS proposal dated 21.02.2024 pertains to the amount claimed by the Petitioner.

- ii. The Petitioner has referred to certain orders passed by DRT, Pune. However, recovery certificate, if any, pursuant to said orders has not been placed on record. While it is true that a Recovery Certificate by DRT gives rise to a fresh cause of action, there has to be a specific pleading to that effect in the petition. In the instant case, the Petitioner has not claimed fresh cause of action based on the DRT order. On the contrary, the Petitioner is still relying on 30th June 2017 — the date of NPA — as the date of default. This Hon'ble Tribunal will have to adjudicate the present matter based on the date of default pleaded by the Petitioner only, which is 30th June 2017. Merely a passing reference to DRT orders without specific pleading regarding fresh cause of action will not be of any help to the Petitioner.
- iii. The claim Amount is calculated arbitrarily and without any basis. The Petitioner has sought to rely on the DRT orders, however, it has failed to establish any connection between the alleged amount of default and the amount specified in the DRT order. Notably, the Petitioner has not produced any recovery certificate issued by the DRT. Amount of default is computed using multiple dates of default, which is impermissible.
- iv. The Sugar Industry has undeniably faced significant economic pressures due to pricing fluctuations and other regional constraints. The Respondent which is based at Solapur, Maharashtra, has been adversely impacted by extreme weather conditions which resulted in significant drop in the output and profitability. The Respondent's financial stress is temporary and its assets and infrastructure are



intact and productive and has potential to recover. In Vidarbha Industries Power Limited vs. Axis Bank Limited [(2022) 8 SCC 352], the Hon'ble Supreme Court held that the Adjudicating Authority under Section 7 of the Insolvency and Bankruptcy Code (IBC) must consider the surrounding circumstances before admitting a petition. The Court emphasized that the Adjudicating Authority has the discretion to either admit or defer the hearing of a petition under Section 7, taking into account the specific facts and circumstances of the case. Hence in the present case where a genuine and credible possibility of revival is present, the Adjudicating Authority ought to exercise its discretion and reject the application for initiating the CIRP against the Respondent.

- v. Furthermore, Respondent submits that the Petitioner has failed to furnish a record of default as required under section 7(3) of Insolvency and Bankruptcy Code, 2016. In the present matter where the limitation period has lapsed production of Record of Default is crucial. The application is therefore incomplete and non-compliant with the mandatory requirements of the Code. In absence of a Record of Default (RoD), the Petitioner has failed to establish default, which is a sine quo non for a petition under section 7 IBC.
- vi. In light of the above submissions, the Respondent prays for dismissal of the present Company Petition with heavy costs.

8. Affidavit-in-Rejoinder dated 24th April, 2025: Mr. Manish Kumar Sinha, the Chief Manager of the Applicant Bank, has filed an affidavit-in-rejoinder on behalf of the Applicant, which was solemnly affirmed, notarised and verified on 24.04.2025. The contents of the aforesaid rejoinder are hereinbelow summarised:



- i. It is denied the present petition is barred by limitation. The Hon'ble DRT, Pune has passed judgements in favour of the Applicant dated 06.12.2023 in O.A. no. 1366 of 2020 and on 24.03.2023 in O.A. no. 1367 of 2020. Therefore, clearly the cause of action for filing the present application u/s 7 of the Code is on the basis of the decree/judgement passed by the Hon'ble DRT, Pune. In view of judgements of the Hon'ble DRT, Pune of 2023, the present claim under the petition is very much within the period of limitation.
- ii. It is denied that a Recovery Certificate gives rise to a fresh cause of action only if pleadings to that effect are there in the petition. The Applicant submits that only because the date of default is stated to be 30.06.2017 (which is based on the first default), does not mean that cause of action arising out of the DRT order cannot be the basis for admission of the present petition. The very reliance on the DRT order is for the purpose of asserting default which has continued since 2017, but arose afresh after the decree passed by the Hon'ble DRT, Pune.
- iii. The Judgment of Hon'ble Supreme Court in Vidharbha Industries Power Ltd vs. Axis Bank Ltd (2022) 8 SCC 352 is clearly not applicable in the present case, least to mention that the pendency of the default has continued since 2017 clearly suggesting that there has been no genuine attempt by Corporate Debtor to revive.
- iv. With respect to alleged non-compliance with the requirement of record of default, it is submitted that the Applicant has filed various relevant documents to establish the default and the claim of the Applicant. The Applicant says and submits that in the present case in view of the decree of the Hon'ble DRT, Pune in favour of the Financial Creditor which clearly remains unpaid as evident from non-denial by the Corporate Debtor, the debt and default in the present petition is established.
- v. In view of the aforesaid facts, the present petition may be admitted.



ANALYSIS AND FINDINGS

9. We have heard the learned Counsel for the Petitioner and the learned Counsel for the Respondent. We have also perused the materials and documents placed by both the parties on record of this Tribunal.
10. In the present case, we find that the Financial Creditor had disbursed various credit facilities to the Corporate Debtor in the form of cash credit and term loans. The consolidated particulars of claim, as given by the Applicant at Page 77 of the application, with respect to the loan accounts classified as NPA on account of non-payment of debt are given in the table below:

<u>CONSOLIDATED PARTICULARS OF CLAIM</u>						
Name of the Facility	Account Number	Principal Amount (as on NPA)	Interest Amount	Penal Interest Amount	Recovery & Other Credit	Amount
CC Pledge	321605050000101	27,74,10,028/-	11,24,53,665/-	-	-	38,98,63,693/-
Term Loan	321606390000004	4,79,58,465	1,92,39,885.01	-	-	6,71,98,350/-
Soft Term Loan	321606390001013	5,90,70,128	6,36,65,500	86,25,908	2,83,23,852	10,30,37,685/-
				Total Claim		Rs.56,00,99,701

The Corporate Debtor has not denied the disbursement of debt to its account by the Financial Creditor. Further, the Corporate Debtor has nowhere in its reply pleaded that the default in respect of the aforementioned loan accounts has not been committed by it. The Corporate Debtor has taken some technical objections with which we shall deal in the later part of this order.



11. The Applicant has relied upon the two judgments of the Hon'ble DRT, Pune viz. a) Judgment dated 06.12.2023 in OA No. 1366/2020 and b) Judgment dated 24.03.2023 in OA No. 1367/2020 along with the Recovery Certificate No. 148/2024 issued pursuant thereto, in order to establish its case against the Corporate Debtor.

12. The Hon'ble Supreme Court of India in Dena Bank v. C. Shivakumar Reddy [Citation: (2021) 10 SCC 330] has categorically held as follows:

*“136. A final judgment and order/decree is binding on the judgment debtor. Once a claim fructifies into a final judgment and order/decree, upon adjudication, and a certificate of recovery is also issued authorising the creditor to realise its decretal dues, **a fresh right accrues to the creditor to recover the amount of the final judgment and/or order/decree and/or the amount specified in the recovery certificate.**”*

137. The appellant Bank was thus entitled to initiate proceedings under Section 7 IBC within three years from the date of issuance of the recovery certificate. The petition of the appellant Bank, would not be barred by limitation at least till 24-5-2020.

*141. Moreover, a judgment and/or decree for money in favour of the financial creditor, passed by the DRT, or any other tribunal or court, or the issuance of a certificate of recovery in favour of the financial creditor, **would give rise to a fresh cause of action** for the financial creditor, to initiate proceedings under Section 7 IBC for initiation of the corporate insolvency resolution process, within three years from the date of the judgment and/or decree or within three years from the date of issuance of the certificate of recovery, if the dues of the corporate debtor to the financial creditor, under the judgment and/or decree and/or in terms of the certificate of recovery, or any part thereof remained unpaid.”*

(Emphasis Supplied)

13. Therefore, applying the law laid down by the Hon'ble Apex Court in Dena Bank v. C. Shivakumar Reddy (supra), we are of the considered view that the Judgments dated 24.03.2023 and 06.12.2023 passed and the Recovery Certificate No. 148/2024 dated 25.10.2024 issued by the Hon'ble DRT, Pune in favour of the Financial Creditor against the Corporate Debtor give rise to a fresh cause of action to the Applicant to initiate CIRP of the Respondent in the event the decretal dues remain unpaid. The Respondent has brought nothing on record of this Tribunal to show that they have



impugned the judgments passed by the Hon'ble DRT, Pune before the Hon'ble Debts Recovery Appellate Tribunal or availed any other legal remedy as may be available in law against the judgments of DRT. Thus, we are of the considered view that in the absence of any challenge to the aforementioned judgments of the Hon'ble DRT, the said judgments have attained finality and are thus binding, inter-alia, on the Corporate Debtor. Further, the Respondent has neither pleaded nor brought any evidence on record to show that the decretal dues have been paid or discharged. Thus, the default on the part of the Corporate Debtor still persists, which makes it a fit case to initiate the CIRP of the Corporate Debtor u/s 7(5) of the Code.

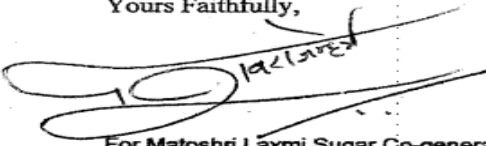
14. Even otherwise, in the OTS Proposal made to the Financial Creditor vide Letter dated 21st February, 2024 (a copy of which has been annexed to the Amended Petition at Annexure 'L' - Page No. 116), the Corporate Debtor has admitted its default at Para 7 of the said letter, which is reproduced hereunder:

7. Due the above reasons, company has not generated adequate funds in last two season, So, we were unable to pay your loan installment.


We hereby request you to please sanction OTS. We are ready to pay OTS amount as per given below schedule.

1	Mar 24	1.50 Cr.
2	Apr 24	0.50 Cr.
3	May 24	0.50 Cr.
4	June 24	3.00 Cr.
5	July 24	0.50 Cr.
6	Aug 24	1.00 Cr.
7	Sep 24	1.50 Cr.
8	Oct 24	0.50 Cr.
9	Nov 24	5.00 Cr.
10	Dec 24	8.00 Cr.
11	Jan 25	12.00 Cr.
12	Feb 25	10.00 Cr.
13	Mar 25	10.00 Cr.

Thanking You,
Yours Faithfully,



For Matoshri Laxmi Sugar Co-generation Industries Limited
Managing Director





It is pertinent to note that the aforesaid letter admitting default was addressed by the Respondent after the Applicant had obtained favourable orders/decrees from the Hon'ble DRT, Pune. Thus, the default on the decretal amount by the Corporate Debtor stands satisfactorily proven on record.

15. Since the Judgments against the Corporate Debtor were obtained by the Financial Creditor on 24.03.2023 and 06.12.2023, the present petition dated 05.09.2024, which has been filed on the basis of the afore-stated judgments, is held to be within limitation as it is within three years from the default committed by the Corporate Debtor in the year 2023. Further, the Corporate Debtor and other defendants were jointly and severally liable to pay to the Financial Creditor a sum of INR 27,74,10,028/- and INR 4,79,58,465/- along with future interest @9% p.a. vide Judgments dated 24.03.2023 and 06.12.2023 respectively, we are, therefore, satisfied that the present petition sufficiently crosses the minimum threshold of Rs. 1 crore prescribed u/s 4 of the Code for initiating the CIRP of the Corporate Debtor.

16. We shall now deal with the main objections taken by the Respondent.

17. It was the objection of the Respondent that since the date of NPA i.e. 30.06.2017 was taken to be date of default, the petition is barred by limitation. Further, the Respondent objected that mere reference to the judgments of the Hon'ble DRT without a specific pleading in the petition will not give a fresh cause of action to the Petitioner. On perusal of records, it is seen that in the original petition filed by the Applicant, the date of NPA was stated to be 30.06.2017 and the same date was taken as the date of default. However, in Clause 2, Part IV of the original Petition, the Applicant had clearly stated the facts relating to the filing of Original Applications before the Ld. DRT and passing of the Judgments dated 24.03.2023 and 06.12.2023, and considering the



same, there did not remain any doubt about the fact that the petition was filed within the limitation period. However, after this Bench allowed the Applicant to amend the petition vide Order dated 01.05.2025, the Applicant modified the petition very clearly stating the date of default i.e. the dates of passing of the aforesaid judgments by the Ld. DRT, Pune.

18. As stated above, that the application u/s 7 of the Code was amended by the Applicant and the dates of default were changed to 24.03.2023 and 06.12.2023 specifically pleading and referring to the judgments passed by the Ld. DRT, Pune. As is evident from the Orders dated 01.05.2025 and 06.06.2025 passed by this Bench (the relevant extracts of which have been reproduced in the following paragraph), the Respondent was given adequate time and opportunity to respond to the amended Petition of the Applicant in Form 1, however, since the Respondent failed to avail it, the right to file reply to the amended petition stood closed vide Order dated 06.06.2025. Therefore, now the aforesaid objections of the Respondent cannot be sustained anymore.

19. At the hearing held on 01.05.2025, this Bench noted the following:

“7. At this stage, Ld. Counsel for the Applicant wishes that an opportunity be given to him to revise the Form-1, for which he seeks a period of 2 weeks. Allowed.

8. Revised Form-1 may be filed within a period of 2 weeks after serving the same to the opposite side and for which affidavit of service needs to be filed by the Applicant.

9. Respondent is given opportunity to file the reply to the amended Form 1 within a period of 10 days.”

Thereafter, vide Order dated 06.06.2025, this Bench had recorded that:

“3. Ld. Counsel for the Respondent states that they have not filed any reply to the amended Form 1.



4. *Ld. Counsel for the Respondent further states that they have filed an IA, which is yet to be numbered, seeking the recall of the order of this Tribunal dated 01.05.2025 through which the amendment was allowed.*

5. *We also note that this Tribunal has not been vested with power to recall its own orders. Further, as the Respondent has opted not to file the reply to the Application in spite of the fact that 10 days' time, provided for filing the reply has expired more than three weeks back, considering that CIRP is a time bound process, we close the right of the Respondent to file reply."*

Thus, it is seen that during the course of hearing on 06.06.2025, the learned Counsel for the Respondent pointed out that they have filed an IA seeking recall of the Order dated 01.05.2025. The said IA bearing no. 2857(MB)/2025 was heard and dismissed by this Bench vide Order dated 14.07.2025 for the reasons stated therein.

20. The Respondent has relied upon the judgment of Hon'ble Supreme Court in Vidarbha Industries Power Limited (supra), to contend that Adjudicating Authority has discretion to admit or reject a petition u/s 7 of the Code taking into account the specific facts and circumstances of the case.

21. Though the Respondent has cited the Vidarbha Industries judgment, however, it has failed to point out as to how the said judgment applies to the facts of this case. In Vidarbha Industries (supra), the corporate debtor therein was waiting to collect INR 1,730 crores in terms of the award passed by the Hon'ble Appellate Tribunal for Electricity ('APTEL'), which far exceeded the claim of the financial creditor therein. In that context, the Hon'ble Apex Court held that the award of the APTEL cannot be completely disregarded by the Adjudicating Authority (i.e. NCLT) as inconsequential while adjudicating an application u/s 7 of the Code and held that the Adjudicating Authority may exercise its discretion to either admit, not to admit or to keep the



admission of the petition in abeyance in the facts and circumstances of the case. The Respondent has stated in Para 10 of its reply that *“The Sugar Industry has undeniably faced significant economic pressures due to pricing fluctuations and other regional constraints. The Respondent which is based at Solapur, Maharashtra, has been adversely impacted by extreme weather conditions which resulted in significant drop in the output and profitability. The Respondent’s financial stress is temporary and its assets and infrastructure are intact and productive and has potential to recover.”* However, in our considered view, this is not a good enough reason to exercise our discretion u/s 7(5)(a) of the Code to either refuse or to defer the admission of this petition. Accordingly, we hold that Vidarbha Industries judgment relied upon by the Respondent does not apply to the facts and circumstances of this case

22. In any case, the issue whether the Adjudicating Authority has any discretion to admit/reject a petition when the debt and default by the corporate debtor have been established on record, is no more res integra. The Hon’ble Supreme Court in **M. Suresh Kumar Reddy v. Canara Bank & Ors.** (vide Judgment dated May 11, 2023 in Civil Appeal No. 7121 of 2023) has, *inter-alia*, observed as follows:

*“12. A Review Petition was filed by the Axis Bank Limited seeking a review of the decision of **Vidarbha Industries**¹ on the ground that the attention of the Court was not invited to the case of **E.S. Krishnamurthy**². While disposing of Review Petition by Order dated 22nd September 2022, this Court held thus:*

“The elucidation in paragraph 90 and other paragraphs were made in the context of the case at hand. It is well settled that judgments and observations in judgments are not to be read as provisions of statute. Judicial utterances and/or pronouncements are in the setting of the facts of a particular case.

To interpret words and provisions of a statute, it may become necessary for the Judges to embark upon lengthy discussions. The words of Judges interpreting statutes are not to be interpreted as statutes.”



13. Thus, it was clarified by the order in review that the decision in the case of **Vidarbha Industries¹** was in the setting of facts of the case before this Court. Hence, the decision in the case of **Vidarbha Industries¹** cannot be read and understood as taking a view which is contrary to the view taken in the cases of **Innoventive Industries³** and **E.S. Krishnamurthy²**. The view taken in the case of **Innoventive Industries³** still holds good.”

23. Therefore, in view of the judgment of Hon’ble Apex Court in M. Suresh Kumar Reddy v. Canara Bank (supra) as also in view of our finding that Vidarbha Industries judgment does not apply to the facts and circumstances of this case, we rely upon the Hon’ble Supreme Court’s judgment in M/s. **Innoventive Industries Ltd. v. ICICI Bank & Anr.** (Judgment dated August 31, 2017 in Civil Appeal Nos. 8337-8338 of 2017) wherein it has been held as follows:

“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. A debt may not be due if it is not payable in law or in fact. **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 of receipt of a notice from the adjudicating authority. Under sub-section (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.

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 Supplied)

24. The Respondent has objected to the petition on the ground that the Petitioner has failed to furnish a record of default as required under section 7(3) of Insolvency and



Bankruptcy Code, 2016. The Respondent further submits that in the present matter where the limitation period has lapsed production of Record of Default is crucial. Thus, the Respondent contends that the application is therefore incomplete and non-compliant with the mandatory requirements of the Code, and in the absence of a Record of Default (RoD), the Petitioner has failed to establish default, which is a sine quo non for a petition under section 7 IBC. In order to address the aforesaid objections and contentions of the Respondent, it is necessary for us to refer to the judgment passed by the Hon'ble National Company Law Appellate Tribunal ('NCLAT') in the matter of **Vijay Kumar Singhania v. Bank of Baroda and 1 Anr** [vide Judgment dated 13th December, 2023 in Company Appeal (AT)(Insolvency) No. 1058 of 2023], where the Hon'ble NCLAT has held, *inter-alia*, as follows

*"29. From the above examination of statutory scheme, Rules and Regulations, it is clear that Regulation 20(1A) cannot be read to mean that after the said amendment brought in regulation w.e.f. 14.06.2022 an application filed under Section 7 which is not supported by information of default from an information utility is to be rejected and if the Financial Creditor has filed other evidence to prove default which is contemplated by the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said application has not to be considered. We, thus, are of the considered view that even after amendment of Regulation 20 by insertion of Regulation 20(1A) w.e.f 14.06.2022, Financial Creditor is entitled to file evidence of record of default as contemplated by Regulation 2A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. **We, thus, do not find any substance in the submission of the Appellant that since Financial Creditor has not filed the record of default from an information utility, Section 7 deserves to be rejected.**" (Emphasis Supplied)*



Thus, in view of the decision of Hon'ble NCLAT in Vijay Kumar Singhania (supra), it is clear that furnishing the record of default is not mandatory even after amendment of Regulation 20 by insertion of Regulation 20(1A) of the IBBI (Information Utilities) Regulations, 2017 w.e.f. 14.06.2022. Accordingly, the aforesaid objections and contentions of the Respondent qua the record of default cannot be sustained.

25. In the instant case, we are satisfied that the Corporate Debtor has committed a default in repayment of financial debt to the Financial Creditor for the reasons stated hereinbefore. We are also satisfied that the application is complete as all the relevant documents establishing the debt and default and other prescribed information/documents are on record, and there is no disciplinary proceeding pending against the proposed interim resolution professional, which is evident from the written consent given by him in Form 2. Therefore, applying the ratio of the Supreme Court judgments in Innoventive Industries Ltd. Vs. ICICI Bank (supra) and M. Suresh Kumar Reddy v. Canara Bank (supra), we are of the considered view that the present application filed u/s 7 of the Code must be admitted. Accordingly, we pass the following orders:

ORDER

- i. The Corporate Debtor- M/s. **MATOSHRI LAXMI SUGAR CO-GENERATION INDUSTRIES LIMITED** [CIN: U15424PN2008PLC133527], is **admitted** into the Corporate Insolvency Resolution Process under Section 7(5)(a) of the Code.



- ii. As a consequence thereof, moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code:
- 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;
 - e. The provisions of sub-section (1) shall however, not apply to such transactions, agreements 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 the Corporate Debtor.
- iii. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33 of the IBC, 2016, as the case may be.



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH, COURT VI

- iv. It is further directed that the supply of essential goods/services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period as per provisions of sub-sections (2) and (2A) of Section 14 of IBC, 2016.
- v. We hereby appoint **Mr. Ram Singh Setia**, an Insolvency Professional having (Email:setiars@gmail.com) registration no. **IBBI/IPA-001/IP-P01189/2018-2019/11935**, as the Interim Resolution Professional ('IRP') of the Corporate Debtor.
- vi. The Financial Creditor is hereby directed to pay an advance of **Rs. 2,00,000/-** (Rupees Two Lakhs Only) to the above-named IRP within a period of 7 days from the date of this order **to meet the cost of CIRP** arising out of issuing public notice and inviting claims etc. till the CoC decides about his fees/expenses.
- vii. The IRP shall perform all his functions as contemplated, inter-alia, under Sections 17, 18, 20 & 21 of the IBC, 2016. It is further made clear that all personnel connected with the Corporate Debtor, its Promoters or any other person associated with the management of the Corporate Debtor are under legal obligation under section 19 of the IBC, 2016 for extending assistance and co-operation to the IRP. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.



- viii. This Adjudicating Authority directs the IRP to make a public announcement for the initiation of CIRP and call for the submission of claims under Section 15, as required by section 13(1)(b) of the IBC, 2016.
- ix. The IRP is expected to take full charge of the Corporate Debtor's assets, and documents without any delay whatsoever.
- x. The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.
- xi. The IRP shall be under duty to protect and preserve the value of the property of the Corporate Debtor and manage the operations of the Corporate Debtor as a going concern, to the extent possible, as a part of obligation imposed by Section 20 of the IBC, 2016.
- xii. The Registry is directed to communicate a copy of this order to the Financial Creditor, Corporate Debtor and to the IRP and the concerned Registrar of Companies, by e-mail and speed post, within three working days and upload the same on the website immediately after the pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specifically mentioning regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.
- xiii. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.



- xiv. **Accordingly, CP (IB)/195 (MB)/2025 stands admitted.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)
Sunny-LRA VI.

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)