



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 45/KB/2023

An Application under Section 7 of the Insolvency and Bankruptcy Code, 2016, and Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

IN THE MATTER OF:

UCO Bank

... Financial Creditor/ Petitioner.

Versus

Vasupujya Enterprise Private Limited

... Corporate Debtor/ Respondent.

Date of Pronouncement: 02.09.2025.

Coram:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

CMDE SIDDHARTH MISHRA, HON'BLE MEMBER (TECHNICAL)

Appearance:

For the Financial Creditor:

Mr. S.K. Ray, Adv.

Ms. Zeba Khan, Adv.

Ms. Muskan Saha, Adv.

Ms. Ashmita Lohia, Adv.

For Corporate Debtor:

Mr. Shaunak Mitra, Adv.

Mr. Snehasish Sen, Adv.

Ms. Mihika Roy, Adv.

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ORDER

Per: Cmde Siddharth Mishra, Member (Technical)

1. This Court congregated through hybrid mode.
2. Heard the Learned Counsels for both parties.
3. ***Factual Matrix :***
 - 3.1 The present Company Petition has been filed by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor, who had executed a corporate guarantee in favour of the Financial Creditor in respect of the loan facilities extended to the Principal Borrower, Ankit Metal & Power Limited.
 - 3.2 The Financial Creditor had sanctioned a Working Capital Credit Facility amounting to Rs. 65,00,00,000/- (Rupees Sixty-Five Crore Only) in favour of the Principal Borrower. This comprised a cash credit component of Rs. 35.00 crore (with a sub-limit of Rs. 10 crore for EPC/FBP/FBN/FBD facilities) and a letter of credit facility of Rs. 30.00 crore (for both Inland and Foreign LCs). The said facilities were backed by various loan and security documents executed by the Principal Borrower on 31.05.2014.
 - 3.3 The first default in servicing the interest on the said facility occurred on 28.08.2014. Thereafter, despite repeated assurances, the Principal Borrower failed to regularise the account, leading the Financial Creditor to classify the account as a Non-Performing Asset on 25.09.2014.

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- 3.4** Owing to the stressed financial condition of the Principal Borrower, a restructuring proposal was undertaken through the Corporate Debt Restructuring (CDR) mechanism.
- 3.5** A Master Restructuring Agreement (MRA) was executed on 09.12.2014 between the Principal Borrower and the CDR Lenders, including the Financial Creditor. Pursuant to the said restructuring, the Corporate Debtor, being one of the guarantors of the Principal Borrower, executed various supporting documents, including a deed of guarantee.
- 3.6** However, the Principal Borrower failed to comply with the conditions stipulated under the MRA, leading to the failure of the restructuring package. The Financial Creditor, therefore, continued to treat the account as a defaulting/NPA account.
- 3.7** The Principal Borrower, through its conduct, from time to time acknowledged its liability towards the Financial Creditor, including through the execution of a letter of revival dated 11.08.2017. The last payment received by the Financial Creditor from the Principal Borrower was on 23.08.2018, amounting to Rs. 2,49,157/-. Thereafter, no further payment was made towards the outstanding dues.
- 3.8** A notice under Section 13(2) of the SARFAESI Act, 2002 was issued by the Financial Creditor on 07.04.2018 to the Principal Borrower and its guarantors, including the Corporate Debtor, demanding payment of the outstanding dues then amounting to Rs. 105.45 crore.
- 3.9** Subsequently, on 11.03.2019, the Financial Creditor initiated proceedings under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 before the Debts Recovery Tribunal-I, Kolkata, being Diary No. 260 of 2019, against the Principal Borrower and its guarantors including the Corporate Debtor.

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3.10 Thereafter, the Financial Creditor filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 before this Tribunal against the Principal Borrower, being CP (IB) No. 236/KB/2022. Since the Corporate Debtor stood as a corporate guarantor in favour of the credit facilities availed by the Principal Borrower, the Financial Creditor has now approached this Tribunal seeking to initiate CIRP against the Corporate Debtor as well.

3.11 As per the records annexed to the application, the total amount claimed to be in default and due from the Corporate Debtor is Rs. 178,00,81,925.02 as on the date of filing.

4. Submissions of the Ld. Counsel for the Applicant:

4.1 The present application has been filed by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process against the Corporate Debtor, Vasupujya Enterprises Pvt. Ltd., who had executed a deed of corporate guarantee dated 09.12.2014 in respect of the credit facilities granted to the Principal Borrower, Ankit Metal and Power Ltd.

4.2 It is submitted that the Principal Borrower was sanctioned certain credit facilities by the Financial Creditor in or around November 2010. The Principal Borrower committed default in repayment, and the account was classified as a Non-Performing Asset (NPA) on 28.08.2014. The date of default is 31.05.2014.

4.3 It is claimed that owing to continuous non-payment, the Financial Creditor issued a demand notice under Section 13(2) of the SARFAESI Act, 2002 on 07.04.2018 to the Principal Borrower and its guarantors, including

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the Corporate Debtor. The Corporate Debtor failed to make payment despite receipt of notice and is jointly and severally liable with the Principal Borrower.

4.4 It is contended that the present application under Section 7 of the Code has been filed on 23.02.2023. The Corporate Debtor raised objections primarily on the ground of limitation, contending that the application is barred under the Limitation Act, that the guarantee was not invoked, and that only the Security Trustee was competent to file the application.

4.5 That in response, the Financial Creditor submits that the issue of limitation is misconceived and without basis. It is submitted that several payments were made by the Principal Borrower from time to time specifically on 08.11.2014, 27.01.2015, 30.06.2015, 05.10.2015, 09.02.2018, 25.06.2018, and 23.08.2018. These payments amount to acknowledgements under Section 18 of the Limitation Act, thereby extending the limitation period by three years from each such date.

4.6 It is further submitted that the Principal Borrower executed a revival letter dated 11.08.2017 acknowledging its liability. The Financial Creditor reiterates that such acknowledgements are also binding on the Corporate Guarantor under Clause 29 of the Deed of Guarantee dated 09.12.2014. The said clause authorizes the borrower to acknowledge debt on behalf of the guarantors, which has the effect of extending the limitation period for the Corporate Debtor as well.

4.7 It is submitted that the demand notice under SARFAESI Act, 2002 dated 07.04.2018 served on the Corporate Debtor constituted invocation of the corporate guarantee. In terms of the judgment of the Hon'ble Supreme Court in ***Syndicate Bank vs. Channaveerappa Beleri & Ors., (2006) 11 SCC 506***, the limitation period for initiating proceedings against a guarantor commences from the date of such invocation.

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4.8 Even otherwise, the limitation period stands extended by virtue of the *Suo Motu* order passed by the Hon'ble Supreme Court in *In Re: Cognizance for Extension of Limitation, Sua Motu Writ Petition (C) No. 3 of 2020*, whereby the period from 15.03.2020 to 28.02.2022 stood excluded. In the present case, the limitation that would have expired on 07.04.2021 stood extended, and the 388-day balance period resumed from 01.03.2022, expiring on or around 24.03.2023. The present application, having been filed on 23.02.2023, is well within limitation.

4.9 Without prejudice to the above, the Financial Creditor further relies on the audited balance sheets of the Principal Borrower for the financial years ending 2020, 2021, and 2022 (annexed at pages 637, 787, and 891 of the petition), each of which acknowledges the subsisting liability and thereby independently extend the period of limitation under Section 18 of the Limitation Act.

4.10 As to the objection that acknowledgment by the Principal Borrower does not extend limitation for the Corporate Debtor, the Financial Creditor submits that the said argument is legally untenable. The Hon'ble Supreme Court in *Laxmi Pat Surana vs. Union of India, (2021) 8 SCC 481*, and the Hon'ble NCLAT in *Sri Bijay Agarwal vs. State Bank of India, CA(AT)(Ins) 105 of 2022*, have clearly held that acknowledgment by the Principal Borrower binds the Corporate Guarantor, especially where the terms of the Guarantee permit such acknowledgments on behalf of the guarantor.

4.11 It is claimed that clause 29 of the Deed of Guarantee clearly authorizes the Principal Borrower to act as agent on behalf of the guarantors for the purposes of acknowledging debt. Hence, all acknowledgements made by the Principal Borrower, including in One-Time Settlement (OTS) proposals and balance sheets, are binding upon the Corporate Debtor and serve to extend the limitation.

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4.12 It is further submitted that the Deed of Guarantee is a continuing guarantee, and the liability of the Corporate Debtor subsists until full discharge of the obligations by the Principal Borrower. Hence, invocation is not a prerequisite for maintaining proceedings under Section 7 of the Code.

4.13 With regard to the dismissal order dated 16.07.2024 in CP (IB) 44 of 2023 (a connected matter), it is submitted that the said order was passed without considering the binding precedent of the Hon'ble Supreme Court in *Laxmi Pat Surana* and without applying the exclusion of limitation under the *Suo Motu* orders. It is therefore submitted that the said decision is rendered *per incuriam* and is not binding.

4.14 On the objection that only the Security Trustee can initiate proceedings, it is submitted that while the deed of guarantee may have been executed in favour of the Security Trustee, the ultimate beneficiaries under the deed are the consortium of lenders including the Financial Creditor. The Security Trustee merely holds the security in trust. The Financial Creditor retains the right to initiate proceedings under Section 7 of the Code. Reliance is placed on the judgment of the Hon'ble NCLAT in ***Shantanu Jagdish Prakash vs. State Bank of India, CA(AT)(Ins) 1609 of 2024.***

5. Per Contra the Corporate Debtor would allege as under:

5.1 The Corporate Debtor, Vasupujya Enterprises Pvt. Ltd., appearing as Respondent in the present proceedings, submits that the application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 by the Financial Creditor is not maintainable and is liable to be dismissed primarily on the ground of limitation.

5.2 It is contended that they had extended a corporate guarantee dated 09.12.2014 in favour of the Principal Borrower, M/s Ankit Metal and Power Ltd. The said guarantee was admittedly invoked in March 2019, when the Financial Creditor instituted proceedings before the Debts Recovery Tribunal

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under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. The present application under Section 7, filed on 23.02.2023, is therefore ex-facie barred by limitation under Article 137 of the Limitation Act, 1963, which prescribes a three-year period from the date of default or invocation.

5.3 Without prejudice to the above, the Respondent further submits that the Financial Creditor has already filed a separate application under Section 7 of the Code against the Principal Borrower, which is pending adjudication before this Hon'ble Tribunal.

5.4 That the three other Section 7 applications have been filed by the same Financial Creditor against other corporate guarantors for the very same debt arising from the same loan transaction with the Principal Borrower. These applications are filed against (i) Sarita Steel & Power Limited, (ii) P.A. Poddar Mech Tech Services Pvt. Ltd., and (iii) Saunvi Trading and Investment Co. Pvt. Ltd. The Respondent submits that such multiplicity of proceedings, arising out of the same cause of action, defeats the object and scheme of the Code and amounts to an abuse of process.

5.5 It further states that the alleged date of default is 31.05.2014. Even assuming the revival letter dated 11.08.2017 is considered, the present application is still filed beyond the prescribed limitation period. The revival letter pertains only to the Principal Borrower and not to the Corporate Debtor. Therefore, it cannot extend the limitation period as against the Corporate Debtor.

5.6 That the Financial Creditor has further sought to rely on payments allegedly made by the Principal Borrower, the last of which is dated 23.08.2018. The Respondent submits that this purported payment was not

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made by the Principal Borrower but is reflected as a “cutback” received from the State Bank of India, and therefore, it does not amount to acknowledgment or part payment by the Principal Borrower so as to extend limitation under Section 18 of the Limitation Act.

5.7 It further contends that the Deed of Corporate Guarantee dated 09.12.2014, on which the present application is founded, is an independent contract. The guarantee having already been invoked and action initiated before the Debts Recovery Tribunal, it cannot now be reagitated before another forum beyond the period of limitation. Such successive and overlapping proceedings cannot be sustained in law.

5.8 The Respondent strongly disputes the allegation that there exists any outstanding or unpaid debt as against the Corporate Debtor. The purported default by the Principal Borrower, even if assumed, does not give rise to a continuous or fresh cause of action against the Corporate Debtor beyond the invocation of the guarantee and initiation of proceedings before the DRT in 2019. The Financial Creditor, having already elected its remedy and forum, is estopped from now invoking proceedings under the IBC after a lapse of more than three years.

5.9 It is further submitted that the Financial Creditor cannot be permitted to simultaneously pursue parallel remedies for the same debt against different parties before different forums. The recovery application pending before the DRT ought to be decided first. The pendency of that application bars the maintainability of the present Section 7 petition.

5.10 The Respondent also submits that the claim of Rs. 178,00,81,925.02/- as made out in the Section 7 application is disputed in its entirety. It is specifically denied that the said amount is due or payable by the Corporate

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Debtor. No concrete evidence has been produced by the Financial Creditor to demonstrate the subsistence of the alleged debt or default within the limitation period vis-à-vis the Corporate Debtor.

5.11 The Respondent denies having executed any revival letter or acknowledgment of liability at any point in time. It is also denied that any acknowledgment made by the Principal Borrower can be construed as an acknowledgment on behalf of the Corporate Debtor. The specific terms of the Deed of Guarantee do not support the proposition that acknowledgments by the Principal Borrower would automatically bind the guarantors, and in any event, the alleged acknowledgments relied upon are insufficient to extend limitation.

6. Rejoinder

6.1 The Financial Creditor reiterates that the present application under Section 7 of the Insolvency and Bankruptcy Code, 2016, filed on 23.02.2023, is well within the prescribed limitation period.

6.2 The date of default is 31.05.2014, and the loan account of the Principal Borrower was classified as Non-Performing Asset on 28.08.2014.

6.3 Thereafter, several payments were received from the Principal Borrower on 08.11.2014, 27.01.2015, 30.06.2015, 05.10.2015, 09.02.2018, 25.06.2018 and lastly on 23.08.2018. Each such payment constitutes a valid acknowledgment under Section 18 of the Limitation Act, thereby extending the limitation period by three years from each respective date.



- 6.4 Additionally, the Principal Borrower executed a revival letter dated 11.08.2017, which further acknowledged the debt and extended the limitation accordingly.
7. We have heard the Learned Counsels for parties and perused records and noted the rival contentions.

8. Analysis and Findings

8.1 The primary issue for consideration before this Adjudicating Authority is whether the application under Section 7 of the Insolvency and Bankruptcy Code, 2016, filed by UCO Bank against the Corporate Debtor Vasupujya Enterprises Pvt. Ltd., in its capacity as a corporate guarantor is within limitation and maintainable in law.

A. On the Issue of Limitation

8.2 It is an admitted fact that the date of default by the Principal Borrower, Ankit Metal & Power Ltd., is 31.05.2014, and the loan account was classified as a Non-Performing Asset (NPA) on 28.08.2014. Ordinarily, limitation for filing a proceeding under Section 7 of the Code would begin from the date of default and expire three years thereafter, unless extended by a valid acknowledgment of debt under Section 18 of the Limitation Act, 1963.

“18. Effect of acknowledgment in writing:— 1. Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time acknowledgment was so signed.

2. **Where the writing when containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872 (1 of 1872), oral evidence of its contents shall not be received.**

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Explanation:—For the purposes of this section,— (a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to set off, or is addressed to a person other than a person entitled to the property or right, (b) the word “signed” means signed either personally or by an agent duly authorised in this behalf, and (c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right.”

8.3 In the present case, the Financial Creditor has placed on record a series of payments made by the Principal Borrower on 08.11.2014, 27.01.2015, 30.06.2015, 05.10.2015, 09.02.2018, 25.06.2018, and 23.08.2018. These payments are evidenced in the Statement of Accounts annexed to the petition. Each such payment, if accepted, would constitute an acknowledgment under Section 18 and would restart the limitation period afresh from the respective date of payment.

8.4 The Corporate Debtor has disputed the nature of the last payment on 23.08.2018, contending that it was not made by the Principal Borrower but was a “cutback” from the State Bank of India. However, this contention is not supported by any documentary evidence that rebuts the entries in the Statement of Accounts. Moreover, it is settled law that entries in the books of account and bank statements maintained in the ordinary course of business carry a presumption of correctness under the Evidence Act, unless specifically rebutted.

8.5 Further, the revival letter dated 11.08.2017 executed by the Principal Borrower acknowledging the debt also extends the limitation. It is pertinent to note that Clause 29 of the Deed of Guarantee executed by the Corporate Debtor authorises the Principal Borrower to acknowledge debt on behalf of the guarantors. The validity and enforceability of such a clause is supported by the judgment of the

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Hon'ble NCLAT in paragraph 19 has placed reliance on a catena of judgments such as ***Laxmi Pat Surana v. Union of India, (2021) 8 SCC 481, B,K, Educational Services Pvt. Ltd. V. Parag Gupta & Associates (2019) 11 SCC 633***, wherein the Hon'ble Supreme Court has held that the period of limitation would begin from the date on which the default occurs and not from the date of declaration of NPA.

8.6 In addition, the balance sheets of the Principal Borrower for the financial years ending 2020, 2021, and 2022 also reflect continuing liability and are valid acknowledgments of debt under Section 18 of the Limitation Act. These acknowledgments further extend the limitation period.

8.7 Lastly, the limitation period is also subject to exclusion of time pursuant to the suo motu order passed by the Hon'ble Supreme Court in **In Re: Cognizance for Extension of Limitation, Suo Motu WP(C) No. 3/2020**. *"5(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."*

The period from 15.03.2020 to 28.02.2022 stands excluded in computing the limitation. The date of invocation of guarantee through the SARFAESI notice is 07.04.2018, and the normal limitation period would have expired on 07.04.2021. After applying the exclusion of 714 days (from 15.03.2020 to 28.02.2022), the extended limitation period ends around 24.03.2023. The present petition was filed on 23.02.2023 and is therefore within limitation.

8.8 Accordingly, we hold that the application is not barred by limitation.

B. On the Issue of Maintainability due to Multiple Proceedings

8.9 The Corporate Debtor has contended that the Financial Creditor has already filed a Section 7 application against the Principal Borrower, as well as three other applications against other corporate guarantors, arising from the same debt. It is submitted that such multiplicity of proceedings amounts to an abuse of process and is contrary to the object of the Code.

8.10 This Adjudicating Authority notes that the law is well-settled that a Financial Creditor may proceed simultaneously against the Principal Borrower and the Corporate Guarantor(s), as held by the **Hon'ble NCLAT in the matter of Naresh Kumar Aggarwal v/s CFM Asset Reconstruction Pvt. Ltd. in Company Appeal (AT) (Insolvency) No.470/2023**. The relevant para no.32 of the said judgment, reads thus : “32. There is no bar in the 'I & B Code' for filing simultaneously two applications under Section 7 against the 'Principal Borrower' as well as the 'Corporate Guarantor(s)' or against both the 'Guarantors'. However, once for same set of claim application under Section 7 filed by the 'Financial Creditor' is admitted against one of the 'Corporate Debtor' ('Principal Borrower' or 'Corporate Guarantor(s)'), second application by the same 'Financial Creditor' for same set of claim and default cannot be admitted against the other 'Corporate Debtor' (the 'Corporate Guarantor(s)' or the 'Principal Borrower'). Further, though there is a provision to file joint application under Section 7 by the 'Financial Creditors', no application can be filed by the 'Financial Creditor' against two or more 'Corporate Debtors' on the ground of joint liability ('Principal Borrower' and one 'Corporate Guarantor', or 'Principal Borrower' or two 'Corporate Guarantors' or one 'Corporate Guarantor' and other 'Corporate Guarantor'), till it is shown

that the 'Corporate Debtors' combinedly are joint venture company." The creditor is not required to exhaust remedies against the borrower before proceeding against the guarantor. The IBC does not bar parallel proceedings against co-obligants.

(Emphasis added)

8.11 Further, the financial creditors can initiate CIRP against both principal borrowers and corporate guarantors, independently and simultaneously, so long as the claim is not doubly enforced. Therefore, no legal infirmity arises from the Financial Creditor having filed separate petitions for different entities liable for the same debt.

8.12 This ground raised by the Corporate Debtor is accordingly rejected.

C. On the Invocation of the Guarantee

8.13 The Corporate Debtor has contended that the guarantee was invoked in March 2019 when proceedings were initiated under the Recovery of Debts and Bankruptcy Act, 1993, and having invoked the same, the Financial Creditor is now barred from initiating CIRP under the Code.

8.14 We find this argument untenable. Invocation of a guarantee and the filing of a recovery proceeding under a different statute does not preclude the Financial Creditor from initiating CIRP under the Code, provided the debt and default continue. The IBC is a separate remedy aimed at insolvency resolution, not mere debt recovery.

8.15 The guarantee in the present case is a continuing guarantee, as is evident from the terms of the Deed of Guarantee, and the liability of the Corporate Debtor persists until full repayment is made by the Principal

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Borrower. Thus, initiation of DRT proceedings does not bar proceedings under the IBC. The existence of an alternate forum or earlier proceedings is not a ground for dismissal of a Section 7 petition. In this regard it is necessary to say that **Section 238 of Code, 2016 deal with provisions of the Code to override other laws and the said provision reads as under:** “The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.”

The National Company Law Appellate Tribunal ("NCLAT"), Chennai Bench - Company Appeal (AT) (CH) (Ins) No. 130 of 2022].

*“In view of the above provision of law the financial Creditor/ Operational Creditor/ Corporate Persons can file an application under Section 7 ,9 & 10 of the I & B Code, 2016 **before the respective Adjudicating Authorities even though in respect of same any proceeding pending before other forums on the ground that the provisions of I & B Code, 2016 is overriding effect of other laws.** In view of the aforesaid reasons the Appellant cannot take a stand that the proceedings are pending before DRT and PBPT and the application under Section 7 of the I & B Code, 2016 cannot be maintained does not merit. The application under Section 7 filed by the financial Creditor before the Adjudicating Authority is very well maintained. Accordingly, the point is answered against the Appellant.”*

D. On the Quantum of Default and Acknowledgment

8.16 The Corporate Debtor has denied the quantum of default and its liability to pay. However, no specific or substantiated evidence has been brought on record to rebut the claim of the Financial Creditor. The entries in the account statements, the revival letter, and the

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acknowledgments in the audited balance sheets of the Principal Borrower stand unrebutted.

8.17 Further, Clause 29 of the Deed of Guarantee expressly authorises the Principal Borrower to make acknowledgments of liability on behalf of the guarantor. The Corporate Debtor, having signed the Deed, is bound by its terms.

Clause 29 of the Deed of Guarantee states that – *“the guarantors authorised and appoint the borrower or any person duly authorised by borrower as agent to confirm the balance due and acknowledge liability on their behalf as guarantors from time to time. The guarantors further agree that any acknowledgment of liability made by borrower or any person duly authorised by them to acknowledge liability as agent on behalf of the guarantors shall be binding on them giving fresh start of limitation and also for admission of liability against them”*.

8.18 In view of the decisions in **Laxmi Pat Surana and Dena Bank v. Shiv Kumar Reddy, (2021) 10 SCC 330**, we are of the considered view that the acknowledgments of debt by the Principal Borrower are binding on the Corporate Debtor and extend the limitation.

8.9 Once the “debt’ and “default” is admitted or established the petition must be admitted.

8.10 We are supported by the views of Hon’ble Apex Court to define “Financial Debt” and to initiate Corporate Insolvency Resolution process as under:

(a) Pioneer Urban Land and Infrastructure Ltd. v. Union of India reported in (2019) 8 SCC 416:

“any debt to be treated as financial debt, there must happen disbursement of money to the borrower for utilization by the borrower and

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that the disbursal must be against consideration for time value of money.”

(Emphasis added)

(b) Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Limited reported in (2020) 8 SCC 401:

“the essential condition of financial debt is disbursement against the consideration for time value of money.”

(Emphasis added)

(c) Indus Biotech Private Limited v. Kotak India Venture (Offshore) Fund reported in (2021) 6 SCC 436: MANU/SC/0231/2021 (para 14) that:

“14. ... in order to trigger an application, there should be in existence four factors: (i) there should be a 'debt' (ii) 'default' should have occurred (iii) debt should be due to 'financial creditor' and (iv) such default which has occurred should be by a 'corporate debtor...’

(Emphasis added)

(d) Innoventive Industries Ltd. v. ICICI Bank reported in (2018) 1 SCC 407: MANU/SC/1063/2017 has laid down that:

“27. The scheme of the Code is to ensure that when a default takes place, in the sense that a debt becomes due and is not paid, the insolvency resolution process begins. ...’

“28. ... 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, ...”

XXX XXX XXX XXX

“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

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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 added)

9 In terms of the foregoing discussion, we **ALLOW** the application bearing **Company Petition (IB) No. 45/KB/2023** filed under **Section 7 of the I&B Code**, and accordingly, we order the initiation of **Corporate Insolvency Resolution Process (CIR Process)** in respect of the Corporate Debtor by the following **Orders**:

- i. The Application filed by UCO Bank (**Financial Creditors**), under Section 7 of the Insolvency & Bankruptcy Code, 2016, is hereby, **ADMITTED** for initiating the **Corporate Insolvency Resolution Process** in respect of Vasupriya Enterprise Limited (**Corporate Debtor**).
- ii. As a consequence of this Application being admitted in terms of Section 7 of the I&B Code, moratorium as envisaged under the provisions of Section 14(1) of the Code, shall follow in relation to the Respondent/(CD) as per clauses (a) to (d) of Section 14(1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come into force.
- iii. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016, prohibits the following, as:
 - 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;*

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- b) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its asset 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 (54 of 2002);*
- d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.*

[Explanation.--For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;]

- iv.** 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.
- v.** The provisions of sub-section (1) of the Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vi.** The Applicant has proposed the name of **“Kanchan Dutta”**, Address: KGRS & Co, Chatterjee International Centre 17th Floor, Flat No 13A, 33A, J.L Nehru Road Kolkata-700071, Registration no. IBBI/IPA-001/IP-POO202/2017-2018/10391, Email is kdutta.ip@gmail.com , as the “IRP”. We have perused that there is a written communication

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and consent of IRP in Form 2 with Affidavit, annexed as letter D at pages 36-38 to the petition, as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that there are no disciplinary proceedings pending against him with the Board or IIP of ICAI. In addition, further necessary disclosures have been made by **“Kanchan Dutta”** as per the requirement of the IBBI Regulations. Accordingly, he satisfies the requirement of Section 7(3)(b) of the code. Hence, we appoint **“Kanchan Dutta”** as the **Interim Resolution Professional** (IRP) of the Corporate Debtor to carry out the functions as per the I&B Code subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the I&B Code.

- vii.** In pursuance of Section 13 (2) of the Code, we direct the IRP or the RP, as the case shall cause a public announcement immediately with regard to the admission of this application under Section 7 of the Code and **call for the submission of claims** under Section 15 of the Code. The public announcement referred to in Clause (b) of sub-section (1) of Section 15 of the Insolvency & Bankruptcy Code, 2016, shall be made immediately. The expression immediately means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

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- viii.** During the CIR Process period, the management of affairs of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, in terms of Section 17 of the I&B Code. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow. There shall be no future opportunities in this regard.
- ix.** The Interim Resolution Professional is also free to take police assistance to take full charge of the Corporate Debtor, its assets and its documents without any delay, and this Court hereby directs the concerned **Police Authorities** and/or the **Officer-in-Charge** of Local Police Station(s) to render all assistance as may be required by the Interim Resolution Professional in this regard.
- x.** The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIR Process in respect of the Corporate Debtor.
- xi.** The Financial Creditors shall be liable to pay to IRP a sum of **Rs. 3,00,000/-** (Rupees Three Lakh Only) as payment of his fees as advance, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment. The expenses relating to the CIRP are subject to the approval of the Committee of Creditors (CoC).
- xii.** In terms of sections 7(5) and 7(7) of the Code, the **Registry of this Adjudicating Authority** is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by Speed Post and through email

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immediately, and in any case, not later than two days from the date of this Order.

- xiii.** Additionally, the **Registry of this Adjudicating Authority** shall serve a copy of this Order upon the Insolvency and Bankruptcy Board of India (IBBI) for their record and also upon the Registrar of Companies (RoC), to whom the company is registered with, by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.
- xiv.** The Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- xv.** The IRP/RP shall be liable to submit the periodical report including the minutes of the CoC of the Corporate Debtor, with regard to the progress of the CIR Process in respect of the Corporate Debtor to this Adjudicating Authority from time to time.
- xvi.** The order of moratorium shall cease to have effect as per Section 14(4) of the I&B Code.
- 8.** Certified copies of this order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.

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9. Post the Company Petition on **16/10/2025** for filing the Periodical Progress Report by the IRP/RP as appointed herein.

**Cmde Siddharth Mishra
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**

The Order signed on this, the 2nd day of September 2025.

V. Tiwari (LRA)