



**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

CP (IB) No. 142/ALD/2024

(An application filed 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)

IN THE MATTER OF:

CENTRAL BANK OF INDIA

A Body Corporate constituted under the Banking Company;
(Acquisition and Transfer of Undertakings) Act 1970,
having its Central office at: Chandramukhi, Nariman Point Mumbai-400020 and
a Branch at: Stressed. Asset Management Branch, Jeevan Tara Building,
Parliament Street, New Delhi - 110001.

... FINANCIAL CREDITOR

Versus

VIL ROHTAK JIND HIGHWAY PRIVATE LIMITED

Through Its Director;
Regd. Office: - B-5/251, Vishal Khand, Gomti Nagar, Lucknow-226010 (U.P.)
Corporate Office: - Pankaj Galaxy-L, 2nd Floor,
Plot No. 8, Sector 12, Dwarka, Delhi - 110075

...CORPORATE DEBTOR

Order Pronounced on: 16.12.2025

Coram:

Sh. Praveen Gupta : Member (Judicial)

Sh. Ashish Verma : Member (Technical)

Appearances:

Ms. Reema Khurana & Ms. Akriti Gautam, Advs.: For the Financial Creditor

Sh. Shariq Shamim, Adv. : For the Corporate Debtor

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ORDER

1. This Application has been filed on 11-09-2024 by the Central Bank of India as the Applicant/Financial Creditor through its Director under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as “*IBC/Code*”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 against VIL Rohtak Jind Highway Private Limited (hereinafter referred as “*Respondent/Corporate Debtor*”) in Form 1 containing all the information as required in Part I, II, III, IV and V of the Form showing a total financial debt of Rs.106,50,69,824/- crore, declaring date of default being 30-01-2017.
2. It is stated that the National Highway Authority of India (NHAI) invited proposals for construction, operation and maintenance of a section of National Highway no. 71 on DBFOT (Toll) basis and the bid of VIL Limited was accepted by NHAI and the project was awarded by NHAI to VIL Limited vide Letter of Award no. 23/12/2011. NHAI/BOT-II/11012/RFQ/2009/519 dated 23.12.2011.
3. VIL Limited promoted VIL Rohtak Jind Highway Private Limited as a Special Purpose Vehicle (SPV) for the construction, operation, maintenance, augmentation, and four-laning of the existing road from Km 307.000 to Km 347.800 on the Rohtak–Jind section of National

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Highway No. 71, and the connecting link from Km 347.800 of National Highway No. 71 to Km 9.400 of National Highway No. 71A in the State of Haryana, on a Design, Build, Finance, Operate, Transfer (DBFOT) basis, for a concession period of 30 years (hereinafter referred to as the “Project”). VIL Limited, vide its letter dated 11.01.2012, requested NHAI to accept VIL Rohtak Jind Highway Private Limited as the concessionaire to enter into the Concession Agreement. Accordingly, NHAI and the Corporate Debtor entered into a Concession Agreement dated 07.03.2012.

4. The Corporate Debtor, in order to part finance the project with estimated cost of Rs. 4,10,86,00,000/-, approached the Consortium consisting of Central Bank of India, Union Bank of India, Vijaya Bank Dena Bank and Corporation Bank (now merged with Union Bank of India) with Central Bank of India as the lead Bank for financial assistance. The Central Bank of India led Consortium pursuant to the request of the Corporate Debtor, agreed to grant credit facility not exceeding Rs. 270,00,00,000/- on the request of the Corporate Debtor and it sanctioned vide Letter bearing ref.no. PARLIA/ADV/2012-13 dated 19.12.2012, a term loan of Rs. 85 Crores (out of total consortium limits of Rs. 270 Crores) under the consortium arrangement for a period of 15 years including implementation period of 2 years, 1-year moratorium from

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Commercial Operation Date and repayment in 144 unequal monthly instalments.

5. Pursuant to the said sanction, the Corporate Debtor executed various loan documents including Common Loan Agreement dated 16.04.2013. VIL Limited Executed Corporate Guarantee dated 16.04.2018 in favour of the Security Trustee i.e. Cent bank Financial Services Limited for the benefit of the lenders.
6. Thereafter, vide letter bearing ref. no. NHAI/110033/FC-142/CGM(Fin)/2013 dated 28.05.2013, NHAI stipulated certain modifications in the Common Loan Agreement and Deed of Hypothecation.
7. The Escrow Agreement dated 31.07.2013 was executed by the Corporate Debtor, Financial Creditor as Lenders' Agent, Escrow Bank and NHAI, where by an Escrow account was opened by the Corporate Debtor with the Financial Creditor as the Escrow Bank.
8. Pursuant to the modification letter issued by NHAI, a Supplementary Common Loan Document along with Deed of Hypothecation dated 14.08.2013 and Supplementary Deed of Hypothecation was executed by the Corporate Debtor.
9. All the consortium Banks including the Financial Creditor, extended all possible help to the Corporate Debtor for completion of the Project,

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however, despite all the efforts put, the Corporate Debtor failed to perform its part and continued to make defaults in payment of its obligations to the consortium lenders, including the Financial Creditor.

10. Consequently, the account of the Corporate Debtor with the Financial Creditor was declared Non- Performing Asset (NPA) on 30.01.2017. As a result, the Financial Creditor along with other Consortium members issued demand notices to the Corporate Debtor and the Corporate guarantor for repayment of the outstanding amounts payable.
11. A legal notice dated 17.11.2018 was sent by the consortium Banks including the Financial Creditor, calling upon the Corporate Debtor and the Corporate Guarantor to pay the respective amounts due to the consortium banks and invoking the guarantee issued by VIL Limited.
12. As the Corporate Debtor and the Corporate Guarantor failed to clear the dues payable to the Financial Creditor, an OA no. 293/2019 titled *Central Bank of India and others v/s VIL Rohtak Jind Highway Private Limited and others* was filed by the consortium Banks for total recovery of Rs.165,84,64,662.28/- as on 11.12.2018 along with pendent lite and future interest. The claim of the Financial Creditor as on 11.12.2018 was Rs. 55,00,63,352/- along with pendent lite. During the pending of the said OA, a Section 7 Petition bearing Company petition no. (IB)- 1581 (PB)/ 2018 titled *ICICI bank Limited vs VIL Limited* was admitted by the



Hon'ble Principal bench on 19.03.2019 and thereafter, a Resolution Plan under section 31(1) was approved by the Hon'ble Principal Bench on 24.12.2020 for VIL Limited i.e. Corporate Guarantor of the Corporate Debtor.

13. The OA no. 293/2019 titled *Central Bank of India and others v/s VIL Rohtak Jind Highway Private Limited and others* was decreed on 21.09.2022 for a total sum Rs. 165,84,64,662.28 including Rs. 55,00,63,352/- payable to the Financial Creditor along with cost, Pendent lite and future simple interest @ of 11.0% p.a. till realization from 12.11.2018. A Recovery Certificate bearing TRC no. 21/23 was issued in favour of the consortium banks including the Financial Creditor and subsequently Rs. 43,15,612/- was received from the liquidation process of VIL Limited up to 30.09.2022.

REPLY ON BEHALF OF THE CORPORATE DEBTOR

14. The Respondent/Corporate Debtor filed a reply vide diary no. 2168 dated 27.10.2025 in response to the averments stated by the Applicant Bank and submits that:
- i. The present Application is barred by limitation. An Application under Section 7 of the IBC must be filed within three years from the date of first default. According to the Financial Creditor's own assertions, the first default occurred in 2016, yet this Application has been filed after more than nine years. Even if limitation is

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computed from the NPA date of 30.01.2017, the Application remains time-barred.

- ii.** The present Application is against the terms of Common Loan Agreement as the Common Loan Agreement envisaged issuance of a Draw Stop Notice to the Corporate Debtor. The Financial Creditor arbitrarily stopped disbursement of funds to the Corporate Debtor; however, it never issued any Draw Stop Notice to the Corporate Debtor, which is a violation of the Common Loan Agreement.
- iii.** The Financial Creditor was duty bound to disburse the funds to the Corporate Debtor under the Common Loan Agreement, in a timely manner. However, during the construction phase of the Project Works, the Financial Creditor stopped disbursement of the funds for execution of the Project Works, on the ground that NHAI failed to fulfil its fundamental obligations under the Concession Agreement dated 07.03.2012 viz. procuring 100% area of land for construction of Project Highway and a hinderance free site for Project Works by removal of all encumbrances, etc. Due to stoppage of disbursement of any funds to the Corporate Debtor w.e.f. November 2014, the Corporate Debtor was deprived of funds for execution of the Project Works which further added to the delays in the execution of the Project Works.
- iv.** There is an ongoing dispute between the Parties, as financial assistance was granted by Financial Creditor to the Corporate Debtor for the execution of the Project Works under Concession Agreement dated 07.03.2012 entered into by and between the



NHAI and Corporate Debtor. The said Concession Agreement dated 07.03.2012 envisaged various rights of the Financial Creditor, in the event of failure of the Corporate Debtor to execute the works. It is submitted that NHAI is a necessary and proper party in the present proceedings, without the presence of which, the present Application cannot be adjudicated.

- v. That the Corporate Debtor was promoted by a Company named VIL Ltd. It is submitted that VIL Ltd. furnished a Corporate Guarantee to the Financial Creditor for the financial assistance granted by it to the Corporate Debtor. The Financial Creditor settled the disputes with Corporate Guarantor VIL Ltd. and released the Corporate Guarantee furnished by it. It is submitted that the said act of the Financial Creditor in releasing the corporate guarantee furnished by VIL Ltd. was prejudicial to the interests of Corporate Debtor, however the Financial Creditor did not even inform or take consent from the Corporate Debtor before releasing the Corporate Guarantee of VIL Ltd. Thus, the Financial Creditor has suppressed the terms of its settlement with Corporate Guarantor VIL Ltd.
- vi. The Concession Agreement envisaged various rights of the Financial Creditor to recover its dues under the Financial Agreements, in the event of failure of Corporate Debtor to execute the Project Works. The Financial Creditor had full opportunity to substitute the Corporate Debtor and get the Project Works executed through any other agency, to recover the funds invested by it in the execution of the Works. NHAI also offered to the Financial Creditor and called upon it to substitute the Corporate



Debtor by any other agency for the execution of the Project Works, however the Financial Creditor failed to exercise its said rights under the Concession Agreement dated 07.03.2012.

- vii.** After getting Project work to the tune of Rs. 250 crores executed from the Corporate Debtor, NHAI terminated the Concession Agreement dated 07.03.2012 to avoid accountability for various defaults committed by it and for unjust enrichment. In such circumstances, the Corporate Debtor was constrained to invoke Arbitration Clause contained in the Concession Agreement 07.03.2012. The disputes relating to the Concession Agreement dated 07.03.2012 for which the financial assistance was granted by the Financial Creditor, is pending adjudication before Hon'ble Delhi High Court in the case titled *VIL Rohtak Jind Highway Pvt. Ltd. Vs NHAI being OMP (COMM) No. 80 of 2024* and Case titled *VIL Rohtak Jind Highway Pvt. Ltd. Vs NHAI being OMP (COMM) No. 141 of 2024*. The present disputes under the present Application filed by the Financial Creditor, are directly related to the disputes pending adjudication in the aforesaid two cases before Hon'ble Delhi High Court.
- viii.** Under the Common Loan Agreement, the Financial Creditor was entitled to recover the financial assistance granted to the Corporate Debtor, from the User Fee (tolling) collected from use of National Highway, for construction of which the financial assistance was granted. The Financial Creditor against the contractual terms stopped disbursement of the sanctioned funds to the Corporate Debtor, thereby leading to stoppage of Project Works. The Corporate Debtor had invested more than Rs. 250



crores in the execution of the Project Work. It is submitted that NHAI usurped the entire funds invested by the Corporate Debtor in the execution of the Project Work.

- ix.** The NHAI assured the Financial Creditor that it will be compensated by NHAI for the amount of work executed by the Corporate Debtor. NHAI had also promised to the Financial Creditor to work out a formula to ascertain the compensation to Financial Creditor by NHAI for work done by Corporate Debtor. However, in a arbitrary exercise of powers, NHAI refused to compensate the Financial Creditor. It is submitted that the cause of action for the Financial Creditor to demand its dues exists against NHAI, however the Financial Creditor never protested against the misconducts of NHAI or initiated any legal action against it. Instead, the Financial Creditor has filed the present Application in an attempt to destroy the very existence of Corporate Debtor.
- x.** The disputes raised by the Financial Creditor are closely connected to the ongoing disputes between the Corporate Debtor and NHAI, which are pending before the Hon'ble Delhi High Court. The Corporate Debtor is actively pursuing its claims against NHAI, and these claims also cover the dues of the Financial Creditor. If this Application is allowed and the Corporate Debtor is pushed into insolvency, it will be unable to pursue its claims against NHAI, ultimately harming the recovery of the alleged dues of the Financial Creditor itself.



- xi.** The Financial Creditor had various rights under the Concession Agreement dated 07.03.2012 including right to extension of time for finalizing substitution of Corporate Debtor as Concessionaire to execute the Project Works. The Financial Creditor demanded from NHAI extension of time in terms of Concession Agreement dated 07.03.2012. However, NHAI blatantly refused to honour the terms of Concession Agreement and thereby negated to permit any time to the Financial Creditor to avail its right to substitution of Concessionaire.
- xii.** The Corporate Debtor was always committed to comply with all its obligations under the Concession Agreement as well as Common Loan Agreement and to show its bona fide intention to complete the Project Works, the Corporate Debtor arranged funds from its own resources and gave concrete proposals for completion of works. The Financial Creditor was conscious of the bona fides of Corporate Debtor and itself demanded from NHAI that extension of time for completion of Project Milestone may be granted so that Financial Creditor may initiate disbursement of funds.
- xiii.** The Financial Creditor obtained an ex-parte Decree from DRT against the Corporate Debtor. However, the Corporate Debtor was never served with any Notice in the said matter. Further, the Corporate Debtor was further prevented from assailing the said Decree before Appellate Authority in view of its lack of financial capacity to deposit the decretal amount.



- xiv. The Financial Creditor tried to justify its refusal to disburse funds for the Project by alleging 'diversion of funds' by the Corporate Debtor. However, this claim was disproved by the Independent Engineer appointed by the Financial Creditor itself. The difference between the funds disbursed and the amount spent on the Project arose only from differing rate calculations. Instead of challenging NHAI's actions, the Financial Creditor simply gave in and failed to protect its own rights.

FINDINGS AND ORDER

15. We have considered the submissions made in the pleadings filed by the parties and have perused the record and have also taken into account the oral arguments made by their respective Ld. Counsels during the course of the hearings.
16. From the submission of learned Counsel for the parties and analysis of the records, we find that there are two issues that have arisen for consideration before us as stated below: -
- i. Whether the application is filed within the period of limitation.
 - ii. Whether there are debt and default within the meaning of the I & B Code, 2016.

Whether the application is filed within the period of limitation.

17. We observe that the present application under Section 7 of the Code was instituted before this Tribunal on 11-09-2024. As stated in Part IV of the Form 1 of Application filed u/s 7, the date of default is declared as 30-

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01-2017 being the date when the Corporate Debtor first time defaulted to repay the loan as per the agreement. However, subsequently, a legal notice dated 17.11.2018 was sent by the consortium Banks including the Financial Creditor Bank, calling upon the Corporate Debtor and the Corporate Guarantor to pay the respective amounts due to the consortium banks and invoking the guarantee also issued by VIL Limited. As the Corporate Debtor and the Corporate Guarantor failed to clear the dues payable to the Financial Creditor, an OA no. 293/2019 titled *Central Bank of India and others vis VIL Rohtak Jind Highway Private Limited and others* was filed by the consortium Banks for total recovery of Rs. 1,65,84,64,662.28/- (out of which claim of the Financial Creditor was Rs. 55,00,63,352/-) as on 11.12.2018, along with pendent lite and future interest, which was decreed on 21.09.2022 for a total sum of Rs. 165,84,64,662.28/- including Rs. 55,00,63,352/- payable to the Financial Creditor along with cost, pendent lite and future simple interest @ of 11.0% p.a. till realization from 12.11.2018. During the proceedings held on 08.12.2025, Ld. Counsel representing the Financial Creditor orally submitted that the fresh cause of action for filing the present application arose on 21.09.2022, when the OA no. 293/2019 titled *Central Bank of India and others v/s VIL Rohtak Jind Highway Private Limited and others* was decreed on 21.09.2022. The Recovery

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Certificate bearing TRC no.21 /23 was issued in favour the consortium banks including the Financial Creditor, and hence the date of default is 21.09.2022.

18. It is relevant to refer to the judgement of the Hon'ble Supreme Court in *Dena Bank (now Bank of Baroda) v C. Shivakumar Reddy and Anr, (Civil Appeal 1650 of 2020)* wherein the Hon'ble Supreme Court proceeded to hold that the Recovery Certificate in itself gave a fresh cause of action to the Bank to institute proceedings under Section 7 of IBC. The relevant part of the said judgement is reproduced herein below: -

“To sum up, in our considered opinion an application under Section 7 of the IBC would not be barred by limitation, on the ground that it had been filed beyond a period of three years from the date of declaration of the loan account of the Corporate Debtor as NPA, if there were an acknowledgement of the debt by the Corporate Debtor before expiry of the period of limitation of three years, in which case the period of limitation would get extended by a further period of three years.

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 of the IBC for initiation

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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 Debtor, under the judgment and/or decree and/or in terms of the Certificate of Recovery, or any part thereof remained unpaid.”

19. The Applicant further filed a written submission dated 08.12.2025 wherein they have also relied on the judgement passed by the Hon'ble Supreme Court of India in *Civil Appeal No. 9198 OF 2019* titled *Sesh Nath Singh & Anr. Versus Baidyabati Sheoraphuli Co-Operative Bank Ltd and Anr.* on the point of the present application being within period of limitation.
20. In another landmark judgment in the case of *Tottempudi Salalith v. State Bank of India (2023), (2024) 1 SCC 24*, the Hon'ble Supreme Court again held that a Recovery Certificate (RC) from the DRT creates a fresh cause of action, the limitation period for initiating Corporate Insolvency Resolution Process (CIRP) under the IBC is three years from the date of issuing of the RC as governed by Article 137 (residuary) of the Limitation Act. Relevant part of this judgment is also reproduced as under;

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“11. ...Moreover, it has been held by this Court in *Kotak Mahindra I (supra)* that **the recovery certificate itself would give rise to a fresh cause of action entitling a financial creditor to initiate Corporate Insolvency Resolution Process (CIRP). By this judgment, the right of the financial creditor to invoke the mechanism under the IBC after issue of recovery certificate stood acknowledged as a valid legal course.** This Court, in that case also dealt with the question of instituting a CIRP on the strength of recovery certificate. Needless to add, such recovery certificate arose out of a proceeding from the DRT. The enforcement mechanism for a recovery certificate is an independent course, which a financial creditor may opt for realisation of its dues crystallised under the 1993 Act, instead of chasing the mechanism under the 1993 Act. The IBC itself is not really a debt recovery mechanism but a mechanism for revival of a company fallen in debt, but the procedure envisaged in the IBC substantially relates to ensuring recovery of debts in the process of applying such mechanism. The question of election between the fora for enforcement of debt under the 1993 Act and initiation of CIRP under the IBC arises only after a recovery certificate is issued. The reliefs under the two statutes are different and once CIRP results in declaration of moratorium, the enforcement mechanism under the 1993 Act or the SARFAESI Act gets suspended. In such circumstances, after issue of recovery certificate, the financial creditor ought to have option for enforcing recovery through a new forum instead of sticking on to the mechanism through which recovery certificate was issued.”

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21. The Corporate Debtor and Corporate Guarantor continued the default and neither deposited the outstanding amount nor settled the accounts even after issuance of the recovery certificate. Hence, there is no ambiguity with regards to date of default and resulting limitation period. Accordingly, the filing of the present application on 11-09-2024 falls within the prescribed period of limitation of three years under Article 137 of the Limitation Act, 1963 from the date when the OA no. 293/2019 was decreed i.e. on 21.09.2022. The argument of the Respondent that order passed by the DRT is *ex-parte*, shall not be of much importance after Recovery Certificate is issued consequent to that order of DRT, and recovery against the Corporate Debtor is initiated and also not stayed by any higher judiciary authority as is the fact in the present case. Therefore, taking the limitation started running a fresh from the date of issuance of the Recovery Certificate, the present Application is found to have been filed within limitation period.

Whether there are a financial debt and a default within the meaning of the I&B Code, 2016?

22. On the facts of the present case, the Corporate Debtor approached the Consortium consisting of Central Bank of India, Union Bank of India, Vijaya Bank, Dena Bank and Corporation Bank (now merged with Union Bank of India) with Central Bank of India as the lead bank to part

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finance the project with estimated cost of Rs. 4,10,86,00,000/-. The Consortium pursuant to the request of the Corporate Debtor, agreed to grant credit facility not exceeding Rs. 2,70,00,00,000/- and the Financial Creditor on the request of the Corporate Debtor sanctioned, vide Letter bearing ref. no. PARLIA/ADV/2012-13 dated 19.12.2012, a term loan of Rs. 85 Crores (out of total consortium limits of Rs. 270 Crores) under the consortium arrangement for a period of 15 years including implementation period of 2 years, 1-year moratorium from Commercial Operation Date and repayment in 144 equal monthly instalments. The total amount of debt and the dates on which they were granted, has been provided in Annexure IA of the Application.

23. Pursuant to the said sanction order, the Corporate Debtor executed various loan documents including Common Loan Agreement dated 16.04.2013. VIL Limited Executed Corporate Guarantee dated 16.04.2018 in favour of the Security Trustee i.e. Cent bank Financial Services Limited for the benefit of the lenders.
24. Owing to delay in the completion of construction, the Respondent requested for change in Commercial Operation Date, by two years and extension of draw down & repayment schedule. However, NHAI refused to grant any extension of time to Respondent.

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25. However, the Corporate Debtor and Corporate Guarantor continued to make defaults in payment of their obligations to the consortium lenders, including the Financial Creditor. Consequently, the account of the Corporate Debtor with the Financial Creditor was declared Non-Performing Asset (NPA) on 30.01.2017. Thereafter, a legal notice dated 17.11.2018 was sent by the consortium Banks including the Financial Creditor, calling upon the Corporate Debtor and the Corporate Guarantor to pay the respective amounts due to the consortium banks and invoking the guarantee issued by VIL Limited.
26. Since the Corporate Debtor and the Corporate Guarantor failed to clear the dues payable to the Financial Creditor, an OA no. 293/2019 was filed by the consortium Banks for total recovery of Rs. 1,65,84,64,662.28/- as on 11.12.2018 along with pendent lite and future interest. The claim of the Financial Creditor as on 11.12.2018 was Rs. 55,00,63,352/- along with pendent lite. On notice, the Respondent appeared, but failed to file a written statement, despite opportunities and also failed to appear before the Ld. DRT-II Delhi. Accordingly, the Respondent was proceeded ex-parte, vide order dated 27.07.2022 of the Tribunal. As discussed above, the OA no. 293/2019 was decreed on 21.09.2022 was issued in favour of the consortium banks including the Financial Creditor. The Financial

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Creditor has received Rs. 43,15,612/- up to 30.09.2022 from the liquidation process of VIL Limited.

27. Further, Part IV provides the total outstanding amount as on 05.07.2024 Rs. 106,50,69,824/- and also the CRILIC Report annexed as Annexure IE dated 20.07.2024 reflects the status that fairly establishes the 'default' in payment of debt. Moreover, the Respondent has not presented any document in the reply that reflects repayment of outstanding amount to the Financial Creditor.
28. In the present case, there is no tripartite agreement between NHAI, Financial Creditor and Corporate Debtor and there is only a Concession Agreement dated 07.03.2012 between NHAI and Corporate Debtor, which was made to facilitate the execution of work of making highway by the Corporate Debtor in the supervision of NHAI and by its nature, has no effect on occurrence of a default in repayment of loan by the Corporate Debtor as envisaged under Section 7 of the Code. Since, Section 7 of the IBC only provides for Financial Creditor and Corporate Debtor to be parties, the role of NHAI is rendered irrelevant in the present matter. As per Section 7, a financial creditor may either by itself or jointly with other financial creditors, as may be notified by the Government, file an application for initiation of the corporate insolvency resolution process against of a corporate debtor before the Adjudicating

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Authority, when a default has occurred. The trigger point for an application under Section 7 of the IBC is the occurrence of a default. Any difficulty in repayment of loan explained by the Corporate Debtor has no bearing on application filed under Section 7 of the Code. As also observed in *Innoventive Industries Limited v. ICICI Bank and Another (CIVIL APPEAL NOS. 8337-8338 OF 2017)*, the scheme of the IBC is to ensure that when a default takes place, in the sense that the debt becomes due and is not paid, the insolvency resolution process begins. Default is defined in Section 3(12) in very wide terms as being defined to be non-payment of a debt, once it becomes due and payable, which includes non-payment of even part thereof or an instalment amount.

29. As regards the argument taken by the Corporate Debtor in the reply that NHAI is a necessary and proper party in the present proceedings, and without taking into account their role in respect of default committed by the Corporate Debtor in not being able to repay the debt, the present Application cannot be adjudicated upon, we have given a careful consideration to this argument also. However, we find that it is well settled by Hon'ble NCLAT in the case of *Vekas Kumar Garg Vs. DMI Finance Pvt. Ltd. & Anr. (Company Appeal (AT) (Insolvency) No. 113 of 2021)* that in an application under Section 7 of the IBC, the Financial Creditor and the Corporate Debtor alone are the necessary parties and no

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third-party intervention is contemplated at the admission stage. The relevant paragraph is reproduced hereunder:

“3. ...In an application under Section 7, the Financial Creditor and the Corporate Debtor alone are the necessary party and the Adjudicating Authority is, at the pre-admission stage, only required to satisfy itself that there is a financial debt in respect whereof the Corporate Debtor has committed a default warranting triggering of CIRP. The Adjudicating Authority is required to satisfy itself in regard to there being a financial debt and default thereof on the part of the Corporate Debtor besides the application being complete as mandated under Section 7(5) of the 'I&B Code' and then pass an order of admission or rejection on merit as mandated under sub-section (4) of Section 7 within 14 days.”

30. Having placed reliance on the above judgment, we are of considered opinion that there is no need of impleading NHAI at the stage of considering the present Application under section 7. We only have to see the aspect of “debt” and “default” as held in ***Innoventive Industries Limited (supra.)***. 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

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that it is payable at some future date. It is only when this is proved to the satisfaction of the Adjudicating Authority whether default has occurred or not that the Adjudicating Authority may admit or otherwise reject application.

31. In this case, the Financial Creditor has also furnished the NeSL certificate issued in Form D in which the debt in default has been authenticated. The same is reproduced as under: -

**FORM D
RECORD OF DEFAULT(RoD)**

(Issued By information utility under sub- regulation (4) of regulation 21 of the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017)

This Record of Default is issued to the Financial Creditor M/s CENTRAL BANK OF INDIA in respect of the default of debt as per details given below-

| | |
|---|---|
| (a) Name of the Submitter: | M/s CENTRAL BANK OF INDIA |
| (b) Schedule-2 Bank (Y/N): | Y |
| (c) Name of Corporate Debtor: | M/s VIL ROHTAK JIND HIGHWAY PRIVATE LTD |
| (d) Unique Debt Identifier Number: | AAACC2498P_3301093006 |
| (e) Registered Address: | Chandermukhi Nariman point,mumbai |
| (f) Total Outstanding Amount: | 421246383.00 |
| (g) Default Amount: | 421246383.00 |
| (h) Date of Default: | 30-01-2017 |
| (i) Status of Authentication of Default: | AUTHENTICATED |
| (j) Date of Last Acknowledgement of Debt (AoD): | Not Available |

| Filing of Default(Submission ID No.) | Submitted on | Status of Authentication(Authenticated/Disputed/Deemed to be authenticated) | Authentication completed on |
|--------------------------------------|------------------------|---|-----------------------------|
| (10) | 01-02-2024 17:49:21 | *AUTHENTICATED Colour Code :GREEN | 18-02-2024 00:06:35 |

NeSL is authorized to issue this record of default and has accordingly affixed its digital signature, as per the provisions of the Insolvency and Bankruptcy Code, 2016 read with Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017, Guidelines for Technical Standards for Performance of Core Services and Other Services and the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2017.



32. Thus, based on the record maintained at the Information Utility i.e. NeSL, the debt and default in this case have been fully established and leaves no room for ambiguity for there being a “debt” and “default” in the present case.
33. Thus, in view of the aforesaid analysis, the Applicant / Financial Creditor has proved that there are ‘debt’ and a ‘default’ on the part of the Corporate Debtor and such default is still continuing and the amount of debt in default is more than the threshold limit of Rs. 1 crore and the application is complete in all respect, and a Resolution Professional is also proposed. Hence, as per Section 7(5) of IBC, 2016, the present application is found to be fulfilling all the conditions for admissions of the Application and initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor i.e. VIL Rohtak Jind Highway Private Limited.
34. Accordingly, this Tribunal allow this application and order to initiate the Corporate Insolvency Resolution Process against the Respondent Corporate Debtor.
35. We note that the Financial Creditor has proposed the name of an Insolvency Professional in Part-III of the Application, named Mr. Umesh Garg to be appointed as Interim Resolution Professional (hereinafter referred as “*IRP*”) having Registration Number: IBBI/IPA-001/IP-

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P00135/2017-2018/10277, Email ID: umeshg60@gmail.com and address C-334, Pocket C, Sarita Vihar, National Capital Territory of Delhi, 110076. The IRP has duly given the consent in Form No. 2 dated 25.07.2024 annexed as Annexure- II with the Application. The Law Research Associate of this Tribunal, Mr. Sarim Husain, has checked the credentials of Mr. Umesh Garg, and found that there are no disciplinary proceedings pending against the proposed Insolvency Professional and also there is nothing adverse against him is reported or recorded. Upon verification from the website of IBBI, it is found that Insolvency Professional holds valid authorization till 31.12.2026. After considering these details, we appoint Mr. Umesh Garg having registration No. IBBI/IPA-001/IP-P00135/2017-2018/10277, as IRP.

36. Accordingly, this application is admitted u/s 7 of the Code, 2016, under the following terms and conditions.

- i.** The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating the Corporate Insolvency Resolution Process against the Corporate Debtor i.e., VIL Rohtak Jind Highway Private Limited is hereby admitted.
- ii.** We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.

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- iii. This Adjudicating Authority hereby appoints Mr. Umesh Garg to act as the IRP under Section 13(1)(c) of the Code as decided by us in para 27 above.
- iv. The IRP shall cause a public announcement for the initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor and call for the submission of claims under Section 15. 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.
- v. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 has commenced from the date of this order 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 (54 of 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.
- vi. Apart from above prohibitions in respect of the corporate debtor, it is further directed that 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.
- vii. The provisions of Section 14(3) shall, however, not apply to such transactions 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 a corporate debtor.
- viii. The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under subsection (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33 as the case may be.
- ix. The IRP is directed to take steps as mandated under section 13 and 15 of the IBC for making public announcement about the commencement of CIRP against the Corporate Debtor and moratorium against it, u/s 14, and also take necessary actions as per sections 17, 18, 20 and 21 of IBC, 2016.
- x. The IRP shall after collation of all the claims received against the Corporate Debtor and the determination of the financial position of the Corporate Debtor and to constitute a Committee of Creditors (hereinafter referred as “**COC**”) and shall file a report certifying the constitution of the COC to this Tribunal on or before the expiry of thirty days from the date of his appointment, and



shall convene the first meeting of the COC within seven days of filing the report of the constitution of the COC.

- xi.** The COC in its first meeting shall appoint a Resolution Professional (hereinafter referred as “**RP**”) as per the provision of section 22(2) and file an application before this Tribunal for confirmation of the appointment of the RP.
- xii.** The Suspended Board of Directors of the corporate debtor is directed to give to IRP/RP complete access to the Books of Accounts of the corporate debtor maintained under section 128 of the Companies Act. In case, the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the IRP/RP all the information regarding maintaining the Backup and regarding service provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the service provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case, accounting software for maintaining the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs.
- xiii.** The Statutory Auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and Assurance Standards Board ICAI.

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- xiv.** The IRP/RP is directed to take custody and control of all the records of information relating to assets of the Corporate Debtor, its Books of Account in physical form or the computer systems storing the electronic records at the earliest in accordance with the provision of Regulation 3A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as “CIRP Regulations, 2016”).
- xv.** The Financial Creditor shall also provide necessary assistance to IRP/RP in obtaining the necessary information about the Corporate Debtor as envisaged in Regulation 4(3) of the CIRP Regulations, 2016.
- xvi.** In case of any non-cooperation by the Suspended Board of Directors or the Statutory Auditors, IRP/RP may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/RP in implementing this order for the retrieval of relevant information from the systems of the corporate debtor.
- xvii.** The IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench/IBBI/MCA for this purpose.
- xviii.** The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances.
- xix.** The IRP/RP is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.



- xx.** The IRP/RP is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with requests for information/documents available with those authorities'/institutions/ others pertaining to the Corporate Debtor which would be relevant in the CIR proceedings.
- xxi.** The IRP/RP is directed to approach all the concerned Government Departments and authorities as discernible from the books of account of the Corporate Debtor requesting them to file claims if any amount is outstanding against the Corporate Debtor.
- xxii.** The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the IRP/RP to enable him to conduct the CIR Proceedings as per law.
- xxiii.** The IRP/RP shall collate the data obtained from (a) the claim(s) made before it and (b) information gathered from the records including those maintained by the Corporate Debtor.
- xxiv.** The IRP/RP is further directed to send regular progress reports to this Tribunal every month.
- xxv.** We direct the Financial Creditor to deposit a sum of Rs. 2,00,000/- with the Interim Resolution Professional, to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The amount, however, is subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional on the conclusion of CIRP.



37. A certified copy of the order shall be communicated to both the Applicant Financial Creditor and the Respondent Corporate Debtor. The learned counsel for the Applicant Financial Creditor shall deliver a certified copy of this order to the IRP forthwith. The Registry is also directed to send a certified copy of this order to the IRP at his e-mail address forthwith.
38. List CP (IB) 142/ALD/2024 on 14.01.2026 for filing of the progress report/further proceeding.

-Sd-
(Ashish Verma)
Member (Technical)

-Sd-
(Praveen Gupta)
Member (Judicial)

Date: 16.12.2025