

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

C.P.(IB)-206 (MB)/C-III/2024

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

In the matter of

Pegasus Assets Reconstruction Private Limited

Having Registered Address at:

507, Dalamal House, Jamnalal Bajaj Marg,
Nariman Point, Mumbai- 400021,
Maharashtra

Having Corporate office at:

55-56, 5th Floor, Free Press House,
Nariman Point, Mumbai-400021,
Maharashtra

....Financial Creditor/Petitioner

Vs

Deenox Poly-Yarn Private Limited

Having Address at:

10/12, Vithoba Lane, 1st Floor, Vithalwadi,
Mumbai- 400002

.... Corporate Debtor/Respondent

Order Pronounced on: 12.12.2025

CORAM:

SMT. LAKSHMI GURUNG, MEMBER (JUDICIAL)

SHRI HARIHARAN NEELAKANTA IYER, MEMBER (TECHNICAL)

APPEARANCES:

For the Financial Creditor:

Adv. Shyam Kapadia(VC) a/w Adv. Nikita
Abhyankar, Adv. Aditi Chandwani i/b
Gravitas Legal

For the Corporate Debtor:

Adv. Manoj Kumar Mishra (PH) i/b Mishra
Legals



Per: Smt. Lakshmi Gurung, Member (Judicial)

1. The Present Company Petition has been filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (**'IBC'/ 'Code'**) by Pegasus Assets Reconstruction Private Limited (**'Financial Creditor'/ 'Petitioner'**) for initiating Corporate Insolvency Resolution Process (**"CIRP"**) against Deenox Poly-Yarn private Limited (**"Corporate Debtor/Respondent"**) on account of default of Rs. 18,18,62,985.24 (Rupees Eighteen Crores Eighteen Lakhs Sixty-Two Thousand Nine Hundred Eighty-Five and Twenty-Four Paise only) as on 30.09.2023.

Brief Facts

2. The Corporate Debtor had originally availed a cash credit facility of Rs. 5,00,00,000/- with interest at the rate of 13.50% per annum from DNS Bank (**'Original Lender'**) vide Sanction letter dated 26.02.2014. The Sanction Letter dated 26.02.2014 is annexed to the Petition as *Exhibit C*. The said cash credit facility was renewed from time to time and last Sanction Letter for renewal of the credit facility dated 13.03.2018 is annexed to the petition as *Exhibit D*.
3. The original lender also sanctioned a Flexi Term Loan for Rs. 4,10,00,000/- and a Funded Interest Term Loan for Rs. 55,00,000/- to the Corporate Debtor, vide Sanction Letter dated 28.03.2018. The said Sanction Letter dated 28.03.2018 is annexed to the Petition as *Exhibit E*.
4. As the corporate debtor, after availing the said credit facilities, committed default in repayment of the loan, the corporate debtor's loan account was classified as Non-Performing Asset (NPA) on 30.07.2018.
5. The original lender, vide a registered Assignment of Debt Agreement dated 31.12.2020, assigned the Corporate Debtor's outstanding debt, including all underlying securities, pledges and guarantees, to the Financial Creditor. The said registered Assignment Agreement dated 31.12.2020 is annexed to the Petition as *Exhibit T*. Thus the Financial Creditor has



entered into the shoes of DNS Bank and entitled to receive repayment of loan amount from the corporate debtor.

6. The Financial Creditor has annexed the audited financial statements for FY 2018-19, 2019-20 and 2020-21 to the petition as *Exhibit H*, *Exhibit I* and *Exhibit J*, respectively wherein the loan availed by the corporate debtor from DNS Bank is reflected and not denied by the corporate debtor.

Submissions of the Financial Creditor

7. It is submitted that the Assignment Agreement grants the Financial Creditor exclusive rights to collect any money in respect of debt assigned to it including the right to enforce security interests, pledges and guarantees. Further Financial Creditor is the only person legally entitled to recover and receive all amounts due in respect of debt assigned to it by the DNS Bank.
8. It is further submitted that the loan availed by the corporate debtor is reflected in the audited financial statement of the corporate debtor which is an acknowledgement of the debt by the corporate debtor. The corporate debtor has acknowledgement of debt in the balance sheet as at 31.03.2021.

Corporate Debtor's Submission:

9. In its reply dated 08.08.2024, the Corporate Debtor has taken following defense:
 - i. The Company Petition has not been properly instituted as it is signed by Mr. Jayachandran G. whose authorization has not been annexed.
 - ii. The loan agreements are neither registered under the Indian Registration Act nor adequately stamped as per the Maharashtra Stamp Act, 1958 and are inadmissible as evidence and cannot be relied upon by this Tribunal.
 - iii. The NESL certificates submitted by the Financial Creditor are



incorrect which is evident from the Financial Creditor's documents showing conflicting default dates - initially 31.03.2018, later revised to 30.07.2018. The Corporate Debtor has annexed the legal notice dated 07.03.2024 issued by the Financial Creditor under section 13(2) of SARFAESI Act, to the Corporate Debtor, for repayment of outstanding amount of Rs. 19,22,64,543/- inclusive of interest upto 29.02.2024 and mentions that the account of the Borrower has been classified as "Non-Performing Asset" on 31.03.2018.

- iv. Authorization of the Insolvency Professional proposed by the Financial Creditor is invalid.
- v. There is non-compliance in producing the affidavit as required under Section 65(B) of the Evidence Act, 1872, for verifying the computer-generated documents or books of ledger.
- vi. There is a non-compliance with the requirement to file certified copies as prescribed under Clause (c) of Section 2 of the Bankers' Books Evidence Act, 1891.
- vii. Non-compliance with Rule 4(3) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, which mandates that every petition filed under Section 7 of the Code must be served on the Insolvency and Bankruptcy Board of India prior to submission to this Hon'ble Tribunal.
- viii. The Corporate Debtor had sought restructuring and was willing to settle dues, but the Financial Creditor has wrongly initiated Section 7 proceedings for debt recovery against a solvent, ongoing company. The Financial Creditor has illegally purported to levy penal interest with the mala fide motive of initiating CIRP, and the present petition is hit by section 65 of the Code. This petition is a misuse of the Tribunal's process, filed for purposes other than insolvency resolution, and is legally impermissible. Reliance is placed on Hon'ble Supreme Court judgement in **Vidarbha Industries Power**



Ltd. Vs Axis Bank Ltd.. (2022) 8 SCC 352 and Hon'ble NCLAT judgement in **Anita Jindal vs. Jindal Buildtech Pvt. Ltd. [Company Appeal (AT) (Ins.) No. 512 of 2012.**

Submissions of the Financial Creditor in Rejoinder

10. Dealing with the corporate debtor's objections, the financial creditor in rejoinder dated 11.09.2024 has submitted as follows:
 - i. The Company Petition was signed by Mr. Jaychandran, who is duly authorized by a Board Resolution dated 02.08.2018. Subsequently, by a Board Resolution dated 12.12.2023, Ms. Deepa Murthy, was also authorized to sign all pleadings and documents pertaining to the present matter. The said Board Resolutions dated 02.08.2018 and 12.12.2023 are annexed to the rejoinder.
 - ii. With regard to the objection on stamping, the Financial Creditor has placed reliance on NCLAT judgment in **Hiten Meghji Bharani vs. Shankheshwar Properties Pvt. Ltd. . (Company Appeal (AT) (Insolvency) No.446 of 2023** which relies on the 7-Judge Bench ruling of the Hon'ble Supreme Court in Curative Petition (C) No. 44 of 2023 in Review Petition (C) No. 704 of 2021 in Civil Appeal No. 1599 of 2020 in the case **In Re: Interplay Between Arbitration Agreements and the Indian Stamp Act.**
 - iii. The Corporate Debtor's reliance on typographical errors is denied, as these were rectified and explained in the Financial Creditor's Additional Affidavit dated 17.06.2024. The Corporate Debtor's own email dated 16.02.2024 admits that the account was declared NPA on 29.07.2018, supporting the Financial Creditor's default date of as 30.07.2018 and not 31.03.2018.
 - iv. The Company Petition was e-filed around October 12, 2023, when the proposed Interim Resolution Professional's Authorization for Appointment (AFA) was valid. The AFA is renewed annually, and the



proposed IRP currently holds a renewed AFA. A copy of the valid AFA is annexed as *Exhibit "D"*.

- v. Certificate under Section 65B(4) is mandatory solely for the admission of electronic evidence. However, since the admission of a Company Petition is a summary proceeding and not a trial, the issue of such certification does not arise in this matter. The Financial Creditor has relied on the judgement of Hon'ble Supreme Court in *State of Karnataka v. M.R. Hiremath (2019)*; *Anwar PV v. PK Basheer* and *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal (2020)*.
- vi. The Certificate of record of default issued by NeSL is part of the pleadings as an evidence of default by the corporate debtor.
- vii. The Corporate Debtor, by its own admission (email dated 16.02.2024, *Exhibit B*), acknowledged financial distress and sought settlement of dues. This is further supported by its Balance Sheets and Books of Account which provide evidentiary proof of financial distress of the corporate debtor. The Corporate Debtor's audited financial statements show downward trend. Profits declined from Rs.18,84,393/- in FY 2016-17 to Rs. 6,21,626/- in FY 2017-18, followed by consistent losses of Rs 3,18,84,148/- in FY 2018-19 and Rs. 3,80,52,173/- in FY 2020-21. They clearly reflect the financial stress of the Corporate Debtor, warranting consideration for insolvency resolution. Therefore, the corporate debtor must be admitted to insolvency proceedings.

Additional Affidavit by the Corporate Debtor:

11. The Corporate Debtor has filed Additional affidavit dated 08.04.2025 submitting that:
 - i. The Financial Creditor has additionally filed Company Petition No. 141 of 2024 under Section 7 of the IBC against Dec Plone Polyester Pvt. Ltd., a group entity of the Corporate Debtor, seeking recovery of



₹37,35,74,442.07/- which is pending before Court Room No. 2 of this Hon'ble Tribunal.

- ii. The Corporate Debtor has actively sought to resolve the matter and submitted One-Time Settlement proposal dated 07.04.2025 to the Financial Creditor. The said proposal is annexed as *Exhibit A*.

Analysis & Findings

12. Heard the Ld. counsel for the parties and perused the record.
13. This Tribunal, vide order dated 24.10.2024, had notified the petitioner the defects in the application and had granted liberty to rectify the same within seven days in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016. The Petitioner filed the rectified petition after duly serving the Respondent on 01.11.2024. The hard copy of the same was submitted with covering letter on 30.06.2025.
14. From the reply of the corporate debtor, it is seen that the corporate debtor has not denied the credit facility availed by it from the original lender. It has merely taken certain technical objections.
15. The corporate debtor has also not denied the factum of default committed by it in making the repayment. The Corporate Debtor has, in its Audited Financial Statement for the financial years 2018-19, 2019-20 and 2020-2021, acknowledged its liability under the credit facilities availed from DNS Bank (original lender).
16. The debt of the Corporate Debtor in respect to credit facilities along with security interests including guarantees was assigned by the original lender to the Financial Creditor vide a registered Assignment of Debt Agreement dated 31.12.2020. The said Assignment of Debt Agreement dated 31.12.2020 is annexed to the petition as *Exhibit T*.



17. It is noticed that vide an email dated 16.02.2024 addressed to the financial creditor, the corporate debtor has acknowledged the dues in respect of money borrowed from the original lender and has thus acknowledged the factum of debt assignment from the original lender to the financial creditor. The corporate debtor also acknowledged the liabilities and admitted that it failed to follow the banking norms due to which its loan account was classified as NPA on 29.07.2018 and further admitted that the corporate debtor is stuck in worst situations and due to a huge slake in industries there is no buyer or any financier to settle the matter. The said email dated 16.02.2024 is annexed to the petition as *Exhibit R*.
18. The first technical objection by the corporate debtor is regarding petition being not properly instituted as the same is not supported by an authority letter. In response, the financial creditor has annexed board resolution dated 02.08.2018 duly authorizing Mr. Jaychandran to sign the petition and subsequent board resolution dated 12.12.2023 authorising Ms. Deepa Murthy to sign all documents pertaining to present proceedings. Therefore, the objection of the corporate debtor is not sustainable and is rejected.
19. The objection of the corporate debtor regarding inadequate stamping on the loan documents loses its force in view of the various other documents which prove the loan availed by the corporate debtor. In the present case even if loan documents are ignored there are enough evidence to establish the debt availed by the corporate debtor by their own acknowledgement in the audited balance sheets and OTS proposal dated 07.04.2025.
20. With reference to the objection of different date of default mentioned in the petition, notice dated 07.03.2024 under section 13(2) of SARFESI Act, 2002 and NeSL certificate, we have examined the documents and note that the date of default mentioned in the petition is 30.07.2018 and the date of default mentioned in the record of default issued by Information Utility i.e., NeSL is also 30.07.2018. The Financial Creditor has annexed three Records of Default in Form D for each credit facility issued by NeSL.



(a) certified copy of entries in the relevant account in the bankers' book as defined in clause (3) of section 2 of the Bankers' Books Evidence Act, 1891 (18 of 1891);"

It is thus clear that filing of certificate under Section 2(3) of the Banker Book Evidence Act is only one of the requirements under the Code and the financial creditor may furnish. As the certificate under Banker Book Evidence Act is optional on the part of the financial creditor, the objection of the corporate debtor is rejected.

23. Corporate Debtor has not challenged the existence of financial debt or occurrence of default. Instead, it has raised only technical objections, such as non-compliance with Section 65B of the Evidence Act, 1872, and non-submission of certified copies under the Bankers' Books Evidence Act. However, in view of the primary documents, namely the Corporate Debtor's own audited balance sheet and the OTS proposal dated 07.04.2025, the debt and default is clearly established, which satisfies the requirement under section 7 of the Code.
24. Contention was also raised by the Corporate Debtor that the petition has been filed fraudulently and/or maliciously under Section 65 of the Code, illegally purported to levy usurious penal interest with the mala fide motive to initiate CIRP. However, we note that Sanction Letter clearly mentions the interest rate which is agreed by the corporate debtor with its eyes wide open and having considered the commercial exigencies for borrowing funds. Therefore, we are not persuaded to accept the argument of the Corporate Debtor.
25. In view of the settled law all the objections raised by the Corporate Debtor are untenable and are hereby rejected.
26. The financial creditor has served the copy of captioned petition to the corporate debtor vide email dated 11.01.2024 at associates.kanungo@gmail.com.
27. Pursuant to Order dated 11.09.2025, the Financial Creditor has filed



In all three certificates, the status of default is “**DEEMED TO BE AUTHENTICATED**”; the date of default is mentioned as 30.07.2018 and the default amount is Rs.11,58,66,073.00, Rs. 7,72,44,437.00 and Rs. 34,82,594.00 respectively. Moreover, Section 7(3)(a) of the Code provides:

“3) *The financial creditor shall, along with the application furnish—*

(a) record of the default recorded with the information utility or such other record or evidence of default as may be specified;

Thus, as per Section 7(3)(a) the record of default recorded with the information utility shall be evidence of record. As the record of default recorded with NeSL shows date of default as 30.07.2018. Therefore, we do not find any inconsistency in the date of default mentioned in the petition viz-a-viz the record of default mentioned by NeSL.

21. The Corporate Debtor submits that there is non-compliance in producing the affidavit as required under Section 65(B) of the Evidence Act, 1872, for verifying the computer-generated documents or books of ledger. We are also of the view that even if we disregard the ledger book annexed by the Financial Creditor, the debt and default is still established by way of acknowledgement of loan in the audited balance sheet for financial year 2020-21 of the corporate debtor as well as the OTS proposal dated 07.04.2025 submitted by the corporate debtor to the financial creditor. Thus the objection regarding section 65B of the Evidence Act,1872 does not advance the case of the Corporate Debtor.
22. The contention of the corporate debtor that there is non-compliance with the requirement of certificate under Bankers Book Evidence Act, 1891 cannot be sustained as per Regulation 2A of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, (**CIRP Regulations**). Rule 2A (a) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 reads as:

“For the purposes of clause (a) of sub-section (3) of section 7 of the Code, the financial creditor **may furnish any of the following** record or evidence of default, namely:-



additional affidavit dated 06.10.2025, placing on record Form 1A (IAAA) as an evidence that copy of the application for initiation of the CIRP has been served upon IBBI on 07.12.2024.

28. In the present case, the date of default is 31.07.2018. The limitation period gets extended on account of the yearly acknowledgement by the corporate debtor in its audited balance sheet of 2018-19, 2019-20 and 2020-21. The petition was filed on 12.10.2023 which is within limitation.
29. The petitioner has established debt and default and the outstanding financial debt is of more than rupees one crore which meets the threshold limit as per section 4 of the Code. The application is complete in terms of Section 7 of the Code.
30. We refer to the decision of Hon'ble Supreme Court in ***Innovative Industries Limited vs. ICICI Bank and Anr [(2018) 1 SCC 407]*** wherein it was held as follows:

28. ... The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days' receipt of a notice from the adjudicating authority.

30.....On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e. Payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the



satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.”

31. Given the facts and circumstances of the case and discussions hereinabove, the Company Petition bearing no.206 of 2024 is **admitted** and ordered as follows:

ORDER

- i. The above Company Petition No. (IB) 206 (MB)/2024 is hereby **admitted** and commencement of Corporate Insolvency Resolution Process (CIRP) is ordered against Deenox Poly-Yarn Private Limited.
- ii. The Petitioner has proposed the name of **Mr. Anuj Bajpai** Registration No. IBBI/IPA-001/IP-P00311/2017-18/10575 having AFA valid upto 31.12.2025 to be appointed as an Interim Resolution Professional (IRP) of the Corporate Debtor. The proposed IRP has filed his Written Communication dated 09.10.2023 in Form 2 as required under Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Accordingly, we appoint Mr. Anuj Bajpai as the Interim Resolution Professional (IRP) (email id: anuj19603@yahoo.co.in) to carry out the functions as per the Insolvency & Bankruptcy Code, 2016.
- iii. The Financial Creditor shall deposit an amount of Rs. 5,00,000/- towards the initial CIRP cost by way of a Demand Draft drawn in favor of the Interim Resolution Professional (IRP) appointed herein, immediately upon communication of this Order.
- iv. There shall be a moratorium under section 14 of the Code prohibiting the following:
 - a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of



any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

- b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- v. The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- vi. The provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vii. The order of moratorium shall have effect from the date of pronouncement of this order till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under sub-section (1) of section 31 or passes an order for Liquidation of Corporate Debtor under section 33, as the case may be.
- viii. The public announcement of the Corporate Insolvency Resolution process shall be made immediately as specified under section 13 of the Code.



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

Sd/-

HARIHARAN NEELAKANTA IYER
MEMBER (TECHNICAL)

/Saloni, LRA/



Sd/-

LAKSHMI GURUNG
MEMBER (JUDICIAL)

Certified True Copy
Copy Issued "free of cost"
On 19.12.2025
R. H. Gurung
Assistant Registrar
National Company Law Tribunal Mumbai Bench