



NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT II

Item No. 103
IA 5368/2025-
C.P.(IB)/873(MB)2024

CORAM

SHRI SANJIV DUTT
HON'BLE MEMBER (TECHNICAL)

SHRI ASHISH KALIA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **13.03.2026**

NAME OF THE PARTIES: **M/S. Twin City Urban CoOperative Credit Society
Ltd. Vs. Pandhe Constructions Private Limited**

Appearance:

For Applicant : Adv. Yahya Batawala

For Respondent : Adv Gautam Singhal appearing for Corporate Debtor
(VC)

IBC Under Sections 7

ORDER

IA 5368/2025- C.P.(IB)/873(MB)2024

The IA 5368/2025 is **allowed and disposed of** , and C.P. (IB) No. 976 (MB) of 2025 is **Admitted**. Detailed order shall follow.

Sd/-

SANJIV DUTT
MEMBER (TECHNICAL)

//Supriya//

Sd/-

ASHISH KALIA
MEMBER (JUDICIAL)



ORDER***[PER: CORAM]*****1. BACKGROUND**

- 1.1 This Company Petition bearing C.P. (IB) No.873/MB/2024 (hereinafter referred to as “the Application”) was filed on 17.05.2025 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as “the AAA Rules”) by **M/S. Twin City Urban Co-Operative Credit Society Ltd**, the Financial Creditor (hereinafter referred to as “the Financial Creditor”), through **Ms. Dipmala Shankar Jadhav**, working as Manager of the Financial Creditor, authorized vide Board Resolution dated 22.11.2023, for initiating Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) in respect of **Pandhe Constructions PVT. LTD** (hereinafter referred to as “the Corporate Debtor”).
- 1.2 The total amount claimed to be in default Rs.1,63,32,667/- (Rupees One Crore Sixty-Three Lakhs Thirty-Two Thousand Six Hundred and Sixty-Seven only) including principal debt of Rs.90,00,000/- along with interest of Rs.73,32,667/- up to 30.04.2025.
- 1.3 The date of default as mentioned in Part-IV of the Application is 30.05.2019, i.e., the date on which the Corporate Debtor defaulted in the payment of the aforementioned loans but later the Corporate Debtor acknowledged the debt through revival letter dated 31.03.2023. Since the Corporate Debtor defaulted in payment of its outstanding dues, the Financial Creditor prays that CIRP may be initiated in respect of the Corporate Debtor under Section 7 of the Code.

2. AVERMENTS OF FINANCIAL CREDITOR



- 2.1 In the year 2018, the Corporate Debtor and the guarantors became the member of the Financial Creditor. Later the Financial Creditor sanctioned a short/medium/term property loan limit/instalment loan of Rs. 65,00,000/- vide sanction letter dated 20.10.2018. After availing the said credit facility, the Corporate Debtor again approached the Financial Creditor with a request for enhancement of the said credit facility to Rs. 90,00,000/- vide its request application form dated 01.04.2019. The Financial Creditor submitted the documents pertaining to the Revised Sanction letter by filing IA 5368 OF 2025 filed on 18.11.2025. After considering the request, the Financial Creditor approved the request vide approval letter dated 02.04.2019 subject to revised application along with Guarantee Deeds and Promissory Notes. Accordingly, the required documents were executed and the credit facility was enhanced on 03.04.2019
- 2.2 Pursuant to the sanction of the aforesaid loan, the Corporate Debtor executed various financing and security documents in favour of the Financial Creditor, including Facility Agreements, Promissory Notes and Guarantee Deeds.
- 2.3 The Corporate Debtor availed and utilized the aforesaid credit facilities and acknowledged its liability from time to time, including by way of Acknowledging the debt by way of Revival Letter dated 31.03.2023. However, the Corporate Debtor failed to adhere to the repayment obligations as per the agreed terms and committed default in repayment of the loan facilities on 30.05.2019.
- 2.4 Pursuant to the said default, the Financial Creditor sent the Loan Recall Notice dated 27.05.2023 to the Corporate Debtor and its guarantors calling upon them to repay, jointly and severally the total outstanding amount. Despite receipt of the aforesaid notices, the Corporate Debtor failed to make payment of the



outstanding amount.

- 2.5 The Financial Creditor has also placed on record the authenticated report of default dated 21.08.2024 issued by the Information Utility (NeSL), thereby further substantiating the occurrence of default on the part of the Corporate Debtor.
- 2.6 Since the Corporate Debtor has failed to pay the aforesaid outstanding amount till date despite receipt of loan recall notices, the Financial Creditor prays that the present Application be allowed and CIRP may be initiated in respect of the Corporate Debtor.

3. CONTENTIONS OF CORPORATE DEBTOR

- 3.1 It is observed that the reply filed by the Corporate debtor is still under defect. The following are the brief contentions of the Corporate Debtor extracted from DMS.
- 3.2 The present Application filed under Section 7 of the Code is not maintainable in law or on facts and is liable to be dismissed at the threshold. The Financial Creditor has filed this Petition just to exert undue pressure on the Respondent Company. Such actions are contrary to the principles of fairness and equity and are an abuse of the process of law.
- 3.3 The Financial Creditor has filed this Petition with the intention to receive the alleged money and it is a settled law that the proceedings under the Code is not a recovery proceeding.
- 3.4 The Respondent Company categorically denies any allegations suggesting that it has willingly or intentionally sought to evade its responsibility to the repay the amounts due. It further submits that it is committed to its obligations but is constrained by prevailing financial difficulties that have impeded its ability to fulfill the repayment in a timely manner.
- 3.5 In view of the above, the present Application is filed just to recover the money and with an intention to exert undue pressure on the Respondent Company.



Accordingly, the present petition deserves to be dismissed.

4. REJOINDER OF FINANCIAL CREDITOR

- 4.1 It is wrong and denied that the present application under Section 7 of IBC, 2016 has been filed for default of Rs. 1,43,82,191/- as on 31.03.2023 or that the application is misconceived or has been filed with mala fide intention to coerce or arm twist the respondent. It is submitted that the application under Section 7 of IBC, 2016 has been filed against the Corporate Debtor with respect to the default of Rs. 1,63,32,667 /-due and payable as on 31.03.2024.
- 4.2 The credit facilities were initially sanctioned and subsequently reviewed and renewed from time to time. In particular, the Sanction Letter dated 28.11.2018 and the Revised Sanction Letter dated 03.04.2019 clearly record the sanctioned limits, applicable rate of interest, tenure and other material terms. The Corporate Debtor has accepted the said terms and availed the facilities thereunder without any demur.
- 4.3 The Financial Creditor has rebutted the Corporate Debtor's contention that the inability to repay the outstanding amount is purely due to the present financial distress and not due to any deliberate or dishonest intent on the part of the Respondent Company.

5. ANALYSIS AND FINDINGS

- 5.1 We have heard the Learned Counsel for the applicant and perused the materials available on record and upon careful consideration of the pleadings, documents placed on record and submissions advanced by the Learned Counsel for the Financial Creditor, the following issues arise for determination in the present case: (i) whether the Financial Creditor has established the existence of a financial debt and default in repayment thereof and (ii) whether the Petition filed is barred by



limitation or not.

- 5.2 As regards the debt and default, the Financial Creditor has furnished copies of duly executed Loan Agreements dated 28.11.2018, Sanction Letter dated 20.10.2018, Revised Sanction Letter dated 03.04.2019, Promissory Notes and Guarantee Deeds. The said documents clearly record the sanction of credit facilities, rate of interest, repayment obligations and security created by the Corporate Debtor. Further, the disbursement of the loan facilities stands duly established from the statement of accounts of the Corporate Debtor maintained by the Financial Creditor, which have been placed on record and duly certified under the provisions of the Bankers' Books Evidence Act, 1891. Thereafter, the Financial Creditor issued Recall Notice dated 27.05.2023 recalling the entire loan facilities.
- 5.3 The Financial Creditor has also placed on record the Record of Default issued by the Information Utility (NeSL) dated 21.08.2024, which is duly authenticated in accordance with the provisions of the Code. It is a settled position of law that at the stage of admission under Section 7 of the Insolvency and Bankruptcy Code, 2016, the Adjudicating Authority is required to examine whether a financial debt exists and whether default has occurred. In view of the documentary evidence including sanction documents, certified bank statements evidencing disbursement, recall notices and authenticated record of default, we are satisfied that the Financial Creditor has successfully established the existence of a legally enforceable financial debt and occurrence of default. Accordingly, Issue (i) is decided in favour of the Financial Creditor and against the Corporate Debtor.
- 5.4 As regards the issue of limitation, it is observed that the present Application has been filed on 17.05.2025, whereas the date of default, as mentioned in Part IV of the Application, is 31.05.2019, being the date on which the Corporate Debtor defaulted in repayment. It is observed from the record that the Corporate Debtor



has, from time to time, acknowledged and admitted its liability towards the Applicant by executing Balance Confirmation Letters/Revival Letters dated 31.03.2019, 31.03.2020, 31.03.2021, 31.03.2022, 31.03.2023 and 31.03.2024. In view of the continuous acknowledgment of debt, with the latest acknowledgment being on 31.03.2024 and present application having been filed on 17.05.2025, we are, of the considered view that the present Application has been filed within the prescribed period of limitation.

- 5.5 As regards the Corporate Debtor's plea of inability to repay debt due to financial constraints, it is well settled that inability to pay debt has no relevance for admitting or rejecting an application for initiation of CIRP under the Code. What has to be seen is not the inability to pay debt but the occurrence of default. The judgment of the Hon'ble Apex Court in **Swiss Ribbons Pvt. Ltd. Vs. Union of India (2019) 4 SCC 17** makes it clear that rather than the inability to pay debt, it is the determination of default that is relevant for allowing or disallowing an application filed under Sections 7, 9, or 10 of the Code. Thus, we hold that inability to pay debt cannot be treated as a valid defence in proceedings under section 7 of the Code and hence the plea taken up by the Corporate Debtor in this context is found to be legally untenable and is accordingly rejected.
- 5.6 Additionally, an **IA 5368 of 2025** was filed by the Financial creditor in order to file certain additional documents pertaining to Revised Sanction letter which are taken on record and hence the IA is **allowed and disposed of**.
- 5.7 The Financial Creditor, has proposed the name of **Mr. Brijendra Kumar Mishra** a registered Insolvency Professional having Registration Number- **IBBI/IPA-002/1P-N00109/2017-2018/10257** as the Interim Resolution Professional, to carry out the functions as mentioned under the Code. It has also provided valid AFA of the proposed IRP and given its written consent dated 22.04.2025, *inter*



alia, stating that no disciplinary proceedings are pending against them in the above mentioned IA.

5.8 In view of above discussions, we find that all pre-requisites of Section 7(5)(a) of the Code are fulfilled and, accordingly, we are satisfied that the instant Application is fit for admission under Section 7 of the Code.

ORDER


In the result, this Application bearing **C.P. (IB) No.873/MB/2024** under Section 7 of the Code read with Rule 4 of the AAA Rules, filed by the Applicant **M/S. Twin City Urban Co-Operative Credit Society Ltd**, the Financial Creditor, for initiating CIRP in respect of Respondent **Pandhe Constructions Private Limited**, the Corporate Debtor is **admitted**.


We further declare moratorium under Section 14 of the Code, with consequential directions as follows:

I. We prohibit-

- 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 Securitisation 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.

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- II. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Bench approves the resolution plan under section 31(1) of the Code or passes an order for the liquidation of the Corporate Debtor under section 33 thereof, as the case may be.
- III. Notwithstanding the above, during the period of moratorium: -
- (a) 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;
- (b) That the provisions of sub-section (1) of Section 14 of the Code shall not apply to-
- (i) Such transactions as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
- (ii) A surety in a contract of guarantee to a corporate debtor.
- IV. That the public announcement of the CIRP shall be made in immediately as specified under Section 13 of the Code read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.
- V. That this Bench hereby appoints **Mr. Brijendra Kumar Mishra**, a registered Insolvency Professional having **Registration No. IBBI/IPA-002/1P-N00109/2017-2018/10257** and **e-mail address mishrabk1959@gmail.com** and valid Authorisation for Assignment up to **31.12.2026** as the IRP to carry out the functions under the Code.
- VI. The fee payable to IRP/Resolution Professional (hereinafter referred to as "RP") shall be in accordance with the Regulations/Circulars issued by the



Insolvency and Bankruptcy Board of India (hereinafter referred to as “IBBI”).

- VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of Code. The officers and managers of the Corporate Debtor are directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. 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/RP within a period of one week from the date of receipt of this Order and shall not commit any offence punishable under Chapter VII of Part II of the Code. Coercive steps will follow against them under the provisions of the Code read with Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter referred to as “NCLT Rules”) for any violation of law.
- VIII. That the IRP/IP shall submit to this Tribunal periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.
- IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Financial Creditor is directed to deposit a sum of Rs.3,00,000/- (Three Lakh Rupees) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Financial Creditor on priority upon the funds becoming available with IRP/RP from the Committee of Creditors (hereinafter referred to as “CoC”). The expenses incurred by IRP out of this fund are subject to approval by the CoC.
- X. A copy of this Order be sent to the Registrar of Companies, Mumbai

Maharashtra, for updating the Master Data of the Corporate Debtor.

- XI. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.
- XII. Registry is directed to immediately communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by way of e-mail and WhatsApp.
- XIII. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-
SANJIV DUTT
MEMBER (TECHNICAL)

//LRA-Mukund Mandrawaliya//

Sd/-
ASHISH KALIA
MEMBER (JUDICIAL)