THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, Court-I, CHANDIGARH

CP (IB) No. 199/Chd/Pb/2024

(Application 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 CP (IB) No. 199/Chd/Pb/2024:

ALCHEMIST ASSET RECONSTRUCTION COMPANY LTD.
(AS TRUSTEE OF ALCHEMIST XL TRUST)
Regd. Office:
A-270, 1st and 2nd Floor, Defence Colony,
New Delhi - 110024
Through Jeevan Kumar, Senior Manager
Email: jeevan@alchemistarc.com
Phone#: +91 88828 47477

...Petitioner/Financial Creditor

Vs.

ANURAJ REAL ESTATES PVT. LTD.
Regd. Office:
C/O Sh. Mahesh Chander Sharman,
#250, Partap Nagar, Sodal Road,
Jalandhar City, Punjab
through its Managing Director
Email: spcon@hotmail.com
Through its Director/Authorised Representative

...Respondent/Corporate Debtor
Order delivered on: 18.11.2026

Coram: HON'BLE MR. KHETRABASI BISWAL, MEMBER (JUDICIAL)
HON'BLE SH. SHISHIR AGARWAL, MEMBER (TECHNICAL)

Present:-

For the Petitioner	:	Mr. Ashu Kansal, Advocate Mr. Nahush Jain, Advocate
For the Respondent	:	Mr. Pallav Saxena, Advocate

ORDER

1. The present petition has been filed on 30.07.2024 by M/s Alchemist Asset Reconstruction Company Limited as trustee of Alchemist XL Trust (hereinafter referred to as the **"Petitioner"** or **"Financial Creditor"**), under Section 7 of the Insolvency and Bankruptcy Code, 2016, (hereinafter referred to as the **"Code"** or **"IBC"**) *inter alia*, seeking to initiate Corporate Insolvency Resolution Process

(hereinafter referred to as the **"CIRP"**) against Anuraj Real Estates Private Limited (hereinafter referred to as the **"Respondent"** or **"Corporate Debtor"**), with consequential orders.

BRIEF FACTS:

2. Brief facts of the case, as averred in the Petition, which are relevant to adjudicate the issue involved in the case, are as follows:

2.1. The Petitioner, M/s Alchemist Asset Reconstruction Company Limited, acting as Trustee of Alchemist XL Trust, is an Asset Reconstruction Company incorporated on 19.09.2002 under the Companies Act, 1956 and further registered under the SARFAESI Act, 2002 as Dhir & Dhir Asset Reconstruction & Securitisation Co. Ltd. Subsequently, the name was changed to Alchemist Asset Reconstruction Co. Ltd. The present Petition has been instituted through its authorised representative, Mr. Jeevan Kumar, Senior Manager, pursuant to the Board Resolution dated 06.12.2023, annexed as Annexure A-3 to the Petition.

2.2. The Respondent, Anuraj Real Estates Private Limited, was incorporated on 17.06.2005, bearing CIN U70100PB2005PTC028567, and having its registered office at C/o Mahesh Chander Sharman, #250, Partap Nagar, Sodal Road, Jalandhar, Punjab. The Corporate Debtor approached Tourism Finance Corporation of India Limited (hereinafter referred to as "TFCI" or "Original Lender") for financial assistance for setting up a 90-room, four-star category hotel at Khovar, Sabra Road, NH-7, Rewa, Madhya Pradesh. Pursuant thereto, TFCI sanctioned a Rupee Term Loan of ₹17 crore vide Letter of Intent/Sanction Letter dated 04.08.2016 Annexed as Annexure A-19 to the Petition.

2.3. The Board of Directors of the Corporate Debtor approved the aforesaid borrowing and execution of the requisite loan and security documents. Accordingly, the Loan Agreement, Deed of Hypothecation, Agreement of Pledge of

Shares, Deed of Guarantee, Deed of Indemnity and other security documents were executed in favour of TFCI on 28.03.2017. The Corporate Debtor also created security over its immovable properties by depositing title deeds and executing the requisite mortgage documents, which were registered on 30.03.2017. The sanctioned term loan of ₹17 crore was disbursed in tranches between 31.03.2017 and 02.12.2022.

2.4. Subsequently, the Corporate Debtor availed further financial assistance under the Emergency Credit Line Guarantee Scheme (ECLGS). A term loan of ₹2.48 crore was sanctioned vide Letter of Intent/Sanction Letter dated 04.08.2020 for meeting interest during construction and cost escalation of the hotel project (Annexure A-30). The requisite loan and security documents were executed, and the sanctioned amount was disbursed in tranches between 22.10.2020 and 16.12.2020.

2.5. The Corporate Debtor again approached TFCI for financial assistance under the ECLGS in 2021, pursuant to which a term loan of ₹2.49 crore was sanctioned vide Letter of Intent/Sanction Letter dated 06.10.2021 for meeting interest during construction and cost escalation of the hotel project (Annexure A-36). The requisite loan and security documents were executed in favour of TFCI, and the sanctioned amount was disbursed in tranches between 15.11.2021 and 17.02.2022. Thus, the aggregate financial assistance sanctioned to the Corporate Debtor under the aforesaid facilities amounted to ₹21.97 crore.

2.6. The Petitioner submits that the Corporate Debtor acknowledged its debt liability, creation of security and default in repayment in its standalone financial statements as on 31.03.2023. As per the statement of account maintained by TFCI, the Corporate Debtor failed to pay the installments of principal, interest and liquidated damages falling due from 15.01.2023 onwards. Consequently, the

loan accounts were classified as Non-Performing Assets (NPA) with effect from 15.04.2023.

2.7. In view of the continuing defaults, TFCI issued a recall notice dated 08.06.2023, calling upon the Corporate Debtor to repay the outstanding loan amount. Thereafter, a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, was issued on 09.06.2023 to the Corporate Debtor and other obligors, demanding payment of the outstanding dues within the stipulated period. The objections raised by the Corporate Debtor were rejected by TFCI *vide* communication dated 11.08.2023. Subsequently, TFCI took possession of the secured assets under Section 13(4) of the SARFAESI Act, 2002, and published the possession notice in a daily newspaper on 12.10.2023. The Corporate Debtor thereafter filed Securitisation Application No. 370 of 2023 before the Debts Recovery Tribunal-II, Delhi, challenging the action taken by TFCI, which is stated to be pending adjudication.

2.8. The Petitioner states that TFCI assigned the debt owed by the Corporate Debtor, together with the underlying security interests, title documents and guarantees, in favour of the Petitioner pursuant to the terms of assignment finalised on 29.12.2023 and upon payment of consideration on the same date. The Corporate Debtor and other obligors were intimated of the assignment vide communication dated 09.01.2024. The charge over the secured assets registered with CERSAI was also transferred in favour of the Petitioner, which subsequently invoked the pledge of shares. A formal Deed of Assignment was thereafter executed between TFCI and the Petitioner on 01.07.2024.

2.9. The Petitioner contends that the Corporate Debtor failed to discharge its repayment obligations despite the aforesaid measures taken by the Original

Lender and the subsequent assignment of the debt. **The date of default has been stated as 08.06.2023**, being the date of issuance of the loan recall notice. The Petitioner has computed **the total amount in default as ₹26,39,95,909/-** as on 15.07.2024, comprising principal of ₹21,19,65,000/-, interest of ₹4,68,67,455/-, liquidated damages of ₹50,71,104/- and interest on defaulted liquidated damages of ₹92,350/-, together with further interest, damages and charges in accordance with the loan and security documents.

2.10. It is stated that the present Petition has been filed in Form-1 under Section 7 of the Code, along with the requisite supporting documents, including the loan and security documents, statements of account, computation of outstanding dues, records relating to the default, and the documents evidencing assignment of the debt in favour of the Petitioner. The Petitioner has proposed the name of Mr. Akarsh Kashyap, an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India under Registration No. IBBI/IPA-001/IP-P00566/2017-2018/11042, to be appointed as the Interim Resolution Professional in the present matter.

REPLY:

3. The Respondent, in its reply, has opposed the admission of the present Petition and sought its dismissal on the grounds of maintainability, disputing the existence of a legally enforceable debt and default, and alleging that the proceedings have been initiated with an ulterior motive to recover the disputed dues.

3.1. The Respondent contends that Mr. Jeevan Kumar, who has instituted the Petition on behalf of the Applicant, lacks specific authorisation to initiate proceedings against the Corporate Debtor. It is submitted that the Board Resolution dated 06.12.2023 is general in nature and does not evidence a

specific decision to institute the present proceedings. Reliance is placed on *State Bank of Travancore v. Kingston Computers India (2011) 11 SCC 524* and *Palogix Infrastructure Pvt. Ltd. v. ICICI Bank Ltd., Company Appeal (AT) (Insolvency) No. 30 of 2017.*

3.2. The Respondent challenges the Applicant's *locus standi* on the ground that, being an Asset Reconstruction Company registered under the SARFAESI Act, it is allegedly not competent to initiate proceedings under Section 7 of the Code. According to the Respondent, an ARC can undertake reconstruction of financial assets and enforcement of security interests under the SARFAESI Act but cannot invoke the insolvency resolution mechanism under the Code. Reliance is placed on RBI Circular No. RBI/2013-2014/54, DNBS (PD) CC No. 31/SCRC/26.03.001/2013-2014 dated 01.07.2013, and RBI Master Direction No. RBI/DOR/2024-25/116, DoR.FIN.REC.16/26.03.001/2024-25 dated 24.04.2024, governing Asset Reconstruction Companies. It is further argued that the omission to expressly provide for an ARC's right to initiate insolvency proceedings under the SARFAESI Act cannot be cured by invoking the provisions of the Code.

3.3. The assignment of the financial assets by Tourism Finance Corporation of India Limited (TFCI Ltd.) in favour of the Applicant under the Assignment Deed dated 01.07.2024 is challenged as invalid. The Respondent alleges that the assignment was effected to circumvent its counterclaim of approximately ₹32 crore against TFCI Ltd. in Securitisation Application No. 370 of 2023 pending before the DRT-II, Delhi. It is submitted that the authority of Mr. Akshat Sharma, who executed the assignment deed on behalf of the Applicant, has not been established and that the deed is insufficiently stamped.

3.4. The Petition is alleged to have been filed with the ulterior motive of recovering the disputed dues after the recovery measures initiated by TFCI Ltd. under the SARFAESI Act were challenged by the Respondent. It is submitted that the Applicant, being the alleged sole Financial Creditor, would exercise control over the Committee of Creditors and the resolution process, notwithstanding the substantial disputes raised by the Corporate Debtor. The Respondent accordingly invokes Section 65 of the Code, alleging fraudulent and malicious initiation of proceedings for purposes other than those contemplated under the Code.

3.5. The Respondent submits that TFCI Ltd.'s alleged failure to disburse the sanctioned loan amounts in a timely manner, coupled with its refusal to permit the sale of the 19 residential plots mortgaged as additional security, adversely affected the completion of the hotel project. It is stated that the plots, which were valued at approximately ₹3 crore at the time of mortgage, are presently valued at more than ₹7 crore and were intended to be released when funds were required. Despite repeated requests, including an offer to remit 50% of the sale proceeds towards repayment, permission to monetise the plots was allegedly declined. The Respondent asserts that the sale would have enabled regularisation of the loan accounts without altering the debt-security ratio and would have facilitated completion of the hotel project.

3.6. The Respondent also relies on its proposal dated 30.12.2023 to introduce an investor or prospective purchaser for the 19 residential plots situated at Royal Estate Riva, together with earlier communications seeking permission for their sale. It is alleged that the refusal to permit monetisation of these non-core assets resulted in an artificial financial crisis, halted the project and caused the loss of an expected subsidy of ₹5 crore from the Government of Madhya Pradesh. The

Respondent maintains that the Applicant and its predecessor-in-interest were responsible for the failure to complete the project and were not genuinely interested in its revival or rehabilitation.

3.7. The existence of any debt due and payable to the Applicant is disputed and the alleged default of ₹26,39,95,909 is denied. It is contended that the Applicant has failed to establish the precise date on which the debt became due and payable, the basis for treating 08.06.2023 as the date of default, and the circumstances in which the loan account was classified as a Non-Performing Asset. The Respondent also points out that the record of default registered with National E-Governance Services Limited (NeSL) reflects the status "DISPUTED". The amount claimed has been incorrectly computed, an exorbitant rate of interest has been charged without contractual justification, and the relevant account statements have not been adequately substantiated.

3.8. It is stated that the certificate filed under Section 2A of the Bankers' Books Evidence Act, 1891, is challenged on the ground that it does not disclose the name and designation of the person certifying the statement of account or the relevant account number and account-holder particulars. The absence of the relevant account statements is also relied upon to question the reliability of the computation of outstanding dues and the completeness of the Petition.

3.9. The recovery measures initiated under the SARFAESI Act are challenged on the ground that the demand notice under Section 13(2) was issued on 09.06.2023, one day after the recall notice dated 08.06.2023, which had granted 15 days for payment. It is further alleged that the demand notice did not specify the date of classification of the account as an NPA and that the objections dated 05.08.2023 were rejected on 11.08.2023 without adequate reasons. The

possession measures have been challenged in Securitisation Application No. 370 of 2023, stated to be pending before the DRT.

3.10. The Applicant is accused of suppressing material facts, particularly the invocation of the promoters' and directors' share pledges on 10.05.2024 and the alleged failure to adjust approximately ₹5 crore realised therefrom against the outstanding dues. The settlement proposals contained in the letters dated 30.12.2023 are also relied upon as material allegedly not disclosed or appropriately considered before the assignment.

3.11. Relying on *Vidarbha Industries Power Ltd. v. Axis Bank Ltd. (2022) 8 SCC 352*, the Respondent submits that the Tribunal may exercise its discretion under Section 7(5)(a) of the Code having regard to the peculiar facts and circumstances of the case, including the Corporate Debtor's alleged commercial solvency, the value of its assets, the proposed investment and the prospects of revival. It is accordingly prayed that the Petition be dismissed and that appropriate action be taken under Section 65 of the Code.

REJOINDER:

4. With reference to averments made in the Reply by the Respondent, the Petitioner has filed a Rejoinder by *inter-alia* contending as follows:

4.1. The assignment of the Corporate Debtor's debt by Tourism Finance Corporation of India Limited (TFCI) was finalised on 29.12.2023, and the Applicant intimated the Corporate Debtor of the assignment vide letter dated 09.01.2024. The formal Assignment Agreement was executed on 01.07.2024 upon payment of consideration to the assignor. It is contended that the assignment transferred the debt along with the underlying security interests, guarantees and other associated rights. Relying upon ICICI Bank Ltd. v. Official Liquidator of APS Star Industries Ltd., (2010) 10 SCC 1, the Applicant has

argued that the transfer of the debt does not alter the liability of the borrower. It has further relied upon *Lalan Kumar Singh v. Phoenix ARC Pvt. Ltd., 2018*, to contend that a challenge to the assignment is civil in nature and cannot be adjudicated by the Adjudicating Authority in the present proceedings. The Applicant has also pointed out that the Corporate Debtor has not placed on record any material to show that the assignment has been challenged before a competent civil court.

4.2. The pendency of Securitisation Application No. 370/2023 before the Debts Recovery Tribunal-II, Delhi, does not bar the present proceedings. The proceedings before the DRT do not preclude a Financial Creditor from pursuing proceedings under the IBC and the Adjudicating Authority is not required to await the outcome of the DRT proceedings. The Applicant has further contended that the legality of the measures adopted under the SARFAESI Act and the counterclaim allegedly raised by the Corporate Debtor are matters distinct from the adjudication of the present petition.

4.3. The allegation that the documents filed by it suffer from non-compliance with the RBI directions dated 29.05.2009 concerning a certificate under Section 2A of the Bankers' Books Evidence Act is denied. It is submitted that the circular relied upon by the Corporate Debtor was addressed to Regional Rural Banks and was not applicable to TFCI or the Applicant.

4.4. It has been submitted that the Corporate Debtor was duly informed of the assignment of the debt vide communication dated 09.01.2024 and that the relevant documents concerning the transaction were placed on record. It has further contended that the Corporate Debtor's reliance upon RBI directions to question the maintainability of the petition is misplaced and does not establish suppression by the Applicant.

4.5. The Applicant has disputed the Corporate Debtor's allegation that the delay in completion of the hotel project was attributable to TFCI. It has submitted that TFCI extended additional financial assistance under the COVID-19 relief measures, including ECLGS facilities aggregating to approximately ₹4.97 crore, to address cost escalation and assist the continuation of the project. According to the Applicant, the Corporate Debtor has not disclosed the material circumstances responsible for the delay, and the same cannot be attributed to the lender merely on the basis of the allegations raised in the reply.

4.6. The Applicant has denied that the rate of interest was increased arbitrarily despite a reduction in the RBI repo rate. It has relied upon Clause II(A)(7) of Annexure I to the Letter of Intent dated 04.08.2016, which, according to the Applicant, reserved TFCI's right to amend the applicable rate of interest from time to time and made such changes binding upon the Corporate Debtor. The Applicant has, accordingly, disputed the allegation that the revision of interest was contrary to the contractual terms.

4.7. The Applicant has contended that the Corporate Debtor and its directors voluntarily executed the loan and security documents and offered the 19 residential plots as security for the facilities availed. It has relied upon the Letter of Intent dated 04.08.2016, the resolutions dated 16.08.2016 and 28.03.2017, and the relevant loan and security documents to submit that the plots were to remain charged in favour of TFCI until repayment of the entire outstanding amount. According to the Applicant, no contractual provision required the lender to release the plots in tranches or upon receipt of partial payments. It has therefore disputed the allegation that the refusal to release the plots was wrongful or that the lender was contractually bound to accept the proposed arrangement for their sale.

4.8. In response to the allegation that the invocation of the pledge over the shares held by the promoters and directors was not appropriately reflected in the statement of account, the Applicant has submitted that the shares were invoked on 10.05.2024 but had not been sold. It is contended that invocation of the pledge, without realisation of the proceeds through sale, did not result in any amount becoming available for adjustment against the outstanding liability. Reliance has been placed upon *PTC India Financial Services Ltd. v. Venkateswarlu Kari & Anr., Civil Appeal No. 5443 of 2019*, in support of the proposition advanced by the Applicant that mere invocation of a pledge does not amount to realisation of the secured amount.

4.9. The Applicant has disputed the Corporate Debtor's allegations concerning losses allegedly suffered on account of the lender's conduct, including the alleged loss of government subsidy and the proposed counterclaim of approximately ₹32 crore. It has maintained that such allegations, including the dispute concerning the release of mortgaged plots and the pending proceedings before the DRT, do not by themselves preclude adjudication of the petition under the IBC. The Applicant has further submitted that the Corporate Debtor's grievances against TFCI must be considered in the appropriate proceedings and cannot, merely by being raised, determine the outcome of the present petition.

4.10. The Applicant has opposed the Corporate Debtor's reliance upon Vidarbha Industries Power Ltd. v. Axis Bank Ltd. It has submitted that the Corporate Debtor has not placed on record material demonstrating that it was generating sufficient cash flows to meet its financial obligations and continue as a going concern. The Applicant has further relied upon M. Suresh Kumar Reddy v. Canara Bank, (2023) 8 SCC 387, and the principles laid down in Innoventive Industries Ltd. v. ICICI Bank, to contend that the principles governing admission

of applications under the IBC, as applicable prior to Vidarbha Industries, continue to hold relevance. The Applicant has accordingly disputed the contention that the Corporate Debtor's assertions regarding its assets, proposed investment or prospects of revival should, by themselves, warrant rejection of the petition.

OBSERVATIONS AND ANALYSIS:

5. We have heard the Ld. Counsels for both Parties and carefully perused all the pleadings placed on record by the Parties, extant provisions of Code and Rules made thereunder and the settled position of law on the issue.

6. Firstly, we refer to relevant provisions of the Code and cardinal principles underlined in it. In terms of Section 7 of the Code, an Application/Petition can be filed by a Financial Creditor before the Adjudicating Authority, either by itself or jointly with other Financial Creditors, to initiate the corporate insolvency resolution process (CIRP) against a corporate debtor when a default has occurred along with 'Record of the Default' recorded with the information utility or such other record or evidence of default. The Petitioner is required to specify the name of a Resolution professional proposed to act as an Interim Resolution Professional.

Section 7(5) of IBC provides as under:

> *(5) Where the Adjudicating Authority is satisfied that—*
> *(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application; or*
> *(b) default has not occurred or the application under sub-section (2) is incomplete or any disciplinary proceeding is pending against the proposed resolution professional, it may, by order, reject such application …*

A. Financial Debt and Default

7. In the light of the provisions of the Code, the material on record is examined. It is not in dispute that Tourism Finance Corporation of India Limited (TFCI), the

original lender, sanctioned three loan facilities to the Corporate Debtor aggregating ₹21.97 crore, comprising a term loan of ₹17 crore for construction of a hotel at Rewa, Madhya Pradesh, and two ECLGS facilities of ₹2.48 crore and ₹2.49 crore. The sanction letters, loan agreements and related documents, including Annexures A-19 to A-42, evidence the lending transactions. The loan facilities were secured by guarantees, hypothecation, pledge of shares and mortgage of immovable properties, as reflected in the security documents (Annexures A-21 to A-29 and A-30 to A-42), ROC records (Annexure A-16) and CERSAI records (Annexure A-17).

8. The Applicant claims ₹26,39,95,909 as outstanding on 15.07.2024, comprising principal of ₹21,19,65,000, interest of ₹4,68,67,455, liquidated damages of ₹50,71,104 and interest on defaulted liquidated damages of ₹92,350. The claim is based on the statement of account supplied by TFCI up to 22.12.2023 and the subsequent computation of dues, placed on record as Annexure A-15. The Applicant further relies upon the Corporate Debtor's audited financial statements for FY 2022–23 (Annexure A-14), which reflect the borrowings from TFCI as a liability.

9. As regards default, the Applicant relies upon the recall notice dated 08.06.2023 and the notice under Section 13(2) of the SARFAESI Act dated 09.06.2023. The date of default is 08.06.2023, and the installments of principal, interest and liquidated damages remained unpaid from 15.01.2023 onwards and that the account was classified as an NPA with effect from 15.04.2023. The Applicant further points out that, in its replies dated 19.06.2023 to the recall notice and 05.08.2023 to the SARFAESI notice, the Corporate Debtor acknowledged availing the loan facilities, sought further disbursement of approximately ₹4 crore and requested release of certain mortgaged properties, while stating that it was attempting to arrange funds. The Applicant relies upon these replies, along with the

financial statements and account records, as corroborative evidence of the subsisting liability and non-payment.

10. The Corporate Debtor disputes the computation of the outstanding dues, alleging delay in disbursement, an increase in the rate of interest from 12.55% to 13.25% without contractual justification, levy of penal interest and repayments exceeding ₹9 crore. It further alleges that TFCI's refusal to permit the sale of 19 mortgaged residential plots affected completion of the hotel project and caused financial losses, including loss of subsidy. It relies upon the pending Securitisation Application No. 370/2023 before the DRT-II, Delhi, wherein it has raised a counterclaim of ₹32 crore.

11. The Applicant has submitted that the loan agreements permit revision of the rate of interest and that the payments received have been duly accounted for in the statements of account placed on record as Annexure A-15. The Applicant has also relied upon the letter dated 18.12.2024 and additional account entries placed on record as Annexures A-46 and A-47, respectively. It is further contended that there was no contractual obligation to release the mortgaged plots while the loan dues remained outstanding and that the Corporate Debtor's grievance regarding the project and alleged losses does not extinguish its repayment liability.

12. The record further shows that, in its replies dated 19.06.2023 to the recall notice and 05.08.2023 to the notice under Section 13(2) of the SARFAESI Act, the Corporate Debtor acknowledged having availed the loan facilities and sought further disbursement of approximately ₹4 crore and release of certain mortgaged properties, while stating that it was attempting to arrange funds. The borrowings are also reflected as liabilities in the Corporate Debtor's audited financial statements for FY 2022–23 (Annexure A-14). These contemporaneous documents

corroborate the existence of the loan liability and the Applicant's case that the repayment obligations remained outstanding.

13. The Corporate Debtor's objections regarding the rate of interest, penal charges and alleged repayments have been answered by the Applicant with reference to the contractual terms and account records. The material placed on record, including the account statements and subsequent computation (Annexures A-15, A-46 and A-47), supports the Applicant's computation of the outstanding dues. The grievance regarding release of mortgaged properties and the counterclaim pending before the DRT do not, by themselves, establish discharge of the loan liability or negate the occurrence of default. The NeSL entry marked as 'Disputed', as explained by the Applicant, relates to the fact that the facilities were originally advanced by TFCI and not directly by the Applicant; the debt was subsequently assigned to the Applicant under the Deed of Assignment dated 01.07.2024 (Annexure A-13).

14. In view of the loan documents, the Corporate Debtor's contemporaneous replies and financial statements, the account records and the assignment documents, the existence of financial debt and the occurrence of default stand established. The date of default pleaded in Form 1 is 08.06.2023, being the date of the recall notice, while the petition also records that installments had remained unpaid from 15.01.2023 and that the account was classified as an NPA from 15.04.2023. The Applicant has claimed ₹26,39,95,909 as on 15.07.2024, comprising principal of ₹21,19,65,000, interest of ₹4,68,67,455, liquidated damages of ₹50,71,104 and interest on defaulted liquidated damages of ₹92,350. On the basis of the material placed on record and the explanations furnished, the objections raised by the Corporate Debtor do not displace the Applicant's case of financial debt and default.

B. Eligibility of the Applicant to initiate proceedings under Section 7 of the Code

15. The Corporate Debtor has questioned the locus standi of the Applicant, an Asset Reconstruction Company registered under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act"), to initiate proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("Code"). It is contended that an ARC is confined to the measures permitted under the SARFAESI Act and cannot invoke the insolvency jurisdiction under the Code. The Respondent relies, inter alia, upon RBI Circular No. RBI/2013-2014/54, DNBS (PD) CC No. 31/SCRC/26.03.001/2013-2014 dated 01.07.2013, and the Master Direction – Reserve Bank of India (Asset Reconstruction Companies) Directions, 2024.

16. The relevant provision of the Code is Section 5(7), which defines a "financial creditor" as follows:

> *"Financial creditor" means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to.*

17. The Respondent relies upon paragraph 6(i) of the RBI Directions of 2013, which states verbatim:

> *"A Securitisation Company or Reconstruction Company shall commence/undertake only the securitisation and asset reconstruction activities and the functions provided for in Section 10 of the Act."*

Reliance is also placed upon paragraph 8.1 of the RBI Master Direction of 2024, which states:

> *"An ARC shall commence/ undertake only securitisation and asset reconstruction activities and functions provided under Section 10 of the Act."*

The Applicant contends that neither of these directions prohibits an ARC from acting as a financial creditor and maintaining an application under Section 7 of the Code.

18. The Applicant relies upon the following observations of the Hon'ble NCLAT in ***Deegee Cotsyn Pvt. Ltd. v. Phoenix ARC Pvt. Ltd., Company Appeal (AT) (Insolvency) No. 480 of 2019***, decided on 03.05.2019:

"(iii) A person may be assignee under the SARFAESI Act, 2002. On that ground the application u/s 7 cannot be rejected;"

19. Reliance is also placed upon ***Kanti Commercial Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd. & Ors., Company Appeal (AT) (Insolvency) No. 250 of 2018***, decided on 28.05.2018, wherein the Hon'ble NCLAT observed:

"In view of the aforesaid fact, the submission made by the counsel for the Appellant that the 'Edelweiss Asset Reconstruction Company Ltd.' cannot be treated to be a Financial Creditor is rejected. Admittedly, there is a debt owed by the Corporate Debtor in favour of the South Indian Bank Ltd., now in favour of the Assignee - 'Edelweiss Asset Reconstruction Company Ltd.' and Corporate Debtor defaulted to pay the loan."

20. A similar issue was considered by the NCLT, Kolkata Bench, in ***Assets Care & Reconstruction Enterprise Ltd. v. Wizard E-Marketing Pvt. Ltd., (2026) ibclaw.in 3925 NCLT,*** wherein it was held that

> *"6.6. A person to whom a financial debt has been legally assigned or transferred is a "financial creditor" within the meaning of Section 5(7) of the I&B Code. Clause 2.1.1 of the Assignment Agreement dated 29.06.2022 provides that the Assignee shall hereafter be deemed to be the full and absolute legal and beneficial owner and the only person legally entitled to the Loans, with the right to recover all amounts due in its own name and right and as an assignee, and not as a representative or agent of the Assignor. The FC has thus stepped into the shoes of the original lender and is entitled to maintain the present petition."*

21. In view of the above, the RBI directions relied upon by the Corporate Debtor do not expressly prohibit an ARC from acting as a financial creditor or maintaining an application under Section 7 of the Code, as alleged. Further, the aforesaid decisions of the Hon'ble NCLAT recognise that an assignee under the SARFAESI Act cannot be denied the right to maintain a Section 7 application merely on that ground. Accordingly, the objection to the Applicant's eligibility

cannot be sustained. The Corporate Debtor's separate allegation that the application has been initiated for recovery rather than resolution is considered in the context of its objection under Section 65 of the Code.

22. The objections regarding the authorisation of Mr. Jeevan Kumar, the validity and stamping of the Deed of Assignment, and the evidentiary value of the certificate under the Bankers' Books Evidence Act have been considered in light of the documents placed on record. The Tribunal finds no sufficient ground to reject the application on these grounds. As regards the reliance placed on *Vidarbha Industries Power Ltd. v. Axis Bank Ltd.*, it is pertinent to note that the Hon'ble Supreme Court, in *M. Suresh Kumar Reddy v. Canara Bank*, clarified that the judgment in *Vidarbha Industries* does not depart from the principles laid down in *Innoventive Industries Ltd. v. ICICI Bank* and *E.S. Krishnamurthy v. Bharath Hi-Tech Builders Pvt. Ltd.*, which continue to hold the field. The Hon'ble Supreme Court further held that once the Adjudicating Authority is satisfied that a default has occurred, there is hardly any discretion left to refuse admission of an application under Section 7 of the Code. Accordingly, since the existence of financial debt and default stand established from the material on record, the reliance placed on *Vidarbha Industries* does not warrant rejection of the present application.

23. For aforesaid reasons and circumstances and in the light of extant provisions of Code and Rules made thereunder and by taking into consideration of settled position of law, we find that that the instant Application/petition has been filed in accordance with extant provisions of Code, wherein the 'debt' and 'default' has been established. As regards the appointment of the Interim Resolution Professional, it is noted that the Financial Creditor had initially proposed Mr. Bihari Lal Chakravarti as the Interim Resolution Professional at the time of filing the Section 7

Petition. However, since the Authorisation for Assignment (AFA) of the proposed Resolution Professional had expired, the Financial Creditor, vide affidavit dated 08.10.2026, proposed the **name of Mr. Akarsh Kashyap (Registration No. IBBI/IPA-001/IP-P00566/2017-2018/11042), who is a qualified Resolution Professional to be appointed as Interim Resolution Professional.** It is further noted that Mr. Akarsh Kashyap has submitted his written consent in Form-2 dated 10.09.2026, along with the requisite Authorisation for Assignment and IBBI Registration Certificate, and that his AFA is valid until June 2027. He has filed a Declaration in the specified form that he is eligible to be appointed as IRP and he is not facing any disciplinary proceedings. Therefore, it is a fit case for initiating CIRP against the CD.

24. Accordingly, by exercising powers conferred on this Adjudicating Authority, U/s 7(5)(a) and following other extant provisions of the IBC, 2016 and the rules made thereunder, the following orders are passed:

I. Corporate Debtor- **Anuraj Real Estates Private Limited** is admitted to the Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016.

II. A moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 is declared subject to the provisions of sub-sections (2), (2A) and (3) of Section 14 of the Code for prohibiting all of 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

d. the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

e. The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator as also not applicable to surety.

III. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor under Section 33 of the IBC, 2016, as the case may be.

IV. As proposed by the financial creditor, Mr. Akarsh Kashyap (Registration No. IBBI/IPA-001/IP-P00566/2017-2018/11042**)** is appointed to act as an IRP under Section 13(1)(c) of the IBC, 2016 in respect of the CIRP of the corporate debtor. IRP shall conduct the Corporate Insolvency Resolution Process of the corporate debtor as per the provisions of the Insolvency & Bankruptcy Code, 2016 read with Regulations made thereunder.

V. The IRP so appointed shall make a public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) as required by Section 13(1)(b) of the Code and call for submission of claims under Section 15. To ensure intimation to claimants, the IRP is directed to also put up Flex-Boards/Hoardings at appropriate places of the CD's projects and at the Corporate Office of the CD and insert a ticker on the website of the CD announcing the initiation of CIRP alongwith the name, contact details and email of the IRP at which the claims could be made by the creditors/homebuyers.

VI. 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. The corporate debtor to provide effective assistance to the IRP as and when he takes charge of the assets and management of the corporate debtor.

VII. The IRP shall perform all functions as contemplated, inter alia, by sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person, is required to assist or co-operate with IRP, does not assist or co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

VIII. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.

IX. The Financial Creditor is directed to pay an advance of ₹4,00,000/- (Rupees Four Lacs only) to the IRP within two weeks from the date of receipt of this order to meet the initial CIRP cost for smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, the IRP may raise further demands for Interim funds, which shall be provided as per Rules.

X. The IRP shall also serve a copy of this order to various departments such as Income Tax, GST, State Trade Tax and Provident Fund etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/ employee's associations so that they are timely informed about the initiation of CIRP against the corporate debtor.

XI. The commencement of the Corporate Insolvency Resolution process shall be effective from the date of this order.

24. In view of the above, ***CP (IB) No. 199/CHD/PB/2024*** is **allowed and admitted**.

Sd/-
Shishir Agarwal
Member (Technical)

Sd/-
Khetrabasi Biswal
Member (Judicial)

Ruhani