



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT – II)

Item No. 202
(IB)-714/ND/2023

IN THE MATTER OF:

Yes Bank Limited

Yes Bank House, Off Western Express Highway,
Highway, Santa Cruz East, Mumbai- 400055

**... Applicant/
Financial Creditor**

Versus

Umritha Infrastructure Development LLP

711/92, Deepali, Nehru Place, South Delhi,
New Delhi-110019

... Respondent

Under Section: 7 of IBC, 2016

Order delivered on 31.01.2024

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

SH. SUBRATA KUMAR DASH, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Adv. Anmol Bansal, along with Adv. Kashish
Narang

For the Respondent :

Hearing Through: VC and Physical (Hybrid) Mode

ORDER

As can be seen from the pleadings and materials available on record, the Corporate Debtor had availed various credit facilities such as (term loan), bank guarantee and Funded Interest Term Loan Facility (FITN) from the Financial Creditor. The total facility availed by the Corporate Debtor was to tune of Rs. 44,70,98,193.21/-. It is the case of the Applicant that the initial date of default qua the credit facilities extended by FC to CD was 02.10.2021. According to it, the loan account of the Corporate Debtor was declared as NPA on 24.11.2022.

(IB)-714/ND/2023

Yes Bank Limited Vs. Umritha Infrastructure Development LLP



The Financial Creditor states that as on 18.09.2023 the total principal amount outstanding towards term loan facility was Rs. 15,65,08,059.97/-.

2. The loan facilities sanctioned and extended by the Financial Creditor to the Corporate Debtor was recalled vide Loan Recall cum Guarantee Invocation Notice dated 13.02.2023, in terms of which the Financial Creditor sought the repayment of outstanding amount of Rs. 14,64,65,299.41/- as on 13.02.2023 together with further interest to w.e.f. 13.02.2023 and other charges within 7 days from the receipt of the notice. It is the case of the Applicant that in the wake of defaults in payment despite the Recall Notice, the Financial Creditor issued demand notice under Section 13(2) of SARFAESI Act, 2022 on 25.08.2023 to the Corporate Debtor, thereby demanding payment of outstanding dues to the tune of INR 15,65,08,059.97 as on 21.08.2023 in respect of all the loan facilities availed by the Corporate Debtor, but the Corporate Debtor failed to honor the notice and continued committing the default in repayment of the loan amount/debt. The details of debt and the date of default has been mentioned in 2nd row of Part-IV of the Application, which reads thus:

| | |
|---|--|
| <p>AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKING FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM</p> | <p>The Corporate Debtor committed several defaults in regularly servicing the interest and also defaulted in making periodical principal repayment as per the agreed terms of the Facilities. The details of the default and the dates on which the defaults occurred are below:</p> <p>1. Term Loan facility:</p> <p>In terms of the Facility Letter Ref. No. YBL/DEL/FL/0524/2018-19 dated 29.06.2018 as amended from time to time, Loan Agreement dated 10.08.2018 and amendments thereto, the Corporate Debtor was required to repay the entire principal loan amount in 16 structure quarterly installments i.e. 48 months from the first date of disbursement. In addition to the principal</p> |
|---|--|



| | | |
|--|--|---|
| | | <p>repayments, the Corporate Debtor was also required to regularly service the interest accrued on the balance principal on a monthly basis.</p> <p>Default for the first time occurred on 02.10.2021 when the Corporate Debtor failed to make payment towards the debt servicing for the period of FY 2021-2022.</p> <p>As of 18.09.2023, the outstanding principal and interest due and payable by the Corporate Debtor under the Term Loan Facility is INR 14,87,92,891.89/-.</p> <p>2. FITL Facility</p> <p>In terms of the FITL Loan Letter Agreement dated 08.09.2021 duly accepted and signed by Corporate Debtor in respect to the aforesaid Term Loan Facility bearing Facility Letter Ref. No. YBL/DEL/FL/0524/2018-19 dated 29.06.2018 as amended from time to time, Loan Agreement dated 10.08.2018 and amendments thereto, the Corporate Debtor was required to repay the principal FITL amount in 12 instalments on a quarterly basis. In addition to the principal repayment, the Corporate Debtor was also required to regularly service the interest component accrued on a monthly basis.</p> <p>Default for the first time occurred on 02.10.2021 when the Corporate Debtor failed to make payment towards the debt servicing for the period 2021-2022 in FITL Facility.</p> <p>The Corporate Debtor also defaulted in servicing the interest</p> |
|--|--|---|



| | | |
|--|--|--|
| | | <p>starting from 02.10.2021.</p> <p>As of 18.09.2023 the outstanding principal and interest due and payable by the Corporate Debtor under the FITL Facility is Rs.93,29,793.27/-</p> <p><u>Total Claim Amount outstanding:</u></p> <p>The Financial Creditor claims a sum of INR. 15,81,22,685.16/- (including interest) being due as on 18.09.2023. towards Term Loan Facility and FITL Facility.</p> <p><u>Date of Default:</u></p> <p>The date of Default of repayment of outstanding amounts in respect of the afore-stated loan facilities occurred on 02.10.2021 and the default continues to occur since then.</p> <p>Accordingly, the loan account of the Corporate Debtor was classified as Non-Performing Assets (NPA) in terms of the extant RBI Circulars was declared on 24.11.2022.</p> <p><u>RECALL NOTICE:</u></p> <p>The Financial Creditor was constrained to issue Recall Notice. The loan facilities sanctioned to the Corporate Debtor to the extent of Term Loan and Funded Interest Loan have been recalled vide Loan Recall cum Guarantee Invocation Notice dated 13.02.2023 with the Financial Creditor seeking repayment of outstanding amount of INR. 14,64,65,299.41 as on 13.02.2023, together with further interest w.e.f. 13.02.2023 and other charges until payment/realization, within 7 days from the date of receipt of the said notice.</p> |
|--|--|--|



3. Ld. Counsel for the Applicant could draw our attention to the Default Report.

The default report (Record of Default) issued by the NeSL in Form-D reads thus:

NeSL NATIONAL E-GOVERNANCE SERVICES LIMITED
India's First Information Utility

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 YES BANK LIMITED in respect of the default of debt as per details given below-

(a) Name of the Submitter: M/s YES BANK LIMITED
 (b) Schedule-2 Bank (Y/N): Y
 (c) Name of Corporate Debtor: M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP
 (d) Unique Debt Identifier Number: AAACY2068D_FITLMORTL111794 70
 (e) Registered Address: YES Bank House, Prabhat Nagar, Off Western Express, Highway, Santacruz - East, MUMBAI - 400055
 (f) Total Outstanding Amount: 8103133.00
 (g) Default Amount: 8103133.00
 (h) Date of Default: 24-11-2022
 (i) Status of Authentication of Default: DISPUTED
 (j) Date of Last Acknowledgement of Debt (A&D): Not Available

| Filing of Default (Submission ID No.) | Submitted on | Status of Authentication (Authenticated / Disputed / Deemed to be authenticated) | Authentication completed on |
|---------------------------------------|---------------------|--|-----------------------------|
| (12) | 12-05-2023 20:53:29 | DISPUTED Colour Code :RED | 05-06-2023 10:12:22 |

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.



NeSL NATIONAL E-GOVERNANCE SERVICES LIMITED

PART A

- (Information of default filed with IU, covering information of debt, submitter and other parties connected with the debt, security interest and default details
- Status of authentication by the party on whom the report is generated by the submitter
- Communication made by IU to intimate the party on the default filing)

Record of Default for Party M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP (DEBTOR)

Unique Debt Identifier :AAACY2068D_FITLMORTL11179470

Information as of 31-03-2023

Received by NeSL on 12-05-2023 20:53:29

Status of Authentication (DEBTOR) : DISPUTED (as on :05-06-2023 10:12:22)

Reason For Dispute : Remarks - Transactional complexities

Registered in IU : YES

Registration Date : 02-06-2023 16:33:42

Last Login : 04-09-2023 16:55:29

| Submitter Information | |
|--------------------------|--|
| UIN | AAACY2068D |
| Name | M/s YES BANK LIMITED |
| Relationship to the Debt | Financial Creditor |
| Communication address | Yes Bank Corporate Office Address: Yes Bank Limited Nehru Centre 9th floor Discovery of India Dr. A.B. Road Worli Mumbai-400018 India. |
| PIN code | 400018 |
| Telephone number | 00699000 |
| Email ID | communications@yesbank.in |

| Other Party Information | |
|---|--|
| Relationship to the Debt | Debtor |
| Party name | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Registered/ permanent Address of counterparty | UMRITHA INFRASTRUCTURE DEVELOPMENTLLP711/92 DEEPALI NEHRU PLACE NEW DELHI DELHI IN |
| Legal Constitution | Partnership |
| PAN No. / Other ID | AACFU6739L |
| Email ID | finance@alsgreens.com |

(IB)-714/ND/2023

Yes Bank Limited Vs. Umritha Infrastructure Development LLP



| Debt Information | |
|--------------------------|-------------------|
| Type of Debt | Financial |
| Debt Reference No. | FITLMORTL11179470 |
| Debt Start Date | 01-09-2020 |
| Debt Currency | INR |
| Sanctioned Debt Amount | 1,70,98,193.00 |
| Facility Name | FITLMOR-TL |
| Total Outstanding Amount | 81,03,133.00 |
| Amount Overdue | 81,03,133.00 |
| Days past due (DPD) | 218 |
| Account Closed Flag | NO |

| Default Information | |
|---------------------|---------------|
| Date of default | 24-11-2022 |
| Total Outstanding | 81,03,133.00 |
| Default amount | 81,03,133.00 |
| Days past due | 218 |
| Date of Last AoD | Not Available |

Record of communication with respect to the default filing

Communication details in respect of M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP (Debtor)

UMRITHA INFRASTRUCTURE DEVELOPMENT LLP (Debtor)

Email Communication

| Email category | Mail Type | Requested On | To Address | Mail Status | Acknowledgement Date/Time |
|----------------|--------------|---|-----------------------|--|--|
| Form C-Primary | Initial | 12 May 2023 Friday 23:36:22 PM | finance@atsgreens.com | Mail Delivered and Opened by Addressee | 10 August 2023 Thursday 16:00:53 PM |
| Form C-Primary | Reminder - 1 | 30 May 2023 Tuesday 21:19:16 PM | finance@atsgreens.com | Mail Delivered and Opened by Addressee | 02 June 2023 Friday 15:17:06 PM |
| Form C-Primary | Reminder - 2 | 03 June 2023 Saturday 04:13:40 AM | finance@atsgreens.com | Mail Delivered and Opened by Addressee | 07 September 2023 Thursday 12:01:46 PM |



PART B

(History of all filing of information received by IU for the same UDI, whether regular debt or default, and the status of authentication by the party)

History of submission and Authentication in respect of M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP (Debtor)

Unique Debt Identifier :AAACY2068D_FITLMORTL11179470

| | |
|------------------------------------|--|
| Date of Submission | 04-12-2020 12:26:35 |
| Type of Submission | Financial Debt |
| Submission ID | 1 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 0.00 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 02-03-2021 09:11:19 |
| Type of Submission | Financial Debt |
| Submission ID | 2 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 1316978.59 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 21-05-2021 20:00:37 |
| Type of Submission | Financial Debt |
| Submission ID | 3 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 1097631.56 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|--------------------|---------------------|
| Date of Submission | 01-09-2021 18:34:48 |
|--------------------|---------------------|



| | |
|------------------------------------|--|
| Type of Submission | Financial Debt |
| Submission ID | 4 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 1075482.32 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 20-12-2021 19:02:46 |
| Type of Submission | Financial Debt |
| Submission ID | 6 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 0.00 |
| Status of Authentication by Debtor | PENDING AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 10-05-2022 19:35:25 |
| Type of Submission | Financial Debt |
| Submission ID | 7 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 1880021.00 |
| Status of Authentication by Debtor | PENDING AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 10-06-2022 18:58:56 |
| Type of Submission | Financial Debt |
| Submission ID | 8 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 1843796.00 |
| Status of Authentication by Debtor | PENDING AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 10-08-2022 19:57:43 |
| Type of Submission | Financial Debt |
| Submission ID | 9 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 1820986.00 |
| Status of Authentication by Debtor | PENDING AUTHENTICATION |



| | |
|-----------------------------|----------------|
| Authentication Completed on | Not Applicable |
|-----------------------------|----------------|

| | |
|------------------------------------|--|
| Date of Submission | 21-11-2022 20:24:39 |
| Type of Submission | Financial Debt |
| Submission ID | 10 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 1793080.00 |
| Status of Authentication by Debtor | PENDING AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 04-09-2021 18:10:32 |
| Type of Submission | Default Submission |
| Submission ID | 5 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Default Amount | 1075482.32 |
| Status of Authentication by Debtor | DEEMED TO BE AUTHENTICATED |
| Authentication Completed on | 21-09-2021 02:53:00 |

| | |
|------------------------------------|--|
| Date of Submission | 15-02-2023 18:44:04 |
| Type of Submission | Default Submission |
| Submission ID | 11 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Default Amount | 8103133.00 |
| Status of Authentication by Debtor | AUTHENTICATED |
| Authentication Completed on | 03-03-2023 10:10:51 |

| | |
|------------------------------------|--|
| Date of Submission | 12-05-2023 20:53:29 |
| Type of Submission | Default Submission |
| Submission ID | 12 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Default Amount | 8103133.00 |
| Status of Authentication by Debtor | DISPUTED |
| Reason For Dispute | Remarks - Transactional complexities |
| Authentication Completed on | 05-06-2023 10:12:22 |

4. The Second Report of Default is on record. Page-102 to 108 of the Application reads thus:

(IB)-714/ND/2023
Yes Bank Limited Vs. Umritha Infrastructure Development LLP



NeSL NATIONAL E-GOVERNANCE SERVICES LIMITED
India's First Women-led Utility

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 YES BANK LIMITED in respect of the default of debt as per details given below-

(a) Name of the Submitter: M/s YES BANK LIMITED
 (b) Schedule-2 Bank (Y/N): Y
 (c) Name of Corporate Debtor: M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP
 (d) Unique Debt Identifier Number: AAACY2068D_125TL-CLE11179470
 (e) Registered Address: YES Bank House, Prabhat Nagar, Off Western Express, Highway, Santacruz - East, MUMBAI - 400055
 (f) Total Outstanding Amount: 129154156.00
 (g) Default Amount: 129154156.00
 (h) Date of Default: 24-11-2022
 (i) Status of Authentication of Default: DISPUTED
 (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 |
|---------------------------------------|---------------------|--|-----------------------------|
| (18) | 12-05-2023 20:53:04 | DISPUTED Colour Code :RED | 05-06-2023 10:12:22 |

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.

NeSL NATIONAL E-GOVERNANCE SERVICES LIMITED
India's First Women-led Utility

PART A

- (Information of default filed with IU, covering information of debt, submitter and other parties connected with the debt, security interest and default details)
- Status of authentication by the party on whom the report is generated by the submitter
- Communication made by IU to intimate the party on the default filing)

Record of Default for Party M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP (Debtor)

Unique Debt Identifier :AAACY2068D_125TL-CLE11179470
 Information as of 31-03-2023
 Received by NeSL on 12-05-2023 20:53:04
 Status of Authentication (DEBTOR) : DISPUTED (as on :05-06-2023 10:12:22)
 Reason For Dispute : Remarks - Transactional complexities
 Registered in IU : YES
 Registration Date : 02-06-2023 16:33:42
 Last Login : 04-09-2023 16:55:29

| Submitter Information | |
|--------------------------|--|
| UIN | AAACY2068D |
| Name | M/s YES BANK LIMITED |
| Relationship to the Debt | Financial Creditor |
| Communication address | Yes Bank Corporate Office Address: Yes Bank Limited Nehru Centre 9th floor Discovery of India Dr. A. B. Road Worli Mumbai-400018 India |
| PIN code | 400018 |
| Telephone number | 66690000 |
| Email ID | communications@yesbank.in |

| Other Party Information | |
|---|---|
| Relationship to the Debt | Debtor |
| Party name | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Registered/ permanent Address of counterparty | UMRITHA INFRASTRUCTURE DEVELOPMENT LLP 711/92 DEEPAI NEHRU PLACE NEW DELHI DELHI IN |
| Legal Constitution | Partnership |
| PAN No. / Other ID | AACFUS739L |
| Email ID | finance@atsgreens.com |

(IB)-714/ND/2023
 Yes Bank Limited Vs. Umritha Infrastructure Development LLP



| Debt Information | |
|--------------------------|-------------------|
| Type of Debt | Financial |
| Debt Reference No. | 12STL-CLE11179470 |
| Debt Start Date | 22-02-2019 |
| Debt Currency | INR |
| Sanctioned Debt Amount | 12,99,00,031.00 |
| Facility Name | TERM LOAN |
| Total Outstanding Amount | 12,91,54,156.00 |
| Amount Overdue | 12,91,54,156.00 |
| Days past due (DPD) | 218 |
| Account Closed Flag | NO |

| Default Information | |
|---------------------|-----------------|
| Date of default | 24-11-2022 |
| Total Outstanding | 12,91,54,156.00 |
| Default amount | 12,91,54,156.00 |
| Days past due | 218 |
| Date of Last AoD | Not Available |

Record of communication with respect to the default filing

Communication details in respect of M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP (Debtor)

UMRITHA INFRASTRUCTURE DEVELOPMENT LLP (Debtor)

Email Communication

| Email category | Mail Type | Requested On | To Address | Mail Status | Acknowledgement Date/Time |
|----------------|--------------|---|-----------------------|--|--|
| Form C-Primary | Initial | 12 May 2023 Friday 23:36:22 PM | finance@atsgreens.com | Mail Delivered and Opened by Addressee | 10 August 2023 Thursday 16:00:53 PM |
| Form C-Primary | Reminder - 1 | 30 May 2023 Tuesday 21:19:16 PM | finance@atsgreens.com | Mail Delivered and Opened by Addressee | 02 June 2023 Friday 15:17:06 PM |
| Form C-Primary | Reminder - 2 | 03 June 2023 Saturday 04:13:40 AM | finance@atsgreens.com | Mail Delivered and Opened by Addressee | 07 September 2023 Thursday 12:01:48 PM |



PART B

(History of all filing of information received by IU for the same UDI, whether regular debt or default, and the status of authentication by the party)

History of submission and Authentication in respect of M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP (Debtor)

Unique Debt Identifier :AAACY2068D_125TL-CLE11179470

| | |
|------------------------------------|--|
| Date of Submission | 07-09-2019 16:58:20 |
| Type of Submission | Financial Debt |
| Submission ID | 1 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 0.00 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 21-09-2019 12:58:15 |
| Type of Submission | Financial Debt |
| Submission ID | 2 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 7498145.75 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 29-11-2019 15:31:43 |
| Type of Submission | Financial Debt |
| Submission ID | 3 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 6653256.50 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|--------------------|---------------------|
| Date of Submission | 05-02-2020 18:27:38 |
|--------------------|---------------------|



| | |
|------------------------------------|--|
| Type of Submission | Financial Debt |
| Submission ID | 4 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 7498145.75 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 01-07-2020 13:28:54 |
| Type of Submission | Financial Debt |
| Submission ID | 5 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 10287754.12 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 02-09-2020 14:01:33 |
| Type of Submission | Financial Debt |
| Submission ID | 6 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 8432269.40 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 04-12-2020 12:28:37 |
| Type of Submission | Financial Debt |
| Submission ID | 7 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 0.00 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 02-03-2021 09:09:18 |
| Type of Submission | Financial Debt |
| Submission ID | 8 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 20745317.32 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |



| | |
|-----------------------------|----------------|
| Authentication Completed on | Not Applicable |
|-----------------------------|----------------|

| | |
|------------------------------------|--|
| Date of Submission | 21-05-2021 20:03:47 |
| Type of Submission | Financial Debt |
| Submission ID | 9 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 16913697.18 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 01-09-2021 18:38:23 |
| Type of Submission | Financial Debt |
| Submission ID | 10 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 14639627.51 |
| Status of Authentication by Debtor | FAILED AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 20-12-2021 19:01:52 |
| Type of Submission | Financial Debt |
| Submission ID | 12 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 0.00 |
| Status of Authentication by Debtor | PENDING AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 10-05-2022 19:33:23 |
| Type of Submission | Financial Debt |
| Submission ID | 13 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 30443999.00 |
| Status of Authentication by Debtor | PENDING AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|--------------------|---------------------|
| Date of Submission | 10-06-2022 19:05:30 |
| Type of Submission | Financial Debt |
| Submission ID | 14 |



| | |
|------------------------------------|--|
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 29857393.00 |
| Status of Authentication by Debtor | PENDING AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 10-08-2022 19:55:57 |
| Type of Submission | Financial Debt |
| Submission ID | 15 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 23488008.00 |
| Status of Authentication by Debtor | PENDING AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 21-11-2022 20:29:51 |
| Type of Submission | Financial Debt |
| Submission ID | 16 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Amount Overdue | 29036117.00 |
| Status of Authentication by Debtor | PENDING AUTHENTICATION |
| Authentication Completed on | Not Applicable |

| | |
|------------------------------------|--|
| Date of Submission | 04-09-2021 18:10:19 |
| Type of Submission | Default Submission |
| Submission ID | 11 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Default Amount | 14639627.51 |
| Status of Authentication by Debtor | DEEMED TO BE AUTHENTICATED |
| Authentication Completed on | 21-09-2021 02:52:55 |

| | |
|------------------------------------|--|
| Date of Submission | 15-02-2023 18:43:51 |
| Type of Submission | Default Submission |
| Submission ID | 17 |
| Submitted by (CREDITOR) | M/s YES BANK LIMITED |
| Debtor | M/s UMRITHA INFRASTRUCTURE DEVELOPMENT LLP |
| Default Amount | 129492024.00 |
| Status of Authentication by Debtor | AUTHENTICATED |
| Authentication Completed on | 03-03-2023 10:10:49 |

| | |
|--------------------|---------------------|
| Date of Submission | 12-05-2023 20:53:04 |
|--------------------|---------------------|

Registered Office : Crestam Assurance House, 4th Floor, 87 P. N. Road, Fort, Mumbai-400011.
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5. As can be seen from the aforementioned report, the default committed by the Corporate Debtor in repayment of the loan was authenticated.

6. The only ground espoused by it is that the Respondent/CD is in the process of restructuring the loan amount and has made an application to Swami Fund for required financial assistance for the purpose. As far as this Tribunal is (IB)-714/ND/2023

Yes Bank Limited Vs. Umritha Infrastructure Development LLP



concerned, in terms of the provisions of Section 7(5) of IBC, 2016, we have limited jurisdiction. As can be seen from the said provision, once we are convinced that a default has occurred, an application under sub-section (2) of Section 7 is complete and there is no disciplinary proceeding pending against the Applicant, we have to order the admission of the Application. Section 7(5) of IBC, 2016 reads thus:

“(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:

Provided that the Adjudicating Authority shall, before rejecting the application under clause (b) of sub-section (5), give a notice to the applicant to rectify the defect in his application within seven days of receipt of such notice from the Adjudicating Authority.”

7. We may also be not oblivious of the fact that the statute i.e. IBC, 2016 make it incumbent upon us that within 14 days of receipt of application under sub-section (2), we need to ascertain the existence of default from records of an information utility or on the basis of other evidence furnished by the Financial Creditor under sub-section (3). Section 7(4) of IBC, 2016 reads thus:

“(4) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3):



[Provided that if the Adjudicating Authority has not ascertained the existence of default and passed an order under sub-section (5) within such time, it shall record its reasons in writing for the same.]”

8. Although, it is for the purpose of substantiating the claim staked before RP, but still the Regulation 8 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 provide that the existence of debt due to the Financial Creditor may be proved on the basis of the proof/evidence referred to therein. The Regulation 8 reads thus:

8. Claims by financial creditors.

- (1) A person claiming to be a ³⁴[financial creditor, other than a financial creditor belonging to a class of creditors, shall submit claim with proof] to the interim resolution professional in electronic form in Form C of the [Schedule-I]:

Provided that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.

- (2) The existence of debt due to the financial creditor may be proved on the basis of -
- (a) the records available with an information utility, if any; or
 - (b) other relevant documents, including -
 - (i) a financial contract supported by financial statements as evidence of the debt;
 - (ii) a record evidencing that the amounts committed by the financial creditor to the corporate debtor under a facility has been drawn by the corporate debtor;
 - (iii) financial statements showing that the debt has not been ³⁵[paid]; or
 - (iv) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any.

9. As has been noted herein above, the Applicant has placed on record the, the record available with the Information Utility (NeSL) to show that the default



committed by the Corporate Debtor in repaying the debt has been authenticated by it.

10. In view of the aforementioned, **we are left with no option but to admit the present application. Ordered accordingly.** It is made clear that the present order would not stand in the wake of the Corporate Debtor in working out the steps it is proposing to take to avail the Financial Assistance from the Swami Fund or otherwise to settle the amount of loan defaulted to take with the Financial Creditor.

11. Mr. Krish Kalra, Ld. Counsel appearing for the Corporate Debtor would submit that the financial health of the Corporate Debtor is sound and it should not be pushed to the insolvency resolution process. To buttress his plea, he relied upon the Judgment of the Hon'ble Supreme Court in Civil Appeal No. 4633 of 2021 titled "**Vidarbha Industries Power Limited Vs. Axis Bank Limited**".

12. As far as the plea is concerned, a reference has been made to the Judgment by Hon'ble Supreme Court in Civil Appeal No. 7121 of 2022 titled "**M. Suresh Kumar Reddy vs. Canara Bank & Ors.**" wherein after taking note of the said Judgment (in Vidarbha (Ibid), Hon'ble Supreme Court ruled that it is not for this Adjudicating Authority to issue directions to the parties regarding settlement of the defaulted amount. As it may, it is stare decisis that the limited scope available in the proceedings under Section 7 of IBC, 2016, is to see as to whether there is disbursement of debt by the Financial Creditor and the default in repayment of the same. The record available with Information Utility is perceived as sufficient evidence to substantiate such default. In the present case, such record has been enclosed with the application. The relevant excerpt of the judgment in M. Suresh Kumar Reddy vs. Canara Bank & Ors. reads thus:



10. Thus, once NCLT is satisfied that the default has occurred, there is hardly a discretion left with NCLT to refuse admission of the application under Section 7. Default is defined under sub-section 12 of Section 3 of the IB Code which reads thus:

“3. Definitions: - In this Code, unless the context otherwise requires,-

(12) “default” means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not [paid] by the debtor or the corporate debtor, as the case may be;”

Thus, even the non-payment of a part of debt when it becomes due and payable will amount to default on the part of a Corporate Debtor. In such a case, an order of admission under Section 7 of the IB Code must follow. If the NCLT finds that there is a debt, but it has not become due and payable, the application under Section 7 can be rejected. Otherwise, there is no ground available to reject the application.

13. In view of the aforementioned, **we are left with no option but to admit the present application. Order accordingly. In the wake, moratorium provided under Section 14 of IBC, 2016 is declared qua the CD** and as a necessary consequence thereof the following prohibitions are imposed, which must be followed by all and sundry:

- (a) The institution of suits or continuation of pending suits or proceedings against the Respondent 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 Respondent 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 Respondent 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 Respondent.

14. As proposed by the Petitioner **Mr. Vikram Bajaj**, having **Registration No. IBBI/IPA-002/IP-N00003/2016-2017/10003** is appointed as IRP, subject to the condition that no disciplinary proceeding is pending against him and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order. It is further ordered that:

“Mr. Vikram Bajaj shall take charge of the CIRP of the Corporate Debtor with immediate effect and would take steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016 read with extend provisions of IBBI (Insolvency Resolution of Corporate Persons) Regulations, 2016.”

15. The Petitioner is directed to deposit Rs. 2,00,000/- only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

16. A copy of this Order shall immediately be communicated by the Registry/Court Officer of this Tribunal to the Petitioner /Financial Creditor, the Respondent/Corporate Debtor and the IRP mentioned above.

17. In addition, a copy of this Order shall also be forwarded by the Registry/Court Officer of this Tribunal to the IBBI for their records.

Sd/-
(SUBRATA KUMAR DASH)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)

(IB)-714/ND/2023
Yes Bank Limited Vs. Umriha Infrastructure Development LLP