

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD



ITEM No.305
C.P.(IB)/263(AHM)2025

Under Section 7 IBC

IN THE MATTER OF:

Bank of India
V/s
Devashray Papers (India) LLP

.....Applicant

.....Respondent

Order delivered on: 30/10/2025

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

ORDER
(Hybrid Mode)


The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

SD/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

SD/-

SHAMMI KHAN
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, COURT-I, AHMEDABAD**

CP(IB) No.263/7/AHM/2025

(An 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: Devashray Papers (India) LLP

Bank of India

(CIN: U99999MH1906PLC000243)
Registered office at Star House,
C-5, G Block, Bandra Kurla Complex,
Mumbai, Maharashtra-400051.

...Applicant/Financial Creditor

VERSUS

Devashray Papers (India) LLP

(LLPIN: AAN-3319) Registered office
at Survey No. 1106,
Makva Vijaypuran Express Highway,
Village Makva, Taluka Mehmdavad,
Dist. Kheda-387411, Gujarat

...Respondent/Corporate Debtor

Order Pronounced On: 30.10.2025

C O R A M:

**SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)**

A P P E A R A N C E:

For the Applicant/FC : Ms. Nitu Chaturvedi, Advocate.



For the Respondent/CD : Mr. Jaimin Dave, Advocate.

O R D E R
(Per Bench)

1. This Petition is filed on 08.07.2025 by the Applicant- Bank of India (hereinafter referred to as 'Financial Creditor') against the Respondent- Devashray Papers (India) LLP (hereinafter referred to as 'Corporate Debtor') under **Section 7** of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC, 2016") read with **Rule 4** of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "IB (AAA) Rules, 2016") for initiation of Corporate Insolvency Resolution Process (CIRP), for having defaulted in payment of the outstanding Financial Debt of **Rs.43,12,25,047.24ps.** including interest. The date of default is stated to be 11.10.2024.
2. On Perusal of Part-I of the Form-1 revealed that the Financial Creditor - Bank of India is a Bank/Financial Institution incorporated on 07.09.1906 under the Companies Act, 1900, with Corporate Identification Number - U99999MH1906PLC000243, and has its registered office at Star House, C-5, G Block, Bandra Kurla Complex, Mumbai, Maharashtra-400051. This Petition is filed through Asstt. General manager Mr. Rajesh Sharma, who has been authorised by an Authority Letter dated 25.06.2025 & Board



Resolution dated 27.06.2019, which are annexed with the Petition & Rejoinder as Annexure-A & AA.

- 3.** On perusal of Part-II of the Form-1 revealed that the Corporate Debtor is one Devashray Papers (India) LLP, having LLPIN AAN-3319 a Limited Liability Partnership incorporated on 24.09.2018 under the Limited Liability Partnership Act, 2008. The Corporate Debtor is having registered office at Survey No. 1106, Makva Vijaypuran Express Highway, Village Makva, Taluka Mehmdavad, Dist. Kheda, Gujarat-387411, India, with total obligation contribution of Rs.55,00,00,000/-, as per the Master Data available on the website of the Ministry of Corporate Affairs, which is annexed with the Petition as Annexure-B.
- 4.** On perusal of Part-III of the Form-1 revealed that the Financial Creditor has named Mr. Vinod Tarachand Agrawal, having Registration No. IBBI/IPA-001/IP-P00641/2017-2018/11090, having address: 204, Wall Street-1, Near Gujarat College, Ellisbridge, Ahmedabad-380006 (e-mail: ca.vinod@gmail.com) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (IRP). He has filed its written communication Form-2 dated 01.07.2025 along-with Form-B (consent to act as IRP) being AFA dated 21.10.2024 as well as Certificate of registration dated 29.09.2017, which are annexed with the Petition as Annexure-C Colly as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy



(AAA) Rules, 2016. The AFA of the proposed IRP is valid up to 31.12.2025.

5. On perusal of Part-IV of the Form-1 revealed that total Financial Debt as claimed by the Financial Creditor is Rs.43,12,25,047.24ps. consisting of Rs.40,86,94,108.91ps. being principal and amount of Rs.2,25,30,938.33ps. as interest at 12.50% per annum up-to 31.05.2025 as per both the Loan Account Statements, which are annexed with the Petition as Annexure-D Colly. The date of default is stated to be 11.10.2024.
6. On Perusal of Part-IV & Part-V of Form-1 revealed that the Financial Creditor has placed the facts through this Petition in the following manner:-
 - (i) The Financial Creditor is part of UBI Consortium comprising Union Bank of India as Lead Bank and member banks including Bank of India, Indian Bank and Karnataka Bank Ltd.
 - (ii) The Corporate Debtor availed Credit Facilities under a consortium arrangement led by Union Bank of India on 15.12.2022 with the Financial Creditor as a member bank, which sanctioned Credit Facilities totalling Rs.190.00 Crore comprising Term Loan of Rs.90.00 Crore and Working Capital of Rs.100.00 Crore to the Corporate Debtor for funding a paper manufacturing project with a total revised cost of Rs.197.12 Crore.



- (iii) The Financial Creditor/Bank of India's share in the facilities is Rs.34.32 Crore, comprising Term Loan of Rs.16.00 Crore sanctioned on 15.12.2022 and disbursed on 26.12.2022, and Cash Credit of Rs.15.00 Crore with Ad-hoc Limit of Rs.3.32 Crore vide sanction letter dated 15.12.2022.
- (iv) The Corporate Debtor executed loan documents, including Joint Deed of Hypothecation dated 15.12.2022 over stocks book debts, movables and machinery and provided Declaration-cum-General Undertaking dated 15.12.2022 confirming statutory compliances, no transfer of immovable properties without consent, maintenance of business premises and other covenants.
- (v) The Financial Creditor has further stated that the securities created include hypothecation of raw materials, semi-finished goods, finished goods, book debts and movables with valuation norms as raw materials at cost or market price whichever lower including sales-tax and demurrage semi-finished at cost plus factory overhead finished at cost or market price or Government controlled rates or selling prices whichever lowest and the banks liberty to appoint appraisers with costs borne by Corporate Debtor and pledge conditions for goods in godowns under bank control with name boards padlocks and keys.



- (vi) The Financial Creditor has averred that the undertakings in the Declaration dated 15.12.2022 include prompt furnishing of data following RBI and government guidelines, no change in business nature or premises without consent, maintenance of capital reserves, display of bank names on godowns, no new borrowings, amalgamation or dividends without approval, utilisation of funds for sanctioned purpose and indemnity against losses.
- (vii) The Financial Creditor submitted that the date of default is 11.10.2024 on failure to pay interest and instalment, with NPA declaration on 08.01.2025, and the default amount exceeds Rs.1.00 Crore, qualifying under Section 4 of IBC, 2016. The outstanding dues as on 31.05.2025 are Rs.43,12,25,047.24ps., comprising principal of Rs.40,86,94,108.91ps. and interest of Rs.2,25,30,938.33ps., with Term Loan outstanding at Rs.17,23,43,818.53ps. and Cash Credit at Rs.25,88,81,228.71ps. which are annexed with the Petition as Annexure-D Colly.
- (viii) The Corporate Debtor defaulted by not servicing the debt despite a demand notice under Section 8 IBC, 2016 issued on 05.06.2025, with account statements showing continuous debit balances, penal charges and partial



recoveries via RTGS/NEFT from 21.10.2024 to 27.06.2025.

- (ix) The Financial Creditor has also filed **Form-D**, being record of debt and default issued by National E-Governance Services Limited (“**NeSL**”) of both loan accounts, in which the date of default is recorded in C.C. Limit as 11.10.2024 & in Term Loan as 23.10.2024, respectively, with status “**Authenticated**”. A copy of the Record of Default issued by NeSL on 20.06.2025 under Unique Debt Identifier AAACB0472C_200070210000088 and AACB0472C_200030110000181 is annexed with the Petition as Annexure-K Colly.
- (x) The Financial Creditor has claimed that the financial debt falls under Section 5(8) of IBC as disbursed against time value of money and the default under Section 3(12) entitling initiation of CIRP.
- 7.** The Financial Creditor has relied upon the following documents, which are as under:-
- (a) Authority Letter dated 25.06.2025 issued to Mr. Rajesh Sharma Assistant General Manager - Exhibit: A.
- (b) MCA Data of Corporate Debtor- Exhibit: B.
- (c) Form-2 dated 01.07.2025 along-with Form-B being AFA dated 21.10.2024 & Certificate of Registration dated 29.09.2017- Exhibit: C.



- (d) Working of Computation & statement of the accounts- Exhibit: D.
- (e) Joint Deed of Hypothecation dated 15.12.2022 Exhibit: E.
- (f) Mortgage Deed dated 16.12.2022 Exhibit: F.
- (g) Declaration-cum-General Undertaking dated 15.12.2022 Exhibit: G.
- (h) Declaration by Borrower and Individual securing the credit facility Exhibit: H & I.
- (i) OA Copy is annexed herewith as Exhibit: J.
- (j) NESL Certificate Form C & Form D Exhibit: K.
- (k) Security Trustee Agreement dt. 15.12.2022 Exhibit: L.
- (l) Working Capital consortium agreement dated 15.12.2022 Exhibit: M.
- (m) Consortium Term Loan agreement dated 15.12.2022 Exhibit: N.
- (n) Inter Creditor Agreement dated 15.12.2022 Exhibit: O.
(o).
- (o) Power of Attorney in respect of book-debt dated 15.12.2022 Exhibit: P.
- (p) Deed of Guarantee dated 15.12.2022 Exhibit: Q.
- (q) Extracts of Balance Sheet & Profit and Loss Account as on 31.03.2024 Exhibit R.
- (r) Copy of Resolutions passed on 08.12.2022 Exhibit S.
- (s) Recall Notice dated 10.01.2025 Exhibit: T.



(t) Demand Notice u/s 13(2) of the SARFAESI, 2002 dated 04.02.2025 Exhibit: U.

8. That on issuance of the notice in the Petition, the Corporate Debtor has appeared and filed its reply dated 08.09.2025 denying various averments made in the Petition. The Corporate Debtor has placed the facts through the reply in its defence in the following manner: -

- (i) The present Petition is filed under Section 7 of the Insolvency and Bankruptcy Code 2016 for the purpose of arm-twisting the Corporate Debtor, and the Financial Creditor acted in contravention of the agreements executed between the parties and other co-lenders and initiated the present proceeding with the malafide intention of pressurizing the Corporate Debtor.
- (ii) The present Petition is required to be dismissed on the ground of lack of authority to initiate present proceedings under Section 7 of Insolvency and Bankruptcy Code 2016 and that present Petition is filed based on Letter of Authority dated 25.06.2025 issued in favour of one Mr. Rajesh Sharma Assistant General Manager and the said letter of authority is issued by one Mr. Santosh Kumar Chief Manager but there is nothing on record to suggest the source of authority of Mr. Santosh Kumar Chief Manager to issue such authority letter.



- (iii) The Corporate Debtor has placed reliance on the judgement of ***Malavika Hegde vs. IDBI Trusteeship Services Limited, Company Appeal (AT) (CH) (Ins) No. 295/2024*** decided on 27.02.2025 wherein it is held that the very inception of the application preferred under Section 7 of the I&B Code, 2016 would vitiate the proceedings right from its inception and would not be sustainable and therefore, present petition is filed without valid authority and hence the same is required to be rejected. The Corporate Debtor submits that the present Petition is filed without valid authority and hence the same is required to be rejected.
- (iv) It is submitted that the Financial Creditor is not entitled to file the present petition under Section 7 of the Insolvency and Bankruptcy Code, 2016. It is submitted that the entire action of the Financial Creditor is without authority and contradictory to the agreements executed between the parties. It is submitted that as per Inter-se Creditor Agreement dated 15.12.2022, the Financial Creditor is not entitled to initiate any proceedings, including proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016.
- (v) Thus, the petition filed by Financial Creditor in its individual capacity is required to be rejected. It is submitted that only the security trustee i.e. PNB Investment Services Ltd. can initiate present



proceedings. It is submitted that in the case of **Rakshit Dhirajlal Doshi v. IDBI Bank Ltd., reported in [2023] 147 taxmann.com 355 (NCLAT-New Delhi)** decided on 15.11.2022, it is held that in consortium lending arrangements, a single financial creditor cannot initiate proceedings without the consent of other consortium members.

- (vi) It is submitted that the date of default mentioned in the petition is inaccurate. It is submitted that Financial Creditor has claimed the date of default to be 11.10.2024. However, on perusal of the Statement of Accounts produced along with a copy of the Petition, it is evident that the Corporate Debtor has repaid the loan amount as late as on 03.01.2025. It is submitted that on 03.01.2025, an amount of Rs.8,30,962/- (GST Credit) is credited to the Cash Credit account. It is further submitted that there are two dates of default mentioned in the NeSL record. It is submitted that, as per the NeSL record, the date of default for the Term Loan account is 23.10.2024 and the date of default for the Cash Credit limit is 11.10.2024.
- (vii) Without prejudice to the above, the Corporate Debtor is a going concern. As per last audited balance sheet for the Financial Year ending on 31.03.2024, the Corporate Debtor has assets worth Rs.147,97,14,447/-. Furthermore, the Corporate Debtor had closing stock of



Rs.74,34,62,827/- as on 31.03.2024. Not only the Corporate Debtor have GST credit to the tune of Rs.27,48,11,549/-. It is submitted that according to the averments made in the Petition as well as the fair market value of the Corporate Debtor is Rs.186,50,00,000/-.

(viii) Further, as per the Aatmanirbhar Gujarat Scheme, the Corporate Debtor is entitled to a subsidy to the tune of approximately Rs.1,00,00,000/- over a period of 10 years. The Corporate Debtor is eligible for these subsidies under the Aatmanirbhar Gujarat Scheme and it has filed an application for availing benefits under Aatmanirbhar Gujarat Scheme. It is submitted that according to Aatmanirbhar Gujarat Scheme, the Corporate Debtor is entitled to exemption from payment of 100 % of net SGST for period of 10 years. Furthermore, the Corporate Debtor is entitled to Interest subsidy @7% on Term Loan for 10 years upto 1% of eligible fixed capital investment per annum. It is further submitted that Corporate Debtor is into super specialty business. It is submitted that for maximization of value of the assets of Corporate Debtor, it is necessary that present petition is rejected.

(ix) Without prejudice to the above contentions, it is submitted that petition filed under Section 7 of Insolvency and Bankruptcy Code, 2016 is required to be



rejected on the ground that it is defective and non-compliant with the provisions of Insolvency and Bankruptcy Code, 2016 and rules and regulations made thereunder and it is submitted that according to Regulation No. 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

(x) Hence, the Corporate Debtor in the Reply prays for dismissal of the Petition with costs.

9. The Corporate Debtor has relied upon the following documents, which are as under: -

- (a) Annexure A being a copy of the judgement of Hon'ble National Company Law Appellate Tribunal in case of Rakshit Dhirajlal Doshi vs. IDBI Bank Ltd. reported in [2023] 147 taxmann.com 355 (NCLAT New Delhi) decided on 15.11.2022.
- (b) Annexure B being a copy of audited financial statement for the F.Y. 2023-24.
- (c) Annexure C being a copy of GST credit ledger along with screenshot of GST credit.
- (d) Annexure D being a copy of Aatmanirbhar Gujarat Scheme.
- (e) Annexure E being a copy of application submitted under Aatmanirbhar Gujarat Scheme.
- (f) Annexure F being the computation of interest subsidy and SGST.



10. The Financial Creditor has also filed a rejoinder on 18.09.2025 vide inward diary no. D0000 to the Reply of the Corporate Debtor, denying most contentions raised by the Corporate Debtor in its reply. The contents of the Rejoinder are reproduced as follows: -

(i) The Financial Creditor stated that Deponent- Rajesh Sharma, Assistant General Manager, has the authority letter dated 25.06.2025 attached as Exhibit A in the main petition, and the extant guidelines and Board Resolution dated 27.06.2019 clearly state that the AGM is authorised to sign the present petition. The Board Resolution is attached herewith as Exhibit AA.

(ii) The reply filed by the Corporate Debtor is devoid of merit and is intended merely to delay the present proceedings and that the Corporate Debtor has admitted to availing multiple credit facilities under a consortium lending arrangement from the Financial Creditor and other consortium banks and the present application has been validly instituted by the Applicant Bank being one of the lenders under the consortium and having due authorization under the Facility Agreements as annexed and stated in with the main application.

(iii) The *Clause 10.12* of Security Trustee Agreement (Annexure-L) states Performance by the Secured Parties
Any duty or obligation of the Security Trustee



hereunder or under any Security Document or other agreement document or Instrument contemplated herein or therein may be performed by the Secured Parties and any such performance shall not be construed as a revocation of the trusts or agency created hereby which is totally opposite to what apprised in the pleadings of reply by the Corporate Debtor and negates the alleged contention that Financial Creditor alone doesn't have any right to initiate the present proceedings against the Corporate Debtor.

- (iv) The *Section 7(1)* of the Code provides that a financial creditor either by itself or jointly with other financial creditors may file an application and the use of the words by itself makes it abundantly clear that even a single financial creditor is competent to file a Section 7 application and that there are judicial precedence of Hon'ble Supreme Court and Hon'ble NCLAT which has clarified the position that any one of the financial creditors is entitled to maintain an application under Section 7 without the consent of other lenders and it has gone to the extent that consortium lending does not restrict an individual lenders right to proceed under IBC if debt and default are established.
- (v) The Applicant Bank, being a member of the consortium, is a Financial Creditor within the meaning of Section



5(7) of the Code to whom a financial debt is due and payable and the contention of not having valid authorization is completely baseless, devoid of merit and is intended merely to delay the present proceedings.

- (vi) There is an existence of Debt and Default. The Corporate Debtor availed Term Loan Cash Credit Facilities from the Financial Creditor and other consortium lenders under sanction letters dated 15.12.2022 duly executed loan documents and security creation instruments. However, Corporate Debtor committed default on 11.10.2024 in payment of interest in the C.C. Account and on 23.10.2024 in repayment of the instalments in the Term Loan account. Therefore, the loan accounts of the Corporate Debtor were classified as NPA on 08.01.2025 and the outstanding default amount owed to the Financial Creditor alone is Rs. 43,12,25,047.24ps. which is above the threshold under Section 4 of the Code and Statements of account certified under the Bankers Books Evidence Act 1891 along with acknowledgments in the Corporate Debtors balance sheets further prove the existence of debt and default.
- (vii) The Applicant Bank submits that the date of default mentioned in the application is correct and accurate because the amount as referred in para 7 of the Reply for Rs. 8,30,962/- is nothing but a GST Refund which



cannot be treated as amount repaid in terms of credit facility taken by the CD. There are two facilities and therefore there are NPA dates and the amount with regard to both the account is more than Rs 1.00 Crore. Thus, the contentions raised in the reply are negated completely as being misrepresented.

- (viii) The Rejoinder submits that on Consortium Lending that Corporate Debtor cannot take shelter under consortium lending since all consortium members are independent financial creditor each lender has an independent cause of action against the debtor. There is no contravention of any agreements executed between the parties and other co-lenders and there is a default on part of the Corporate Debtor herein referred as CD for sake of brevity and on the contrary the facts is CD has contravene the provision of the agreements and defaulted in re-paying the credit facilities as per the timelines and terms and condition of various agreements documents executed with the Banks.
- (ix) Further, Respondent have tendered documents about atmanirbhar Gujarat Scheme which also doesn't have any relevance in present Petition and still cannot negate the fact that default has occurred. Thus, by making an averment about the scheme, the liability of the CD in case of default. Further, even if the scheme is considered as presented by the CD, it has only provided



a copy of the scheme and no proof of submission or grant of any such benefit is attached thus the entire contention of the Atmanirbhar Gujarat scheme is baseless to the present case.

- (x) The applicant further submits that the Petition under section 7 is compliant within the four corners of IB code 2016, the Copy of the present petition is served on IBBI, which is annexed herewith as Exhibit BB. The Registration of Charge is also attached herewith as Exhibit CC.
- (xi) The Financial Creditor has relied upon the following documents, which are as under:-
- (a). Exhibit AA, being a Board Resolution dated 27.06.2019.
 - (b). Exhibit BB, being proof of service of Petition to IBBI
 - (c). Exhibit CC, being proof of Registration of the Charge.
- (xii) Hence, the Financial Creditor has prayed that this Tribunal to Admit the present application under Section 7 of the Insolvency and Bankruptcy Code, 2016; Initiate Corporate Insolvency Resolution Process against the Respondent/Corporate Debtor; and pass such other order(s) as this Tribunal may deem fit and proper.



11. We have heard Ld. Counsel for the Financial Creditor, Ld. Counsel for the Corporate Debtor, and considered the submissions of both parties and perused the material on record, including the petition, reply, rejoinder, and annexed documents.

12. The primary objections raised by the Corporate Debtor in its Reply dated 08.09.2025 pertain to: (i) lack of authority on the part of the Financial Creditor to institute the proceedings; (ii) inaccuracy in the date of default; (iii) ineligibility of a single consortium member to file independently under Section 7 due to the terms of the Inter-Creditor Agreement and Security Trustee Agreement; and (iv) the Corporate Debtor's status as a going concern with available GST credits, subsidies under the Aatmanirbhar Gujarat Scheme, and other assets, rendering the petition premature. These objections have been refuted in the Rejoinder dated 18.09.2025 filed by the Financial Creditor.

13. **On the issue of authority to file:**

(i) The Corporate Debtor contends that the authority letter dated 25.06.2025 issued by Mr. Santosh Kumar, Chief Manager, to Mr. Rajesh Sharma, Assistant General Manager, lacks underlying authorisation, relying on the judgment of *Malavika Hegde v. IDBI Trusteeship Services Ltd. and Anr.*, (2025) ibclaw.in 152 NCLAT, decided on 27.02.2025). In that case, the NCLAT held that where a Power of Attorney (PoA) is superseded, the signatory



lacks competence to verify the affidavit, vitiating the proceedings ab initio, as verification in corporate pleadings must be by a duly authorised person to ensure sanctity.

- (ii) However, the facts here are distinguishable. The Financial Creditor has produced a Board Resolution dated 27.06.2019 (Exhibit AA to the Rejoinder), explicitly authorising all officials of the rank of Assistant General Manager and above to institute applications under the IBC before the NCLT, including signing affidavits, petitions, and related documents. This resolution, being a foundational corporate authorisation, empowers Mr. Rajesh Sharma directly, rendering the intermediate Authority Letter (Exhibit A to the Petition) merely confirmatory. The deponent in the verification affidavit is Mr. Rajesh Sharma, who holds the requisite rank and has affirmed his competence based on the Board's authorization. No supersession of authority is alleged or evidenced.
- (iii) This satisfies the requirement of due authorization under Section 7(3)(a) read with Rule 4(3) of the Rules. Thus, the objection on locus standi is rejected, and the petition is held to be properly instituted and is maintainable on this count.

14. On the existence of debt, default, and threshold:



- (i) The Financial Creditor has established a financial debt Section 5(8) of the Code of Rs. 43,12,25,047.24ps. (principal: Rs. 40,86,94,108.91ps; interest @12.50% p.a. up to 31.05.2025: Rs. 2,25,30,938.33ps) under Section 5(8), disbursed against the time value of money via term loan (sanctioned 15.12.2022, disbursed 26.12.2022) and Cash Credit Facilities (Exhibit D, M, N to the Petition). The default commenced on 11.10.2024 (Cash Credit) and 23.10.2024 (Term Loan), with NPA classification on 08.01.2025, authenticated by NeSL Record of Default dated 20.06.2025 (Exhibit K) for Rs. 245.39 Crore (consortium-wide) and certified account statements (Annexure F). The amount exceeds the Rs. 1.00 Crore threshold under Section 4(1).
- (ii) The Corporate Debtor's claim of a later repayment on 03.01.2025 (Rs. 8,30,962/-) is dismissed as it pertains to a GST refund credited incidentally, not a voluntary repayment of principal/interest (as clarified in the Rejoinder). Partial recoveries via RTGS/NEFT (21.10.2024 to 27.06.2025) do not extinguish the default, which is continuous under Section 3(12).
- (iii) The dual default dates in NeSL records reflect distinct facilities but confirm the aggregate default. No dispute on the existence of debt is raised; acknowledgements in the Corporate Debtor's balance sheet as on 31.03.2024 (Exhibit R) further corroborate it. The petition is filed



within the limitation period under Article 137 of the Limitation Act, 1963, as acknowledged in the balance sheet extracts up to 31.03.2024, extending the limitation to at least March 31 2027, from the last acknowledgement on 31.03.2024.

15. On the maintainability in a consortium setup:

- (i) The Corporate Debtor heavily relied on ***Rakshit Dhirajlal Doshi v. IDBI Bank Ltd., (2022) ibclaw.in 932 NCLAT (supra)*** decided on 15.11.2022, contending that under the Inter-Creditor Agreement dated 15.12.2022 (Exhibit O to the Petition), actions such as declaring default or enforcing securities (including under the IBC) must be taken collectively by the consortium (led by Union Bank of India) or by the Security Trustee (PNB Investment Services Ltd.), with prior consultation among members (Clauses 3(a), 3(b), 3(e), and 3(j)). It argues that unilateral action by Bank of India violates these terms, stripping it of locus standi.

- (ii) This contention is untenable. Section 7(1) of the Code unequivocally empowers "a financial creditor" (singular) to initiate Corporate Insolvency Resolution Process (CIRP) independently, without requiring joint action. This statutory right cannot be diluted by contractual stipulations in inter-creditor arrangements unless they explicitly prohibit IBC proceedings and are upheld as



overriding the Code's objectives of time-bound resolution and creditor equality.

- (iii) Critically, the Security Trustee Agreement dated 15.12.2022 (Exhibit L to the Petition) contains Clause 10.12, which states: "Any duty or obligation of the Security Trustee hereunder or under any Security Document or other agreement, document or Instrument contemplated herein or therein may be performed by the Secured Parties and any such performance shall not be construed as a revocation of the trusts or agency created hereby." This clause expressly permits individual secured parties (including Bank of India) to discharge obligations, such as actions under the IBC, without revoking the trusteeship. The Inter-Creditor Agreement's consultation clauses (e.g., Clause 3(e)) pertain to enforcement of securities against the borrower and do not override this permissive provision or the statutory autonomy under Section 7.
- (iv) In ***Rakshit Dhirajlal Doshi (supra)***, the NCLAT's ruling was confined to agreements mandating strict collective enforcement without such a carve-out; here, Clause 10.12 provides the necessary leeway. The consortium arrangements do not fetter independent statutory remedies under the IBC.



- (v) To adjudicate upon this contention, the Tribunal would like to place reliance on the judgment of Hon'ble NCLAT in ***Amit Dineshchandra Patel v. State Bank of India and Anr., (2025) ibclaw.in 03 NCLAT***, decided on 03.01.2025, wherein the following was held by the Hon'ble appellate authority:-

“19. This now brings us to the argument canvassed by the Appellant that in Rakshit Dhirajlal Joshi vs IDBI Bank Ltd 2022 SCC Online NCLAT 4524 it had been held by this Tribunal that if the Security Trustee Agreement had laid down that the lenders shall act collectively, then an individual bank without obtaining formal consent of the other lenders cannot substitute itself in place of the Security trustee. The reliance placed by the Appellant on the decision of this Tribunal in Rakshit Dhirajlal judgment is not applicable in the present case since in this case there is no dispute inter se between the members of the consortium which had joined hands in signing the Security Trustee Agreement. None of the members of the consortium have raised any objection on the authority of the Respondent No.1 Bank to file the Section 95 application. Clearly therefore this judgement does not come to the rescue of the Appellants. Further, from the statutory construct point of view also, Section 95 of IBC clearly provides that a Section 95 application can be filed by a creditor in his individual capacity or jointly with other creditors or through a RP. It nowhere lays down any prescription that if the credit facility has been extended by more than one financial creditor, the Section 95 application is



required to be filed collectively. Hence, we do not find any irregularity in the invocation of the personal guarantee by the Respondent No. 1 Bank on these counts either.”

(Emphasis Supplied)

(vi) Similarly, in the present case as well, there is no dispute inter se between the members of the lending consortium. No lender has raised any objection to the filing of the petition under Section 7 of the Code by the Applicant Bank. The Agreements do not prohibit individual action by any creditor. Furthermore, Section 7 of the Code expressly permits initiation of proceedings by an individual creditor, jointly with other creditors. There is no statutory requirement for collective filing. Accordingly, ***the filing of the present petition by the Applicant bank is valid and legally tenable.***

(vii) Thus, Financial Creditor, as a member of the consortium with an independent share (Rs. 34.32 Crore in facilities), qualifies as a "financial creditor" under Section 5(7) of the Code, entitled to its distinct cause of action. The objection is, therefore, overruled.

16. On Going Concern Status and Other Objections:

(i) The Corporate Debtor's averments regarding its going concern status—audited assets (Rs. 147.97 Crore), closing stock (Rs. 74.35 Crore), GST credits (Rs. 27.48



Crore per Annexure C to Reply; disputed quantum), and prospective subsidies under Aatmanirbhar Gujarat Scheme (Annexures D-F to Reply; application dated 27.03.2024, unapproved)—are irrelevant at the admission stage. Section 7 mandates a prima facie examination of debt and default only; the Code presumes CIRP initiation preserves the entity as a going concern (Section 3(23)), maximising value for stakeholders (Preamble to IBC). Such defences may be raised before the IRP/Committee of Creditors, consistent with the IBC Preamble's objective of maximising asset value.

- (ii) The objection on non-attachment of charge registration certificate (Part V, Form 1) is cured by Exhibit CC to the Rejoinder, evidencing MCA filings of charges (total Rs. 190 Crore, including hypothecation via Joint Deed dated 15.12.2022, Exhibit E).
- (iii) The application is complete, with service to IBBI confirmed via Form 1A (Acknowledgement ID: IAAA-0725-007863) in Compliance with Rule 4(4) IB(AAA) Rules and charge details from MCA portal evidencing security creation.

17. In view of the above, the present Petition is complete in terms of Section 7 (5) of the Code. The Tribunal finds that the Financial Creditor has discharged its burden of proof under



Section 7 of the Code by demonstrating the existence of a financial debt and default in payment of the financial debt by the Corporate Debtor. The outstanding financial debt is of more than rupees one crore, which meets the threshold limit as per section 4 of the Code and is well within the limitation for filing the present Petition, which is supported by comprehensive documentation. Moreover, the said default is not covered under the period exempted under Section 10A of the IBC, 2016.

- 18.** The Hon'ble Supreme Court in the case of ***Innoventive Industries Limited Vs. ICICI Bank Limited & Anr. (2017) ibclaw.in 02 SC***, wherein it has discussed extensively the scope of the Adjudicating authority under section 7 of the IBC is limited to assessing the records provided by the financial creditor to satisfy itself that the default has occurred.

28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor – it need not be a debt owed to the applicant financial creditor. Under Section 7(2), an application is to be made under sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the application is made by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II,



particulars of the proposed interim resolution professional in part III, particulars of the financial debt in part IV and documents, records and evidence of default in part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the “debt”, which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under sub-section (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.

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



adjudicating authority may reject an application and not otherwise.

19. The view taken in the case of ***Innoventive Industries*** has been followed by the Supreme Court in the case of ***E S Krishnamurthy & Ors. Vs. Bharath Hi Tech Builders Pvt. Ltd. (2021) ibclaw.in 173 SC*** held that the Adjudicating Authority must either admit the application under Section 7(5)(a) or it must reject the application under Section 7(5)(b). The statute does not provide for the Adjudicating Authority to undertake any other action, but for the two choices available. The Adjudicating Authority is empowered only to verify whether a default has occurred or if a default has not occurred. Based upon its decision, the Adjudicating Authority must then either admit or reject an application respectively. These are the only two courses of action which are open to the Adjudicating Authority in accordance with Section 7(5). The Adjudicating Authority cannot compel a party to the proceedings before it to settle a dispute.
20. Supreme Court in ***M. Suresh Kumar Reddy Vs. Canara Bank & Ors. (2023) ibclaw.in 67 SC*** in para 13 held that the decision in the case of ***Vidarbha Industries (2022) ibclaw.in 91 SC*** cannot be read and understood as taking a view which is contrary to the view taken in the cases of ***Innoventive Industries [2017] ibclaw.in 02 SC*** and ***E.S. Krishnamurthy (2021) ibclaw.in 173 SC***. The view taken



in the case of **Innoventive Industries** still holds good. The Hon'ble Supreme Court observed that:

*“13. Thus, it was clarified by the order in review that the decision in the case of **Vidarbha Industries** was in the setting of facts of the case before this Court. Hence, the decision in the case of **Vidarbha Industries** cannot be read and understood as taking a view which is contrary to the view taken in the cases of **Innoventive Industries** and **E.S. Krishnamurthy**. The view taken in the case of **Innoventive Industries** still holds good.”*

- 21.** In light of the above findings, this Tribunal is satisfied that the Financial Creditor is entitled to the relief as sought. The Corporate Debtor's default justifies the admission of the petition and the initiation of CIRP under the Code. Hence, the Application filed under section 7(2) of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process (CIRP) against the Respondent/Corporate Debtor deserves to be admitted.
- 22.** Accordingly, in light of the above facts and circumstances, it is **hereby ordered** as under: -
- (i) The Respondent/Corporate Debtor - **Devashray Papers (India) LLP** is **admitted** in the Corporate Insolvency Resolution Process (**CIRP**) under section 7 of the IBC, 2016.
 - (ii) As a consequence thereof, a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.



- 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 however, not apply to such transactions, agreements as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a Corporate Debtor. The moratorium does not apply to transactions notified by the Central Government, as per Section 14(3)(a) of the IB Code, 2016.*

(iii) The order of moratorium under section 14 of the Code shall come to 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 section 31 or passes an order for liquidation of the Corporate Debtor under Section 33 of the IBC 2016, as the case may be.



- (iv) However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the Corporate Debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
- (v) As proposed by the Financial Creditor, we appoint **Mr. Vinod Tarachand Agrawal**, having Registration No. IBBI/IPA-001/IP-P00641/2017-2018/11090, having address: 204, Wall Street-1, Near Gujarat College, Ellisbridge, Ahmedabad-380006 (e-mail: ca.vinod@gmail.com) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.
- (vi) The IRP so appointed shall make a public announcement (e.g., newspapers, websites) under Regulation 6(2) of IBBI Regulations, 2016, of the initiation of the Corporate Insolvency Resolution Process and call for submissions of claims under section 15 within three days of appointment as per Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, as required by Section 13(1)(b) of the Code.
- (vii) The IRP shall perform all his functions as contemplated, *inter-alia*, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel



connected with the Corporate Debtor, its promoters, or any other person associated with the management of the Corporate Debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the Corporate Debtor, its promoters, or any other person required to assist or co-operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- (viii) The IRP is expected to take full charge of the Corporate Debtor's assets and documents without any delay whatsoever within seven days of this order. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- (ix) The IRP shall be under a 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 the obligation imposed by section 20 of the Code.
- (x) The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority a periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.



- (xi) We direct the Financial Creditor to pay IRP a sum of **Rs.2,00,000/- (Rupees Two Lakh Only)** in advance exclusive of applicable taxes, within 7 days from the date of this order to meet the initial costs of the CIRP, including issuing public notice and inviting claims, as per Regulation 33(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. This amount shall be adjustable against the IRP's fees and expenses as approved by the Committee of Creditors (CoC) under Regulation 33(3), with any excess refundable to the Financial Creditor or shortfall recoverable from the Corporate Debtor's estate as CIRP costs.
- (xii) The Registry is directed to communicate this order to the Financial Creditor, Corporate Debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days, and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update the Corporate Debtor's Master Data on the MCA portal to reflect its status as 'under Corporate Insolvency Resolution Process' within 7 working days of receiving this order and submit a compliance report to the Registrar, NCLT, within 14 working days.



(xiii) The public announcement under Regulation 6(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, shall be published in at least one English (national edition) and one vernacular newspaper with wide circulation in the state of the Corporate Debtor's registered office (Gujarat) and on the Corporate Debtor's website, if any, as per Form A of the said Regulations.

(xiv) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

23. Accordingly, **CP(IB) No.263/7/AHM/2025** is hereby ***admitted***. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)