

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

ITEM No.303
C.P. (IB)/97(AHM)2024

Proceedings under Section 07 of IBC

IN THE MATTER OF:

HDFC BANK LIMITED

.....Applicant

V/s

LIVEIN AQUA SOLUTIONS PRIVATE LIMITED

.....Respondent

Order delivered on: 12/01/2026

CORAM:

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 BENCH**

CP (IB) No. 97/AHM/2024

(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: Livein Aqua Solutions Private Limited

HDFC Bank Limited

CIN: L65920MH1994PLC080618

Registered office at:

HDFC Bank House,
Senapati Bapat Marg,
Lower Parel (West),
Mumbai - 400 013.

...Applicant/Financial Creditor

VERSUS

Livein Aqua Solutions Private Limited

CIN: U52100GJ2013PTC077985

Registered office at

G-103, Sterling Heights,
Ugat Canal Road,
Near Palanpur Jakatnaka,
Surat, Gujarat - 395 005.

...Respondent/Corporate Debtor

Order Pronounced On: 12.01.2026

C O R A M:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)



APPEARANCE:

For the Applicant/FC : Mr. Tarak Damani, Advocate
For the Respondent/CD : Ms. Noopor K. Dalal, Advocate

ORDER Per Bench

1. This Petition was filed on 01.08.2023 by the Applicant **HDFC Bank Limited** (hereinafter referred to as “**Financial Creditor**”) against the Respondent **Livein Aqua Solutions Private Limited** (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**), to appoint Interim Resolution Professional (hereinafter referred to as “**IRP**”) and declare the moratorium for having defaulted in payment of the outstanding Financial Debt of **Rs.10,32,56,216.42/-** with further interest till payment and/or realization).
2. It is submitted that the Petitioner had filed the present Section 7 application on 01.08.2023, which was declined registration by the Joint Registrar vide order dated 18.10.2023 under Rule 28(3) of the NCLT Rules, 2016 due to defects. Aggrieved thereby, the Applicant preferred Appeal No. 4 of 2024 under Rule 63 of the NCLT Rules, which was allowed by the Learned Single Bench, NCLT Ahmedabad, by



setting aside the order dated 18.10.2023 and granting seven days' time to cure the defects, subject to payment of costs of ₹30,000/-.

3. It is submitted that the captioned petition filed by the Petitioner Bank under Section 7 of the Insolvency and Bankruptcy Code, 2016 came to be dismissed by this Tribunal vide order dated 18.06.2024, on the ground that the said petition was found to be defective.
4. It is submitted that thereafter, the Petitioner herein challenged the order dated 18.06.2024 passed by this Tribunal by filing Company Appeal (AT) (INS) No. 1534 of 2024 before the Hon'ble NCLAT, New Delhi, and the Hon'ble NCLAT, vide order dated 27.08.2025, allowed the said appeal and directed this Tribunal to proceed with the captioned petition on 15.09.2025.
5. It is submitted that this Tribunal, vide order dated 15.09.2025, granted one week's time to the Petitioner/Financial Creditor to cure the defects in the captioned petition. However, the Respondent herein challenged the order dated 27.08.2025 passed by the Hon'ble NCLAT before the Hon'ble Supreme Court by filing Civil Appeal No. 11766 of 2025, and the Hon'ble Supreme Court, vide order dated 15.09.2025, stayed all further proceedings before this Tribunal.
6. It is submitted that thereafter, the Hon'ble Supreme Court, after hearing both the parties, passed a final order dated



24.11.2025, whereby the appeal preferred by the Respondent/Corporate Debtor was dismissed and the Petitioner herein was directed to cure the defects in the captioned petition within seven days from the date of the said order. The operational portion of the order dated 24.11.2025 passed by the Hon'ble Supreme Court is as under:

"The Appeal is accordingly disposed of directing the Respondent Bank to cure defects in CP.(IB)/97(AHM)2024, including the defective affidavit, within seven days from today, and the National Company Law Tribunal, Ahmedabad Bench, shall thereupon take up the matter for hearing in accordance with law and due procedure"

7. In view of the direction by the Hon'ble Supreme Court of India vide order dated 24.11.2025, the Petitioner herein has filed the revised Form 1 along with Affidavit in support, both before this Tribunal on 01.12.2025 vide Inward No. D-8042.
8. On Perusal of Part-I of the revised Form-1 revealed that Financial Creditor HDFC Bank Limited is a company incorporated on 30.08.1994 under the Companies Act, 1956, with Corporate Identification Number - L65920MH1994PLC080618, has its registered office at HDFC Bank House, Senapati Bapat Marg, Lower Parel (West), Mumbai - 400 013. This Petition is filed through its Senior Manager, Mr. Anil Sankhla who has been authorised by a Board Resolution dated 16.10.2021 which is annexed with the Petition as **Annexure-A**.



9. On perusal of Part-II of the revised Form-1 reveals that the Corporate Debtor is Livein Aqua Solutions Private Limited having CIN No. U52100GJ2013PTC077985 a private limited company incorporated on 20.12.2013 under the Companies Act, 2013. The Corporate Debtor is having registered office at G-103, Sterling Heights, Ugat Canal Road, Near Palanpur Jakatnaka, Surat, Gujarat - 395 005, India., India, with an authorized share capital of Rs.10,00,000/- and paid-up share capital of Rs.1,37,500/-, as per the Master Data available on the website of the Ministry of Corporate Affairs which is annexed with the Petition as **Annexure-B**.
10. On perusal of Part-III of the revised Form-1 reveals that the Financial Creditor has named **Shri Dhaval Mistry** having Registration No. IBBI/IPA- 001/IP-P01853/2019-20/12849, having address: 9-B, Vardan Complex, Near Vimal House, Lakhudi Circle, Navrangpura, Ahmedabad-380014 (e-mail: cadhavalmistry@yahoo.com) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (IRP). He has filed his written communication Form-2 dated 22.11.2022 along-with Certificate of registration dated 25.11.2019, which is annexed with the Petition as **Annexure-C** as per the requirement of Rule 9(1) of the Insolvency and Bankruptcy (AAA) Rules, 2016. As per IBBI website the AFA of the proposed IRP is valid up to valid till 30.06.2027.
11. On perusal of Part-IV of the revised Form-1 reveals that total defaulted amount dues as claimed by the Financial Creditor is Rs.10,32,56,216.42/- (Rupees Ten Crore Thirty-Two Lakh



Fifty-Six Thousand Two Hundred Sixteen and Paise Forty-Two Only) with further interest till payment and/or realization in accordance with the contractual terms evidenced in the sanction letters and agreements, qualifying as part of the financial debt under Section 5(8) of the IBC. The Date of default is 04.08.2019 on with respect to Cash Credit facility and Date of Default is on 04.02.2020 with respect to Commercial Loans Vehicle facility.

12. The Financial Creditor has relied upon the following documents which are as under:-

- i. Board Resolution dated 17-06-2017.
- ii. Master Facility Agreement dated 06-07- 2017.
- iii. Letter of Continuing Guarantee dated 06-07-2017.
- iv. Letter of Continuing Guarantee dated 07-09-2018.
- v. Memorandum of Entry dated 25-07- 2017.
- vi. Memorandum regarding past transaction of creation of mortgage by Deposit of Title Deeds dated 25-07-2017.
- vii. Demand Promissory Note dated 06-07- 2017.
- viii. Amendment Agreement dated 06-07- 2017.
- ix. Loan Application dated 23.05.2018.
- x. Agreement for loan and guarantee dated 31.05.2018.
- xi. The record of default of Corporate Debtor.
- xii. The copy of Statement of Accounts and the Interest Calculation sheet calculating Interest till 20-06-2023.
- xiii. Recall Notice dated 11-02-2020.
- xiv. Notice under Section 13(2) dated 12-02- 2020 and Notice under Section 13(4) dated 07-04- 2022.



- xv. Possession Notice dated 12-04-2022.
- xvi. Memo of O.A. No. 616 of 2020 filed before Debts Recovery Tribunal², Ahmedabad.
- xvii. Auditor's Report as on 31/3/2020, Auditor's Report as on 31/3/2021 and Auditor's Report as on 31/3/2022.

13. The Financial Creditor has placed the facts though this Petition through amended Form-1 and Pursis in the following manner: -

- i. The Financial Creditor has filed Form-D being record of debt and default issued by National E-Governance Services Limited ("NeSL") in which date of default is recorded as 04.02.2020 with status "Deemed to be Authenticated". A copy of the same is annexed with the Petition as **Annexure-V**.

Nature of Facility	Sanctioned Limit (In Lacs)
C.C. Limit	5,50,00,000
Commercial Vehicle Loan	17,82,200
Commercial Vehicle Loan	17,82,200
TOTAL	5,85,64,400


- ii. It is submitted that the said Cash Credit facility was sanctioned vide sanction letter dated 17.06.2017.

Sr. No.	Nature of Facility	Limits in Lacs
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FUND BASED (A)		
1.	Cash Credit Limit	550.00
	TOTAL LIMITS	550.00

- iii. It is submitted that the said Cash Credit facility was sanctioned vide sanction letter dated 08.06.2018 and was thereafter renewed on 27.08.2019.
- iv. It is submitted that the Corporate Debtor failed to make repayments in respect of the credit facilities availed from the Financial Creditor within the stipulated due dates and, consequently, committed default in relation to the Cash Credit facility on 04.08.2019.
- v. It is submitted that the Financial Creditor, consequent upon the default, issued a Loan Recall Notice dated 11.02.2020 to the Corporate Debtor, inter alia calling upon it to pay the outstanding dues in respect of the Cash Credit facility amounting to Rs. 5,78,32,283.70 (Rupees Five Crore Seventy-Eight Lakh Thirty-Two Thousand Two Hundred Eighty-Three and Paise Seventy only) as on 31.01.2020, together with interest and other charges payable at the contracted rate until actual realization.
- vi. It is further submitted that despite receipt of the said notice, the Corporate Debtor failed and neglected to



make the requisite payments and continues to remain in default.

- vii. It is submitted that owing to non-payment of the outstanding dues, the Financial Creditor has approached the Debts Recovery Tribunal-II, Ahmedabad, by filing Original Application No. 616 of 2020, which is presently pending adjudication.
- viii. It is submitted that the Corporate Debtor further committed default in respect of the Commercial Vehicle Loans on 04.02.2020.
- ix. It is submitted that the Sole Arbitrator passed an arbitral award dated 06.01.2021 in respect of Loan Account No. 83213536 pertaining to the Commercial Loan facility, awarding an amount of Rs. 14,81,000/-, together with interest at the rate of 18% per annum from 06.01.2021 until realization.
- x. It is submitted that the Sole Arbitrator passed an arbitral award dated 26.08.2021 in respect of Loan Account No. 83199156 pertaining to the Commercial Loan facility, awarding an amount of Rs. 5,43,692.39, together with interest at the rate of 18% per annum from 26.08.2021 until realization.
- xi. It is submitted that the Corporate Debtor has also defaulted in payment of the awarded/decreed amounts of Rs. 14,81,000/- with effect from 06.01.2021 and Rs. 5,43,692.39 with effect from 26.08.2021, respectively.



xii. It is submitted that the Corporate Debtor has lost its financial substratum and is no longer in a position to discharge its adjudicated liabilities; therefore, it is fit and proper to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor.

14. That in compliance with the order dated 28.02.2024, the Respondent/Corporate Debtor filed reply on 03.04.2024 vide Inward No. D-2767. The contentions raised by the Respondent are as follows: -

- i. It is submitted that the present petition is ex facie barred by limitation, as the alleged period of limitation expired on 04.08.2022, whereas the petition was filed on 01.08.2023. The Respondent disputes the Petitioner's reliance on the suo motu orders of the Hon'ble Supreme Court, contending that the Petitioner had sufficient time to approach this Tribunal within limitation but deliberately failed to do so.
- ii. It is submitted that although cash credit facilities were initially sanctioned vide sanction letter dated 17.06.2017, the alleged subsequent sanction letter dated 08.06.2018 and renewal dated 27.08.2019 were never signed, accepted, or agreed to by the Respondent, and copies thereof were never furnished despite repeated requests.
- iii. It is submitted that mere utilisation of the cash credit limits does not amount to acceptance of the alleged



revised or renewed terms, and therefore the Petitioner is not entitled to enforce the disputed terms or levy excessive interest based on unsigned sanction letters.

- iv. It is submitted that the Respondent's financial stress arose due to unforeseen business circumstances, non-payment of its receivables, and the impact of the COVID-19 pandemic, and that the account was wrongly classified as a Non-Performing Asset (NPA) by the Petitioner.
- v. It is submitted that the Petitioner initiated proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016 in a mechanical manner, without considering the Respondent's genuine requests for settlement and restructuring, and is misusing the insolvency process as a recovery mechanism.
- vi. It is submitted that the Respondent is making bona fide efforts to settle the outstanding dues and seeks reasonable time and cooperation, as admission of the petition would severely prejudice the Respondent's on-going business and result in loss of livelihood to its employees and stakeholders.

15. Furthermore, the Corporate Debtor filed additional affidavit on 03.04.2024 vide Inward No. D-2862. The contentions raised by the Respondent are as follows:

- i. It is submitted that the Respondent has drawn the attention of this Tribunal to the mandatory



requirement under Rule 34(4) of the NCLT Rules, 2016, which stipulates that every petition or application must be verified by a valid affidavit in Form NCLT-6.

- ii. It is submitted that the affidavit filed in support of the petition by the Financial Creditor is fundamentally defective, as the affidavit verifying the petition has been signed, executed and notarised prior to the execution and notarisation of the petition itself, which is legally impermissible.
- iii. It is submitted that an affidavit in support cannot precede the petition it seeks to verify, and such a defect goes to the root of the matter, rendering the petition non-est and bad in law.
- iv. It is submitted that in the absence of a valid and legally compliant affidavit in support of the petition executed after the petition dated 26.07.2023, the petition deserves to be dismissed as defective.

16. That further in compliance with the order passed by Hon'ble Supreme Court dated 24.11.2025, the Corporate Debtor filed additional reply to the amended Form-1 through affidavit on 15.12.2025 vide Inward No. D-8517. The contentions raised by the Respondent are as follows:

- i. It is submitted that the Respondent/Corporate Debtor has filed the present Additional Affidavit in Reply objecting to the maintainability of the Section 7



petition on the ground that the petition has, from its inception, been accompanied by a defective and non-est affidavit in support, rendering the petition invalid in the eyes of law.

- ii. It is submitted that the Applicant Bank initially filed the Section 7 petition on 01.08.2023 with an affidavit in support dated 17.07.2023, whereas the petition (Form 1) itself was signed and notarised on 26.07.2023, thereby resulting in a fundamental defect, as an affidavit verifying a petition cannot precede the petition it purports to support.
- iii. It is submitted that despite repeated opportunities granted at the Registry stage, before the Joint Registrar, by the Learned Single Bench of this Tribunal, and thereafter by the Hon'ble NCLAT and the Hon'ble Supreme Court, the Applicant Bank has failed to cure the said foundational defect in a legally compliant manner.
- iv. It is submitted that the revised Affidavit in Support and the General Affidavit Verifying the Petition, filed pursuant to the Hon'ble Supreme Court's order dated 24.11.2025, continue to suffer from serious infirmities, inter alia, that the affidavit is affirmed by the Advocate for the Applicant while being verified by the Authorised Officer of the Bank, in violation of Rule 34 of the NCLT Rules, 2016 and Form NCLT-6.



- v. It is submitted that such an affidavit structure is unknown to law, internally inconsistent, and incapable of curing the earlier defect, and therefore the petition continues to remain unsupported by a valid affidavit as mandatorily required under the NCLT Rules.
- vi. It is submitted that the Respondent is an MSME entity, and the loan account is governed by the RBI framework applicable to MSME borrowers. The Respondent has raised objections regarding improper NPA classification and non-compliance with RBI guidelines, which issues are already pending adjudication before the Debts Recovery Tribunal.
- vii. It is submitted that the alleged date of default of 04.08.2019 is factually incorrect and unsustainable, as the credit facilities were renewed thereafter on 27.08.2019 and the account continued to be operated, thereby negating the existence of any crystallised default on the said date.

17. The Financial Creditor has also filed rejoinder on 29.04.2024 vide inward diary no. D-3621 to 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. It is submitted that the petition has been rightly filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, and the loan documents executed between



the parties are duly stamped, valid, and enforceable in law, contrary to the objections raised by the Respondent.

- ii. It is submitted that the loan and security documents were executed on 31.05.2018 and at no point of time did the Respondent raise any objection regarding stamping or validity at the time of execution or thereafter, and such objections are now raised only to evade its admitted liability.
- iii. It is submitted that the Respondent's account was correctly classified as a Non-Performing Asset (NPA) on 04.08.2019, and the plea of limitation raised by the Respondent is untenable in view of acknowledgements of debt reflected in the balance sheets for FY 2019-20 and FY 2020-21.
- iv. It is submitted that the Respondent had sought renewal of the credit facilities vide letter dated 27.04.2018 and thereafter availed and utilised the renewed limits, and having enjoyed the benefits of the facilities, the Respondent is estopped from disputing the validity of the sanction letters or renewal documents.
- v. It is submitted that the Cash Credit facility was renewed on 27.08.2019 under a sanction letter duly signed by the Respondent, and the denial thereof is false and contrary to the documentary record.



- vi. It is submitted that the Applicant has levied interest strictly in accordance with the contractual terms and applicable law, and the Respondent has failed to discharge its financial liabilities despite repeated opportunities.
 - vii. It is submitted that the technical objections raised by the Respondent with respect to Form-1 and the affidavit in support are frivolous, hyper-technical and intended only to delay the proceedings and defeat the legitimate claim of the Financial Creditor.
 - viii. It is submitted that the Respondent has neither made any reasonable settlement proposal nor taken steps to regularise the account, and the defences raised are sham and moonshine.
- 18.** That further in compliance with the order passed by Hon'ble Supreme Court dated 24.11.2025, the Financial Creditor filed additional rejoinder through affidavit on 31.12.2025 vide Inward No. D-8837. The contentions raised by the Petitioner are as follows:
- i. It is submitted that the present Affidavit-in-Rejoinder has been filed by the Financial Creditor to deny and controvert the false, misleading and untenable averments made by the Corporate Debtor in its Additional Affidavit-in-Reply and to reaffirm the facts already pleaded in the Section 7 petition.



- ii. It is submitted that the Financial Creditor has duly cured the defects pointed out in the earlier affidavit strictly in compliance with the directions of the Hon'ble Supreme Court vide order dated 24.11.2025, by filing the revised Form-1, affidavit in support and General Affidavit Verifying the Petition in Form NCLT-6 within the stipulated time.
- iii. It is submitted that the objections raised by the Corporate Debtor regarding alleged defects in the affidavit, verification and authorisation are hyper-technical, contrary to settled law, and have already been considered and rejected by the Hon'ble Supreme Court.
- iv. It is submitted that the Corporate Debtor has not disputed the existence of the financial debt nor the fact of default and has, in fact, admitted default in its earlier pleadings; therefore, the statutory ingredients required for admission of a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 stand fully satisfied.
- v. It is submitted that the pendency of proceedings before the Debts Recovery Tribunal, challenge to NPA classification, SARFAESI proceedings, or the Corporate Debtor's belated claim of MSME status are wholly irrelevant for the purpose of deciding admission of the present petition.



- vi. It is submitted that the contentions raised in the Additional Affidavit-in-Reply are repetitive, factually incorrect, and raised with a mala fide intent to derail and delay the insolvency proceedings.
- vii. It is submitted that in view of the admitted debt, continuing default, and compliance with all statutory requirements, the captioned Section 7 petition deserves to be allowed and the Corporate Insolvency Resolution Process be initiated against the Corporate Debtor.
19. 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. On basis of the Pleadings and submissions of both sides, **the issues** for determination are as under: -
- I. Whether there exists a financial debt under Section 5(8) of the Insolvency and Bankruptcy Code, 2016 owed by the Corporate Debtor to the Financial Creditor?
 - II. Whether the Corporate Debtor has committed a default under Section 3(12) of the Insolvency and Bankruptcy Code, 2016 with respect to the financial debt in the Term Loan and Cash Credit accounts as on the NPA date, i.e., 04.08.2019, which is accepted as the date of default?
 - III. Whether there was a default on the date of classification of the Corporate Debtor's account as a Non-Performing Asset (NPA) on 04.08.2019?
 - IV. Whether the application under Section 7 of the Insolvency and Bankruptcy Code, 2016 is maintainable and filed within the period of limitation?




20. FINDINGS ON ISSUE NO. I: Whether there exists a financial debt under section 5(8) of the insolvency and bankruptcy code, 2016 owed by the corporate debtor to the financial creditor?

- (i) This Tribunal has carefully examined the material placed on record to determine whether the claim of the Applicant qualifies as a “financial debt” within the meaning of Section 5(8) of the Insolvency and Bankruptcy Code, 2016.
- (ii) The record reveals that the Financial Creditor had sanctioned various credit facilities to the Corporate Debtor, including Cash Credit Facility and Commercial Vehicle Loan Facilities, pursuant to sanction letters dated 17.06.2017 and 08.06.2018, which were subsequently renewed on 27.08.2019. The sanction letters clearly stipulate the terms and conditions governing repayment, interest, and security.
- (iii) The Financial Creditor has placed on record the loan documents, sanction letters, statements of account, and other supporting documents evidencing actual disbursement of funds through banking channels and utilisation thereof by the Corporate Debtor. The Corporate Debtor has not disputed either the sanction or disbursement of the said facilities.



- (iv) It is evident that the facilities were extended against consideration for time value of money, with an obligation on the Corporate Debtor to repay the principal amounts along with applicable interest, thereby satisfying the essential ingredients of a “financial debt” as defined under Section 5(8) of the Code.
- (v) The Financial Creditor has further relied upon the Information Utility record maintained with NeSL (**Form D**), wherein the debt and default are recorded and reflected as “Deemed to be Authenticated”. Such record carries statutory evidentiary value under the IBC and further strengthens the claim of the Financial Creditor serving as presumptive evidence of default as upheld in ***Swiss Ribbons Pvt. Ltd. v. Union of India***.
- (vi) While the **NeSL** record reflects the default date for the Commercial Vehicle Loan facilities as 04.02.2020, the earlier default on the Cash Credit facility (04.08.2019) is taken as the primary date for limitation purposes, as corroborated by bank statements and recall notice.
- (vii) In view of the above documentary evidence and the absence of any substantive denial by the Corporate Debtor, this Tribunal has no hesitation in holding that the amounts claimed by the Financial Creditor squarely fall within the ambit of financial debt under Section 5(8) of the Insolvency and Bankruptcy Code, 2016.



(viii) Accordingly, **Issue No. I** is answered in the affirmative.

21. FINDINGS ON ISSUE NO. II: Whether the corporate debtor has committed a default under section 3(12) of the insolvency and bankruptcy code, 2016 with respect to the financial debt in the term loan and cash credit accounts as on the NPA date, i.e., 04.08.2019, which is accepted as the date of default?

- (i) Section 3(12) of the IBC, 2016 defines default as the non-payment of a debt, in whole or part, when due and payable.
- (ii) The Financial Creditor has categorically asserted that the Corporate Debtor committed default in repayment of the Cash Credit facility and loan instalments, resulting in the account being classified as a Non-Performing Asset (NPA) on 04.08.2019, which has been consistently reflected as the date of default.
- (iii) The said date of default finds corroboration in the statement of account, the NeSL record, as well as the loan recall notice dated 11.02.2020, whereby the Financial Creditor called upon the Corporate Debtor to clear the outstanding dues.
- (iv) The Corporate Debtor has not disputed the availing of the credit facilities or the outstanding amounts as reflected in the accounts. The defences raised primarily relate to alleged renewal of facilities, restructuring, or business difficulties, none of which, in law, negate the



occurrence of default once repayment obligations are not met.

- (v) The Hon'ble Supreme Court in ***E.S. Krishnamurthy & Ors. v. Bharath Hi-Tech Builders (P) Ltd., (2021) ibclaw.in 173 SC***, has 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.
- (vi) It is well settled that, for the purposes of admission of an application under Section 7 of the Code, the Adjudicating Authority is required only to satisfy itself as to the existence of debt and occurrence of default, and not to adjudicate upon the commercial wisdom or financial viability of the Corporate Debtor.
- (vii) The documentary material on record unequivocally demonstrates that the Corporate Debtor failed to




service its debt obligations within the stipulated timelines, thereby committing default within the meaning of Section 3(12) of the Code.

- (viii) Accordingly, this Tribunal holds that the Corporate Debtor committed default in repayment of its financial debt as on 04.08.2019 and **Issue No. II** is answered in the affirmative.

22. FINDINGS ON ISSUE NO. III: Whether there was a default on the date of classification of the corporate debtor's account as a non-performing asset (NPA) on 04.08.2019?

- (i) The Corporate Debtor has sought to contend that the classification of the account as NPA was erroneous or that the facilities were renewed thereafter. This Tribunal finds no merit in such contention.
- (ii) Classification of an account as NPA is a consequence of persistent non-payment of dues in accordance with the applicable banking norms. The NPA classification on 04.08.2019 is supported by contemporaneous documentary evidence and is further reinforced by subsequent steps taken by the Financial Creditor, including issuance of recall notice and initiation of recovery proceedings.
- (iii) The **Cash Credit Account statements** show that the Corporate Debtor exceeded sanctioned overdraft limits and such constitute a default under **Section 3(12)**, as



the Corporate Debtor failed to maintain the account within agreed terms.

- (iv) Thus, a default exists in the Cash Credit Accounts as the Corporate Debtor exceeded sanctioned limits of the Cash Credit Accounts and failed to make payments as evidenced by the account statement. Disputes on NPA classification under RBI guidelines do not preclude admission under the IBC, as clarified in ***M. Suresh Kumar Reddy v. Canara Bank***. Further, there was a default on the date of NPA on 04.08.2019. We are of the view that the law requires the occurrence of a default, and the same is established by the Applicant. The main defence of the Corporate Debtor questioning the NPA based on the RBI Circular does not support its case. It has not been proved that a default had not occurred.
- (v) Further, the Applicant has established a default exceeding Rs.1.00 Crore, satisfying the threshold under Section 7 of the IBC, 2016.
- (vi) It is a settled principle of law that disputes relating to RBI guidelines, NPA classification, pendency of proceedings before the Debts Recovery Tribunal, or initiation of SARFAESI proceedings do not bar initiation of CIRP under the IBC once debt and default are established.
- (vii) The Adjudicating Authority has discretion to examine the existence of a default, but disputes extraneous to




non-payment (e.g., NPA classification) are immaterial if debt and default are established. (*Vidarbha Industries Power Ltd. vs. Axis Bank Ltd. [(2022) 8 SCC 352]*). However, as clarified by the Hon'ble Supreme Court in *M. Suresh Kumar Reddy v. Canara Bank & Ors. (2023) ibclaw.in 67 SC*, this discretion is limited to exceptional circumstances and does not apply where debt and default are clearly established, making admission mandatory under the ordinary scheme of Section 7.

- (viii) Furthermore, this Tribunal observes that the Code is a complete and independent mechanism for resolution of insolvency, and the existence of other recovery proceedings does not impede initiation of CIRP.
- (ix) The Insolvency and Bankruptcy Code operates independently of other recovery mechanisms and provides an additional remedy for resolution of insolvency.
- (x) Accordingly, this Tribunal holds that a default had indeed occurred on the date of classification of the Corporate Debtor's account as NPA, i.e., 04.08.2019 and **Issue No. III** is answered in the affirmative.

23. FINDINGS ON ISSUE NO. IV: Whether the application under section 7 of the insolvency and bankruptcy code, 2016 is maintainable and filed within the period of limitation?



- (i) The application under Section 7 of the IBC, 2016, is filed in the prescribed Form-1, supported by requisite documents, including sanction letters, bank statements, and notices under the SARFAESI Act, 2002. The Applicant's authorized officer has affirmed the application. Further, the Debt & Default is established and proven even on the given date of NPA as above.
- (ii) The present petition was initially filed on 01.08.2023. The Financial Creditor has relied upon acknowledgements of debt reflected in the balance sheets of the Corporate Debtor, which constitute valid acknowledgements under Section 18 of the Limitation Act, 1963.
- (iii) The application is within the limitation period under Article 137 of the Limitation Act, 1963, which prescribes three years from the date of default. Reckoning from the default date of 04.08.2019, the ordinary limitation expires on 04.08.2022, but excluding the period from 15.03.2020 to 28.02.2022 (approximately 715 days) per Supreme Court orders in ***In Re: Cognizance for Extension of Limitation***, limitation extends beyond the filing date of 01.08.2023. The Financial Creditor has also rightly claimed the benefit of the period of limitation excluded by the Hon'ble Supreme Court during the COVID-19



pandemic, which is required to be taken into account while computing limitation.

- (iv) Further, the Hon'ble Supreme Court, vide order dated 24.11.2025, specifically directed the Financial Creditor to cure defects in the application and directed this Tribunal to proceed with the petition in accordance with law. The said order has attained finality and is binding on this Tribunal.
- (v) The Hon'ble Supreme Court in ***Asset Reconstruction Company (India) Ltd. v. Bishal Jaiswal, (2021) ibclaw.in 55 SC***, has held that entries in balance sheets acknowledging liability extend limitation under Section 18 of the Limitation Act.
- (vi) The objections raised by the Corporate Debtor with respect to alleged defects in Form-1 and affidavits have already been considered and effectively rejected by the Hon'ble Supreme Court, and therefore cannot be permitted to be re-agitated before this Tribunal.
- (vii) In view of the above facts and legal position, this Tribunal holds that the present application under Section 7 of the Insolvency and Bankruptcy Code, 2016 is maintainable and has been filed within the period of limitation. Accordingly, **Issue No. IV** is also answered in the affirmative.

24. In light of the detailed findings recorded hereinabove, this Tribunal is satisfied that the Financial Creditor has



conclusively established the existence of a financial debt and default in payment of the financial debt on the part of 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. Thus, all statutory requirements under Section 7 of the Insolvency and Bankruptcy Code, 2016 stand duly fulfilled.

- 25.** The Applicant has established the existence of a financial debt of Rs.10,32,56,216.42/- as on 20.06.2023 owed by the Corporate Debtor, supported by sanction letters and bank statements. The Corporate Debtor defaulted on its repayment obligations, as evidenced by the leading to default on 04.08.2019. The IRP's consent in Form 2, though dated 22.11.2022, remains valid as no revocation is on record, and the **AFA** as per IBBI website is valid currently till 30.06.2027 in line with IBBI's IPs to Act as IRP Guidelines, 2025, which require only a valid AFA at the time of appointment.
- 26.** The Corporate Debtor's objections regarding the NPA classification period are untenable. The RBI Circular dated 07.02.2018 provides relief for MSME accounts, but disputes regarding its applicability are immaterial, as the focus is on debt and default. Section 7(5) mandates admission if a default is established, the application is complete.



27. As stated above, 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. The view taken in the case of ***Innoventive Industries*** has been followed by the Hon'ble Supreme Court in the case of ***E S Krishnamurthy & Ors. Vs. Bharath Hi Tech Builders Pvt. Ltd. (2021) ibclaw.in 173 SC***.
28. The 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.
29. Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under: -
- (i) The Respondent/Corporate Debtor - **Livein Aqua Solutions Private Limited** 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. Dhaval Jitendrakumar Mistry** having Registration No. IBBI/IPA- 001/IP-P-01853/2019-20/12849, having address: 9-B, Vardan Complex, Near Vimal House, Lakhudi Circle, Navrangpura, Ahmedabad-380014 (e-mail: cadhavalmistry@yahoo.com) (As per IBBI website his AFA is valid till 30.06.2027) 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.3,00,000/- (Rupees Three 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.

30. Accordingly, this Application **CP(IB)/97/7/AHM/2024** 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)
JP/LRA

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)