

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

Item No. 101
IB-406/ND/2022

IN THE MATTER OF:

Xander Finance Pvt. Ltd.

...

Applicant/Petitioner

Versus

Shree Vardhman Developers Pvt. Ltd.

...

Respondent

Under Section: 7 of IBC, 2016

Order delivered on 31.05.2022

CORAM:

**SHRI ABNI RANJAN KUMAR SINHA,
HON'BLE MEMBER (J)**

**SHRI L.N. GUPTA,
HON'BLE MEMBER (T)**

PRESENT:

For the Applicant :

For the Respondent :

ORDER

Heard the Ld. Counsel appearing for the Applicant and perused the averments made in the application.

For better appreciation of the facts, we would like to refer to Part-IV of the application. The scanned copy of the Part-IV of the application is reproduced overleaf :

Part - IV

| PARTICULARS OF FINANCIAL DEBT | | |
|--------------------------------------|---|---|
| 1. | TOTAL AMOUNT OF DEBT GRANTED DATE(S) OF DISBURSEMENT | ₹45,00,00,000/- (Indian Rupees Forty Five Crores only) Facility 1 ₹10,00,00,000/- on 13.01.2016 ₹10,00,00,000/- on 17.03.2016 Facility 2 ₹15,00,00,000/- on 13.01.2016 ₹10,00,00,000/- on 17.03.2016 |
| 2. | AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM) | Amount of Default as on 05.05.2022: INR 17,32,32,014 (Rupees Seventeen Crore Thirty Two Lac Thirty Two Thousand Fourteen only) as on May 05, 2022.. The copy of the certificate evidencing the aforesaid outstanding amount is annexed as Annexure 4 Date of Default: 31.12.2020 Workings for Computation of Amount and days of default: Please refer to Annexure-4 for the detailed calculation sheet. |

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Ld. Counsel for the Applicant submits that though the date of default mentioned in Part-IV Column-2 is 31.12.2020, but the default is still continuing. Therefore, the proviso of Section 10A of the IBC, 2016 is not applicable.

In terms of submissions, when we peruse the averments made in part-IV of the application, we observe that the date of default is 31.12.2020, whereas in terms of proviso of Section 10A, no application shall ever be filed for initiation of CIRP of the Corporate Debtor for the said default occurring during the period of 25.03.2020 to 24.03.2021. Therefore, we are of the considered view that the present application is not maintainable in terms of the proviso of Section 10A.

Accordingly, the IB-406/ND/2022 is hereby Dismissed.



**(L. N. GUPTA)
MEMBER (T)**



**(ABNI RANJAN KUMAR SINHA)
MEMBER (J)**