



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT-I**

**CP (IB)/725 (MB)/2024**

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*

**Database Trading Private Limited**

[CIN- U30007MH1994PTC080897]

**...Financial Creditor/Applicant**

**Versus**

**Aneri Fincap Limited**

[CIN-L65910MH1990PLC295982]

**...Corporate Debtor/Respondent**

**Order Pronounced on 06.02.2025**

***Coram:***

Hon'ble Member (Judicial) : Justice V. G. Bisht (Retd.)  
Hon'ble Member (Technical) : Sh. Prabhat Kumar

***Appearances:***

For the Financial Creditor : Mr. Sumit Parikh, Ld.  
Counsel  
For the Corporate Debtor : Mr. Rakesh Gupta, Ld.  
Counsel



## ORDER

### Brief Facts:

1. This Company Petition is filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (**IBC**) by **Database Trading Private Limited** ("hereinafter referred to as the Financial Creditor/Applicant"), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **Aneri Fincap Limited** ("hereinafter referred to as the Corporate Debtor/Respondent/AFL").
2. The Applicant is a body corporate incorporated under the Companies Act, 1956 on 06.09.1994 having CIN U30007MH1994PTC080897 with its registered office at Unit-1B, Sushil Samir Co-Operative Housing Society, A-Wing, Ashok Chakravorty Road No.1, Kandivali (E), Mumbai City, Mumbai, Maharashtra, India, 400101. Its Authorized share capital is Rs. 10,00,00,000/- and paid up capital is Rs. 9,57,12,670/-.
3. The Respondent is incorporated under the Companies Act, 1956 on 07.12.1990 having Company Identification no. L65910MH1990PLC295982 with its registered office at Unit No.310, B2B Centre Co-operative Premises Society Ltd., Kanchpada, off Link road, Malad-west, Mumbai City, Maharashtra, India, 400064. It is a Limited Company having authorized share capital is Rs. 10,25,00,000/- and Paid up share Capital is Rs. 3,01,31,000/-. It is involved in the business of trading/investing in shares, securities and short term inter-corporate financial ventures.
4. The total amount of default as stated in Part IV of the Application is Rs. 18,15,07,200/- (Rupees Eighteen Crore Fifteen Lakh Seven Thousand Two Hundred Only) and the date of default is 30.04.2022.

**Submissions of the Applicant:**

5. The Financial Creditor was acquainted with the business of the Corporate Debtor. In order to meet the financial requirements for a short period of time both provided financial assistance to each other.
6. In April 2017 the Corporate Debtor had approached the Financial Creditor for financial assistance, pursuant to which, the Financial Creditor had agreed to grant a Loan of Rs.8,76,00,000 /- (Rupees Eight Crore Seventy-Six Lakhs Only) to the Corporate Debtor at the Interest of 8% Per Year for the Five Years to be paid on or before 30.04.2022 at premium 40%. Both the parties entered into an Inter Corporate Loan Agreement dated 28.04.2017 for the same.
7. The applicant had approached the Corporate Debtor through Physical visit, Phone calls as well as through Letter Correspondences, thereby requesting to Repay the Loan sanctioned by the Financial Creditor. However, the Corporate debtor failed to repay the said Loan, hence the present petition.

**Submissions of the Respondent:**

8. The Respondent has accepted the liability vide its reply. It is also submitted that the respondent company is not in a position to make the payments due to business downfall and that it is trying its best to revive the business and repay the debt amount to the Applicant.
9. The Corporate Debtor has demanded a further period of 12-18 months to fully repay the entire outstanding amount as per terms of agreement, excluding penal interest, if any.



## **Findings-**

10. Heard learned counsel for both the parties and perused the material produced on record.
11. The Corporate Debtor, in the present case, is a Non-Banking Finance Company ('NBFC') as is evident from the Auditor's Report on its accounts for the year ended on 31.3.2024, the relevant part of which reads as under –
  1. *We have audited the accompanying standalone annual financial results (the statement') of Aneri Fincap Limited (Formerly Farry Industries Limited) ('the NBFC ') for the year ended 31 March 2024, attached herewith, being submitted by the NBFC pursuant to the requirement of Regulation 33 and Regulation 52 read with Regulation 63 of the SEBI (Listing Obligations and Disclosure Requirement) Regulation, 2015 (as amended) (Listing Regulation), including SEBI Circular SEBI/110/ DDHS/P/CIR/2021/613 dated 10 August 2021 (as amended).*
12. As is evident from the Auditor's Report, the Corporate Debtor is engaged in providing financial services as NBFC. Further, it is registered NBFC as such with RBI, is evident from the Audited Financial Statements of the Corporate Debtor for the year ended 31.3.2022 as available on BSE web page <https://www.bseindia.com/corporates/HistoricalAnnualReport.aspx>), where at Annexure C to the Director's Report it is stated that "*The Company operates in One reportable segment i.e. Finance. Company is as Non-Banking Financing Company (NBFC) registered with Reserve Bank of India (RBI)*". Further, the Corporate Debtor is appearing in the list of NBFCs as on 30.6.2024 as available on RBI web page [Reserve Bank of India - Non Banking Financial Companies \(NBFCs\)](#)



13. As per Section 3(8), Corporate Debtor means a corporate person who owes a debt to any person. Section 3(7) defines the Corporate Person as under:

*“(7) “corporate person” means a company as defined in clause (20) of section 2 of the Companies Act, 2013, a limited liability partnership, as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008, or any other person incorporated with limited liability under any law for the time being in force but shall not include any financial service provider;”*

14. Section 3(17) of the IB Code, 2016 defines “**financial service provider**” to mean “*a person engaged in the business of providing financial services in terms of authorisation issued or registration granted by a financial sector regulator*”. Section 3(18) of the IB Code defines “**financial sector regulator**” to mean “*an authority or body constituted under any law for the time being in force to regulate services or transactions of financial sector and includes the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory Authority and such other regulatory authorities as may be notified by the Central Government.*

15. Section 227 of IB Code, 2016 provides that

*Notwithstanding anything to the contrary contained in this Code or any other law for the time being in force, the Central Government may, if it considers necessary, in consultation with the appropriate financial sector regulators, notify financial service providers or categories of financial service providers for the purpose of their insolvency and liquidation proceedings, which may be conducted under this Code, in such manner as may be prescribed.*

*Explanation.—For the removal of doubts, it is hereby clarified that the insolvency and liquidation proceedings for financial service*

*providers or categories of financial service providers may be conducted with such modifications and in such manner as may be prescribed.*

16. Rule 5(a) of the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 provides that –

***(a) Initiation of Corporate Insolvency Resolution Process.-2***

*(i) no corporate insolvency resolution process shall be initiated against a financial service provider which has committed a default under section 4, except upon an application made by the appropriate regulator in accordance with rule 6;*

*(ii) the application under sub-clause (i) shall be dealt with in the same manner as an application by a financial creditor under section 7, subject to clause (iii); and*

*(iii) on the admission of the application, the Adjudicating Authority shall appoint the individual proposed by the appropriate regulator in the application filed under sub-clause (i) of clause (a) of rule 5, as the Administrator.*

17. In view of these facts, an application for initiation of Corporate Insolvency Resolution Process in the matter of this Corporate Debtor can be filed by its Regulator i.e. RBI only and not by any financial creditor. In view of this, we are of considered view that the present application filed by a financial creditor, not by the Reserve Bank of India, is not maintainable in terms of the provisions of IB Code, 2016 read with Rule 5 of Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019. Hence, this application deserves to be dismissed.

18. In view of this CP (IB) No. 725 of 2024 is dismissed.

Sd/-

**Prabhat Kumar**  
Member (Technical)  
MK

Sd/-

**Justice V. G. Bisht (Retd.)**  
Member (Judicial)