



IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

CP (IB) No. 352/(MB)/2024

Company Petition 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

IIFL Home Finance Limited,
Having Infoline Finance Limited
12A, 10, 13th Floor, Parinee Crescezo,
C-38 & C39 Block, behind MCA,
Bandra Kurla Complex, Bandra East,
Mumbai, Maharashtra - 400 005

... **Financial Creditor**

VERSUS

Bombay ISLE Developers Private Limited
Narang Civilisation Narang Manor,
Ground Floor, Plot No. 96/B, 15th Road,
Near Agrawal Nursing Home, Bandra West,
Mumbai, Maharashtra - 400 050

... **Corporate Debtor**

Order delivered on 03.06.2026



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CORAM:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Shri Sushil Mahadeorao Kochey
Hon'ble Member (Judicial)

Appearance:

For the Financial Creditor : Mr. Aayush Kothari a/w Mr.
Shreyansh Desai, Advocates i/b M/s
V. Deshpande & Co.

For the Corporate Debtor : Mr. Rohit Gupta a/w Mr. Ahmed
Chunawala, Advocates

ORDER

Per : **CORAM**

- 1) The present Company Petition is filed under section 7 of the Insolvency and Bankruptcy Code, 2016 ("hereinafter referred to as the Code") by **IIFL Home Finance Limited**, ("hereinafter referred to as the Financial Creditor/Applicant"), seeking initiation of Corporate Insolvency Resolution Process (CIRP) against **Bombay**



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ISLE Developers Private Limited ("hereinafter referred to as the Corporate Debtor/Respondent").

- 2) The Financial Creditor is registered Financial Company engaged in the business of Financial intermediations which includes Financial intermediations other than that conducted by monetary institutions. It is also engaged in the business of providing Financial facilities to the prospective customers. Its registered office is at IIFL House, Plot No. 16V, Plot No. B32, MIDC, Thane Industries Area, Wagle Estate, Thane, Maharashtra – 400 604.
- 3) Corporate Debtor is a Private Limited Company having its registered office at Narang Civilisation Narang Manor, Ground Floor, Plot No. 96/B, 15th Road, Near Agrawal Nursing Home, Bandra West, Mumbai, Maharashtra - 400 050 and is involved in the business of construction.
- 4) The Financial Creditor pursuant to the need of funds by the Corporate Debtor, extended the Loan and disbursed an amount of Rs. 01,02,96,666/- (Rupees One-Crore, Two-Lakhs Ninety-Six-Thousand Six-Hundred-Sixty-Six only), Rs. 5,00,00,000/- (Rupees



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Five Crores only), and Rs. 5,00,00,000/- (Rupees Five Crores only) vide a loan Accounts Prospect Nos. (1) 833355 (2) 739910 (3) 752819, in the Year, 2015, 2016 & 2017, respectively.

- 5) The Corporate Debtor did not repay the Loan Amount as availed and therefore, there was total outstanding of Rs. 15,94,43,988/- (Rupees Fifteen Crores Ninety-Four Lakhs Forty-Three Thousand Nine-Hundred-Eighty-Eight only).
- 6) The Account of the Corporate Debtor was declared as Non-Performing-Asset (NPA) on 03.02.2018. It is contended by the Applicant that after having excluded the COVID-19 Pandemic Period, there was an acknowledgement of debt by making part payment upto, June, 2022 by the Corporate Debtor and therefore, the Limitation is extended. As such the Company Petition is filed on 05.02.2024 and thus, contended that the present Company Petition is within the prescribed period of Limitation.
- 7) The present Company Petition is also supported by the NeSL Certificate which spells out the default committed by the



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Corporate Debtor. Therefore, the present Company Petition is filed seeking initiation of CIRP against the Corporate Debtor.

- 8) The Counsel for the Corporate Debtor also appeared and has filed and placed on record Affidavit in Reply, it is contended that the Applicant/Financial Creditor herein is not the Financial Creditor. The date of NPA was shown as 04.12.2019 and the date of default is shown as 04.10.2021. It is further submitted by the Corporate Debtor that the NeSL record also shows the date of NPA as 03.12.2021 & 03.01.2022. It is therefore, contended that the date of default can never be after the date of NPA, and in this case, it is also almost after One Year.
- 9) It is contended that the date of NPA pleaded in Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Notice and the pleadings before the Debt Recovery Tribunal by the Petitioner is 03.12.2018. After the amendment, the date of Default is contended to be 03.02.2018 and there is no amendment in the NeSL record. Therefore, the date of Default is required to be ascertained.



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- 10) It is noticed that the relevant documents have not been annexed by the Petitioner. The last sanctioned letter dt.02.04.2018 is not annexed. The Accounts are also not annexed and incomplete accounts are produced.
- 11) The material available on record demonstrates that there was no Default or NPA as on 03.02.2018 as alleged. Letter dt. 03.04.2018 confirms that the accounts were standard and regularised. There was fresh disbursal of Loan on 03.04.2018 and thereafter. Therefore, the Petitioner cannot contend that the account was NPA and there was default.
- 12) Loan in question was disbursed to Yamuna Realty Private Limited at the instance of the Corporate Debtor being Co-Applicant. The SARFAESI Proceedings were taken out and the Debt Recovery Tribunal *vide* its Order dt. 16.08.2019 has held that there is Default and the date of NPA is 03.02.2018. Nothing is produced on record by the Respondent to show that this finding has been dislodged in Appeal. NeSL Record also demonstrates that there was a Default. Therefore, the contention of the



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Respondent that the Petitioner is not a Financial Creditor or not a Financial Institution and that there is no Default as on 03.02.2018, does not have any substance as it has been already adjudicated upon by the Court of Competent jurisdiction i.e. the Debt Recovery Tribunal.

13) On perusal of the response of the Respondent, there is no dispute as to availing the Loan Facility from the Petitioner and that there was a default committed on the repayment of the Loan. Account of the Corporate Debtor was declared as NPA, therefore, the only question which remains adjudication is whether the present Petition is filed within the Limitation as is applicable to the proceedings under Section 7 of the Code.

14) It is trite law that Section 137 of the Limitation Act is applicable which prescribes period of Three Years. Reference can be made to the judgment in the case of *Parag Gupta and Associates....vs....B.K. Educational Services Pvt. Ltd., (2017) ibclaw.in 49 NCLAT*, wherein, the Hon'ble NCLAT has held as under:



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“69. If there is a delay of more than Three Years from the date of cause of action and no laches on the part of the Applicant, the Applicant can explain the delay where there is a continuing cause of action, the question of rejecting any application on the ground of delay does not arise”.

- 15) Therefore, the Petition has to be filed within a period of Three Years from the date of Default by the Corporate Debtor. In the present case, by making an amendment in the Petition, the date of Default is contended to be 03.02.2018, which is the date of NPA. Ld. Counsel for the Petitioner has placed reliance upon *Babulal Vardharji Gurjar...vs...Veer Gurjan Aluminium Industries Pvt. Ltd (2020) 15 SCC 1; Laxmi Pat Surana...vs...Union Bank of India (2021) 8 SCC 481; Jagdish Prasad Sarada...vs...Allahabad Bank Company Appeal 80 (INS) No. 183 of 2020; and Milind Kashiram Jadhav...vs...State Bank of India Company Appeal 80 (INS) No. 1589 of 2023* and contended that the date of NPA can be considered as date of Default. Therefore, even if the date of NPA is considered to be date of



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Default, in the present case, the period of Limitation would start running since, 03.02.2018, therefore, the period of Limitation would expire on 16.01.2023 (after exclusion of period of Covid-19 Pandemic). The Petition is filed admittedly on 04.05.2024, hence, prima facie it is beyond the period of Limitation. However, the Petitioner has stated that during the contemporaneous period, i.e., after the account was declared as NPA, the Corporate Debtor acknowledged the debt by making part payment of Rs. 1,87,596/- (Rupees One-Lakh Eighty-Seven-Thousand Five-Hundred-Ninety-Six only) on 08.03.2021 and therefore, the Period of Limitation would come to an end on 08.03.2024, whereas, the Petition is filed on 04.05.2024.

- 16) It is pertinent to note that, in the amended Petition, it is pleaded by the Petitioner that the Corporate Debtor has acknowledged the Debt by making part payment upto, June, 2022 thereby, extending the period of Limitation. Be that as it may, by making part payment, there is an acknowledgement of the Debt which extends the period of Limitation, however, after making



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part payment, the Respondent has contended that the Account was regularised and standard and there was disbursal of further Loan on 03.04.2018. The Snapshot of the said Letter is reproduced hereunder:



- 17) A Letter dt. 03.04.2018, confirming that the Account is standard and regularised, therefore, once the Account is regularised, the default committed on 3.2.2018 as claimed by way of amendment by the application does not survive.



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- 18) If the Corporate Debtor commits another default after the account has been regularised, a fresh Default occurs, and an application may lie basis such default, but such date of default has to be expressly pleaded by the applicant in the application. The Financial Creditor must file the Section 7 Petition using this new date of default, not the historical one. A Financial Creditor cannot base its Section 7 Petition on a historical Default date that no longer exists. Doing so makes the Petition technically flawed and subject to dismissal by this Adjudicating Authority.
- 19) The Hon'ble NCLAT, in case of *Royal Construction v. Gannon Dunkerley & Company Ltd.*, (2025) ibclaw.in 229 NCLAT, held that “14. The contention of the Appellant that the Adjudicating Authority should have modified the date of default after examining the records is an absurd proposition. If the date of default required any change or modification, the onus was on the Appellant to have sought leave of the Adjudicating Authority to file an amendment application. To expect the Adjudicating Authority to have amended the date of default without any amendment application or specific pleading



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made for such a modification would tantamount to the Adjudicating Authority exceeding its jurisdiction which cannot be countenanced."

- 20) It is important to mention here that as per Section 9 of the Limitation Act, 1963 when once the limitation period begins to run for filing any suit or proceeding, no subsequent event will stop the running of the limitation. Section 9 of the Limitation Act, 1963 is extracted hereunder for ready reference:

"9. Continuous running of time – Where once time has begun to run, no subsequent disability or inability to institute a suit or make an application stops it: Provided that, where..... administration continues."

- 21) Therefore, the present Company Petition as filed on the earlier date of NPA would not be maintainable as barred by Limitation. Accordingly, the Company Petition bearing CP (IB) No. 352 of 2024, is disposed of as dismissed.

- 22) The Registry is directed to send E-mail copies of the order forthwith to all the parties inclusive of the Counsel. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.



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23) There will, however, be no order as to costs. Ordered
Accordingly. File be consigned to record.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Vedant Kedare/Aayush Jain
(Stenographer/LRA)

Sd/-

SUSHIL MAHADEORAO KOCHEY
MEMBER (JUDICIAL)