



NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT VI

Item No. P-2

C.P. (IB)/301/MB/2025

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **26.11.2025**

NAME OF THE PARTIES:

Canara Bank

Vs.

M/s. Galaxy Constructions
And Contractors Private Limited

Under Section 7 of the IBC.

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, *vide* separate order. A detailed order is being uploaded on the NCLT portal today.

Sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

//AS//

Sd/-

NILESH SHARMA
MEMBER (JUDICIAL)



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

C.P. (IB)/301/MB/2025

*[Under Section 7 of the Insolvency and Bankruptcy Code,
2016 r/w Rule 4 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016]*

CANARA BANK

[PAN No.: AAACC6106G]

Branch Office at:

Asset Recovery Management Branch
1259 Renuka Complex, Jangali Maharaj Rd.
Deccan Gymkhana, Pune – 411004.

...Financial Creditor

V/s

M/S. GALAXY CONSTRUCTIONS AND

CONTRACTORS PRIVATE LIMITED

[CIN No.: U45202PN2001PTC016421]

783/B, Vishnu Prasad Building
Opp. Kamala Nehru Park
Erandwane, Pune – 411004.

...Corporate Debtor

Pronounced: 26.11.2025

CORAM:

HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)

HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid

For Applicant: Adv. Gajendra A. Rajput

For Respondent: Adv. Haris A Khan i/b Adv. Smita Durve



ORDER

[PER: CORAM]

1. BACKGROUND

1.1 This C.P. (IB) No.301/MB/2025 (Application) was filed on 02.01.2025 by Canara Bank, the Financial Creditor (FC), having PAN No.: AAACC6106G under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (IBC Rules), for initiating Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") in respect of M/S. Galaxy Constructions and Contractors Private Limited, the Corporate Debtor (CD), having CIN No.: U45202PN2001PTC016421.

1.2 This Application has been affirmed by one Mr. Alok Prakash, Manager at Canara Bank. As per Part IV of the Application, the amount claimed to be in default as on 30.11.2024 is Rs.1,49,95,87,934.49/- (One Hundred Forty-Nine Crores Ninety-Five Lakhs Eighty-Seven Thousand Nine Hundred Thirty-Four Rupees and Forty-Nine Paise) as on 31.10.2024. The date of default as per Part IV is 25.07.2017, and the CD was declared NPA on 26.04.2018.

1.3 The Applicant has proposed Mr. Srigini Rajat Naidu, having Registration No. IBBI/IPA-003/IP-N000137/2017-18/11513, to act as the Interim Resolution Professional (IRP) in case the Application is admitted.

2. CONTENTIONS OF APPLICANT (FC)

2.1 The total debt granted by the Applicant to the CD was under the following heads:



Open Cash Credit Loan Facility	Rs.32,00,00,000/-
MSME CAP Loan Facility	Rs.4,20,00,000/-
Vehicle-1 Loan Facility	Rs.2,17,00,000/-
Vehicle-2 Loan Facility	Rs.90,00,000/-
BG Loan Facility	Rs.2,00,00,000/-
TOTAL	Rs.41,27,00,000/-

2.2 The Applicant has attached the following documents along with the Application, Additional Affidavit and Rejoinder:

- a) Copy of Certificate of Registration of Charge and Company Master data.
- b) Copy of Record of Default with information utility.
- c) Copy of Sanction Letter dated 22.06.2011, 28.01.2014, 23.12.2016
- d) Copy of Pronote executed by the CD through Shri. Amit Ashok Thepade and Shri. Ashok Shivnarayan Thepade.
- e) Copy of Common Hypothecation Agreement.
- f) Copy of Guarantee Covering Letters along with Guarantee Agreements executed by Shri. Amit Ashok Thepade, Shri. Ashok Shivnarayan Thepade, Mrs. Monali Amit Thepade, Shri. Deepak Amrutlal Gugale, M/s. Galaxy Scheme respectively.
- g) Copy of Letter Evidencing Deposit of Title Deeds.
- h) Copy of Supplemental Common Hypothecation Agreement.
- i) Copy of Request for Overdraft Facilities executed by the CD through Shri. Amit Ashok Thepade.
- j) Copies of Letters of Renewal.
- k) Copy of Letter from Guarantor Whenever Limits are to be Renewed.



- l) Copy of Acknowledgement of Debt and Security.
- m) Copy of Letter of Undertaking re: Loan/Advances executed the CD through Amit Ashok Thepade.
- n) Copy of Canmobile Agreement executed by the CD through Amit Ashok Thepade.
- o) Copy of Particulars of Vehicle Hypothecated.
- p) Copy of Link Letter in respect of enhancement of credit facilities executed by the CD.
- q) Copy of Counter Indemnity executed by the CD.
- r) Copy of Term Loan Agreement executed by the CD.
- s) Copy of Extract of Cash Credit Loan Account No.0382261005534, 3776603000001, 3776603000021, 3776768000043, 3776741000044, 3776768000041.
- t) Copy of Demand Notice dated 18.12.2023 issued by the Applicant.
- u) Copy of OTS Proposal dated 02.11.2022 and 22.05.2023.

3. ADDITIONAL AFFIDAVIT (FC) dated 09.04.2025

3.1 This Additional Affidavit was filed by the Counsel for the Applicant to file a fresh Form 1 to bring on record the date of default.

3.2 The following was added in Part IV of Form 1:

“Date of Default: 25.07.2017

As per Form D – RECORD OF DEFAULT(RoD)”

4. ADDITIONAL AFFIDAVIT (FC) dated 03.05.2025



- 4.1 This Additional Affidavit was filed by one Mr. Ajay Naik, Manager Law-Authorised Signatory of the Applicant, upon the interim order passed on 26.03.2025 by this Tribunal to justify that the Application is within limitation.
- 4.2 The CD has deposited monies in their loan account on 29.05.2019 and 19.03.2020, thereby resetting the limitation as per Section 19 of the Limitation Act. The CD also submitted OTS proposals with the Applicant on 02.11.2022 and 22.05.2023, wherein the CD admitted liability, thereby resetting the limitation as per Section 18 of the Limitation Act.
- 4.3 The Applicant submits that the aforementioned entries are an acknowledgement of liability within the purview of Section 238-A of the IBC r/w Section 18 and 19 of the Limitation Act, 1963.

5. CONTENTIONS OF CD

- 5.1 An Affidavit-in-Reply dated 29.07.2025 was filed by the CD, affirmed by one Mr. Amit Ashok Thepade as its authorised representative, authorised by Board Resolution.
- 5.2 The Applicant is a Scheduled Commercial Bank, and the CD is an MSME governed by the Framework for Revival and Rehabilitation of MSMEs (Notification dated 29.05.2015) and RBI Master Directions (dated 17.03.2016) issued under Section 9 of the MSMED Act, 2006 and Sections 21 and 35A of the Banking Regulation Act, 1949. These provisions are binding on all banks dealing with MSMEs.
- 5.3 The classification of the CD's account as an NPA on 26.04.2018 is illegal, arbitrary, and *void ab initio*, having been made in gross violation of the above framework. The Notification and Master Directions mandate that



before declaring an account as NPA, the bank must identify incipient stress, classify it under Special Mention Account (SMA) categories, and undertake Corrective Action Plans (CAP) through a Committee for Stressed MSMEs.

5.4 In the matter at hand, the Applicant bypassed these mandatory steps as no SMA categorization was communicated, no Committee was constituted, and no opportunity for rehabilitation, rectification, or restructuring was afforded to the CD. Such non-compliance is not merely a procedural lapse, but rather goes to the root of the legality of the NPA classification. Consequently, the declaration of NPA being unlawful, the Applicant cannot invoke Section 7 of the IBC, as no valid default can be said to have occurred. Thus, the present Application is premature and unsustainable.

5.5 There exists a clear inconsistency in the Applicant's pleadings regarding the date of default. Form 1 mentions the NPA date as 26.04.2018, while the NeSL record states the default date as 25.07.2017. Despite an opportunity granted by the Hon'ble Tribunal vide order dated 26.03.2023, no justification or supporting evidence has been provided to reconcile this discrepancy.

5.6 The date of default is a determinative and verifiable fact, not a presumptive or arbitrary assertion. In the absence of a clear evidentiary basis, the default date of 25.07.2017 is unsustainable. Hence, the petition fails to satisfy Section 7(3)(a) r/w Form 1 of the IBC Rules. The reliance on inconsistent and self-serving dates renders the Application defective and liable to be rejected with costs.

5.7 The Application is *ex facie* barred by limitation. The Applicant claims default on 25.07.2017 and NPA classification on 26.04.2018; even taking the latter date, the default would arise 90 days prior—on 26.01.2018. Since the



present Application was filed on 02.01.2025, it is well beyond the prescribed three-year limitation period.

5.8 No acknowledgment under Section 18 or valid part payment under Section 19 of the Limitation Act, 1963 has been pleaded or proved. Although the Tribunal, by order dated 26.03.2025, permitted the creditor to file supporting documents, the subsequent affidavit dated 03.05.2025 relies only on letters dated 02.11.2022 and 22.05.2023, both issued after expiry of limitation and therefore legally ineffective to extend the period.

5.9 The alleged part payment of 29.05.2019 by Mr. Amit Thepade cannot extend limitation, as the Applicant has failed to prove that he was authorized to act on behalf of the CD. Likewise, the credit entry of Rs.55,10,000/- on 19.03.2020 was not made by the CD or its agent, contrary to the Applicant's unsubstantiated claim. Accordingly, the debt remains time-barred, and the petition is liable to be dismissed.

5.10 An immovable property, namely Kanchan Building at Survey No. 767A, Sadashiv Peth, Kumathekar Road, Pune- 411030, which was mortgaged with the Applicant, has already been auctioned under the applicable provisions of law for recovery of dues. Pursuant to the said auction, the Applicant has recovered approximately Rs.8,12,00,000/-. In addition, Flat No. 21, Swamipuram, 2160B, Sadashiv Peth, Pune-411030, is also auctioned by the Bank, yielding a further recovery of Rs.69,00,000/-.

5.11 Despite recovering a substantial portion of the claimed amount and continuing to hold other securities, the Applicant has invoked the IBC proceedings solely as a recovery mechanism, contrary to the objective of the IBC. The total claim of Rs.149.95 Crores is inflated and fails to account



for recoveries already made. Unless amended to disclose the correct outstanding balance, the Application cannot be admitted. Even otherwise, the unrecovered portion is barred by limitation, rendering the petition non-maintainable.

6. **REJOINDER**

6.1 Rejoinder was filed by the Applicant on 22.08.2025, affirmed by one Mr. Pradeep Shrivastava, who is stated to be its Senior Manager.

6.2 The Applicant relies on the judgment of the Hon'ble Supreme Court of India in ***Shri. Shri. Swami Samarth Constructions and Finance Solutions Vs. Board of Directors of NKGSB Cooperative Bank Ltd.***, wherein it was held (paras 6 and 7) that a corporate debtor seeking protection under the Framework for Revival and Rehabilitation of MSMEs must demonstrate its eligibility at the earliest opportunity.

6.3 In the present case, the CD failed to establish or communicate its MSME eligibility at the relevant time and thus cannot retrospectively claim the benefit of the said Framework dated 29.05.2015 or the RBI's revised notification dated 17.03.2016. The law, as settled by the Hon'ble Supreme Court, makes it clear that a party that fails to present authenticated and verifiable material to show eligibility cannot later claim advantage of its own inaction.

6.4 The CD's contention that the classification of its account as an NPA on 26.04.2018 is illegal, arbitrary, and void is factually incorrect and legally untenable. The loan account has been maintained strictly in accordance with the contractual terms agreed between the parties and classified as NPA



in conformity with RBI's notifications, circulars, and directions issued from time to time.

6.5 The CD's OTS proposals dated 02.11.2022 and 22.05.2023 clearly demonstrate acknowledgement of both the NPA classification and the outstanding liability. These proposals were made without any protest or objection regarding either the NPA date or the quantum of dues, thereby amounting to a clear admission of liability and acceptance of the account's status as NPA. Furthermore, part-payments made in 2019 and 2020 by the CD and its Directors reinforce this acknowledgement and confirm the continuing liability.

6.6 Accordingly, any alleged inconsistency in the stated date of default or NPA cannot invalidate the claim, particularly when the CD has itself admitted the loan availed and the ensuing default.

7. WRITTEN SUBMISSIONS (FC)

7.1 Short synopsis was filed by the Applicant on 14.09.2025.

7.2 The loan was sanctioned on 22.06.2011 in favour of the CD, which has admitted the debt, and its attempt to dispute only the quantum of the claimed amount is immaterial at the stage of admission of the Application.

7.3 The Hon'ble Supreme Court, in the matter of ***Innoventive Industries Ltd. Vs. ICICI Bank***, (2018) 1 SCC 407, has categorically held that once a default occurs, the insolvency resolution process must commence. The Court clarified that a "debt" under Section 3(11) includes any liability in respect of a "claim," and a "claim" under Section 3(6) encompasses a right to payment even if disputed. Thus, once default is established, the



Adjudicating Authority must admit the Application under Section 7, irrespective of whether the debt is disputed, provided it is due and payable in law and fact.

7.4 Accordingly, the CD's admission of debt and default suffices to trigger the IBC process, and the disputes over the precise quantum are irrelevant at this stage.

7.5 Without prejudice to the above, there is no dispute regarding the availing of the loan or its failure to repay. Once default in repayment is admitted, the Corporate Debtor cannot contest the date of default merely to evade insolvency proceedings.

7.6 Furthermore, the CD's attempt to deny the authority of the individual who submitted the OTS proposals is an afterthought. No action was taken by the CD against the said individual, which implies that he was duly authorized to act on its behalf. Such denial at a belated stage is a false and untenable defense intended solely to obstruct the proceedings.

7.7 The mere fact that the Applicant did not accept the OTS offer because the amount proposed was substantially lower than the actual dues does not nullify the acknowledgment. As per settled law, the proposal itself is sufficient to amount to acknowledgment under Section 18 of the Limitation Act, thereby reaffirming the existence of debt and the CD's liability.

7.8 The Applicant submits that the CD cannot expand the scope of its defense through written submissions beyond what was stated in its Affidavit-in-Reply. Introducing new grounds or inconsistent stands at the stage of written submissions is impermissible and cannot form a valid defense. The



inconsistent and belated positions now taken by the CD cannot be considered to defeat or delay the Applicant's claim.

8. WRITTEN SUBMISSIONS (CD)

8.1 Short synopsis was filed by the CD on 01.09.2025.

8.2 In the present case, Mr. Amit Thepade is a personal guarantor to the credit facilities and not an authorized agent of the CD. The Applicant has failed to establish that the payment was made on behalf of the CD rather than in his personal capacity. Consequently, this payment cannot be treated as a valid part-payment extending limitation.

8.3 Similarly, the credit of Rs.55,10,000/- on 19.03.2020 was not made by or on behalf of the CD and therefore cannot be considered for the purpose of extending limitation. Accordingly, no valid part payment or acknowledgement exists to revive the time-barred claim.

8.4 The OTS letters dated 02.11.2022 and 22.05.2023 are also ineffective in law, as they were issued after the expiry of the limitation period. It is a settled legal position that an acknowledgement made after the expiry of the limitation cannot extend or revive a time-barred debt.

8.5 The Applicant's reliance on Section 25 of the Indian Contract Act, 1872, as asserted in its Rejoinder, is misconceived. For an agreement to qualify under Section 25(3), it must constitute a promise to pay a time-barred debt, not merely a proposal. As defined under Section 2 of the Contract Act, a "proposal" becomes a "promise" only upon acceptance. Since the OTS proposals were never approved or accepted by the Applicant, they remain



mere proposals and cannot constitute binding promises under Section 25(3).

8.6 Moreover, even if considered under Section 25(3), such an OTS would amount to a fresh contract and would novate the previous contract, thereby limiting the CD's liability only to the amount offered in the OTS.

8.7 In this regard, reliance is placed on the decision of the Hon'ble NCLT, New Delhi in ***M/s Kotak Mahindra Bank Limited Vs. M/s Kew Precision Parts Pvt. Ltd.***, wherein it was held that:

“According to the fresh contract under Section 25(3) of the Indian Contract Act, 1872 i.e. the promise to pay the time-barred debt in writing by the debtor, the Corporate Debtor's liability arises only with respect to the amount agreed in the OTS and not the entire amount of the original debt. The contention that the limitation period for the previous debt will be increased based on the OTS does not hold ground... The debt claimed under the previous loan agreements being barred by limitation cannot be revived on this basis.”

Accordingly, the OTS proposals in this case, being unaccepted and post-limitation, cannot revive the alleged debt or extend the limitation period.

9. ANALYSIS AND FINDINGS

9.1 We have perused the documents as placed before us and heard the Ld. Counsels for the Applicant and the CD.



9.2 It is an admitted fact that the Applicant, being a Scheduled Commercial Bank, had extended various credit facilities to the CD aggregating to Rs.41,27,00,000/-, including Open Cash Credit, MSME CAP Loan, Vehicle Loans, and Bank Guarantee Facility. It is also undisputed that the loan was sanctioned on 22.06.2011, and the CD availed and utilized the said facilities. The existence of security in the form of mortgaged immovable properties, including Kanchan Building and Flat No. 21 at Swamipuram, is also admitted. The classification of the account as an NPA on 26.04.2018 is stated by the Applicant, though disputed by the CD. Similarly, the recovery of approximately Rs.8.81 crores from the auction of mortgaged assets is admitted by both sides, though the CD contends that such recoveries have not been duly accounted for in the Applicant's claim.

9.3 What remains disputed is the legality of the NPA classification, the applicability of the MSME rehabilitation framework, the validity of the default date mentioned in Form 1 as 25.07.2017 vis-à-vis the NPA date of 26.04.2018, and the question of limitation, including whether part payments or OTS proposals made subsequently extend the limitation period. The CD also disputes the authority of the signatory to certain acknowledgements and payments, and contends that substantial recoveries made from mortgaged properties have not been duly accounted for by the Applicant.

9.4 The CD has relied upon the RBI's "Framework for Revival and Rehabilitation of MSMEs" (Notification dated 29.05.2015) and the Master Directions issued on 17.03.2016 under the MSMED Act, 2006, to contend that the Applicant failed to follow mandatory preconditions before declaring the account as NPA. It is argued that the Applicant neither categorised the



account under SMA stages nor constituted the Committee for Stressed MSMEs, as required for identifying and addressing incipient stress. The alleged failure of the Applicant to follow these mandatory steps, according to the CD, vitiates the entire process of NPA classification. This contention, however, cannot be sustained in light of the settled judicial position. The Hon'ble Supreme Court in *Shri Swami Samarth Constructions and Finance Solutions (supra)* has categorically held that the benefit of the MSME Framework can be invoked only when the MSME status is duly registered and intimated to the lender at the relevant time. The Court emphasised that the onus is on the borrower to establish its MSME eligibility at the earliest opportunity and not retrospectively. In the matter at hand, there is no evidence that the CD had provided its valid MSME registration certificate or sought relief under the said Framework prior to NPA classification. The reliance on the MSME Framework at a later stage, particularly after the declaration of default and institution of proceedings under IBC, is misplaced and amounts to an afterthought.

9.5 Furthermore, the NPA classification was made in accordance with RBI's prudential norms and internal banking procedures, which have statutory force under Sections 21 and 35A of the Banking Regulation Act, 1949. Non-compliance with the MSME framework, even if assumed for argument's sake, would at best amount to an administrative irregularity, but cannot invalidate the occurrence of default under Section 3(12) of the IBC. The IBC process is not dependent upon the correctness of the NPA classification, but rather upon the factual default in repayment. Accordingly, the CD's challenge to the NPA classification does not negate the existence of default.



9.6 In addition to the above, the CD has failed to show us any judicial order showing that the date of default/NPA is incorrect. We are of the view that in proceedings under Section 7 of the IBC, this Tribunal is not vested with the power to determine whether the date of NPA is correct or otherwise. The Date of Default is relevant and not the date of NPA.

9.7 The CD's second contention concerns the inconsistency in the date of default as reflected in Form 1 (25.07.2017) and the NeSL record vis-à-vis the NPA date of 26.04.2018. The Applicant has clarified in its Additional Affidavit dated 29.07.2025 that the date of default was reflected as 25.07.2017 based on the Record of Default (RoD) maintained by NeSL, and that the NPA classification on 26.04.2018 represents a later regulatory categorisation. It is well-settled that the "date of default" under IBC refers to the earliest instance when repayment was due but not made, and not necessarily the NPA date. The Hon'ble Supreme Court in *Innoventive Industries Ltd. (supra)*, held that once default of debt due and payable is established, the Adjudicating Authority must admit the application, irrespective of disputes over classification or quantification. The minor inconsistency between the RoD and the NPA date, therefore, does not render the application defective. Since both dates indicate continuous default well before the initiation of the proceedings, the discrepancy is not material to the maintainability of the Application.

9.8 The CD contends that this Application (filed on 02.01.2025) is barred by limitation since the default occurred on 25.07.2017 or, at best, 26.01.2018 (considering the NPA date of 26.04.2018). The Applicant, however, relies on part-payments and acknowledgment of debt through OTS proposals



dated 02.11.2022 and 22.05.2023, as well as payments made on 29.05.2019 and 19.03.2020, to assert that the limitation stands extended under Sections 18 and 19 of the Limitation Act, 1963. The law on this point is well settled. In ***Dena Bank (now Bank of Baroda) Vs. C. Shivakumar Reddy***, (2021) 10 SCC 330, the Supreme Court held that acknowledgement of liability through OTS proposals constitutes a valid acknowledgement under Section 18, provided they are made before the expiry of the limitation period. Further, in ***Laxmi Pat Surana Vs. Union Bank of India***, (2021) 8 SCC 481, it was clarified that part-payments made by or on behalf of the debtor extend the limitation, irrespective of whether made by the principal borrower or guarantor, so long as the payment relates to the same debt.

9.9 In the present case, the payments made in 2019 and 2020 and the subsequent OTS proposals are sufficient to extend the limitation. The CD's contention that Mr. Amit Thepade was unauthorised is unconvincing, as no protest or disciplinary action was ever taken against him by the CD. Thus, the Applicant's reliance on such payments and communications is justified.

9.10 Upon perusal of the extract of the cash credit loan accounts, we have observed that multiple payments were received post the NPA date, i.e., 26.04.2018. Some of these payments are as follows:

Sr. No.	Account No.	Date	Amount (In Rs.)	Mode	Page No. of the Application
1.	0382261005534	19.05.2018	25,00,000	RTGS	1208
2.		13.06.2018	15,00,000	RTGS	1209
3.		29.05.2019	2,53,212	TD	1210
4.		29.05.2019	54,73,110	TD	1210



As such, the last credit in the A/C is dated 29.05.2019, which is post the date of NPA. Subsequent to the said date, the limitation starts running.

The Hon'ble Supreme Court in Suo Motu Writ Petition (C) No.3 of 2020 in re: Cognizance For Extension Of Limitation stated the following:

“In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.”

In the matter at hand, the limitation period has to be extended by 715 days (the entire *suo moto*) starting 28.05.2022, thereby increasing the limitation period upto 12.05.2024.

Due to the OTS proposal dated 02.11.2022, the limitation was extended till 01.11.2025 and the present Application was filed within that period, i.e., on 02.01.2025.

Here is a table for a better understanding of the limitation period and how the date of filing of the Application is before the expiry of the same.

Sr.No.	Date	Particulars	Expiry of 3-year period
1.	29.05.2019	Last credit made by Mr. Amit Thepade	28.05.2022



2.	---	Suo Moto period extending limitation by 715 days	12.05.2024
2.	02.11.2022	OTS-1	01.11.2025
3.	02.01.2025	Date of filing of Application	---

9.11 The CD's argument that the OTS letters were unaccepted and hence ineffective under Section 25(3) of the Indian Contract Act is misconceived. The acknowledgment itself, signed and communicated by the debtor before expiry of the limitation, suffices to extend the period. Hence, the Application is within the limitation period.

9.12 The CD has asserted that the Applicant has already recovered approximately Rs.8.12 Crores and Rs.69 Lakhs through the auction of mortgaged properties, and that such recoveries should be adjusted to determine the correct outstanding amount. This contention, while factually relevant, does not affect the maintainability of the Section 7 Application. Partial recoveries do not bar the initiation of CIRP, provided the remaining debt is due and defaulted. As observed in **Swiss Ribbons Pvt. Ltd. Vs. Union of India**, (2019) 4 SCC 17, the object of IBC is resolution and maximisation of value, not recovery. Therefore, so long as there exists an unpaid financial debt exceeding the threshold and the default is established, the application must be admitted irrespective of partial recoveries made under other laws.

9.13 The CD's argument that the IBC has been invoked as a recovery mechanism is untenable in light of *Innovative Industries* (supra), wherein



the Supreme Court held that the moment a default occurs, the financial creditor is entitled to trigger the corporate insolvency resolution process. The quantification of the claim or pendency of other remedies does not dilute this statutory right. The IBC's mechanism is not intended to punish defaulting debtors but to revive the corporate debtor through resolution; thus, the allegation of abuse of process is unsustainable.

9.14 The Applicant has already produced supporting documents, including the sanction letter, facility agreements, loan recall notices, and NeSL Record of Default, thereby establishing the twin requirements of "financial debt" and "default." In ***Edelweiss Asset Reconstruction Company Ltd. Vs. Sachet Infrastructure Pvt. Ltd.***, (2021) 9 SCC 321, the Hon'ble Supreme Court reiterated that once a financial debt and default are shown, the Adjudicating Authority must admit the petition, leaving disputes over quantum or recoveries to be determined in the resolution process.

9.15 Upon a holistic consideration of the material placed on record, it is evident that the Applicant has established the existence of financial debt, the occurrence of default, and the Application's compliance with limitation. The CD's defense regarding MSME framework violations, inconsistent dates of default, and limitation is unsupported by law or evidence. The recoveries effected from secured assets do not extinguish the debt, and the OTS proposals and part-payments constitute valid acknowledgements. Consequently, the conditions stipulated under Section 7(5)(a) of the IBC stand fulfilled, warranting admission of the Application.

9.16 The Applicant has also proposed the name of an IRP, Mr. Srigini Rajat Naidu, and as per the Form 2 attached along with the Application, no



disciplinary proceedings are going on against him. Further, this Application is complete as all the required documents have been attached along with the Application.

9.17 We make it clear that at this stage we have not crystallised the amount as claimed in this Application; the same is left to be collated by the IRP.

ORDER

In view of the aforesaid findings, this Application bearing C.P. (IB) 301/MB/2025 filed under Section 7 of IBC, 2016, by Canara Bank, the Applicant (FC) for initiating CIRP in respect of M/s.Galaxy Constructions and Contractors Private Limited, the CD, is **admitted**.

We further declare a moratorium under Section 14 of IBC, 2016 with consequential directions as mentioned below:

I. We prohibit:

- a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor, including the 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and;



- d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the IBC or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.
- IV. That the public announcement of the CIRP shall be made immediately as specified under Section 13 of the IBC read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.
- V. That this Bench hereby appoints **Mr. Srigrini Rajat Naidu**, having **Registration No. as IBBI/IPA-003/IP-N000137/2017-18/11513**, and **e-mail address rajat.naidu@yahoo.com**, having valid Authorisation for Assignment up to 31.12.2025 as the IRP to carry out the functions under the IBC.
- VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.
- VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the IBC. The officers and managers of the Corporate Debtor are directed to provide all assistance to the IRP as and when he takes charge of the assets and management of the Corporate



Debtor. Coercive steps will follow against them under the provisions of the IBC, read with Rule 11 of the NCLT Rules, for any violation of law.

- VIII. That the IRP/IP shall submit to this Tribunal monthly reports with regard to the progress of the CIRP in respect of the Corporate Debtor.
- IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Financial Creditor is directed to deposit a sum of Rs.3,00,000/- (Three Lakh Rupees) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Financial Creditor on priority upon the funds becoming available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.
- X. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai for updating the Master Data of the Corporate Debtor.
- XI. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.
- XII. The Registry is directed to immediately communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.
- XIII. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

//AS//

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)