



IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH

ITEM No. 01
(IB)-680(PB)/2024

IN THE MATTER OF:

Bank of Baroda	Petitioner
Vs		
OUR Co.Infrastructure Developers Pvt. Ltd	Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016.

Order delivered on 17.02.2025

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

MS. ANU JAGMOHAN SINGH
HON'BLE MEMBER (TECHNICAL)

HYBRID HEARING (PHYSICAL & VC)

PRESENT:

For the Petitioner : Mr.Sougat Sinha, Advocate
For the Respondent :

ORDER

1. The present application has been filed by Bank of Baroda (hereinafter referred to as 'Applicant'/ 'Financial Creditor') on 07.10.2024, u/s Section 7 of the Insolvency and Bankruptcy Code, 2016 ('The Code'), r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiating the Corporate Insolvency Resolution Process (CIRP), declaring moratorium and for appointment of Interim Resolution Professional (IRP), against OUR Co. Infrastructure Developers Pvt. Ltd (hereinafter referred to as 'Respondent'/Corporate Debtor) for a default of Rs. 28,79,55,488/- (Rupees Twenty Eight Crore Seventy Nine Lacs Fifty Five Thousand Four Hundred Eighty Eight Only).



PARTIES

- 2.** The Financial Creditor (FC) herein is a banking company constituted under the Banking Companies (Acquisition and Transfer of Undertaking Act, 1970) having its head office at 7th Floor, Baroda Bhawan, R.C. Dutt Road, Vadodra-390007 and branch office at 4th Floor, Rajendra Bhawan, Rajendra Place, New Delhi.
- 3.** The Corporate Debtor (CD) herein is OUR Co. Infrastructure Developers Pvt. Ltd. CIN: U45400DL2007PTC168129 having its registered office at EWS/DDA Block-A, Flat no.-708, DLF Capital Greens, Shivaji Marg, Moti Nagar, Karampura, West Delhi, New Delhi 110015. The respondent herein was incorporated on 13.09.2007 with a Paid Up Capital of Rs. 14,77,02,500/- and Authorized Capital of Rs. 15,00,00,000/-. Therefore, this Bench has jurisdiction to deal with this application. A copy of the Company's Master Data has been annexed as **Annexure (A-1)** at Pages 35-36.
- 4.** On 14.10.2024 notice was issued to CD to enter appearance and file its reply within 7 days. The CD was served and an Affidavit of Service dated 14.11.2024 was filed. Further, in terms of the order dated 05.11.2024, the petitioner filed the NeSL Certificate. The petitioner also filed New IA-330/2025 to take on record the additional document which was allowed and documents were taken on record on 22.01.2025.
- 5.** Despite the service and various opportunities granted to Corporate Debtor, there was no representation recorded in



the various orders that passed from time to time. Today, also when the matter was called, Ld. Counsel Mr. Sougat Sinha, for the petitioner, appeared through VC. However, none appeared on behalf of respondent (Corporate Debtor). Since there is no effective appearance of the respondent (Corporate Debtor), we deem that respondent (Corporate Debtor) is not interested in defending the matter, therefore, we proceed to take up the case.

6. That Respondent (Corporate Debtor) approached the Financial Creditor for a loan facility for the establishment/construction of the school/institution namely Presidium Educational Institution situated at Gurgaon, Haryana. The Financial Creditor sanctioned a term loan of Rs. 49,00,00,000/- (Rupees Forty Nine Crores Only) vide sanction letter dated 03.09.2014. The sanction letter is annexed as **Annexure A-7** at Page 71 of the petition. It is stated that several security and loan documents were executed by the Corporate Debtor in favour of the Financial Creditor including a Demand Pronote dated 06.12.2014 which is annexed as **Annexure A-7** at page 80 of the petition.
7. It is stated that the Corporate Debtor started defaulting in repaying the installments of the term loan as per the sanction letter and therefore its account was declared as NPA on 31.08.2019 in accordance with RBI Norms. On account of non-payment of the debt by the CD and the classification of the account of CD as NPA. The FC initiated action under the provisions of Securitization and



Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 “SARFAESI ACT, 2002) and accordingly issued notice on 21.09.2021 u/s 13(2) of the said Act. The notice under Section 13 (2) of the Act has been annexed as **Annexure A-3** at pages 44-63 of the petition. It is stated that pursuant to the aforesaid notice under Section 13(2), the Corporate Debtor failed to pay the defaulted amount within the stipulated time, consequent which the Financial Creditor filed an Original Application u/s 19 of the Recovery of Debt and Bankruptcy Act, 1993 against the Corporate Debtor as well as the guarantors vide OA. No. 568 of 2020. Ld. DRT on 28.07.2021 issued notice and further passed a restraining order against the defendants. The order dated 28.07.2021 has been annexed as **Annexure A-6** at pages 69-70 of the petition.

8. The petitioner has attached a copy of the CIBIL Report of Corporate Debtor stipulating the default committed by the Corporate Debtor in repaying the loan facility granted. Further, a copy of the statement of loan Account along with the certificate of Banker Book evidence in terms of Section 2A read with Section 2(8) of the Banker Book Evidence Act, 1891, has also been attached. Copy of CIBIL report and Statement of Loan Account has been annexed as **Annexure A-8 and Annexure A-9** at Page 211-253 of the petition.
9. The petitioner also relied upon the Balance sheet of the Corporate Debtor for the year ending 31.03.2021 which was approved by the Board of Directors on 28.10.2021 to state that the account of the Corporate Debtor was declared as



NPA on 31.08.2019 and the limitation period to file the present application ended on 30.08.2022. However, the Corporate Debtor had acknowledged the debt in the aforesaid Balance Sheet and that the limitation period from 28.10.2021 would end on 28.10.2024 and the present case was filed on 07.10.2024 which is well within the limitation period. The Balance Sheet ending 31.03.2021 has been annexed as **Annexure A-10** at Vol-II page 254-310. Since the Corporate Debtor has acknowledged its liability in the aforesaid balance sheet, the present petition is well within the limitation period and further fortifies the liability of the Corporate Debtor to pay.

- 10.** In any event, Ld. Counsel for the petitioner also seeks the benefit of the suo-moto order passed by the Hon'ble Supreme Court in suo-moto Writ Petition No. 03 of 2020 in Re: Cognizance for Extension of Limitation.
- 11.** In view of the same, Ld. Counsel pleads that the claim is within the limitation period and there is clear debt and default acknowledged by the Corporate Debtor. In the present case, the amount in default as per Part-IV is Rs. 28,79,55,488/- (Rupees Twenty Eight Crore Seventy Nine Lacs Fifty Five Thousand Four Hundred Eighty Eight Only) further it is stated that the claim filed by FC in the event of the admission of CIRP shall include further interest and cost. The Part IV- of the application is extracted below for ready reference:



PART IV

PARTICULARS OF FINANCIAL DEBT				
1.	TOTAL AMOUNT OF DEBT GRANTED DATE(S) OF DISBURSEMENT	Account No.	Amount Sanctioned (in Rs. Lakhs)	Date of Sanction
		22750600001210	4,900.00	03.09.2014
Total		4,900.00		

		Disbursed on different dates As per Statement of Account attached.
		Amount in default: Rs 28,79,55,488/- (Rupees Twenty Eight Crores Seventy Nine Lakhs Fifty Five Thousand Four Hundred Eighty Eight Only) (plus interest & charges to be charged w.e.f. 30.05.2019) as on 31.08.2019. The date of default by the Corporate Debtor is 31.05.2019. That the accounts of the Corporate Debtors have been classified as non-performing asset on 31.08.2019. That the Financial Creditor on 21.09.2019 issued notices in accordance with provisions of Section 13(2) of SARFAESI Act, 2002 to Corporate Debtor/Guarantors and recalling entire outstanding amount of Rs. 28,79,55,488/- (Rupees Twenty-Eight Crores Seventy-Nine Lakhs Fifty Five Thousand Four Hundred and Eighty Eight Only) outstanding as on 31.08.2019 (plus interest & charges to be charged w.e.f. 30.05.2019) within a period of 60 days. However, the Corporate Debtor failed to pay the amount demanded within the stipulated time i.e. by 20.11.2019. The default continues till date. Accordingly
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)	



Corporate Debtor has defaulted in payment of Rs. 28,79,55,488/- (Rupees Twenty-Eight Crores Seventy-Nine Lakhs Fifty Five Thousand Four Hundred and Eighty Eight Only) outstanding as on 31.08.2019 (plus interest & charges to be charged w.e.f. 30.05.2019).

The claim that shall be filed by the Financial Creditor in the event of admission of CIRP shall include further interests and costs upto the date of filing the claim.

The total claim of the Financial Creditor as on 23.09.2024 is Rs. 49,14,07,632.17/- (Rupees Forty-Nine Crores Fourteen Lakhs Seven Thousand Six Hundred Thirty Two and Seventeen Paise Only) as calculated hereunder.

Total principal amount of default is Rs. 28,79,55,488/- (Rupees Twenty-Eight Crore Seventy Nine Lakhs Fifty Five Thousand Four Hundred and Eighty Eight Only).

Plus Unapplied Interest amount- Rs. 19,13,34,744.62/- (Rupees Nineteen Crore Thirteen Lakhs Thirty Four



Thousand Seven Hundred Fourty Four and Sixty Two Paisa Only).

Plus Unserviced Interest amount- Rs. 1,00,02,917.55/- (Rupees One Crore Two Thousands Nine Hundred Seventeen and Fifty Five Paisa only)

Plus Legal and other expenses amount Rs. 21,14,482/- (Rupees Twenty One Lakhs Fourteen Lakhs Four Hundred and Eighty Two only).

Aggregating to Total Amount of Debt in Default is Rs. 49,14,07,632.17/- (Rupees Forty-Nine Crores Fourteen Lakhs Seven Thousand Six Hundred Thirty Two and Seventeen Paisa Only) as on 23.09.2024.

Copy of notice dated 21.09.2019 issued under section 13(2) of SARFAESI Act, 2002 issued by the Financial Creditor along with copy of speed post receipts are annexed herewith as **Annexure A3 (Colly)**.

Computation of Financial Debt as on 23.09.2024 is annexed herewith as **Annexure A4**.

The Computation of Financial Debt as of 23.09.2024 is annexed herewith as **Annexure A4** at page 64.



- 12.** We have heard Ld. Counsel for the petitioner and perused the documents/pleadings on record. In the present factual matrix, the account of CD was declared as NPA on 31.08.2019. There is a clear debt and a consequent default and the same has also been acknowledged by the CD in its Balance Sheet. Therefore, in view of the submissions made and documents on record, the present petition is filed within the limitation period.
- 13.** It is also noted that Ld. Counsel Mr. Sougat Sinha, for the petitioner, appeared through VC and was also engaged in some other court proceedings and caused disturbing in the present proceedings. He is also not thoroughly prepared on the facts of the case. Nevertheless, we proceed by hearing him and giving him more indulgence. A cost of **Rs. 5000/-** be imposed on the petitioner for such disturbance to be paid in the Prime Minister National Relief Fund (PMNRF).
- 14.** In view of the above analysis, there is a clear case of debt and default. We are inclined to **admit** the present petition bearing no. **C.P. (IB) – 680/(PB)/2024**.

ORDER

- 15.** In light of the above facts and circumstances, it is, hereby ordered as follows:
- i.** The Application bearing C.P. (IB)–680/(PB)/2024 filed by Bank of Baroda under section 7 of the Code read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP OUR Co. Infrastructure Developers Pvt. Ltd is hereby **Admitted**.



- ii.** As a consequence of the Application CP (IB)-680/(PB)/2024 being admitted in terms of Section 7 of the Code, moratorium as envisaged under the provisions of Section 14(1) of the Code, shall follow in relation to Respondent/(CD) as per clauses (a) to (d) of Section 14(1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come into force.
- iii.** The FC has proposed the name of Mr. Abhimanyu Mittal as the IRP. His email id is ca.mittalabhi@gmail.com. His registration number is IBBI/IPA-001/IP-P-01870/2019-2020/12893. He has filed his written communication, **(Annexure A2 -at Pages 37-43, Volume 1 of the Application)** as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Accordingly, he satisfies the requirement of Section 7(3)(b) of the code. Hence, we appoint Mr. Abhimanyu Mittal as the IRP of the Corporate Debtor.
- iv.** In pursuance of Section 13 (2) of the Code, we direct the IRP or the RP, as the case may be to make a public announcement immediately with regard to the admission of this application under Section 7 of the Code. The expression 'immediately' means within three days as clarified by Explanation to Regulation



6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- v.** During the CIRP period, the management of the CD shall vest in the IRP or the RP, as the case may be, in terms of Section 17 of the IBC. The officers and managers of the CD shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow. There shall be no future opportunities in this regard.
- vi.** The IRP is expected to take full charge of the CD's assets, and documents without any delay whatsoever. 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.
- vii.** The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- viii.** The FC shall deposit a sum of **Rs 2,00,000/-** (Rupees Two Lakhs only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to the approval of the Committee of Creditors (CoC).
- ix.** In terms of Section 7(7) of the Code, the Registry is hereby directed to communicate a copy of the order



to the FC, the CD, the IRP and the Registrar of Companies, NCR, New Delhi, by Speed Post and by email, at the earliest but not later than seven days from today. The Registrar of Companies shall update his website by updating the status of the CD and specific mention regarding admission of this petition must be notified.

- x.** The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.
- xi.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.
- xii.** List the matter **on 01.04.2025.**

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(RAMALINGAM SUDHAKAR)
PRESIDENT

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(ANU JAGMOHAN SINGH)
MEMBER (TECHNICAL)

Dipak – 17.02.2025