DEBTS RECOVERY TRIBUNAL-III, DELHI

TA/309/2022

National Assets Reconstruction Company Ltd. Vs. M/s SSA International Ltd. and Ors.

&

NDN/160/2023(TCC)

In TA/309/2022

M/s SSA International Ltd. and Ors. Vs. Canara Bank

Date : 29.09.2026 Item Nos. 12 & 13

1. This matter is taken up by this Tribunal through Hybrid Mode.
2. Today, captioned TA as well as Counter Claim are listed for pronouncement of final order. Accordingly, common Final Order (in both the matters) prepared in separate sheets, signed and pronounced.
3. A copy of this Order be placed in Counter Claim File bearing no. NDN/160/2023 (M/s SSA International Ltd. and Ors. Vs. Canara Bank) as well.
4. Both files of TA and Counter Claim be closed and consigned to record room.

29.09.2026

29.09.2026

(SHIV KUMAR - I)
PRESIDING OFFICER,
DRT-III, DELHI

DEBTS RECOVERY TRIBUNAL-III, DELHI
4th Floor, Jeevan Tara Building,
Parliament Street, New Delhi

PRESIDING OFFICER : MR. SHIV KUMAR - I

(TA No. : 309/2022)

National Assets Reconstruction Company Limited (NARCL)

(Assignee of Canara Bank vide Assignment Agreement dated 28.02.2023)

(Acting in its Capacity as Trustee of NARCL Trust – 0002/2022-23)

A company incorporated under the Companies Act, 2013 and registered with the Reserve Bank of India as a Securitisation and Reconstruction Company pursuant to Section 3 of the SARFAESI, having its

Registered office at :

6th Floor, World Trade Centre WTC Complex,
Cuffe Parade, Mumbai,
Maharasthra – 400005

[Name of National Asset Reconstruction Company Limited (NARCL) was substituted in place of Canara Bank vide Order dated 01.12.2023 passed in IA No. 233/2023 by this Tribunal]

……..Applicant

Versus

1. **M/s SSA International Limited (Borrower)**
(Through its Managing Director)

Registered office:
21, First Floor, Arcon Plaza,
Local Shopping Centre,
Madangir,
New Delhi – 110062

Also at :
Unit No. 137,
DLF Prime Tower,
F-Block, Okhla Phase-I,
New Delhi – 110020

Also at :
67th, Milestone, Samalkha,
Village Bhodwal Majri,
Near Dhaga Factory,
Panipat, Haryana – 123101

2. **Sh. Vinay Mittal**
D-250, Anupam Garden,
Sainik Farms,
New Delhi – 110062

3. **Sh. Naveen Mittal**
D-78, Pushpanjali Enclave,
Pitampura,
New Delhi – 110034

4. **Smt. Rita Mittal**
W/o Sh. Anil Mittal,
(Guarantor)
D-250, Anupam Garden,
Sainik Farms,
New Delhi – 110062

5. **Sh. Rahul Mittal**
D-78, Pushpanjali Enclave,
Pitampura,
New Delhi – 110034

6. **Sh. Amit Mittal**
S/o Sh. Anil Mittal,
D-250, Anupam Garden,
Sainik Farms,
New Delhi – 110062

7. **Sh. Anubhav Mittal**
S/o Sh. Anil Mittal,
D-250, Anupam Garden,
Sainik Farms,
New Delhi – 110062

8. **Sh. Atul Mittal**
S/o Sh. Anil Mittal,
D-250, Anupam Garden,
Sainik Farms,
New Delhi – 110062

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9. **M/s Samtex Fashions Limited**
Plot No. 134-135, NSEZ Phase II,
Noida, UP – 201305

10. **M/s Empire Finvest Pvt. Limited**
21, Kashmir Avenue,
Amritsar, Punjab – 143001

11. **M/s Gartex Overseas Pvt. Limited**

Registered Office:
D-78, Pushpanjali Enclave,
Pitampura,
New Delhi – 110034

12. **M/s SSR Apparels Pvt. Limited**
321-G, Chirag Enclave,
New Delhi – 110017

13. **National Asset Reconstruction Company Limited (NARCL)**
(Assignee of State Bank of India vide Assignment Agreement dated 28.02.2023)

(Acting in its capacity as Trustee of
NARCL Trust – 0002/2022-23)

Registered Office at :
6th Floor, World Trade Centre WTC Complex,
Cuffe Parade, Mumbai,
Maharashtra – 400005

14. **National Asset Reconstruction Company Limited (NARCL)**
(Assignee of IDBI Bank Limited vide Assignment Agreement dated 28.02.2023)

(Acting in its capacity as Trustee of
NARCL Trust – 0002/2022-23)

Registered Office at :
6th Floor, World Trade Centre WTC Complex,
Cuffe Parade, Mumbai,
Maharashtra – 400005

15. **SBICAP Trustee Company Ltd.**
Branch : 424-425, 4th Floor,
World Trade Centre, Babar Lane,
New Delhi – 110001

.....Defendants

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&

Counter Claim No. : NDN/160/2023 (TCC)
In
TA No. 309/2022

1. **SSA International Limited**
   Registered Address :
   Unit No. 137,
   DLF Prime Tower,
   F Block, Okhla Phase-I,
   Delhi – 110020

   Through its authorized representative
   Sh. Naveen Mittal

2. **Smt. Rita Mittal**
   W/o Late Sh. Anil Mittal,
   R/o D-250,
   Anupam Garden,
   Sainik Garden,
   New Delhi – 110062

3. **Sh. Vinay Mittal**
   S/o Sh. Sardari Lal Aggarwal,
   R/o D-250,
   Anupam Garden,
   Sainik Garden,
   New Delhi – 110062

4. **Sh. Naveen Mittal**
   R/o D-78,
   Pushpanjali Enclave,
   Pitampura,
   New Delhi – 110034

5. **Sh. Rahul Mittal**
   R/o D-78,
   Pushpanjali Enclave,
   Pitampura,
   New Delhi – 110034

…..Applicants

Versus

Canara Bank Limited

Branch Office at :
PCB Cannaught Place, 2nd Floor,

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World Trade Tower,
Barakhamba Lane,
New Delhi – 110001

.....Respondent

Date of Institution of TA: 22.05.2018
Date of Institution of Counter Claim (CC) : 08.01.2020
Date of Reserving the Order on TA a/w CC: 18.09.2026
Date of Pronouncement in TA a/w CC: 29.09.2026

Counsels in TA :

Mr. A.K. Singh, for Applicant.

Mr. A.K.D. Sayare, for Defendants no. 1 to 6, 8 and 9 to 12.

None for other Defendants.

&

Counsels in CC :

Mr. A.K.D. Sayare, Ld. counsel for Applicants no. 1 to 5 in CC (who are arrayed as Defendants no. 1, 4, 2, 3 & 5 respectively in TA)

Mr. A.K. Singh, for non-Applicant / respondent / SBI.

FINAL ORDER

By this common order, both the matters i.e. TA No. 309/2022 as well as Counter Claim No. bearing no. NDN/160/2023 (TCC) shall be disposed off by this Tribunal.

1. The present original application has been filed by the Applicant / Canara Bank on 22.05.2018, through Sh. Pradeep Sharma, Chief Manager being the authorized officer of the Applicant Bank, under Section 19 of the Recovery of Debts Due to Banks and Financial Institution Act, 1993 against the Defendants no. 1 to 12 for recovery of the sum of Rs. 151,86,46,977.00 (Rupees One Hundred Fifty One Crore Eighty Six Lakh Forty Six Thousand Nine Hundred and Seventy Seven only) inclusive of Interests

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upto 30.04.2018 and further interest and penal interest from 01.05.2018 till the realization of the outstanding amount along with pendentelite and future interest at the rate of 16.15% p.a. with monthly rests from 01.05.2018 till the realization of the entire amount along with all costs and charges & other relief(s).

1.2 It is pertinent to note here that this OA bearing no. 973/2018 was originally filed before Ld. DRT-II, Delhi, however, in pursuance to Gazette Notification No. 4718 (E) dated 04.10.2022 issued by Government of India, Department of Financial Services, Ministry of Finance, this case file was transferred by Ld. DRT-II, Delhi to this Tribunal in November 2022 and was numbered at TA-309/2022.

2. The present Counter Claim / CC has been filed by the Applicants (Defendants in OA) on 08.01.2020 under Section 19 of the Recovery of Debts Due to Banks and Financial Institution Act, 1993 against the Respondent Bank for recovery of a sum of Rs. 454.0 Crore (Rupees Four Hundred and Fifty Four Crore) together with further interest pendentelite and future interest on the amount due @12% p.a. till the date of the payment along with cost of Rs. 10.0 Lakh for filing the present Counter Claim.

2.1 It is pertinent to note here that this CC bearing no. NDN/36/2020 (CC) was originally filed before Ld. DRT-II, Delhi, however, in pursuance to Gazette Notification No. 4718 (E) dated 04.10.2022 issued by Government of India, Department of Financial Services, Ministry of Finance, this case file was transferred by Ld. DRT-II, Delhi to this

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Tribunal in October 2023 and was numbered at NDN/160/2023 (TCC).

Facts of TA

3. The brief facts of the case are that the Applicant Bank i.e. Canara Bank is a body corporate constituted under the Banking Companies Acquisition and Transfer of Undertakings Act of 1970 having one of its Branch at PCB Connaught Place, 2nd Floor, World Trade Tower, Barakhamba Lane, New Delhi – 110001, who is preferring this OA through Sh. Pradeep Sharma, Senior Manager of Applicant Bank, and is duly authorized inter alia to sign and verify this OA and to file and institute the same. In this regard, copy of General Power of Attorney of Sh. Pradeep Sharma, Senior Manager is annexed with the OA.

It is further stated in the OA that State Bank of Travancore, Branch at Travancore House, K.G. House, New Delhi – 110001 was also the member of the consortium and after the approval of Government, the State Bank of Travancore has been merged in State Bank of India, which is also the lead Bank of the consortium bank vide Gazette Notification No. G.S.R. 156(E), G.S.R. 157(E), G.S.R. 158(E), G.S.R. 159(E) and G.S.R. 160(E) dated 22.02.2017, wherein the acquisition of five associate banks of State Bank of India viz. State Bank of Bikaner & Jaipur / State Bank of Hyderabad / State Bank of Mysore / State Bank of Patiala / State Bank of Travancore with State Bank of India has been approved / notified by Government of India and the effective date of Legal merger / report merger is 01.04.2017. Thereafter, Reserve Bank of India also issued the Press Release on dated 20.03.2017 for the merger of the State

Bank of Travancore in the Lead Bank i.e. State Bank of India. Hence, the State Bank of Travancore has not been made separate Performa party and same be read as part and parcel of State Bank of India which was the lead Bank.

3.1 It is stated in the OA that the Defendant no. 1 i.e. M/s SSA International Limited is a Company registered imder the Companies Act, 1956 and is having its registered office at M-71 (MKT.), Greater Kailash-II, New Delhi and is the borrower company.

The Defendants no. 2 to 5 being the Director / personal guarantors of Defendant no. 1, who had been actively running the Defendant no. 1 company responsible for day to day affairs of the company as well as discharge its liability and have executed the personal guarantee.

The Defendants no. 6 to 8 are the mortgagors and have executed mortgage / security documents for securing the debts sanctioned to Defendant no. 1 company, hence, are liable to discharge of its liability as per their undertakings.

Defendants no. 9 to 12 executed the corporate guarantees for the limits sanctioned to Defendant no. 1, hence, are liable for discharge of its liability as per their own undertaking of corporate guarantee.

The Defendant no. 13 is the Lead Bank who has been entrusted the task to see that the loan taken by the Defendant no. 1 is recovered without and hindrance the lenders having pari passu charge over fixed / current assets of the Borrower Company. The State Bank of Travancore (which now part and parcel of State Bank of India i.e. lead Bank) was also the consortium members along with Applicant Bank and hence State Bank of Travancore has not been arrayed as

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performa defendant separately. It is further stated in the OA that SBI Consortium / lenders having pari-passu charge over fixed / current assets of the Borrower Company. The Defendant no. 13 is the lead Bank; Applicant Bank is Second Lead Bank, State Bank of Travancore and Defendant no. 14 are the members banks of the consortium.

It is also stated in the OA that the Defendant no. 15 is the Security Trustee for the purpose of custody of the loan and security documents on behalf of Defendant no. 13 & 14 along with Applicant Bank has also been arrayed as Proforma Defendant.

3.2 It is stated in the OA that the Defendant no. 1 is engaged in the business of processing of rice for exports and domestic sales and trading edible oil and other food grain, merchant of Soya, Wheat, Chana and other food grain.

It is further stated that as the Defendant no. 1 company had borrowed the various facilities from Applicant Bank and consortium banks as well, a consortium of banks consisting of Defendants no. 13 & 14 including the Applicant Bank (hereinafter referred to as **"SBI Consortium"**) of which State Bank of India was Lead Bank and Applicant Bank as Second Lead Bank in SBI Consortium.

It is stated in the OA that the Defendant no. 1 through its directors had approached the Applicant Bank in 1999, for opening the Account for availing various services / credit facilities from the Applicant Bank. Similarly with other banks of the consortium for its business requirements time and again. The Defendant no. 1 approached the Applicant Bank for various facilities and Applicant Bank in due course

of banking sanctioned the same time and again and after execution of the loan and security documents in consideration of the sanctioned facilities. The Applicant Bank disbursed the various facilities, and Defendants were time and again availed the services / credit facilities of Applicant Bank too, by executing various loan and security documents in consideration of the sanction credit facilities and also executed the acknowledgment of debt time and again.

3.3 It is also stated in the OA that Defendant no. 3 has equitably mortgaged the property bearing Plot No. 11, area admeasuring 97,750 square meters situated in Satiapur Industrial Area Mandideep, Phase-II, Village Mandideep, Tehsil Gaharganj, District Raisen, MP in favour of SBICAP Trustee Company Ltd. (Security Trustee) for securing the Credit Facilities availed by the Defendant no. 1 from the Consortium Lenders.

Defendant no. 5 has equitably mortgaged the property bearing A-602, on 6th Floor, having covered area of 777.73 square feet, super area measuring 1070 square feet (99.44 square meters) in the House Complex "SS Enclave" built on Plot No. GH-03, Sector Beta-II, Greater Noida, UP in favour of SBICAP Trustee Company Ltd. (Security Trustee) for securing the Credit Facilities availed by the Defendant no. 1 from the consortium Lenders.

Further, Defendants no. 4 and 6 to 8 have also equitably mortgaged the property bearing the Residential Flat / dwelling unit bearing No. B-802, on 08th Floor, having area admeasuring 1084.50 square feet, super area measuring 1470 square feet in the House complex "SS Enclave" built

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on Plot No. GH-03, Sector Beta-II, Greater Noida, UP in favour of SBICAP Trustee Company Ltd. (Security Trustee) for securing the Credit Facilities availed by the Defendant no. 1 from the Consortium Lenders.

Moreover, Defendants no. 3 & 4 have also equitably mortgaged the property bearing Property / House No. D-78, Pushpanjali Enclave, Pitampura, Delhi, measuring 212.75 sq. meters in favour of SBICAP Trustee Company Ltd. (Security Trustee) for securing the Credit Facilities availed by the Defendant no. 1 from the Consortium Lenders.

The Defendant no. 12 has also equitably mortgaged the property consisting of Freehold land measuring 13 Kanal 8 marla in Khewat No. 941 Khatoni No. 1025 (New No. 1004) Killa No. 165/1 (7-8), 165/2/1 (6-0) in Village Pattiklalan, Tehsil Samalkha, District Panipat, Haryana in favour of SBICAP Trustee Company Ltd. (Security Trustee) for securing the Credit Facilities availed by the Defendant no. 1 from the Consortium Lenders.

Further, Defendant no. 11 has equitably mortgaged the property consisting of Freehold land measuring 5 Kanal 8 marla in Khewat No. 412 min Khatuani 449 as 108/148 share of Killa No. 165/10 (7-8) in Village Pattiklalan, Tehsil Samalkha, District Panipat, Haryana in favour of SBICAP Trustee Company Ltd. (Security Trustee) for securing the Credit Facilities availed by the Defendant no. 1 from the consortium Lenders.

The Defendant no. 1 has also equitable mortgaged the Property consisting of Freehold land measuring 6 Kanal 16 marla in Khewat No. 650 min. Khatoni no. 714 Killa No. 165/11 (6-16) in Village Pattiklalan, Tehsil Samalkha,

District Panipat, Haryana in favour of SBICAP Trustee Company Ltd. (Security Trustee) for securing the Credit Facilities availed by the Defendant no. 1 from the consortium Lenders.

Defendant no. 10 created Negative Lien on the Commercial property at 12AF (12th Floor), BigJo's Estate, Plot No. A-08, Netaji Subhash Place, Wazirpur District Centre, Pitampura, New Delhi measuring 4539 square in favour of the Applicant Bank for securing the Credit Facilities availed by the Defendant no. 1 from the Applicant Bank.

3.4 It is stated in the OA that in 2011, Defendant no. 1 as Borrower and Defendants no. 2, 3 and 9 to 12 and Late Sh. Anil Mittal, as Guarantors, approached the Applicant Bank for grant / enhance / renewal / review of the credit facilities and the Applicant Bank vide Sanction Letter dated 15.01.2011 sanctioned / granted / enhanced / renewed / reviewed the various facilities for the purpose of business requirements to Defendant no. 1 to the tune of Rs. 79.0 Crore as Fund Based and Rs. 7.75 Crore as Non-Fund Based, on the various terms and conditions stipulated in the said Sanction.

In consideration of the said credit facilities sanctioned in favour of the Defendant no. 1, the other respective Defendants executed various loan / security documents for the due repayment of the facilities availed by the Defendant no. 1 and in consideration thereof, the security documents were executed in favour of the SBI Consortium Banks by the respective Defendants.

It is stated in the OA that the Defendant no. 1 authorized its signatory Sh. Naveen Mittal and Sh. Anil Mittal, directors of Defendant no. 1, vide Resolution passed in the Board of Directors Meeting dated 21.03.2011 to execute the loan / security documents in favour of SBI Consortium.

Further, the members of the SBI Consortium amongst themselves, executed an Inter se Agreement dated 29.03.2011 reducing into writing the duties, obligations and powers of the lead as well as the other member banks inter se including enforcement of security and appropriation thereof.

It is also stated that the members of the SBI amongst themselves executed a Letter of Authority to be given by Defendant no. 14 and State Bank of Travancore (member banks) along with the Applicant Bank dated 29.03.2011 in favour of Defendant no. 13 to execute and perform all acts, deeds and things and appointed as Lead Bank and enable to take all actions and decisions for and on behalf of member Banks.

Further more, following Loan / Security documents were executed by the Defendants in favour of Consortium Members:-

(i) Working Capital Consortium Agreement dated 29.03.2011 executed by the Defendant no. 1 through its authorized signatory with SBI Consortium to secure the enhanced / renewed / reviewed consortium facilities of Rs. 382.50 Crore in which share of Applicant Bank was Rs. 87.35 Crore;

(ii) Joint Deed of Hypothecation dated 29.03.2011 executed by Defendant no. 1;

(iii) Letter of Omnibus Counter Guarantee, Agreement-cum-Indemnity dated 29.03.2011 executed by Defendant no. 1 in favour of SBI Consortium;

(iv) Deed of Guarantee dated 29.03.2011 executed by Defendants no. 2, 3 and Late Sh. Anil Mittal;

(v) Deed of Corporate Guarantee dated 29.03.2011 executed by Defendants no. 9 to 11 as well as their Board Resolutions;

(vi) Letter dated 29.03.2011 executed by Defendant no. 1 confirming the deposition of title deeds and further confirming extension of mortgage to the extent of Rs. 382.50 Crore relating to immovable property situated at Plot No. 11 at Industrial Area, Mandideep, Phase I, Tehsil Goharganj, District Raisen, Madhya Pradesh in the name of Defendant no. 1;

(vii) Letter dated 29.03.2011 executed by Defendant no. 1 through Defendant no. 3 and Late Sh. Anil Mittal relating to immovable property situated at D-78, Built on Plot No. 78 in Block D, measuring 212.75 squre meters situated at Pushpanjali Enclave, Pitampura, Delhi to create extension of equitable mortgage / 1st charge thereon for creation of first pari-passu charge on the said property in favour of the consortium banks;

(viii) Letter dated 29.03.2011 executed by Defendant no. 11 through its authorized personal creating equitable mortgage / extension of mortgage relating to deposit of title deeds on 30.03.2007 of property consisting

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of freehold land measuring 5 kanal 8 marla in Khewat No. 412 mn. Khatoni no. 449 as 108/148 share of Killa No. 165/10(7-8) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana and immovable property consisting of 6 kanal 16 marla in Khewat No. 650 min. Khatoni no. 715 Killa no. 165/11(6-18) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana which is described in consolidation in sanction as property consisting of freehold land 7018 square yards in two pieces of 3751 square yards and 3267 square yards, in Khasra No. 165/10 village Bohodwal Majri, Tehsil Samalkha, Haryana, to create extension of equitable mortgage / 1st charge thereon in favour of SBI consortium banks for creation of first pari-passu charge on the said property with a view to secure the sanctioned / enhanced / renewed / reviewed facilities and the letter of intention for creation of the extension of the mortgage of the aforesaid property of RS. 382.50 crore relating to title documents to SBI Consortium;

(ix) Undertaking dated 29.03.2011 executed by Defendant no. 10 confirming negative lien on commercial property at 12AF (12th Floor), BigJo's Estate, Plot No. A-08, Netaji Subhash Place, Wazirpur District Centre, Pitampura, New Delhi – 110034, measuring 4539 square by actual re-delivery of documents in favour of Defendant no. 13 acting with view to secure the sanctioned / enhanced / renewed / reviewed facilities, and the letter of intention for creation of the extension of

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mortgage of the aforesaid property of Rs. 382.50 crore.

It is stated in the OA that the facilities were released as per the requirements of the Defendant no. 1 time and again and same were used as its / their business requirements.

3.5 It is further stated in the OA that in 2012, Defendant no. 1 along with its directors again approached the Applicant Bank for grant / enhance / renewal / review of the credit facilities and the Applicant Bank vide Sanction Letter dated 24.01.2012 sanctioned / granted / enhanced / renewed / reviewed the various facilities for the purpose of business requirements, on the various terms and conditions stipulated in the said Sanction.

In consideration of the said credit facilities sanctioned in favour of the Defendant no. i, the other respective Defendants executed various loan / security documents for the due repayment of the facilities availed by the Defendant no. 1 and in consideration thereof, the security documents were executed in favour of the SBI Consortium Banks by the respective Defendants.

It is stated in the OA that the Defendant no. 1 authorized its signatory Sh. Naveen Mittal and Sh. Anil Mittal, directors of Defendant no. 1, vide Resolution passed in the Board of Directors Meeting to execute the loan / security documents in favour of SBI Consortium.

Further, the members of the SBI Consortium amongst themselves, executed an Inter se Agreement dated 30.03.2012 reducing into writing the duties, obligations and

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powers of the lead as well as the other member banks inter se including enforcement of security and appropriation thereof.

It is also stated that the members of the SBI amongst themselves executed a Letter of Authority to be given by Defendant no. 14 and State Bank of Travancore (member banks) along with the Applicant Bank dated 30.03.2012 in favour of Defendant no. 13 to execute and perform all acts, deeds and things and appointed as Lead Bank and enable to take all actions and decisions for and on behalf of member Banks.

Further more, following Loan / Security documents were executed by the Defendants in favour of Consortium Members:-

(i) Working Capital Consortium Agreement dated 30.03.2012 executed by the Defendant no. 1 through its authorized signatory with SBI Consortium to secure the enhanced / renewed / reviewed consortium facilities of Rs. 429.65 Crore in which share of Applicant Bank was Rs. 97.75 Crore;

(ii) Joint Deed of Hypothecation dated 30.03.2012 executed by Defendant no. 1;

(iii) Letter of Omnibus Counter Guarantee, Agreement-cum-Indemnity dated 30.03.2012 executed by Defendant no. 1 in favour of SBI Consortium;

(iv) Deed of Guarantee dated 30.03.2012 executed by Defendants no. 2, 3 and Late Sh. Anil Mittal;

Case Citation: (2026) ibclaw.in 816 DRT

(v) Deed of Corporate Guarantee dated 30.03.2012 executed by Defendants no. 9 to 12 as well as their Board Resolutions;

(vi) Letter dated 30.03.2012 executed by Defendant no. 1 regarding deposit of title deeds on 15.10.2008 relating to immovable property situated at Plot No. 11 at Industrial Area, Mandideep, Phase I, Tehsil Goharganj, District Raisen, Madhya Pradesh measuring 97.750 square meters in the name of Defendant no. 1;

(vii) Letter dated 30.03.2012 executed by Defendant no. 1 through Defendant no. 2, 3 and Late Sh. Anil Mittal regarding deposit of title deeds on 08.03.2006 relating to immovable property situated at D-78, Built on Plot No. 78 in Block D, measuring 212.75 square meters situated at Pushpanjali Enclave, Pitampura, Delhi to create extension of equitable mortgage / 1st charge thereon for creation of first pari-passu charge on the said property in favour of the consortium banks;

(viii) Letter dated 30.03.2012 executed by Defendant no. 11 through its authorized personal creating equitable mortgage / extension of mortgage relating to deposit of title deeds on 30.03.2007 of property consisting of freehold land measuring 5 kanal 8 marla in Khewat No. 412 mn. Khatoni no. 449 as 108/148 share of Killa No. 165/10(7-8) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana and immovable property consisting of 6 kanal 16 marla in Khewat No. 650 min. Khatoni no. 715 Killa no. 165/11(6-18) in village Pattikalan, Tehsil Samalkha,

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District Panipat, Haryana which is described in consolidation in sanction as property consisting of freehold land 7018 square yards in two pieces of 3751 square yards and 3267 square yards, in Khasra No. 165/10 village Bohodwal Majri, Tehsil Samalkha, Haryana, to create extension of equitable mortgage / 1st charge thereon in favour of SBI consortium banks for creation of first pari-passu charge on the said property with a view to secure the sanctioned / enhanced / renewed / reviewed facilities and the letter of intention for creation of the extension of the mortgage of the aforesaid property of Rs. 429.65 crore relating to title documents to SBI Consortium;

(ix) Undertaking dated 30.03.2012 executed by Defendant no. 10 creating negative lien on commercial property at 12AF (12th Floor), BigJo's Estate, Plot No. A-08, Netaji Subhash Place, Wazirpur District Centre, Pitampura, New Delhi – 110034, measuring 4539 square by actual re-delivery of documents in favour of Defendant no. 13 acting with view to secure the sanctioned / enhanced / renewed / reviewed facilities, and the letter of intention for creation of the extension of mortgage of the aforesaid property of Rs. 429.65 crore;

(x) Letter dated 30.03.2012 executed by Defendant no. 12 through its authorized person creating equitable mortgage / extension of mortgage relating to immovable property Land measuring 13 Kanal 8 Marla in Khewat No. 1025 (1004 new) Kila no.

165/1 (7-8) & 165/2/1(6-0) village Pattilalyana, Tehsil Salha, district Panipat, Haryana in the name of Defendant no. 12 to create equitable mortgage / 1st charge there in favour of SBI Consortium Banks for creation of first pari passu charge on the said property with a view to secure the sanctioned / enhanced / renewed / reviewed facilities, and the letter of intention for creation of the extension of mortgage of the aforesaid property of Rs. 429.65 crore.

It is stated in the OA that the facilities were released as per the requirements of the Defendant no. 1 time and again and same were used as its / their business requirements.

3.6 It is stated in the OA that in 2013, Defendant no. 1 along with its directors again approached the Applicant Bank for grant / enhance / renewal / review of the credit facilities and the Applicant Bank vide Sanction Letter dated 29.04.2013 sanctioned / granted / enhanced / renewed / reviewed the various facilities for the purpose of business requirements, on the various terms and conditions stipulated in the said Sanction.

In consideration of the said credit facilities sanctioned in favour of the Defendant no. 1, the other respective Defendants executed various loan / security documents for the due repayment of the facilities availed by the Defendant no. 1 and in consideration thereof, the security documents were executed in favour of the SBI Consortium Banks by the respective Defendants.

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It is stated in the OA that the Defendant no. 1 authorized its signatory Sh. Naveen Mittal and Sh. Anil Mittal, directors of Defendant no. 1, vide Resolution passed in the Board of Directors Meeting to execute the loan / security documents in favour of SBI Consortium.

Further, the members of the SBI Consortium amongst themselves, executed an Inter se Agreement dated 17.08.2013 reducing into writing the duties, obligations and powers of the lead as well as the other member banks inter se including enforcement of security and appropriation thereof.

It is also stated that the members of the SBI amongst themselves executed a Letter of Authority to be given by Defendant no. 14 and State Bank of Travancore (member banks) along with the Applicant Bank dated 17.08.2013 in favour of Defendant no. 13 to execute and perform all acts, deeds and things and appointed as Lead Bank and enable to take all actions and decisions for and on behalf of member Banks.

Further more, following Loan / Security documents were executed by the Defendants in favour of Consortium Members:-

(i) Working Capital Consortium Agreement dated 17.08.2013 executed by the Defendant no. 1 through its authorized signatory with SBI Consortium to secure the enhanced / renewed / reviewed consortium facilities of Rs. 568.1 Crore in which share of Applicant Bank was Rs. 124.75 Crore;

Case Citation: (2026) ibclaw.in 816 DRT

(ii) Joint Deed of Hypothecation dated 17.08.2013 executed by Defendant no. 1;

(iii) Letter of Omnibus Counter Guarantee, Agreement-cum-Indemnity and Undertaking-cum-Indemnity dated 17.08.2013 executed by Defendant no. 1 in favour of SBI Consortium;

(iv) Deed of Guarantee dated 17.08.2013 executed by Defendants no. 2, 3 and Late Sh. Anil Mittal;

(v) Deed of Corporate Guarantee dated 17.08.2013 executed by Defendants no. 9 to 12 as well as their Board Resolutions;

(vi) Letter dated 17.08.2013 executed by Defendant no. 1 in favour of SBI Consortium regarding deposit of title deeds on 15.10.2008 relating to immovable property situated at Plot No. 11 at Industrial Area, Mandideep, Phase I, Tehsil Goharganj, District Raisen, Madhya Pradesh measuring 97.750 square meters in the name of Defendant no. 1;

(vii) Letter dated 17.08.2013 executed by Defendant no. 1 through Defendant no. 2, 3 and Late Sh. Anil Mittal regarding deposit of title deeds on 08.03.2006 relating to immovable property situated at D-78, Built on Plot No. 78 in Block D, measuring 212.75 square meters situated at Pushpanjali Enclave, Pitampura, Delhi to create extension of equitable mortgage / 1st charge thereon for creation of first pari-passu charge on the said property in favour of the consortium banks;

(viii) Letter dated 17.08.2013 executed by Defendant no. 11 through its authorized personal creating equitable mortgage / extension of mortgage relating to deposit

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of title deeds on 30.03.2007 of property consisting of freehold land measuring 5 kanal 8 marla in Khewat No. 412 mn. Khatoni no. 449 as 108/148 share of Killa No. 165/10(7-8) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana and immovable property consisting of 6 kanal 16 marla in Khewat No. 650 min. Khatoni no. 715 Killa no. 165/11(6-18) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana which is described in consolidation in sanction as property consisting of freehold land 7018 square yards in two pieces of 3751 square yards and 3267 square yards, in Khasra No. 165/10 village Bohodwal Majri, Tehsil Samalkha, Haryana, to create extension of equitable mortgage / 1st charge thereon in favour of SBI consortium banks for creation of first pari-passu charge on the said property with a view to secure the sanctioned / enhanced / renewed / reviewed facilities and the letter of intention for creation of the extension of the mortgage of the aforesaid property of Rs. 568.1 crore relating to title documents to SBI Consortium;

(ix) Undertaking dated 17.08.2013 executed by Defendant no. 10 creating negative lien on commercial property at 12AF (12th Floor), BigJo's Estate, Plot No. A-08, Netaji Subhash Place, Wazirpur District Centre, Pitampura, New Delhi – 110034, measuring 4539 square by actual re-delivery of documents in favour of Defendant no. 13 acting with a view to secure the sanctioned / enhanced / renewed / reviewed facilities, and the

letter of intent ion for creation of the extension of mortgage of the aforesaid property of Rs. 568.1 crore;

(x) Letter dated 30.03.2012 executed by Defendant no. 12 through its authorized person creating equitable mortgage / extension of mortgage relating to immovable property Land measuring 13 Kanal 8 Marla in Khewat No. 1025 (1004 new) Kila no. 165/1 (7-8) & 165/2/1(6-0) village Pattilalyana, Tehsil Salha, district Panipat, Haryana in the name of Defendant no. 12 to create equitable mortgage / 1st charge there in favour of SBI Consortium Banks for creation of first pari passu charge on the said property with a view to secure the sanctioned / enhanced / renewed / reviewed facilities, and the letter of intention for creation of the extension of mortgage of the aforesaid property of Rs. 568.1 crore.

It is stated in the OA that the facilities were released as per the requirements of the Defendant no. 1 time and again and same were used as its / their business requirements.

3.7 It is stated in the OA that in 2014, Defendant no. 1 along with its directors again approached the Applicant Bank for grant / enhance / renewal / review of the credit facilities and the Applicant Bank vide Sanction Letter dated 22.04.2014 sanctioned / granted / enhanced / renewed / reviewed the various facilities for the purpose of business requirements, on the various terms and conditions stipulated in the said Sanction. The brief chart of availed credit

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facilities by the Defendant no. 1 from the Applicant Ban is as under:-

Credit facilities sanctioned by Applicant Bank

(Rs. in Crores)

Nature of Limit	Permitted
Fund Based (excluding Term Loan / Short Term Loans)	
Open Cash Credit (OCC) Sub Limit : Overdraft against Book Debts (ODBD)	45.00 (25.00)
Packing Credit / Foreign Demand Bills / Foreign Bill of Exchange Packing Credit in Foreign Currency / Bill Re-discounting [PC/FDB/FBE/PCFC/BRD] Sub Limit : PCFC / BRD	55.00 (25.00)
Stand by PC/FDB/FBE	22.00
Total Fund Based	**122.00**
Non Fund Based	
Inland Letter of Credit / Foreign Letter of Credit (Delivery against Acceptance / Delivery against payment) [ILC/FLC (DA/DP)] Sub Limit: Letter of Undertaking for Buyer's Credit (LoU)	15.50 (15.50)
Total Non-Fund Based	**15.75**
Total Fund Based + Non Fund Based	**137.75**

In consideration of the said credit facilities sanctioned in favour of the Defendant no. 1, the other respective Defendants executed various loan / security documents / stood personal Guarantors / surety / mortgagors and as corporate Guarantors for the due repayment of the facilities availed by the Defendant no. 1 and in consideration thereof, the security documents were executed in favour of SBICAP Trustee Company Limited and SBI Consortium Banks by the respective Defendants.

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It is stated in the OA that the Defendant no. 1 authorized its signatory Sh. Naveen Mittal and Sh. Anil Mittal, directors of Defendant no. 1, vide Resolution passed in the Board of Directors Meeting dated 30.08.2014 to execute the loan / security documents in favour of SBICAP Trustee Company Limited acting as Security Trustee, for the SBI Consortium.

Further, the members of the SBI Consortium amongst themselves, executed an Inter se Agreement dated 24.09.2014 reducing into writing the duties, obligations and powers of the lead as well as the other member banks inter se including enforcement of security and appropriation thereof.

It is also stated that the members of the SBI consortium amongst themselves executed a Letter of Authority to be given by Defendant no. 14 and State Bank of Travancore (member banks) along with the Applicant Bank dated 24.09.2014 in favour of Defendant no. 13 to execute and perform all acts, deeds and things and appointed as Lead Bank and enable to take all actions and decisions for and on behalf of member Banks.

Further more, following Loan / Security documents were executed by the Defendants in favour of Consortium Members:-

(i) Working Capital Consortium Agreement dated 24.09.2014 executed by the Defendant no. 1 through its authorized signatory with SBI Consortium to secure the enhanced / renewed / reviewed consortium facilities of Rs. 716.79 Crore in which share of Applicant Bank was Rs. 137.75 Crore;

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(ii) Joint Deed of Hypothecation dated 24.09.2014 executed by Defendant no. 1;

(iii) Deed of Guarantee dated 24.09.2014 executed by Defendants no. 2, 3 and 4. It is pertinent to note here that due to the demise of Sh. Anil Mittal, Smt. Rita Mittal i.e. Defendant no. 4 executed the Deed of Guarantee dated 24.09.2014;

(iv) Deed of Corporate Guarantee dated 24.09.2014 executed by Defendants no. 9 to 12 as well as their Board Resolutions.

It is stated in the OA that the Defendant no. 15 i.e. SBICAP Trustee Company Ltd. (STCL) was appointed as Security Trustee and a Security Trustee Agreement dated 24.09.2014 was again executed between the borrower company SBICAP Trustee Company Ltd. and consortium bank (Lead Bank as well as member Banks) as the then Monitoring Institution. The respective loan and security documents were executed in favour of Defendant no. 15 in order to secure credit facilities sanctioned to the Defendant no. 1 by the SBI Consortium.

It is further stated in the OA that the Defendant no. 1 through Defendants no. 3 & 4 (as after the demise of Sh. Anil Mittal his widowed wife Smt. Rita Mittal acted on his behalf as his legal heirs and also as director of the Defendant no. 1) on 26.12.2024 re/deposited the title documents of property / house no. D-78, Pushpanjali Enclave, Pitampura, Delhi, measuring 212.75 square meters to create equitable mortgage / 1st charge thereon in favour of SBICAP Trustee for creation of first paripassu charge on the said property in favour of the consortium banks with a view

Case Citation: (2026) ibclaw.in 816 DRT

to secure the sanctioned / enhanced / renewed / reviewed facilities to the extent of Rs. 716.79 crore by the constructive re/delivery of the title documents to Defendant no. 15, who get the Memorandum of Entry and Declaration duly executed by the respective Defendants.

The Defendant no. 11 through its authorized personal created equitable mortgage / extension of mortgage on 23.12.2014 and 15.12.2014 respectively by actual delivery of documents relating to title deeds of property consisting of freehold land measuring 5 kanal 8 marla in Khewat No. 412 min. Khatoni no. 449 as 108/148 share of Killa No. 165/10(7-8) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana and immovable property consisting of 6 kanal 16 marla in Khewat No. 650 min. Khatoni no. 715 Killa no. 165/11(6-18) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana which is described in consolidation in sanction as property consisting of freehold land 7018 square yards in two pieces of 3751 square yards and 3267 square yards, in Khasra No. 165/10 village Bohodwal Majri, Tehsil Samalkha, Haryana, to create extension of equitable mortgage / 1st charge thereon in favour of SBICAP Trustee Company Limited acting in its capacity as Security Trustee for creation of first pari-passu charge on the said property in favour of the SBI Consortium Banks with a view to secure the sanctioned / enhanced / renewed / reviewed facilities of Rs. 716.79 crore by the constructive re/delivery of the title documents to SBICAP Trustee Company Ltd. i.e. Defendant no. 15, who prepared a Memorandum of Entry. Further more, a Declaration as

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well as Board Resolution were executed by the aforesaid Defendant no. 11 in this regard.

It is also stated in the OA that the Defendant no. 12 vide Board Resolution authorized the person who created equitable mortgage (15.12.2014/16.12.2014 respectively) by actual delivery of documents relating to title of property consisting of Freehold consolidated Land measuring 13 Kanal 8 Marla in Khewat No. 941, Khatoni No. 1025 (1004 new) Kila no. 165/1 (7-8) & 165/2/1(6-0) village Pattikalan, Tehsil Samalkha, district Panipat, Haryana to create equitable mortgage / 1st charge there in favour of SBICAP Trustee Company Limited acting in its capacity as Security Trustee for creation of first pari passu charge on the said property in favour of the consortium banks with a view to secure the enhanced / renewed / reviewed facilities to the extent of Rs. 716.79 Crore by the constructive re/delivery of the title documents to SBI i.e. Defendant no. 15, who get the Memorandum of Entry and Declaration duly executed by the respective Defendants.

Further more, Defendant no. 10 creating negative lien by executing an Undertaking dated 12.01.2015 of on commercial property at 12AF (12th Floor), BigJo's Estate, Plot No. A-08, Netaji Subhash Place, Wazirpur District Centre, Pitampura, New Delhi – 110034, measuring 4539 square by actual re-delivery of documents in favour of Defendant no. 13 acting with a view to secure the sanctioned / enhanced / renewed / reviewed facilities of Rs. 716.79 Crore.

Case Citation: (2026) ibclaw.in 816 DRT

It is stated in the OA that the charge on the assets as passed in favour of SBI Consortium was duly registered with Registrar of Companies and also in CERSAI. It is also stated that the copy of the Form No. 8 and the certificate of Registration of charge are available with State Bank of India being the Lead Bank of SBI Consortium.

It is pertinent to mention that all the joint consortium loans and security documents as mentioned above were executed by the respective Defendants on dated 24.09.2014 are in power and possession of Lead Bank, Defendant no. 13 i.e. Lead Bank, who vide its Letter dated 07.01.2015 has provided only the copies of these documents to the Applicant Bank.

It is stated in the OA that the facilities were released as per the requirements of the Defendant no. 1 time and again and same were used as its / their business requirements.

It is also stated in the OA that SBI Lead Bank i.e. Defendant no. 13 had got the loan and security documents that were duly vetted for Enforceability Certificate dated 12.01.2015 by a Law Firm known as "asa Law Firm" and said Law Firm confirmed that all the documents have been executed after payments of proper stamp duty and there is no discrepancy in the executed documents.

3.8 It is stated in the OA that the Applicant Bank from time to time sanctioned / enhanced / renewed / reviewed the credit facilities on the request of the Defendant no. 1. In 2015, Defendant no. 1 again requested the Applicant Bank for the enhancement of the Working Capital Limits and the Applicant Bank in due course of banking sanctioned the

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various credit facilities as per the Sanction Letter dated 23.05.2015 for the purpose of business requirements, on the various terms and conditions stipulated in the said Sanction. The brief chart of the credit facilities extended to the Defendant no. 1 by the Applicant Bank is as under:-

Credit facilities sanctioned by Applicant Bank

(Rs. in Crores)

Nature of Limit	Permitted
Fund Based (excluding Term Loan / Short Term Loans)	
Open Cash Credit (OCC) Sub Limit : Overdraft against Book Debts (ODBD)	54.00 (30.00)
Packing Credit / Foreign Demand Bills / Foreign Bill of Exchange Packing Credit in Foreign Currency / Bill Re-discounting [PC/FDB/FBE/PCFC/BRD] Sub Limit : PCFC / BRD	62.00 (30.00)
Stand by PC/FDB/FBE	12.30
Total Fund Based	**128.30**
Non Fund Based	
Inland Letter of Credit / Foreign Letter of Credit (Delivery against Acceptance / Delivery against payment) [ILC/FLC (DA/DP)] Sub Limit: Letter of Undertaking for Buyer's Credit (LoU)	15.50 (15.50)
Bank Guarantee [BG]	0.25
Total Non-Fund Based	**15.75**
Total Fund Based + Non Fund Based	**144.05**

It is stated in the OA that on 27.11.2015, Defendant no. 15, has re-executed the Security Trustee Agreement among the Defendant no. 1, Defendant no. 15 and consortium Bank (Lead Bank as well as member banks) for Monitoring as

well as for the beneficial interest of the SBI Consortium Banks.

On 27.11.2015, in consideration of the said credit facilities of Rs. 761.41 Crore sanctioned in favour of the Defendant no. 1, the Defendants 1 to 12 executed the loan documents / security documents / stood as personal Guarantors / surety / mortgagor/s and as corporate Guarantors for the due repayment of the facilities availed by the Defendant no. 1 and in consideration thereof, the security documents were executed in favour of SBICAP Trustee Company Limited and SBI Consortium Banks by Defendants no. 1 to 12.

It is stated in the OA that on 27.11.2015, Letter of Authority was executed by respective Defendants to appoint State Bank of India, as the Lead Bank i.e. Defendant no. 13 as their true and lawful attorney to enable and to take all the actions, decisions for and on behalf of the member banks for the facilities sanctioned to the Defendant no. 1.

Defendant no. 1 also executed an Undertaking on 27.11.2015 to accept the unconditionally and irrevocably the Defendant no. 13 as the Lead bank.

Further, First Amended and Restated Inter se Agreement dated 27.11.2015 was executed by the Defendant no. 1 reducing into writing the duties, obligations and powers of the lead bank as well as the other member banks inter se including enforcement of security and appropriation thereof. The Applicant Bank was appointed as the Second Lead Bank.

IBC Laws | www.ibclaw.in

It is also stated that Defendant no. 1 along with Consortium Banks duly executed the First Amended and Restated Working Capital Consortium Agreement dated 27.11.2015 in order to secure the enhanced / renewed / reviewed credit facilities for a sum of Rs. 761.41 crore sanctioned to the Defendant no. 1.

The Defendant no. 1 also executed and submitted a document i.e. First Amendatory and Restated Deed of Hypothecation dated 27.11.2015 in favour of SBICAP Trustee Company Limited in order to secure the enhanced / renewed / reviewed credit facility sanction to the Defendant no. 1 by the SBI Consortium Bank.

Moreover, First Amended and Restated Deed of Guarantee dated 27.11.2015 was executed by Defendants no.2 to 5.

Similarly, First Amended and Restated Deed of Guarantee dated 27.11.2015 was executed by Defendants no.9 to 12.

Defendant no. 1 also executed Letter of Undertaking dated 27.11.2015 for creating second charge on fixed assets in order to secure the extended facilities by the SBI consortium bank.

Further, Defendant no. 1 executed RBI Clause on 27.11.2015 which shows that respective defendants are duty bound to adhere the terms and conditions as mentioned in the various undertakings and compliance at the end of Defendant no. 1.

Defendant no. 10 duly executed and Undertaking cum Negative Lien for Commercial property at No. 12AF (12th Floor), BigJo's Estate, Plot No. A-08, Netaji Subhash Place,

Wazirpur District Centre, Pitampura, New Delhi – 110034, measuring 4539 square, in order to secure the extended facilities by the SBI consortium Bank.

On 11.12.2015, the Defendant no. 3 (Mr. Naveen Mittal, Director of Defendant no. 1) also executed Memorandum of Entry in favour of the Defendant no. 15 to acting as security trustee for Plot No. 11, area admeasuring 97,750 square meters situated in Saltapur Industrial Area Mandideep, Phase-II, Village Mandideep, Tehsil Gahargang, District Raisen, M.P. in order to create equitable mortgage by way of deposit of title deed in order to ensure and in consideration of the sanctioned facilities. Further more, Defendant no. 3 (Director of Defendant no. 1) also executed Declaration cum Undertaking for the creation of Mortgage by Deposit of Title Deeds for the said Property.

On 11.12.2015/12.12.2015, the Defendant no. 5 (Mr. Rahul Mittal) executed Memorandum of Entry for the creation of mortgage in favour of the Defendant no. 15 for Residential Flat / Dwelling Unit bearing no. A-602 on 06th Floor, having covered area of 777.73 sq. feet, super area measuring 1070 square feet (99.44 square meters) in the House Complex "SS Enclave" built on Plot No. GH-03, Sector Beta-II, Greater Noida, UP in order to secure credit facilities and in consideration thereof the credited sanctioned to Defendant no. 1. Further more, Defendant no. 5 also executed Declaration cum Undertaking in the matter of mortgage by Deposit of Title Deeds for creation of mortgage for said Property in favour of Defendant no. 15 (SBICAP) in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1.

IBC Laws | www.ibclaw.in

Further on 11.12.2015/12.12.2015, the Defendants no. 4 and 6 to 8 (Mrs. Rita Mittal, Mr. Anubhav Mittal, Mr. Atul Mittal and Mr. Amit Mittal) as the mortgagors executed Memorandum of Entry in favour of the Defendant no. 15 for Residential Flat / Dwelling Unit bearing no. B-802 on 08th Floor, having covered area of 1084.50 square feet, super area measuring 1470 square feet in the House Complex "SS Enclave" built on Plot No. GH-03, Sector Beta-II, Greater Noida, UP in order to secure credit facilities and in consideration thereof the credit facilities sanctioned to Defendant no. 1. Further more, Defendants no. 4 and 6 to 8 also executed Declaration cum Undertaking for mortgage by Deposit of Title Deeds by them (as the mortgagors) for the said Property in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1.

On 11.12.2015, the Defendant no. 11 i.e. Gartex Overseas Ltd. through Mr. Amit Mittal (Director) s/o Sh. Anil Mittal executed the Memorandum of Entry in favour of the Defendant no. 15 acting as Security Trustee for the property consisting of Freehold land measuring 5 Kanal 8 Marla in Khewat No. 412 min Khatoni no. 449 as 108/148 share of Killa No. 165/10 (7-8) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1. Further more, Defendant no. 11 also executed a Declaration cum Undertaking on 11.12.2015 for mortgage by re/Deposit of Title Deeds for the said Property in order to secure credit

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facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1.

On 11.12.2015, the Defendant no. 11 i.e. Gartex Overseas Ltd. through Mr. Amit Mittal (Director) s/o Sh. Anil Mittal executed the Memorandum of Entry in favour of the Defendant no. 15 acting as Security Trustee for the property consisting of Freehold land measuring 6 Kanal 16 Marla in survey no. Khewat No. 650 min Khatauni no. 714 killa no. 165/11 (6-16) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1. Further more, Defendant no. 11 also executed a Declaration cum Undertaking on 11.12.2015 for mortgage by Deposit of Title Deeds for the said Property in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1.

Further more, on 11.12.2015, the Defendant no. 12 i.e. M/s SSR Apparels Pvt. Ltd. through Mr. Rahul Mittal (Director) s/o Sh. Sanjeev Mittal executed the Memorandum of Entry in favour of the Defendant no. 15 acting as Security Trustee for the property consisting of Freehold land measuring 13 Kanal 8 Marla in Survey No. Khewat No. 941 Khatoni no. 1025 (new no. 1004) Killa No. 165/1 (7-8), 165/2/1 (6-0) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1. It is also stated that Defendant no. 12 executed a Declaration cum Undertaking on 11.12.2015 in the matter of Mortgage by deposit of title deeds for the said

IBC Laws | www.ibclaw.in

Property in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1.

It is also stated in the OA that on 11.12.2015, the Defendants no. 3 & 4 executed the Memorandum of Entry in favour of the Defendant no. 15 acting as Security Trustee for the House No. D-78, Pushpanjali Enclave, Pitampura, Delhi on plot of land measuring 212.75 square meters, in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1. Further more, Defendants no. 3 & 4 also executed a Declaration cum Undertaking on 11.12.2015 in the matter of mortgage by deposit of Title Deeds for the said Property in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1.

3.9 It is stated in the OA that the respective Defendants also provided, the following documents for authentication of the various authorizations regarding the sanctioned facilities:-

(i) Certified true copy of Board Resolution dated 29.09.2015 passed by the borrower to approve the working Capital limits;

(ii) Board Resolution dated 10.10.2015 of M/s SSR Apparels Pvt. Ltd. u/s 186(2) of the Companies Act, 2013 for extending corporate guarantee in favour of State Bank of India wit members banks in respect of enhanced working capital limits and other limits on consortium and/or on standalones basis sanctioned /

to be sanctioned subject to the maximum of Rs. 762.41 crore to SSA International Limited;

(iii) Board Resolution dated 10.10.2015 of M/s SSR Apparels Pvt. Ltd. u/s 186(3) of the Companies Act, 2013 for creation of mortgage by deposit of title deeds in favour of State Bank of India with members banks in respect of enhanced working capital limits and other limits on consortium and/or on standalones basis sanctioned / to be sanctioned subject to the maximum of Rs. 762.41 crore to SSA International Limited;

(iv) Board Resolution dated 21.10.2014 of M/s SSR Apparels Pvt. Ltd. u/s 186(3) of the Companies Act, 2013 for extending corporate guarantee in favour of State Bank of India with members banks in respect of enhanced working capital limits and other limits on consortium and/or on standalones basis sanctioned / to be sanctioned subject to the maximum of Rs. 1000.00 crore to SSA International Limited;

(v) Board Resolution dated 21.10.2014 of M/s SSR Apparels Pvt. Ltd. u/s 186(2) of the Companies Act, 2013 for extending corporate guarantee in favour of State Bank of India wit members banks in respect of enhanced working capital limits and other limits on consortium and/or on standalones basis sanctioned / to be sanctioned subject to the maximum of Rs. 1000.00 crore to SSA International Limited;

(vi) Board Resolution dated 28.10.2015 of M/s Empire Finvest Ltd. u/s 186(3) of the Companies Act, 2013 in respect of creation of negative lien in enhanced

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working capital limits and other limits on consortium and/or on standalones basis sanctioned / to be sanctioned subject to the maximum of Rs. 762.41 crore to SSA International Limited.

3.10 It is stated in the OA that the above persons had executed the above mentioned documents in accordance with their respective sanction letters of aforesaid banks, further the documents / agreements / security agreements / guarantee / corporate guarantee were duly executed by their authorized persons, further in pursuant to said authorization by their respective board resolution, security Trustee had obtained the relevant certificate from the Auditors / Chartered Accountant regarding competency and borrowing powers. The amendatory and restated deed of hypothecation and memorandum of entry were executed at Delhi, further stamp duty as applicable in Delhi was affixed on the documents, agreements, declaration and undertakings are enforceable in Court of Law in India. The report dated 06.01.2016 submitted by Sh. Anil Kumar Sharma on behalf of "asa Legal firm" is also annexed.

3.11 It is stated in the OA that the facilities were released as per the requirements of the Defendant no. 1 time and again and same were used as per its business requirements. The Defendant no. 1 utilized its credit business as per their requirements, but did not route their operations in the account regularly. Further, the Defendant no. 1 did not pass their sales turnover to the Applicant Bank, as a result of which the bank account became irregular and sticky. It is stated in the OA that the Defendant no. 1 was not adhering to the financial discipline and despite reminders by the Bank

Case Citation: (2026) ibclaw.in 816 DRT

and the assurances by the Defendant no. 1, further they failed to repay the dues of the bank. It is also stated that the respective Defendants despite categorical admission of its liability to the Applicant Bank have willfully neglected to pay the dues to the Applicant Bank. The Defendants have miserably failed to maintain / adhere to the financial discipline of the Bank and to repay the loan instalments in time as per the terms of sanction agreed upon and accordingly, did not comply with terms and the conditions of the loan sanction. In view of this, the account of Defendants became highly irregular and outstanding / overdue and the amount kept on mounting from time to time. The respective Defendants were duty bound to repay the outstanding loan liability and regularize the loan account, however, they did not pay any heed despite notice and willfully did not deposit the overdue loan instalments in the Bank. Thus, on 30.11.2016, the account of the Defendant no. 1 slipped to NPA category. It is stated in the OA that the Defendant no. 1 was maintaining various kinds of account having a liability of Rs. 109,82,24,419.32 towards applicant bank. The respective defendants were duly issued a notice by the Applicant Bank which was duly received by them. It worth mentioning to state that the notice were sent by speed post at the registered office of the respective defendants, but even then they were failed to regularize the account, hence, the request of the Applicant Bank cannot be acceded to by the respective Defendants.

3.12 It is further stated in the OA that it is worth mentioning to state that liability was asked to be deposited was only of the Applicant Bank not the other consortium

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banks. The present OA is being filed only on behalf of Applicant bank and other consortium partners are free to file further OA or take any steps which may deem fit to recover their loans.

3.13 It is stated in the OA that the respective Defendants despite receiving the letter/s failed to discharge the dues which are nothing but contravention of the terms ad conditions agreed by them as well as gross violation at the end of the Defendants.

3.14 It is also stated in the OA that the borrower company i.e. Defendant no. 1 was permitted apportionment of OCC Limit of Rs. 0.50 crore at Branch Office of Applicant Bank at G.T. Road Branch Panipat (with Account number 1399261100445), as per their business requirement. Since account turned NPA on 30.11.2016, the subject apportioned limit subsumed to main OCC Limit (Account Number – 0307256054717) on 15.03.2017 with debit liability of Rs. 31,36,018.67.

At present, the outstanding dues of the loan which is due against the Defendants for whom the Applicant Bank is entitled to recover is the amount of Rs. 151,86,46,977.00 inclsive of interest upto 30.04.2016 as against various facilities as against Applicant, which is found due agaisnt respective Defendants plus p0endetelite and future interest at contractual rate [details of amount due is given in Para 5(5.47) of the OA].

3.15 It is stated in the OA that the respective Defendants despite receiving the various notices of the Bank did not discharge their dues, hence, the Applicant Bank had no

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option but to get issued a legal notice dated 26.08.2017 / 28.08.2017 to the respective Defendants through Law firm SGS Jurist Consultants, whereby respective Defendants were called upon to liquidate the entire loan with interest and further interest leviable till its realization, in addition to Rs. 15,000/- as charge of this notice all within one week of this notice, failing which Applicant Bank shall be constrained to have the recovery of the above through court of law along with interest and the same shall be entirely upon the respective defendant's risk as to costs and consequence.

In pursuant to the aforesaid notice got issued by the Applicant Bank, Defendant no. 1 instead of making the payment not only denied the payment but even gave a lame excuse for not adhering their own agreements and further sought more amount for bringing the business into motion. It is worth mentioning to state that Reply of the said notice clearly proves that issuance of notice by the applicant bank and its receipt was within the stipulated time.

Thereafter, Applicant Bank had got issued the notice as per provision of Section 13(2) of SARFAESI Act 2002 to which the Applicant Bank after receipt of objection raised by the respective Defendants in pursuant to the notice got issued by the Applicant Bank, sent Reply dated 07.11.2017 for the same within stipulated time and the respective Defendants despite receipt of the Reply did not discharge its liability. Hence, this OA has been filed.

It is also stated in the OA that the Applicant Bank issued the corrigendum to Legal Notice to the entire respective

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Defendants on dated 10.01.2018/15.01.2018 by speed post, hence, given one more opportunity to repay the dues of the Applicant bank but respective Defendants failed to avail the opportunity and the efforts of the Applicant bank were in vain.

3.16 Since, Defendants failed to maintain financial discipline, thus, the Applicant Bank has been compelled to file this Application before this Tribunal for recovery of its dues from them along with interest and other charges etc.

Facts of Counter Claim

4. The brief facts of the case are that the Applicant no. 1 i.e. M/s S.S.A. International Ltd. is the Limited Company, incorporated and registered, under the provisions of the Companies Act, having its Corporate Identification Number (CIN) U15122DL1995PLC068186 and its Registration number 68186. The Applicant Company is engaged in the business of processing of rice for export and domestic sale and trade of edible oil and other food grains.

The Applicant no. 2 to 5 are the directors of the Applicant no. 1 company and mortgagors of the property(s) for the alleged credit facilities granted by the respondent bank.

The Respondent Bank is a body corporate constituted under the Banking Companies (acquisition and transfer of undertaking) Act, 1970.

4.1 It is stated in the CC that the Applicant no. 1 started their journey more than a decade back before with the setup of state of art technology of Rice Trade like machinery from SATAKE of Japan, BUHLER of Switzerland and CARTER DAY of USA in the state of Haryana known for its

agricultural production at large scale. It is stated that the Applicant no. 1 was founded and promoted by Late Sh. Anil Mittal along with other key persons of the company. The Applicants were having high market goodwill in domestic as well as overseas markets, profit running business and excellent track records etc.

It is further stated that it was only on account of the persuasions on the part of the respondent bank for providing lowest rate of interest, timely disbursement of the credit facility and to provide the enhanced credit facility as and when required, hassle free banking services that convinced the Applicants to change the banking services provider. It is stated in the CC that the Applicants lastly agreed to avail the banking facilities from the Respondent Bank about decade back. The Applicants closed the accounts maintained with the previous banks and started the banking transactions with the Respondent bank.

4.2 It is stated in the CC that the Applicants being in this business for almost a decade due to hard work, dedication and excellent services to its customers dominate the rice industry. The Applicants were receiving the export orders much higher than its production capacity. Thus, in order to meet the high demands around year 2015 and, Applicants planned to expand its operations and consequently to increase its capacity utilization. It is also stated that on the request of the Applicants, the Respondent agreed to provide necessary financial facility for the expansion of edible oil capacity at Mandideep Plant, M.P. in January 2016. It is stated that the Mandideep Plant had following installed capacity :-

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S. No.	Product	Mandideep installed capacity in M.T.P.H,
1.	Rice	17
2.	R.B. Oil	100
3.	Soya Oil	600
4.	Refined Oil	Nil

It is stated in the CC that the Applicants wanted to increase the installed capacity of Soya Oil and Refined Oil to 1500 and 500 MTPH from the above, as this sector was growing at extremely high rate, since India had to import above oils from the foreign countries which was costing much high. For this purpose, additional fund requirement of Rs. 300.0 crore in total from all three consortium members and Rs. 100.0 crore from Respondent Bank for setting up additional capacity utilization was made to the Respondent Bank which was to be released within 2 months (i.e. by end of February 2016). The officers of the Respondent Bank including consortium members verbally assured Applicants that all necessary help including enhancement of the credit facilities would be provided for the expansion of the operations within the stipulated time. Thus based on the assurance of the Respondent Bank, advance orders were accepted and support machinery was also purchased by the Applicants to generate the high production of the rice crop products. But even after the lapse of the two months, the Respondent Bank did not release the single penny raising a concern to the Applicants. It is stated in the CC that the promised funds of Rs 100.0 Crore despite several reminders and telephonic calls for next 3-months (March 2016 to May 2016) to the Respondent Bank was not disbursed. Due to

this, the Applicants had suffered the huge losses of worth of crores.

It is also stated in the CC that the Applicant suffered huge losses at the Mandideep Plant, MP during the month of July, 2016 on account of territorial rain and devastating floods at its plant. The Applicant suffered total loss of Rs. 260.32 crores in these floods, including loss of Rs. 10.0 Crore on account of support machinery. It is also stated that once the news of the devastation of the Mandideep Plant came, Officers of the Respondent Bank, did not release any of the promise funds, despite the fact that the Applicant no. 1 offered to shift the expansion of the aforesaid capacity to Samalkha Plant and its adjoining area in September 2016. However, the Respondent Bank and other Consortium members refused the same around last week of September 2016.

Due to non release of aforesaid promise funds for expansion of the plant, Applicants suffered following losses, on account of action and inaction of the Respondent Bank:-

S. No.	Particulars	Amount (In Crore)
1.	Loss due to support machinery	Rs. 10
2.	Loss due to non release of promised funds	Rs. 100
3.	Loss due to non fulfillment of orders	Rs. 15
4.	Loss of Goodwill for non fulfilment of oil orders	Rs. 50
	Total loss from new installed capacity	Rs. 175

Moreover, after suffered aforesaid loss in the quarter ending June 2016 as Rs. 225.02 crore, Loss due to rains and floods were not quantified by that time.

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In the meantime, all the members of the consortium, after Applicant suffered huge loss, for the situations beyond the control, even did not allow to avail the Credit limits granted to the Applicants. Thereafter, members of consortium including the Respondent Bank had sanctioned, holding operations for the period of 3-months only. But with malafide intentions and ulterior motives, Consortium Members prematurely withdrawn holding operations after 2 months, which resulted in huge loss to the Applicants, as all the business and orders came to the grinding halt.

4.3 It is stated in the CC that since new officers of the Respondent came into picture, they threatened the Applicants to repay the whole of the debts immediately otherwise respondent bank would declare the account of Applicant as NPA immediately without following the Guidelines of the RBI, which are mentioned in the Master Circular for NPA.

The Applicant made various communications to the members of the Consortium to extend the promise holding on operations limit but the officials of the consortium members did not accede with Applicants' requests.

Moreover, Applicant no. 1 company had to collect lot of receivables from the customers including the overseas customers. Since consortium members including Respondent Bank, illegally declared Applicants' Account as NPA without following the guidelines of the RBI, thus, the Applicants were not able to make the banking transactions as same was not permitted and consequently Applicants suffered the huge losses. Moreover, Respondent Bank also issued illegal notice u/s 13(2) of the SARFAESI Act, 2002.

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The Applicants were still trying hard to stand on its feet, tried to bring in Venture Capitalist from Middle East country to invest $ 50 million USD (about Rs. 320.0 Crore) to Applicant Company, various meetings and communications took place for the same, however, with malafide intention and ulterior motive, members of the consortium including Respondent Bank, never gave "No Objection" to the venture capital to invest in Applicant Company. After waiting for 3-months, aforesaid Middle Eastern Venture Capitalist left the project, high and dry. Thus, Applicants suffered huge loss.

It is also pertinent to mention that the consortium members including the Respondent Bank had appointed KPMG to do Techno Economic Viability Study Report, as Applicants were asked to give CDR. However, despite the fact that Applicant is fully viable, both in terms of technology, economic or in terms of management, aforesaid KPMG never finished the aforesaid TEV Study Report. It is stated that the officers of the consortium members including the Respondent Bank did not allow preparation of TEV stud report, had it been prepared by them, the entire fraud of the consortium member would have come to light. With great difficulty, Applicants continued with its operations, Applicants were not having any support of consortium members, all the accounts were shut down by the consortium.

It is further stated that Applicant no. 1 had made request to various officers of the consortium members including the Respondent Bank, late Mr. N.K. Prabhakar, of the State Bank of India (SBI) was send in on fact finding mission,

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plants and offices, after satisfied with the plants and our internal working, positive report was prepared, but that report was deliberately suppressed.

After this, as Applicant no. 1 was forced to close their plants, all the trained labour became unemployed. Thereafter, Applicant requested the consortium members including the Respondent Bank to allow for job work to outside parties. As due to acute shortage of funds, Applicant was unable to run the plants, in their normal capacity and due to which, the plant was exposed to rusting and would consequently lose its worth.

It is stated in the CC that the consortium members including the Respondent Bank kept the proposal with themselves for months and later rejected the same on frivolous grounds. It is further stated that the reject of the said proposal caused the loss on multiple counts. Firstly, the employees working in the plant were paid out of the reserves of the company fund for no work as the Applicants were duty bound to pay the same. Secondly, the machinery and equipment of worth crores get breakdown due to inoperations and lying dormant which was costly, not just in terms of money, but also in time, the use of materials as well as human resources. The loss of operation of machinery can brought the job site to a standstill. This aggravated the financial condition of the applicants causing the loss of the worth crores.

It is stated in the CC that the bonafide intentions of the Applicant is prima facie evident from the fact, that whole of the Insurance Claim for the loss at Mandideep Plant was paid to the consortium members including the Respondent Bank. Moreover, during this time period, Applicants had

paid more than Rs. 40.0 Crore in total to the respondent bank even after illegally declaring Applicant's account as NPA.

The Applicants were again forced to take permission from the consortium members including the Respondent Bank for leasing out the factory, plant and machineries of the company. However, the member of the consortium including the Respondent Bank were not interested in recovery of alleged dues but to destroy the business of defendants, and in furtherance of the same, the consortium members including the Respondent Bank refused to grant permission for the same. If the permission to lease out the plant and the machinery would have been given, all the dues of the Respondent Bank would have been paid. It is also stated that due to refusal of the said permission, the sophisticated imported machineries of worth crores got idel and the value of the same was diminished. It is further stated that on account of the refusal of the Respondent Bank, the Applicants have suffered the loss of worth crores.

It is stated in the CC that the Applicants requested the Respondent Bank to permit the holding on the operations in all the accounts to run the plants and complete the dispatchment of export orders and realize the value of goods produced and dispatched. At that time, the Applicant Company had the export order of worth Rs. 54.0 Crore and the Applicant was in dire need of money to pay off the operational expenses, and expenditure for the packaging and consumables material and routine operational expenses to run the plant and factories to enable to execute the pending export orders.

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It is stated in the CC that the Respondent Bank sought some additional information apart from discussions in the general JLM between the consortium members. The desired information was duly supplied by the Applicants to the Respondent Bank. Thereafter the Applicants made several requests to the Respondent Bank as the stocks were lying, which of the perishable nature, if not properly stored, and the new season of rice crop production arrived and orders were to be expected shortly as the Applicants were already late.

It is also stated that the Respondent Bank did not permit the holding on the operations despite the requests and providing all the information as required by the Respondent Bank.

It is further stated in the CC that all the consortium members including the Respondent Bank and the Applicant, as agreed in the JLF resolution, the forensic audit and the TEV Study was conducted and the Applicant had paid total amount of Rs. 29,99,000/- for the same. The acceptance of the bid was intimated by the KPMG vide Letter dated 19.10.2016. It is stated that the TEC study conducted by the independent surveyors showed positive results, hence, the consortium members agreed to accept the request for the holding on the operations but the same time the consortium banks including the Respondent Bank put onerous conditions taking advantage of the situation to the Applicants and the Applicants had no other option but to accept the same. It is also stated that the terms and the conditions of the approval was so onerous that the Applicants could not run the operations of the plant and due to the onerous restriction the Applicant suffered huge losses.

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It is stated in the CC that the State Bank of India (consortium member) on behalf of all the banks in its Email dated 24.12.2016 admitted that the Applicant has made the payments of Rs. 9.48 Crores apart from the insurance claim. It is stated that despite the hard times and competitions, the Applicant had managed to pay the huge sum as mentioned in the TRA Account. It is further stated that the consortium members including the Respondent Bank had not credited the amount paid by the Applicants duly and completely. It is pertinent to mention that the Applicants had made the huge payments in the TRA Account but the Respondent Bank had credited only an amount of Rs. 9.48 crore. Thus, the consortium members including the Respondent Bank has caused the wrongful loss to the Applicants.

It is further stated that the Applicant no. 1 had changed the office address of the Applicant Company and the same was duly intimated to the Respondent Bank promptly. Hence, the Applicant had the bonafide intentions and no intentions to escape the liability for the payment of the dues of the Respondent Bank.

It is stated in the CC that the Joint Lenders Meeting was held on 23.02.2017 and it was admitted by all the banks that the Applicants had deposited the amount of Rs. 57.15 crore till date out of which Rs. 31.50 crore is from domestic collection and Rs. 25.65 crore is from export collection. The said amount was deposited in the TRA account thereby distributed to all the banks. In the same meeting it was mentioned that the total value of inventory prepared by the Applicant is of worth Rs. 238.41 crore at the different

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locations. It is stated that the Applicants had deposited the huge sum of monies in the TRA Account despite financial losses and acts of God and having the security of worth crores. However, despite all of this, the Respondent Bank declared the account of the Applicants as NPA and the company the Applicants was ultimately shut down causing the loss which cannot be counted in terms of money only.

In this chaotic situation, finding no alternative, source of the funding the Applicants requested the consortium members including the Respondent Bank to allow the investment of the foreign investors who were willing and ready to invest huge amounts in the Applicant Company but the consortium banks including the Applicant Bank had not granted the permission for the same. It is stated in the CC that the investment if allowed would have put the Applicant Company on track.

It is stated in the CC that the company named Gautam General Trading LLD situated in Dubai, UAE approached the Applicants to make the investment in the Applicant Company and vide Letter dated 26.04.2017 the said Company officially requested the Applicants to allow the investment in the Applicant Company. The said Company offered the huge amount of $ 50 million US Dollars equivalent to roughly Rs. 350.0 Crore. It is pertinent to mention here that the alleged dues of the consortium members including the Respondent Bank could have been repaid easily if the said amount would have been allowed. The Applicant after receipt of the proposal of the foreign company made a thorough investigation particularly as to the credit worthiness, registration, transactions, turnover,

clientage of the said company, financial stability of the company and other important aspects. On enquiry, it was revealed that the company Gautam General Trading LLC is a reputed company having registered office at Old Baladiya Street Al Ras, Deira Dubai, UAE and having the highest market share in the UAE rice industry. The Applicants had already satisfied the said company from the status report, project report and the credit worthiness as per the desired queries. Moreover, the Applicants had already forwarded the copies of the relevant documents for the perusal of the investigation team which had also shown the green signal and the only barrier was the consent of the consortium banks including the Respondent Bank. The Applicants made a request to indulge into the matter and make a positive decision allowing the investment of the foreign company. The Applicant Company was under impression that the consent of all the Banks including the Respondent Bank would open the gates for the new avenues of the production and export of the company goods. The Applicants apprised the investor company with the factual position and the awaiting green signal from the end of the consortium banks including the Respondent Bank.

It is stated in the CC that the consortium banks including the Respondent Bank informed the Applicants that the consortium members were going to declare the account of the Applicants as NPA and refused to allow the investment of the foreign investor company. It is further stated that if the foreign investment would have been allowed all the dues of the consortium banks including the Respondent Bank would have been paid in one shot and consequently resulted in multiple losses to Applicants.

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It is stated in the CC that the Applicants made several requests to the Respondent Bank regarding the enhancement of the credit facilities and extension of the continuing on the holdings. Initially, the Respondent Bank did not responded to the said request and put the matter under the blanket for the months and at last, after the persuasions and follows ups, considered the request of the Applicants. The decision of the Respondent Bank had a concussion on the applicants as the request though acceded but the Respondent Bank including other consortium members had put several arbitrary conditions jeopardizing the financial interest of the Applicants. One of the onerous conditions imposed on the Applicant in the approval letter was to close all the accounts outside the consortium domain and such a condition is a violation of the right to trade enshrined under Article 19 of the Indian Constitution. The Respondent Bank was taking advantage of its fiduciary relationship and was imposing conditions which was detrimental to interest of Applicant No. 1 Company. The Applicants had no escape route except to nod for the said restriction. In pursuance of the onerous condition, the Applicant no. 1 closed all the accounts maintained with the Banks other than the consortium members. The Applicant Company operated all the financial transactions through the TRA Account only and made huge payments through the TRA Account. It is also stated that due to the aforesaid onerous restriction caused the loss and inconvenience to the present applicants a most of the payment had been stopped and now Applicants had to recourse to the litigation to recover that amount and that too at the cost of huge money, time and efforts.

Case Citation: (2026) ibclaw.in 816 DRT

It is stated in the CC that the Applicants informed the consortium members including the Respondent Bank vide letter dated 29.10.2016 that M/s Aggarwal and Rampal, Chartered Accountant firm had been appointed as statutory auditors for the period of three years. The Applicants had provided all information regarding the audit firm and the balance sheets for the previous years in compliance of directions as decided in the joint lenders meeting. The appointment of said Firm was ratified by the consortium members including the respondent bank.

The Applicants vide letter dated 14.06.2017 made a request to the consortium members including the Respondent Bank to give permission to start the manufacturing operations in the company. There was a total balance of Rs. 17.24 crore in the TRA Account on 14.06.2017 and Rs. 11.84 crore was deposited by the insurance company, hence, the total amount in the TRA account was Rs. 29.08 crore. But the Consortium Members did not give the permission to restart the manufacturing process and running of the plant which caused the loss of worth crores as well as damage to the machinery too which were of worth crores.

Vide Letter dated 04.08.2017 addressed to the consortium members including the Respondent Bank, the Applicants made a request to give the permission for the leasing out of the plant and machinery of the factory till the issue of the rehabilitation are resolved. But the consortium members including the Respondent Bank refused to give the permission and hence worsening the financial situation of the Applicants.

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It is also stated in CC that the KPMG appointed by the consortium members including the Respondent Bank had submitted the report in the form of the observations and that raised some adverse inferences against the Applicant Company. The Applicant Company vide letter dated 07.12.2017 furnished the clarification on those observations and the detailed clarification on the same was provided by the Applicant company duly supported by the transaction date and relevant documentary evidence. It is further stated that the report of the KPMG was based on mere surmises even a single observation was not supported by any evidence be it any type. Furthermore, the applicants duly submitted the reply to all the members of the consortium including the respondent bank.

The Applicant also submitted the Revival Proposal vide letter dated 23.08.2017 to the consortium members including the Respondent Bank for the revival of the credit facilities including the stay on the operations of the holding and other related facilities. It is stated that the detailed financial date consisting projected profit and loss statement balance sheet fund flow statement and ratio/analysis sheet were forwarded to the consortium members including the Respondent Bank for their perusal. The Applicants also submitted the audited balance sheets of the financial years 2014-2015, 2015-2016 and 2016-2017. It is stated that the series of facts had revealed that the consortium banks including the Respondent Bank were destined to declare the account of the Applicants as NPA and proceed against the applicant to sale out the assets of the Applicant Company and which Respondent Bank ultimately did. Thus, the consortium members including the Respondent Bank had

Case Citation: (2026) ibclaw.in 816 DRT

caused the loss of worth Rs. 454.0 crores, details are given below:-

S. No.	Particulars	Amount (in Crores)
1.	Total loss from new installed capacity	175
2.	Total loss from venture capital	107
3.	Loss caused due to closure of factory	50
4.	Loss caused due to other misc. items	5
5.	Loss of goodwill and reputation	67
6.	Loss caused due to mental tension and harassment	50
	TOTAL	**454**

It is stated in the CC that factum of sending repeated notices seeking clarifications on the aspects of alleged irregularities in accounts despite duly responded with detailed information reflects the malafide motives of the Respondent Bank. It is further stated that the Respondent Bank acted in a very hastily and biased manner trying to find any single excuse of the Applicants as NPA and proceed to sell the assets of the Company. It is stated that the Respondent Bank ultimately did which it was destined to and caused the loss of crores to the Applicants herein.

It is further stated that the Respondent Bank illegally issued the notice u/s 13(2) of the SARFAESI Act, 2002 which is not maintainable in law or facts. It is stated that the Respondent Bank illegally issued the said notice to declare the accounts of Applicants as NPA despite being maintained regularly and on 30.11.2016 declared the account as NPA without following the guidelines of the RBI. It is also stated that the Respondent Bank intentionally caused the monetary, goodwill and other losses to the Applicants along

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with the harassment to the Applicants not calculated in terms of money.

It is also stated that the Respondent Bank issued legal demand notice dated 26.08.2017 which was duly replied by the Applicants vide letter dated 06.09.2017 wherein the Applicants raised all the relevant legal and factual contentions and the Applicants also raised the counter claim in respect of the losses caused to the Applicants due to the malafide acts and omissions of Respondent Bank.

Due to the aforesaid actions and inactions of the Respondent, Applicant had suffered unbearable mental tension, mental torture and harassment as well as loss of goodwill and reputation.

In the light of above, the Applicant claims the counter claim of the following amount:-

S. No.	Particulars	Amount (in Crores)
1.	Total loss from new installed capacity	175
2.	Total loss from venture capital	107
3.	Loss caused due to closure of factory	50
4.	Loss caused due to other misc. items	5
5.	Loss of goodwill and reputation	67
6.	Loss caused due to mental tension and harassment	50
	TOTAL	**454**

In the light of above, it has been prayed to allow the present Counter Claim Application for recovery of a sum of Rs. 454.0 Crore against Respondent Bank / Canara Bank along with interest @12% p.a. till the date of the payment and cost of Rs. 10.0 Lakh for filing the present Counter Claim.

It is pertinent to note here that the Counter Claimants have also filed photocopies of documents along with the Counter Claim which are as follows:-

(i) Printout copy of Company Master Data obtained from the official website of the Ministry of Corporate Affairs;

(ii) Letter dated 13.08.2016 sent by the Applicants to the Lead Bank / SBI apprising about the situation of flood and steps taken at Mandideep Plant, M.P.;

(iii) Letter dated 04.10.2016 sent by the Applicants to the Respondent Bank requesting the permission of holding on operation in bank accounts;

(iv) Certificate dated 07.10.2016 of No Lien by the Express Warehousing;

(v) Letter dated 19.10.2016 by SBI made to the Applicants and the Respondent Bank intimating the acceptance of the Bid for the forensic audit of Applicant no. 1;

(vi) Letter dated 15.12.2016 by the Applicants to the different banks for the closing of the bank accounts in pursuance of the agreed terms;

(vii) Letter dated 26.12.2016 by the Applicants to the different banks for the closing of the bank accounts in pursuance of the agreed terms;

(viii) Letter dated 27.12.2016 from the respondent for allowance of operations under the holding on;

(ix) Letter dated 25.01.2017 by the Applicants by the different banks for the closing of the bank accounts in pursuance of the agreed terms;

(x) Letter dated 16.02.2017 by the Applicants to the Respondent Bank regarding the change in the office address;

(xi) Letter dated 20.02.2017 to the AGM, Indusland to close the account of Applicants as per agreed terms in the JLF Meeting;

(xii) Letter dated 20.02.2017 replying the observations of stock audit report;

(xiii) Minutes of the JLF Meeting dated 21.03.2017 where Respondent Bank informed the consortium banks that account of the Applicants has been tagged as red flagged;

(xiv) Letter dated 26.04.2017 from the foreign company proposing to allow the investment in the applicant6 company;

(xv) Email dated 01.05.2017 regarding the proposal of investment from the foreign company for an amount of $ 50 million;

(xvi) Letter dated 02.05.2017 sent by SBI on behalf of consortium members for the non-approval of the continuation of holding on the operations;

(xvii) Letter dated 08.05.2017 from the Dubai based Company for the visitation of the company and plants;

(xviii) Letter dated 09.05.2017 replying the observations made by the concurrent auditors in the meeting of JLF held in 23.02.2017;

(xix) Letter dated 14.06.2017 addressed to the lead bank requesting to allow the running of the Manufacturing Operations in Plants and providing the details of the securities to the consortium members;

(xx) Letter dated 24.07.2017 sent by the Applicants to the consortium members through SBI requesting for leasing the plant and machinery of factory;

(xxi) Letter dated 04.08.2017 sent by the Applicants to the consortium members through SBI requesting for leasing the plant and machinery of factory;

(xxii) Letter dated 16.08.2017 by the Applicants for the revival proposal along with the relevant data including the financial report;

(xxiii) Annual Report dated 28.08.2017 with the audited accounts of the Applicant Company pertaining to financial year ending 31.03.2017;

(xxiv) Observations made by the KPMG regarding the financial affairs of the Applicant Company;

(xxv) Letter dated 07.12.2017 from the Applicants making clarifications regarding observations raised by KPMG;

(xxvi) Restructuring Scheme prepared by the Applicants and forwarded to the Respondent Bank;

(xxvii) Legal Notice dated 26.08.2017 sent by the Respondent Bank;

(xxviii) Reply dated 06.09.2017 on behalf of the Applicants to the Legal Notice sent by the Respondent Bank;

(xxix) Legal Notice dated 07.12.2017 sent by the Respondent Bank;

(xxx) Notice u/s 13(2) of the SARFAESI Act dated 29.11.2017 by the Respondent Bank.

WS / Reply of Defendants in TA

5. Notices of this O.A. were issued to the Defendants, and Defendants no. 1 to 6, 8, 9, 11 & 12 appeared through

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their counsel. It is pertinent to note here that Defendants no. 1 to 6 & 9 filed a common WS and Defendants no. 9, 11 & 12 also filed another common WS.

5.1 So far as, Defendants no. 7 & 10 are concerned, they neither appeared through counsel nor filed any WS. hence, the case of Applicant Bank qua Defendants no. 7 & 10 remained unrebutted.

5.2 So far as, rest of the Defendants i.e. Defendants no. 13 to 15 are concerned, only Defendant no. 14 / IDBI Bank Ltd. appeared through its Counsel and filed a WS. It is matter of record that Defendants no. 13 to 15 are the Proforma Defendants against whom no relief is claimed by the Applicant Bank in this OA.

5.3 It is matter of record that Defendants no. 1 to 6 & 8 as well as Defendants no. 9, 11 & 12 have raised similar objections in their respective WS(s) which are as follows:-

(i) Defendants no. 1 to 6, 8, 9, 11 & 12 have raised an objection that the OA under Reply is not maintainable, due to non-joinder of necessary party.

(ii) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the OA under reply is not maintainable in law or facts as it does not even disclose any cause of action against the answering Defendants.

(iii) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the Applicant Bank has charged interest at the exorbitant, excessive and usurious rates. It is stated in the respective WS(s) that the

answering Defendants never agreed to the rates of interest as charged and claimed by the Applicant. Further more, each and every entry shown in the alleged statement of accounts is denied by the answering Defendants. It is also stated in the WS that the Applicant Bank has failed to give proper credit of the amount deposited by the answering Defendants from time to time as the entries made in the statement of accounts filed by the Applicant Bank in support of its alleged claim does not reflect the credited amount on the part of the Defendants. It is also stated in the WS(s) that the alleged Statements of Account is not a Statement of Accounts in the eyes of law as it is not certified as per Section 2(8) and 2-A Bankers Books Evidence Act. Therefore, the Statement of Account should not be taken on record and should not be read as evidence in the OA under reply. Thus, the present OA be dismissed on this ground alone, with heavy cost

(iv) Next objection raised by Defendants no. 1 to 6, 8, 9, 11 & 12 is that the Applicant Bank is guilty of *suppresio vari and suggestion falsi* as they have concealed various important and material facts from this Hon'ble Tribunal, hence, the present OA under reply is liable to be dismissed.

(v) Defendants no. 1 to 6, 8, 9, 11 & 12 have raised an objection that the answering Defendants / alleged guarantors have not executed any deed of guarantee in favour of the Applicant Bank qua the alleged

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claim filed by the Applicant Bank. It is also stated that the Applicant Bank has lost its securities, therefore, the answering Defendants / guarantors stand discharged and their names may be stuck off from the array of the parties from the present OA.

(vi) Next objection raised by Defendants no. 1 to 6, 8, 9, 11 & 12 is that the Applicant Bank has not given complete credit facility, as requested by the answering Defendants from time to time and has caused immense loss to the answering Defendants.

(vii) Defendants no. 1 to 6, 8, 9, 11 & 12 have further taken a plea that the Applicant Bank has filed the e-stamp papers in support of the alleged loan documents. The said e-stamp papers neither bear the second party name as the Applicant Bank nor the signatures / seal of any of the parties. These e-stamp papers have been misused by the Applicant Bank and guilty of the breach of trust. The mentioned blank e-stamp papers cannot be read into the evidence as the same is not admissible in the law. Thus, the present OA be dismissed.

(viii) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that certain documents / supporting e stamp paper of certain documents, which are filed with the OA do not bear the name of the second party as the Applicant Bank. It is also stated that the said e-stamp paper does not bear the official seal and the signature of the authorized person of the Applicant Bank. It is further stated that the

Applicant Bank has misused the said e stamp paper/s and is guilty of breach of the trust. Hence, the said documents cannot be read into the evidence as the same is not admissible in the law.

(ix) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the Applicant Bank has not filed the Statement of Accounts of the Trust and the Retention Account maintained by the Applicant Bank as a party to the alleged consortium member. It is also stated that the Defendants have paid huge amount of the money which are more than Rs. 100.0 Crore in the said TRA Account but neither the Applicant Bank has credited the payments into the TRA Account nor the Applicant Bank has mentioned anywhere in the present OA. In this way, the Applicant Bank tried to conceal the above mentioned fact. The Applicant Bank also did not comply the directions of the Reserve Bank of India about the Trust Retention Account, and it has clearly been shown the malafide intention of the Applicant Bank to grab the huge public money. The omission of the Applicant Bank to file the statement of the said TRA Account, which is relevant and mandatory, reflects the fraudulent conduct of the Applicant Bank.

(x) Defendants no. 1 to 6, 8, 9, 11 & 12 have raised an objection that this Hon'ble Tribunal does not have jurisdiction to entertain the present OA.

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(xi) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the Applicant Bank has not filed any valuation report (by at least two Government approved valuer) with regard to the properties mentioned in Para 3A-iii, hence, this OA be dismissed on this ground.

(xii) Defendants no. 1 to 6, 8, 9, 11 & 12 have further raised an objection that Sh. Pradeep Kumar, officer of the Applicant Bank has not been authorized to file any case before the Hon'ble Tribunal as there is no locus standi in favour of Sh. Pradeep Kumar to file the present OA.

(xiii) Next objection raised by Defendants no. 1 to 6, 8, 9, 11 & 12 is that the OA under reply is barred by the law of limitation prescribed under the RDB Act, 1993.

(xiv) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the Applicant Bank and other consortium members have asked the answering Defendants to show their credit worthiness, when original title deeds were taken to show the Applicant Bank and other consortium members, title deeds were illegally retain to obtain the due diligence and search report by the bank official and the same were never returned. The said title deeds were not given with any intention to create equitable mortgage by deposit of title deeds. It is stated in the WS(s) that the Applicant Bank and other consortium members are in possession of the same, by taking advantage

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of the fiduciary relationship which they enjoyed with the Defendants. They have illegally retained the title deeds in question. It is mainly contended in the WS that the answering Defendants had no intention to create the mortgage of the properties mentioned in this case. Further more, there was no extension of the mortgage of the said properties.

(xv) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the credit facilities as requested by the Defendants were never released or sanctioned timely and in full causing thereby loss to the answering Defendants of worth rupee crores.

(xvi) Defendants no. 1 to 6, 8, 9, 11 & 12 have also taken a plea that the answering Defendants had no intention to create any mortgage and / or negative lien, hence, there cannot be any valid mortgage in the absence of intention to create the same. It is also stated that the answering Defendants cannot be liable jointly or severally.

(xvii) Next objection raised by the Defendants no. 1 to 6, 8, 9, 11 & 12 is that they did not execute any loan documents as alleged by the Applicant Bank, hence, there is no liability of the answering Defendants to the alleged dues of the Applicant Bank. Furthermore, the said documents are not stamped with the sufficient stamp fee and the same cannot be taken on record.

(xviii) Defendants no. 1 to 6, 8, 9, 11 & 12 have also taken a plea that the account of the Defendants was

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declared as NPA without complying the mandates of law and the norms in force issued by the RBI. It is further stated that account of the Defendants was maintained properly adhering to the agreed terms. No opportunity of representation was given to the Defendants before declaring the account as NPA.

(xix) Next objection raised by the Defendants no. 1 to 6, 8, 9, 11 & 12 is that the present OA is barred due to the misjoinder and the non-joinder of the parties.

(xx) Defendants no. 1 to 6, 8, 9, 11 & 12 have also taken a plea that there was no agreement to subsume the apportioned OCC limit. The Applicant Bank is guilty of the criminal misappropriation of the funds as the funds belong to the Defendants and the Bank cannot appropriate the same without the consent of the Defendants.

(xxi) Defendants no. 1 to 6, 8, 9, 11 & 12 have also taken a plea that the Legal Notice was issued by the Applicant Bank without any legal cause. It is further stated that the Applicant Bank sensing the mistake on its part issued another notice manipulating the facts and justifying the wrong doings on the part of the Applicant Bank.

In the light of above, it has been prayed to dismiss the present OA with heavy and exemplary costs in favour of the answering Defendants.

5.4 So far as, Defendant no. 14 i.e. IDBI Bank Ltd. is concerned, it has filed its WS through Sh. Dheeraj Kumar

Singh, Deputy General Manager / Authorized Signatory of Defendant no. 14 wherein it has given details of facilities sanctioned by it to the Defendant no. 1 in its individual capacity as well as along with State Bank of India / Defendant no. 13 herein, being its Lead Bank, vide Sanction Letter dated 21.09.2015. It is also stated in the WS that the Defendant no. 14 is one of the members of the consortium and the same is member bank of the consortium. It is also stated that the Defendants were required to execute and subsequently executed various documents in favour of the consortium comprising answering Defendant no. 14 and Defendant no. 13 (including State Bank of Travanore now SBI) and the Applicant Bank [details given in Para 12 of the WS]. It is also stated in the WS since Defendant no. 1 failed to maintain financial discipline and also failed to repay the dues of the answering Defendant no. 14, hence, the account was classified as NPA on 29.12.2016 as per guidelines of RBI. Thereafter, Recall Notice dated 03.08.2017 & 31.08.2017 were also issued by the answering Defendant to the Defendants no. 1, 2, 3, 5 & 8 as well as 9 to 12 but to no avail. It is further stated that the answering Defendant no. 14, having left with no option, filed its OA No. 957/2018 seeking recovery of Rs. 72,47,38,934/- as on 01.06.2018. [copy of OA is annexed as Annexure D/1)].

In its Reply / WS, Defendant no. 14 has supported the present OA and stated that the answering Defendant is entitled to pari-passu repayment due of the sale proceeds of all the secured assets belonging to Defendants no. 1 to 12.

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It is matter of record that Defendant no. 14 is a Proforma Defendant and no relief is claimed by the Applicant Bank qua Defendant no. 14 in this OA.

6. It is also matter of record that the Applicant Bank has also filed its Replication(s) to the WS of Defendants no. 1, 2, 3, 4, 5, 6 & 8 as well as WS of Defendants no. 9, 11 & 12 denying the allegations levelled against it and reiterating the averments made in the OA.

Reply filed by the Respondent Bank i.e. Canara Bank to the Counter Claim

6. Notices of this CC were issued to the Respondent Bank / Canara Bank and the Canara Bank appeared through its counsel and also filed its Reply to the Counter Claim vehemently opposing the same. It is matter of record that the Reply was filed by the Respondent Bank through Ms. Swastika, Senior Manager of the Bank.

6.1 It is stated in the Reply that the Counter Claim of the Claimant is liable to be dismissed for non-joinder of parties under Order 1 Rule 10 of the CPC namely the guarantors, corporate guarantors and even the other lender bank. It is further stated that the documents are joint and in favour of a security trustee i.e. SBICAP, which is also not made a party. It is also stated that the Respondent Bank has already sold its share of recovery to NARCL which has already stepped into the shores of the Respondent Bank in the concerned OA i.e. TA/309/2022 but NARCL has not been made party in the present Counter Claim.

It is also stated in the Reply that Order 8 Rule 1 of the CPC clearly states that a counter claim can be within 30-days

after the written statement by the counter claimant but in this case, the counter claim is being filed after a long time.

In its Reply, the Respondent Bank / Canara Bank has given brief submissions of the case giving details of credit facilities granted by the Respondent Bank in favour of Borrower (Defendant no. 1 in OA) from time to time and by consortium members along with details of security documents executed by borrower, guarantors, mortgagors and defaults committed by them. It is also stated that the Respondent Bank has already filed the OA for recovery of its dues before the Tribunal.

In parawise Reply, the Respondent Bank / Canara Bank has raised an objection that the present CC is barred by the law of limitation.

The Respondent Bank has denied the allegations levelled against it by the Applicants in the CC and stated that the Applicants themselves had approached the Respondent Bank from time to time for availing of various credit facilities from time to time. It is further stated that the Respondent Bank always supported the counter claimants as per the banking norms and conditions of the sanction either and it is the counter claimant who failed to abide by the terms of the agreements. It is also stated in the Reply that there is a policy for declaring the account as NPA by the Reserve Bank of India and the same policy would have been adhered too. It is further stated that any loss, if any caused to the counter claimant, has nothing to do with the Respondent Bank. It is also stated that the Respondent Bank has no hand whatsoever to the loss caused to the counter claimant. It is admitted in the Reply that with the

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consent of the Respondent Bank, KPMG was appointed to do the Techno Economic Viability Report but the counter claimant had not fully cooperated with the KPMG, hence, it was a wrong report and an unfavourable report against the counter claimant has nothing to do with the Respondent bank. It is also stated that the Respondent Bank is just a member bank and the decision is to be taken by the Lead Bank. It is also stated that whatsoever has happened, it is due to failure to abide by the schedule of the payment by the counter claimant and the Respondent Bank has done the holding on operation as per banking norms only. It is further stated that the Respondent Bank is dealing in public exchequer and is responsible and accountable for penny to penny and also accountable for its acts asper the banking policy of recovery.

In the light of above, it has been prayed to reject the present Counter Claim with heavy cost.

Evidence filed on behalf of Applicant Bank and Defendants in TA

7. To prove its case, the Applicant Bank had filed its Evidence by way of Affidavit of Ms. Bhavya Sawhney, Senior Manager / authorized officer of Applicant Bank herein who has placed reliance upon the following documents filed by the Applicant Bank along with the OA :-

(i) General Power of Attorney dated 10.01.2014 executed by the Applicant Bank in favour of the Deponent (Ex. AW1/1);

(ii) Copies of circular and press release with regard to Gazette Notification No. G.S.R. 156(E), G.S.R. 157(E), G.S.R. 158(E), G.S.R. 159(E) and G.S.R.

160(E) dated 22.02.2017, wherein the acquisition of five associate banks of State Bank of India viz. State Bank of Bikaner & Jaipur / State Bank of Hyderabad / State Bank of Mysore / State Bank of Patiala / State Bank of Travancore with State Bank of India had been approved / notified by Government of India along with Press Release dated 20.03.2017 issued by the Reserve Bank of India for the merger of the State Bank of Travancore in the Lead Bank i.e. State Bank of India (Ex. AW1/2-colly);

(iii) Sanction Letter dated 15.01.2011 issued by the Applicant Bank to Defendant no. 1 for sanctioning the credit facilities to the tune of Rs. 79.0 Crore as Fund Based and Rs. 7.75 Crore as Non-Fund Based (Ex. AW-1/3);

(iv) Resolution dated 21.03.2011 passed by Defendant no. 1 authorizing its signatory Sh. Naveen Mittal and Sh. Anil Mittal, directors of Defendant no. 1 (Ex. AW1/4);

(v) Inter se Agreement dated 29.03.2011 executed by the members of the SBI Consortium (Ex. AW1/5);

(vi) Letter of Authority dated 29.03.2011 executed by the members of the SBI Consortium i.e. by Defendant no. 14 and State Bank of Travancore (member banks) along with the Applicant Bank in favour of Defendant no. 13 (Ex. AW1/6);

(vii) Working Capital Consortium Agreement dated 29.03.2011 executed by the Defendant no. 1 through its authorized signatory with SBI Consortium to secure the enhanced / renewed /

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reviewed consortium facilities of Rs. 382.50 Crore in which share of Applicant Bank was Rs. 87.35 Crore (Ex. AW1/7);

(viii) Joint Deed of Hypothecation dated 29.03.2011 executed by Defendant no. 1 (Ex. AW1/8);

(ix) Letter of Omnibus Counter Guarantee, Agreement-cum-Indemnity dated 29.03.2011 executed by Defendant no. 1 in favour of SBI Consortium (Ex. AW1/9-colly);

(x) Deed of Guarantee dated 29.03.2011 executed by Defendants no. 2, 3 and Late Sh. Anil Mittal as well as Deed of Corporate Guarantee dated 29.03.2011 executed by Defendants no. 9 to 11 as well as their Board Resolutions (Ex. AW1/10-colly);

(xi) Letter dated 29.03.2011 executed by Defendant no. 1 confirming the deposition of title deeds and further confirming extension of mortgage to the extent of Rs. 382.50 Crore relating to immovable property situated at Plot No. 11 at Industrial Area, Mandideep, Phase I, Tehsil Goharganj, District Raisen, Madhya Pradesh in the name of Defendant no. 1; Letter dated 29.03.2011 executed by Defendant no. 1 through Defendant no. 3 and Late Sh. Anil Mittal relating to immovable property situated at D-78, Built on Plot No. 78 in Block D, measuring 212.75 squre meters situated at Pushpanjali Enclave, Pitampura, Delhi to create extension of equitable mortgage / 1st charge thereon for creation of first pari-passu charge on the said property in favour of the

consortium banks; Letter dated 29.03.2011 executed by Defendant no. 11 through its authorized personal creating equitable mortgage / extension of mortgage relating to deposit of title deeds on 30.03.2007 of property consisting of freehold land measuring 5 kanal 8 marla in Khewat No. 412 mn. Khatoni no. 449 as 108/148 share of Killa No. 165/10(7-8) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana and immovable property consisting of 6 kanal 16 marla in Khewat No. 650 min. Khatoni no. 715 Killa no. 165/11(6-18) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana which is described in consolidation in sanction as property consisting of freehold land 7018 square yards in two pieces of 3751 square yards and 3267 square yards, in Khasra No. 165/10 village Bohodwal Majri, Tehsil Samalkha, Haryana, to create extension of equitable mortgage / 1st charge thereon in favour of SBI consortium banks for creation of first pari-passu charge on the said property with a view to secure the sanctioned / enhanced / renewed / reviewed facilities and the letter of intention for creation of the extension of the mortgage of the aforesaid property of RS. 382.50 crore relating to title documents to SBI Consortium; Undertaking dated 29.03.2011 executed by Defendant no. 10 confirming negative lien on commercial property at 12AF (12th Floor), BigJo's Estate, Plot No. A-08, Netaji Subhash Place, Wazirpur District

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Centre, Pitampura, New Delhi – 110034, measuring 4539 square by actual re-delivery of documents in favour of Defendant no. 13 acting with view to secure the sanctioned / enhanced / renewed / reviewed facilities, and the letter of intention for creation of the extension of mortgage of the aforesaid property of Rs. 382.50 crore (Ex. AW1/11-colly);

(xii) Sanction Letter dated 24.01.2012 issued by the Applicant Bank in the name of Defendant no. 1 (Ex. AW1/12);

(xiii) Inter Se Agreement dated 30.03.2012 executed amongst SBI Consortium amongst themselves (Ex. AW1/13);

(xiv) Working Capital Consortium Agreement dated 30.03.2012 executed by the Defendant no. 1 through its authorized signatory with SBI Consortium (Ex. AW1/14);

(xv) Joint Deed of Hypothecation dated 30.03.2012 executed by Defendant no. 1 (Ex. AW1/15);

(xvi) Letter of Omnibus Counter Guarantee, Agreement-cum-Indemnity dated 30.03.2012 executed by Defendant no. 1 in favour of SBI Consortium (Ex. AW1/16);

(xvii) Deed of Guarantee dated 30.03.2012 executed by Defendants no. 2, 3 and Late Sh. Anil Mittal (Ex. AW1/17);

(xviii) Deed of Corporate Guarantee dated 30.03.2012 executed by Defendants no. 9 to 12 as well as their Board Resolutions (Ex. AW1/18-colly);

(xix) Letter dated 30.03.2012 executed by Defendant no. 1 regarding deposit of title deeds on 15.10.2008 relating to immovable property situated at Plot No. 11 at Industrial Area, Mandideep, Phase I, Tehsil Goharganj, District Raisen, Madhya Pradesh measuring 97.750 square meters in the name of Defendant no. 1 (Ex. AW1/19);

(xx) Undertaking dated 30.03.2012 executed by Defendant no. 10 creating negative lien on commercial property at 12AF (12th Floor), BigJo's Estate, Plot No. A-08, Netaji Subhash Place, Wazirpur District Centre, Pitampura, New Delhi – 110034, measuring 4539 square by actual re-delivery of documents in favour of Defendant no. 13 acting with view to secure the sanctioned / enhanced / renewed / reviewed facilities, and the letter of intention for creation of the extension of mortgage of the aforesaid property of Rs. 429.65 crore (Ex. AW1/20);

(xxi) Inter se Agreement dated 17.08.2013 executed amongst SBI Consortium themselves (Ex. AW1/21);

(xxii) Letter of Authority dated 17.08.2013 executed amongst Consortium Members themselves to be given by Defendant no. 14 and State Bank of Travancore (member banks) along with the Applicant Bank in favour of Defendant no. 13 (Ex. AW1/22);

(xxiii) Working Capital Consortium Agreement dated 17.08.2013 executed by the Defendant no. 1

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through its authorized signatory with SBI Consortium to secure the enhanced / renewed / reviewed consortium facilities of Rs. 568.1 Crore in which share of Applicant Bank was Rs. 124.75 Crore (Ex. AW1/23);

(xxiv) Joint Deed of Hypothecation dated 17.08.2013 executed by Defendant no. 1 (Ex. AW1/24);

(xxv) Letter of Omnibus Counter Guarantee, Agreement-cum-Indemnity and Undertaking-cum-Indemnity dated 17.08.2013 executed by Defendant no. 1 in favour of SBI Consortium (Ex. AW1/25-colly);

(xxvi) Deed of Guarantee dated 17.08.2013 executed by Defendants no. 2, 3 and Late Sh. Anil Mittal (Ex. AW1/26-colly);

(xxvii) Deed of Corporate Guarantee dated 17.08.2013 executed by Defendants no. 9 to 12 as well as their Board Resolutions (Ex. AW1/27-colly);

(xxviii) Undertaking dated 17.08.2013 executed by Defendant no. 10 creating negative lien on commercial property at 12AF (12th Floor), BigJo's Estate, Plot No. A-08, Netaji Subhash Place, Wazirpur District Centre, Pitampura, New Delhi – 110034, measuring 4539 square by actual re-delivery of documents in favour of Defendant no. 13 acting with a view to secure the sanctioned / enhanced / renewed / reviewed facilities, and the letter of intent ion for creation of the extension of mortgage of the aforesaid property of Rs. 568.1 crore (Ex. AW1/28-colly);

(xxix) Sanction Letter dated 22.04.2014 issued by the Applicant Bank to Defendant no. 1 (Ex. AW1/29);

(xxx) Resolution dated 30.08.20145 passed in the Board of Directors meeting of Defendant no. 1 authorizing its signatory Sh. Naveen Mittal and Sh. Anil Mittal, directors of Defendant no. 1, to execute the loan / security documents in favour of SBICAP Trustee Company Limited acting as Security Trustee, for the SBI Consortium (Ex. AW1/30);

(xxxi) Inter se Agreement dated 24.09.2014 executed by SBI Consortium amongst themselves (Ex. AW1/31);

(xxxii) Letter of Authority dated 24.09.2014 executed by the members of the SBI consortium amongst themselves to be given by Defendant no. 14 and State Bank of Travancore (member banks) along with the Applicant Bank in favour of Defendant no. 13 (Ex. AW1/32);

(xxxiii) Working Capital Consortium Agreement dated 24.09.2014 executed by the Defendant no. 1 through its authorized signatory with SBI Consortium to secure the enhanced / renewed / reviewed consortium facilities of Rs. 716.79 Crore in which share of Applicant Bank was Rs. 137.75 Crore (Ex. AW1/33);

(xxxiv) Joint Deed of Hypothecation dated 24.09.2014 executed by Defendant no. 1 (Ex. AW1/34);

(xxxv) Deed of Guarantee dated 24.09.2014 executed by Defendants no. 2, 3 and 4 (Ex. AW1/35);

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(xxxvi) Deed of Corporate Guarantee dated 24.09.2014 executed by Defendants no. 9 to 12 as well as their Board Resolutions (Ex. AW1/36-colly);

(xxxvii) Security Trustee Agreement dated 24.09.2014 executed between the borrower company, SBICAP Trustee Company Ltd. and consortium bank (Lead Bank as well as member Banks) as the then Monitoring Institution (Ex. AW1/37);

(xxxviii) Memorandum of Entry and Declaration duly executed by the respective Defendants i.e. Defendant no. 1 through Defendants no. 3 & 4 (as after the demise of Sh. Anil Mittal his widowed wife Smt. Rita Mittal acted on his behalf as his legal heirs and also as director of the Defendant no. 1) who re/deposited the title documents of property / house no. D-78, Pushpanjali Enclave, Pitampura, Delhi, measuring 212.75 square meters on 26.12.2014 to create equitable mortgage / 1st charge thereon in favour of SBICAP Trustee for creation of first paripassu charge on the said property in favour of the consortium banks (Ex. AW1/38-colly);

(xxxix) Form No. 8 and the certificate of registration of charge available with SBI being the lead Bank of SBI Consortium (Ex. AW1/39-colly);

(xl) Letter dated 07.01.2015 issued by SBI vide which it has provided the copies of the documents executed by the respective Defendants on 24.09.2014 (Mark-A);

(xli) Enforcement Certificate dated 12.01.2015 issued by Law Firm known as "ASA Law Firm" (Ex. AW1/40);

(xlii) Sanction Letter dated 23.05.2015 issued by the Applicant Bank for granting certain credit facilities to the Defendant no. 1 (Ex. AW1/41-colly);

(xliii) Security Trustee Agreement dated 27.11.2015 re-executed by the Defendant no. 15 among the Defendant no. 1, Defendant no. 15 and consortium Bank (Lead Bank as well as member banks) for Monitoring as well as for the beneficial interest of the SBI Consortium Banks (Ex. AW1/42);

(xliv) Letter of Authority dated 27.11.2015 executed by respective Defendants to appoint State Bank of India, as the Lead Bank i.e. Defendant no. 13 (Ex. AW1/43);

(xlv) Undertaking dated 27.11.2015 executed by Defendant no. 1 to accept the unconditionally and irrevocably the Defendant no. 13 as the Lead bank (Ex. AW1/44);

(xlvi) First Amended and Restated Inter se Agreement dated 27.11.2015 executed by the Defendant no. 1 (Ex. AW1/45);

(xlvii) First Amended and Restated Working Capital Consortium Agreement dated 27.11.2015 executed by the Defendant no. 1 along with Consortium banks (Ex. AW1/46);

(xlviii) First Amendatory and Restated Deed of Hypothecation dated 27.11.2015 executed by the

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Defendant no. 1 in favour of SBICAP Trustee Company Limited in order to secure the enhanced / renewed / reviewed credit facility sanction to the Defendant no. 1 by the SBI Consortium Bank (Ex. AW1/47);

(xlix) First Amended and Restated Deed of Guarantee dated 27.11.2015 was executed by Defendants no.2 to 5 (Ex. AW1/48);

(l) First Amended and Restated Deed of Guarantee dated 27.11.2015 executed by Defendants no.9 to 12 (Ex. AW1/49);

(li) Letter of Undertaking dated 27.11.2015 executed by the Defendant no. 1 for creating second charge on fixed assets in order to secure the extended facilities by the SBI consortium bank (Ex. AW1/50);

(lii) RBI Clause executed by the Defendant no. 1 on 27.11.2015 (Ex. AW1/51);

(liii) Undertaking cum Negative Lien executed by the Defendant no. 10 for Commercial property at No. 12AF (12th Floor), BigJo's Estate, Plot No. A-08, Netaji Subhash Place, Wazirpur District Centre, Pitampura, New Delhi – 110034, measuring 4539 square, in order to secure the extended facilities by the SBI consortium Bank (Ex. AW1/52);

(liv) Memorandum of Entry executed by Defendant no. 3 (Director of Defendant no. 1) on 11.12.2015, the Defendant no. 3 in favour of the Defendant no. 15 to acting as security trustee for Plot No. 11, area admeasuring 97,750 square meters situated in Saltapur Industrial Area Mandideep, Phase-II,

Village Mandideep, Tehsil Gahargang, District Raisen, M.P. in order to create equitable mortgage by way of deposit of title deed in order to ensure and in consideration of the sanctioned facilities (Ex. AW1/53);

(lv) Declaration cum Undertaking executed by Defendant no. 3 (Director of Defendant no. 1) for the creation of Mortgage by Deposit of Title Deeds for the said Property (Ex. AW1/54);

(lvi) Memorandum of Entry for the creation of mortgage executed by Defendant no. 5 (Mr. Rahul Mittal) on 11.12.2015/12.12.2015, the Defendant no. 5 (Mr. Rahul Mittal) in favour of the Defendant no. 15 for Residential Flat / Dwelling Unit bearing no. A-602 on 06th Floor, having covered area of 777.73 sq. feet, super area measuring 1070 square feet (99.44 square meters) in the House Complex "SS Enclave" built on Plot No. GH-03, Sector Beta-II, Greater Noida, UP in order to secure credit facilities and in consideration thereof the credited sanctioned to Defendant no. 1 (Ex. AW1/55);

(lvii) Declaration cum Undertaking executed by Defendant no. 5 in the matter of mortgage by Deposit of Title Deeds for creation of mortgage for said Property in favour of Defendant no. 15 (SBICAP) (Ex. AW1/56);

(lviii) Memorandum of Entry executed on 11.12.2015/12.12.2015 by the Defendants no. 4 and 6 to 8 (Mrs. Rita Mittal, Mr. Anubhav Mittal, Mr. Atul Mittal and Mr. Amit Mittal) as the

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mortgagors in favour of the Defendant no. 15 for Residential Flat / Dwelling Unit bearing no. B-802 on 08th Floor, having covered area of 1084.50 square feet, super area measuring 1470 square feet in the House Complex "SS Enclave" built on Plot No. GH-03, Sector Beta-II, Greater Noida, UP in order to secure credit facilities and in consideration thereof the credit facilities sanctioned to Defendant no. 1 as well as Declaration cum Undertaking for mortgage by Deposit of Title Deeds executed by them (as the mortgagors) for the said Property (Ex. AW1/57);

(lix) Memorandum of Entry executed on 11.12.2015 by the Defendant no. 11 i.e. Gartex Overseas Ltd. through Mr. Amit Mittal (Director) s/o Sh. Anil Mittal in favour of the Defendant no. 15 acting as Security Trustee for the property consisting of Freehold land measuring 5 Kanal 8 Marla in Khewat No. 412 min Khatoni no. 449 as 108/148 share of Killa No. 165/10 (7-8) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1 (Ex. AW1/58);

(lx) Declaration cum Undertaking on 11.12.2015 executed by Defendant no. 11 for mortgage by re/Deposit of Title Deeds for the said Property in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1 (Ex. AW1/59);

(lxi) Memorandum of Entry executed on 11.12.2015 by the Defendant no. 11 i.e. Gartex Overseas Ltd. through Mr. Amit Mittal (Director) s/o Sh. Anil Mittal in favour of the Defendant no. 15 acting as Security Trustee for the property consisting of Freehold land measuring 6 Kanal 16 Marla in survey no. Khewat No. 650 min Khatauni no. 714 killa no. 165/11 (6-16) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1 (Ex. AW1/60);

(lxii) Declaration cum Undertaking executed by Defendant no. 11 on 11.12.2015 for mortgage by Deposit of Title Deeds for the said Property (Ex. AW1/61);

(lxiii) Memorandum of Entry executed on 11.12.2015 by the Defendant no. 12 i.e. M/s SSR Apparels Pvt. Ltd. through Mr. Rahul Mittal (Director) s/o Sh. Sanjeev Mittal in favour of the Defendant no. 15 acting as Security Trustee for the property consisting of Freehold land measuring 13 Kanal 8 Marla in Survey No. Khewat No. 941 Khatoni no. 1025 (new no. 1004) Killa No. 165/1 (7-8), 165/2/1 (6-0) in village Pattikalan, Tehsil Samalkha, District Panipat, Haryana in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1 (Ex. AW1/62);

(lxiv) Declaration cum Undertaking executed on 11.12.2015 by the Defendant no. 12 in the matter

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of Mortgage by deposit of title deeds for the said Property (Ex. AW1/63);

(lxv) Memorandum of Entry executed on 11.12.2015 by the Defendants no. 3 & 4 in favour of the Defendant no. 15 acting as Security Trustee for the House No. D-78, Pushpanjali Enclave, Pitampura, Delhi on plot of land measuring 212.75 square meters, in order to secure credit facilities and in consideration thereof of the credit facilities sanctioned to Defendant no. 1 (Ex. AW1/64);

(lxvi) Declaration cum Undertaking on 11.12.2015 executed by Defendants no. 3 & 4 in the matter of mortgage by deposit of Title Deeds for the said Property (Ex. AW1/65);

(lxvii) Certified true copy of Board Resolution dated 29.09.2015 passed by the borrower to approve the working Capital limits (Ex. AW1/66);

(lxviii) Board Resolution dated 10.10.2015 of M/s SSR Apparels Pvt. Ltd. u/s 186(2) of the Companies Act, 2013 for extending corporate guarantee in favour of State Bank of India with members banks in respect of enhanced working capital limits and other limits on consortium and/or on standalones basis sanctioned / to be sanctioned subject to the maximum of Rs. 762.41 crore to SSA International Limited (Ex. AW1/67);

(lxix) Board Resolution dated 10.10.2015 of M/s SSR Apparels Pvt. Ltd. u/s 186(3) of the Companies Act, 2013 for creation of mortgage by deposit of title deeds in favour of State Bank of India with

members banks in respect of enhanced working capital limits and other limits on consortium and/or on standalones basis sanctioned / to be sanctioned subject to the maximum of Rs. 762.41 crore to SSA International Limited (Ex. AW1/68);

(lxx) Board Resolution dated 21.10.2014 of M/s SSR Apparels Pvt. Ltd. u/s 186(3) of the Companies Act, 2013 for extending corporate guarantee in favour of State Bank of India with members banks in respect of enhanced working capital limits and other limits on consortium and/or on standalones basis sanctioned / to be sanctioned subject to the maximum of Rs. 1000.00 crore to SSA International Limited (Ex. AW1/69);

(lxxi) Board Resolution dated 21.10.2014 of M/s SSR Apparels Pvt. Ltd. u/s 186(2) of the Companies Act, 2013 for extending corporate guarantee in favour of State Bank of India wit members banks in respect of enhanced working capital limits and other limits on consortium and/or on standalones basis sanctioned / to be sanctioned subject to the maximum of Rs. 1000.00 crore to SSA International Limited (Ex. AW1/70);

(lxxii) Board Resolution dated 28.10.2015 of M/s Empire Finvest Ltd. u/s 186(3) of the Companies Act, 2013 in respect of creation of negative lien in enhanced working capital limits and other limits on consortium and/or on standalones basis sanctioned / to be sanctioned subject to the maximum of Rs. 762.41 crore to SSA International Limited (Ex. AW1/71);

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(lxxiii) Report dated 06.01.2016 submitted by Sh. Anil Kumar Sharma on behalf of "asa Legal firm" (Ex. AW1/72);

(lxxiv) Statement of Account along with details of unapplied Interest relating to loan account of Defendant no. 1 duly certified under the Banker's Books Evidence Act (Ex. AW1/73);

(lxxv) Legal Notice dated 26.08.2017 / 28.08.2017 issued by the Applicant Bank to the respective Defendants through Law Firm SGS Jurist Consultants a/w postal receipt (Ex. AW1/74);

(lxxvi) Notice issued u/s 13(2) of SARFAESI Act a/w postal receipts (Ex. AW1/75);

(lxxvii) Reply dated 07.11.2017 sent by the Applicant Bank to the respective Defendants with regard to objections sent by them a/w postal receipts (Ex. AW1/76);

(lxxviii) Corrigendum to Legal Notice to the entire respective Defendants on dated 10.01.2018/15.01.2018 a/w postal receipts (Ex. AW1/77).

7.1 It is pertinent to note here that during the pendency of this OA, the Applicant Bank i.e. Canara Bank had assigned the financial assets / loans of Defendant no. 1 to National Asset Reconstruction Company Limited (NARCL) Thus, the name of NARCL was substituted in place of Applicant Bank i.e. Canara Bank vide Order dated 01.12.2023 passed in IA No. 233/2023 by this Tribunal.

7.2 Subsequently, Sh. Pankaj Agnihotri, Senior Vice President / the officer of Applicant herein (NARCL) has also placed reliance upon the aforesaid documents.

7.3. So far as, Defendants no. 1 to 6, 8, 9, 11 and 12 are concerned, they filed their Evidence by way of Affidavit of Sh. Naveen Mittal only. But they did not chose to file any document in support of their WS(s) and consequently right of Defendants to exhibit the documents was closed vide Order dated 28.04.2025 of the Tribunal. Thus, the defence taken by these Defendants in their respective WS(s) remained unsubstantiated / uncorroborated.

Evidence filed by the Applicants / Counter Claimants and Respondent Bank in Counter Claim

8. It is matter of record that though the Applicants in CC have filed photocopies of certain documents along with the CC but they have not chosen to file any documentary evidence, hence, the grounds taken by these Applicants in the CC remained unsubstantiated / uncorroborated.

8.1 So far as, Respondent Bank is concerned, it has filed Evidence by way of Affidavit of Ms. Sawatika, Senior Manager who has placed reliance upon following documents:-

(i) Copy of General Power of Attorney of the Respondent Bank in favour of the Deponent (Ex. R1);
(ii) Copy of document depicting sale of Respondent Bank's share of recovery to NARCL (Ex. R2);
(iii) Sanction Letter dated 15.01.2011 of Respondent Bank (Ex. R3);

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(iv) Inter se Agreement dated 29.03.2011 executed amongst members of the SBI Consortium (Ex. R4);

(v) Sanction Letter dated 29.04.2013 of Respondent Bank (Ex. R5);

(vi) Sanction Letter dated 22.04.2014 of Respondent Bank (Ex. R6);

(vii) Sanction Letter dated 23.05.2015 of Respondent Bank (Ex.R7);

(viii) Inter se Agreement dated 27.11.2015 executed amongst consortium banks (Ex. R8);

(ix) Notice issued by the Respondent Bank to the Applicant with regard to declaration of account as NPA on 30.11.2016 (Ex. R9);

(x) Letters sent by Respondent Bank to Applicants calling upon them to repay the dues of Respondent Bank (Ex. R10-colly);

(xi) Statement of Account along with details of unapplied interest duly certified under the Bankers Books Evidence Act (Ex. R11);

(xii) Legal Notice dated 26.08.2017/28.08.2017 issued by the Respondent to the respective Applicants a/w postal receipts (Ex. R12);

(xiii) Reply of Applicant no. 1 to aforesaid Legal Notice (Ex. R13);

(xiv) Notice issued u/s 13(2) of SARFAESI Act by the Respondent Bank a/w postal receipts (Ex. R14).

It is also matter of record that the Respondent Bank has already proved the above said documents along with other documents in the connected TA No. 309/2022.

Discussion and observation made in TA

9. Heard Ld. counsels for the parties and perused the entire record.

9.1 Now I would like to deal with the objections raised by Defendants no. 1 to 6, 8, 9, 11 & 12 in their respective WS(s) in following paras:-

(i) Defendants no. 1 to 6, 8, 9, 11 & 12 have raised an objection that the OA under Reply is not maintainable, due to non-joinder of necessary party.

It is matter of record that the Defendants have not even mentioned about the names of necessary party nor they have filed any documentary evidence in support of their contention. Hence, this objection of Defendants no. 1 to 6, 8, 9 & 12 does not hold any water and same stands rejected.

(ii) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the OA under reply is not maintainable in law or facts as it does not even disclose any cause of action against the answering Defendants.

It is matter of record that the Applicant Bank has already filed all the relevant documents with regard to sanctioning of loan facilities to the Defendants from time to time, execution of all security documents by the Defendants etc. etc. Further more, Defendants have not denied availment of loan facilities from the Applicant Bank. In these circumstances, this plea of answering Defendants,

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being devoid of any merit, stands rejected accordingly.

(iii) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the Applicant Bank has charged interest at the exorbitant, excessive and usurious rates. It is stated in the respective WS(s) that the answering Defendants never agreed to the rates of interest as charged and claimed by the Applicant. Further more, each and every entry shown in the alleged statement of accounts is denied by the answering Defendants. It is also stated in the WS that the Applicant Bank has failed to give proper credit of the amount deposited by the answering Defendants from time to time as the entries made in the statement of accounts filed by the Applicant Bank in support of its alleged claim does not reflect the credited amount on the part of the Defendants. It is also stated in the WS(s) that the alleged Statements of Account is not a Statement of Accounts in the eyes of law as it is not certified as per Section 2(8) and 2-A Bankers Books Evidence Act. Therefore, the Statement of Account should not be taken on record and should not be read as evidence in the OA under reply. Thus, the present OA be dismissed on this ground alone, with heavy cost

Record reveals that the Applicant Bank has already filed Statement of Accounts of Defendant no. 1 which has been duly proved as Ex. AW-1/73. Further, the said Statement of Accounts reflect the

transaction history, charging interest. In banking recovery proceedings, certified extracts of account maintained in regular course of business constitute *prima facie* evidence of the existence debt under Section 4 of the Bankers' Books Evidence Act, when read with Section 19 of the RDB Act. These entries of the Statement of Accounts are supported by loan agreements, hypothecation deeds, guarantee deeds, sanction letters and audited balance sheets. Record reveals that the Statements of Accounts are accompanied by certificates under Section 2(8) and 2A of the Bankers' Books Evidence Act, 1891 This Tribunal is of the view that the Defendants were always at liberty to file their own statement of accounts but they have not chosen to file the same. Hence, it is clear that the Defendants have produced no documentary evidence whatsoever and/or no parallel accounting to establish that the said calculations are incorrect and/or that any payment made by them has not been credited. Now at the time of paying the dues of the Applicant, these Defendants are raising such type of plea to get absolve from their respective liability which is not acceptable. Hence, the present objection stands rejected accordingly.

(iv) Next objection raised by Defendants no. 1 to 6, 8, 9, 11 & 12 is that the Applicant Bank is guilty of *suppresio vari and suggestion falsi* as they have concealed various important and material facts from

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this Hon'ble Tribunal, hence, the present OA under reply is liable to be dismissed.

It is matter of record that the answering Defendants have not filed any documentary evidence in support of their respective WS(s), thus, the defence taken by them has remained unsubstantiated / uncorroborated. Even otherwise, the Applicant Bank has place on record all the relevant documents viz. Sanction Letters, Loan Agreements, Guarantee Deeds as well as Statement of Accounts duly certified under the Bankers' Books Evidence Act to establish the liability of Defendants. In these circumstances, this Tribunal is of the view that the present objection of answering Defendants does not hold any water and same stands rejected accordingly.

(v) Defendants no. 1 to 6, 8, 9, 11 & 12 have raised an objection that the answering Defendants / alleged guarantors have not executed any deed of guarantee in favour of the Applicant Bank qua the alleged claim filed by the Applicant Bank. It is also stated that the Applicant Bank has lost its securities, therefore, the answering Defendants / guarantors stand discharged and their names may be stuck off from the array of the parties from the present OA.

Record reveals that the Applicant Bank has already placed on record the respective guarantee deeds executed by Defendants no. 2 to 5 as well as Defendants no. 9 to 12 alongwith their board resolutions which have been duly proved by the

Applicant Bank. Moreover, all the answering Defendants have not denied their signatures on the said Guarantee Deeds. Hence, this Tribunal is of the view that by making such bald allegations, the Defendants cannot get absolve from their respective liability(ies). With these observations, this objection of the answering Defendants is hereby rejected.

(vi) Next objection raised by Defendants no. 1 to 6, 8, 9, 11 & 12 is that the Applicant Bank has not given complete credit facility, as requested by the answering Defendants from time to time and has caused immense loss to the answering Defendants.

It is matter of record that till the time of availing loan / credit facilities from the Applicant Bank / consortium member banks, Defendants never raised such type of objection. But now at the time of paying the dues of the Applicant, answering Defendants are raising such type of objection that too in the absence of any documentary proof, hence, this plea of Defendants does not hold any water and same stands rejected.

(vii) Defendants no. 1 to 6, 8, 9, 11 & 12 have further taken a plea that the Applicant Bank has filed the e-stamp papers in support of the alleged loan documents. The said e-stamp papers neither bear the second party name as the Applicant Bank nor the signatures / seal of any of the parties. These e-stamp papers have been misused by the Applicant Bank and guilty of the breach of trust. The

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mentioned blank e-stamp papers cannot be read into the evidence as the same is not admissible in the law. Thus, the present OA be dismissed.

This Tribunal is of the view that Indian Stamp Act is a fiscal statute meant to secure state revenues which not a weapon for borrowers to escape contractual liabilities. Even otherwise, the documents including guarantee agreements were duly executed and stamped in accordance with law prevailing at the time of execution of respective security documents. This Tribunal is of the view that when the answering Defendants did not raise any such objection at the time of availing loan facilities, now at the time of paying their dues, they cannot take benefit by taking such pleas. Moreover, Defendants have not quantified the alleged deficiency. Even otherwise, this objection of the Defendant does not dislodge the underlying facts of sanction, disbursement, utilization and default.

With the above said observations, this plea of answering Defendants stands rejected.

(viii) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that certain documents / supporting e stamp paper of certain documents, which are filed with the OA do not bear the name of the second party as the Applicant Bank. It is also stated that the said e-stamp paper does not bear the official seal and the signature of the authorized person of the Applicant Bank. It is further stated that the

Applicant Bank has misused the said e stamp paper/s and is guilty of breach of the trust. Hence, the said documents cannot be read into the evidence as the same is not admissible in the law.

This Tribunal does not find any merit in the aforesaid contention of the answering Defendants which is been raised without any documentary evidence. Even otherwise, availment of loan facilities and execution of security documents has also not been denied by the Defendants. Further more, Defendants have executed various loan / security documents from time to time which have already been proved by the Applicant. Thus, this Tribunal is of the view that now at the time of paying the dues of the Applicant, these Defendants cannot get any benefit by taking such frivolous grounds. Hence, this plea of answering stands rejected.

(ix) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the Applicant Bank has not filed the Statement of Accounts of the Trust and the Retention Account maintained by the Applicant Bank as a party to the alleged consortium member. It is also stated that the Defendants have paid huge amount of the money which are more than Rs. 100.0 Crore in the said TRA Account but neither the Applicant Bank has credited the payments into the TRA Account nor the Applicant Bank has mentioned anywhere in the present OA. In this way, the Applicant Bank tried to conceal the above

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mentioned fact. The Applicant Bank also did not comply the directions of the Reserve Bank of India about the Trust Retention Account, and it has clearly been shown the malafide intention of the Applicant Bank to grab the huge public money. The omission of the Applicant Bank to file the statement of the said TRA Account, which is relevant and mandatory, reflects the fraudulent conduct of the Applicant Bank.

As already discussed in above paras, the Applicant has placed on record the Statement of Accounts duly certified under the Bankers' Books Evidence Act, 1891, covering all loan accounts, along with calculation sheets for accrued interest.

It is matter of record that the Applicant bank has placed on record the Sanction Letters, Loan Agreements, Guarantee Deeds and a certified Statement of Account under the Banker's Books Evidence Act to establish the liability of Rs. 151,86,46,977.00. This Tribunal is of the view that answering Defendants have merely made bald assertions without pointing out a single specific mathematical error or uncredited payment to rebut this statutory presumption.

It is the case of the Applicant that all funds routed through the consortium mechanism and credited towards the borrower's liability have been reflected in the Cash Credit and Term Loan accounts. So far as, question of Defendants' plea that over Rs. 100.0

Crore were paid / credited by them into a TRA and suppressed by the Applicant, is concerned, this Tribunal is of the considered view that this plea is an unsubstantiated plea lacking particulars, dates or payment receipt.

In the light of above, this objection of answering Defendants no. 1 to 6, 8, 9, 11 and 12 is liable to be rejected and same stands rejected.

(x) Defendants no. 1 to 6, 8, 9, 11 & 12 have raised an objection that this Hon'ble Tribunal does not have jurisdiction to entertain the present OA.

It is matter of record that the Defendants reside and work for gain in Delhi and Noida, UP.

Section 19(1) of RDB Act, which governs the territorial jurisdiction of Debt Recovery Tribunals (DRTs), states that *an application may be made to the Tribunal within the local limits of whose jurisdiction: (a) The bank or financial institution maintains the account in which the debt is outstanding. (b) The defendant resides, carries on business, or personally works for gain. (c) The cause of action, wholly or in part, arises.*

Moreover, the amount to be recovered in the present OA exceeds Rs. 100.0 Crore. Hence, in the light of Gazette Notification No. 4718 (E) dated 04.10.2022 issued by Government of India, Department of Financial Services, Ministry of Finance, this

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Tribunal is having pecuniary jurisdiction to entertain, try and dispose off the OA.

In these circumstances, the Tribunal is of the considered view this Tribunal has territorial as well as pecuniary jurisdiction to entertain this Original Application (OA). Hence, this objection of Defendants no. 1 to 6, 8, 9, 11 & 12 stands rejected.

(xi) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the Applicant Bank has not filed any valuation report (by at least two Government approved valuer) with regard to the properties mentioned in Para 3A-iii, hence, this OA be dismissed on this ground.

It is matter of record that the Defendants no. 1 to 6, 8, 9, 11 & 12 have not filed any documentary evidence in support of their defence. They were always at liberty to file their own Valuation Reports but they have not done so. Hence, this objection of the answering Defendants no. 1 to 6, 8, 9, 11 & 12 does not hold any water and same stands rejected.

(xii) Defendants no. 1 to 6, 8, 9, 11 & 12 have further raised an objection that Sh. Pradeep Kumar, officer of the Applicant Bank has not been authorized to file any case before the Hon'ble Tribunal as there is no locus standi in favour of Sh. Pradeep Kumar to file the present OA.

It is evident from the records that this OA was instituted by a duly authorized officer of the

Applicant Bank holding a valid General Power of Attorney empowering them to institute legal proceedings. Further, Ms. Bhavya Sawhney, being a Senior Manager of Canara Bank on the basis of Power of Attorney dated 10.01.2014 (Ex. AW1/1) deposed from the records maintained by the Bank or FI. The authority of the concerned officer of Applicant Bank to depose is also established by the Board Resolution filed by the Applicant Bank on record.

Subsequently, NARCL was substituted in place of Applicant Bank i.e. Canara Bank and following the assignment of the debt, Sh. Pankaj Agnihotri, Senior Vice President of the Resolution Agent Company on behalf of NARCL exhibited the documents relied by the Applicant Bank. Further more, personal presence during the original execution is not mandated under the Bankers' Books Evidence Act, 1891, nor under the CPC, where an authorized officer depose from official records.

In the light of above, it is clear that this plea of answering Defendants does not hold any water and same stands rejected.

(xiii) Next objection raised by Defendants no. 1 to 6, 8, 9, 11 & 12 is that the OA under reply is barred by the law of limitation prescribed under the RDB Act, 1993.

Record reveals that the answering Defendants executed various security documents from time to

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time and lastly they executed the security documents on 11.12.2015. It is matter of record that this OA was filed on 22.05.2018. Hence, it is well within the period of limitation.

Even otherwise, present matter pertains to recovery of amount advanced to the Borrower Company against the mortgage of immovable properties. In this case, equitable mortgage(s) was created at the time of disbursal of loan facilities from time to time wherein the mortgage of immovable properties of Defendants is involved. The present claim of the Applicant is secured by registered equitable mortgages created on 29.03.2011, 30.03.2012, 17.08.2013, 15.12.2014, 23.12.2014, 26.12.2014 and 11.12.2015, for which the period of limitation to enforce payment is 12 years under Article 62 of the Limitation Act, 1963.

Thus, it is clear that this OA has been filed well within the period of limitation. Accordingly, this plea of Defendants no. 1 to 6, 8, 9. 11 & 12 is not tenable and same is hereby rejected.

(xiv) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the Applicant Bank and other consortium members have asked the answering Defendants to show their credit worthiness, when original title deeds were taken to show the Applicant Bank and other consortium members, title deeds were illegally retain to obtain the due diligence and search report by the bank official and the same were

never returned. The said title deeds were not given with any intention to create equitable mortgage by deposit of title deeds. It is stated in the WS(s) that the Applicant Bank and other consortium members are in possession of the same, by taking advantage of the fiduciary relationship which they enjoyed with the Defendants. They have illegally retained the title deeds in question. It is mainly contended in the WS that the answering Defendants had no intention to create the mortgage of the properties mentioned in this case. Further more, there was no extension of the mortgage of the said properties.

It is matter of record that the answering Defendants no. 1 to 6, 8, 9, 11 & 12 have not filed any documentary evidence in support of this contention. The Defendants have not denied their signaturs upon the loan / mortgage documents. Once, execution is not denied, the burden shifts to the Defendants to prove discharge. A bare denial in the pleadings dos not discharge the Defendants from their respective liability. Though, the answering Defendants have also taken a plea of blank documents as well. In the light of law laid down by the Hon'ble Delhi High Court in the matter of "Indian Bank Vs. Cheese Wafers (India) Pvt. Ltd. wherein it was held if the defendants have not filed any complaint before higher authorities of the bank or filed any complaint before police authorities……". Thus, the plea of signing the documents under misrepresentation / blank / unfilled documents / without consent, alleged

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to be misused by the Applicant Bank, is not maintainable after filing of the suit. Accordingly, this objection of Defendants no. 1 to 6, 8, 9, 11 & 12 is hereby rejected.

(xv) Defendants no. 1 to 6, 8, 9, 11 & 12 have also raised an objection that the credit facilities as requested by the Defendants were never released or sanctioned timely and in full causing thereby loss to the answering Defendants of worth rupee crores.

Though this type of objection(s) have already been dealt in above paras also, however, this Tribunal is of the considered view that in the absence of any documentary proof, this objection of answering Defendants is not tenable and same stands rejected.

(xvi) Defendants no. 1 to 6, 8, 9, 11 & 12 have also taken a plea that the answering Defendants had no intention to create any mortgage and / or negative lien, hence, there cannot be any valid mortgage in the absence of intention to create the same. It is also stated that the answering Defendants cannot be liable jointly or severally.

This issue of mortgage has already been discussed in above paras. Accordingly, same stands rejected.

(xvii) Next objection raised by the Defendants no. 1 to 6, 8, 9, 11 & 12 is that they did not execute any loan documents as alleged by the Applicant Bank, hence, there is no liability of the answering Defendants to the alleged dues of the Applicant Bank.

Furthermore, the said documents are not stamped with the sufficient stamp fee and the same cannot be taken on record.

This Tribunal is of the considered view that in the absence of any documentary proof, this objection of answering Defendants is not tenable and same stands rejected.

(xviii) Defendants no. 1 to 6, 8, 9, 11 & 12 have also taken a plea that the account of the Defendants was declared as NPA without complying the mandates of law and the norms in force issued by the RBI. It is further stated that account of the Defendants was maintained properly adhering to the agreed terms. No opportunity of representation was given to the Defendants before declaring the account as NPA.

This Tribunal is of the considered view that the answering Defendants have failed to file any documentary evidence in support of their contention. Due to default and irregular operations made by the Defendants, the account of the borrower company was declared as NPA. This Tribunal is of the view that the irregular conduct of the account contrary to norms of the RBI resulted into NPA and mere refutation made by the Defendants does not regularize the Account. Accordingly, in the absence of any documentary proof, this objection of answering Defendants does not hold any water and same stands rejected.

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(xix) Next objection raised by the Defendants no. 1 to 6, 8, 9, 11 & 12 is that the present OA is barred due to the misjoinder and the non-joinder of the parties.

As already discussed above, in the absence of any particular name or documentary evidence, this objection of answering Defendants is liable to be rejected and same stands rejected.

(xx) Defendants no. 1 to 6, 8, 9, 11 & 12 have also taken a plea that there was no agreement to subsume the apportioned OCC limit. The Applicant Bank is guilty of the criminal misappropriation of the funds as the funds belong to the Defendants and the Bank cannot appropriate the same without the consent of the Defendants.

Ld. counsel for Applicant has argued that there were proper agreements duly read and executed by the Defendants and there is no scope for criminal misappropriation of the funds as alleged by the answering Defendant. He further argued that the consent of the defendants is an integral part of all the agreements made by them in favour of the Applicant / consortium members.

I also find merit in the contention of Ld. counsel for Applicant. This Tribunal is of the view that by taking such type of pleas / objections, the answering Defendants cannot get absolve from their respective liability. Accordingly, this objection of the answering Defendants also stands rejected.

(xxi) Defendants no. 1 to 6, 8, 9, 11 & 12 have also taken a plea that the Legal Notice was issued by the Applicant Bank without any legal cause. It is further stated that the Applicant Bank sensing the mistake on its part issued another notice manipulating the facts and justifying the wrong doings on the part of the Applicant Bank.

Once, the answering Defendants have not denied availment of loan facilities, now they are raising such type of objection which is not acceptable. Hence, this objection of the Defendants is hereby rejected.

9.2 It is matter of record that Defendant no. 1 is the Principal Borrower and Defendants no. 2, 3, 4, 8 and 9 to 12 have been impleaded in the capacity of personal / corporate guarantors.

9.3 So far as, Defendants no. 5, 6 & 7 are concerned, they have been impleaded in this OA as mortgagors only. It is matter of record that Defendants no. 5, 6 & 7 have not executed any guarantee deed in favour of the Applicant Bank. In these circumstances, it is directed that the liability of Defendants no. 5, 6 & 7 shall be limited to the extent of property(s) mortgaged by them. .

9.4 So far as, Defendants no. 13 to 15 are concerned, these Defendants have been impleaded in this OA as Proforma Defendant and no relief has been claimed against these Defendants by the Applicant.

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9.5 On the other hand, the witness of applicant bank has fully corroborated the averments made in the OA. Even otherwise the whole case of the applicant bank is based on the documents and the witness has duly proved all these documents. The evidence filed by the applicant bank gone unrebutted and there is no question of disbelieving the evidence lead by the applicant bank and applicant has proved its case beyond reasonable doubts. Accordingly, the Applicant bank is entitled to recover the entire amount, as claimed in the OA from the Defendants along with pendentelite and future interest @13% p.a. and cost of this OA.

9.6 In this OA, Applicant has prayed to issue recovery certificate against Defendants no. 1 and Defendants no. 2 to 12 wherein the Defendant 1 is principal borrower whereas Defendants no. 2, 3, 4 and 8 are Personal Guarantors & Defendants no. 9 to 12 are the Corporate Guarantors.

So far as, Defendants no. 5, 6 & 7 are concerned, they have been impleaded as Mortgagors only.

So far as, Defendants no. 13 to 15 are concerned, these Defendants have been impleaded in this OA as Proforma Defendant and no relief has been claimed against these Defendants by the Applicant.

9.7 Consequently, TA No. 309/2022 is liable to be allowed in favour of Applicant against the Defendants no. 1 to 12 who are liable to pay the dues of the Applicant along with costs and pendentelite & future interest @13% p.a., from the date of filing of present OA, till the date of payment in full.

However, it is made clear that the liability of Defendants no. 5, 6 & 7 shall be limited to the extent of property(s) mortgaged by them (as discussed in above paras).

Discussion and observation made in Counter Claim

10. Heard Ld. counsels for the parties in Counter Claim and perused the entire record.

10.1 It is matter of record that the Applicants in CC have not chosen to file any documentary evidence, hence, the grounds taken by these Applicants in the CC remained unsubstantiated / uncorroborated.

10.2 Even otherwise, perusal of the Counter-Claim pleadings reveals an unequivocal admission by the Applicants in CC i.e. Borrowers/Guarantors regarding the availing of credit facilities from the consortium of lenders led by State Bank of India. The execution of loan-cum-security documents, creation of equitable mortgages, and furnishing of personal/corporate guarantees are also matter of record and duly corroborated by contemporaneous documents in the TA No. 309/2022.

10.3 It is also matter of record that the WS in TA No. 309/2022 was filed on 10.07.2019 but Counter Claim was filed on 08.01.2020 i.e. subsequent to filing of WS whereas, as per Section 19(5) of RDB Act, it should have been filed along with the WS.

10.4 So far as, allegations of fraud, coercion, obtaining signatures on blank papers is concerned, in the light of law laid down by the Hon'ble Delhi High Court in the matter of "Indian Bank Vs. Cheese Wafers (India) Pvt. Ltd., the plea

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of signing the documents under misrepresentation / blank / unfilled documents / without consent, alleged to be misused by the Bank, is not maintainable after filing of the suit. Accordingly, this plea of Applicants in CC stands rejected.

10.5 Applicants' in CC have also raised an objection that Bank committed breach of contract by failing to disburse additional credit facilities for capital expansion at Mandideep in early 2016.

This Tribunal is of the view that the availament / enhancement of credit facilities cannot be claimed as a matter of right. Any further enhancement or funding is strictly contingent upon commercial viability, satisfactory conduct of existing accounts, and compliance with prudential lending norms, and as per the Respondent Bank, none of these requirement were fulfilled by the Borrower.

10.5 Applicants in CC have also taken a plea with regard to Mandideep Flood Losses and Insurance Claims.

This Tribunal is of the view that the Respondent Bank had no active or passive role in causing the same. Even otherwise, the Applicant Bank, as a secured creditor, acted within its rights by asking the company to submit proper stock statements, co-operate with stock auditors, and route insurance claim proceeds through the designated Trust and Retention Account (TRA). Further more, it is stated in the Reply of Respondent Bank that the insurance proceeds received were appropriately accounted for and adjusted against the outstanding dues in terms of the hypothecation and assignment covenants. On the other hand, Applicants

in CC have not filed any documentary evidence in support of their contention.

In the light of above, this objection of Applicants in CC does not hold any water and same stands rejected.

10.6 Next objection raised by Applicants is with regard to "Holding on Operations" (HOO) and TRA Account Management.

So far as, this plea of "Holding on Operations" (HOO) and TRA Account Management is concerned, it is argued by Ld. counsel for Respondent Bank that the Consortium Lenders including Respondent Bank, out of sheer commercial grace and to facilitate business continuity, granted "Holding on Operations" (HOO) through the TRA account for a limited period. It is also stated that the continuation of HOO was expressly conditioned upon the Borrower's full cooperation with the independent forensic auditors and TEV consultants (KPMG) appointed under the RBI guidelines. It is further stated in the Reply that it was the Borrower/Counterclaimant, who persistently defaulted and failed to regularize the account, therefore, the Lenders were justified in discontinuing the HOO facility and classifying the account as a Non-Performing Asset (NPA) in accordance with RBI Master Circulars.

It is matter of record that Applicants in CC have not filed any documentary proof in support of their contention. On the other hand, Applicant in TA has already proved their case duly corroborated by their documentary evidence. Hence, in the absence of any documentary proof, this

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objection of Applicants in CC is not tenable and same stands rejected accordingly.

10.7 Applicants in CC have also raised an objection that due to non acceptance of the Foreign Investment proposal given by Gautam General Trading LLC, they have suffered huge losses, as mentioned in CC.

So far as, the present objection with regard to non acceptance of the Foreign Investment Proposal ($50 Million USD / Gautam General Trading LLC) by the consortium members including the Respondent Bank is concerned, this Tribunal is of the considered view that in the absence of any concrete, verifiable due diligence documents, board-approved projections, or binding escrow/investment commitments to the consortium lenders despite repeated opportunities, the Respondent Bank cannot be held liable for the said loss. In such a situation, no financial institution can grant unconditional No-Objection Certificates (NOCs) for foreign equity induction in an NPA account riddled with forensic audit red flags.

With the above said observations, this objection of Applicants in CC stands rejected accordingly.

10.8 Applicants have also raised an objection that that loan accounts of Applicant no. 1 were classified as NPA illegally by the Respondent and the SARFAESI actions were also initiated.

It is matter of record that the Applicants in CC have neither denied availment of credit facilities from the Applicant as well as other consortium Lender Banks. They have also not

denied the defaults committed by them. The Applicants have also not filed any concrete evidence in support of their contention. In these circumstances, this Tribunal is of the view that loan accounts of Applicant no. 1 was classified as as NPA on 30.11.2016 in compliance with RBI Prudential Norms on Income Recognition and Asset Classification (IRAC) due to continuous defaults committed by Applicants herein. Subsequently, demand notices under Section 13(2) of the SARFAESI Act, 2002 were issued by the Respondent Bank in order to recover its dues from the Borrowers / Guarantors / Mortgagers.

This Tribunal is also of the considered view that the Securitisation proceedings cannot be challenged in the present proceedings by way of a Counter Claim and for this purpose Applicants herein ought to have challenge the SARFAESI proceedings which has not been done by them.

With the above said observations, this plea of Applicants also stands rejected.

10.9 In the light of above discussion, this Tribunal is of the considered view that the present Counter Claim, being devoid of any merits, is liable to be rejected and same stands rejected accordingly.

ORDER on TA-309/2022 as well as
Counter Claim no. NDN/160/2023 (TCC)

(i) TA No. 309/2022 stands allowed in favour of Applicant and against the Defendants no. 1 to 12 for a sum of Rs. 151,86,46,977.00 (Rupees One Hundred Fifty One Crore Eighty Six Lakh Forty Six Thousand Nine Hundred and Seventy

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Seven only) along with costs & pendentelite and future interest @13% p.a. from the date of filing of this OA till realization of the entire dues of the Applicant.

However, it is made clear that the liability of Defendants no. 5, 6 & 7 shall be limited to the extent of property(s) mortgaged by them (as discussed in above paras).

Now Defendants are directed to the aforesaid amount(s) to the Applicant, within 30 days, failing which, the aforesaid amount shall be recovered from the sale of secured assets / hypothecated assets / stocks etc. belonging to Defendants no. 1 to 12.

In case of shortfall, same shall be recovered from the movable and immovable assets of Defendants no. 1, 2, 3, 4, 8 and 9 to 12 only.

(ii) **Counter Claim bearing NDN/160/2023 (TCC) in TA No. 309/2022** filed by Applicants / Counter Claimants against Respondent Bank / Canara Bank stands dismissed with no order to cost.

(iii) It is directed that the Applicant shall adjust the amount(s), if any, received from the Defendants during the pendency of this case.

(iv) It is also directed that the sale proceeds of the secured assets shall be distributed between the

consortium members, as per inter-se agreements executed amongst them.

(v) The recovery certificate be issued forthwith and be sent to the Recovery Officer-II, Debts Recovery Tribunal-III, Delhi.

(vi) Parties are directed to appear before the Recovery Officer-II, DRT-III, Delhi on 04.12.2026.

(vii) Copies of final order as well as Recovery Certificate be sent to all concerned free of cost.

(viii) A copy of this order be placed in Counter Claim file bearing no. NDN/160/2023 (M/s SSA International Ltd. & Ors. Vs. Canara Bank) as well.

Both the Files of TA and Counter Claim be closed and consigned to records.

[redacted],09.2026

(SHIV KUMAR - I)
PRESIDING OFFICER,
DRT-III, DELHI

(Pronounced in open court)
Dated: 29.09.2026

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