

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 1772 of 2025

In the matter of:

Mahendra Kumar Gupta, (Member of The Suspended Board of Directors of Gupta Power Infrastructure Ltd.)Appellant
Vs.

Canara Bank & Ors. ...Respondents

For Appellant	Mr. Gaurav Mitra, Sr. Advocate with Ms. Akanksha Mehra, Mr. Tanay Agarwal, Mr. Abhiraj Choudhary, Ms. Nancy Singh, Advocates.
For Respondents	Mr. Krishnendu Dutta, Sr. Advocate with Ms. Supriyo Mahapatra, Mr. Kaushik Dey, Mr. Sudeep Singh, Mr. Manish Gupta, Advocates Mr. Orijit Chatterjee, Ms. Swati Dalmia, Mr. Shubham Raj, Mr. Safura Ahmed, Advocates.

WITH

Company Appeal (AT) (Insolvency) No. 1844 of 2025

In the matter of:

Mahendra Kumar Gupta, (Member of The Suspended Board of Directors of Gupta Power Infrastructure Ltd.)Appellant
Vs.

Canara Bank & Ors. ...Respondents

For Appellant	Mr. Gaurav Mitra, Sr. Advocate with Ms. Akanksha Mehra, Mr. Tanay Agarwal, Mr. Abhiraj Choudhary, Ms. Nancy Singh, Advocates.
For Respondents	Mr. Krishnendu Dutta, Sr. Advocate with Ms. Supriyo Mahapatra, Mr. Kaushik Dey, Mr. Sudeep Singh, Mr. Manish Gupta, Advocates Mr. Orijit Chatterjee, Ms. Swati Dalmia, Mr. Shubham Raj, Mr. Safura Ahmed, Advocates.

WITH

Company Appeal (AT) (Insolvency) No. 1845 of 2025

In the matter of:

Mahendra Kumar Gupta, (Member of The Suspended Board of Directors of Gupta Power Infrastructure Ltd.)Appellant

Vs.

Canara Bank & Ors.

...Respondents

For Appellant

Mr. Gaurav Mitra, Sr. Advocate with Ms. Akanksha Mehra, Mr. Tanay Agarwal, Mr. Abhiraj Choudhary, Ms. Nancy Singh, Advocates.

For Respondents

**Mr. Krishnendu Dutta, Sr. Advocate with Ms. Supriyo Mahapatra, Mr. Kaushik Dey, Mr. Sudeep Singh, Mr. Manish Gupta, Advocates
Mr. Orijit Chatterjee, Ms. Swati Dalmia, Mr. Shubham Raj, Mr. Safura Ahmed, Advocates.**

WITH

Company Appeal (AT) (Insolvency) No. 1846 of 2025

In the matter of:

Mahendra Kumar Gupta, (Member of The Suspended Board of Directors of Gupta Power Infrastructure Ltd.)

....Appellant

Vs.

Canara Bank & Ors.

...Respondents

For Appellant

Mr. Gaurav Mitra, Sr. Advocate with Ms. Akanksha Mehra, Mr. Tanay Agarwal, Mr. Abhiraj Choudhary, Ms. Nancy Singh, Advocates.

For Respondents

**Mr. Krishnendu Dutta, Sr. Advocate with Ms. Supriyo Mahapatra, Mr. Kaushik Dey, Mr. Sudeep Singh, Mr. Manish Gupta, Advocates
Mr. Orijit Chatterjee, Ms. Swati Dalmia, Mr. Shubham Raj, Mr. Safura Ahmed, Advocates.**

WITH

Company Appeal (AT) (Insolvency) No. 1848 of 2025

In the matter of:

Mahendra Kumar Gupta, (Member of The Suspended Board of Directors of Gupta Power Infrastructure Ltd.)

....Appellant

Vs.

Canara Bank & Ors.

...Respondents

For Appellant

Mr. Gaurav Mitra, Sr. Advocate with Ms. Akanksha Mehra, Mr. Tanay Agarwal, Mr. Abhiraj Choudhary, Ms. Nancy Singh, Advocates.

For Respondents

Mr. Krishnendu Dutta, Sr. Advocate with Ms. Supriyo Mahapatra, Mr. Kaushik Dey, Mr. Sudeep Singh, Mr. Manish Gupta, Advocates

Mr. Orijit Chatterjee, Ms. Swati Dalmia, Mr. Shubham Raj, Mr. Safura Ahmed, Advocates.

WITH

Company Appeal (AT) (Insolvency) No. 1849 of 2025

In the matter of:

Mahendra Kumar Gupta, (Member of The Suspended Board of Directors of Gupta Power Infrastructure Ltd.) Vs.Appellant

Canara Bank & Ors. ...Respondents

For Appellant	Mr. Gaurav Mitra, Sr. Advocate with Ms. Akanksha Mehra, Mr. Tanay Agarwal, Mr. Abhiraj Choudhary, Ms. Nancy Singh, Advocates.
For Respondents	Mr. Krishnendu Dutta, Sr. Advocate with Ms. Supriyo Mahapatra, Mr. Kaushik Dey, Mr. Sudeep Singh, Mr. Manish Gupta, Advocates Mr. Orijit Chatterjee, Ms. Swati Dalmia, Mr. Shubham Raj, Mr. Safura Ahmed, Advocates.

ORDER

(Hybrid Mode)

24.08.2026: These Appeals have been filed against an impugned order dated 26.09.2025 passed by the Ld. NCLT, Kolkata, whereby the petition under Section 7 of the IBC was admitted against the Corporate Debtor- '*Gupta Power Infrastructure Limited*'. In the present Appeals, the two main objections were raised by the Learned Counsel for the Appellant *qua* the effect of the judgment passed by the Hon'ble Supreme Court in "***Vidarbha Industries Power Ltd. vs. Axis Bank Ltd.- (2022) 8 SCC 352***" which has been dealt with by us in our order dated 13.07.2026. Vide the said order dated 13.07.2026, the issue of limitation was only kept open though an opportunity was granted to the Appellant to approach the Respondent to find out if there

could be an amicable settlement of the dispute. At the outset, it is submitted by the Learned Counsel for the Appellant, the amicable settlement is not possible and he argued on limitation. It is admitted by the Learned Senior Counsel for the Appellant there is no dispute *qua* limitation in filing petition under Section 7 of the IBC but the crux of his argument is in the present petition under Section 7, the Respondent had failed to disclose the date of default and the same has been instituted without due regard to the mandatory statutory requirements and in a manner that is not only procedurally defective but also substantively misleading. It is the submission of the Learned Sr. Counsel for the Appellant the NPA classification of the Corporate Debtor's accounts declared by all the banking entities who are the petitioners in Section 7 petition is absolutely erroneous and as such there is no date of default given in pleadings and accordingly, the date which has been declared as date of default in Part IV Form 1 of Section 7 petition is bad in law.

2. However, the Learned Senior Counsel for the Respondent referred to paragraph 19 of the impugned order to say the NPA was declared by the Banks in exception from the 90 days of default as mandated in the RBI Master Circulars.

3. The impugned order has dealt with the objections raised by the Learned Counsel for the Appellant in the following manner:-

“21. The primary issue that has cropped up for determination for us is whether the date of classification of the debtor's account as NPA is wrongly considered as a date of default in the present case. We would note that in Laxmi Pat Surana (supra) the Hon'ble Apex Court at Para 37 has categorically observed that upon declaration of the loan

account or debt as NPA, that date can be reckoned as a date of default to enable the financial creditor to initiate an action under Section 7 of the I&B Code. It has been further observed that Section 7 of the Code comes into play when the corporate debtor commits "default" under Section 7, consciously uses the expression "Default", not the date of notifying the loan account of the corporate person as NPA. The extract of the judgment is reproduced hereunder:

37. Ordinarily, upon declaration of the loan account/debt as NPA that date can be reckoned as the date of default to enable the financial creditor to initiate action Under Section 7 of the Code.

However, Section 7 comes into play when the corporate debtor commits "default". Section 7. consciously uses the expression "default" -- not the date of notifying the loan account of the corporate person as NPA. Further, the expression "default" has been defined in Section 3(12) to mean non-payment of "debt" when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be. In cases where the corporate person had offered guarantee in respect of loan transaction, the right of the financial creditor to initiate action against such entity being a corporate debtor (corporate guarantor), would get triggered the moment the principal borrower commits default due to non-payment of debt. Thus, when the principal borrower and/or the (corporate) guarantor admit and acknowledge their liability after declaration of NPA but before the expiration of three years therefrom including the fresh period of limitation due to (successive) acknowledgments, it is not possible to extricate them from the renewed limitation accruing

due to the effect of Section 18 of the Limitation Act. Section 18 of the Limitation Act gets attracted the moment acknowledgment in writing signed by the party against whom such right to initiate resolution process Under Section 7 of the Code enures. Section 18 of the Limitation Act would come into play every time when the principal borrower and/or the corporate guarantor (corporate debtor), as the case may be, acknowledge their liability to pay the debt. Such acknowledgment, however, must be before the expiration of the prescribed period of limitation including the fresh period of limitation due to acknowledgment of the debt, from time to time, for institution of the proceedings Under Section 7 of the Code. Further, the acknowledgment must be of a liability in respect of which the financial creditor can initiate action Under Section 7 of the Code."

(Emphasis Added)

The corporate debtor has not denied the fact that it has failed to repay the debt. In fact, it has sought the shelter of the Vidarbha judgment to evade the commencement of insolvency proceedings.

22. The debt and default being established, nothing much needs to be done about the allegation of faulty classification of NPA of the corporate debtor's account. Thus, the answer to the first issue is in the negative."

4. After going through the impugned judgment, we have also noted the contents of the petition filed under Section 7 of the IBC by the Respondent herein. In its Part IV, the amount claimed to be in default is shown as Rs.28,881.18 Crore and the date of recall of all the loans is also mentioned to

be between 25.08.2023 till 22.11.2023. Further, the date of which the notices were sent under Section 13(2), being November 2023, is also mentioned. Clearly, the payment was not made in pursuance to Section 13(2) or recall notices, hence, the analysis given in the impugned order cannot be doubted with.

5. Considering the submissions made, we are not inclined to accept the appeals filed by the Appellants and hence the appeals are dismissed. No other issue has been raised before us except dealt with by us in the order dated 13.07.2026 as well as by the present order. Pending applications viz. IA No.6928 of 2025, IA No.6929 of 2025, IA No.6930 of 2025, IA No. 7176 of 2025, IA No. 7177 of 2025, IA No. 7180 of 2025, IA No. 7181 of 2025, IA No. 7183 of 2025, IA No. 7184 of 2025, IA No. 7193 of 2025, IA No. 7194 of 2025, IA No. 7199 of 2025 & IA No. 7200 of 2025 are all disposed of.

**[Justice Yogesh Khanna]
Officiating Chairperson**

**[Barun Mitra]
Member (Technical)**

**(Ajai Das Mehrotra)
Member (Technical)**

Anjali/md