

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT-II)**  
**IN**  
**Company Petition No. (IB)-263/ND/2026**

**IN THE MATTER OF (IB)-263/ND/2026:**  
**(Under Section 7 of IBC, 2016)**

**ACWA Services Private Limited**  
F-2-IN-198/12/13F/F Ramesh Market  
Garhi, Delhi, India-110065

**.... Applicant/  
Financial Creditor**

**Versus**

**RS Builtwell Private Limited**  
G-74, First Floor, RightSide  
Shaheen Bagh Abul Fazal Enclave, Part-II,  
Jamia Nagar, New Delhi, India-110025

**...Respondent/  
Corporate Debtor**

**Order Delivered on: 30.06.2026**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)**  
**SH. ATUL CHATURVEDI, HON'BLE MEMBER (T)**

**PRESENT:**

**For the Applicant** : Adv. Pulkit Deora, Adv. Raunak S., Adv. Aakash  
Mohan For Petitioner/FC

**For the Respondent** :

**ORDER**

**PER: SHRI ASHOK KUMAR BHARDWAJ, MEMBER (J)**

The captioned petition has been preferred by **ACWA Services Private Limited** (hereinafter referred to as the “Financial Creditor/Petitioner”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 against **M/s RS Builtwell Private Limited** (hereinafter referred to as the “Corporate Debtor/Respondent”) seeking initiation of Corporate Insolvency Resolution Process on account of alleged default in payment of financial debt amounting to ₹ 1,10,91,200/-. It is the case of the Financial Creditor that the aforesaid debt arose pursuant to a financial facility of ₹1,00,00,000/- extended to the respondent. According to the Petitioner, the respondent committed default in repayment of the said financial facility, resulting in the present claim.

**2.** The facts as espoused by the petitioner in the captioned petition, reads thus:-

- I. In early 2024, the Corporate Debtor, through its directors and persons in management and control, approached the Financial Creditor seeking urgent short-term financial assistance to meet its business commitments, operational liabilities, and financial exigencies. Based on the assurances and representations made by the Corporate Debtor, the Financial Creditor agreed to extend short-term financial assistance. It was agreed that the financial assistance would be disbursed in tranches and that, in the event of delay or failure in repayment, the amount advanced would carry simple interest at the rate of 8% per annum.

- II. Accordingly, the Financial Creditor disbursed an amount of ₹25,00,000/- on 30.07.2024 through bank transfer from its Kotak Mahindra Bank Account No. 1645306090. The said amount was repaid by the Corporate Debtor on 09.10.2024. Thereafter, upon further requests made by the Corporate Debtor for urgent capital requirements and ongoing project obligations, the Financial Creditor disbursed a sum of ₹50,00,000/- on 18.10.2024 as the second tranche and a further sum of ₹50,00,000/- on 23.10.2024 as the third tranche. After adjusting the repayment of ₹25,00,000/- made on 09.10.2024, the outstanding principal amount payable by the Corporate Debtor stood at ₹1,00,00,000/-.
- III. The aforesaid transactions are reflected in the ledger account maintained by the Financial Creditor, wherein the disbursements are recorded as payment entries and the repayment dated 09.10.2024 is recorded as a receipt entry. The ledger account reflects an outstanding balance of ₹1,00,00,000/- against the Corporate Debtor.
- IV. Despite repeated requests, reminders, and demands, the Corporate Debtor failed to repay the outstanding amount along with accrued interest within the agreed timeline. The date of default has been stated as 23.12.2024, from which date the outstanding financial debt became due and payable and has remained unpaid.
- V. In view of the continued default, the Financial Creditor issued a Demand Notice dated 06.05.2026 recalling the entire outstanding financial debt and calling upon the Corporate Debtor to pay a sum of ₹1,10,91,200/-, comprising the outstanding principal amount of ₹1,00,00,000/- and

accrued simple interest calculated at the rate of 8% per annum. The Corporate Debtor was granted seven days' time from the date of receipt of the notice to clear the outstanding dues. However, despite receipt of the said notice, the Corporate Debtor neither made the payment nor furnished any justification for non-payment of the debt.

**3.** The Financial Creditor has furnished the details of the financial debt in Part IV of the petition. The relevant excerpt of Part IV, reads thus: -

2.	<b>AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED. (ATTACHED THE</b>	<b>Principal Amount</b>	Rs. 1,00,00,000.00/-
		<b>Interest @8% p.a.</b>	Rs. 10,91,200/- as on 23.12.2025
		<b>Total Outstanding Amount</b>	Rs. 1,10,91,200/-
	<b>WORKINGS FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM)</b>	<p><b>Total Outstanding Amount of Debt:</b> As on April 30, 2026, a total outstanding amount of INR 1,10,91,200/- (Rupees One Crore Ten Lakh Ninety One Thousand Two Hundred Only) is due and payable by the Corporate Debtor to the Financial Creditor herein. (As on 18.05.2026 as per NeSL Record 8 INR 1,12,59,178.08/- is the total outstanding amount.)</p> <p>The aforesaid amount comprises of the outstanding principal amount of INR 1,00,00,000/- (Rupees One Crore Only) along with accrued interest and other charges amounting to INR 12,59,178.08/- as reflected in the NeSL Record dated 18.05.2026, calculated at the agreed rate of 8% per annum from the respective dates of disbursement of the financial assistance till 18.05.2026.</p> <p><b><u>Date of default:</u> 23.10.2025</b></p>	

**4.** We have heard the Ld. Counsel for the Petitioner and perused the material available on record.

**5.** The case of the Petitioner is that upon the request of the Respondent/Corporate Debtor for financial assistance to meet its business and operational requirements, the Petitioner advanced amount aggregating to ₹1,25,00,000/-. Out of the said amount, ₹25,00,000/- was repaid on 09.10.2024, leaving an outstanding principal sum of ₹1,00,00,000/-. According to the Petitioner, the aforesaid amount was advanced on the understanding that it would carry interest at the rate of 8% per annum in the event of delay in repayment. According to the Petitioner, despite repeated requests and demands the Respondent failed to repay the outstanding amount. The date of default has been stated as 23.12.2024. Thereafter, a Demand Notice dated 06.05.2026 was issued calling upon the Respondent to pay a sum of ₹1,10,91,200/- comprising of the outstanding principal amount and accrued interest.

**6.** Upon consideration of the pleadings and documents placed on record, the foremost issue that arises for determination is whether the amount advanced by the Petitioner constitutes a "financial debt" within the meaning of Section 5(8) of the Insolvency and Bankruptcy Code, 2016. It is a settled principle that mere transfer of funds from one entity to another does not ipso facto assume the character of a financial debt. The essential requirement is that the disbursement must have been made against the consideration for the time value of money and must satisfy the ingredients contemplated under Section 5(8) of the Code.

**7.** In the present case, despite specific queries raised by this Tribunal, the Petitioner has failed to place on record any loan agreement, sanction letter,

facility agreement, promissory note, board-approved financing arrangement, evidencing the terms and conditions governing the financial assistance. Significantly, no document has been produced to establish the tenure of the loan, the agreed repayment schedule, the date on which repayment became due or the contractual obligation of the Respondent to pay interest thereon.

**8.** The Ld. Counsel for the Petitioner submitted that there existed a mutual understanding between the parties whereby the Respondent was liable to pay interest at the rate of 8% per annum. However, when called upon to substantiate the said assertion, no documentary material whatsoever was produced to show the existence of such an arrangement. The plea of a mere oral or moral understanding, unsupported by any record, cannot by itself satisfy the statutory requirement of establishing disbursal against consideration for the time value of money particularly when initiation of corporate insolvency resolution process is sought on the basis thereof.

**9.** This Tribunal also considered the surrounding circumstances of the alleged disbursal. Upon being queried regarding the authority under which the Petitioner Company had advanced the said amount, the Ld. Counsel submitted that the Petitioner is engaged in consultancy, project management and ancillary services. However, no board resolution authorising the advancement of the loan has been produced. Likewise, no constitutional document or material has been placed on record to show that the advancement of funds in the manner alleged formed part of, or was incidental to, the authorised business activities of the Petitioner. Though the absence of such documents may not by itself be determinative, it assumes relevance in

the present case where the very nature and character of the transaction is under scrutiny.

**10.** Another aspect which creates considerable uncertainty in the Petitioner's case relates to the determination of the date of default. The Petitioner has stated the date of default as 23.12.2024. However, neither the pleadings nor the documents on record disclose the basis on which the said date has been arrived at. In the absence of any agreement specifying the tenure of the financial facility, repayment schedule, due date for payment or event of default clause, it remains unclear as to how the liability became due and payable on the aforesaid date.

**11.** The determination of default under the Code is not a matter of assumption but must be founded upon records showing that a legally enforceable debt had become due and remained unpaid. We are conscious of the settled legal position that while considering an application under Section 7 of the Code, the scope of inquiry is limited and the Adjudicating Authority is only required to satisfy itself regarding the existence of a financial debt and the occurrence of default in relation thereto. It is apposite to refer the judgement of Hon'ble SC in **Catalyst Trusteeship Ltd. v. Ecstasy Realty Pvt. Ltd., (2026) ibclaw.in 104 SC**, where it was held that:-

*“12. In this regard, we may note the settled legal position that for admission of an application under Section 7 of the Code, the adjudicating authority is only required to examine and satisfy itself that a financial debt exists and there is default in relation thereto.[...]”*

**12.** However, the limited nature of inquiry under Section 7 does not dispense with the requirement of establishing the foundational facts necessary to bring a claim within the ambit of a financial debt. In the present case, the material placed on record falls short of establishing that the disbursements were made against consideration for the time value of money. The Petitioner has failed to place on record any credible documentary evidence evidencing the terms of the borrowing, the agreed interest obligation, the repayment mechanism, or the basis for determination of the date of default. Consequently, this Tribunal is unable to arrive at a satisfaction that the amount claimed by the Petitioner constitutes a financial debt within the meaning of Section 5(8) of the Code.

**13.** In order to examine whether the Petitioner qualifies as a "Financial Creditor" within the meaning of Section 5(7) of the Insolvency and Bankruptcy Code, 2016, and whether the amount allegedly advanced to the Corporate Debtor constitutes a "Financial Debt" under Section 5(8) of the Code, it would be apposite to refer to the judgment of the Hon'ble Supreme Court in **Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Ltd., (2020) 8 SCC 401**, wherein it was held that:-

*“46. Applying the aforementioned fundamental principles to the definition occurring in Section 5(8) of the Code, we have not an iota of doubt that for a debt to become “financial debt” for the purpose of Part II of the Code, the basic elements are that it ought to be a disbursement against the consideration for time value of money. It may include any of the methods for raising money or incurring liability by the modes prescribed in clauses (a) to (f) of Section 5(8); it may also include any derivative transaction or counter-indemnity*

*obligation as per clauses (g) and (h) of Section 5(8); and it may also be the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in clauses (a) to (h). The requirement of existence of a debt, which is disbursed against the consideration for the time value of money, in our view, remains an essential part even in respect of any of the transactions/dealings stated in clauses (a) to (i) of Section 5(8), even if it is not necessarily stated therein. In any case, the definition, by its very frame, cannot be read so expansive, rather infinitely wide, that the root requirements of “disbursement” against “the consideration for the time value of money” could be forsaken in the manner that any transaction could stand alone to become a financial debt. In other words, any of the transactions stated in the said clauses (a) to (i) of Section 5(8) would be falling within the ambit of “financial debt” only if it carries the essential elements stated in the principal clause or at least has the features which could be traced to such essential elements in the principal clause. In yet other words, the essential element of disbursement, and that too against the consideration for time value of money, needs to be found in the genesis of any debt before it may be treated as “financial debt” within the meaning of Section 5(8) of the Code. This debt may be of any nature but a part of it is always required to be carrying, or corresponding to, or at least having some traces of disbursement against consideration for the time value of money.*

*47. As noticed, the root requirement for a creditor to become financial creditor for the purpose of Part II of the Code, there must be a financial debt which is owed to that person. He may be the principal creditor to whom the financial debt is owed or he may be an assignee in terms of extended meaning of this definition but, and nevertheless, the requirement of existence of a debt being owed is not forsaken.*

*48. It is also evident that what is being dealt with and described in Section 5(7) and in Section 5(8) is the transaction vis-à-vis the*

*corporate debtor. Therefore, for a person to be designated as a financial creditor of the corporate debtor, it has to be shown that the corporate debtor owes a financial debt to such person. Understood this way, it becomes clear that a third party to whom the corporate debtor does not owe a financial debt cannot become its financial creditor for the purpose of Part II of the Code.*

*49. Expounding yet further, in our view, the peculiar elements of these expressions “financial creditor” and “financial debt”, as occurring in Sections 5(7) and 5(8), when visualised and compared with the generic expressions “creditor” and “debt” respectively, as occurring in Sections 3(10) and 3(11) of the Code, the scheme of things envisaged by the Code becomes clearer. The generic term “creditor” is defined to mean any person to whom the debt is owed and then, it has also been made clear that it includes a “financial creditor”, a “secured creditor”, an “unsecured creditor”, an “operational creditor”, and a “decreeholder”. Similarly, a “debt” means a liability or obligation in respect of a claim which is due from any person and this expression has also been given an extended meaning to include a “financial debt” and an “operational debt”.*

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*50. A conjoint reading of the statutory provisions with the enunciation of this Court in Swiss Ribbons [Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17] , leaves nothing to doubt that in the scheme of the IBC, what is intended by the expression “financial creditor” is a person who has direct engagement in the functioning of the corporate debtor; who is involved right from the beginning while assessing the viability of the corporate debtor; who would engage in restructuring of the loan as well as in reorganisation of the corporate debtor’s business when there is financial stress. In other words, the financial creditor, by its own direct involvement in a functional existence of corporate debtor, acquires unique position, who could be*

*entrusted with the task of ensuring the sustenance and growth of the corporate debtor, akin to that of a guardian. In the context of insolvency resolution process, this class of stakeholders, namely, financial creditors, is entrusted by the legislature with such a role that it would look forward to ensure that the corporate debtor is rejuvenated and gets back to its wheels with reasonable capacity of repaying its debts and to attend on its other obligations. Protection of the rights of all other stakeholders, including other creditors, would obviously be concomitant of such resurgence of the corporate debtor.”*

**14.** The Hon'ble Supreme Court in ***Innoventive Industries Ltd. v. ICICI Bank & Anr., (2017) ibclaw.in 02 SC*** has held that the scheme of Section 7 of the Code is that the Adjudicating Authority is required to examine whether a debt has become due and payable and has not been paid. The Court has clarified that 'default' under Section 3(12) means non-payment of a debt when it has become due and payable and that at the stage of admission, the Adjudicating Authority has merely to see whether such default has occurred. It has further been held that a debt may be said to be not in default if it is shown that the debt is not due in law or in fact. Hence, Default under Section 3(12) requires a due and payable debt.

**15.** Keeping the aforesaid principles in mind, this Tribunal has examined the material placed on record by the Applicant. The Applicant has failed to produce any documentary evidence which would establish the nature and terms & conditions of the financial arrangement.

**16.** The entire case of the Applicant rests upon the factum of transfer of certain amounts to the account of the Corporate Debtor and the assertion that such amounts were advanced as financial assistance carrying interest at

the rate of 8% per annum. Mere transfer of money, by itself, is not sufficient to bring a transaction within the ambit of Section 5(8) of the Code. Equally significant is the absence of material establishing the occurrence of default.

**17.** It is also a settled principle that the Insolvency and Bankruptcy Code is not intended to serve as a substitute for recovery proceedings. The objective of the Code is resolution of insolvency and not enforcement of disputed monetary claims. Where the foundational requirements of a financial debt and default remain unestablished, the insolvency process cannot be invoked merely as a means of recovery. Nevertheless, the Applicant shall be at liberty to avail such other remedies as may be available to it in law for enforcement of its alleged claim.

**18.** In view of the foregoing discussion and the material available on record, this Tribunal is unable to record its satisfaction required under Section 7(5) of the Code regarding the existence of a financial debt and the occurrence of default in respect thereof. Accordingly, CP (IB) No. 263/ND/2026 filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 is dismissed. No order as to costs.

**Sd/-  
(ATUL CHATURVEDI)  
MEMBER (T)**

**Sd/-  
(ASHOK KUMAR BHARDWAJ)  
MEMBER (J)**