IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: MS. REETA KOHLI,
HON'BLE JUDICIAL MEMBER

MS. KAVITA BHATNAGAR
HON'BLE TECHNICAL MEMBER

CP No. (IB)- 06/07/JPR/2026

(Under Section 7 of the Insolvency and Bankruptcy Code, 2016, read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicatory Authority) Rules, 2016)

IN THE MATTER OF:
INDIA SME ASSET RECONSTRUCTION COMPANY LTD.

.... Financial Creditor

VERSUS

GIRIVAR HOTEL AND RESORT PVT LTD.

...Corporate Debtor

MEMO OF PARTIES

India SME Asset Reconstruction Company Ltd.
Registered Office:
The Ruby 11th Floor, Plot no. 29,
Senapti Bapat Marg, Dadar (West)
Mumbai - 400028.

...Financial Creditor/ Petitioner

VERSUS

Girivar Hotel and Resort Pvt. Ltd.
Registered Office:
Hanuman Villa, Khatipura Road
opp. Old Bright Land School,
Jaipur, (Rajasthan) 302012.

...Corporate Debtor/ Respondent

FOR THE PETITIONER : Shivangshu Naval, Adv.
FOR THE RESPONDENT : D. K. Bhalla, Adv.
Saloni Nagoria, Adv.
Sidharth Bapna, Adv.

Sd/-

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Order Pronounced On: 29.07.2026

ORDER

Per: Ms. Reeta Kohli, Judicial Member

1. The present Company Petition has been preferred under Section 7 of the Insolvency and Bankruptcy Code, 2016 ('IBC'/ 'Code') by *INDIA SME ASSET RECONSTRUCTION COMPANY LIMITED ('ISARC'/* 'Financial Creditor'/ 'Petitioner') seeking initiation of Corporate Insolvency Resolution Process of *GIRIVAR HOTEL AND RESORT PRIVATE LIMITED* ('Corporate Debtor'/ 'Respondent') on account of default in payment of Rs. 40,67,79,067.82/- (Rupees Forty Crores Sixty-Seven Lakhs Seventy-Nine Thousand and Sixty-Seven and Eighty-Two Paise Only) as on 31.10.2025 plus the cost paid towards the Adjudicating Authority's fee, litigation expenses and pendente lite and future interest and penal interest with effect from 31.10.2025.

2. The Petitioner ('Financial Creditor') is a company registered with Reserve Bank of India as *Asset Reconstruction Company* (hereinafter mentioned as ARC) having its registered office at *The Ruby, 11th Floor, North-West Wing, Plot no. 29, Senapati Bapat Marg, Dadar (West), Mumbai – 400028, Maharashtra (India)*. The present Petition is filed by its authorized representative *Ms. Sumedha Sawant*.

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3. The Respondent (Corporate Debtor) is a Private Limited Company, incorporated under Companies Act, 1956 on 22.06.2006 is classified as non-government company and registered with Registrar of Companies Jaipur. It has its registered office of at *Hanuman Villa, Khatipura Road opp. Old Bright Land School, Jaipur- (Rajasthan), 302012.*

4. The details of Financial Debt produced in Part IV of the Petition are reproduced hereunder:

PARTICULAR of FINANCIAL DEBT		
1.	Total Amount of Debt Granted	1. The financial creditor, India SME Asset Reconstruction Company Private Limited (*Assignee* of Small Industries Development Bank of India) (**"Financial Creditor" or "ISARC"**) a company registered with Reserve Bank of India as Asset Reconstruction Company having its office at *The Ruby, 11th Floor, North-West Wing, Plot no. 29, Senapati Bapat Marg, Dadar (West), Mumbai- 400028, Maharashtra*, acting through its authorized officer, *Ms. Sumedha Sawant*, who is authorized vide Authority Letter dated 21.10.2025 to file the present Petition. A copy of Authority Letter dated 21.10.2025 is annexed hereto and marked as Annexure-1. 2. It is submitted *vide* registered Assignment Agreement dated 18.01.2018 SIDBI assigned the loan accounts of the Borrower to the present Financial Creditor. Copy of deed of assignment dated 18.01.2018 is annexed hereto and marked as Annexure-2A. 3. *Vide* a loan application dated 03.06.2009, the Borrower, *Girivar Hotel and Resort Private Limited*, ("Corporate Debtor" or "Borrower") having its registered office at, *7-8, Hanuman*

Villa, Opposite Old Bright Lands School, Khatipura, Jaipur-302012, applied for sanction of a term loan of Rs 600.00 Lakhs for setting up a hotel and resort unit under the name of Golden Imperial, Jaisalmer.

4. In pursuance of the said loan application, the Borrower was sanctioned a term loan of Rs. 550.00 lacs (Rupees Five Crores Fifty Lacs Only) under Direct Credit Scheme (DCS) to the Borrower. A Letter of Intent (**Sanction Letter-I**) dated 22.03.2010 issued by the then financial creditor to convey the sanction of aforementioned term loan on the terms and conditions detailed in the letter of intent.

5. The Borrower agreed to the terms and conditions set out in the Letter of Intent and in token of acceptance, signed the same. A copy of the loan application form dated 03.06.2009 and the Letter of Intent dated 22.03.2010 are annexed herewith and marked as Annexure-4 and Annexure-5 respectively.

6. The said Credit Facility was secured by primary security being first charge over immovable assets and collateral securities by way of mortgage by deposit of title deeds and documents (equitable mortgage) in favour of the Financial Creditor.

7. In pursuance of the Sanction Letter- I, the Borrower also executed certain loan documents *inter-alia* including the Loan Agreement as per the terms and conditions mentioned therein. The Borrower also executed a deed of hypothecation dated 24.03.2010 whereby the Borrower agreed to hypothecate all the movables and other assets of the Borrower to secure loan for a sum of Rs. 5,50,00,000/- (Rupees Five Crore Fifty Lakhs Only). A copy of the said loan agreement dated 24.03.2010 is annexed hereto and marked as

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Annexure - 6.

8. Further, in pursuance of the Sanction Letter I, Loan Agreement and Deed of Hypothecation dated 24.03.2010, a Deed of Guarantee dated 24.03.2010 ("Guarantee Agreement-I") was also executed between the Financial Creditor and the personal guarantors namely:
a. Sh. Arvind Singh
b. Smt. Nanda Singh
who stood as personal guarantors to the Credit facilities availed by the Borrower. Vide the said Guarantee Agreement, the Guarantors extended their personal guarantee to secure the Credit Facilities availed by the Borrower of Rs. 5,50,00,000/- (Rupees Five Crore Fifty Lakhs Only) and undertook to be jointly and severally liable for repayment of the outstanding dues in respect of the Credit Facilities, if Borrower defaults in repayment.

9. Subsequently, *vide* loan application dated 27.04.2011, the Borrower requested the Applicant for sanction of a term loan of Rs. 400.00 lacs in addition to the existing loan of Rs. 550.00 lacs for construction of hotel with 48 rooms at Khasra no. 26, village Manpia Gram Panchayat Amar Sagar Tehsil and District Jaisalmer. A copy of the loan application dated 27.04.2011 is annexed hereto and marked as Annexure-7.

10. In addition to the above, the Credit Facilities availed by the Borrower were secured by collateral securities by way of equitable mortgage of the properties mentioned here as under:
   i. All immovable properties situated at C-88 to 92, 95 to 99, 94 & 121 Bajrang Nagar, Kishangarh Renwal, Tehsil-Phulera, District-Jaipur admeasuring 2793.48 sq. Yards owned by one of the personal

		guarantors and director, Sh. Arvind Singh Chauhan. ii. All those piece and parcel of two residential plots bearing C-121 and 94, Bajrang nagar, at Khasara No. 1157, Kishangarh, Renwal, Rajasthan aggregate admeasuring 793.48 sq. yards 11. That in order to create security by way of mortgage by deposit of title deeds and documents in favour of the applicant to secure the term loan of Rs. 550.00 lacs and all other monies payable by the Defendant no. 1 to the applicant under the loan agreement and in pursuance of the terms and conditions of the letter of intent, loan agreement and general conditions rupee loan the Defendant No.1 through Defendant No. 2 attended the branch office at Jaipur of the applicant on 24.03.2010, and deposited the title documents in original relating to the immovable property i.e. all the part and parcel of the land bearing khasra no. 26, village Manpia, Gram Panchayat Samiti Amar Sagar, Tehsil and District Jaisalmer admeasuring 34.14 bigha (61738.93 sq. mtrs.)for creating first charge in favour of the applicant and thereby created a mortgage by deposit of title deeds of the aforesaid immovable property in favour of the applicant to secure the said term loan. The title documents deposited by the Defendant no. 1 with the applicant are: (1) Copy of Jamabandi in the name of M/s Girivar Hotel and Resort Pvt. Ltd. (2) Original power of attorney dated 21.06.2006 executed by Smt. Pushpa Devi in favour of Shri Vishvajeet Singh registered before Sub Registrar, Jaisalmer. (3) Original sale deed dated 22.08.2007 executed by Smt. Pushpa Devi through power of attorney holder Shri Vishvajeet Singh in favour of M/s Girivar Hotel & Resort Pvt. Ltd.

(4) Original no objection certificate dated 05.06.2008 issued by Gram Panchayat to M/s Girivar Hotel & Resort Pvt. Ltd. for hotel construction.
(5) Original letter dated 28.7.2008 issued by Govt. of Rajasthan to District Collector.
(6) Original letter for permission to conversion the land for hotel purpose dated 10.10.2008 issued by Govt. of Raj. Revenue (Land Conversion) department to District Collector, Jaisalmer.
(7) Original conversion order dated 14.01.2009 issued by District Collector in favour of M/s Girivar Hotel & Resort Pvt. Ltd.
(8) Original site plan of converted land approved by District Collector.

12. That the mortgage and charge created by the Corporate Debtor through Sh. Arvind Singh Chauhan in respect of the immovable property aforesaid by way of deposit of title deeds was duly entered in the equitable mortgage register maintained in ordinary course of business by the applicant on 25.03.2010. A duly Copy of entry no. 767 from the said register being true and correct copy of relevant extract of the register/book maintained by the Financial Creditor regularly in ordinary course of business is annexed herewith and marked as Annexure -8.

13. That the mortgage and charge created by Sh. Arvind Singh Chouhan in respect of the immovable properties aforesaid by way of deposit of title deeds was duly entered in the equitable mortgage register maintained in ordinary course of business by the applicant on 25-3-2010. A duly Copy of entry no. 768 from the said register being true and correct copy of relevant extract of the register/book maintained by the applicant regularly in ordinary course of business is annexed herewith and marked as

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Annexure- 9. The original register is lying with the Financial Creditor and the same will be produced as and when so directed by the learned tribunal.

14. Pursuant to the aforesaid request of the Borrower, the Financial Creditor vide the Letter of Intent dated 01.08.2011 ("**Sanction Letter-II**") had sanctioned the additional credit facility to the tune of Rs. 350.00 Lacs under DCS Scheme to the Borrower in the manner stated as under:

S No.	Credit Limit	Amount (in Lakhs)
1.	Term Loan I	Rs. 550.00/-
2.	Term Loan II	Rs. 350.00/-
	Total	**Rs. 900.00/-**

The revised total Loan stood increased by Rs. 3,50,00,000/-, totalling to Rs. 9,00,00,000/- (Rupees Nine Crore Only).
A copy of the Sanction Letter-II dated 01.08.2011 is annexed hereto and marked as Annexure-10.

15. In pursuance of the Sanction Letter II, the Borrower signed and executed a Loan Agreement dated 10.02.2012. In pursuance of the same a Deed of Hypothecation dated 10.02.2012 was also executed extending charge over all the movables and other assets of the Borrower in favour of the Financial Creditor to secure the sanctioned Term Loan of Rs. 350.00 lacs in addition to existing term loan of Rs. 550.00 lacs together with further interest as per contractual rate. A copy of the said Loan Agreement and Deed of hypothecation dated 10.02.2012 is annexed hereto and marked as Annexure- 11 & Annexure- 12 respectively.

16. The aforesaid credit facilities were secured by way of primary security by way of mortgage in favour of the Financial Creditor of immovable

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		properties situated at Khasra No. 26, Village: Manpia, Gram Panchayat: Amarsagar, District Jaisalmer and hypothecation of all the tangible movable assets of the Borrower as mentioned in Sanction Letter II dated 10.02.2012. 17. In addition to the above, the Credit Facilities availed by the Borrower were secured by collateral securities by way of equitable mortgage of the properties mentioned here as under: i. All immovable properties situated at C-88 to 92, 95 to 99, 94 & 121 Bajrang Nagar, Kishangarh Renwal, Tehsil-Phulera, District-Jaipur admeasuring 2793.48 sq. Yards owned by one of the personal guarantors and director, Sh. Arvind Singh Chauhan. ii. All immovable properties situated at Khasra No. 1157, Plot Nos. C68 & C93, C88 to 92, C95 to 99, C121, C94, Khasra No. 1147/1, Plot Nos. A-47 (a), Khasra No. 1147, Plot No. A-68 (a), Khasra No. 1135/1, Plot No. D-11, at Bajrang Nagar, Kishangarh Renwal, Tehsil-Phulera, DistrictJaipur admeasuring 2793.48 sq. yrds. owned by Shri Arvind Singh Chauhan. 18. That the mortgage and the extension of charge created by Smt. Nanda Singh Chouhan in respect of the immovable properties aforesaid by way of deposit of title deeds was duly entered in the equitable mortgage register maintained in ordinary course of business by the applicant on 13-2-2012. A duly Copy of entry no. 1008 from the said register being true and correct copy of relevant extract of the register/book maintained by the Financial Creditor regularly in ordinary course of business is annexed herewith and marked as Annexure- 13. The original register is lying with the applicant and the same will be produced as and when directed by the learned tribunal.

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		19. That the mortgage and the extension of charge created by Sh. Arvind Singh Chouhan in respect of the immovable properties aforesaid by way of deposit of title deeds was duly entered in the equitable mortgage register maintained in ordinary course of business by the Financial Creditor on 02.03.2012. A duly Copy of entry no. 1016 from the said register being true and correct copy of relevant extract of the register/book maintained by the Financial Creditor regularly in ordinary course of business is annexed herewith and marked as Annexure-14. 20. In pursuance of the Sanction Letter II and Loan Agreement dated 10.02.2012, the guarantors being a. Sh. Arvind Singh b. Smt. Nanda Singh; executed another Guarantee Agreement dated 10.02.2012 extending their personal guarantees to secure the credit facilities to the tune of Rs. 3,50,00,000/- (Rupees Three Crore Fifty Lakhs Only) availed by the Borrower and undertook to be jointly and severally liable for the dues repayable by the Borrower. A copy of the said guarantee agreement dated 10.02.2012 is annexed hereto and marked as Annexure-15. 21. Thereafter, *vide* letter dated 01.03.2012, partial modification of Sanction Letter-II was made in as much as the clause 9A of the Sanction Letter-II was replaced as mentioned therein. A copy of the letter dated 01.03.2012 is annexed hereto and marked as Annexure-16. 22. Further, *vide* another letter dated 13.03.2012, subsequent modification was made in the Sanction Letter II and the modification letter dated 01.03.2012 as referred above by replacing clause 9 (A)(3) and 9 (B) of the Sanction Letter

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II. By virtue of the said clauses certain immovable properties were mortgaged and personal guarantees were obtained from *Ms. Natasha Singh Chauhan* in addition to the existing personal guarantors being *Mr. Arvind Singh Chauhan* and *Mrs. Nanda Singh Chauhan*. A copy of the letter dated 13.03.2012 is annexed hereto and marked as Annexure-17.

23. *Vide* another letter dated 30.05.2012, in partial modification of the Loan agreement dated 10.02.2012, additional clauses were inserted after clause no. 9(A), 3(B) and before clause no. 9(B). By virtue of the said clauses certain immovable properties were mortgaged and personal guarantees were obtained from *Mr. Manvendra Singh Chauhan* in addition to the existing personal guarantors being *Mr. Arvind Singh Chauhan, Mrs. Nanda Singh Chauhan* and *Ms. Natasha Singh Chauhan*. A copy of the letter dated 30.05.2012 is annexed hereto and marked as Annexure-18.

24. Further, the personal guarantors, *Ms. Natasha Singh & Mr. Manvendra Singh* executed separate deeds of guarantee dated 13.03.2012 and 31.05.2012 respectively in favour of the Financial Creditor. They extended their personal guarantees to secure the Credit Facilities availed by the Borrower of Rs. 3,50,00,000/- (Rupees Three Crore Fifty Lakhs Only) and undertook to be liable for repayment of the outstanding dues in respect of the Credit Facilities, if Borrower defaults in repayment. A copy of the Guarantee Agreement dated 13.03.2012 and 31.05.2012 is attached hereto and marked as Annexure- 19 and Annexure- 20 respectively.

25. Subsequently, upon request of the Borrower vide loan Application dated 07.01.2013 for sanction of additional term loan of Rs. 1 Crore and DRCS loan of Rs. 1.50 Crore, the Financial Creditor

		vide Letter of Intent dated 06.11.2013 ("**Sanction Letter-III**") sanctioned the credit facilities to the tune of Rs. 2.50 Crores to the Borrower. A copy of the loan application form dated 07.01.2013 is annexed hereto and marked as Annexure-21 and a copy of the Sanction letter III dated 06.11.2013 is annexed hereto and marked as Annexure-22. 26. Further, in pursuance of the Sanction Letter III, the Borrower signed and executed various loan documents including but not limited to a Loan Agreement dated 06.11.2013, a deed of hypothecation dated 06.11.2013. A copy of the Loan Agreement and Deed of Hypothecation dated 06.11.2013 is annexed hereto and marked as Annexure-23 and Annexure-24 respectively. 27. In pursuance of the Sanction Letter III and Loan Agreement dated 06.11.2013, a guarantee agreement dated 06.11.2013 was executed between Financial Creditor and the guarantors including the personal guarantor herein, namely i. Sh. Arvind Singh ii. Smt. Nanda Singh, iii. Smt. Natasha Singh, iv. Shri. Manvendra Singh, v. Shri. Gajendra Singh Panwar; The guarantors extended their personal guarantee to secure the credit facilities availed by the Borrower of Rs. 250.00 Lakhs and undertook to be jointly and severally liable for the outstanding dues of the Financial Creditor if the Borrower fails to repay the loan amount. A copy of the guarantee agreement dated 06.11.2013 executed by the Personal Guarantors are collectively annexed hereto and marked as Annexure-25 (Colly.). 28. Further, on 13.12.2013, Shri. Ranveer Singh also executed Deed of Guarantee to secure the credit facilities availed by the Borrower of Rs. 250.00

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		Lakhs and undertook to be jointly and severally liable for the outstanding dues of the Financial Creditor if the Borrower fails to repay the loan amount. Copy of the aforesaid deed of guarantee dated 13.12.2013 is annexed hereto and marked as Annexure-26. 29. Apart from the personal guarantees of Shri. Arvind Singh, Smt. Nanda Singh, Smt. Natasha Singh, Shri. Manvendra Singh, Shri. Gajendra Singh Panwar and Shri. Ranveer Singh, the Credit Facilities availed by the Borrower are secured by Primary Securities collateral securities by way of equitable mortgage of the properties mentioned here as under: **<u>Primary Securities:</u>** i. Property at Khasra No. 26, Village- Manpia, District- Jaisalmer admeasuring 61738.93 sq. mtrs. owned by *Girivar Hotel and Resort Pvt. Ltd.* & Hypothecation of P&M and other movables of the Borrower. **<u>Collateral Securities:</u>** i. All part and parcel of property Khasra No. 1150 & 1151, Plot No. B-68 to 72, B-131 to 134 and Khasra No. 1157, Plot No. C-69 to 73, C116 to 120 at Bajrang Nagar, Kishangarh Renwal, Tehsil-Phulera, District-Jaipur, admeasuring 3616.89 sq. yards owned by *Smt. Nanda Singh Chauhan.* *ii.* Khasra No. 1157, Plot Nos. C68 & C93, C88 to 92, C95 to 99, C121, C94, Khasra No. 1147/1, Plot Nos. A-47 (a), Khasra No. 1147, Plot No. A-68 (a), Khasra No. 1135/1, Plot No. D-11, at Bajrang Nagar, Kishangarh Renwal, TehsilPhulera, District- Jaipur admeasuring 2793.48 sq. yrds. owned by *Shri Arvind Singh Chauhan.* iii. Commercial Plot situated at Plot No. C-1 in Khasara No. 602 to 605, 700, 701, 703, 704, 707, 1178/702 & 698, Vinayak Nagar, Kismidesar, Bikaner, Admasuring 3516.63 sq. meter in the name of *Sh. Arvind Singh*

		Chouhan. 30. That the mortgage and charge created by *Sh. Arvind Singh Chouhan* in respect of the immovable properties aforesaid by way of deposit of title deeds was duly entered in the equitable mortgage register maintained in ordinary course of business by the Financial Creditor on 02.07.2013. A duly Copy of entry no. 1145 from the said register being true and correct copy of relevant extract of the register/book maintained by the Financial Creditor regularly in ordinary course of business is annexed herewith and marked as Annexure-27. 31. That the mortgage and charge created by the Corporate Debtor through *Arvind Singh Chouhan* in respect of the immovable property aforesaid by way of deposit of title deeds was duly entered in the equitable mortgage register maintained in ordinary course of business by the Financial Creditor on 07.11.2013. A duly Copy of entry no. 1170 from the said register being true and correct copy of relevant extract of the register/book maintained by the Financial Creditor regularly in ordinary course of business is annexed herewith and marked as Annexure-28. That the mortgage and the extension of charge created by *Sh. Arvind Singh Chouhan* in respect of the immovable properties aforesaid by way of deposit of title deeds was duly entered in the equitable mortgage register maintained in ordinary course of business by the Financial Creditor on 07.11.2013. A duly Copy of entry no. 1172 from the said register being true and correct copy of relevant extract of the register/book maintained by the Financial Creditor regularly in ordinary course of business is annexed herewith and marked as Annexure-

		29. That the mortgage and the extension of charge created by Smt. Nanda Singh Chouhan in respect of the immovable properties aforesaid by way of deposit of title deeds was duly entered in the equitable mortgage register maintained in ordinary course of business by the Financial Creditor on 07.11.2013. A duly Copy of entry no. 1174 from the said register being true and correct copy of relevant extract of the register/book maintained by the Financial Creditor regularly in ordinary course of business is annexed herewith and marked as Annexure-30. That the mortgage and the extension of charge created by Sh. Arvind Singh Chouhan in respect of the immovable properties aforesaid by way of deposit of title deeds was duly entered in the equitable mortgage register maintained in ordinary course of business by the Financial Creditor on 07.11.2013. A duly Copy of entry no. 1171 from the said register being true and correct copy of relevant extract of the register/book maintained by the Financial Creditor regularly in ordinary course of business is annexed herewith and marked as Annexure-31. 32. That the mortgage and the extension of charge created by the *Sh. Arvind Singh Chouhan* in respect of the immovable properties aforesaid by way of deposit of title deeds was duly entered in the equitable mortgage register maintained in ordinary course of business by the Financial Creditor on 07.11.2013. A duly Copy of entry no. 1173 from the said register being true and correct copy of relevant extract of the register/book maintained by the Financial Creditor regularly in ordinary course of business is annexed herewith and marked as Annexure-

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		32. 33. However, despite the Financial Creditor having sanctioned and disbursed the aforesaid credit facilities as per the requirements of the Borrower from time to time, the Borrower failed to maintain financial discipline in relation to the credit facilities by failing to pay the due installments as per the terms and conditions of the Sanction Letters and the respective loan agreements and therefore, the account of the Borrower was declared NPA on 10.06.2014. 34. Thereafter, the Borrower, *vide* letter dated 17.04.2015, issued 12 post-dated cheques aggregating to Rs. 1.01 Crore towards part payment of dues and requested the Financial Creditor to defer legal action. Acting upon this request, the Applicant refrained from further steps. However, only Rs. 36.00 lakhs were realized. The Financial Creditor, vide letter dated 10.07.2015, called upon the Borrower to pay the balance Rs. 65.00 lakhs by 24.07.2015 and to submit a repayment plan. 35. Subsequently, by letter dated 14.08.2015, the Financial Creditor again requested payment, to which Defendant No. 1, vide reply dated 18.09.2015, assured payment of Rs. 40-50 lakhs by September 2015 and clearance of entire dues by February 2016, also stating that their hotel project would be operational by November 2015. 36. However, due to recurring defaults and irregularities in making payment, the Financial Creditor was constrained to issue a recall notice dated 13.10.2016 demanding outstanding payment of Rs. 12,07,28,918.00 (as on 10.10.2016) along with interest and costs, directing payment by 14.11.2016. A copy of the recall notice dated 13.10.2016 is

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		annexed hereto and marked as Annexure-33. 37. That since no payment was made by the Borrower, the Financial Creditor, vide its notice dated 05.12.2016, invoked the personal guarantees of the following: i. Sh. Arvind Singh ii. Smt. Nanda Singh, iii. Smt. Natasha Singh, iv. Sh. Manvendra Singh, v. Sh. Gajendra Singh Panwar, vi. Sh. Ranveer Singh Copies of the notice dated 05.12.2016 along with the postal receipts is annexed hereto and marked as Annexure-34. 38. Owing to the aforesaid, failure to repay on part of the Borrower, the Financial Creditor issued a demand notice dated 12.12.2016 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act") to the Borrower as well as to the guarantors. However, the Borrower failed to repay its outstanding dues even after the lapse of the statutory period of 60 days. 39. In 2017, the Financial Creditor filed an Original Application under Section 19(1) of the Recovery of Debts and Bankruptcy Act, 1993 ("RDB Act"), bearing no. 177/2017 ("O.A."), before the Ld. Debts Recovery Tribunal, Jaipur, against the Borrower for recovery of its dues of Rs. 12,82,84,533.00/- plus interest. The same is pending adjudication. 40. It is humbly submitted that the total outstanding amount as on 31.10.2025 is Rs.40,67,79,067.82. 41. It is relevant to submit that the Borrower, from time to time, submitted various One Time Settlement (OTS) proposals acknowledging its

liability towards the Financial Creditor. Initially, vide email dated 04.10.2018, the Borrower offered an OTS of Rs. 8 Crores, which was subsequently rejected by the Financial Creditor vide email dated 12.03.2019. Thereafter, *vide* letter dated 09.05.2019, the Borrower submitted a revised OTS proposal of Rs. 13 Crores, which too was rejected by the Financial Creditor *vide* letter dated 01.10.2019. Subsequently, *vide* letter dated 21.10.2019, the Borrower again offered a revised OTS proposal of Rs. 13.50 Crores, which was rejected vide letter dated 07.11.2019. Thereafter, vide letter dated 18.11.2019, the Borrower proposed an OTS of Rs. 15 Crores towards full and final settlement of its dues, and later vide letter dated 06.03.2024, further offered an additional Rs. 1 Crore towards interest, thereby enhancing the total OTS offer to Rs. 16 Crores.

Copies of various correspondences dated 04.10.2018, 12.03.2019, 09.05.2019, 01.10.2019, 21.10.2019, 07.11.2019, 18.11.2019, and 06.03.2024 are annexed hereto and marked as Annexure- 35 (Colly).

42. Subsequently, *vide* dated 20.12.2024, Borrower offered to settle the matter for a sum of Rs. 15 Crores plus Simple Interest @ MCLR rate from the date of previous OTS Sanction i.e. 14.01.2020 till 20.12.2024. Thereafter, the Borrower revised its OTS proposal for a sum of Rs. 18 Crores and further to Rs. 18.50 Crores vide letter dated 26.04.2025.

    Copies of the letter dated 20.12.2024 & 06.01.2025 is annexed here to and marked as Annexure-36 (Colly).

43. Thereafter, vide letter dated 07.05.2025, the Financial Creditor, after due consideration and in its commercial wisdom, conveyed its inability to accept the OTS proposal submitted by the Borrower and called upon to substantially

increase the amount, so as to enable the Financial Creditor to consider any further process. A copy of the aforesaid letter dated 07.05.2025 is annexed hereto and marked as Annexure-37.

44. Due to default in repayment of the financial debt by the Borrower and the Personal Guarantors, the Financial Creditor is filing this application for initiation of Insolvency Resolution Process against the Corporate Debtor under section 7 of IBC, 2016.

45. Till date the Corporate Debtor has failed to make the outstanding payment to the Financial Creditor. The Financial Creditor is filing this Application to initiate the Corporate Insolvency Resolution Process under Section 7 of the IBC, 2016.

46. The instant Application is well within the period of limitation. It is respectfully submitted that the Borrower has, from time to time, duly acknowledged its liability towards the Applicant in its audited balance sheets for the financial years 2016-2017 up to 2023-2024. These balance sheets, constitute valid and binding acknowledgments of debt in terms of Section 18 of the Limitation Act, 1963, thereby extending the period of limitation for the present proceedings. Copies of the relevant extract of Balance Sheet of the Borrower for the Financial years 2016-2017 up to 2023-2024 are annexed hereto and marked as Annexure-38(Colly).

47. In addition, the Borrower vide its letters dated 20.12.2024 and 06.01.2025, proposing a One-Time Settlement (OTS), has once again acknowledged the subsisting liability. It is a well-settled principle that a proposal for settlement of outstanding dues unequivocally amounts to acknowledgment of debt under

		Section 18 of the Limitation Act, 1963, and thereby gives rise to a fresh period of limitation. Further, the debt is also evident from the index of charges of the Borrower on the website of Ministry of Corporate Affairs. The Loans sanctioned vide Sanction Letters dated I, II and III are registered and the charge is created against the same. A copy of the master data of the Borrower is annexed hereto and marked as Annexure- 39.
2.	**Date(s) of Disbursement**	A loan facility-wise dates of disbursal in a tabular form is annexed and marked as Schedule-A
3.	**Amount Claimed to Be in Default and The Date on Which the Default Occurred (The Tabulation is already Annexed Herewith)**	**<u>AMOUNT CLAIMED TO BE IN DEFAULT:</u>** **<u>DATE OF DEFAULT:</u>** The date of default is 13.10.2016, when the Financial Creditor issued the loan recall notice recalling the outstanding payment from the Corporate Debtor. The limitation period is extended from time to time as the debt is acknowledged by the Borrower from time to time in various correspondences with the Financial Creditor inter alia including Emails dated 04.10.2018 and 24.02.2019, Letters dated 09.05.2019, 21.10.2019, 08.11.2019, 18.11.2019, and 06.03.2024. The debt is also acknowledged in the respective balance sheets of the Borrower for financial year beginning from 2016-17 to 2023-24. Further *vide* a letter dated 20.12.2024, one time settlement ("OTS") was also proposed by the Borrower to the Financial Creditor offering to settle dues for a sum of Rs. 15 Crores. Thereafter, Borrower revised its OTS proposal for a sum of Rs. 18 Crores and further to Rs. 18.50 Crores vide letters dated 06.01.2025 and 26.04.2025 respectively, which also amounts to acknowledgement of debt. However, *vide* letter dated 07.05.2025, the Financial Creditor in its commercial wisdom conveyed its inability to accept the OTS proposal submitted by the Borrower.

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		Therefore, the present Application has been filed well within the prescribed period of limitation.

5. The Respondent in its preliminary objections raised the following issues: -

5.1 The Respondent submitted that the present Petition under Section 7 of the Code is not maintainable because the alleged debt has already been adjudicated by the Ld. Debt Recovery Tribunal ("DRT") Jaipur in OA No. 177/2017. The Ld. DRT *vide* final order dated 23.01.2026, adjudicated the matter and ascertained the liability of Corporate Debtor at Rs. 12.82 Crore with 8% Simple Interest (approx. 2 Crore) and granted timeline of six months to liquidate the liability.

5.2 The Respondent Further submitted that the present Petition is liable to be dismissed as it is premature and immature. It is argued that no default occurred during the pendency of proceedings before the Ld. DRT, Jaipur, as the liability remained uncrystallized until adjudication on 23.01.2026. By order dated 23.01.2026 in OA No. 177/2017, the Ld. DRT determined the Corporate Debtor's liability and granted six months' time to liquidate the liability through sale of mortgaged properties. The Respondent submitted that until expiry of this six-month repayment window, no default can be alleged, and initiation of CIRP would conflict with the binding DRT order.

5.3 The Respondent further submitted that under Section 3(12) of the IBC, "default" requires non-payment of a debt when it has become both due and payable. In the present case, although the debt has been adjudicated by the DRT, Jaipur and expressly granted a six-month window for repayment. During this subsisting period, the debt may be "due" but is not "payable", as enforceability stands suspended by judicial direction. Hence, initiation of insolvency proceedings during this period is premature, untenable, and contrary to the binding order of the Ld. DRT.

5.4 The Respondent contended that the petition has been filed in contravention of subsisting judicial restraint orders. The Ld. DRT, Jaipur, by order dated 09.01.2026 in *MA No. 177 of 2019*, expressly directed the Financial Creditor to maintain status quo. The Petitioner has itself challenged this order before the Hon'ble DRAT, Delhi, which confirms that the restraint order remains binding until set aside. The Respondent contends that initiation of insolvency proceedings during the subsistence of such judicial directions is premature, coercive, and legally untenable, amounting to forum shopping and misuse of the Code as a parallel enforcement mechanism. It is further argued that suppression of the subsisting restraint order vitiates the petition, rendering it an abuse of process.

5.5 The Respondent further contends that the Petition is barred by limitation. It is submitted that the Financial Creditor has manipulated records by citing contradictory NPA dates across proceedings. The Respondent's

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account statements and recall notice dated 13.10.2016 issued by SIDBI record the NPA date as 31.12.2011, whereas the demand notice dated 12.12.2016 under Section 13(2) of the SARFAESI Act mentions 10.06.2014. This contradiction is fundamental, as the NPA date determines limitation and maintainability. The limitation period for filing an application under Section 7 of the IBC is three years from the date of default/NPA. If the NPA date of 31.12.2011 is taken, the petition filed in 2025 is hopelessly time-barred. Even if 10.06.2014 is considered as the date of default, petition remains beyond limitation unless a valid acknowledgment under Section 18 of the Limitation Act is established. The Respondent asserts that no such acknowledgment was ever made by the Corporate Debtor. The contradictory pleadings, suppression of material facts, and manipulation of NPA dates are said to amount to abuse of process, rendering the petition liable to dismissal at the threshold as barred by limitation.

5.6 The Respondent contended that the Petitioner asserted a claim of Rs. 40.67 Crores as due as on 31.08.2025. This figure is grossly inflated and contrary to the final order of Ld. DRT in *OA No. 177/2017* dated 23.01.2026 wherein Ld. DRT Crystallized the liability of Respondent at Rs. 12.28 Crores with 8% Simple Interest. It is further contended that the Ld. DRT order conclusively determines the liability between the parties.

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The Petitioner is estopped from inflating or re-casting claims in parallel proceedings. The Petitioner's claim of Rs. 40.67 Crores is contrary to the judicially crystallized figure and therefore legally untenable.

5.7 The Respondent mentioned that the Petitioner failed to annex statement of loan accounts which are necessary to explain true financial position of the case. It is further submitted that in the present case, with no loan account statements and only a disputed NESL record, the Petitioner has failed to discharge this burden. The present Petition is therefore not maintainable.

5.8 The Respondent further contended that the Petitioner suppressed material facts from the Adjudicating Authority and also concealed the information about direction of maintenance of *status quo* directed in adjudication proceeding before Ld. DRT, Jaipur in *MA 177/2019*.

5.9 Respondent further contended that the debt was marked as "disputed" on the NeSL platform, a statutory record evidencing the Corporate Debtor's objection to the claim, which the Financial Creditor failed to disclose.

6. We have heard the Learned Counsels for the parties and have carefully perused all the documents placed on record by the Financial Creditor and the Corporate Debtor.

7. On perusal of the records, it is found that the Corporate Debtor had availed various loans from original lender, namely, *Small Industries Development*

Bank of India ('SIDBI') for Rs. 5,50,00,000/- in the year 2010, Rs. 3,50,00,000/- in the year 2011 and Rs, 2,50,00,000/- in the year 2013 for setting up a hotel in Jaisalmer, Rajasthan. The Loan was restructured from time to time by SIDBI.

8. Due to recurring defaults and irregularities in making payment, SIDBI issued a recall notice dated 13.10.2016 demanding outstanding payment of Rs. 12,07,28,918.00 (as on 10.10.2016) along with interest and costs, directing payment by 14.11.2016. Upon non-payment by the Corporate Debtor, the original lender (i.e., SIDBI) initiated recovery proceedings under the SARFAESI Act, 2002 and issued notice under Section 13(2) of the Act, 2002 on 12.12.2016 which led to institution of *O.A. No. 177 of 2017*.

9. Thereafter, the loan accounts, security documents and all other rights in respect of the facilities originally extended to the Corporate Debtor were assigned to the Petitioner herein, i.e., *India SME Asset Reconstruction Company Ltd.* by the original lender (i.e., SIDBI) by the way of a registered Assignment Agreement dated 18.01.2018. After multiple unsuccessful attempts to settle the payment, the Financial Creditor has filed the instant Petition under Section 7 of the Code seeking initiation of CIRP against the Corporate Debtor.

10. Before dwelling into the issue at hand, we refer to Section 7 of the Code which clarifies that the Adjudicating Authority upon being satisfied that

default has occurred of the financial debt, may order for initiation of CIRP of the Corporate Debtor. The key ingredients of an Application filed under Section 7 of the Code are: (i) there has to be a financial debt and; (ii) there must be a default in repayment of the financial debt. Hence, the Applicant must establish that there is a financial debt and that a default has been committed in respect of that financial debt by the Corporate Debtor. It is pertinent to mention that the objective of the Code is resolution of the Corporate Debtor, whereas the RDB Act aims for the recovery of debts due to banks and financial institutions and the SARFAESI Act aims to empower secured creditors to recover Non-Performing Assets (NPAs). The Hon'ble NCLAT, vide judgment dated 13.02.2026 in the case titled *Rajendra Narayan Panda v. Shri Mangesh Vittal Kekre (IRP) and Anr.*, (2026) ibclaw.in 181 NCLAT has reiterated the same position. The relevant paragraph is reproduced hereunder: -

> *" 54. We also observe that at the time of admission of a Section 7 petition Adjudicating Authority is only required to ascertain the existence of a debt and default. Debt and default are sine qua non and only condition for admitting an application under Section 7 of the Code. The Hon'ble Supreme Court in the matter of* ***Innoventive Industries Ltd. v. ICICI Bank [(2017) ibclaw.in 02 SC]*** *observed that for the initiation of the Corporate Resolution process by Financial Creditor under sub-section (4) of Section 7 of the Code, 2016, the Adjudicating Authority on receipt of Application under sub-section (2) is required to ascertain existence of default from the records of Information Utility or on the basis of other evidence furnished by the financial creditor under sub-section (3). Under Section 7, the*

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Adjudicating Authority is required to satisfy (a) Whether a default has occurred, (b) Whether an application is complete and (c) Whether any disciplinary proceedings against the proposed insolvency Resolution Professional. Once satisfied, it is required to admit the petition. In the instant case, the record establishes that there is a 'debt' and a 'default' and the Application is complete and thus the Adjudicating Authority has rightly admitted the Application under Section 7 of the Code."

11. At this juncture, it is appropriate to refer to the definition of 'debt', 'default', 'financial debt' and 'financial creditor' and the same are quoted below: -

***Section 3 (11) of IBC**: "Debt means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt."*

***Section 3 (12) of IBC**: "default means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not [1][paid] by the debtor or the corporate debtor, as the case may be;*

***Section 5 (8) of IBC**: "Financial debt means a debt alongwith interest, if any, which is disbursed against the consideration for the time value of money and includes—*

(a) money borrowed against the payment of interest;

(b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;

(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;

(e) receivables sold or discounted other than any receivables sold on nonrecourse basis;

(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;

2[Explanation. -For the purposes of this sub-clause,-

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(i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and

(ii) the expressions, "allottee" and "real estate project" shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);]

(g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;

(h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;

(i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause;

***Section 5 (7) of IBC**: "Financial creditor means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to;*

12. On plain reading of the definitions referred *Supra*, the term 'debt' means a liability or obligation in respect of a claim, which is due from any person and includes a financial debt and operational debt. And the 'financial debt is a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes the amount paid under either of the clauses from (a) to (i) of Section 5 (8) of the IBC, and the person who paid the money and to whom such debt has been legally assigned or transferred to is known as 'Financial Creditor'. Further, 'default' refers to the non-payment of

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a debt when all or any part or installment of the amount has become due and payable, and remains unpaid by the corporate debtor.

13. Upon a careful perusal of the Part-IV, three loan agreements were executed between the original lender (i.e., SIDBI) and the Corporate Debtor for Rs. 5,50,00,000/-, Rs. 3,50,00,000/- and Rs, 2,50,00,000/- dated 24.03.2010, 10.02.2012 and 06.11.2013 respectively. For ease of reference, the details of all three term loans are tabulated hereunder: -

Loan	**Term Loan – I (Rs. 5.50 Cr)**	**Term Loan – II (Rs. 3.50 Cr)**	**Term Loan – III (Rs. 2.50 Cr)**
Letter of Intent	22.03.2010	01.08.2011	06.11.2013
Loan Agreement	24.03.2010	10.02.2012	06.11.2013
Interest payable monthly from 10th day of each calendar month (as per LOI)	Interest payable from 10.04.2010.	Interest payable from 10.04.2012.	Interest payable from 10.01.2014.
Principal amount repayment in 81 monthly instalments	1st installment due on 10.07.2011.	1st instalment due on 10.03.2013.	1st instalment due on 10.01.2015.
CD's repayment	CD initially paid dues with delays up to 10.03.2013, but thereafter defaulted. SIDBI granted two restructurings to support completion of the project.	CD paid dues up to 10.03.2013 with delays but subsequently defaulted, leading to restructuring.	Interest up to 10.06.2014 was paid with delays. Thereafter, the CD defaulted and failed to complete the project within the revised implementation schedule.
Restructuring	I restructuring	Restructuring	No information

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	(01.08.2011): Moratorium extended by 9 months due to project time and cost overruns. First principal instalment shifted to 10.04.2012 without extending the terminal date. II restructuring (08.07.2013): Overdue instalments (10.04.2013 to 10.06.2013) and future instalments (10.07.2013 to 10.03.2014) deferred by 12 months. Terminal date extended from 10.03.2018 to 10.03.2019.	(08.07.2013): Due to continued time and cost overruns, overdue instalments (10.04.2013 to 10.06.2013) and future instalments (10.07.2013 to 10.03.2014) were deferred. Terminal date extended from 10.02.2019 to 10.02.2020.	

14. Due to recurring defaults and irregularities in making payment, the original lender i.e., SIDBI issued a recall notice dated 13.10.2016 for defaults being committed from 2014-2016 demanding outstanding payment of Rs. 12,07,28,918.00 as on 10.10.2016) along with interest and costs, directing payment by 14.11.2016. Thereafter, the loan account of the Corporate Debtor

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was assigned to the Financial Creditor herein vide Assignment Agreement dated 18.01.2018.

15. Thereafter, the Corporate Debtor, from time to time, addressed various one time settlement ('OTS') proposals towards the Financial Creditor herein. The details of the OTS are as follows:-

15.1 Initially, vide email dated 04.10.2018, the Corporate Debtor offered an OTS of Rs. 8 Crores, which was subsequently rejected by the Financial Creditor vide email dated 12.03.2019.

15.2 Thereafter, vide letter dated 09.05.2019, the Corporate Debtor submitted a revised OTS proposal of Rs. 13 Crores, which was also rejected by the Financial Creditor vide letter dated 01.10.2019.

15.3 Subsequently, vide letter dated 21.10.2019, the Corporate Debtor again offered a revised OTS proposal of Rs. 13.50 Crores, which was rejected vide letter dated 07.11.2019.

15.4 Vide letter dated 18.11.2019, the Corporate Debtor proposed an OTS of Rs. 15 Crores towards full and final settlement of its dues, and later vide letter dated 06.03.2024, further offered an additional Rs. 1 Crore towards interest, thereby enhancing the total OTS offer to Rs. 16 Crores.

15.5 Subsequently, vide letter dated 20.12.2024, the Corporate Debtor offered to settle the matter for a sum of Rs. 15 Crores plus Simple

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Interest @ MCLR rate. The Corporate Debtor revised its OTS proposal for a sum of Rs. 18 Crores and further to Rs. 18.50 Crores vide letter dated 06.01.2025 and 26.04.2025.

15.6 Thereafter, vide letter dated 07.05.2025, the Financial Creditor conveyed its inability to accept the OTS proposal and called upon to substantially increase the amount, so as to enable the Financial Creditor to consider any further process. No further OTS was proposed by Corporate Debtor.

16. In the instant case, the date of default as mentioned by the Financial Creditor in the Part-IV is 13.10.2016, i.e., the date when SIDBI issued the loan recall notice recalling the outstanding payment from the Corporate Debtor. Based on this date of default, the Corporate Debtor has raised the objection that the instant Petition is barred by limitation.

17. It is pertinent to mention that the limitation period is extended from time to time as the debt is acknowledged by the Corporate Debtor from time to time in various correspondences regarding settlement with the Financial Creditor *inter alia* including Email dated 04.10.2018 and letters dated 09.05.2019, 21.10.2019, 07.11.2019, 18.11.2019, and 06.03.2024.

18. Moreover, vide a letter dated 20.12.2024, one time settlement ('OTS') was also proposed by the Corporate Debtor to the Financial Creditor offering to settle dues for a sum of Rs. 15 Crores. Thereafter, the Corporate Debtor

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revised its OTS proposal for a sum of Rs. 18 Crores and further to Rs. 18.50 Crores vide letters dated 06.01.2025 and 26.04.2025 respectively, which also amounts to acknowledgement of debt. However, vide letter dated 07.05.2025, the Financial Creditor conveyed its inability to accept the OTS proposal submitted by the Borrower.

19. The Hon'ble NCLAT, in its judgment title *Tejas Khandhar v. Bank of Baroda,* (2022) ibclaw.in 496 NCLAT has held that the OTS proposal falls within the ambit of acknowledgement of debt as defined under Section 18 of the Limitation Act, 1963. The relevant paragraph is reproduced hereunder: -

> *"**14.** Keeping in view the aforenoted ratio laid down by the Hon'ble Apex Court in 'Dena Bank (now Bank of Baroda)' (Supra), this Tribunal is of the considered view that the OTS proposal dated 01.08.2016 and the subsequent one on 27.03.2018 falls within the definition of the ambit of 'acknowledgement of debt' as envisaged under Section 18 of the Limitation Act, 1963 and is therefore squarely covered by the aforenoted Judgement."*

20. Keeping in view the aforementioned judgment of Hon'ble NCLAT, the present Petition has been filed well within the prescribed period of limitation.

21. Further, the Corporate Debtor has objected the admissibility of the instant petition on the ground that the Ld. DRT, Jaipur vide order dated 23.01.2026 in O.A. No. 177 of 2017, adjudicated the liability of the Corporate Debtor at Rs. 12.82 Cr with simple interest @8% per annum with a direction to pay the liability within six months from the date of order.

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22. However, it is a well settled that the proceedings under Section 7 of the Code can proceed in parallel with actions taken under the SARFAESI Act. The Code, SARFAESI Act, 2002 and Recovery of Debts and Bankruptcy Act (RDB Act) have entirely different fundamental objectives. The IBC focuses on the collective resolution and revival of a distressed company, whereas the SARFAESI Act, 2002 is designed for debt recovery by secured creditors and the primary objective of the RDB Act, 1993, is to provide a fast and efficient legal mechanism for banks and financial institutions to recover dues and bad loans. Hence, the objection regarding adjudication of debt by the Ld. DRT renders the petition under Section 7 of the Code non-maintainable is legally untenable and accordingly rejected. The Hon'ble NCLAT in *Mr. G. Sundaravadivelu v. Indian Overseas Bank, (2023) ibclaw.in 404 NCLAT* observed that:-

> *"**96.** It is pointed out that the pendency of proceedings before the Debt Recovery Tribunal, is not a bar, for the Financial Creditor, to initiate an action against the Corporate Debtor..."*

Further, in the matter of *Pawan Kumar v. Central Bank of India and Ors.*, (2025) ibclaw.in 37 NCLAT, the Hon'ble NCLAT held that:-

> ***10.** ...It is well settled law that the fact that Financial Creditor has initiated proceedings before the DRT does not preclude them to take remedy under Section 7, which is a special remedy provided under the IBC."*

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A bare perusal of the aforementioned judgments makes it clear that proceedings before the Ld. DRT is not a bar for initiation of action under Section 7 of the Code.

23. The Corporate Debtor has also raised an objection with respect to inconsistent date of NPA. The bank account statements of the Corporate Debtor as well as the recall notice dated 13.10.2016 sent by SIDBI record the NPA date as 31.12.2011 whereas the demand noticed dated 12.12.2016 sent by SIDBI under Section 13(2) of the SARFAESI Act states the NPA date as 10.06.2011.

24. The Hon'ble NCLAT in *Rahul Kumawat v. Bank of India & Anr.* (Company Appeal (AT) (Insolvency) No. 753 of 2025) has held that the question of classification of NPA cannot be a foundation of challenge to admission of Section 7 Petition. The relevant paragraph of the judgment is reproduced hereunder: -

> *"19. The basis of an application under Section 7 to be filed by the Financial Creditor is default committed by the Corporate Debtor in repayment of its loan/ facilities. Foundation of any application under Section 7 is only default by Corporate Debtor and the question of classification of NPA cannot be a foundation of challenge to admission of Section 7 application..."*

25. Hence, in the view of the aforementioned judgment, where debt and default are clearly established, the objection on the basis of NPA classification is not legally sustainable.

26. At this juncture, this Adjudicating Authority is of the considered opinion that:-

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26.1 Financial debt and default exist in the instant case.

26.2 Amount in default is more than Rs. 1 Crore.

26.3 The proposed interim resolution professional has provided a written communication in Form 2 certifying that no disciplinary proceedings are pending against her.

26.4 The instant Petition under Section 7 of the Code is complete.

27. In view of the foregoing discussions, we are of the view that Corporate Insolvency Resolution Process ought to be initiated against the Corporate Debtor as all the ingredients laid down under Section 7 of the Code are fulfilled in the present matter. Therefore, we deem it appropriate to admit Corporate Debtor, i.e., *Girivar Hotel and Resort Private Limited* into CIRP.

28. Accordingly, this Adjudicating Authority deems it appropriate to appoint ***Ms. Gunjan Jain***, having Registration Number *IBBI/IPA-001/IP-P02876/2024-25/14409* and e-mail id *gunjan.jain555@gmail.com* duly registered with ICAI Insolvency Professional Agency, to be appointed as the Interim Resolution Professional.

29. The IRP is directed to take all such steps as are required under the statute, inter-alia in terms of Sections 15, 17, 18, 19, 20 and 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, and Rules and Regulations thereunder. It is directed to the Interim Resolution Professional /Resolution

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Professional to check the genuineness of the claim while admitting the operational dues of the Petitioner.

30. Consequences of initiation of CIRP shall be inter-alia as follows:

a. The IRP appointed by the Adjudicating Authority, is directed to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of Code including issue of publication in widely circulated Newspapers as contemplated under the provisions of the Code and calling for claims from the creditors of the Corporate Debtor; and collation of the same shall be done.

b. Further, as a sequel of admission, moratorium as envisaged under Section 14 of IBC, 2016 is invoked concerning the Corporate Debtor, which will be in vogue during the Corporate Insolvency Resolution Process of the Corporate Debtor. The IRP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of IBC, 2016 in relation to the Corporate Debtor.

c. The said IRP shall act strictly in compliance with the provisions of IBC, 2016 and defray his expenses to be incurred and fees on the account. The Petitioner is directed to act in accordance with Regulation 33(1) of the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Petitioner shall deposit an amount of Rs. 1,00,000/- (Rupees One Lakh Only) towards the CIRP

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cost initially to the account of IRP within three days from the date of this order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by CoC.

d. In terms of Section 17 & 19 of IBC, 2016, all personnel of the Corporate Debtor including promotors and Board of Directors, whose powers shall stand suspended, shall extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.

e. Further, in term of Regulation 4(3) of the IBBI (Resolution Process for Corporate Persons), 2016 the creditors shall provide information in respect of assets and liabilities of the Corporate Debtor to the IRP and it is incumbent upon the IRP also to approach the Creditors to seek such information.

f. The Interim Resolution Professional (IRP) is also directed to inform and forward a copy of this Order to all the statutory authorities such as Enforcement Directorate, Employees Provident Fund Organization (EPFO), Income tax department and concerned Electricity department about the initiation of CIRP against the Corporate Debtor within a period of three days.

g. In terms of Section 7 of IBC, 2016, the Registry is directed to communicate this Order to the Petitioner, the Corporate Debtor, and the

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Interim Resolution Professional (IRP) appointed by this Adjudicating Authority within 3 days of passing of the Order.

h. A Copy of this order shall also be communicated to IBBI for its record, and to any other body/entity to whom the Corporate Debtor is under legal/contractual obligation to inform/update.

31. In the circumstances, Company Petition bearing *CP No. (IB)- 06/07/JPR/2026* is admitted.

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REETA KOHLI
JUDICIAL MEMBER

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KAVITA BHATNAGAR
TECHNICAL MEMBER