IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, (COURT NO.-II)

KOLKATA

C.P.(I.B)/270(KB)2025

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

IN THE MATTER OF:

Indoworth Holdings Limited, CIN: 151900WB1985PLC227336 and having its registered office at 2, Nazar Ali Lane, Green Acres, 4th Floor, Flat-4A, Kolkata 700019, West Bengal

...Petitioner/Financial Creditor

AND

IN THE MATTER OF:

Uniworth Resorts Limited, an Unlisted Public Non-Government Company, limited by shares, registered under the provisions of the Companies Act, 1956, (now within the meaning of Companies Act, 2013) bearing CIN: U70109WB1991PLC052330 and

having its registered office at 391/1, 3rd Floor, Mahatma Gandhi Road, Haridevpur, Paschim Putiari, Kolkata 700041, West Bengal

...Respondent/Corporate Debtor

Date of Pronouncement: 20.07.2026

CORAM:

Shri. Labh Singh, Hon'ble Member (Judicial)

Ms. Rekha Kantilal Shah, Hon'ble Member (Technical)

Counsel appeared through physically or virtually

Ms. Mamta Binani, Adv.	]For the Financial Creditor
Mr. Devesh Kumar Bhutra, Adv.	]
Ms. Ankita Dutta, CS	]

O R D E R

(Heard Through Hybrid Mode)

LABH SINGH, MEMBER (JUDICIAL)

1. The Financial Creditor, Indoworth Holdings Limited, has filed the instant application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for short "the code") read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016(for

short "the Rules") with a prayer to trigger Corporate Insolvency Resolution Process in respect of respondent Company Uniworth Resorts Limited, (hereinafter to be referred to as "the corporate debtor").

2. It is appropriate to mention that the applicant Indoworth Holdings Limited, is a Listed Public Non Government Company, limited by shares, bearing Corporate Identity No: L51900WB1985PLC227336 and incorporated on 19.03.1985.

3. Mr. Shyam Kumar Rathi, duly authorized on behalf of applicant, has preferred the present application on behalf of the applicant for initiation of corporate insolvency resolution process(for short "CIRP") against the respondent under the provision of the Code. A copy of the Resolution passed at the meeting of Board of Directors dated 23.09.2025 has been placed on record (Annexure "M" at page 1236 of the Company Petition).

4. The Respondent Company, Uniworth Resorts Limited, against whom initiation of CIRP Process has been prayed for, was incorporated on 16.07.1991. Since the registered office of the respondent, the Corporate Debtor is situated in West Bengal, this Tribunal having territorial jurisdiction over the State of West Bengal is the Adjudicating Authority in relation to the prayer for initiation of CIRP Process in

respect of corporate debtor under sub-section (1) of Section 60 of the Code.

5. Briefly stated, the case of the applicant is that, in and around 2001, the Financial Creditor was approached by the Corporate Debtor, seeking gradual financial assistance to support its business operations and informing the Financial Creditor of its dire need for the funds. The Financial Creditor agreed to this request and commenced transmitting financial aid from 01.04.2001, with the mutual agreement that the said loan would be repayable on demand along with interest @12% per annum on an annual basis, compounded quarterly.

5.1 Consequently, the Financial Creditor disbursed various amounts to the Corporate Debtor from 01.04.2001 till 31.03.2007, with the first such instalment of Rs. 25,000/- being paid on 02.02.2002. The Financial Creditor extended loans aggregating to Rs. 74,52,378/- during the Financial Years 2001-2007, out of which the Corporate Debtor made repayments aggregating to Rs. 9,00,000/- in different tranches, leaving a net outstanding principal loan amount of Rs. 65,52,378/-.

5.2 As a token of acknowledgment of its debt obligations, the Corporate Debtor issued Form 16A certificates towards tax deducted at source (TDS) on interest payments, specifically submitting a Form 16A on 11.08.2006 reflecting a deduction of Rs. 14,08,668/- for interest paid during the period 01.04.2003 to 31.03.2006. However, in the year 2006, internal disputes arose between the Directors of the Corporate Debtor, leading to the filing of a company petition before the Company Law Board, bearing Company Petition No.46/2006. Following these disputes, the Corporate Debtor ceased making further requests for loans and, upon enquiry regarding interest payments, replied that the same would continue to be paid, attributing any delays to the ongoing internal conflicts among its directors.

5.3 Despite these assurances and repeated verbal communications between the representatives of both parties, the Corporate Debtor failed to pay any further interest, leading the Financial Creditor to eventually recall the repayment of the entire outstanding loan amount including both principal and accumulated interest.

5.4 Over the years between 2007 and 2025, the Financial Creditor continued to engage with the Corporate Debtor seeking updates and reminding them of the outstanding dues and received only verbal commitments that payments would be made shortly. The internal disputes among the directors, which had been cited as the reason for the continued failure to repay, were finally resolved pursuant to a final order dated

03.10.2018 passed by the Tribunal in Company Petition No. 46/2006. Even after these disputes were settled, the Corporate Debtor neglected to make any payment towards the outstanding dues despite the pronouncement of the Order.

5.5 On 03.10.2023, the Financial Creditor issued a formal demand notice demanding the repayment of the entire principal loan amount along with interest accrued up to that date, to which the Corporate Debtor did not respond.

5.6 It is submitted that the Corporate Debtor's persistent failure to remit the legitimate dues, even after the resolution of its internal directorial disputes vide the Order in Company Petition No. 46/2006 on 03.10.2018, demonstrates a dishonest intention to avoid lawful financial obligations.

5.7 Therefore, as per Part IV of the application, it is claimed that as on 30.09.2025, a sum of Rs. 7,96,74,543/- is due and payable by the respondent company.

5.8 Sub-section (3)(b) of Section 7 mandates the financial creditor to furnish the name of an Interim Resolution Professional. In compliance thereof the applicant has proposed the name of Mr. Rajesh Lihala, for appointment as Interim Resolution Professional having registration number IBBI/IPA-001/IP-P00525/2017-2018/10950 resident of 11, Crooked Lane, Kolkata 700069, West Bengal with email – id lihalaco@gmail.com. Mr. Rajesh Lihala has agreed to accept the appointment as the interim resolution professional and has signed a communication in Form 2 in terms of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that no disciplinary proceedings are pending against him in the Insolvency and Bankruptcy Board of India or elsewhere. In addition, further necessary disclosures have been made by Mr. Rajesh Lihala as per the requirement of the IBBI Regulations (Annexure “A” at page 41). Accordingly, it is seen that the requirement of Section 7(3)(b) of the Code has been satisfied.

6. The applicant has placed following documents on record to prove its claim:

   i. A copy of the master data of the Financial Creditor and the Corporate Debtor marked as Annexure B;

   ii. Dates of default along with the amount of debts granted, respective dates of disbursement, and workings for computation of amount and days of default in tabular form marked as Annexure C;

   iii. Relevant extracts of the bank statement of the Financial Creditor evidencing the disbursement of debt to the Corporate Debtor for the period 01.04.2001 till 31.03.2007 marked as Annexure D;

iv. A copy of the ledger account of the Corporate Debtor in the books of the Financial Creditor for the period 01.04.2001 till 31.03.2025 marked as Annexure E;

v. Copies of the TDS certificates evidencing the depositing of TDS by the Corporate Debtor in the account of the Financial Creditor marked as Annexure F;

vi. Copy of the auditor's certificate evidencing the principal amount due to the Financial Creditor from the Corporate Debtor that lies unpaid till date marked as Annexure G;

vii. Copy of the extracts of the balance sheet and notes to the balance sheet of the Financial Creditor as filed with the Ministry of Corporate Affairs, MCA for the financial year 2001-02 till 2024-25 marked as Annexure H;

viii. Copy of the extracts of the balance sheet and notes to the balance sheet of the Corporate Debtor as filed with the Ministry of Corporate Affairs, MCA for the financial year 2001-02 till 2013-14 marked as Annexure I;

ix. Copy of Order dated 03.10.2018 of NCLT, Kolkata Bench with respect to the Company Petition No. 46/2006 marked as Annexure J;

x. A copy of letter dated 03.10.2023 by the Financial Creditor to the Corporate Debtor demanding the payment of outstanding dues marked as Annexure K;

xi. A copy of the proof of registration of the claim with NeSL marked as Annexure L.

7. This Tribunal issued notice upon respondent/Corporate Debtor. However despite due service of notice by way of email, none appeared on behalf of the Corporate Debtor. Accordingly, the matter was proceeded exparte against the Corporate Debtor vide order dated 13.05.2026.

8. We have gone through the case file carefully and perused the pleadings and documents placed on record and heard the arguments put forth by learned Counsel for the petitioner. We, therefore, proceed to consider the present petition on merits.

9. It is an established proposition of law that an application under Section 7 of the Code is acceptable so long as the debt is proved to be due and there has been occurrence or existence of default. What is material is that the default is for at least Rs. 1,00,00,000/-. In view of the Section 4 of the Code, the moment default is of rupees one crore or more, the application to trigger Corporate Insolvency Resolution Process under the Code is maintainable.

10. In the facts of the present case, the applicant/Financial Creditor has claimed that it disbursed various amounts to the Corporate Debtor between 01.04.2001 and 31.03.2007. The applicant has placed on record relevant extracts of the bank statements of the Financial Creditor. The Corporate Debtor has further relied upon TDS Certificate of the Corporate Debtor (Form 16A), notably on 11.08.2006, reflecting a deduction for interest paid during the period 01.04.2003 to 31.03.2006, as seen in Annexure F (at page 100 of the Company Petition). The ledger account (Annexure 'E' at pages 95-99 of the Company Petition) and the auditor's certificate (Annexure G) further confirm the net outstanding principal amount of Rs. 65,52,378/-.

11. We have gone through other documentary evidence available on record. It is a specific case of the applicant that a total amount of Rs. 65,52,378/- was granted to the Corporate Debtor and this fact is corroborated from Annexure 'C' a computation sheet submitted by the applicant with the present petition. The applicant has claimed interest on the said amount from the financial year 2001-2002 till 30.09.2025. It has been submitted in Annexure-'C' that interest was calculated at the rate of 21% per annum for the financial year 2001-2002 and as per mutual verbal understanding from financial year 2002-2003 onwards until

the date of demand interest has been calculated on a compounded quarterly basis at an annual rate of 12% per annum and the same has been continued till the date of filing the present application. It has further been noted therein that interest was calculated and acknowledged on a yearly basis upto financial year 2005-2006 as evidenced by the TDS Certificate attached as Annexure 'F' to the present application.

12. The Financial Creditor has submitted a copy of the proof of registration of the claim with NeSL as Annexure L (page 1232 of the Company Petition); however, Learned Counsel for the Financial Creditor stated at Bar that the Record of Default (Form D) is not maintained with the information utility in this matter. Moreover, as per Form 'C' filed with NeSL reveals that the last date of acknowledgment of debt is 24.12.2002. Thereafter, nothing is thereon on record to prove that liability has been acknowledged by the Corporate Debtor. This fact itself confirms that this is the sole reason for non issuance of Form 'D' by Utility Authority in the present matter.

13. Therefore, it is clear from the present petition itself that the Corporate Debtor has acknowledged the debt and its liability while deducting TDS upto financial year 2005-2006. There is no such other acknowledgment in writing and signed

by the Corporate Debtor through its Directors or any other official that the Corporate Debtor is under liability of the Financial Creditor. The claim of the Financial Creditor cannot be substantiated on the basis of calculation sheet Annexure-'C'. No doubt a demand loan can be claimed upon demand being made by the Financial Creditor but it did not grant liberty to the Financial Creditor to wait years to year for claim of the same.

14. A similar question came up for hearing before Hon'ble Delhi High Court in case of ***RMS Consultants Pvt. Ltd. Vs. Proactive Universal Trading Pvt. Ltd & Anrs. 2018 SCC OnLine Del 8550*** held in para no. 7 that:

> "7. It is seen that by the suit plaintiff seeks recovery of Rs.4,89,35,000/- advanced by the plaintiff to the defendant no. 1. Plaint, in my opinion, deliberately does not give the dates when the different amounts totalling to Rs.4,89,35,000/- were advanced, inasmuch as, factually it is seen that the amount which totalled to a sum of Rs.4,89,35,000/- by the plaintiff in favour of the defendant no. 1 are with respect to drawing of entries commencing from the year 2008 with the last entry being dated 17.11.2012, and as seen from the copy of the account filed by the plaintiff as a

document. The present suit is admittedly filed on 19.11.2015 i.e well beyond the period of the last entry, taking the same reflecting advance made by plaintiff to defendant no.1, which is actually dated 19.10.2012. ***In law, once there is no date fixed for repayment of the loan, a period of three years of limitation commences from the date of grant of loan as per Article 19 of the Limitation Act 1963.*** With respect to loans given of the year 2008 the suit is barred by limitation because it had to be filed by the year 2011 and considering even all the entries by which loans have been given by the plaintiff to the defendant no. 1, and the last entry of payment to the defendant no. 1 being dated 19.10.2012, the present suit which is filed on 19.11.2015 is in fact beyond three years of the last entry, what to talk of earlier entries which are of around 4-8 years earlier. Therefore, the suit is also otherwise barred by limitation."

15. In the instant case, it is an admitted case of the Financial Creditor that the loan was disbursed during the period 01.04.2001 to 31.03.2007 as is evident from Annexure-'C'. The date of maturity has been claimed on 03.10.2023 and accordingly, the date of default is claimed the same to be

03.10.2023. It is also an admitted case that it was a demand loan and rate of interest agreed initially at 21% per annum for the year 2001-2002 and thereafter 12% per annum at compounding monthly rate. There is no supporting document for the same except support from TDS Certificate upto financial year 2005-2006.

16. The applicant has tried to justify the filing of the present company petition on the basis of time barred debt on the ground that there was internal dispute among the directors which resulted in continuous failure to repay the debt. The dispute was finally resolved pursuant to a final order dated 03.10.2018 passed by this Tribunal in Company Petition No. 46/2006. Thereafter, the present company petition was filed for initiation of CIRP process against the Corporate Debtor. It is pertinent to note that the internal dispute between the directors of the respondent company was not material for the applicant to seek appropriate remedy available in law and wait for resolution of their internal dispute.

17. It is a settled proposition of law that once there is no date fixed for repayment of the loan, a period of three years of limitation commences from the date of grant of loan as per Article 19 of the Limitation Act 1963. Therefore, the demand for the loan should have been raised within three years from the last date of disbursement i.e from

14.07.2006. Thus, the debt should have been claimed upto 13.07.2009 and it can not be left open for compounding interest for years to come.

18. Therefore, in view of our aforesaid observation and law applicable thereon, we are of the considered view that the present company petition deserves to be dismissed being devoid of merits. Consequently, the present petition is dismissed being devoid of merits.

19. The Legislature, keeping the instances of this nature, has incorporated Section 65 of the Code, enabling the Adjudicating Authority to impose a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees on any person who initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be. The provision of Section 65 read as under:

> **65.** (1) If, any person initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be, the Adjudicating Authority may impose upon such person

a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.

(2) If, any person initiates voluntary liquidation proceedings with the intent to defraud any person, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees but may extend to one crore rupees.

(3) If any person initiates the pre-packaged insolvency resolution process—

(a) fraudulently or with malicious intent for any purpose other than for the resolution of insolvency; or

(b) with the intent to defraud any person,

the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.

20. Therefore, this matter being one of the 'classic' cases of malicious initiation of proceedings under section 7 the Code for the purpose other than for the resolution of insolvency of the Corporate Debtor, we are of the firm view that the applicant/Financial Creditor shall be directed to pay penalty, which we fix at Rs. 5,00,000/-(Rupees Five Lakh Only).

21. Therefore, present Company Petition is hereby dismissed being devoid of merit with cost of Rs. Rs. 5,00,000/-(Rupees Five Lakh Only).

22. The cost should be deposited in the Prime Minister Relief Fund within a period of 30 days from the date of this order and compliance memo be filed before the Registry. If order is not complied by the Financial Creditor within the time granted by this Bench, Registry is directed to put up the matter before the Bench for appropriate orders.

23. The Registry is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor and IBBI.

24. Accordingly, C.P.(I.B)/270(KB)2025 stands disposed of in terms of our aforesaid order.

Rekha Kantilal Shah	**Labh Singh**
Member (Technical)	**Member (Judicial)**