NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT VI

Item No. P3& P4

IA (I.B.C)/1728(MB) 2026

IN

C.P.(IB)/ 69(MB)2026

AND

C.P.(IB)/ 69(MB)2026

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **06.10.2026**

NAME OF THE PARTIES**: -** **INSTA CAPITAL PRIVATE LIMITED**

V/s

SHUBH FOOD INDUSTRIES LIMITED

Under Section 7 and Section 60(5) of the IBC,2016

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, *vide* separate order. Detailed order is being uploaded on the NCLT portal today.

Sd/-

NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

//Sumant//

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

C.P. (IB)/69/MB/2026

[Under Section 7 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016]

INSTA CAPITAL PRIVATE LIMITED
[CIN No. U65100MH1996PTC286056]
Having its registered Office at
15th Floor, 1515, One Lodha Place,
Senapati Bapat Marg, Lower Parel,
Mumbai – 400013.

…Financial Creditor /Applicant No. 1

RICHBOND CAPITAL PRIVATE LIMITED
[CIN No. U65921MH1995PTC258119]
Having its registered Office at
905, One Lodha Place, Next to Kamla
Mills, Senapati Bapat Marg,
Lower Parel, West Mumbai – 400013.

…Financial Creditor /Applicant No. 2

V/s

SHUBH FOOD INDUSTRIES LIMITED
[CIN No. U15549MH2017PLC295519]
H No. 257/A, Gala No. 1,2,3,3,4 &5
Bldg.J10, Sharee Arihant Complex
Nr Pipeline, Kalher
Bhiwandi , Thane - 421302.

...Corporate Debtor

and

IA (I.B.C) 1728 /MB/2026

in

CP (IB) No. 69/MB/2026

[Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 r/w Rule 11 of the National Company Law Tribunal Rules, 2016]

SHUBH FOOD INDUSTRIES LIMITED **…Applicant/CD**

V/s

INSTA CAPITAL PRIVATE LIMITED **… Respondent No. 1/FC**

RICHBOND CAPITAL PRIVATE LIMITED **… Respondent No. 2/FC**

Pronounced: 06.10.2026

CORAM:

HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)

HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid

For Financial Creditor's: Adv. Ms. Vaidehi Kulkarni i/b IndiaLaw LLP

For Corporate Debtor: Adv. (CA) Ms. Pooja Ashok Gupta.

ORDER

[PER: CORAM]

1. BACKGROUND

1.1. C.P. (IB) No. 69/MB/2026 was jointly filed on 22.01.2026 by **Insta Capital Private Limited** (hereinafter referred to as "Financial Creditor No. 1") and **Richbond Capital Private Limited** (hereinafter referred to as "Financial Creditor No. 2") under Section 7 of the Insolvency

and Bankruptcy Code, 2016 (IBC), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiating Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") in respect of Shubh Food Industries Limited the Corporate Debtor having CIN No. U15549MH2017PLC295519

1.2. This Application has been affirmed by one Mr. Vivek A. Bajaj, authorised signatory of the both Applicants vide Board Resolution dated 03.02.2025 and 10.11.2025.

1.3. As per Part IV of the Application, the amount claimed to be in default is Rs.1,13,65,718/-.

Financial Creditors	Facility	Principal Outstanding (INR)	Default Interest (INR)	Total Outstanding (INR)
Insta Capital Private Limited	Working Capital Loan	44,00,000/-	1,88,778/-	45,88,778/-
Richbond Capital Private Limited	Term Loan	24,50,000/-	4,56,707/-	29,06,707/-
Richbond Capital Private Limited	Term Loan	35,00,000/-	3,70,233/-	38,70,233/-
TOTAL		**1,03,50,000/-**	**10,15,718/-**	**1,13,65,718/-**

1.4. The date of default is stated as 02.12.2025.

1.5. The Applicant has proposed the name of Mr. Rajeev Mannadiar, an Insolvency Professional, having Registration No. IBBI/IPA-001/IP-P00212/2017-2018/10412, to act as the Interim Resolution

Professional (IRP) (having valid Authorisation for Assignment up to 30.06.2027) (as per IBBI site), in case the Application is Admitted.

2. CONTENTIONS OF APPLICANTS (FC)

Insta Capital Private Limited (Financial Creditor No. 1)

2.1. It is contended Corporate Debtor approached Financial Creditor No. 1 for grant of Working Capital Loan of INR 72,00,000/- (Rupees Seventy-Two Lakhs Only) vide Loan Application dated 04.11.2024. Financial Creditor No. 1 sanctioned a "Working Capital Demand Loan" (hereinafter referred as "Credit Facility") for INR 72,00,000/- (Rupees Seventy-Two Lakhs Only) vide Sanction Letter dated 06.11.2024, as per the terms and conditions enumerated therein.

2.2. It is stated that a Bill of Exchange dated 08.11.2024 was drawn by Corporate Debtor, in favour of Financial Creditor No.1, thereby assuring due repayment of the aforesaid credit facility availed from Financial Creditor No. 1

2.3. It is stated that the Financial Creditor No. 1 relying upon the assurances and commitments made by Corporate Debtor. Financial Creditor No. 1 disbursed an amount of INR 50,86,080/- (Rupees Fifty Lakhs, Eighty-Six Thousand and Eighty only) against the Bill of Exchange dated 08.11.2024. The said disbursement was made after deducting discount/interest charges amounting to INR 19,44,000/- (Rupees Nineteen Lakhs, Forty-Four Thousand only) and processing fees of INR 1,69,920/- (Rupees One Lakh, Sixty-Nine Thousand Nine

Hundred and Twenty only), along with applicable GST at the rate of 18%

2.4. Further he credit facility amount of INR 72,00,000/- was to be repaid at the rate of INR 6,00,000/- per month for 12 months, which amount was further subdivided into two payments of INR 3,00,000/- each, payable on a weekly/fortnightly basis.

2.5. As per the repayment terms, the equated monthly instalments of INR 3,00,000/- was to be paid on a weekly/fortnightly basis over a period of approximately 12 months, commencing from 23.11.2024 till 08.11.2025. Corporate Debtor have defaulted on the repayment terms and there has been a continuous default in the repayment of the aforesaid credit facility due to Financial Creditor No.1 since February, 2025.

2.6. The Corporate Debtor have availed the credit facilities sanctioned by Financial Creditor No.1 and have unequivocally accepted the terms and conditions mentioned therein. That despite repeated demands made by Financial Creditor No.1, Corporate Debtor have failed and neglected to pay the instalments of principal and other monies, as per the terms of the sanction of the credit facility.

2.7. The Corporate Debtor have deliberately misrepresented Financial Creditor No.1 with respect to the financial potential of Corporate Debtor to repay the loan, in order to avail the said credit facility. That Corporate Debtor have committed continuous defaults under the terms and conditions of the Sanction Letter dated 06.11.2024 and Bill

of Exchange dated 08.11.2024 drawn in favour of Financial Creditor No.1, which had been duly agreed by Corporate Debtor.

2.8. Upon continual default being committed by the Corporate Debtor, the Financial Creditor No.1 was constrained to issue legal notice dated 24.11.2025 through its Advocate to recall the entire outstanding amount of INR 44,52,077/- (Rupees Forty-Four Lakhs, Fifty-Two Thousand and Seventy-Seven Only).

Richbond Capital Private Limited (Financial Creditor No.2)

2.9. Corporate Debtor approached Financial Creditor No.2 for financial assistance of a short-term loan for INR 80,00,000/- (Rupees Eighty Lakhs Only) for business requirements vide Letter dated 29.06.2024. That based on Corporate Debtor representations made vide Letter dated 29.06.2024, Financial Creditor No.2 sanctioned a short-term loan facility of INR 80,00,000 (referred as Credit facility) vide Sanction Letter dated 01.07.2024 as per the terms and conditions enumerated therein.

2.10. Corporate Debtor accepted the terms and conditions of the credit facility and in order to secure the said credit facility sanctioned vide Sanction letter dated 01.07.2024, Corporate Debtor signed and executed the following documents in favour of Financial Creditor No.2:

- Board Resolution dated 29.06.2024
- Declaration and Confirmation of Debt dated 01.07.2024
- Bill of Exchange dated 01.07.2024
- Promissory Note dated 01.07.2024

2.11. Financial Creditor No.2 relying upon the assurances and commitments made by Corporate Debtor, Financial Creditor No.2 disbursed an amount of INR 59,85,430/- (Rupees Fifty-Nine Lakhs, Eighty-Five Thousand, Four Hundred and Thirty only). The said disbursement was made after deducting discount/interest charges amounting to INR 18,25,770/- (Rupees Eighteen Lakhs Twenty-Five Thousand, Seven Hundred and Seventy only) and processing fees of INR 1,60,000/- (Rupees one Lakhs, Sixty Thousand only), along with applicable GST at the rate of 18% of INR 28,800/- (Rupees Twenty-Eight Thousand and Eight Hundred Only).

2.12. At the time of initial sanction, the credit facility amount of INR 80,00,000/- (Rupees Eighty Lakhs Only) was to be repaid in 12 equated monthly instalments of INR 4,00,000/- (Rupees Four Lakhs only), for every 2 weeks on the 20th and 28th of every month, commencing from 20.07.2024. The said amount was to be repaid along with interest at the rate of 2.25% per month.

2.13. Corporate Debtor have availed the credit facilities sanctioned by Financial Creditor No.2 and have unequivocally accepted the terms and conditions mentioned therein. However, despite availing the credit facilities, Corporate Debtor, have failed and neglected to adhere to the agreed repayment schedule, thereby committing a breach of the repayment obligations.

2.14. A sum of INR 55,50,000/- (Rupees Fifty-Five Lakhs, Fifty Thousand Only) received from Corporate Debtor was adjusted towards EMI

payments, and the extension of multiple instalments as per the agreed terms.

2.15. Corporate Debtor have deliberately misrepresented Financial Creditor No.2 in order to avail the said Credit Facility and have also committed various defaults under the terms and conditions of the Sanction Letter dated 01.07.2024 and Bill of Exchange dated 01.07.2024 drawn in favour of Financial Creditor No.2, which had been duly agreed by Corporate Debtor.

2.16. Upon continual default being committed by the Corporate Debtor, the Financial Creditor No.2 was constrained to issue legal notice dated '. 24.11.2025 through its Advocate to recall the entire outstanding amount of INR 28,30,589/- (Rupees Twenty-Eight Lakhs, Thirty Thousand, Five Hundred and Eighty-Nine Only),

2.17. Corporate Debtor approached Financial Creditor No. 2 for financial assistance of a short-term loan for INR 60,00,000/- (Rupees Sixty Lakhs Only) for business requirements vide Letter dated 20.08.2024. That based on Corporate Debtor representations made vide Letter dated 20.08.2024, Financial Creditor No. 2 sanctioned a short-term loan facility of INR 60,00,000/- (Rupees Sixty Lakhs Only) (hereinafter referred to as the "Credit Facility") vide Sanction Letter dated 22.08.2024 as per the terms and conditions enumerated therein.

2.18. Corporate Debtor accepted the terms and conditions of the credit facility and in order to secure the said credit facility sanctioned vide

Sanction letter dated 22.08.2024, Corporate Debtor signed and executed the following documents in favour of Financial Creditor No.2:

- Board Resolution dated 20.08.2024
- Declaration and Confirmation of Debt dated 22.08.2024
- Bill of Exchange dated 22.08.2024
- Promissory Note dated 22.08.2024

2.19. Financial Creditor No.2 relying upon the assurances and commitments made by Corporate Debtor, Financial Creditor No.2 disbursed an amount of INR 42,14,130/- (Rupees Forty-Two Lakhs, Fourteen Thousand, One hundred and Thirty only). The said disbursement was made after deducting discount/interest charges amounting to INR 16,44,270/- (Rupees Sixteen Lakhs, Forty-Four Thousand, Two Hundred and Seventy only) and processing fees of INR 1,20,000/- (Rupees One Lakh and twenty Thousand only), along with applicable GST at the rate of 18% of INR 21,600/- (Rupees Twenty-One Thousand and Six Hundred Only).

2.20. At the time of initial sanction, the credit facility amount of INR 60,00,000/- was to be repaid in 12 monthly instalments of INR 5,00,000/- (Rupees Five Lakhs only), on every 15th of every month, commencing from 15.09.2024. The said amount was to be repaid along with interest at the rate of 2.25% per month

2.21. Corporate Debtor have availed the credit facilities sanctioned by Financial Creditor No.2 and have unequivocally accepted the terms and conditions mentioned therein. However, despite availing the credit

facilities, Corporate Debtor, have failed and neglected to adhere to the agreed repayment schedule, thereby committing a breach of the repayment obligations.

2.22. A sum of INR 25,00,000 (Rupees Twenty-Five Lakhs Only) received from Corporate Debtor was adjusted towards EMI payments, and the extension of multiple instalments as per the agreed terms.

2.23. Corporate Debtor have deliberately misrepresented Financial Creditor No.2 in order to avail the said Credit Facility and have also committed various defaults under the terms and conditions of the Sanction Letter dated 22.08.2024 and Bill of Exchange dated 22.08.2024 drawn in favour of Financial Creditor No.2, which had been duly agreed by Corporate Debtor.

2.24. Upon continual default being committed by the Corporate Debtor, the Financial Creditor No. 2 was constrained to issue legal notice dated 24.11.2025 through its Advocate to recall the entire outstanding amount of INR 37,61,493/- (Rupees Thirty-Seven Lakhs, Sixty-One Thousand, Four Hundred and Ninety-Three Only).

2.25. At the time of availing the loan from Financial Creditor No.2, the Corporate Debtor was registered as a private limited company. Subsequently, on 02.09.2024, the Corporate Debtor was converted into a public limited company.

2.26. It is stated that the Financial Creditor No.1 vide Legal Notice cum Loan Recall Notice dated 24.11.2025 ("Recall Notice") recalled the aforesaid credit facilities extended to the Corporate Debtor. By virtue

of the Recall Notice, the Corporate Debtor thereof were required to repay total outstanding amount of INR 44,52,077/- (Rupees Forty-Four Lakhs, Fifty-Two Thousand and Seventy-Seven Only) due as on 24.11.2025 till full and full payment, within a period of 7 days from the receipt of this notice. The Recall Notice was duly delivered on 25.11.2025, to the address of the Corporate Debtor, thereby rendering 02.12.2025 as the due date for repayment of loans and interest thereof.

2.27. The Financial Creditor No.2 vide Legal Notice cum Loan Recall Notice dated 24.11.2025 ("Recall Notice") recalled the aforesaid credit facilities extended to the Corporate Debtor. By virtue of the Recall Notice, the Corporate Debtor thereof were required to repay total outstanding amount of INR 65,92,082/- (Rupees Sixty-Five Lakhs, Ninety-Two Thousand and Eighty-Two Only) due as on 24.11.2025 till full and full payment, within a period of 7 days from the receipt of this notice. The Recall Notice was duly delivered on 25.11.2025, to the address of the Corporate Debtor, thereby rendering 02.12.2025 as the due date for repayment of loans and interest thereof.

2.28. Further it is stated that That the date of default in the present petition has been taken in accordance with the prevailing judgements passed by the Hon'ble NCLAT. The Hon'ble NCLAT in the matter of Koncentric Investments Ltd. & Anr. vs Standard Chartered Bank & Anr. (Company Appeal (AT) (Insolvency) No. 911 of 2021), vide Judgment dated 27.01.2022, after perusing the language of Section 7

of the Insolvency and Bankruptcy Code, 2016 ("!BC"), observed that the Section 7(1) does not in any manner mention/specify 'first default' and hence, it shall not necessarily be only the first date of default which is to be reckoned as the only date of default to demonstrate maintainability of the petition. That more recently in Indiabulls Housing Finance Limited vs Revital Realty Private Limited (Company Appeal (AT) (Insolvency) No. 994 of 2022), vide Judgement dated 24.05.2023, the Hon'ble NCLAT reiterated the view taken in Koncentric (supra) and held that each default in part payment as per repayment schedule and the date on which the entire loan facilities stood defaulted all provide fresh cause of action for the purposes of Section 7 petitions. In Indiabulls (supra) the Hon'ble NCLAT upheld the lender's categorization of the date on which entire loan facilities fell due as per terms of loan recall notice to be a valid date of default, though the "first" default as per the repayment terms had taken place much earlier in time.

2.29. Further it is stated that in the case of Vishnu Oil Mill Private Limited (supra) it has been held by the Hon'ble High Court of Rajasthan that section 7 of the Code as amended vide Gazette notification dated 05.06.2020 admits no other interpretation except that a group of Financial Creditors can converge and joint hands to touch the financial limit of Rs. 1 crore stipulated under Section 7 so as to initiate a CIRP under the Code.

2.30. Since the Corporate Debtor failed to observe financial discipline, the Financial Creditor No.1 and Financial Creditor No.2 vide Legal Notice cum Recall Notice dated 24.11.2025 and 24.11.2025 respectively recalled the afore-mentioned facilities, and the Corporate Debtor committed default on 02.12.2025 and 02.12.2025 respectively when no payment was received after the elapse of the 7 -day period that commenced from the date of receipt of the Legal Notice cum Recall Notice. The present Company Petition is filed uls 7 of the IBC in December of 2025, is well within three years from the date of default.

2.31. The Applicant has placed NeSL Form – D which states the status of authentication of default as “DEEMED TO BE AUTHENTICATED” in respect of debt owed to the Financial Creditor No.1

2.32. The Applicant vide Additional Affidavit dated 10.02.2026 has placed NeSL form D on record in respect of debt owed to the Financial Creditor No.2 which reveals the status of authentication of default as “DISPUTED”.

2.33. The Applicant has attached the following documents along with the Application and /or additional affidavit.

a. Copy of Loan Application dated 04.11.2024
b. Copy of Board Resolution of Corporate Debtor dated 04.11.2024
c. Copy of Finance Proposal by Corporate Debtor dated 06.11.2024
d. Copy of Sanction Letter by Insta Capital Private Limited dated 06.11.2024
e. Copy of Bill of Exchange dated 08.11.2024

f. Copy of Amount Confirmation Letter by Corporate Debtor dated 08.11.2024.

g. Copy of Letter dated 29.06.2024 addressed by Corporate Debtor to FC No. 2 (Richbond Capital Private Limited) requesting term loan

h. Copy of Board Resolution dated 29.06.2024

i. Copy of Sanction Letter by Richbond Capital Private Limited dated 01.07.2024

j. Copy of Bill of Exchange dated 01.07.2024

k. Copy of Promissory Note dated 01.07.2024

l. Copy of Declaration and Confirmation of Debt dated 01.07.2024 given by Corporate Debtor to Financial Creditor No. 2 (Richbond Capital Private Limited)

m. Copy of Letter dated 20.08.2024 addressed by Corporate Debtor to Financial Creditor No. 2 (Richbond Capital Private Limited) requesting term loan

n. Copy of Board Resolution dated 20.08.2024

o. Copy of Sanction Letter by Richbond Capital Private Limited dated 22.08.2024

p. Copy of Bill of Exchange dated 22.08.2024

q. Copy of Promissory Note dated 22.08.2024

r. Copy of Declaration and Confirmation of Debt dated 22.08.2024 given by Corporate Debtor to Financial Creditor No. 2 (Richbond Capital Private Limited)

s. Copy of the Statement of Account (SOA) of Financial Creditor No. 1 (Insta Capital Private Limited)

t. Copy of the Statement of Account 1891) (SOA) of Financial Creditor No. 2 (Richbond Capital Private Limited)

u. Copy of Legal Notice dated 24.11.2025 issued on behalf of Financial Creditor No.1 (Insta Capital Private Limited) along with postal receipts and tracking report

v. Copy of Legal Notice dated 24.11.2025 issued on behalf of Financial Creditor No. 2 (Richbond Capital Private Limited) along with postal receipts and tracking report

w. Copy of Ledger Account maintained by Financial Creditor No. 1 (Insta Capital Private Limited)

x. Copy of Ledger Account maintained by Financial Creditor No.2 (Richbond Capital Private Limited)

y. Copy of NeSL in form D

z. Copy of Master data of FC no.1

aa. Copy of Master data of FC No.2

bb. Copy of Working of Computation of the Amount.

cc. Copy of Master data of Corporate Debtor

3. REPLY BY CORPORATE DEBTOR

3.1. Affidavit in reply was filed on 18.02.2026 by the Respondent through Mr. Gaurav Gambhir, who is stated to be the authorised representative of the Corporate Debtor.

3.2. It is stated that the alleged Financial Creditors has deliberately concealed material facts from this Hon'ble Tribunal with mala fide intention of misleading this Hon'ble Tribunal. Thus, the Respondent wishes to bring on record the factual matrix relevant for the purposes of adjudication of the present Petition as under:-

a) The alleged Financial Creditor No. 1 i.e. Insta Capital Pvt Ltd., loan amount of Rs. 72,00,000 is based only on a Sanction Letter dated 06.11.2024, which is unstamped and a proposal, not a contract. Under the Indian Stamp Act, 1899, such an unstamped loan document cannot be used in evidence to prove a financial debt or default. There is also no duly executed and stamped [Loan Agreement between the parties, so key terms like interest, repayment schedule, and date of default are not fixed.

b) The alleged Financial Creditor No.1, i.e., Insta Capital Pvt. Ltd. also rely on a Bill of Exchange marked “payable on demand” which does not mention any interest rate or amount. Without a valid, enforceable loan contract beneath it, this demand Bill of Exchange cannot, by itself, create or prove a “financial debt” under Section 5(8) of the Insolvency and Bankruptcy Code, 2016. At best, it is only a security or repayment instrument, not the source of the debt.

c) The amount disbursed was much lower than the sanctioned figure, so the Loan amount now claimed in the Petition is inflated and does not reflect the real disbursement, which fails the requirement of

"disbursement against consideration for time value of money" under Section 5(8) of the Code.

d) It is alleged that the Financial Creditor No.2 provided two short-term loan facilities to the Respondent and the disbursed the amounts in the Respondent's bank on 01 July 2024 and 22 August 2024.) These Loan facilities claimed by the Financial Creditor No.2 1.e., Richbond is already in serious dispute. We have filed a dispute in Form D on the NeSL portal, and the debt is shown there as 'DISPUTED".

e) It is pertinent to state the Respondent raised objections and disputed the Loan by sending through its advocate a detailed Legal Notice on 06 October 2025. In that Notice the Respondent had raised a dispute and objected that: signatures of the Respondent were taken on blank stamp papers, bills of exchange and promissory, loan terms were misrepresented; interest working was pot properly disclosed; and the documents were filled and used in a coercive and irregular way, making them invalid. These objections were raised well before this Petition and remain unanswered.

f) The alleged Financial Creditor No.2 i.e., Richbond for the present Petition relies on handwritten Loan Agreement with no counter signatures in the blank places filled in Loan Agreement Documentation. The Respondent had already challenged this in their legal notice dated 06 October 2025, clearly stating that the Respondent never agreed to such hand written filled-in terms and

that the legality of these blank signed documents is disputed. The challenge to the documents came prior to any Loan Recall Notice.

g) The alleged Financial Creditor No.2 immediately after receiving our notice of 06 October 2025 disputing the documents and alleging unilateral filling without our consent, issued a Loan Recall Notice on 13 November 2025 as a knee-jerk reaction. Hereto annexed and marked EXHIBIT “E” is copy of Loan Recall Notice by the Financial Creditor No.2 Richbond dated 13 November 2025,

h) The Respondent replied on 20 November 2025 to the Loan Recall Notice of the Financial Creditor No.2 Richbond. In that reply the Respondent allegedly asked the Financial Creditor No. 2 to withdraw the Loan Recall Notice, stop coercive threats, reconcile all loan accounts, correct any errors, and return incomplete or unsigned documents. The Respondent also requested to confirm all the amounts to be repaid and to follow MSME mandated protections.

i) he Respondent have already paid Rs. 55,50,000/- , the last date of payment was 09 August 2025 as against the disbursed amount of Rs. 59,85,430/- on 01 July 2024 towards the loan facility. The repayment amount was 325,00,000/- as against the disbursed amount 0f Rs. 42,14,130/- on 22 August 2024 in the other loan facility, aggregating to total repayment of 280,50,000/- within one year of actual net disbursement of 1,01,99,560 across both the short-term loan facilities of Financial Creditor No.2 Richbond. The

outstanding balance for the alleged Financial Creditor No.2 is 221,49,560/. About 80% of the principal has been serviced. Richbond's own ledgers show multiple payments from us over time, and they themselves say the balance is 221,49,560.

j) The Financial Creditors are NBFCs regulated by the RBI and must follow the RBI's Fair Practices Code. This includes the 2015 Master Circular, the 2023 Scale-Based Regulation Directions, and the 2024 Fair Practices Code for Lenders Charging of Interest (Master Direction dated 29.04.2024), issued under Section 45L of the RBI Act, 1934. These are binding on them.

k) The Financial Creditors have not followed these directions. They did not execute proper loan agreements, did not disclose the Annualised Percentage Rate, deducted interest in advance from disbursement, took signatures on blank stamped papers, failed to give Key Fact Statements, and used arbitrary and coercive loan recall tactics. The lending and recovery done in violation of binding

l) RBI rules is tainted; such non-compliant conduct cannot be treated as a proper "financial debt" for triggering insolvency proceedings.

m) This action by the alleged Financial Creditors was not only arbitrary, illegal, malicious but in complete violation of the Reserve Bank of India ('RBI') master circulars on Fair Practices Code. Pertinently, prior to the Legal Notice, the Respondent never received any reminder and/or default notice in relation to its payment obligations.

n) It is pertinent to note that the Legal Notice was issued without giving an opportunity to the Respondent to show cause as to why the loan should not be recalled and, to diagnose the alleged cause of the Event of Default. As such there was no Event of Default for the lack of loan documentation and none of the contingencies had occurred which would entitle the alleged Financial Creditor No. 1 to recall the loan amount in two months from the date of last repayment (12 September 2025). Clearly, the Legal Notice was arbitrary and malicious.

3.3. The Respondent states that The Respondent submits that the present Petition is ex-facie nonmaintainable as it fails to satisfy the mandatory jurisdictional threshold of 1 crore as stipulated under Section 4 of the Insolvency and Bankruptcy Code, 2016 (as amended via Notification dated 24.03.2020).

3.4. Itis submitted that the alleged outstanding balances claimed by the Financial Creditors are as follows:

Name of the Petitioner	Petitioner's "Claimed Debt" (Inadmissible)	Respondent's "Actual Legal Debt" (Disbursed)	Respondent's Repayments	Loan Balance Amount Outstanding (inclusive Interest)	Legal Basis for Dispute
Insta Capital	72,00,000	50,86,080	(28,00,000)	₹22,86,080	**Actual Disbursal:** reached the Applicant's bank account.
Richbond	1,40,00,000	1,01,99,560	(80,50,000)	₹21,49,560	
TOTAL DEBT				**₹44,35,640**	**Threshold Failure: Falls ~₹56 Lakhs short of the ₹1 Crore limit**

3.5. The cumulative alleged loan balance including the interest component of ₹44,35,640/- falls significantly short of the statutory floor of ₹1,00,00,000/- (Rupees One Crore) required to trigger the Corporate Insolvency Resolution Process (CIRP).

3.6. It is a settled position of law that the Adjudicating Authority does not possess the jurisdiction to admit a petition where the 'amount of default' is less than the limit prescribed under Section 4.

3.7. The Petitioner has attempted to bypass this statutory bar by misrepresenting the computation of the loan facilities and suppressing the fact that the actual claim does not meet the legal requirement for maintainability.

3.8. Furthermore, the Petitioner cannot seek to circumvent the threshold by clubbing unrelated or disputed claims that, even when aggregated, do not reach the 1 Crore mark. Consequently, in the absence of a default meeting the minimum threshold, this Hon'ble Tribunal has no jurisdiction to adjudicate the present Company Petition, and the same deserves to be dismissed with exemplary costs.

3.9. The Respondent submits that it is now well settled by authoritative pronouncements of the Hon'ble Supreme Court that the Insolvency and Bankruptcy Code, 2016, is not intended to be misused as a tool for debt recovery, and its objective is strictly confined to the resolution of genuine cases of insolvency or liquidation. The very architecture of the Code consciously omits the term "recovery" from its preamble and operative provisions, thereby clearly precluding its invocation for coercive recovery of dues. The distinction between "recovery" and "resolution" is not merely

semantic but integral to the legislative scheme and intent of the IBC. Proceedings under the IBC cannot be permitted to be used as an alternative to recovery proceedings, especially where the underlying debt is disputed.

3.10. The Financial Creditors have approached this Hon'ble Tribunal with unclean hands, having initiated the present proceedings not for the 'Resolution of Insolvency' but as a mala fide retaliatory strike. It is submitted that the 'Loan Recall Notice' issued by the Financial Creditors was not a standard commercial action arising out of a genuine default, but a calculated tactical manoeuvre executed immediately after, and in response to, the Respondent's Legal Notice dated 06 October 2025. By way of the said Legal Notice, the Respondent had formally challenged the Financial Creditor's fraudulent possession and material alteration of blank signed papers. Instead of justifying the legality of these documents in a competent Civil Forum, the Financial Creditors chose to 'recall' the alleged debt and rush to this Hon'ble Tribunal to use the IBC as a coercive shield.

3.11. The conduct of the Financial Creditors constitutes a clear attempt to bypass a pre-existing legal challenge and suppress the fact that there is no consensus ad idem regarding the terms of the debt.

3.12. In the aforesaid factual and legal backdrop, the attempt of the Financial Creditors to invoke Section 7 of the Insolvency and Bankruptcy Code, 2016, on the basis of an artificially accelerated recall-despite there being no determination of date of default as on recall date-clearly demonstrates an abuse of the insolvency framework as a recovery tool. The lender's conduct, of non- compliances with the regulator RBI's Master Directions issued from

time to time, disentitles it from invoking the extraordinary remedy under the IBC and renders the present petition liable to be rejected for lack of bona fides and absence of a genuine default.

3.13. That the recall notice issued by the Financial Creditors is illegal and non est in law, as no default within the meaning of Section 3(12) of the Code can be said to have occurred in law, as the debt was never enforceable in the first place, being tainted. The entire proceeding is therefore contrary to the object of the IBC, which is resolution of bona fide corporate distress and not recovery or enforcement of legally barred debts.

3.14. The Respondent submits that the present Petition is legally untenable and the underlying documents are judicially dead as they are not stamped in accordance with the Indian Stamp Act, 1899 and the relevant State Stamp Acts.

3.15. It is a settled position of law, as reaffirmed by the Five-Judge Constitution Bench of the Supreme Court in N.N. Global Mercantile (P) Ltd. v. Indo Unique Flame (P) Ltd. (2023), that an instrument which is eligible to stamp duty but is not stamped, or is inadequately stamped, is not a contract enforceable in law. Under Section 35 of the Indian Stamp Act, such an instrument cannot be admitted in evidence 'for any purpose' nor can it be acted upon by any person having by law or consent of parties' authority to receive evidence.

3.16. The Financial Creditor must prove the existence of a 'Financial Debt through a valid 'Financial Contract to maintain an application under Section 7. Since the alleged loan agreements/documents relied upon by the Financial Creditors are unstamped/handwritten on blank papers, they have no

existence in the eyes of the law. Consequently, there is no valid evidence of a legally enforceable debt before this Hon'ble Tribunal.

3.17. This Hon'ble Tribunal, being an 'authority' under the Stamp Act, is duty-bound to impound the said documents the moment it is brought to its notice that they are unstamped. The admission of a Petition based on such void instruments would be a direct violation of the mandatory provisions of the Stamp Act and the law of the land laid down by the Apex Court.

3.18. The Respondent further asserts that the Financial Creditors act of filling in blank signed papers without paying the requisite stamp duty further proves the lack of consensus ad idem and the fraudulent nature. of the transaction, rendering the documents void ab initio The Respondent submits that the alleged "Financial Debt" is subject to a bona fide pre-existing dispute regarding the very existence and validity of the loan documents. The Respondent had issued a Legal Notices on 06 October 2025 and 20 November 2025-prior to the filing of the Section 7 petition-challenging the Financial Creditor's fraudulent use of blank signed papers.

3.19. The essential terms (repayment, interest, and tenure) were/unilaterally handwritten by the Financial Creditors without the Respondent's consent, there was no consensus ad idem under the Indian Contract Act, 1872, rendering the alleged contract void and the debt not "legally due.

3.20. The Financial Creditors have presented an inflated and arbitrary computation of the alleged default by inflating the disbursal amount as sanctioned amount, not reflected in the bank statement of the Respondent.

3.21. These calculations are based on the unilaterally handwritten terms on the disputed blank papers. In the absence of a signed, valid financial contract, the Financial Creditors computation lacks any legal basis and constitutes a fraudulent inflation of the claim to meet the the jurisdiction thresholds of this Hon'ble Tribunal.

3.22. The Respondent is entitled to a mutual set-off against the Financial Creditor No.2 Richbond for a sum of ₹2,37,69,450/- (Two Crores Thirty-Seven Lakh Sixty-Nine Thousand Four Hundred and Fifty only) arising out of mutual dealings with entities under the same common control, Global Impex, who owes to the Respondent towards supplier advances. These mutual dealings constitute running accounts attracting equitable set-off. This cross-claim significantly exceeds the alleged outstanding amount of ₹21,49,560/- (of Richbond) and also the aggregate default amount of ₹44.35.460/-. As per the principle of Equitable Set-off, no debt is currently "due or payable as the Respondent is effectively a creditor of the Financial Creditors, making the Section 7 petition a malicious abuse of process.

3.23. The Financial Creditors have acted in blatant violation of RBI's Fair Practices Code and Master Directions for NBFCs/Lenders by obtaining blank signed documents from a borrower and charging of exorbitant upfront interest in advance.

3.24. Under the "Doctrine of Clean Hands," Financial Creditors who have engaged in regulatory misconduct and predatory lending practices-expressly prohibited by the RBI cannot seek the extraordinary remedy of CIRP. A debt arising from a transaction that violates Public Policy and Regulatory Statutes is not a "

enforceable debt" under the IBC Respondent is a Profitable MSME - Not in Financial Distress

3.25. Further it is stated that the Respondent is a profitable, going concern MSME with annual turnover in crores of rupees. The does not exhibit signs of insolvency, financial distress, or inability to pay debts. Under Section 4 of the IBC, "insolvency" implies a state where the debtor is unable to pay debts. The Respondent is not in such a state. The petition is therefore not maintainable rational Materia.

3.26. The conduct of the FCs reveals a pattern of predatory and coercive practices like large upfront discount and processing fee deductions obtaining signatures on blank stamp papers and unsigned instruments an indication of fraudulent intent, recall without reason or due process, especially in retaliation to legal notices which is malicious and retaliatory, and a joint petition by two lenders acting in concert suggests collusive harassment to incorrectly reach the minimum threshold of ₹1 crore for initiating insolvency proceedings against the Respondent.

3.27. This pattern of conduct of the Financial Creditors suggests that the present petition is maliciously initiated as part of a strategy to extract settlement from the Respondent, rather than as a genuine attempt to recover an undisputed and valid debt.

3.28. The alleged Financial Creditor has annexed a 'Statement of Account to the Petition, however, has not filed appropriate certificates under the Banker's Book Evidence Act 1891 (as amended). Under the aforesaid Act, certificates are required under the following provisions thereof

"2-A. Conditions in the printout

A printout of entry or a copy of printout referred to in sub-section (8) of section 2 shall be accompanied by the following, namely:

(a) a certificate to the effect that it is a printout of such entry or a copy of such printout by the principal accountant or branch manager; and

(b) a certificate by a person in-charge of computer system containing a brief description of the computer system and the particulars of-

(A) the safeguards adopted by the system to ensure that data is entered or any other operation performed only by authorised persons;

(B) the safeguards adopted to prevent and detect unauthorised change of data:

(C) the safeguards available to retrieve data that is lost due to systemic failure or any other reasons:

(D) the manner in which data is transferred from the system to removable media like floppies, discs, tapes, or other electro-magnetic data storage devices:

(E) the mode of verification in order to ensure that data has been accurately transferred to such removable media:

(F) the mode of identification of such data storage devices,

(G) the arrangements for the storage and custody of such storage devices;

(H) the safeguards to prevent and detect any tampering with the system; and any other factor which will vouch for the integrity and accuracy of the system.

(c) a further certificate from the person in-charge of the computer system to the effect that to the best of his knowledge and behalf, such computer system operated properly at the material time, he was

provided with all the relevant data and the printout in question represents correctly, or is appropriately derived from, the relevant data.

3.29. The contents of the said Statement of Accounts are required to be certified/attested as true and correct by an appropriate officer without which, in the humble submission of the present Corporate Debtor, Hon'ble Tribunal cannot ascertain the truth and correctness of the contents thereof.

3.30. It is stated that Petition ought not to be entertained by this Hon'ble Tribunal due to reasons as stated in the foregoing paragraphs. The substratum of the Respondent is strong and an order admitting the said Petition would cause grave harm and injustice to the Respondent. I state that the claim made by the alleged Financial Creditor ought to be dismissed by this Hon'ble Tribunal.

3.31. It is evident that the Petition suffers from various defects and is completely bad in law and therefore ought to be rejected at the outset under the provisions of the Code as read with the Rules made thereunder.

3.32. It is stated that the alleged Financial Creditor has not come with clean hands to initiate CIRP on the basis of an unsubstantiated claim to seek initiation of CIRP of the Respondent. Moreover, the alleged Financial Creditor has proceeded under the Code to merely pressurize the Respondent to make payments for its unjust and illegal demands to save itself from CIRP, which is not the intent of the legislation. The Hon'ble Supreme Court in the case of Mobilox Innovations Private Limited v Kirusa Software Private Limited, has categorically laid down that the Code is not intended to be substitute to a recovery forum. The Petition thus is liable to be dismissed with cost.

4. REJOINDER

4.1. Vide hearing dated 27.03.2026 the Ld. Counsel for the Applicant stated that he has got no instruction to file the rejoinder in the current matter and as a result the right of Applicant to file rejoinder was closed on the said date.

5. IA1728 of 2026

5.1. The present Interlocutory Application (I.A.) bearing IA/1728/(MB)2026 was filed on 22.04.2026 by the Applicant named Shubh Foods Industries Limited (who is the Respondent in C.P. 69/2026), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC"), seeking the following reliefs: -

a. Dismiss the Company Petition (IB) No. 69 (MB) OF 2026 filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, at the threshold, as being non-maintainable, fraudulent, malicious, barred by limitation, and an abuse of the process of law;

b. Hold and declare that the Company Petition (IB) No. 69 (MB) OF 2026 has been initiated with collateral motives and in bad faith, in violation of the object and purpose of the Insolvency and Bankruptcy Code, 2016, and squarely attracts the mischief under Section 65 of the Code,

c. Decide the issue of maintainability and the jurisdictional threshold as a Preliminary Issue before proceeding to the merits of the alleged default,

d. Direct the Petitioners to produce the Original Physical Documents before this Hon'ble Tribunal for forensic inspection to verify the material handwritten alterations and the filling of blank signed papers, which were highlighted by the Corporate Debtor prior to the filing of this Petition;

e. Direct adjudication of counter-claims and set-off prior to insolvency consideration;

f. Stay the admission of Company Petition (IB) No. 69 (MB) of 2026 and further proceedings pending disposal of this IA;

g. Impound the alleged loan instruments and documents relied upon by the Petitioner under Section 33 of the Indian Stamp Act, 1899, as the same are unstamped/inadequately stamped and thus legally inadmissible in evidence;

h. interim and ad-interim reliefs for prayer clause (a) to (g);

i. Impose exemplary costs on financial creditor under Section 65 of the Insolvency and Bankruptcy Code, 2016, for filing the Company Petition (IB) No. 69 (MB) OF 2026 with malicious and fraudulent intent and for misuse of the insolvency framework;

j. Pass such further and other orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice, equity, and good conscience.

5.2. The Applicant submits that the present Company Petition is liable to be dismissed on account of gross material suppression of facts and deliberate concealment of prior transactions between the parties

operating under common control. The alleged debt is without any valid loan documentation, disputed, unenforceable in law, improperly computed, and the Petition itself has been initiated fraudulently and with malicious intent for recovery purposes.

5.3. The Financial Creditor No. 2, Richbond Capital Pvt. Ltd., is part of the same economic group and under common management and control as its sister concern, Global Impex, whose partners/directors are common, inter-alia including Mr. Deepak Hemnani and Ms. Roshni Hemnani.

5.4. It is submitted that the Corporate Debtor has, since the year 2022, advanced substantial supplier advances aggregating to ₹2,37,69,450/-(Rupees Two Crores Thirty-Seven Lakhs Sixty-Nine Thousand Four Hundred and Fifty) to Global Impex in the ordinary course of business. Despite repeated demands, the said amounts remain unpaid till date

5.5. The existence of these reciprocal financial transactions under common control has a direct and material bearing on the alleged default and the financial relationship between the parties. However, the Petitioners have deliberately suppressed these facts from this Hon'ble Tribunal while invoking the insolvency jurisdiction.

5.6. The Corporate Debtor further submits that serious disputes had already arisen with respect to the alleged loan transactions and documents of Financial Creditor No. 2, Richbond Capital Pvt. Ltd., much prior to the filing of the present petition.

5.7. In October 2025, the Corporate Debtor issued detailed legal notices to Richbond Capital Pvt. Ltd. calling upon them to furnish proper and complete loan documentation, including duly executed and stamped agreements, statements of account, and interest computation details.

5.8. In the said notices, the Corporate Debtor specifically raised allegations of grave malpractices, including but not limited to:

(a) Obtaining signatures on blank and incomplete papers;

(b) Misrepresentation of loan terms

(c) Levy and deduction of exorbitant upfront interest, and

(d) Non-compliance with RBI Master Directions on Fair Practices Code applicable to NBFC Lenders.

5.9. Instead of addressing the disputes and furnishing documentation, Financial Creditor No. 2, Richbond Capital Pvt. Ltd., issued a Loan Recall Notice dated 13.11.2025 demanding repayment within 7 days as a retaliatory tactic.

5.10. The Applicant replied to the Loan Recall Notice on 20.11.2025, thereby asking the Financial Creditor No.2 to withdraw the recall notice dated 13.11.2025 and the threats; to reconcile all accounts, rectify return incomplete loan documentation; and to provide written acknowledgment of all amounts paid and extend all RBI-mandated MSME relaxations, including non-coercive recovery and fair dispute resolution.

5.11. Thereafter, a second Recall Notice dated 24.11.2025 was again issued by Financial Creditor No. 2, Capital Pvt. Ltd., reiterating the

demand for repayment within 7 days. (13) The issuance of successive recall notices, despite pre-existing and demands for loan documentation by the Corporate Debtor, clearly demonstrates a coercive recovery approach and an attempt to artificially create a default for the purpose of initiating insolvency proceedings.

5.12. The Petitioners have failed to disclose

A. The prior dispute and legal notices issued by the Corporate Debtor in October 2025 before the filing of the present petition,

B. The disputes regarding documentation and interest computation

C. The common control and financial dealings with Global Impex; and

D. The outstanding liability of Global Impex towards the Corporate Debtor, thus resulting in net zero liability towards the Richbond Capital Pvt. Ltd.

5.13. That such suppression goes to the root of the maintainability of the present petition and constitutes abuse of process, disentitling the Petitioners from invoking the insolvency jurisdiction of this Hon'ble Tribunal.

5.14. That Section 65 of the IBC explicitly provides that if any person initiates the insolvency resolution process fraudulently or with malicious intent for any purpose other than resolution of insolvency or liquidation, the Adjudicating Authority may impose a penalty and reject

such proceedings. The present case squarely falls within the ambit of Section 65(1), as detailed hereinafter.

5.15. The Petitioners have relied upon two separate and independent lending transactions, namely: (i) a facility allegedly granted by Insta Capital Pvt. Ltd.; and (ii) certain disputed and tainted facilities allegedly granted by Richbond Capital Private Limited. It is submitted that the Petitioners have improperly clubbed the alleged debts arising from these distinct transactions with inflated amounts in order to cross the statutory threshold prescribed under the Insolvency and Bankruptcy Code, 2016. The Corporate Debtor denies the alleged debt and default, as the same are seriously and vehemently disputed on facts, in law, on enforceability, and on computation.

5.16. The Applicant respectfully submits the present Interlocutory Application under Section 65 and section 60(5)of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking rejection of the Petition filed under Section 7 of the IBC on the ground that it is fraudulent, malicious, and constitutes a gross abuse of the process of law. The Applicant submits the following facts, circumstances and grounds for rejection of the Original Petition:

5.17. In respect of loan provided by Insta Capital Pvt. Ltd. it is stated that the transaction is defective and unenforceable as

(a) The alleged loan of ₹72,00,000 is stated to be founded upon a Sanction Letter dated 06.11.2024. The said sanction letter

is a proposal and is admittedly unstamped. Under the provisions of the Indian Stamp Act, 1899, an unstamped loan instrument is inadmissible in evidence and cannot be relied upon for the purpose of establishing a financial debt or proving default. It is further submitted that no duly executed and stamped Loan Agreement exists between the parties. In the absence of a formal loan agreement, the essential terms governing the remain uncrystallised, the manner and basis of interest computation, repayment schedule and the determination of the event and date of default.

(b) The Petitioners have additionally sought to rely upon a Bill of Exchange stated to be payable on demand which does not mention any interest rate or amount. It is submitted that a demand Bill of Exchange, in the absence of an enforceable and legally valid underlying loan contract, cannot by itself constitute or prove a "financial debt" within the meaning of Section 5(8) of the Insolvency and Bankruptcy Code, 2016, and therefore cannot be relied upon to sustain the present petition The Bill of Exchange acts merely as a security or a mechanism for repayment, not as the origin of the debt.

(c) The Corporate Debtor has repaid an aggregate sum of approximately 228,00,000/- against the disbursed amount of ₹50,86,080/-. The last payment was made on 12.09.2025.

The balance outstanding is ₹22,86,080/-. The actual disbursed amount was significantly lower than the sanctioned figures. The principal amounts now claimed are therefore inflated and do not reflect the real disbursement. Such claims are contrary to the requirement of "disbursement against the consideration for time value of money" as contemplated under Section 5(8) of the Insolvency and Bankruptcy Code, 2016. Moreover, the continuous repayments by Corporate Debtor clearly demonstrate that the account was being regularly serviced. In such circumstances, the allegation of insolvency and default, as sought to be portrayed by the Petitioners, is wholly misconceived and untenable. The Corporate Debtor is in a position to sustain itself financially so much that it does not requires resolution.

5.18. In respect of loan provided by Richbond Capital private limited it is stated that the pre-existing dispues exists as the alleged debt claimed by Richbond Capital Pvt. Ltd. is the subject matter of a serious and bona fide dispute. The Corporate Debtor has already filed dispute records in Form-D before the National E-Governance Services Ltd. (NESL), wherein the debt authentication status is recorded as "DISPUTED".

5.19. The Corporate Debtor had, prior to the initiation of the present CIRP proceedings and issue of Recall/Demand Notice on 24.11.2015,

issued detailed legal notice on 06.10.2025 (October 2025) raising disputes, inter-alia including: (a) unethical conduct of obtaining signatures on blank stamp papers, bill of exchange and promissory note; (b) misrepresentation of loan terms and unfair practice; (c) non-disclosure and lack of transparency in interest computation; and (d) execution of coercive and irregular documentation thereby invalidating the loan documents. These disputes were raised well before the filing of the present petition and remain unresolved.

5.20. The existence of such disputes, coupled with the surrounding facts, attracts the ratio laid down by the Hon'ble Supreme Court in Vidarbha Industries Power Ltd. v. Axis Bank Ltd., (2022) 8 SCC 352.

5.21. It is further stated that loan documents were void and defective as the documents relied upon by the Financial Creditor to evidence the alleged proof of debt are handwritten and appear to have been filled in by the Financial Creditor after obtaining the signatures of the Corporate Debtor on blank documents. This position was specifically challenged by the Corporate Debtor in its Legal Notice dated 06.10.2025, wherein the legality and validity of such blank signed papers were expressly disputed. The "Challenge to Documents" happened before the "Loan Recall".

5.22. It is stated that for a considerable period, the Financial Creditor took no steps to assert or recover any alleged default. However, immediately upon receipt of the aforesaid Legal Notice dated 06.10.2025, and upon the Corporate Debtor disputing the documents

as having been unilaterally and fraudulently filled in without any consensus ad idem, the Financial Creditor issued a Loan Recall Notice dated 13.11.2025 as a knee-jerk reaction.

5.23. The Corporate Debtor duly replied to the Loan Recall Notice dated 13.11.2025 vide its response dated 20.11.2025. In the said reply, the Corporate Debtor called upon the Financial Creditor to withdraw the recall notice and desist from issuing coercive threats. The Corporate Debtor further requested the Financial Creditor to reconcile all loan accounts, rectify discrepancies, and return incomplete and unsigned loan documentation. Additionally, the Corporate Debtor sought a written acknowledgment of all amounts repaid and called upon the Financial Creditor to extend all RBI-mandated MSME protections and relaxations, including adherence to non-coercive recovery practices and fair dispute resolution mechanisms.

5.24. The sequence of events clearly establishes that the present Petition is not a bona fide invocation of the Insolvency and Bankruptcy Code, 2016, but a retaliatory and mala fide action. The insolvency process is being misused as a tool of coercive recovery and to overawe the Corporate Debtor into submission, rather than for genuine insolvency resolution. The Petition, being founded on disputed and materially altered documents and having been filed to circumvent a pre-existing civil dispute, is liable to be dismissed under Section 65 of the Code with appropriate costs.

5.25. It is a settled requirement for admission of a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016, that the debt must be legally due and enforceable in law. In the present case, the Corporate Debtor has specifically raised the defence of material alteration in respect of the documents relied upon by the Financial Creditor. It is submitted that signatures were obtained on blank papers which were subsequently filled in unilaterally. Under Section 87 of the Negotiable Instruments Act, 1881-applied by settled analogy to contractual instruments any material alteration made without the consent of the executant renders the document void and unenforceable.

5.26. In such circumstances, where the very document purporting to define repayment terms and liability stands vitiated, no contractual obligation can be said to crystallise. Consequently, there can be no legally determinable date of default. In the absence of a valid and enforceable default, the foundational requirement for admission of a Section 7 petition read with Section 4 of the Code is not satisfied, and the present petition is liable to be rejected on this ground alone.

5.27. It is argued by the Corporate Debtor that In respect of the ₹60 lakh facility, interest amounting to 16,44,270 was deducted upfront at the time of disbursement. Processing fees and GST were also deducted, thereby substantially reducing the actual funds disbursed to the Corporate Debtor. Similarly, in the ₹80 lakh facility, interest of ₹18,25,770 was deducted upfront at the time of disbursement.

5.28. Accordingly, the actual disbursed amounts were in total 1,01,99,560 significantly lower than the sanctioned amount of ₹1,40,00,000/- The amounts now claimed are therefore inflated and do not reflect the real disbursement. Such claims are contrary to the requirement of "disbursement against the consideration for time value of money" as contemplated under Section 5(8) of the Insolvency and Bankruptcy Code, 2016.

5.29. The Corporate Debtor has repaid an aggregate sum of 80.5 lakhs across the facilities availed from Richbond Capital Pvt. Ltd., against the actual disbursed amount of ₹1,01,99,560. The loan has thus been serviced to the extent of approximately 80%. The ledger entries relied upon by the Petitioners themselves clearly evidence multiple repayments made by the Corporate Debtor from time to time. The balance outstanding, as per the Petitioners' own computation, stands at ₹21,49,560/-.In these circumstances, the allegation of default is seriously disputed, both on the aspect of computation as well as on the question of liability.

5.30. It is stated that the Richbond Capital Private Limited and Global Impex are sister concerns operating under common control and management. The partners of Global Impex, Mr. Deepak Hemnani and Ms. Roshni Hemnani, are also Directors in Richbond Capital Private Limited. The Corporate Debtor has, since 2022, advanced substantial sums to Global Impex towards supplier advances

aggregating to approximately ₹2,37,69,450/-. against which no repayment has been made till date.

5.31. The Petitioners have suppressed the aforesaid material facts in the present proceedings. The transactions between the parties constitute mutual dealings and form part of a running account, thereby attracting the principles of equitable set-off. In view of Section 60(5) of the Insolvency and Bankruptcy Code, 2016, this Hon'ble Tribunal has the jurisdiction to adjudicate inter-se claims and counter-liabilities between the parties. Accordingly, without determination of the net liability after accounting for the amounts due and payable by Global Impex to the Corporate Debtor, the question of admitting the present CIRP petition does not arise.

5.32. Insta Capital Pvt. Ltd. and Richbond Capital Pvt. Ltd. are Non-Banking Financial Companies (NBFCs) regulated by the Reserve Bank of India and are bound to adhere to the regulatory framework governing fair lending practices. The Reserve Bank of India has issued extant guidelines in respect of the Fair Practices Code to be followed by NBFCs, inter-alia vide Master Circular DNBR (PD) CC. No. 054/03.10.119/2015-16 dated 01.07.2015, the Master Direction - Reserve Bank of India (Non-Banking Financial Company Scale Based Regulation) Directions, 2023, and Master Direction RB1/2024-25/30DoS.CO.PPG.SEC.1/ 11.01.005/2024-25 Fair Practices Code for Lenders Charging of Interest dated 29.04.2024, as amended from time to time. These directions have been issued in exercise of

statutory powers under Section 45L of the Reserve Bank of India Act, 1934, and are binding on all regulated NBFC entities. Hereto annexed and marked EXHIBIT "G" is the Copy of RBI Master Direction - RBI/2024-25/30DoS.CO.PPG.SEC.1/11.01.005/2024-25 Fair Practices Code for Lenders - Charging of Interest dated 29.04.2024.

5.33. It is submitted that the lending practices adopted in the present case are in violation of the aforesaid RBI Directions, including: (a) non-execution of formal loan agreements; (b) non-disclosure of Annualised Percentage Rate (APR); (c) deduction of interest upfront from the loan disbursement; (d) obtaining signatures on blank stamped papers, (e) failure to issue Key Fact Statements, and (f) arbitrary and coercive loan recall actions. Contracts and recovery actions undertaken in breach of binding regulatory directions are tainted in their enforceability, and such non-compliant lending conduct cannot form the basis of a valid financial debt for the purposes of initiating insolvency proceedings.

5.34. The present Petition has been filed not for the legitimate purpose of insolvency resolution but as a coercive recovery mechanism. The Petitioners have sought to inflate their claims, suppress material facts relating to counter-debt and mutual dealings, and rely upon void, defective and unenforceable financial instruments to meet the threshold limit of ₹1 crore under the Code.

5.35. Such conduct squarely attracts the provisions of Section 65 of the Insolvency and Bankruptcy Code, 2016. This Hon'ble Tribunal is

vested with the jurisdiction to examine the bona fides of the initiation of CIRP and to impose appropriate penalties where insolvency proceedings are commenced fraudulently, with malicious intent, or for purposes other than genuine insolvency resolution.

5.36. It is stated that present Petition is ex-facie non-maintainable and liable to be dismissed in limine as it fails to satisfy the mandatory jurisdictional threshold of Icrore as stipulated under Section 4 of the Insolvency and Bankruptcy Code, 2016 (as amended via Notification dated 24.03.2020).

5.37. It is submitted that the alleged outstanding balances claimed by the Financial Creditors are as follows:

Name of the Petitioner	Petitioner's "Claimed Debt" (Inadmissible)	Applicant's "Actual Legal Debt" (Disbursed)	Applicant's Repayments	Balance Amount Outstanding	Legal Basis for Dispute
Insta Capital	72,00,000	50,86,080	28,00,000	₹22,86,080	**Actual Disbursal:** reached the Applicant's bank account.
Richbond	1,40,00,000	1,01,99,560	80,50,000	₹21,49,560	
TOTAL DEBT				₹44,35,640	Threshold Failure: Falls ~₹56 Lakhs short of the ₹1 Crore limit

5.38. The cumulative alleged debt of ₹44,35,640/- falls significantly short of the statutory floor of ₹1,00,00,000/-(Rupees One Crore) required to trigger the Corporate Insolvency Resolution Process (CIRP).

5.39. It is a settled position of law that the Adjudicating Authority does not possess the jurisdiction to admit a petition where the 'amount of default' is less than the limit prescribed under Section 4.The Petitioner has attempted to bypass this statutory bar by misrepresenting the nature of the debt and suppressing the fact that the actual claim does not meet the legal requirement for maintainability.

5.40. Furthermore, the Petitioner cannot seek to circumvent the threshold by clubbing unrelated or disputed claims that, even when aggregated, do not reach the 1Crore mark. Consequently, in the absence of a default meeting the minimum threshold, this Hon'ble Tribunal has no jurisdiction to adjudicate the present Company Petition, and the same deserves to be dismissed with exemplary costs.

5.41. The Applicant submits that it is now well settled by authoritative pronouncements of the Hon'ble Supreme Court that the Insolvency and Bankruptcy Code, 2016, is not intended to be misused as a tool for debt recovery, and its objective is strictly confined to the resolution of genuine cases of insolvency or liquidation. The very architecture of the Code consciously omits the term "recovery" from its preamble and operative provisions, thereby clearly precluding its invocation for coercive recovery of dues. The distinction between "recovery" and

"resolution" is not merely semantic but integral to the legislative scheme and intent of the IBC. Proceedings under the IBC cannot be permitted to be used as an alternative to recovery proceedings, especially where the underlying debt is disputed.

5.42. The Petitioner has approached this Hon'ble Tribunal with unclean hands, having initiated the present proceedings not for the 'Resolution of Insolvency' but as a mala fide retaliatory strike. It is submitted that the 'Loan Recall Notice' issued by the Petitioner was not a standard commercial action arising out of a genuine default, but a calculated tactical manoeuvre executed immediately after, and in response to, the Corporate Debtor's Legal Notice dated 06.10.2025. By way of the said Legal Notice, the Corporate Debtor had formally challenged the Petitioner's fraudulent possession and material alteration of blank signed papers. Instead of justifying the legality of these documents in a competent Civil Forum, the Petitioner chose to 'recall' the alleged debt and rush to this Hon'ble Tribunal to use the IBC as a coercive shield.

5.43. The conduct of the Financial Creditors constitutes a clear attempt to bypass a pre-existing legal challenge and suppress the fact that there is no consensus ad idem regarding the terms of the debt.

5.44. Consequently, the Petition is a textbook case of malicious initiation under Section 65 of the Code, intended to harass a solvent Corporate Debtor and stifle a legitimate dispute regarding the forgery and manipulation of loan documents.

5.45. In the aforesaid factual and legal backdrop, the attempt of the Financial Creditors to invoke Section 7 of the Insolvency and Bankruptcy Code, 2016, on the basis of an artificially accelerated recall-despite there being no determination of date of default as on the recall date clearly demonstrates an abuse of the insolvency framework as a recovery tool. The lender's conduct, of non-compliances with the regulator RBI's Master Directions issued from time to time, disentitles it from invoking the extraordinary remedy under the IBC and renders the present petition liable to be rejected for lack of bona fides and absence of a genuine default.

5.46. No Default in Law Under Section 3(12) Debt Unenforceable and Proceedings Contrary to Object of IBC. That the recall notice issued by the Financial Creditor is illegal and non-Est in law, as no default within the meaning of Section 3(12) of the Code can be said to have occurred in law, as the debt was never enforceable in the first place, being tainted. The entire proceeding is therefore contrary to the object of the IBC, which is resolution of bona fide corporate distress and not recovery or enforcement of legally barred debts.

5.47. The Applicant submits that the present Petition is legally untenable and the underlying documents are judicially dead as they are not stamped in accordance with the Indian Stamp Act, 1899 and the relevant State Stamp Acts

5.48. Statutory Bar on Admissibility: It is a settled position of law, as reaffirmed by the Five-Judge Constitution Bench of the Supreme

Court in N.N. Global Mercantile (P) Ltd. v. Indo Unique Flame (P) Ltd. (2023), that an instrument which is eligible to stamp duty but is not stamped, or is inadequately stamped, is not a contract enforceable in law. Under Section 35 of the Indian Stamp Act, such an instrument cannot be admitted in evidence 'for any purpose' nor can it be acted upon by any person having by law or consent of parties authority to receive evidence.

5.49. Failure to Prove 'Debt' and 'Default': To maintain an application under Section 7 of the IBC, the Petitioner must prove the existence of a 'Financial Debt' through a valid 'Financial Contract'. Since the alleged loan agreements/documents relied upon by the Petitioner are unstamped/handwritten on blank papers, they have no existence in the eyes of the law. Consequently, there is no valid evidence of a legally enforceable debt before this Hon'ble Tribunal.

5.50. Mandatory Impounding: This Hon'ble Tribunal, being an "authority' under the Stamp Act, is duty-bound to impound the said documents the moment it is brought to its notice that they are unstamped. Admission of a petition based on such void instruments would be a direct violation of the mandatory provisions of the Stamp Act and the law of the land laid down by the Apex Court.

5.51. No Consensus on Stamp Duty: The Corporate Debtor further asserts that the Petitioner's act of filling in blank signed papers without paying the requisite stamp duty further proves the lack of consensus ad idem

and the fraudulent nature of the transaction, rendering the documents void ab initio.

5.52. The Applicant submits that the alleged "Financial Debt" is subject to a bona fide pre-existing dispute regarding the very existence and validity of the loan documents. The Corporate Debtor had issued a Legal Notices on 06.10.2025 and 20.11.2025-prior to the filing of the Section 7 petition-challenging the Petitioner's fraudulent use of blank signed papers.

5.53. Absence of Agreement: As the essential terms (repayment, interest, and tenure) were unilaterally handwritten by the Petitioner without the Applicant's consent, there was no consensus ad idem under the Indian Contract Act, 1872, rendering the alleged contract void and the debt not "legally due.

5.54. It is stated that the amount is Inflated and Malicious Default Computation as

a. Unilateral Interest: The Petitioner has presented an inflated and arbitrary computation of the alleged default by applying usurious interest rates not agreed upon by the parties.

b. Lack of Basis: These calculations are based on the unilaterally handwritten terms on the disputed blank papers. In the absence of a signed, valid financial contract, the Petitioner's computation lacks any legal basis and constitutes a fraudulent inflation of the claim to meet the jurisdictional thresholds of this Hon'ble Tribunal.

5.55. Right to Mutual Set-Off Exceeding Alleged Default

a. Counter-Claim: The Applicant is entitled to a mutual set-off against the Petitioner Richbond for a sum of ₹2,37,69,450/-(Two Crores Thirty-Seven Lakh Sixty-Nine Thousand Four Hundred and Fifty only) arising out of mutual dealings with entities under the same common control, including Global Impex, who owes to the Applicant towards supplier advances. These mutual dealings constitute running accounts attracting equitable set-off.

b. Net Zero Liability: This cross-claim significantly exceeds the alleged default amount of ₹21,49,560/- (of Richbond) and also the aggregate default amount of ₹44,35,460/-. As per the principle of Equitable Set-off, no debt is currently "due or payable as the Respondent is effectively a creditor of the Petitioner, making the Section 7 petition a malicious abuse of process.

5.56. It is stated that the Petitioner has acted in blatant violation of RBI's Fair Practices Code and Master Directions for NBFCs/Lenders by obtaining blank signed documents from a borrower and charging of exorbitant upfront interest in advance

5.57. Further under the "Doctrine of Clean Hands," a Petitioner who has engaged in regulatory misconduct and predatory lending practices-expressly prohibited by the RBI cannot seek the extraordinary remedy of CIRP. A debt arising from a transaction that violates Public Policy and Regulatory Statutes is not a "legally enforceable debt" under the IBC. The Applicant craves leave of this Hon'ble Tribunal to add, alter, amend and/or supplement any of the foregoing pleadings with such

further fact's submissions, documents, or legal grounds as may be necessary or warranted in the interest of justice and for the effective adjudication of the present matter.

5.58. The Applicant/Corporate Debtor respectfully submits that in support of the present Interlocutory Application under Section 65 and section 60(5)of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016, it shall rely upon relevant judicial pronouncements of the Hon'ble Supreme Court, Hon'ble High Courts, Hon'ble National Company Law Appellate Tribunal (NCLAT) and Hon'ble National Company Law Tribunal which categorically affirm that mala fide initiation of proceedings under the IBC constitutes an abuse of process. The Corporate Debtor shall place these authorities on record by way of a separate Compilation of Judgments to be submitted before this Hon'ble Tribunal at the time of hearing, with due notice to all parties.

6. <u>REPLY TO THE IA BY INSTA CAPITAL PVT LTD (Respondent / FC No.1)</u>

6.1. The Reply in IA is filed by Mr. Vivek Bajaj who is stated to be the authorised signatory of the Financial Creditor No.1

6.2. It is stated that the Corporate Debtor has already filed a reply to the Company Petition, challenging the Section 7 Company Petition. The Company Petition is presently pending adjudication before this Hon'ble Tribunal, wherein all the pleadings are complete and the matter is ripe for hearing. Right when the matter was to be kept for final hearing, the Applicant has filed the present Interlocutory Application seeking substantially identical and/or overlapping

contentions under the garb of a different cause of action. The present Application is therefore wholly misconceived, an abuse of the process of law, and is liable to be dismissed in limine with exemplary costs.

6.3. The Company Petition No.69 of 2026 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (Code) is filed jointly by Insta Capital Private Limited and Richbond Capital Private Limited i.e. the Respondents herein, against Shubh Food Industries Limited (Corporate Debtor). Section 7(1) of the Code specifically mentions that a financial creditor either by itself or jointly with other financial creditors, or any other person on behalf of the financial creditor, may file an application for initiating corporate insolvency resolution process against a corporate debtor when a default has occurred.

6.4. The same has been upheld by the High Court of Rajasthan, in the case of Vishnu Oil Mill Private Limited v. Union of India, that section 7 of the Code as amended vide Gazette notification dated 05.06.2020 admits no other interpretation except that a group of Financial Creditors can converge and joint hands to touch the financial limit of Rs.1 crore stipulated under Section 7 so as to initiate a CIRP under the Code. Based on the above made submissions, the contention of the Applicant that the Respondents have improperly clubbed the debts arising from distinct transactions stand no ground.

6.5. The Applicant has failed to appreciate the various documents executed for availing the credit facilities from Respondent No.1. These documents are duly signed by the Applicant and the Respondent No.1

wherein the terms and conditions of the facilities are clearly mentioned. These terms and conditions have been duly acknowledged and No.1 has wrongly deducted amounts before disbursement, charged inflated rate of interest are factually incorrect, misleading, and contrary to the documents on record. Hence, the contentions do not merit consideration.

6.6. The details of the credit facilities and the documents executed are mentioned below:

a. The Applicant had approached Respondent No.1 for grant of Working Capital Loan vide Loan Application dated 04.11.2024. Respondent No.1 sanctioned a "Working Capital Demand Loan" for INR 72,00,000/- (Rupees Seventy-Two Lakhs Only) vide Sanction Letter dated 06.11.2024. Contrary to the contentions of the Applicant, this Sanction Letter has been duly signed by the Director of the Applicant as per the Board Resolution dated 04.11.2024 passed by the Applicant to approach Respondent No.1 and avail the said Working Capital Loan.

b. The Loan Application Form dated 04.11.2024 and the Finance Proposal dated 06.11.2024

c. The Sanction Letter dated 06.11.2024

d. The interest rate of 2.25% (flat) per month on the Working Capital Demand Loan has been clearly mentioned on the signed Sanction Letter.

6.7. Further, the Sanction Letter also states that in case of delay in repayment of any instalment the entire balance amount will become due immediately. Any overdue interest will be charged at 0.15% of the overdue amount pet day of default, and that the repayments will be first adjusted towards overdue interest. Further the amount was to be disbursed to the Applicant against the execution of On Demand Bill of Exchange of INR 72,00,000/- (Rupees Seventy-Two Lakhs Only) drawn by the Applicant and accepted by Mr. Gaurav Harish Gambhir and Mrs. Neetu Bhupendra Shah, payable to Respondent No.1 at Mumbai. These terms and conditions were explained to the Applicant and its Directors and have been clearly mentioned on the Sanction Letter dated 06.11.2024. The said Bill of Exchange accepted by Mr. Gaurav Harish Gambhir and Mrs. Neeta Bhupendra Shah is annexed and marked as Exhibit 'E'.

6.8. thereafter an amount of INR 50,86,080/- (Rupees Fifty Lakh Eighty-Six Thousand and Eighty Only) was disbursed to the Applicant on 08.11.2024 after deducting discount/interest charges as per the agreed terms. There is no dispute in the disbursed amount as the amount is the same amount which was agreed by parties. The Applicant sent a letter to the respondent No.1 acknowledging disbursement after deducting the appropriated amounts in the Applicant's Bank Account held in ICICI Bank.

6.9. The Applicant cannot dispute the deductions or the amount disbursed as the same has been duly acknowledged by the Applicant. The said

letter of receipt dated 0i.11.2024 of the amount is annexed and marked as Exhibit 'F'.

6.10. Further it was agreed as per the signed Sanction Letter dated 06.11.2024 that the Applicant was to pay an amount of INR 6,00,000/- (Rupees Six Lakhs Only) per month which was further bifurcated in INR 3,00,000/- (Rupees Three Lakhs Only) payable weekly/fortnightly commencing from 23.11.2024 till 08.11.2025. The Applicant has defaulted in this payment and has been in a continuous default since February 2025.

6.11. The Respondent No.1 sent multiple reminders to the Applicant for repayment of the agreed amount. Even after multiple reminders and requests, the Applicant ignored the repayment of the working capital loan to Respondent No.1. The Respondent No.1 was constrained to file the Section 7 along with the Respondent No.2.

6.12. The Applicant has defaulted an amount of INR 45,88,778/- (Rupees Forty-Five Lakh Eighty-Eight Thousand Seven Hundred and Seventy-Eight Only) against the Respondent No.1 as on 05.01.2026. The principal outstanding is INR 44,00,000/- (Rupees Forty-Four Lakhs Only) and the outstanding interest is INR 1,88,778/- (Rupees One Lakh Eighty-Eight Thousand Seven Hundred and Seventy-Eight Only).

6.13. The default interest has been calculated as per the terms agreed between the parties mentioned in the Request Letter and Sanction Letter. The Applicant claims that an amount of INR 28,00,000/- (Rupees Twenty-Eighty Lakhs Only) has been repaid by the Applicant.

Respondent No.1 does not dispute the same, on the other hand the ledger of the Applicant maintained by the Respondent No.1 captures this repaid amount. The Applicant fails to understand that as per the documents executed, the repayment was on the total amount of the loan facilities, i.e. INR 72,00,000/- (Rupees Seventy-Two Lakhs Only) . The contentions made by the Applicant over the validity of the credit facility and interest charged holds no water.

6.14. Respondent No.1 disclosed the mandatory up-front interest deductions, the processing charges, the amount to be paid as instalments, timeline for the repayment, the interest rate and the overdue interest to be charged on any overdue amount while the credit facilities were being granted to the Applicant. The actions of the Respondent No.1 is in compliance with the circulars and guidelines prescribed by the Reserve Bank of India. Further all documents forming part of record have been duly executed by the authorised signatory duly empowered to act on behalf of the Applicant. The Applicant having not raised any objection at the relevant time, is now estopped from disputing the same. All the terms and conditions were in the knowledge of the Applicant and have been unequivocally accepted by the Applicant. The Applicant has raised the contentions in this Application clearly as an afterthought to stall the Section 7 petition and lacks Bonafede.

6.15. The present Application has been filed by the Applicant only when the Section 7 Petition of the Respondents had reached the stage of final

hearing. The timing of the present Application makes it evident that the same is an afterthought and a dilatory tactic adopted to obstruct and protract the proceedings under Section 7.

6.16. In view of the foregoing facts and circumstances, it is respectfully submitted that the Respondent No.1 is the bona fide Financial Creditor of the Applicant, and the Section 7 Petition initiated by the Respondents is in accordance with the provisions of the Code. The Applicant's allegations are devoid of merit, contrary to record, and should be put to strict proof thereof.

7. REPLY TO THE IA BY RICHBOND CAPITAL PVT LTD (Respondent / FC No.2)

7.1. The Reply in IA is filed by Mr. Ronak Verma who is stated to be the authorised signatory of the Financial Creditor No.2

7.2. It is stated that the Corporate Debtor has already filed a reply to the Company Petition, challenging the Section 7 Company Petition. The Company Petition is presently pending adjudication before this Hon'ble Tribunal, wherein all the pleadings are complete and the matter is ripe for hearing. Right when the matter was to be kept for final hearing, the Applicant has filed the present Interlocutory Application seeking substantially identical and/or overlapping contentions under the garb of a different cause of action. The present Application is therefore wholly misconceived, an abuse of the process of law, and is liable to be dismissed in limine with exemplary costs.

7.3. The Company Petition No.69 of 2026 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (Code) is filed jointly by Insta

Capital Private Limited and Richbond Capital Private Limited i.e. the Respondents herein, against Shubh Food Industries Limited (Corporate Debtor). Section 7(1) of the Code specifically mentions that a financial creditor either by itself or jointly with other financial creditors, or any other person on behalf of the financial creditor, may file an application for initiating corporate insolvency resolution process against a corporate debtor when a default has occurred.

7.4. The same has been upheld by the High Court of Rajasthan, in the case of Vishnu Oil Mill Private Limited v. Union of India, that section 7 of the Code as amended vide Gazette notification dated 05.06.2020 admits no other interpretation except that a group of Financial Creditors can converge and joint hands to touch the financial limit of Rs.1 crore stipulated under Section 7 so as to initiate a CIRP under the Code. Based on the above made submissions, the contention of the Applicant that the Respondents have improperly clubbed the debts arising from distinct transactions stand no ground.

7.5. The Applicant has failed to appreciate the various documents executed for availing the credit facilities from Respondent No.2. These documents are duly signed by the Applicant and the Respondent No.2 wherein the terms and conditions of the facilities are clearly mentioned. These terms and conditions have been duly acknowledged and No.1 has wrongly deducted amounts before disbursement, charged inflated rate of interest are factually incorrect,

misleading, and contrary to the documents on record. Hence, the contentions do not merit consideration.

7.6. The details of the credit facilities and the documents executed are mentioned below:

a. the Applicant approached the Respondent No. 2 for a short-term loan of INR 80,00,000/- (Rupees Eighty Lakhs Only) for business requirements vide Letter dated 29.06.2024. That based on the representations made by the Applicant, Respondent No.2 sanctioned a short-term loan facility of INR 80,00,000/-(Rupees Eighty Lakhs Only) (hereinafter referred to as 'Loan No. 1') vide a Sanction Letter dated 01.07.2024. The Board Resolution dated 29.06.2024 of the Applicant authorises its Director to avail the said finance from the Respondent No.2.

b. the Applicant again approached the Respondent No. 2 for financial assistance of a short-term loan for INR 60,00,000/- (Rupees Sixty Lakhs Only) for business requirements vide Request Letter dated 20.08.2024. That based on the representations made by the Applicant, Respondent No.2 sanctioned a short-term loan facility of INR 60,00,000/-(Rupees Sixty Lakhs Only) (hereinafter referred to as 'Loan No. 2') vide Sanction Letter dated 22.08.2024. The Board Resolution dated 20.08.2024 of the Applicant authorises its Director to avail the said finance from the Respondent No.2.

c. The abovementioned Request Letters clearly state the actual amount to be disbursed to the Applicant, the deductions to be

made from the total amount, the rate of interest to be charged and the timeline for payment of the same. The Request letters has been duly signed by the Directors of the Applicant

d. after deducting discount/interest charges as per the agreed terms the Respondent disbursed INR 59,85,430/-(Rupees Fifty-Nine Lakhs, Eighty-Five Thousand, Four Hundred and Thirty only) on 01.07.2024 for Loan No.1 and INR 42,14,130/- (Rupees Forty-Two Lakhs, Fourteen Thousand, One hundred and Thirty only) on 22.08.2024 for Loan No.2 in the Applicant's Bank Account held in ICICI Bank. The disbursed amounts cannot be disputed by the Applicant as the Respondent No. 2 has disbursed the same amounts which were agreed to by the Applicant and categorically specified in the Request Letters dated 29.06.2024 and 20.08.2024. Further, the Applicant cannot dispute the deductions as the same is categorically accepted by the Applicant. The Applicant has also issued Declaration and Confirmation of Debt for Loan No.1 and Loan No.2.

7.7. As per the agreed terms and conditions mentioned in the Request Letters and Sanction Letters, Mr. Gaurav Harish Gambhir and Mrs. Neetu Gaurav Gambhir further executed a Bill of Exchange dated 01.07.2024 and a Promissory Note dated 01.07.2024 for Loan No. 1 and Bill of Exchange dated 22.08.2024 and a Promissory Note dated 22.08.2024 Loan No. 2. The said Bills of Exchange and Promissory Notes annexed and marked as Exhibit 'G' Colly.

7.8. Further all the documents forming part of record of Loan No. 1 and Loan No. 2 have been duly executed by the authorised signatory duly empowered to act on behalf of the Applicant. Al the terms and conditions are mentioned in the Request Letters dated 29.06.2024 and 20.08.2024 which have been unequivocally accepted by the Applicant. The contentions of the Applicant that the amount disbursed is less than the amount agreed on and that the rate of interest charged is inflated does not stand 10 any ground. Further the Applicant claims that signatures were taken unethically on blank incomplete pages is a completely false and fabricated statement. The terms and conditions specified on the Request Letters and Sanction Letters are consistent on the rest of the loan documents. There is no question of any unethical practices used by the Respondent No. 2. These allegations made by the Applicant should be put to strict proof thereof.

7.9. That despite availing the short-term loans, the Applicant, has failed and neglected to adhere to the agreed repayment schedule, thereby committing a breach of the repayment obligations. The Respondent No.2 sent multiple reminders to the Applicant to repay as per the schedule and clear the outstanding payments. Instead of repaying the outstanding dues and adhering to the timelines, the Applicant sent a letter making false allegations of misrepresentation, unethical conduct and invalid loan documentation. The timing of the said letter, issued immediately after the Applicant's default in repayment and during ongoing negotiations with the Applicant, is indicative of the Applicant's

intent to escape any kind of consequences of its default. The Applicant is using the same strategy of challenging the validity of the loan documents after enjoying the credit facilities in the guise of a 'pre-existing dispute to delay the Section 7 proceedings.

7.10. Upon continual default being committed by the Applicant, the Respondent No.2 was constrained to issue legal notice dated 24.11.2025 through its Advocate to recall the entire outstanding amount of INR 28,30,589/- (Rupees Twenty-Eight Lakhs, Thirty Thousand, Five Hundred and Eighty-Nine Only) with respect to Loan No. 1 and INR 37,61,493/- (Rupees Thirty-Seven Lakhs, Sixty-One Thousand Four Hundred and Ninety-Three Only) with respect to Loan No. 2. The Loan Recall notices are annexed and marked as Exhibit 'H' Colly.

7.11. The default interest has been calculated as per the terms agreed between the parties mentioned in the Request Letters and Sanction Letters. The Applicant claims that an amount of INR 80,00,000/- (Rupees Eighty Lakhs Only) has been repaid by the Applicant. Respondent No. 2 does not dispute the same, on the other hand the lodger of the Applicant maintained by the Respondent No. 2 captures this repeid amount. The Applicant fails to understand that as per the documents executed, the repayment was on the total amount of the loan facilities, Le. INR 1.40,00,000/-(Rupees One Crore Forty Lakda Only) The ledger of the Applicant maintained by the Respondent No. 2 is annexed hereto and marked as Exhibit T

7.12. The Applicant is indebted to Respondent No. 2 in respect of short-term loans, Loan No. 1 and Loan No. 2. The said liability falls within the definition of "financial debt under Section 5(8) of the Code, and has been acknowledged by the Applicant through execution of the relevant loan documentation. The alleged claim against the Applicant by "Global Impex' arises from a transaction wholly distinct from the present proceedings. Respondent No. 2 and Global Impex are separate and distinct legal entities. It is a settled principle of law that for a claim of set-off to be maintainable, whether under general law or insolvency law, mutuality of parties is a sine qua non. In the absence of reciprocal claims between the same parties acting in the same legal capacity, and given that "Global Impes" is a separate legal person, not satisfied. The claim for set-off the essential ingredient of mutuality misconceived and liable to be rejected.

7.13. Further the Respondent No.2 disclosed the mandatory upfront interest deductions, the processing charges, the amount to be paid as instalments, timeline for the repayment, the interest rate and the overdue interest to be charged on any overdue amount while the credit facilities were being granted to the Applicant. The actions of the Respondent No.2 is in compliance with the circulars and guidelines prescribed by the Reserve Bank of India.

7.14. The present Application has been filed by the Applicant only when the Section 7 Petition of the Respondent had reached the stage of final hearing. The timing of the present Application makes it evident

that the same is an afterthought and a dilatory tactic adopted to obstruct and protract the proceedings under Section 7.

7.15. In view of the foregoing facts and circumstances, it is respectfully submitted that the Respondents are bona fide Financial Creditors of the Applicant, and the Section 7 Petition initiated by the Respondents is in accordance with the provisions of the Code. The Applicant's allegations are devoid of merit, contrary to record, and should be put to strict proof thereof. The present application, being an afterthought filed only, when the Section 7 Petition is ripe for hearing, deserves to be dismissed with costs as being frivolous, misconceived, and devoid of any legal basis'

8. REJOINDER FOR REPLY FILED BY FINANCIL CREDITOR RESPONDENT NO.1.

8.1. The Applicant submits that the actual financial debt, if any, falls significantly below the mandatory statutory threshold of Rs.1 Crore required to trigger insolvency proceedings under Section 4 of the Code. The Respondent No. 1 has deliberately inflated the alleged "financial debt" by evaluating its claims against the total sanctioned amount of Rs. 72,00,000/- instead of restricting it to the net actual sum disbursed (Rs. 50,86,850/-). It is a settled position of law that a financial debt under Section 5(8) of the Code can only be triggered to the extent of actual fund flow or draw-down. As established by the Hon'ble Supreme Court in Anuj Jain, IRP for Jaypee Infratech Ltd. v. Axis Bank Ltd. (2020) 8 SCC 401, an undisbursed credit limit does not

bear the character of money actively "paid out" and cannot under Section 3(11).

8.2. The Applicant submits that a Section 7 petition application rep lute, unambiguous, and uniform declaration of the Date of Default the Respondent has put forth irreconcilable positions:

Form 1 (Part IV): Declares the Date of Default as 02.12.2025.

NeSL Record of Default (Form D): Certifies the Date of Default as 08.11.2024.

It is submitted that a variance of over a year in the designated date of default between the primary pleadings and the NeSL authentication is contractually and procedurally fatal, rendering the petition liable to summary dismissal.

8.3. The Respondent's assertion that the Corporate Debtor has been in continuous, unmitigated default since February 2025 is falsified by its own ledger accounts (Exhibit G). The Respondent No.1 has actively accepted payments from the Applicant as late as 12.09.2025. By accepting these subsequent payments without accelerating the loan at that juncture, the Respondent has waived its right to claim an uninterrupted default baseline running from February 2025.

8.4. The Respondent No. 1, operating as a Non-Banking Financial Company (NBFC), is statutorily bound by the prudential regulatory frameworks issued by the Reserve Bank of India. Considering the last payment transaction on 12.09.2025. the account could not have legally transitioned into a Non-Performing Asset (NPA) or a default category prior to the expiration of the

90-days past due ending on 12.12.2025. The issuance of a unilateral loan recall notices premature, high-handed, and contractually unauthorised.

8.5. The Applicant submits that the Respondent No. 1 has approached the Tribunal with unclean hands and is in systemic violation of the laws of the land. he Respondent has flagrantly flouted the RBI Fair Practices Code Directions through predatory lending behaviour, failed to account for or deposit Tax Deduction at Source (TDS) on upfront interest under the Income Tax Act and deliberately evaded requisite stamp duty by failing to execute a validly stamped Loan Agreement. A party seeking extraordinary relief under the Code must approach this Hon'ble Tribunal with clean hands.

8.6. It is stated that the Respondent has blatantly inflated the alleged financial debt by misinterpreting the "sanctioned amount" as the "outstanding balance principal." It is a fundamental rule of insolvency law that undisbursed credit limits or un-drawn finance facilities do not constitute a "debt" under Section 3 (11) or a "financial debt under Section 5(8) of the Code The absolute requirement of actual fund flow to constitute financial debt was cemented by the Hon'ble Supreme Court of India in Annj Jain, Interim Resolution Professional for Jaypee Infratech Limited v. Axis Bank Ltd. (supra), wherein the apex court. strictly held:

“The essential element of disbursal, and that too against the consideration for time value of money, needs to be found in the description of financial debt The expression "disbursed" refers to money which has been actively paid out or given down to the borrower,"

8.7. Furthermore, the Hon'ble NCLAT in multiple landmark rulings, including M/s Standard Chartered Bank v. Kalyanpur Cements Ltd. and various coordinate benches of the Hon'ble NCLT, has consistently established that a mere execution of a sanction letter or a credit facility agreement does not qualify as a financial or debt under Section 5(8) unless the funds have been actively drawn down or transferred to the borrower. Undisbursed credit limit represents contingent execution capability, not a crystallization of an active defaulted debt. The Respondents calculation targeting the un-disbursed component is illegal.

8.8. The Applicant submits that in the body of the Reply, the Respondent claims that the transaction documents were fully typed and formal. However, a plain look at Exhibit "C" (Loan Application Form) reveals it is completely handwritten, demonstrating clear internal inconsistencies and misstatements on oath by the Respondent. The Finance Proposal and Sanction Letter dated 06.11.2024 categorically stipulate that the facility operates against an "On Demand Bill of Exchange" (BOE) of ₹72,00,000/- . This language itself demonstrates that the Bill of Exchange was a security or payment instrument accompanying the transaction, and not the primary loan contract constituting the debt. A bill of exchange drawn for the sanctioned amount cannot by itself convert the undisbursed portion into financial debt under Section 5(8), especially when the Respondent's own receipt acknowledges that only ₹50,86,080/- was actually credited to the Applicant's bank account.

8.9. The Respondent's own documents further demolish its claim regarding contractual application of overdue interest. The Finance Proposal and Sanction Letter state that in the event of delay, the entire balance amount becomes due immediately, overdue interest at 0.15% per day is chargeable on the overdue amount, and repayments are first to be adjusted towards overdue interest and thereafter towards principal. Yet the ledger annexed as Exhibit G in the Reply does not reflect any such accounting methodology; instead, on day one it debits the full sanctioned figure of Rs.72,00,000/- and separately debits "Discount" of Rs. 19,44,000/-, thereby showing that the Respondent. the full sanctioned principal as outstanding.

8.10. This accounting treatment is irreconcilable with the Respondents own contractual terms. If repayments were first to be appropriate towards overdue interest and thereafter principal, the ledger ought to have shown running appropriation of default interest after each missed instalment. It does not do so. For instance, between the repayment made on 23.01.2025 and the next repayment shown on 23.04.2025, intermediate repayments became due, namely 08.02.2025, 23.02.2025, 08.03.2025, 23.03.2025 and 08.04.2025: yet the ledger does not reflect the contractual first-charge appropriation to overdue interest that the Respondent No.1 now seeks to invoke. The Respondent No.1 cannot selectively rely on contractual clauses that its own books never implemented statement's legal validity. Interest cannot be charged on money never disbursed and still less can such notional interest be used to cross the Section 4 threshold The

Supreme Court in Anuj Jain (supra) requires the debt to bear traces of actual disbursal against time value of money. On that test, the Respondents reliance on sanctioned amount and paper bill amount, instead of actual disbursal and running banked exposure, is legally unsustainable. The ledger format adopted by the Respondent is a unilateral internal account and cannot override the statutory meaning of financial debt.

8.11. The Applicant submits that Paragraph 9 of the Reply makes a bald assertion of RBI compliance without dealing with specific violations pointed out by the Applicant. The Respondent No.1 has acted in absolute disregard rendering the foundation of its financial claim invalid.

a. The Respondent No.1 is an NBFC, the Respondent is bound by the master directions of the Reserve Bank of India (RBI). The last active repayment was recorded on 12.09.2025. As per the 90-days past due (DPD) norms for NPA classification, an active account status continues until 12.12.2025. However, the Respondent unilaterally issued a loan recall notice on 24.11.2025 and fixed an arbitrary Date of Default as 02.12.2025, pre-empting the legal window. The Sanction/Proposal letters contain no explicit provision granting unconditional acceleration/recall rights prior to structural classification

b. Despite collecting explicit processing fees plus GST from the Applicant, the Respondent No.1 consciously avoided executing a formal, stamp-duty-paid Loan Agreement to evade revenue liabilities payable to the State Government These circumstances are relevant not only on

enforceability but also on bona fides The combination of upfront claw-back of interest, and, absence of a duly executed loan agreement despite collection of processing fees, all reinforce the

8.12. Applicant's case that the Respondent No.1 structured the transaction to maximize paper liability while avoiding ordinary legal and fiscal compliances. After taking into account the verified actual disbursal less the admitted repayments of Rs.28,00,000/-, the real financial debt outstanding as per the Code is Rs.22,86,080/- on the date of filing-placing the case entirely outside the true framework presented in Form 1.

8.13. The Sanction Letter/ Finance Proposal dated 06.11.2024 is conspicuously silent on any clearly defined contractual "event of default" other than a general statement that in case of delay in repayment of any instalment, the entire balance amount becomes due immediately. Due to this contractual void, the Respondent No.1 has put forth conflicting claims of Date of Default across its filings:

- As per Form 1 - Part IV (Page 12 of the main Petition), the Date of Default is stated as 02.12.2025.
- As per the NeSL Form D (Record of Default) the date of default is certified as 08.11.2024.

8.14. This contradiction is fatal to the petition. These two dates cannot exist without destroying the certainty required for a Section 7 admission. The Hon'ble NCLT Mumbai Bench in **Srei Equipment Finance Ltd. v. R.S. Kamthe Infrastructure Developers Pvt. Ltd. (2023**) held that where the creditor's own case shows a different default date, the date of default in the

NeSL report cannot be relied upon as correctly stated. This authority directly supports the Applicant's case that a contradictory NeSL default date does not cure defects in the pleaded default and, on the contrary, undermines the reliability of the petitioning creditor's case on default.

9. REJOINDER FOR REPLY FILED BY FINANCIL CREDITOR RESPONDENT NO.2

9.1. The Applicant submits that the actual financial debt, if any, falls significantly insolvency proceedings under Section 4 of the Code. The Respondent No. 2 has disbursed principal sums and adding usurious penal charges computed at the rate below the mandatory statutory threshold of Crore required to trigger deliberately and artificially inflated its claim by calculating interest on non-of 5% per month. It is a settled position of law that penal charges do not qualify away these illegal penal additions and correcting the base to actual disbursements the petition defective ab initio.

9.2. The Applicant submits that the present petition is the machinery of the Code to cover up a highly sophisticated financial fraud and related-party collusion. The Respondent No. 2 operates in complete tandem and shared ownership with its sister concern, Global Impex, sharing common directors (Deepak Hemnani and Roshni Hemnani) and operating from the exact same corporate office. The funds routed from Respondent No. 2 into the Applicant's accounts was immediately structured to flow back into Global Impex, amounting to a circular transaction of 22.37 Crores. Because these

entities are counterparts of one another, the Applicant possesses an undeniable right to set off these amounts, which completely wipes out any alleged default or liability. The Hon'ble Supreme Court in the landmark ruling of Vidarbha Industries v. Axis bank ltd (2022) 8 SCC 352 clarifies that the AA enjoys the discretion to reject a section 7 petition even if a debt and default exists.

9.3. The Applicant submits that the underlying Company Petition filed under Section 7 of the IBC, is a gross abuse of process and is completely non-maintainable due to substantial, and pre-existing dispute between the parties. The Applicant had raised formal disputes regarding the Respondent's fraudulent accounting. misrepresentation of loan terms, and unauthorized procurement of signatures on blank stamp papers through a Legal Notice dated 06.10.2025 which was served over three months prior to the filing of the Section 7 Petition on 14.01.2026. The debt claimed is disputed is also confirmed by the NeSL. Form D Record of Default, prior to the initiation of these proceedings.

9.4. The Applicant submits that the Respondent No. 2 has approached this Hon'ble Tribunal with unclean hands and is in systemic violation of the laws of the land. The Respondent has flagrantly flouted the RBI Fair Practice code Directions through predatory lending behaviour, and deliberately evaded requiste stamp duty on loan documents.

9.5. With reference to Paragraph 6(d) of the Reply, it is submitted that the Respondent No. 2 has explicitly admitted that it only disbursed ₹59,85,430/- against Loan 1 (Sanctioned amount: Rs. 80,00,000/-) and Rs.

42,14,130/- against Loan 2 (Sanctioned amount: Rs. 60,00,000/-). By admitting this under-disbursal, the Respondent No. 2 cannot claim default on arbitrary, undisbursed, and inflated principal figures of Rs 80 Lakhs and Rs. 60 Lakhs when the actual funds in the hands of the Applicant was substantially less. That only "disbursement" amounts can qualify as consideration for time value of money under Section 5(8)-Financial Debt of the IBC. The Supreme Court in Annj Jain, IRP for Jaypee Infratech Ltd. v. Axis Bank Ltd. held that "financial debt requires a disbursal of funds against INDIK consideration for time value of money, and that mere contractual or security arrangements do not suffice. Disbursal is a sine qua non, sanctioned limits of undisbursed portions cannot be treated as "financial debt" within Section 508) or "debt" under Section 3(11).

9.6. With reference to Paragraph 6(e) of the Reply, the Respondent No.2 relies on Bills of Exchange and Promissory Notes executed by the directors/guarantors. These instruments are security instruments linked to the underlying facility and do not themselves define repayment schedule, events of default or interest computation, which must be contained in a properly stamped loan agreement. The Respondent's own "Exhibit-G Colly" in the Reply show that key financial terms, including the alleged interest rate of 2.25% per month, are handwritten on the BOEs, promissory notes and declarations, indicating they are after-thought insertions. In the absence of a properly stamped and executed loan agreement, the Respondent cannot rely on such security instrument to expand or re-write the financial debt beyond the admitted disbursal figures.

9.7. With reference to Paragraph 8 of the Reply, it is submitted that the Respondent No. 2 admits receiving the formal legal notice dated 06.10.20254 sent by the Applicant's Advocate. The said notice clearly alleged that Respondent No. 2 had misrepresented financial terms, engaged in highly unethical business conduct, and procured the signatures of the Applicant and/or its guarantors on blank stamp papers. This is an admission of the existence of a serious dispute regarding the very loan documentation and interest terms well before the Section 7 petition filed on 14.01.2026. Such pre-existing dispute as to liability and documentation directly affects the "real nature" of the claim and the bona fides of initiation under Section 7, especially when the creditor relies on disputed, handwritten and incomplete instruments. The timing Applicant's notice dated 06.10.2025, Respondent's retaliatory recall notices and Applicant's reply in November 2025 and petition in January 2026 shows the application is a coercive response to contested documentation rather than a neutral recovery of an undisputed financial debt.

9.8. The Applicant states that the loan recall notice issued by Respondent No. 2 on 13.11.2025 was merely retaliatory to the Applicant's notice dated 06.10.2025, to which the Applicant promptly replied on 20.11.2025. Furthermore, the subsequent loan recall notice dated 24.11.2025 for Loan 1 (Page 34 of Exhibit-H) states that the facility was to be repaid in 12 equated monthly instalments (EMIs) of ₹4,00,000/- for every 2 weeks on the 20th and 28th of the month. This directly contradicts the Sanction Letter dated 06.11.2024, which states repayment shall be made in 10 monthly/hi-

monthly instalments, as well as the Respondent's own Ledger showing bi monthly repayments of ₹4,00,000/-. A demand notice issued on wholly unagreed, mismatched, and contradictory terms cannot make a debt legally computation should be rejected as void.

9.9. The Applicant show Respondent No. 2 treating the sanctioned amounts (2) Lakhs) as the principal outstanding base instead of using the actual disbursed amounts (259,85,430/- and 242,14,130/-), Consequently, the calculated interest component is artificially inflated, heavily distorted, and cannot form the basis of a default under the Code, and is contrary to Section 3(11) and 5(8), which recognise only actual disbursal as "debt", "financial debt". Hence Respondent No. 2's table cannot be used to cross the Section 4 threshold by loading interest on undisbursed amounts.

9.10. The assertion that the Applicant knowledge the liability is incorrect, the Applicant has consistently disputed the balance liability on grounds of usurious interest, upfront claw-hacks and unethical documentation, including in the legal notice dated 06.10.2025 and subsequent correspondence. Any printed or handwritten confirmation extracts must be read in light of the allegation that signatures were obtained on blank stamp papers and later filled in, rendering such declarations void or at least highly suspect. A liability computed on sanctioned amounts, loaded with handwritten monthly interest and penal charges, and arising from contested documents obtained in unethical circumstances, cannot satisfy the strict requirement of Section 5(8) financial debt disbursal against

consideration for time value of money under a valid and enforceable contract.

9.11. The Applicant submits that Respondent No. 2 (Richbond Capital) and Global Impex are closely related the key individuals, Deepak Hemnani (Founder, Director & Principal Officer of Respondent No.2) and Roshni Hemnani (Founder & Director) the partners of Global Impex, are also directors in Richbond, and GST records show Global Impex operating from the same registered address 905, One Lodha Place, Lower Parel, Mumbai. The Respondent's bare assertion of "separate legal entities ignores this common management and address, which is relevant for assess conduct and set off in equity. The fund-flow between December 2022 and subsequent payments demonstrates that monies channelled by Richbond to the Applicant were immediately re-routed to Global Impex, a related entity, so that transactions between the Applicant and Global Impex amounting to 22.37 crores are effectively funded by Richbond. On these facts, the Applicant is entitled to seek set-off/adjustment of such amounts while determining the real exposure of Richbond and whether any residual "financial debt" meets the Rs. 1 crore Threshold.

9.12. The Respondent No.2's own Request Letters and Sanction Letters (Exhibit C & E of the Reply) show upfront deduction of "discount/interest" at high monthly rates, collection of processing fees plus GST, and charging penal "delay payment" at 5% per month (day-wise) without transparent disclosure of Annual Percentage Rate (APR) or effective rate. Such practices are inconsistent with Master Direction of Reserve Bank of India

(Non-Banking Financial Companies Responsible Business Conduct) Directions, 2025 (Updated as on July 1, 2026) which require fair, transparent and non-usurious interest and charges, and proper documentation of terms.

9.13. The ledger and statement of account do not show any deduction of TDS on the upfront interest credited as "write-off", nor does Respondent No.2 disclose any stamped loan agreement despite collecting processing fees and issuing board resolutions. These lapses in RBI and stamp OTA duty compliance support the Applicant's case of unfair and illegal lending conduct of Respondent No.2 and further undermine the IBC as a debt-enforcement tool.

9.14. The Applicant reiterates that the dispute regarding inflated interest, clawed-back upfront deductions, and unethical documentation was raised contemporaneously through the legal notice dated 06.10.2025 and in subsequent replies to Respondent's recall notices. The Section 7 petition filed on 14.01.2026 is thus plagued by pre-existing disputes about the very foundation of the alleged financial debt.

9.15. The Exhibit C-Colly and E-Colly-Page Nos. 15 & 20 of the Reply (Request Letters/Sanction Letters) provide that in case of dishonour of cheques, the borrower will pay penal charges towards delay payment at 5% per month (day-wise calculation). This language describes "penal charges and not "interest"; penal charges are not the same as contractual interest on principal. Therefore, overdue interest / penal charges computed at 5% per month and handwritten 2.25% per month should not be included for the

purpose of reaching the 21-crore threshold under Section 4 for Respondent No.2, especially when principal itself is wrongly taken as sanctioned amount and not disbursed amount. gents Once the claim is reduced to net disbursal less repayment are excluded. Respondent No.2 falls below the statutory Threshold.

9.16. With reference to Exhibit F-Colly of the Reply, the handwritten declarations on stamp papers were unethically procured by obtaining the Applicant's signatures while the sheets were blank. Point No. 1 of the handwritten declaration falsely records the receipt of Rs. 80,00,000/- and Rs. 60,00,000/- vide cheques drawn on Kotak Mahindra Bank. Since no such cheques were ever drawn, and the actual physical receipts were only for Rs. 59,85,430/- and Rs. 42,14,130/-. These handwritten declarations that mis-states the amount and instrument of receipt and was allegedly filled in after obtaining signatures on blank stamp papers is void ab-initio or at least unenforceable and cannot be used to create a fictional financial debt for undisbursed amounts.

9.17. The Applicant submits that the underlying Sanction Letters are completely silent on the definition, occurrence, or mechanisms governing an "event of default," leaving the contractual basis for determination of default event utterly absent. Furthermore, there is a material, fatal contradiction regarding the "Date of Default" asserted by the Respondent. In the statutory Form 1 (Part IV) of the main petition, the Respondent has categorically asserted the Date of Default to be 02.12.2025. However, the NeSL Form D- Record of Default (RoD) filed by the Respondent entirely

contradicts their own pleadings, stating the Date of Default for Loan 1 as 28.01.2025 and for Loan 2 as 15.02.2025. The jurisdiction of Section 7 requires absolute clarity regarding the occurrence and exact date of default. A severe mismatch between the pleadings in Form 1 and the accompanying financial records or Information Utility (NeSL) data completely destroys the credibility of the claim, proving that the alleged default is artificial, ambiguous, and legally unverified. Because the Respondent cannot decisively state when the default occurred, the mandatory statutory requirement of proving a concrete, definitive default under Section 7(5) remains completely unfulfilled.

10. WRITTEN SUBMISSIONS BY CORPORATE DEBTOR

10.1. The Corporate Debtor has reiterated the facts in the Written Statement. For the sake of brevity, the same are not repeated here.

10.2. The Corporate debtor has relied on the following judgements.

a. Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Ltd., (2020) 8 SCC 401
b. Srei Equipment Finance Ltd. v. R.S. Kamthe Infrastructure Developers Pvt. Ltd., (2023) NCLT Mumbai Bench
c. M/s. Standard Chartered Bank v. Kalyanpur Cements Ltd., NCLAT
d. Dhanlaxmi Bank Limited v. Mohammed Javed Sultan & Ors. (2026 INSC 460)
e. Vidarbha Industries Power Ltd. v. Axis Bank Ltd

11. WRITTEN SUBMISSIONS BY APPLICANT

11.1. The Applicant has relied on the following judgements

a. Koncentric Investments Ltd. & Anr v. Standard Chartered Bank & Anr, NCLAT

b. Indiabulls Housing Finance Limited vs Revital Realty Private Limited (Company Appeal (AT)(Insolvency) No.994 of 2022)

12. ANALYSIS AND FINDINGS

12.1. We have perused the documents as placed before us and have heard the Ld. Counsels for the Applicant and Respondent . Our findings in the matter are as under: -

12.2. It is observed that Insta Capital private Limited (Hereinafter referred to as FC no.1) sanctioned a Working Capital Demand Loan of Rs. 72,00,000 with an interest rate of 2.25% per month for a period of 12 months to the Corporate Debtor vide sanction letter dated 06.11.2024. It was agreed between the parties that overdue interest would be levied @ 0.15% per day on the defaulted amount.

12.3. The terms and condition were that the disbursal shall be only against on Demand Bill of Exchange for Rs. 72,00,000 drawn by Shubh Food Industries Limited and accepted by its directors namely Mr. Gaurav Gambhir and Mrs. Neetu Bhupendra Shah payable to Insta Capital private Limited.

12.4. Thereafter on 08.11.2024 a demand bill of Exchange of Rs. 72,00,000 was drawn by Shubh Food Industries Limited signed by Mr. Gaurav

Gambhir and Mrs. Neetu Bhupendra Shah payable to Insta Capital Private Limited.

12.5. The Financial Creditor No.1 as a result disbursed an amount of Rs. 50,86,080 in the account of the Corporate Debtor after deducting interest/discounting charges of Rs. 19,44,000 and processing fees of Rs.1,69,920 . The same is evidenced by copy of statement of account and letter confirming the receipt of the said amount by the Corporate Debtor

12.6. It is further observed from the record that M/s Richbond Capital Private Limited (hereinafter referred to as "Financial Creditor No. 2") sanctioned two separate Term Loan facilities in favour of the Corporate Debtor, namely Term Loan–I ("TL–1") for an amount of ₹80,00,000/- for a duration of 10 months, and Term Loan–II ("TL–2") for an amount of ₹60,00,000/- for a duration of 12 months, vide Sanction Letters dated 01.07.2024 and 22.08.2024, respectively. As per the express terms of the said Sanction Letters, it was mutually agreed between the parties that:

- In respect of TL–1: Out of the total sanctioned amount of ₹80,00,000/-, a sum of ₹59,85,430/- was to be disbursed, while the remaining balance was deducted towards upfront interest, loan processing fees, and applicable GST.
- In respect of TL–2: Out of the total sanctioned amount of ₹60,00,000/-, a sum of ₹42,14,130/- was to be disbursed, with

the remainder being similarly deducted towards upfront interest, loan processing fees, and applicable GST.

It is also pertinent to note that both loan facilities were duly secured and backed by Promissory Notes and Bills of Exchange executed by the Corporate Debtor.

12.7. The amount of Rs. 59,85,430 came to be disbursed on 01.07.2024 in respect of TL-1 and an amount of Rs.42,14,130 was disbursed on 22.08.2024 in respect of TL-2. The disbursal is evidenced by the account statement as provided by the Applicant on page No. 82 and 83 of the Application.

12.8. Due to financial irregularities in paying the afore said financial facility the Financial creditor No.1 issued a legal notice dated 24.11.2025 to the Corporate debtor claiming an amount of Rs. 44,52,077 within a period of 7 days. The Financial Creditor No. 2 also issued a legal notice dated 24.11.2025 in respect of both the term loan demanding an amount of Rs 28,30,589 for TL -1 and an amount of Rs 37,61,493 in respect of TL-2. As the Corporate debtor failed to pay the outstanding amount within the stipulated period the date of default is 02.12.2025.

12.9. The Applicant has also placed on record NeSL form – D. On perusal of the same it is observed that in respect of the Debt owed to Financial Creditor No. 1 the Status of Authentication of Default is “DEEMED TO BE AUTHENTICATED” and in respect of the Debt owed to Financial Creditor No. 2 the Status of Authentication of Default is “DISPUTED” in regards to both the Term Loan.

12.10. Furthermore, as the Corporate Debtor failed to pay the outstanding amount within stipulated period of 7 days as mentioned in the recall notice dated 24.11.2025, the date of default is 02.12.2025. Further as the Application being filed on 22.01.2026, the same is well within limitation.

12.11. The Corporate Debtor has in the IA and Reply contended the same arguments and for the sake of brevity the same are not dealt with separately. The said objections are considered in the following paragraphs.

12.12. The first objection raised by the Corporate Debtor is that the loan documents were unstamped and were a mere proposal , not a contract. No loan agreement was signed between the parties. Further there were non- adherence to the RBI guidelines. In this regard, this Tribunal has relied on the Judgement of Hon'ble NCLAT in the matter of Sinki Commodities Pvt Ltd Vs ABC Floors Pvt Ltd 2025 SCC Online 1657 wherein it was held that even if no financial contract exists between the parties, Court is not precluded from looking into the real nature of transaction, which can be proved by the Financial Creditor from the material bought on record. Further it was also held that when the amount is disbursed against time value of money the fact that there is a breach of some RBI guidelines , the CD cannot be permitted to contend that definition of financial debt under Section 5(8) need to be looked into with reference to the guidelines. The Relevant part of the said judgement is reproduced here;-

"15. We take notice of the recent judgment of the Hon'ble Supreme Court in "Global Credit Capital Ltd. vs. Sach Marketing (P) Ltd.- (2024) 9 SCC 482" where Hon'ble Supreme Court has held that the nature of transaction has to be found out to take a decision as to whether debt is a financial debt or not. The real nature of transaction thus, is a key to come to decision as to whether financial debt exists or not. It is true that there are no written agreements but financial contract between the parties is reflected from bank statement and other materials which have been referred in paragraph 8 of the impugned order, as noted above. Even if there is no financial contract exists between the parties, Court is not precluded from looking into the real nature of transaction which can be proved by the Financial Creditor from the materials brought on the record. In the present case, Financial Creditor has brought sufficient material on record to prove that transaction between the parties was a financial debt."

"14.in event, an NBFC is in breach of guidelines with respect to disbursement of any amount to company statutory consequences need to be followed and there can be no quarrel to the said proposition, but the question which has arisen for consideration is as to whether the amount which was disbursed by the Financial Creditor to the Corporate Debtor is a financial debt or not. When the amount was disbursed for time value of money and the amount is nothing but a commercial borrowing, the mere fact that there is some breach of RBI Guidelines which are statutorily in character, the Corporate Debtor cannot be permitted to contend that definition of financial debt under Section 5(8) need to be looked into with reference to the guidelines. IBC is a special legislation and it has been enacted with the object and purpose of insolvency"

12.13. Considering the facts of this matter and applying the decision of the Hon'ble NCLAT in Sinki Commodities (Supra) we are of the view that

the Applicant has placed enough documents including Account Statement, Sanction Letter, Bill of Exchange and Promissory Note which evidences disbursal and states the terms and condition including repayment terms along with interest rates and due dates. Thus, even if there is some breach in adherence to the RBI guidelines, the contention of the CD is not sustained

12.14. Another contention raised by the Corporate Debtor pertains to the non-maintainability of the Application on the ground that it fails to satisfy the mandatory threshold limit of ₹1,00,00,000/- (Rupees One Crore Only) as prescribed under Section 4 of the Insolvency and Bankruptcy Code, 2016. In this regard, it is observed that the Corporate Debtor had duly executed the sanction letter, thereby unconditionally accepting all the terms and conditions governing the disbursement and repayment of the financial facility. Upon perusal of the record, it is further observed that vide communication dated 08.11.2024, the Corporate Debtor duly acknowledged receipt of a net disbursed amount of ₹50,86,080/- (Rupees Fifty Lakh Eighty-Six Thousand Eighty Only), post-deduction of upfront discount/interest charges amounting to ₹19,44,000/- and processing fees of ₹1,69,920/- in respect of the financial facility extended by Financial Creditor No.1. As per the sanction letter it was agreed between the parties that interest would be levied @ 2.25% per month(flat) and overdue interest would be levied @ 0.15% per day on the defaulted amount. The relevant extract of the said communication and the sanction letter is reproduced hereunder:

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From,

SHUBH FOOD INDUSTRIES LTD
H No. 257/A, Gala No.1-5,
Bldg No. J-10, Shri Arihant Complex,
Kalher, Bhiwandi, Thane 421302.

Dated: 08-11-2024

To,
INSTA CAPITAL PVT LTD
1515, One Lodha Place,
Senapati Bapat Marg,
Lower Parel,
Mumbai 400013

Dear Sir,

We confirm having received an amount of Rs. 50,86,080/- from Insta Capital Pvt Ltd in our Bank Account No. 098405001853 with ICICI Bank - Bhandup(W), towards Bill of Exchange of Rs. 72,00,000/- dated 8-11-24, after deducting discount/interest charges of Rs. 19,44,000/- and processing fees of Rs.1,69,920 (inclusive of 18% GST).

Yours faithfully,

For Shubh Food Industries Ltd

Director

Shubh Food Industries Pvt. Ltd.

NOTARY



EXHIBIT: M

INSTA CAPITAL PRIVATE LIMITED

(Non-Banking Finance Company)
(CIN: U65100MH1996PTC286056)

S4

Date: 06-11-2024

Sanction Letter for Business Loan

Name of Applicant	Shubh Food Industries Ltd
Nature of loan	Working Capital Demand Loan
Amount Sanctioned	Rs. 72,00,000/-
Tenor	12 Months
Interest Rate	2.25% per month (flat)
Processing fees	Rs. 1,44,000/- (+GST)
Monthly repayment amount	Rs. 6,00,000/- (2 payments of Rs. 3,00,000/- each)
Method of loan repayment	Post-dated cheques / NACH

Disbursal shall be only against On Demand Bill of Exchange for Rs. 72,00,000/- drawn by Shubh Food Industries Ltd and accepted by Mr. Gaurav Harish Gambhir and Mrs. Neetu Bhupendra Shah, payable to "Insta Capital Private Limited" at Mumbai. In case of delay in repayment of any instalment, the entire balance amount becomes due immediately. Overdue interest will be charged @0.15% of the overdue amount per day of default. Cheque/ECS return charges @Rs. 300/- per return. Repayments will be first adjusted towards overdue interest, cheque/ECS return charges and thereafter towards the principal amount outstanding.

For Insta Capital Pvt Ltd.

(Authorized Signatory)

Received:

SHUBH FOOD INDUSTRIES PVT. LTD.

Director

12.15. Similarly, the Corporate Debtor executed and accepted the terms and conditions governing the two Term Loans availed from Financial Creditor No. 2, which explicitly stipulated penal interest @ 5% per month (calculated on a daily basis) in the event of default in payment. Under Term Loan–1 (TL–1), against a sanctioned limit of ₹80,00,000/-, a net amount of ₹59,85,430/- was disbursed, while the remaining balance was appropriated toward upfront interest, processing charges, and applicable GST. Likewise, under Term Loan–2 (TL–2), against a

sanctioned limit of ₹60,00,000/-, a net amount of ₹42,14,130/- was disbursed, with the balance being appropriated toward interest, processing charges, and GST. The relevant extracts of the respective loan agreements are reproduced hereunder:

Term Loan - 1

Dated: 29/06/2024

RICHBOND CAPITAL PRIVATE LIMITED
905 One Lodha Place,
Senapati Bapat Marg, Lower Parel (W),
Mumbai 400013

Sub.: ***Request for Short Term loan For Our Business Requirements***

Dear Sir,

With respect to above mentioned subject, I/we request you to kindly grant us a loan of **Rs.80,00,000/-** for period of **10** months strictly for our working capital needs only . The repayment of the same shall be made by **10** monthly/bi-monthly instalments. The interest for the same shall be paid upfront at the rate as mutually agreed between us. English is my/our preferred language of communication.

I/We hereby agree to submit to you all the documents including Repayment PDCs, Security Cheque(s), Bill of Exchange, Notarised Declaration of Debt and Board Resolution (applicable in case of Company) immediately on disbursement of the loan. In case of delay in repayment of any installment, you are authorised to bank our cheque towards total loan outstanding with interest thereon till that date. I/We have no objection in you obtaining information about our concern and its promoters from any Credit Rating Agencies, downloading CKYC records from CKYCRR and also authorise you to share our loan details with any Credit Rating Agencies. I/we authorise you to call back our entire balance loan outstanding with interest and bank the cheques issued/to be issued by us.

I/We hereby also agree to pay you the cheque bouncing charges of ***Rs. 1,180*** per instance, if any, and penal charges towards delay payment **@ 5% p.m.** (day wise calculation), if any. I/We hereby agree to pay ***Rs. 1,180*** (plus applicable taxes) per instance as penal charges towards visit fees of your person.

We request you to kindly disburse our loan of Rs. 80,00,000/-. We also request you to deduct the following:-

Interest	18,25,770/-
Loan Processing Fees	1,60,000/-
CGST	14,400/-
SGST	14,400/-
Net Disbursement	**59,85,430/-**

I/We hereby request you to please consider my request and oblige.

Thanking you,
Yours faithfully,

For Shubh Food Industries Private Limited

Managing Director

Term Loan - II

ioneers in Asafoetida (Hing), Private Label, Manufacturers of Sea[illegible]

RICHBOND CAPITAL PRIVATE LIMITED
905 One Lodha Place,
Senapati Bapat Marg, Lower Parel (W),
Mumbai 400013

Sub.: ***Request for Short Term loan For Our Business Requirements***

Dear Sir,

With respect to above mentioned subject, I/we request you to kindly grant us a loan of **Rs.60,00,000/-** for period of **12** months strictly for our working capital needs only . The repayment of the same shall be made by **12** monthly/bi-monthly instalments. The interest for the same shall be paid upfront at the rate as mutually agreed between us. English is my/our preferred language of communication.

I/We hereby agree to submit to you all the documents including Repayment PDCs, Security Cheque(s), Bill of Exchange, Notarised Declaration of Debt and Board Resolution (applicable in case of Company) immediately on disbursement of the loan. In case of delay in repayment of any installment, you are authorised to bank our cheque towards total loan outstanding with interest thereon till that date. I/We have no objection in you obtaining information about our concern and its promoters from any Credit Rating Agencies, downloading CKYC records from CKYCRR and also authorise you to share our loan details with any Credit Rating Agencies. I/we authorise you to call back our entire balance loan outstanding with interest and bank the cheques issued/to be issued by us.

I/We hereby also agree to pay you the cheque bouncing charges of ***Rs. 1,180*** per instance, if any, and penal charges towards delay payment @ **5% p.m.** (day wise calculation), if any. I/We hereby agree to pay ***Rs. 1,180*** (plus applicable taxes) per instance as penal charges towards visit fees of your person.

We request you to kindly disburse our loan of Rs. 60,00,000/-. We also request you to deduct the following:-

Interest	16,44,270/-
Loan Processing Fees	1,20,000/-
CGST	10,800/-
SGST	10,800/-
Net Disbursement	**42,14,130/-**

I/We hereby request you to please consider my request and oblige.

Thanking you,
Yours faithfully,

For Shubh Food Industries Private Limited

SHUBH FOOD INDUSTRIES PVT. LTD.

Director

Director

NOTARY

12.16. In view of the express and unequivocal contractual terms voluntarily entered into and executed between the parties, the contention now sought to be raised by the Corporate Debtor—that the rate of interest is excessive, that interest ought to be computed solely on the net amount disbursed, or that the upfront deduction of interest and other charges is invalid—is wholly devoid of merit and legally unsustainable. The

contractual agreement explicitly and in unambiguous terms provides for the upfront deduction of interest and applicable charges. Having consciously agreed to these covenants, the Corporate Debtor cannot now be permitted to resile from its obligations. It is a settled principle of law that an Adjudicating Authority cannot rewrite, modify, or substitute the contractual terms consciously agreed upon between the parties to a dispute. Accordingly, the said contention raised by the Corporate Debtor stands rejected.

12.17. Perusal of the ledger account maintained by Financial Creditor No. 1 demonstrates that out of the total sanctioned and admitted facility of ₹72,00,000/-, the Corporate Debtor has repaid a sum of only ₹28,00,000/-.

12.18. Further, perusal of the ledger account of Financial Creditor No. 2 reveals that against TL–1 (sanctioned limit of ₹80,00,000/-), the Corporate Debtor has repaid only ₹55,50,000/-, and against TL–2 (sanctioned limit of ₹60,00,000/-), a sum of only ₹25,00,000/- has been repaid.

12.19. Upon aggregating the balance principal default along with accrued interest across all facilities granted by Financial Creditor No. 1 and Financial Creditor No.2 , the quantum of default amounts to Rs. 1,13,65,718 which comfortably exceeds the statutory threshold of ₹1,00,00,000/- (Rupees One Crore Only).

12.20. This Tribunal further refers to Section 7(1) of the Code, which states that a financial creditor, either by itself or jointly with other financial

creditors, or any other person on behalf of the financial creditor, may file an application for initiating the Corporate Insolvency Resolution Process (CIRP) against a Corporate Debtor upon the occurrence of a default. Furthermore, the Explanation to sub-section (1) explicitly provides that a default in respect of a financial debt includes a default to not only the Applicant Financial Creditor, but to any other Financial Creditor of the Corporate Debtor.

12.21. In the instant case, the Applicant, M/s Insta Capital Private Limited, has preferred the present Application jointly with Financial Creditor No. 2, namely M/s Richbond Capital Private Limited. As the aggregate default exceeds the minimum threshold limit prescribed under Section 4 of the Code, i.e., ₹1,00,00,000/- (Rupees One Crore only), the present Application satisfies the statutory requirements for maintainability. Consequently, the objection raised by the Corporate Debtor regarding the maintainability of the Application fails to hold water and stands rejected.

12.22. The Corporate debtor has also contended that some pre-existing dispute exists and the Status of Authentication of Default in NeSL Form-D is in “DISPUTED” status with regards to both the Term Loans extended by Financial Creditor No 2. In this regard this Tribunal relies on the judgement of Hon’ble Supreme Court in the matter of **Innoventive Industries Ltd. vs. ICICI Bank, Civil Appeal No. 8337-8338 of 2017** more particularly para 30, which is reproduced below: -

"30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise."

(Emphasis Supplied)

12.23. In view of the above judgment in Innoventive (Supra), we are of the view that the "disputed" status of authentication of default as per NeSL Form D does not make Application under Section 7 inadmissible as existence of debt and default exceeding the threshold of Rs. 1 Crore has been established by the Financial Creditor.

12.24. The Corporate Debtor has further raised a plea alleging that Financial Creditor No. 2 and M/s Global Impex are sister concerns operating under the same management, and that substantial sums aggregating to ₹2.37 Crores were advanced by the Corporate Debtor to M/s Global Impex towards supplier advances, which remain unpaid. On this premise, the Corporate Debtor contends that the said sum ought to be set off against the operational/financial debt in question to arrive at the

net liability. However, no agreement or contract has been placed on record by the Corporate Debtor to establish any legal right or agreement permitting the claims against M/s Global Impex to be set off against the outstanding dues payable to the Financial Creditors herein. Moreover, it is settled proposition of law that set-off are available only if they are against the same entity to which debt is due.

12.25. This Tribunal further places reliance on the law laid down by the Hon'ble NCLAT in Vishal Doshi v. Bank of India & Anr. [Company Appeal (AT) (Insolvency) No. 492 of 2020], wherein it was explicitly held that claims in the nature of counter-claims or set-off cannot be entertained or adjudicated by the Adjudicating Authority in proceedings under the Code. The relevant extracts of the said judgment are reproduced hereinbelow:

" 17. With regard to Counter claim is concerned, the Adjudicating Authority cannot decide while admitting the Application. As such, all the essential requirements have been fulfilled and Application under Section 7 IBC was rightly admitted by the Adjudicating Authority. The Hon'ble Supreme Court in "Swiss Ribbon Private Limited & Ors. Vs. Union of India & Ors." [Writ Petition (Civil) No. 99 of 2018] reported in (2019) 4 SCC 17 at paragraphs 35 and 36 held as under:]

"35. Insofar as set-off and counterclaim is concerned, a set-off of amounts due from financial creditors is a rarity. Usually, financial debts point only in one way – amounts lent have to be repaid. However, it is not as if a legitimate set-off is not to be considered at all. Such set-off may be considered at the

stage of filing of proof of claims during the resolution process by the resolution professional….."

36. Equally, counterclaims, by their very definition, are independent rights which are not taken away by the Code but are preserved for the stage of admission of claims during the resolution plan…."

18. The Counter Claim and the set off as claimed by the Appellant herein cannot be decided either by the Adjudicating Authority or by this Appellate Tribunal, we refrain from interfering with such issues."

12.26. The Corporate Debtor further contends that the Financial creditor is involved in predatory lending, fraudulent intent and harassment. It is also submitted that Financial Creditors took signatures of the Respondent on a blank paper. In this regard it is observed that if the Corporate Debtor had any grievance in regard to the conduct of the Applicant , it could have approached the regulator for the NBFC/Banks i.e. RBI, rather than raising the said issue before this Tribunal, which is otherwise satisfied about the existence of debt and default. Further the proceeding under the IBC 2016 are summary in nature and the Corporate Debtors arguments of signatures on blank paper cannot be entertained more particularly when the Applicant has placed sufficient and cogent material which evidences that loans were sanctioned and disbursed and default has occurred.

12.27. Further the allegation of the Corporate Debtor that the Applicant is misusing IBC as a recovery law is unsustainable and untenable. The Application filed by the Applicant is for initiation of CIRP whose purpose

is resolution of the Corporate Debtor rather than recovery of dues from the Corporate Debtor.

12.28. The allegation under Section 65 of the Code, claiming that the application was filed with fraudulent or malicious intent for purposes other than resolution, carries a high burden of proof. To sustain a plea under Section 65, the Corporate Debtor must demonstrate clear mala fide intent or deceptive conduct on the part of the applicant beyond mere enforcement of a legitimate default. In the present case, the Corporate Debtor has defaulted on its committed financial obligations. Exercising a statutory remedy following an uncured event of default does not equate to malicious intent. The Corporate Debtor has failed to produce any material evidence to show that the proceedings were instituted fraudulently or for an improper purpose. Further the alleged contentions are dealt with in the above paragraphs as well. Hence **IA/1728/(MB)/2026**, is hereby **dismissed** as not maintainable.

12.29. The Corporate Debtor has relied on the following judgement which in our view does not helps its case for the following reason.

a. *The Judgment of Hon'ble Supreme Court in the matter of M/s. Vidarbha Industries Power Limited v Axis Bank ((2022) 8 SCC 352) which in our view does not apply for the reason as the Supreme Court has time and again in its various judgements including the judgement in matter of M. Suresh Kumar Reddy Vs. Canara Bank & Ors. CIVIL APPEAL NO. 7121 OF 2022 held that the Judgement of Vidarbha was pronounced keeping in mind the peculiar facts of the case and cannot be held as a precedent. Further at the time of admission, the Adjudicating Authority only needs to ascertain whether debt is due and payable and the same is being defaulted by the Corporate Debtor*

b. *The reliance placed on the decisions in Anuj Jain, Interim Resolution Professional for Jaypee Infratech Limited v. Axis Bank Limited [(2020) 8 SCC 401] and M/s Standard Chartered Bank v. Kalyanpur Cements Limited does not advance or rescue the case of the Corporate Debtor, as the Applicant has placed on record cogent documentary evidence demonstrating the actual disbursal of funds along with a copy of written confirmation of receipt by the Corporate Debtor; furthermore, it is observed that the money was disbursed against consideration for the time value of money, thereby constituting a 'Financial Debt' under Section 5(8) of the Insolvency and Bankruptcy Code, 2016, and that there are no pending or undisbursed credits as all disbursements were made with the mutual concurrence of both the Financial Creditor and the Corporate Debtor.*

c. *The judgment relied upon by the Corporate Debtor in Srei Equipment Finance Ltd. v. R.S. Kamthe Infrastructure Developers Pvt. Ltd. is inapplicable, as it was subsequently set aside by the Hon'ble NCLAT in appeal (2026) ibclaw.in 83 NCLAT. Moreover, the Applicant has placed enough documents including Sanction letter, Statement of Accounts, promissory notes which evidences the debt and default.*

d. *The reliance placed on Dhanlaxmi Bank Limited v. Mohammed Javed Sultan & Ors. (2026 INSC 460) does not hold water as the Corporate Debtor has failed to produce any material evidence to show that the proceedings were instituted fraudulently or for an improper purpose.*

12.30. This Tribunal has relied on the judgment of Hon’ble Supreme Court passed in the matter of **Power Trust (Promoter of Hiranmaye Energy Ltd.) v. Bhuvan Madan, IRP of Hiranmaye Energy Ltd. and Ors. Civil Appeal No(s). 2211/2024,** wherein the Hon’ble Supreme Court while examining the validity of the admission of the Corporate Debtor to CIRP has clearly laid down that the code restricts the scope of inquiry for admission of an Insolvency process by a financial creditor merely to the existence of default of a debt due and payable and nothing more.

Further, Hon'ble Supreme Court has also held that at the stage of considering the application for initiation of CIRP, neither is a corporate debtor entitled nor is the adjudicating authority required to examine any dispute regarding the existence of debt. Relevant paragraphs of the said judgement are reproduced hereunder :-

> ***B. Validity of CIRP Admission.***
>
> *28. The other aspect on which the Appellant has heavily relied is the acceptance of various sums of money paid by the Corporate Debtor purportedly under the 1st and 2nd restructuring proposals, which according to them amounts to deemed approval of such proposal. As discussed earlier, such argument flies in the face of the fact that the 2nd Respondent had resolutely maintained and rightly so, that the restructuring proposals were underpinned on pre-implementation conditions which the Corporate Debtor had failed to fulfil. Under such circumstances, receipt of various sums of money would not amount to acceptance of the restructuring proposals, thereby novating the earlier loan agreement. Neither would such part payments constitute full satisfaction of the existing debt so as to render the Section 7 application inadmissible.*
>
> *29. It has also been vociferously contended that the Corporate Debtor is an ongoing concern and does not lack the ability to repay the debt. It has a subsisting PPA for 25 years with WBSEDCL, and has raised bills of Rs. 906 crores from 01.11.2024 to 31.03.2025. It also has a continuous fuel supply arrangement with Mahanadi Coalfields Ltd. under the SHAKTI scheme and had earned EBIDTA of Rs. 20 crore per month during the CIRP. These facts though attractive at first blush, do not yield either legal or factual justification to rebut the admission of the Section 7 application.*
>
> *30. On the legal score, one must bear in mind the scope and purpose for which IBC was promulgated. The main objective of its enactment was to create a complete code for easy, prompt and seamless resolution of insolvency process and thereby ensure that the net worth of the corporate debtor is not dissipated and the entity is salvaged from corporate death through a viable resolution plan accepted by its CoC. The Code prescribes whenever a corporate debtor defaults on a debt that is due and payable, an insolvency process may be initiated. Section 3(12) defines "default" as non payment of a debt which has become due and payable, and includes default in respect of a part or instalment thereof. Such insolvency*

process may be initiated either by the corporate debtor itself, or by its creditors who are classified as financial creditor or operational creditor. "Financial creditor" is defined as any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned.26 A "financial debt" means a debt along with interest if any, which is disbursed against the consideration for time value of money and includes money borrowed against payment of interest.27 "Operational creditor" is defined as a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned.28 "Operational debt" is a claim in respect of the provision of goods or services including employment or a debt in respect of payment of dues arising under any law for the time being in force and payable to the Central or State government, or any local authority.29 31. In Swiss Ribbons (P) Ltd. v. Union of India [(2019) ibclaw.in 03 SC],30 such classification of creditors as financial creditors and operational creditors has been held to be constitutionally valid. The Bench underscored the essential differences between a financial creditor and operational creditor and held that financial creditors were mostly secured creditors like banks and financial institutions who extended finance to enable a corporate debtor to set up and/or operate its business. Such credit is extended to a corporate debtor under well-defined loan agreements having specified repayment schedules and reserving rights to recall the loan in case of default or restructure the same enabling a corporate debtor to tide over unforeseen financial stress. On the contrary, operational creditors are mostly unsecured creditors and their claims are relatable to supply of goods and services in the operation of the business. Ordinarily, operational debts are not based on admitted documents and the possibility of genuine disputes with regard to such debts is much higher compared to financial debts.

32. In light of such classification, the Code makes a distinction in the manner in which an insolvency process may be initiated by a financial creditor under Section 7, IBC in contradistinction to an operational creditor under Section 8 and 9, IBC. Unlike an operational creditor, a financial creditor may trigger an insolvency process under Section 7 in respect of default of any financial debt, whether owed to itself or to any other financial creditor. While the financial creditor may directly file an application under Section 7 setting out the particulars of the financial debt and evidence of default, the operational creditor, on the occurrence of a default, is to first deliver a demand notice of the unpaid debt to a corporate debtor and the latter may within 10 days of receipt of such demand notice bring to the notice of the operational creditor the existence of a dispute or record the pendency of a pre-existing suit or arbitration

proceeding in respect of such debt. Once a corporate debtor demonstrates a dispute regarding the existence of the debt, the insolvency process stands aborted vis-à-vis the operational creditor. But when the financial creditor initiates the insolvency process for the purposes of admission, the Adjudicating Authority is only to ascertain the existence of a default from the records of the information utility or the evidence furnished by the financial creditor within fourteen days from the receipt of such application. At this stage, neither is a corporate debtor entitled nor is the Adjudicating Authority required to examine any dispute regarding the existence of such debt. This significantly reduces the scope of enquiry at the stage of a time-bound admission of an insolvency process by a financial creditor which has been succinctly summed up in Innoventive (supra):

"30…… in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise."

33. Reiterating the ratio in Innoventive (supra), this Court in ES Krishnamurthy v. Bharath Hi-Tech Builders (P) Ltd. [(2021) ibclaw.in 173 SC]32 held as follows: "34. The adjudicating authority has clearly acted outside the terms of its jurisdiction under Section 7(5) IBC. The adjudicating authority is empowered only to verify whether a default has occurred or if a default has not occurred. Based upon its decision, the adjudicating authority must then either admit or reject an application, respectively. These are the only two courses of action which are open to the adjudicating authority in accordance with Section 7(5). The adjudicating authority cannot compel a party to the proceedings before it to settle a dispute."

34. In a similar vein, the Adjudicating Authority is not required to go into the inability of a corporate debtor to pay its debt. This is a clear departure from the scheme of winding up envisaged under Section 433(e) of the erstwhile Companies Act, 1956 which required the Adjudicating Authority to come to a finding with regard to the inability of the company to pay the debt and thereby arrive at a requisite satisfaction whether it is just and equitable to wind up the company.

The Code restricts the scope of enquiry for admission of an insolvency process by a financial creditor merely to the existence of default of a debt due and payable and nothing more. The legislative

intent behind such prompt and summary intervention is "to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation."

35. The Appellant has heavily relied on Vidarbha (supra) to argue that the Adjudicating Authority has ample discretion to apply its mind to relevant factors including the feasibility of initiation of insolvency process notwithstanding the existence of default on a debt due and payable by the Corporate Debtor. In Vidarbha (supra), this Court observed:-

"61. In our view, the Appellate Authority (NCLAT) erred in holding that the adjudicating authority (NCLT) was only required to see whether there had been a debt and the corporate debtor had defaulted in making repayment of the debt, and that these two aspects, if satisfied, would trigger the CIRP. The existence of a financial debt and default in payment thereof only gave the financial creditor the right to apply for initiation of CIRP. The adjudicating authority (NCLT) was required to apply its mind to relevant factors including the feasibility of initiation of CIRP, against an electricity generating company operated under statutory control, the impact of MERC's appeal, pending in this Court, order of Aptel referred to above and the overall financial health and viability of the corporate debtor under its existing management.

……

90. We are clearly of the view that the adjudicating authority (NCLT) as also the Appellate Tribunal (NCLAT) fell in error in holding that once it was found that a debt existed and a corporate debtor was in default in payment of the debt there would be no option to the adjudicating authority (NCLT) but to admit the petition under Section 7 IBC."

36. However, in review, this Court clarified that observations made in Paragraph 90 are restricted to the facts of Vidarbha (supra):-

"6. The elucidation in para 90 and other paragraphs [of the judgment under review] were made in the context of the case at hand. It is well settled that judgments and observations in judgments are not to be read as provisions of statute. Judicial utterances and/or pronouncements are in the setting of the facts of a particular case."

37. Finally, the apparent dichotomy between Innoventive (supra) and Vidarbha (supra) was set at rest in M. Suresh Kumar Reddy (supra), wherein this Court observed: "14. Thus, it was clarified by the order in review that the decision in Vidarbha Industries was in the setting

of facts of the case before this Court. Hence, the decision in Vidarbha Industries cannot be read and understood as taking a view which is contrary to the view taken in Innoventive Industries and E.S. Krishnamurthy. The view taken in Innoventive Industries still holds good."

38. In light of the ratio in M. Suresh Kumar Reddy (supra) there is no cavil that the ratio in Innoventive (supra) lays down the correct proposition of law and the observations in Vidarbha (supra) were made in the facts of the case and do not operate as binding precedent.

39. Even otherwise on facts, Vidarbha (supra) does not come to the aid of the Appellant. In Vidarbha (supra), this Court had taken note of an award passed by APTEL in favour of the corporate debtor which far exceeded the claim of the financial creditor, and held in the setting of such facts, initiation of CIRP was unwarranted. In the present case, Appellant's contention regarding Corporate Debtor's viability is highly dubious. Though the Corporate Debtor strenuously demonstrates its commercial viability, the NCLAT has noted that the extent of outstanding liability as on 02.01.2024 was Rs. 3103.31 crore, which far exceeds the bills raised on WBSEDCL to the tune of Rs 906 crore and EBITDA of Rs. 20 crore per month during the CIRP.

40. For these reasons, we are of the opinion the admission of the Section 7 application was lawful and does not call for interference."

(emphasis wherever required supplied)

To summarize the above judgment, we observe as under :-

a. The Code prescribes whenever a corporate debtor defaults on a debt that is due and payable, an insolvency process may be initiated. Section 3(12) defines "default" as non-payment of a debt which has become due and payable, and includes default in respect of a part or instalment thereof.

b. When the financial creditor initiates the insolvency process for the purposes of admission, the Adjudicating Authority is only to ascertain the existence of a default from the records of the information utility or

the evidence furnished by the financial creditor within fourteen days from the receipt of such application. At this stage, neither is a corporate debtor entitled nor is the Adjudicating Authority required to examine any dispute regarding the existence of such debt. This significantly reduces the scope of enquiry at the stage of a time-bound admission of an insolvency process by a financial creditor.

c. The adjudicating authority is empowered only to verify whether a default has occurred or if a default has not occurred. Based upon its decision, the adjudicating authority must then either admit or reject an application, respectively. These are the only two courses of action which are open to the adjudicating authority in accordance with Section 7(5).

d. The Adjudicating Authority is not required to go into the inability of a corporate debtor to pay its debt.

e. The Code restricts the scope of enquiry for admission of an insolvency process by a financial creditor merely to the existence of default of a debt due and payable and nothing more.

12.31. As per the scheme of the Code, at the time of consideration of an Application for initiation of CIRP against a Corporate Debtor, this Tribunal shall consider whether the debt is due, which is payable and whether the same is under default or not. In our considered view, the Applicants has placed enough evidences and documents including copies of the sanction letters, Copies of Bill of Exchange, Proof of Disbursement Statement of Accounts to demonstrate that there exists a

financial debt, the transaction involves money borrowed against the payment of interest under section 5(8)(a) of IBC 2016, the occurrence of default, which is way above the threshold as stipulated under Section 4 of the Code, and continuing nature of such default. Moreover, the issues and objections raised by the Respondent Corporate Debtor have been dealt with in the earlier paragraphs and have been found to be non-tenable.

12.32. Financial Creditor has also proposed the name of an Insolvency Professional (IP) i.e. Mr. Rajeev Mannadiar , having Registration No. **IBBI/IPA-001/IP-P00212/2017-2018/10412** and Authorization for Assignment (AFA) which is valid upto 30.06.2027 as per IBBI portal, as the proposed IRP and as per the Form 2 attached along with the Application, no disciplinary proceedings are going on against the said IP. Further, this Application is complete as all the required documents have been attached along with the Application. Accordingly, the present Application is fit for admission under Section 7 of the IBC, 2016

12.33. We make it clear that at this stage we have not crystallised the amount as claimed in this Application; the same is left to be collated by the IRP.

ORDER

In view of the aforesaid findings, this Application bearing C.P. (IB)69/MB/2026 filed under Section 7 of IBC, 2016, by Insta Capital Pvt. Ltd. and Richbond Capital Private Limited, the Applicants (FC No.1 and 2), for initiating CIRP in respect of Shubh Foods Industries Limited, the Corporate Debtor, is **Admitted.**

We further declare a moratorium under Section 14 of IBC, 2016 with consequential directions as mentioned below:

I. We prohibit:

a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor, including the execution of any judgment, decree, or order in any court of law, tribunal, arbitration panel, or other authority;

b) transferring, encumbering, alienating, or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

c) any action to foreclose, recover, or enforce any security interest created by the Corporate Debtor in respect of its property, including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and;

d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.

III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the IBC or passes an order for

the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.

IV. That the public announcement of the CIRP shall be made immediately as specified under Section 13 of the IBC read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.

V. That this Bench hereby appoints**,** Mr. Rajeev Mannadiar, having Registration No. **IBBI/IPA-001/IP-P00212/2017-2018/10412** and **e-mail address:** rajeev@integroip.com having valid Authorisation for Assignment up to 30.06.2027 (as per IBBI site) as the IRP to carry out the functions under the IBC.

VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.

VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the IBC. The officers and managers of the Corporate Debtor are directed to provide all assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. Coercive steps will follow against them under the provisions of the IBC read with Rule 11 of the NCLT Rules for any violation of law.

VIII. That the IRP/IP shall submit to this Tribunal quarterly reports with regard to the progress of the CIRP in respect of the Corporate Debtor.

IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Financial Creditor is directed to deposit a sum of Rs.**3,00,000**/- (Three Lakh Rupees) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Financial Creditor on priority upon the funds becoming available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.

X. A copy of this Order be sent to the Registrar of Companies, Mumbai for updating the Master Data of the Corporate Debtor.

XI. The IRP is directed to issue notice of Admission upon all the statutory authorities of Corporate Debtor without Fail.

XII. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.

XIII. The Registry is directed to immediately communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.

XIV. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-

NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

//Sumant//