IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

COURT III

IB-578/ND/2023

Under Section 7 of the Insolvency and Bankruptcy Code, 2016

IN THE MATTER OF:

JAMMU AND KASHMIR BANK

Having its registered office at:

M A Road, Srinagar,

Jammu & Kashmir-190001

Also at:-

Impaired Asset Recovery Branch

JAMMU & KASHMIR BANK ZO

Delhi North (Gurgaon) Plot No.132-34,

Sector 44, Gurgaon - 122003

(HARYANA)-INDIA **...APPLICANT**

VERSUS

GUIDING FORCE DEVELOPERS PRIVATE LIMITED,

Having its registered office at:

B-292, Chandra Kanta Complex,

Shop No. 8, Near Metro Pillar No. 161,

New Ashok Nagar

New Delhi-110096 **...RESPONDENT**

Order Pronounced on: 09.10.2026

CORAM:

SHRI BACHU VENKAT BALARAM DAS,
HON'BLE MEMBER (JUDICIAL)

SHRI RAVINDRA CHATURVEDI,
HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant :	Mr. Sunil Fernandes, Sr. Adv., Mr. Kumar Chitranshu, Ms. Astha Sharma, Mr. Shitij Charkravarty, Mr. Chatanya Sharma, Mr. Udhav Aggarwal, Advs.
For the Respondent:	Mr. Siddharth Yadav Sr. Adv., Ms. Divya Verma, Ms. Vaishnavi, Advs.

ORDER

PER: BACHU VENKAT BALRAM DAS, MEMBER (JUDICIAL)

1. The present application under Section 7 has been filed by Jammu and Kashmir Bank/the Financial Creditor seeking to initiate CIRP against M/s.

Guiding Force Developers Pvt. Ltd., the Respondent/Corporate Debtor herein. The Respondent/Corporate Debtor is the Corporate Guarantor to the Financial Creditor for the credit facilities availed by the Adel Landmarks Private Limited (referred to as "Borrower").

2. It is submitted that in the year 2014, the Financial Creditor sanctioned long term working capital facility and term loan to the tune of Rs. 40 Crores and Rs. 10 Crores respectively to the borrower i.e. Adel Landmarks Private Limited.

3. The Corporate Debtor herein signed and executed unconditional and irrevocable Corporate Guarantee dated 04.09.2014 as a Corporate Guarantor in favour of the Financial Creditor for securing the credit facilities availed by Borrower.

4. Subsequently, the borrower failed to regularize the credit facilities and failed to make the payment of the outstanding amounts and thereby committed breach of terms and conditions of the various documents executed by the parties.

5. The account of the borrower was declared as NPA on 31.12.2015 since the borrower did not pay any amount to the Financial Creditor. The Financial Creditor sent a Guarantee Invocation Notice dated 30.12.2021 to the Respondent/Corporate Guarantor.

6. The Financial Creditor, namely Edelweiss Asset Reconstruction Company Limited, one of the Financial Creditors of Adel Landmarks Limited, filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 bearing no. C.P.IB. No-1083(PB) of 2018 for initiation of Corporate Insolvency Resolution Process ("CIRP") against the Adel Landmarks Limited ("Borrower") before the National Company Law Tribunal, Principal Bench, New Delhi. The said application under Section 7 of the IBC was admitted vide order dated

05.12.2018 and CIRP was initiated against the borrower Adel Landmarks Private Limited.

7. It is further submitted that the Corporate Debtor being the Corporate Guarantor of the borrower also failed to make the payment under the Agreement/contract of Guarantee and failed to comply with the terms and conditions of the Agreement of Guarantee executed by them in favour of the Financial Creditor.

8. Thus, there is an outstanding amount of Rs. 71,52,55,672.00/- (Indian rupees seventy one crores fifty two lacs fifty five thousand six hundred seventy two only) payable as on 31.12.2021 by the Corporate Debtor to the Borrower in terms of the Deed of Corporate Guarantee dated 04.09.2014 duly executed by Corporate Debtor in favour of the Financial Creditor. Hence the present petition.

9. For the sake of convenience, Part-IV of the Section 7 application is extracted hereunder:-

Part IV

PARTICULARS OF FINANCIAL DEBT							
1	TOTAL AMOUNT OF DEBT GRANTED DATE(S) OF DISBURSEMENT	s. no.	Nature of Facilities	Date of Advance	Limit Sanctioned	Amount disbursed	Outstanding as on 31.12.2021
		1.	Long Term Working Capital	29-09-2014	40	40	52.77

			(03232610200 00003)				
		2	Term Loan (03232610300 00006)	27-09-2014	10	10	18.75
		Total			50	50	71.52

2	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATIO NOF THE AMOUNT AND DATES OF DEFAULT IN TABULAR FORM)	1. That the Financial Creditor is a Banking Company incorporated under the Jammu & Kashmir Companies Act, Svt.1977 and governed by the provisions of Banking Regulation Act, 1949 and having its Registered as well as Corporate Office at M.A. Road, Srinagar, Jammu & Kashmir-190001 with one of its office at the Impaired Asset Recovery Branch Jammu & Kashmir Bank, ZO Delhi North (Gurgaon) Plot No.132-34, Sector 44, Gurgaon - 122003 (Haryana)-INDIA 2. That Mr. Rajeev Kumar Digra, presently posted at Impaired Assets Recovery Branch as Branch Head is the authorized to file this Petition (Form - 1) on behalf of the officer of the Financial Creditor and he is fully conversant with the facts and circumstances of the present case. He is a duly constituted attorney and is authorized to sign & verify the application and do the needful on behalf of the applicant. Copy of the Power of Attorny dated

		25.11.2010 in favor of Mr. Rajeev Kumar Digra is annexed herewith and marked as Annexure - P1. 3. That the Corporate Debtor i.e. Guiding Force Developers Private Limited (Respondent) is a Company incorporated and registered under the Companies Act, 1956 (now Companies Act, 2013) having its registered office at B-292, Chandra Kanta Complex, Shop No. 8, Near Metro Pillar No. 161, New Ashok Nagar New Delhi- 110096 and is inter-alia engaged in Real estate activities. Master Data of the Borrower as obtained from the website of Ministry of Corporate Affairs is annexed hereto and marked as Annexure - P2. 4. It is quintessential to mention herein that the Edelweiss Asset Reconstruction Company Limited being one of the financial creditors of Adel Landmarks Limited proceeded to file an Application bearing no. C.P.IB. No-1083(PB) of 2018 under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") for initiation of Corporate Insolvency Resolution Process ("CIRP") against the Adel Landmarks Limited ("Borrower") before the National Company Law Tribunal, Principal Bench, New Delhi Bench ("NCLT, Delhi"). The said Application under Section 7 of the IBC has been admitted by NCLT, Delhi vide order dated 05.12.2018. Copy of the order dated 05.12.2018

passed by the NCLT, Principal Bench, New Delhi is annexed herewith and marked as Annexure- P3.

5. That sometime in the year 2014, the Borrower approached the Financial Creditor and at the request of the Borrower, the Financial Creditor had sanctioned the following Credit Facility in favour of Borrower:

S. No.	Nature of Facility	Limit Sanctioned	Limit Availed	Purpose
1.	Long Term Working Capital	40.00 Crores	40.00 Crores	To augment working capital of the Borrower.
2.	Term Loan	10 Crores	10 Crores	For adjustment of existing loan of the Borrower from State bank of India
TOTAL		INR Crores 50	INR 50.00 Crores	

The aforesaid Credit facility was duly sanctioned vide a Sanction letter dated 28.07.2014 and a Loan Agreement dated 04.09.2014 was also executed between the Financial Creditor and Borrower. Furthermore, the terms and conditions of the

		Sanction Letter dated 28.07.2014 were subsequently modified vide Sanction Letter dated 27.10.2014. A copy of the Sanction Letter dated 28.07.2014, Loan Agreement dated 04.09.2014 and modified Sanction Letter dated 27.10.2014 are annexed herewith and marked as Annexure-P4 (Colly). 6. Thereafter, in consideration to Credit Facilities availed by the Borrower and as security for the repayment of the same, the Corporate Debtor as a Corporate Guarantor of the Borrower stood as surety and executed unconditional, continuing and irrevocable Deed of Corporate Guarantee dated 04.09.2014 in favour of the Financial Creditor and under the said Deed of Corporate Guarantee the Corporate Debtor as a Corporate Guarantor has unconditionally, irrevocably and absolutely undertaken that, inter alia, in the event of any default on the part of the Borrower i.e. Borrower in payment/ repayment of its obligations, or in the event of any default on the part of the Borrower to comply with or perform any of the terms and conditions and covenants contained in the aforesaid sanction letters and Loan Agreements and/or Security Documents, the you shall upon demand, forthwith pay to the us without demur all the amounts payable by the Borrower under the said Agreement and/or the

		Security Documents. A copy the Deed of Corporate Guarantee dated 04.09.2014 is annexed herewith and marked as Annexure -P5. 7. That after availing the aforesaid Credit Facilities, the accounts of the Borrower became irregular. However, in spite of repeated requests and demands, the Borrower has failed and neglected to regularize its Credit Facility and failed to make payment of the outstanding amounts under the said Credit Facility, furthermore the Financial Creditor approached the Borrower with a request to regularize the above said limits under the aforesaid Credit Facility and have thus, committed breach of terms and conditions of the various documents executed. 8. In spite of repeated requests and demands, the Borrower failed and neglected to regularize its Credit Facilities and failed to make payment of the outstanding amounts under the said Credit Facilities. In view of the same, the Corporate Debtor has committed a breach of terms and conditions of the various documents executed. In addition to the above, Guiding Force Developers Private Limited (Corporate Debtor herein), being the Corporate Guarantor of the Borrower failed to make the payment under the Agreement/contract of Guarantee on the account of the default committed by the Borrower and failed to comply to

the terms and conditions of the Deed of Corporate Guarantee executed by it in favour of the Financial Creditor.

9. That thereafter, the Financial Creditor did not receive any payment from the Borrowers, hence, the Financial Creditor was left with no other alternative but to declare the account as NPA and thus, the Credit Facilities account of the Borrowers was declared as NPA on 31.12.2015 as per the Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances issued by RBI.

10. Further, as the Borrower failed to repay its remaining outstanding dues, the Guarantee Invocation Notice dated 30.12.2021 was sent to the Corporate Guarantor by the Financial Creditor. Copy of the Guarantee Invocation Notice dated 30.12.2021 is annexed herewith and marked as Annexure - P6.

11. The Financial Creditor properly maintained the accounts of the 'Borrower and the statement of account which shows a debit balance (Outstanding Balance) as on 31.12.2021 as follows:

S.No	Credit Facilities	Outstanding As on 31.12.2021
1.	Long Term Working Capital	Rs.52,76,79,516.00

	(0323261020000003)	
2.	Term Loan (0323261030000006)	Rs.18,75,76,156.00
	Total	Rs.71,52,55,672.00

A copy of statement of Accounts depicting outstanding balance as on 31.12.2021 is annexed herewith and marked as Annexure - P7.

12. Since the Borrower failed to maintain the said Credit Facilities account in terms of the aforesaid agreements duly signed and accepted by the Borrower and also the Corporate Debtor being a Corporate Guarantor to the Borrowers failed to clear the outstanding dues as per the various Deed of Corporate Guarantee dated 04.09.2014 duly executed by the Corporate Debtor being the Corporate Guarantor of the Borrower respectively, the instant petition is accordingly preferred by the Financial Creditor, Under section 7 of the Insolvency and Bankruptcy Code, 2016 read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicatory Authority) Rules, 2016 for initiating Insolvency Resolution Process against the Respondent, who is liable to pay an outstanding amount of Rs.71,52,55,672.00 (Indian Rupees

Seventy One Crores Fifty Two Lacs Fifty Five Thousand Six Hundred Seventy Two Only) as on 31.12.2021 along with applicable rate of interest, penal interest in the aforesaid loan accounts besides costs, charges etc. incurred / to be incurred in the said credit facility accounts till the date of full and final adjustment of the said credit facility accounts to the Financial Creditor.

13. Date on which the debt fell due:

The said amount Credit Facilities were payable by the Corporate Debtor:

S.No	Nature of Facility	Limit Sanctioned	Debt fell Due(Devolvement Date)
1.	Long Term Working Capital	40.00 Crores	31.12.2015
2.	Term Loan	10 Crores	31.12.2015

10. The Applicant/Bank has placed on record Sanction Letter dated 28.07.2014, Loan agreement dated 04.09.2014, Modified Sanction Letter dated 27.10.2014, Deed of Corporate Guarantee dated 04.09.2014, Guarantee Invocation Notice dated 30.12.2021 and Statement of Accounts dated 31.12.2021.

11. It is submitted by the Respondent that the pleading of the Financial Creditor has contended that the Principal Borrower's account was declared NPA on 31.12.2015, which is the date on which the default occurred and the cause of action arose. The Guarantee Invocation Notice was issued only on 30.12.2021, nearly six years later, and the present Application was filed on 15.09.2023. Under Article 137 of the Limitation Act, 1963, the period of limitation for filing an application under Section 7 of the IBC is three years from the date on which the right to apply accrues. The cause of action for proceeding against the Corporate Guarantor cannot be deferred indefinitely by issuing a belated invocation notice, which does not create a fresh period of limitation.

12. It is further submitted by the Respondent that the Financial Creditor has suppressed material facts regarding the initiation of CIRP against the Principal Borrower, Adel Landmarks Limited, by Edelweiss Asset Reconstruction Company Limited in C.P.IB. No. 1083(PB) of 2018, which was admitted on 05.12.2018 and wherein a Resolution Plan was subsequently approved by the CoC and NCLT. The Financial Creditor has not disclosed whether it filed any claim in that CIRP, what amount was realized or is realizable, or whether the approved Resolution Plan discharges or novates the liability of the Corporate Guarantor. Under Section 31 of the IBC, an approved Resolution Plan is binding on all stakeholders, and the Financial Creditor cannot claim the entire outstanding amount from the Corporate Guarantor without giving credit for amounts received or receivable from the Principal Borrower.

Analysis and Findings:-

13. We have heard the submissions of Mr. Chaitanya Sharma, Ld. Counsel appearing on behalf of the Applicant/Bank and Mr. Siddharth Yadav, Ld. Senior Counsel appearing on behalf of the Respondent/Corporate Debtor.

14. Ld. Counsel appearing on behalf of the Applicant placed reliance on various documents executed between the parties i.e. Sanction Letter dated

28.07.2014, Loan agreement dated 04.09.2014, Modified Sanction Letter dated 27.10.2014, Deed of Corporate Guarantee dated 04.09.2014, Guarantee Invocation Notice dated 30.12.2021 and Statement of Accounts dated 31.12.2021, and contended that the Principal Borrower had failed to pay the debt to the Financial Creditor, Edelweiss Asset Reconstruction Company Limited.

15. Consequently, Edelweiss Asset Reconstruction Company Limited, filed C.P.IB. No. 1083 (PB) of 2018 which was admitted on 05.12.2018. Subsequently, the Resolution Plan was also approved by the CoC and NCLT vide order dated 19.05.2026.

16. Further, it is a matter of record that the Respondent/Corporate Debtor (the Corporate Guarantor of the Financial Creditor to the Principal Borrower) also defaulted in making the payments and therefore, the Applicant/Bank issued the Guarantee Invocation Letter dated 30.12.2021.

17. Ld. Counsel therefore submitted that the Applicant/Bank fulfilled all the criteria required under Section 7 of the Code and established debt and default and therefore, CIRP be initiated against the Corporate Debtor.

18. Mr. Siddharth Yadav, Ld. Senior Counsel appearing on behalf of the Respondent/Corporate Debtor at the outset submitted that the Application under Section 7 is barred by limitation. He submitted that the account of the Principal Borrower was declared as NPA on 31.12.2015 whereas the Applicant/Bank issued the Letter of Invocation only on 30.12.2021 i.e. after about six years.

19. He submitted that considering the date of NPA to be the date on which the cause of action arose, the present application under Section 7 ought to have been filed within three years from the date of declaration of NPA. However, the

present application has been filed in the year 2023 and therefore, is barred by limitation.

20. Mr. Yadav, Ld. Senior Counsel placed reliance upon the judgment of the Hon'ble Supreme Court in the case of ***Gaurav Hargovindbhai Dave vs Asset Reconstruction Company (India),*** in AIRONLINE 2019 SC 1118, wherein it was held that the three-year limitation period under Article 137 begins from the date the right to apply accrues, i.e., the date of default or the date the account was declared NPA. The Court held that time began to run on 21.07.2011 (the NPA date), and three years having elapsed in 2014, the Section 7 application filed against the borrower in 2017 was clearly time-barred.

21. Mr. Yadav, Ld. Senior Counsel also placed reliance upon the judgment of the Hon'ble NCLAT in the case of ***Sanjay Lamba Versus Union Bank of India & Anr,*** in Company Appeal (AT) (Insolvency) No. 276 of 2020, wherein it was held that Article 137 of the Limitation Act, 1963 defining a period of 3 years will be computed after considering Section 18 or 19 of The Limitation Act, 1963 with a fresh period of limitation inspite of these dates being after the date of NPA.

22. He also placed reliance on the judgement of the Hon'ble Supreme Court, in the case of ***Venkappa Gurappa Hosur vs Kasawwa C/O Rangappa Kulgod,*** in AIR 1997 SUPREME COURT 2630, it was held that mere issuance of a notice does not stop the running of limitation once it has begun, and since the suit was filed beyond three years from the date of knowledge of denial, it was barred under Article 54 of the Schedule of the Limitation Act, 1963.

23. Mr. Yadav, Ld. Senior Counsel also placed reliance upon the judgment of the Hon'ble Supreme Court of India in the case of "**Invest Asset Securitization and *Reconstruction Pvt. Ltd. Versus Girnar Fibres Ltd.***" in Civil Appeal No. 3033 of 2022 and submitted that the provisions of the Code are essentially

intended to bring the Corporate Debtor to its feet and are not of money recovery proceedings as such. The intent of the Applicant has only been to invoke the provisions of the Code so as to enforce the recovery against the Corporate Debtor. He further submitted that the Applicant herein has not disclosed about the proceedings in the case of the Borrower.

24. Mr. Chaitanya Sharma, Ld. Counsel appearing on behalf of the Applicant, in response to the submissions made by Mr. Yadav, Ld. Senior Counsel, submitted that the limitation would run from the date of invocation of the guarantee and not from the date when the account was declared as NPA and therefore, the present application filed under Section 7 is well within the time.

25. It is trite law that in case of a default committed by the Principal Borrower, the Financial Creditor has to issue Letter of Invocation before initiating proceedings against the Corporate Guarantor/Personal Guarantor as the case may be.

26. In this regard, it is pertinent to refer to the judgement of the Hon'ble NCLAT in the case, **Pooja Ramesh Singh vs State Bank Of India And Anr,** in Company Appeal (AT) (Insolvency) No.329 of 2023, wherein it has been held as under:

"32. In view of the foregoing discussion, we arrive at following conclusions:

(i) The Corporate Guarantee Deed dated 17.05.2019 is on demand guarantee deed and the default shall arise on the part of the Guarantor only when demand notice is issued as contemplated in the Deed of Guarantee. When the State Bank of India invoked the guarantee vide notice dated 01.10.2020, demand on the part of the Corporate Guarantee shall arise only subsequent to the notice dated 01.10.2020 i.e. non-payment of the amount within seven days i.e. default arise on 08.10.2020.

(ii) Default on the part of the Guarantor having arisen on 08.10.2020 i.e. within the period which is covered as prohibited period under Section 10A, application under Section 7 was clearly barred by Section 10A. Issues No. II, III and IV are answered accordingly.

(iii) The Adjudicating Authority in the impugned order has not adverted to the relevant clauses of the Deed of Guarantee as noted above. The date of default on part of the Guarantor being subsequent to 01.10.2020 when guarantee was invoked, the application was barred by Section 10A and the Adjudicating Authority committed error in admitting the Section 7 application."

The above judgement shows that limitation period will start from the date of invocation of Guarantee.

27. In the present case, admittedly, the letter of invocation was issued on 30.12.2021 and thus, the cause of action arose on the said date. The application under Section 7 was filed on 15.09.2023, which shows that the Application is well within the time.

28. Therefore, in our considered view, the cause of action with respect to the Corporate Guarantor/Personal Guarantor arises from the date when the notice of Invocation is issued.

29. Further, the issue whether the Application under Section 7 of the Code be filed against the Guarantor after 3 years of declaration of the loan account as Non-Performing Asset is barred by Limitation has been settled by the Hon'ble Supreme Court in the case of ***Laxmi Pat Surana vs Union Bank Of India***, *CIVIL APPEAL NO. 2734 OF 2020*. The relevant portion of the judgement is extracted hereunder:

"…(ii) Whether an application under Section 7 of the Code filed after three years from the date of declaration of the loan account as Nonperforming Asset2, being the date of default, is not barred by limitation?

…

…

…

37. Ordinarily, upon declaration of the loan account/debt as NPA that date can be reckoned as the date of default to enable the financial creditor to initiate action under Section 7 of the Code. However, Section 7 comes into play when the corporate debtor commits "default". Section 7, consciously uses the expression "default" — not the date of notifying the loan account of the corporate person as NPA. Further, the expression "default" has been defined in Section 3(12) to mean nonpayment of "debt" when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be. In cases where the corporate person had offered guarantee in respect of loan transaction, the right of the financial creditor to initiate action against such entity being a corporate debtor (corporate guarantor), would get triggered the moment the principal borrower commits default due to nonpayment of debt. Thus, when the principal borrower and/or the (corporate) guarantor admit and acknowledge their liability after declaration of NPA but before the expiration of three years therefrom including the fresh period of limitation due to (successive) acknowledgments, it is not possible to extricate them from the renewed limitation accruing due to the effect of Section 18 of the Limitation Act. Section 18 of the Limitation Act gets attracted the moment acknowledgment in writing signed by the party against whom such right to initiate resolution process under Section 7 of the Code enures. Section 18 of the Limitation Act would come into play every time when the principal borrower and/or the corporate guarantor (corporate debtor), as the case may

be, acknowledge their liability to pay the debt. Such acknowledgment, however, must be before the expiration of the prescribed period of limitation including the fresh period of limitation due to acknowledgment of the debt, from time to time, for institution of the proceedings under Section 7 of the Code. Further, the acknowledgment must be of a liability in respect of which the financial creditor can initiate action under Section 7 of the Code.

38. In the present case, the NCLT as well as the NCLAT have adverted to the acknowledgments by the principal borrower as well as the corporate guarantor corporate debtor after declaration of NPA from time to time and lastly on 08.12.2018. The fact that acknowledgment within the limitation period was only by the principal borrower and not the guarantor, would not absolve the guarantor of its liability flowing from the letter of guarantee and memorandum of mortgage. The liability of the guarantor being coextensive with the principal borrower under Section 128 of the Contract Act, it triggers the moment principal borrower commits default in paying the acknowledged debt. This is a legal fiction. Such liability of the guarantor would flow from the guarantee deed and memorandum of mortgage, unless it expressly provides to the contrary…."

30. Further, it is also pertinent to refer to the judgment of Hon'ble NCLAT which is directly relevant on the question of acknowledgement of liability by a Corporate Debtor and Personal Guarantor., in the case of ***E.M Najeeb Ellias Mohammed vs Union Bank Of India Limited***, *COMPANY APPEAL (AT)(CH.)(Ins.) No. 08 of 2024,*

"…61. An 'Acknowledgment' means an Admission for the truth of one's liability. The necessary factor that is required is an Admission of the existence of a Debt, liability for contribution in case, a part of it is paid and such an Admission would enlarge the Limitation period, in the considered opinion of this Tribunal.

62. The salient feature of an Acknowledgement are:

(a) The acknowledgement of the debt should be writing

(b) it should be made by a person against whom the liability is claimed or by person through whom, he derives title or liability

(c) the acknowledgment should be made before the lapse of the specified period for a suit, or an application COMPANY APPEAL (AT) (CH) (Ins.) No. 08 of 2024

(d) it must indicate the intention to admit the jural relationship of Creditor and Debtor as per decision of the Hon'ble Supreme Court in S.F. Mazda V. Durga Prasad AIR 1961 SC 1236.

(e) must contain admission of an existing liability. Mere admission of a first liability will not suffice as per decision of Hon'ble Supreme Court in Velliamma V. Sivanathan, AIR 1979 SC 1937.

..

…

…

66. An Acknowledgement of a liability made by the Principal Borrower should be considered as an Acknowledgement of liability, on behalf of Guarantor….”

31. Further, there is no denial by the Corporate Debtor about the transactions and the documents executed between the parties and there is no objection raised with respect to the execution of the agreement dated 04.09.2014, Modified Sanction Letter dated 27.10.2014, Deed of Corporate Guarantee dated 04.09.2014, Guarantee Invocation Notice dated 30.12.2021 and Statement of Accounts dated 31.12.2021. The CD has also neither pleaded nor placed ay material on record to suggest that any amount in default has been paid. Therefore, the material placed on record demonstrates that there is existence of the Debt as required under Section 5(8) and Default under Section 3(12) of the Code.

32. Sub-section (3) (b) of Section 7 mandates the financial creditor to furnish the name of an Interim Resolution Professional. In compliance thereof the applicant has proposed the name of Mrs. Anuradha Gupta for appointment as Interim Resolution Professional having registration number IBBI/IPA-001/IP-P01495/2018-2019/12296. Mrs. Anuradha Gupta has agreed to accept the appointment as the interim resolution professional and has signed a communication in Form 2 in terms of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 dated 19.01.2022. Accordingly, it is seen that the requirement of Section 7 (3) (b) of the Code has been satisfied.

33. It is thus seen that the requirement of sub-section5 (a) of Section 7 of the code stands satisfied as default has occurred, the present application filed under Section 7 is complete, and as no disciplinary proceedings against the proposed IRP is pending.

34. We are satisfied that the present application is complete in all respects and the applicant financial creditor is entitled to claim its outstanding financial debt from the corporate debtor and that there has been default in payment of the financial debt.

35. Accordingly, Section 7 application i.e., **IB-578/ND/2023** is admitted, and CIRP against the Corporate Debtor is initiated.

36. Mrs. Anuradha Gupta having registration number IBBI/IPA-001/IP-P01495/2018-2019/12296, Mobile No.: 9414752029, e-mail: anuradhagupta70@gmail.com is appointed as an Interim Resolution Professional.

37. In pursuance of Section 13 (2) of the Code, we direct that public announcement shall be made by the Interim Resolution Professional immediately (3 days as prescribed by Explanation to Regulation 6(1) of the

IBBI Regulations, 2016) with regard to admission of this application under Section 7 of the Insolvency& Bankruptcy Code, 2016.

38. We also declare moratorium in terms of Section14of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section14(1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including 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;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

39. It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14 (3) (b) of the Code.

40. The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections15, 17, 18, 19, 20 & 21 of the Code and

transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day to day affairs of the 'Corporate Debtor'. In case there is any violation committed by the ex-management or any preferential/ undervalued/ tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional shall make an application to this Adjudicating Authority (Tribunal) with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as apart of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

41. The Registry is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCT of Delhi & Haryana at the earliest possible but not later than seven days from today. The Registrar of Companies shall update its website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified to the public at large.

42. A copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-	Sd/-
RAVINDRA CHATURVEDI	**BACHU VENKAT BALARAM DAS**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

IB-578/ND/2023

Date of Order: 09.10.2026