IN THE NATIONAL COMPANY LAW TRIBUNAL

DIVISION BENCH (COURT NO- II)

KOLKATA

C.P (IB) No. 196/KB/2024

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

IN THE MATTER OF:

DMP VANIJYA PRIVATE LIMITED

...Financial Creditor

-VS-

PREMIER CARWORLD PRIVATE LIMITED

...Corporate Debtor

-AND-

I.A (IB) No. 1671/KB/2024

An application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016

IN THE MATTER OF:

PREMIER CARWORLD PRIVATE LIMITED

...Applicant

-VS-

DMP VANIJYA PRIVATE LIMITED

...Respondent

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT NO- II)
KOLKATA

CORAM:

Shri. Labh Singh, Member (Judicial)

Ms. Rekha Kantilal Shah, Member (Technical)

APPEARANCES (via Physical/Video Conference):

For the Financial Creditor:

Mr. Deep Nath Chowdhury, Adv.

Ms. Sweta Mekherjee, Adv.

Mr. Bhaskar Diwedi, Adv.

For the Corporate Debtor:

Mr. Ankit Agarwal, Adv.

Ms. Simran More, Adv.

Date of Pronouncement: 14.10.2026

O R D E R

Per: Rekha Kantilal Shah, Member (Technical)

1. The court convened through physical/hybrid mode.

2. The instant Petition being **C.P (IB) No. 196/KB/2024** was filed on **06.05.2024** by **DMP Vanijya Private Limited** (herein referred to as 'Financial Creditor') through its authorized representative Mr. Sumanta Chowdhury, under Section 7 of the Insolvency and Bankruptcy Code, 2016 (herein referred to as 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiation of Corporate Insolvency Resolution Process (herein referred to as 'CIRP') against **Premier Carworld Private**

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Limited (herein referred to as 'Corporate Debtor') for making default in payment of outstanding amount of **Rs. 1,22,64,986/-** (Rupees One Crore Twenty-Two Lakhs Sixty-Four Thousand Nine Hundred and Eight-Six only) included interest.

3. The Financial Creditor i.e., **DMP Vanijya Private Limited** was incorporated on 31.12.2009 under the provisions of Indian Companies Act, 1956, duly registered with Registrar of Companies Kolkata, West Bengal with CIN: U52190WB2009PTC140550, having registered office at 18/1, Maharshi Devendra Road, 4th Floor, Room No. 60 Kolkata, West Bengal- 700007.

4. The Corporate Debtor i.e., **Premier Carworld Private Limited** was incorporated on 09.08.2010 under the provisions of Companies Act, 1956, duly registered with Registrar of Companies Kolkata, West Bengal having with CIN: U50102WB2010PTC152096, having registered office at 2nd Floor, Park Mansions 57A, Park Street, Kolkata, West Bengal- 700016. Therefore, this Bench has jurisdiction to deal with this Application.

5. **BRIEF FACTS OF THE CASE:**

I. It is stated that, in or around the year 2018, the Corporate Debtor approached the Financial Creditor for grant of a financial loan/Inter-Corporate Deposit ("ICD") of **Rs. 1,00,00,000/-**, carrying interest at the rate of **12% per annum for a period of 120 days**. Accordingly, the first ICD of ₹1

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crore was disbursed on **29.10.2018**, with the repayment due on **28.02.2019**. The said ICD was subsequently repaid by the Corporate Debtor on **28.02.2019**.

II. Thereafter, the Corporate Debtor again approached the Financial Creditor for a further ICD of **Rs. 1,00,00,000/-**. The second ICD was disbursed on **02.07.2019**, carrying interest at 12% per annum for 120 days, with the repayment date being **01.11.2019**. The Corporate Debtor repaid the second ICD within the stipulated period, on **01.11.2019**. The Applicant has also stated that the Corporate Debtor deducted TDS on the interest component pertaining to the said ICD.

III. Subsequently, in or around the year 2020, the Corporate Debtor once again approached the Financial Creditor for a further financial accommodation of **Rs. 1,00,00,000/-**. Pursuant to the discussions between the parties, the Financial Creditor disbursed the **third ICD of Rs. 1,00,00,000/- on 11.03.2020**, carrying interest at the rate of **12% per annum for a period of 120 days**, with the initial repayment date being **08.07.2020**. The Corporate Debtor, by its letter dated **11.03.2020**, acknowledged receipt of the said amount and the terms of the financial accommodation. The Corporate Debtor also issued post-dated cheques towards repayment of the principal amount and interest.

IV. The Applicant states that, despite the expiry of the stipulated repayment period, the Corporate Debtor failed to

repay the third ICD. At the request of the Corporate Debtor, the tenure for repayment was extended from time to time, initially up to **01.05.2021**, thereafter up to **01.12.2021**, and ultimately up to **08.07.2022**. During this period, the Corporate Debtor issued further post-dated cheques dated **01.05.2021** and **01.12.2021**, each for Rs. 1,00,00,000/-, towards repayment of the outstanding liability. The Applicant states that the said cheques were not presented for encashment at the request of the Corporate Debtor.

V. According to the Applicant, the Corporate Debtor thereafter continued to remain in default. Against the principal amount of ₹1,00,00,000/-, the Corporate Debtor made a part-payment of **Rs. 10,00,000/- on 08.07.2022**, leaving a principal outstanding of **Rs. 90,00,000/-**. The Applicant further states that the Corporate Debtor made part-payments towards interest and deducted TDS in respect thereof. The Applicant has relied upon its bank statements, ledger account and TDS records in support of the payments and the outstanding liability.

VI. The Applicant has computed the outstanding financial debt as on **29.02.2024** at **Rs. 1,22,64,986/-**, comprising the outstanding principal of ₹90,00,000/- and accrued interest, after giving credit for the payments/interest and TDS amounts received. The Applicant has relied upon its ledger and interest calculation statement in support of the amount claimed to be due and payable by the Corporate Debtor.

VII. It is further stated that the Financial Creditor issued a demand/recall notice dated **18.10.2023** calling upon the Corporate Debtor to discharge the outstanding liability. The Applicant states that, in its reply dated **01.12.2023**, the Corporate Debtor did not dispute the transaction or the existence of the financial liability, but instead raised, inter alia, a contention regarding limitation and certain issues relating to the computation of the amount claimed. The Applicant thereafter issued a further notice dated **02.04.2024**, rectifying the inadvertent errors in the earlier demand notice with regard to the calculation of the principal and interest components.

VIII. The Applicant has further pleaded that the claim is within the period of limitation, taking into account the successive acknowledgements/part-payments and extensions of the repayment period, as well as the period excluded pursuant to the orders passed by the Hon'ble Supreme Court in relation to the COVID-19 pandemic. The Applicant has accordingly asserted that the financial debt is due and payable and that a default has occurred within the meaning of the Code.

IX. In view of the alleged failure of the Corporate Debtor to discharge the outstanding financial debt despite repeated requests and demands, the Financial Creditor has filed the present application under **Section 7 of the Code**, seeking initiation of CIRP against the Corporate Debtor.

6. **REPLY AFFIDAVIT ON BEHALF OF THE CORPORATE DEBTOR**

I. Learned Counsel appearing on behalf of the Corporate Debtor submits that the present application is misconceived, untenable and liable to be dismissed, as the claim sought to be enforced by the Financial Creditor is **grossly barred by limitation**. It is submitted that the Financial Creditor has not approached this Tribunal with clean hands and has sought to create a cause of action by relying upon facts and documents which, according to the Corporate Debtor, do not substantiate the alleged outstanding financial debt.

II. It is submitted that although the Financial Creditor has relied upon a notice dated **18.10.2023**, the said notice itself records that the alleged third Inter-Corporate Deposit was for a period of 120 days from **11.03.2020**, and was therefore repayable by **08.07.2020**. According to the Corporate Debtor, there is no legally enforceable document evidencing any extension of the repayment period beyond the original date of repayment. The subsequent assertion of extensions up to **01.05.2021, 01.12.2021 and 08.07.2022** is specifically denied.

III. **The Corporate Debtor specifically submits that the alleged default falls squarely within the period covered by Section 10A of the Code.** It is submitted that the debt, as pleaded by the Financial Creditor itself, became due on **08.07.2020**, which falls within the period during which initiation of CIRP was prohibited under Section 10A of the Code. Section 10A

expressly provides that no application shall ever be filed for initiation of CIRP in respect of a default occurring during the period specified therein. Consequently, the present application, insofar as it is founded upon the alleged default dated 08.07.2020, is barred by the express statutory prohibition contained in Section 10A of the Code.

IV. It is further submitted that the Financial Creditor cannot overcome the statutory embargo under Section 10A by relying upon any subsequent alleged acknowledgment, post-dated cheque or part-payment. The Corporate Debtor specifically denies that the alleged extension of the repayment period was ever sought or granted. It is submitted that, even assuming that any acknowledgment or payment was subsequently made, such subsequent event cannot convert a default which had already occurred within the Section 10A period into a fresh default for the purpose of initiating CIRP.

V. The Corporate Debtor further submits that the Financial Creditor has introduced a new narrative, after the expiry of the original repayment period that the tenure of the third Inter Corporate Deposit was successively extended up to **01.05.2021, 01.12.2021 and ultimately 08.07.2022**. It is specifically denied that the Corporate Debtor ever sought or obtained any such extension. The Corporate Debtor submits that the Financial Creditor has failed to place on record any contemporaneous communication evidencing a mutual agreement

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between the parties whereby the original repayment date of 08.07.2020 was extended.

VI. It is submitted that the Financial Creditor's allegation that post-dated cheques were issued pursuant to successive extensions is also denied. The Corporate Debtor states that the cheques relied upon by the Financial Creditor cannot be treated as evidence of any legally agreed extension of the repayment period. It is further submitted that the Financial Creditor did not present the alleged post-dated cheque dated 09.07.2020 and has failed to explain the circumstances in which the same was allegedly retained.

VII. The Corporate Debtor further submits that the alleged extensions up to 08.07.2022 have been introduced only for the purpose of overcoming the statutory bar of Section 10A and the objection of limitation. It is contended that no document evidencing any request made by the Corporate Debtor for such extensions, or any acceptance thereof by the Financial Creditor, has been produced. The Corporate Debtor therefore submits that the original repayment date of **08.07.2020** remains the relevant date for determining the occurrence of default.

VIII. With regard to the alleged part-payment, the Corporate Debtor submits that the Financial Creditor has itself admitted that the principal amount was ₹1,00,00,000/- and that ₹10,00,000/- was allegedly paid towards the principal, leaving ₹90,00,000/- . The Corporate Debtor disputes the manner in which the

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subsequent interest has been computed and submits that the Financial Creditor has failed to produce any document evidencing an agreement to charge interest at 12% per annum beyond the original period of 120 days ending on 08.07.2020.

IX. It is specifically submitted that the Financial Creditor has not produced any acknowledgment or other document whereby the Corporate Debtor agreed to pay interest at the rate of 12% per annum beyond **08.07.2020**. According to the Corporate Debtor, even if the version of the Financial Creditor regarding the principal outstanding is accepted, interest could at best be calculated for the original agreed period of 120 days. On such computation, the alleged amount of ₹45,34,027/- towards interest is wholly unsupported and has been artificially added to cross the statutory threshold of ₹1 crore prescribed under Section 4 of the Code.

X. The Corporate Debtor therefore submits that the alleged financial debt, on a true and legally sustainable computation, does not meet the threshold prescribed under Section 4 of the Code. The Corporate Debtor contends that the Financial Creditor cannot artificially inflate the amount in default by adding interest for a period for which there is no contractual or documentary basis.

XI. The Corporate Debtor further submits that the letter dated **01.12.2023**, issued in response to the notice dated 18.10.2023, cannot be construed as an acknowledgment of the alleged debt

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so as to extend the period of limitation. It is contended that the said reply specifically disputed the claim and asserted that the alleged debt was time-barred. The Corporate Debtor also disputes the subsequent notice dated **02.04.2024,** contending that the same was issued only to rectify alleged errors in the earlier notice and to revive an otherwise time-barred claim.

XII. It is also submitted that the Corporate Debtor had raised certain issues concerning proceedings initiated by the Income Tax Department under **Section 148A of the Income Tax Act, 1961,** including proceedings in which the transactions involving the Financial Creditor were referred to. The Corporate Debtor relies upon the relevant Income Tax proceedings and the documents annexed thereto to contend that the transactions forming the basis of the Financial Creditor's claim required examination and that the Financial Creditor's assertions cannot be accepted merely on the basis of its own ledger and calculation.

XIII. The Corporate Debtor also submits that the Financial Creditor has not maintained consistency regarding its address and service of correspondence. It is contended that certain notices and communications sent to the address of the Financial Creditor were returned by the postal authorities with the endorsement **"Addressee Moved".** According to the Corporate Debtor, the issue regarding the Financial Creditor's

registered office and service of notices further demonstrates the disputed nature of the correspondence relied upon by the Financial Creditor.

XIV. It is further submitted that the Financial Creditor has initiated proceedings and made complaints against the Corporate Debtor and its representatives, which, according to the Corporate Debtor, demonstrate an attempt to exert pressure for recovery of an allegedly time-barred debt. Reference has also been made to correspondence with **Park Street Police Station** and subsequent communications concerning the same. The Corporate Debtor contends that the present Section 7 proceedings have been instituted as a means of coercive recovery rather than for resolution of a subsisting financial debt under the Code.

XV. Learned Counsel for the Corporate Debtor further submits that the Applicant has failed to establish the existence of a legally enforceable financial debt and a subsisting default within the period of limitation. It is contended that the alleged debt, if any, became due on **08.07.2020**, and the subsequent documents relied upon by the Financial Creditor do not validly extend the limitation period. The Corporate Debtor therefore submits that the application under Section 7 is not maintainable.

XVI. The Corporate Debtor also submits that the Financial Creditor initiated various proceedings and complaints against the

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Corporate Debtor and its representatives in connection with the alleged debt. According to the Corporate Debtor, the present Section 7 proceedings are another attempt to recover an allegedly time-barred amount through the insolvency mechanism, rather than a genuine proceeding for resolution of insolvency. The Corporate Debtor accordingly submits that the Code cannot be invoked as a substitute for ordinary recovery proceedings.

XVII. In view of the aforesaid submissions, the Corporate Debtor submits that the present application is liable to be dismissed, inter alia, on the following grounds: **(i)** the alleged default occurred on 08.07.2020 and is therefore covered by the statutory embargo under Section 10A; **(ii)** the alleged extensions of repayment up to 08.07.2022 are unsupported and specifically denied; **(iii)** the subsequent alleged acknowledgment or payment cannot overcome the Section 10A prohibition; **(iv)** the claim is barred by limitation; and **(v)** the amount claimed has been artificially inflated by adding unsupported interest and therefore does not meet the statutory threshold under Section 4 of the Code.

XVIII. The Corporate Debtor accordingly prays that the application filed under Section 7 of the Code be **dismissed with exemplary costs**, as being barred by Section 10A, limitation and for failure to establish the requisite amount of default.

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7. **REJOINDER ON BEHALF OF THE FINANCIAL CREDITOR**

I. For the sake of brevity, only the material submissions made in the rejoinder are extracted herein, as the remaining submissions are repetitive and have already been raised in the Company Petition.

II. With regard to limitation, the Financial Creditor submits that the third ICD of Rs. 1,00,00,000/- was disbursed on 11.03.2020, with the repayment period subsequently extended up to 08.07.2022. Reliance is placed upon the post-dated cheques and the part-payment of Rs. 10,00,000/- made on 31.03.2022 to contend that the application filed on 06.05.2024 is within the prescribed period of limitation.

III. With regard to the objection under Section 10A of the Code, the Financial Creditor submits that the default occurred on 08.07.2022, upon expiry of the extended repayment period, and therefore falls outside the period covered by the statutory embargo under the said provision.

IV. The Financial Creditor denies that the application has been filed as a coercive measure for recovery of money and submits that the application under Section 7 of the Code is founded upon a subsisting financial debt and default, which remain unpaid.

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8. **Supplementary Affidavit dated 10.10.2025 by the Financial Creditor**

I. This Adjudicating Authority vide order dated 15.01.2026 directed the Financial Creditor to file a supplementary affidavit to bring on record memorandum of association, article of association and audited balance sheet from March 2019 along with schedules and annexures.

II. In compliance to the order dated 15.01.2026 the Financial Creditor by way of a supplementary affidavit dated 12.02.2026 filed the above correspondence which are marked as Annexure-T, U and V. The same is taken on record for proper adjudicating the instant matter.

9. **ANALYSIS AND FINDINGS**

I. We have heard the Learned Counsel appearing for the Financial Creditor and the Corporate Debtor and have perused the pleadings, documents and material placed on record.

II. It is an admitted position that the Corporate Debtor entered into an **Inter-Corporate Deposit ("ICD") dated 11.03.2020** with the Financial Creditor. Pursuant thereto, a sum of **Rs. 1,00,00,000/-** was disbursed by the Financial Creditor to the Corporate Debtor on 11.03.2020.

III. It is the case of the Financial Creditor that, subsequent to the disbursement of the aforesaid financial facility, the Corporate Debtor failed to adhere to the terms and conditions

stipulated in the letter/ICD dated 11.03.2020 and failed to make repayment of the amount due.

IV. However, upon perusal of the ICD dated 11.03.2020, it is evident that the amount of Rs. 1,00,00,000/- was advanced for a period of **120 days** and was repayable upon expiry of the said period. Accordingly, the amount became due and payable on **08.07.2020**, which, therefore, constitutes the relevant date of default under the terms of the ICD.

V. The Financial Creditor has contended that, subsequent to the original repayment date, the tenure of the ICD was extended from time to time, initially up to **01.05.2021**, thereafter up to **01.12.2021**, and ultimately up to **08.07.2022**. However, upon careful consideration of the material placed on record, we find that the Financial Creditor has failed to produce any contemporaneous document, communication or other material evidencing that such extensions were sought by the Corporate Debtor and were mutually agreed to by the parties. In the absence of any such material, the alleged extensions cannot be accepted for the purpose of determining the date of default.

VI. The Financial Creditor has further submitted that a part-payment of **Rs. 10,00,000/-** made by the Corporate Debtor on **11.03.2022**, as evidenced by the Bank Statement placed at page 55 of the Petition, had the effect of extending the period of limitation. It is further contended that, since the tenure of the ICD was extended up to 08.07.2022 and no payment was

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received thereafter, the default ultimately occurred beyond the period contemplated under Section 10A of the Code. On this basis, the Financial Creditor submits that the present Petition is neither barred by Section 10A nor by limitation.

VII. The aforesaid contention has been opposed by the Corporate Debtor. It is submitted that no document or material has been placed on record by the Financial Creditor which establishes that the tenure of the ICD was, in fact, extended beyond the original repayment date. The Corporate Debtor, therefore, disputes the very basis upon which the Financial Creditor seeks to shift the date of default from 08.07.2020 to 08.07.2022.

VIII. We further note that the Corporate Debtor, in its Reply, has not disputed the occurrence of default in relation to the financial transaction. The principal objection raised by the Corporate Debtor is that the default occurred on **08.07.2020**, which falls within the period covered by Section 10A of the Code.

IX. On a careful consideration of the terms of the ICD, it is clear that the amount was contractually repayable within 120 days from the date of disbursement. Consequently, the amount became due and payable on **08.07.2020** and, upon failure to make repayment on the said date, the default occurred on 08.07.2020.

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X. The contention of the Financial Creditor that the subsequent part-payment of **Rs. 10,00,000/-** received on 11.03.2022, coupled with the alleged extension of the repayment period, would result in the date of default being shifted to 08.07.2022, cannot be accepted. A subsequent part-payment may have relevance for the purpose of computing the period of limitation, insofar as the law permits such payment to constitute an acknowledgment of the subsisting debt; however, such subsequent payment cannot, by itself, alter the date on which the original default occurred under the terms of the financial transaction.

XI. For determining the maintainability of the present Petition, it would be appropriate to reproduce the relevant provision contained in **Section 10A of the Code**, which reads as follows:

> ***"Section 10A: Suspension of initiation of corporate insolvency resolution process.***
>
> *Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a Corporate Debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:*
>
> *Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a*

Corporate Debtor for the said default occurring during the said period.

Explanation. – For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020."

XII. Further going into the legislative intent as reflected in the proviso to Section 10A of the Code, which stipulates that –*no application shall ever be filed for the initiation of the CIRP* –for the said default occurring during the said period, it is noticed that the expression –shall ever be filed is a clear indicator that the intent of the legislature is to bar the institution of any application for the commencement of the CIRP in respect of a default which has occurred during the Section 10 A period.

XIII. The period specified in Section 10A was subsequently extended by Government Notification up to 24.03.2021 vide Notification number S.O 4638(E) dated 22nd December, 2020. Therefore, in accordance with this Section, no proceedings under Sections 7, 9 and 10 of the IBC can be initiated against the Corporate Debtor for the default which has occurred between the periods from 25.03.2020 till 24.03.2021.

XIV. In the present case, the terms of the ICD dated 11.03.2020 expressly stipulated that the amount was repayable within **120 days**. As noticed hereinabove, the amount consequently became

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due and payable on **08.07.2020**, which falls squarely within the period specified under Section 10A of the Code. Once the default had occurred during the period covered by Section 10A, the subsequent part-payment of the loan made on 11.03.2022 cannot have the effect of shifting the date of default to a subsequent date falling outside the statutory period.

XV. Once a default has occurred during the period specified under Section 10A, a subsequent acknowledgment, payment or communication cannot, by itself, restore the right to initiate CIRP in respect of that very default. The interpretation of a statutory provision cannot be adopted in a manner which defeats or renders nugatory the express legislative mandate contained therein. Therefore, the contention of the Financial Creditor that the subsequent part-payment or alleged extension of the repayment period has the effect of taking the default outside the purview of Section 10A cannot be accepted.

XVI. We reiterate that a subsequent part-payment may, subject to the applicable provisions of law, have the consequence of extending the period of limitation; however, it does not, by itself, determine or alter the date on which the default originally occurred for the purposes of Section 10A.

XVII. In this regard, reliance may be placed upon the judgment of the Hon'ble National Company Law Appellate Tribunal in ***SLB Welfare Association Vs. PSA Impex Limited & Ors***., **Company Appeal (AT) (Insolvency) No. 905 of 2022, order dated**

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04.11.2022, wherein, while considering the effect of a subsequent acknowledgment of debt upon the applicability of Section 10A, the Hon'ble NCLAT observed as follows:-

"17. The reason given by Adjudicating Authority for rejecting argument of Section 10A was based on alleged acknowledgment letter dated 03.06.2021 received from Corporate Debtor when the date of default given by Operational creditor in Section 9 Application is 31.03.2020, the mere fact that acknowledgment has been given by Corporate Debtor on 03.06.2021 accepting the debt, shall not change the date of default. We, thus, do not agree with the reasons given by the Adjudicating Authority that since acknowledgment is dated 03.06.2021, the date of default will become 03.06.2021. ***The date of default and acknowledgment are two different events and date of default is not dependent on acknowledgment of debt****".*

(Emphasis Added)

XVIII. Further, in ***M/s DB Power Limited v. Kreate Energy (I) Private Limited*****, CP (IB)-521/ND/2022, order dated 31.10.2023,** the Coordinate Bench of NCLT Delhi, while considering a similar contention, held that the subsequent acknowledgment of liability, part-payment, issuance of cheque, dishonour thereof, issuance of demand notice or failure to make payment pursuant thereto, occurring after the period stipulated under

Section 10A, cannot be treated as giving rise to a fresh cause of action or a new date of default so as to enable initiation of proceedings under the Code in respect of a default which had already occurred during the Section 10A period. The relevant portion of the order is extracted below:

> *"19. The submission of the applicant that the dates of acknowledgement of liability towards the operational debt, the date of the last part payment, the date of issuance of cheque, the date of dishonour of the said cheque, the date of sending the demand notice, and consequential failure of the Respondent to pay the operational debt, having fallen after the period stipulated under Section 10A of the Code i.e., after 24.03.2021 and each of the said events gave rise to a fresh cause of action, being new date of default on the part of the Corporate Debtor to pay the operational debt to the Applicant, for preferring the present proceedings under Section 9 of the Code, 2016* ***cannot be accepted****."*

XIX. In view of the foregoing discussion and upon consideration of the terms of the ICD dated 11.03.2020, we are of the considered view that the date of default stated by the Financial Creditor cannot be accepted. The ICD expressly stipulated repayment within **120 days** from the date of disbursement. Accordingly, the amount became due and payable on **08.07.2020**, and the failure to repay the same on the due

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date constituted the default. The subsequent part-payment relied upon by the Financial Creditor may have relevance for the purpose of limitation, but cannot alter the date of the original default for determining the applicability of Section 10A. Likewise, in the absence of any documentary evidence establishing a valid extension of the repayment tenure beyond 08.07.2020, the alleged extension up to 08.07.2022 cannot be accepted.

XX. We therefore hold that the default in the present case occurred on **08.07.2020**, which falls within the period covered by **Section 10A of the Code**. Consequently, the statutory bar contained in Section 10A is attracted and the present Petition under Section 7 of the Code is not maintainable.

10. We make it clear that any observations made in this order should not be construed as expressing opinion on merits. The rights of the applicant before any other judicial forum shall not be prejudiced on the grounds of dismissal of the present petition as it is barred by the law, in view of insertion of Sec 10A of the IBC, 2016.

11. Hence, the present petition bearing **CP (IB) No. 196 of 2024** is **not maintainable** and is hereby **dismissed**.

12. We note that the Corporate Debtor has also filed an application being I.A (IB) No. 1671/KB/2024, inter alia, praying for dismissal of the present proceeding. Since the main Company Petition is dismissed on the ground of

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maintainability the **I.A (IB) No. 1671/KB/2024** is rendered **infructuous**.

13. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

14. Certified copy of this order may be issued to the parties, if applied for, upon compliance with all requisite formalities.

15. File be consigned to records.

(Rekha Kantilal Shah)
Member (Technical)

(Labh Singh)
Member (Judicial)

Order signed on the 14th day of October, 2026

S.T. (LRA)

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