

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 372 of 2025

(Arising out of the Order dated 21.01.2025 passed by the
'Adjudicating Authority' (National Company Law Tribunal,
Indore Bench in CP(IB) No.40 (MP) 2022)

IN THE MATTER OF:

Rajendra Narayan Panda

S/o Late Shri Bhagwan Panda
R/o 84, Sector A,
Shahpura, Bhopal (M.P.)- 462 016

...Appellant

Versus

1. **Shri Mangesh Vittal Kekre**

Insolvency Resolution Professional
Panda Technologies India Pvt. Ltd.
607, Chetak Center, RNT Marg,
Near Hotel Shreemaya,
Indore (MP)-452001

...Respondent No.1

2. **Omkara Assets Reconstruction Private
Limited**

No.9, M.P. Nagar First Street,
Kongu Nagar Extension
Tirupur, Coimbatore (T.N.)-641 607

...Respondent No.2

Present:

For Appellant : Mr. Vijayesh Atre and Ms. Aarya Chhangani,
Advocates.

For Respondent : Mr. Kushal Bansal, Anish Ahluwalia, Adv. for R-1.
Mr. Kunal Godhwani, Kinjal Chadha, Adv. for R-2.

J U D G M E N T
(Hybrid Mode)

[Per: Arun Baroka, Member (Technical)]

This is an Appeal preferred by the Appellant under Section 61 of the Insolvency and Bankruptcy Code, 2016 against the impugned Order and Judgment dated 21.01.2025 passed by the Hon'ble Adjudicating Authority,

National Company Law Tribunal, Indore Bench in CP(IB) No.40 (MP) 2022 through which the Hon'ble Adjudicating Authority has admitted the application under Section 7 of the Code.

Submissions of Appellant:

2. Appellant who is the Suspended Director of the Corporate Debtor M/s. Panda Technologies India Private Limited – namely Rajendra Narayan Panda. had approached L&T Finance Limited to avail short term loan financing facility on a revolving basis for purchase of industrial products from L&T Valves Limited.

3. Section 7 was admitted on 21.01.2025 against the Corporate Debtor on its initiation by the Financial Creditor – Omkara Assets Reconstruction Private Limited the assignee of L&T Finance Limited.

4. The main ground for the Appeal is that the principal amount as in Form 1 Application under Section 7 of the Code was only Rs. 64,33,286/- and the interest was claimed to be Rs. 76,07,249/- aggregating to Rs.1,40,40,535/- which is alleged to be incorrect and defective.

5. Appellant claims that as per the audited balance sheet of the Appellant company as on 31.03.2017 the balance outstanding was Rs.48,01,648/-. As per the Audited Balance Sheet of Appellant Company at 31st March, 2017, the balance outstanding was Rs.48,01,648.43; as at 31 March, 2018, the balance outstanding was Rs.40,06,309.79; as at 31 March, 2019, the balance

outstanding was Rs.40,06,309.79; and as at 31 March, 2020, the balance outstanding was Rs.40,06,309.79 only.

6. A bare perusal of the sanction letter dated 17th July, 2013, the sanctioned limit was Rs.150 lacs, with tenure of 90 days from disbursement, on which accrued interest was payable at the end of every month in the first week of next month and delayed payment charges for 91-120 days was @ 16% and 121 days onwards @ 22% p.a. for the period of delay. The sanction letter does not provide for payment of interest beyond 90 days and instead provides for payment of delayed payment charges and the sanction letter nowhere provides for compounding of interest as wrongly alleged in the application under Section-7.

7. Furthermore, Clause 1.5.7 of the Facility Agreement provides that interest shall be calculated on a 365-day year basis, there is no mention about monthly compounding of alleged interest. The Summary Schedule as per clause 1.5.2 of the Facility Agreement, provides for interest @ 13.75% p.a. for 90 days, and interest accrued at the end of every month was payable on or before 10th day of next month. The summary schedule does not provide for payment of interest beyond 90 days period and only provides for payment of Delayed Payment Charges for 91-120 days @ 16% p.a. and 120 days onwards @ 22% p.a. on the defaulting amount for the period of default. The legal notice dated 19th April, 2017 also mentions "Delayed Payment Charges" and not the word Interest and therefore, no payment of interest was envisaged in the contractual terms. Therefore, the summary schedule, which is part of

the facility agreement does not provide for compounding of interest, much less monthly compounding of interest beyond 90 days. Further, the term "Accrued" and "Compounding" are different phrases in the commercial parlance and cannot be equated or interchanged.

8. The assignment agreement dated 24th September, 2019, which is in favour of the Respondent No.2, has a table under item No.21 of which the amount assigned to the Respondent No.2 on 24th September, 2019 as "Unsecured" (emphasis supplied) was Rs.63,04,190/-, (including interest) which demonstrates that as on 24th September, 2019 the amount outstanding (including interest) was only Rs.63,04,190/-. Therefore, the table attached to the application under Section-7 showing the outstanding amount of Rs.1,40,40,535/-(including principal of Rs.64,33,286/- and interest of Rs.76,07,249/-) suffers the following defects:

- The table is based on "Compound Interest Calculation" which was never intended and contractually agreed between the parties and therefore the amount arrived at is incorrect;
- The table shows "monthly compounding of interest" which is also not as per the contractual terms;
- The table starts calculation for arriving at amount of alleged interest instead of Delayed Payment Charges with effect from 28th April, 2018 while the assignment had taken place on 24th September, 2019 and therefore the first 18 entries in the table are of a period prior to Deed of Assignment for which an alleged interest amount of Rs.43,43,043.24 has been wrongly charged for arriving at

the total amount of alleged interest of Rs.76,07,428.85, and therefore the very basis of calculation of total alleged interest of Rs.76,07,248.85, is wrong, being not as per the contractual terms;

- The residual amount of the alleged interest of Rs.32,64,205/-also suffers from several defects because it is calculated on monthly compounding basis, which is not as per the contractual terms; since as per the contractual terms mentioned in the summary schedule at Page-126 of appeal, delayed payment charges @ 22% p.a. was payable and therefore the total amount of Delayed Payment Charges (Not the Interest) on the assigned principal amount of Rs.40,06,310/- till the date of filing of application i.e. 4th April, 2022 comes out to Rs.22,03,470/- only which has been worked out as under:

Sr. No.	Period	INR
1.	24.09.2019 to 31.12.2019	2,20,347
2.	01.01.2020 to 31.12.2020	8,81,388
3.	01.01.2021 to 31.12.2021	8,81,388
4.	01.01.2022 to 31.03.2022	2,20,347
	Total	22,03,470

- As per the contractual terms, the aforesaid amount of delayed payment charges, starting from the date of Assignment (24th September, 2019) till the date of filing of the application (4th April, 2022) under Section 7 comes out to Rs.22,03,470/-only, which if added with the outstanding principal of Rs.40,06,310/-, comes out to Rs.62,09,780/- only, which is less than the threshold.

9. Furthermore, the account of the appellant was classified as NPA on 11th June, 2016 and thereafter the Demand Notice dated 19th April, 2017

was issued and the application under section 7 was filed on 4th April, 2022 and therefore, the application is barred by limitation.

Submissions of Respondent No. 2- Omkara Assets Reconstruction Private Limited – Financial Creditor

10. In 2013, the Corporate Debtor approached L&T Finance Limited (earlier known as L&T Fincorp Limited) seeking a short-term financing facility on a revolving basis for the purchase of industrial products for L&T Valves Limited. In pursuance of the same, on 17.07.2013 L&T Finance Limited issued a sanction letter to the Corporate Debtor. As per the terms of the Sanction Letter dated 17.07.2013 the maximum sanction limit provided to the 1,50,00,000/- (Rs. One Crore Fifty Lakhs).

11. In furtherance of the Sanction letter, L&T Finance Limited entered into a Facility Agreement dated 17.07.2013 with the Corporate Debtor). As per the terms of the Facility Agreement, the Corporate Debtor authorized L&T Finance Limited to disburse the amount directly to the manufacturer i.e., L&T Valves Limited towards the purchases of industrial products. The Corporate Debtor also issued a demand promissory in favour of L&T Finance Limited.

12. The Corporate Debtor was irregular in repaying the amount in terms of the Facility Agreement. Accordingly, L&T Finance Limited issued a Demand Notice dated 19.04.2017 seeking repayment of Rs. 67,19,390/- (Sixty-Seven Lakhs Nineteen Thousand Three Hundred Ninety) along with further interest till the date of realisation.

13. On 24.09.2019, L&T Finance Limited executed an Assignment Agreement in favour of the present Answering Respondent i.e., Omkara Assets Reconstruction Private Limited and assigned its debt and all rights, title and interest in the Corporate Debtor to the Answering Respondent in its capacity as Trustee of PS 10/ 2019-20 Trust.

14. Post assignment, Respondent (Financial Creditor) being trustee of PS 10/2019-20 Trust, on 18.12.2021 issued a loan recall notice to the Appellant/Corporate Debtor seeking discharge of all liabilities by the Corporate Debtor. In view of the default committed by the Corporate Debtor, the Answering Respondent / Financial Creditor had preferred the petition under Section 7 of the Code seeking initiation of CIRP against the Corporate Debtor which was eventually allowed by the Ld. Adjudicating Authority by way of the Impugned Order.

15. The Ld. Adjudicating authority is not required to ascertain the exact quantum of debt. It is the case of the Appellant that the quantum of the debt calculated by the Answering Respondent is incorrect, and as such the Impugned Order must be set aside. However, the Appellant has failed to consider that once the threshold of Rs. 1,00,00,000/- (Rs. One Crore) in terms of Section 4 of the Code has been crossed, the Ld. Adjudicating Authority is required to admit the petition seeking initiation of the Corporate Insolvency Resolution Process. At this juncture, it is necessary to place reliance on the Judgment in the matter of **Rajesh Kedia v. Phoenix ARC Private Limited in Company Appeal (AT) (Ins) No. 916/2021** wherein it

was held that once the threshold is crossed, it is not for the Ld. Adjudicating Authority to decide the exact 'Quantum of Debt', but what has to be examined is whether there is a 'Debt' and 'Default'.

16. It is also relevant to refer to the judgement in the matter of Mr. **Vineet Khosla Vs. M/s Edelweiss Asset Reconstruction Company Ltd. & Ors., Company Appeal (AT) (Ins) No.441 of 2019** wherein this Hon'ble Tribunal made it clear that dispute over the quantum of debt cannot be a ground for rejection of insolvency petition. Similar observations were also made by this Hon'ble Appellate Tribunal in the case of **Mr. Gouri Prasad Goenka Ex-Chairman of NRC Limited v. Punjab National Bank and Anr. Company Appeal (AT) (Insolvency) No. 28 of 2019** wherein it was held that the Adjudicating Authority is not concerned with the quantum of the payable debt at the stage of admission of the petition under Section 7 of the Code.

17. In the matter in hand, it is not disputed that the Corporate Debtor had entered into a financing facility with the Answering Respondent/Financial Creditor. The Appellant in the present case has not denied the existence of the facility agreement, the sanction letter and the fact that an amount of Rs. 1,50,00,000/- (Rs. One Crore Fifty Lakhs) was disbursed to the Corporate Debtor. The Section 7 Petition was filed by the Financial Creditor on 15.06.2022. Interestingly, the Appellant neither before the NCLT nor before this Hon'ble Appellate Tribunal has filed any ledger account to establish the amount in default as on 15.06.2022.

18. It is an admitted fact that as on 31.03.2016 the principal outstanding towards the loan was Rs. 85,59,134/- (Balance sheet of the Corporate Debtor annexed at Page 210 of the Appeal). The amount of Rs. 85,59,134/- outstanding as on 31.03.2016 is only towards principal as the Appellant in its reply before the NCLT has admitted that the interest amount has never been acknowledged by the Corporate Debtor. Thus, it is clear that the principal outstanding as on 31.03.2016 was Rs. 85,59,134/-.

19. It is matter of fact that the Corporate Debtor was in default as on 31.03.2016 as the Appellant has admitted that the account of Corporate Debtor was declared as NPA on 11.06.2016 (admitted by the Appellant in its written submissions filed before the NCLT, refer page 336 of the Appeal). It is RBI guideline to classify the account as NPA when the Principal or Interest remain overdue for 90 days or more. Thus, the Corporate Debtor started defaulting in the loan account from 11.03.2016 onwards and the Corporate Debtor has itself acknowledged in its balance sheet that the principal outstanding as on 31.03.2016 was Rs. 85,59,134/-.

20. Calculation of interest based on Corporate Debtor's balance sheet is as follows:

S. No.	Acknowledgment	Amount	Period	Interest Amount*
1.	As on 31.03.2016 (Pg. 210 of Appeal)	85,59,134/-	01.04.2016 to 31.03.2017	18,83,009/-
2.	As on 31.03.2017 (Pg. 228 of Appeal)	40,06,310/-	01.04.2017 to 31.03.2018	10,56,363/-

3.	As on 31.03.2018 (Pg. 248 of Appeal)	40,06,310/-	01.04.2018 to 31.03.2022) = 4 years	35,25,552/-
Total Interest Amount				64,64,942/-
Principal amount acknowledged by Borrower = 40,06,310/-				
Interest amount = 64,64,942/-				
Total outstanding = 1,04,71,252/-				

*Interest amount includes the delayed payment charges in terms of the sanction letter.

21. The balance sheet for the financial year 2016-17 has been signed on 29.11.2017 and also uploaded/filed with the Ministry of Corporate Affairs on 29.11.2017. In terms of Section 18(1) of the Limitation Act, 1963 which is also reproduced below, the fresh period of limitation has to be computed from the date of the signing of acknowledgment, the fact that the Balance Sheet for the Financial Year 2016-17 has been signed on 29.11.2017, the fresh period of limitation for the period of 3 years shall begin from 29.11.2017 and accordingly, the limitation period is extended till 28.11.2020. Section 18 of the Limitation Act, 1963 is reproduced below:

“18. Effect of acknowledgment in writing. (1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.”

22. The Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 was filed by the Financial Creditor on 06.04.2022. It is submitted that the time period from 15.03.2020 to 28.02.2022 is required to be excluded for

the purpose of computation of the limitation period in terms of the Suo-Moto order dated 10.01.2022 passed by the Hon'ble Supreme Court in *Suo-Moto Writ Petition (C) No. 3 of 2020*. Further, in the cases in which the limitation period would have expired during the period between 15.03.2020 to 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. Thus, the present petition is within the limitation period i.e. 3 years from the date of default.

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

24. Under Section 7, the Adjudicating Authority is required to satisfy (a) Whether a default has occurred, (b) Whether an application is complete and (c) Whether any disciplinary proceedings against the proposed Insolvency Resolution Professional. Once satisfied, it is required to admit the petition. In the instant case, the record establishes that there is a 'debt' and a 'default'

and the Application is complete and the Adjudicating Authority has rightly admitted the Application under Section 7 of the Code.

25. Further, it is the case of the Appellant that the acknowledgement in the balance sheet cannot be construed as acknowledgment for the purpose of extending the period of limitation. It is settled position of law that there need not be a specific or direct acknowledgment of a particular liability which is sought to be enforced. Reliance is placed upon the judgment passed by Hon'ble Bombay High Court in the matter of **Teumal Bishamal Sindhi V. Amar Mohandas Sindhi, AIR 1973 Bom 84**. Further, it is also a settled position of law that a liberal construction should be placed upon documents purporting to be acknowledgments. Further, reliance is also placed on the judgement passed by the Hon'ble Supreme Court in the matter of **Vidyasagar Prasad v. UCO Bank and Anr. Civil Appeal No. 1031 of 2022** wherein the argument on behalf of the Corporate Debtor that there is no unequivocal, unambiguous and specific acknowledgment of debt owed to the Financial Creditor in the balance-sheet entries of the Corporate Debtor and in the absence of the same, the said entries cannot be relied upon for the purpose of extending limitation was rejected and it was held that such entries even if not specified shall amount to unequivocal admission of liability.

26. It is sufficient if the statement on which a plea of acknowledgment is based relates to a present subsisting liability though the exact nature or the specific character of the said liability is not indicated in words. All that is necessary is that the words used in an acknowledgment must indicate the

existence of jural relationship between the parties such as that of debtor and creditor, and it must appear that the statement is made with the intention to admit such jural relationship. It is an admitted position that the Corporate Debtor owes a Financial Debt and is also in default, thus, the acknowledgment in balance sheets clearly indicate existence of jural relationship and liability, thus, the argument of the Appellant that the acknowledgment should be of the exact liability is baseless.

Submissions of the Resolution Professional.

27. Hon'ble National Company Law Tribunal ("NCLT"), Indore bench vide its order dated 21.01.2025 in Company Petition [CP(IB)/40 (MP) 2022] filed by Omkara Assets Reconstruction Private Limited, ordered commencement of Corporate Insolvency Resolution Process (CIRP) under the provisions of the Insolvency and Bankruptcy Code, 2016 ("IBC") of Panda Technologies Private Limited ("Corporate Debtor").

28. The Interim Resolution Professional (IRP) Mr. Mangesh Vitthal Kekre made Public Announcement in Form A on 24.01.2025 in English newspaper - Free Press Journal (Bhopal Edition) and Hindi newspaper Dainik Agniban (Bhopal Edition) inviting claims from all the stakeholders in accordance with Section 13 of the Insolvency and Bankruptcy Code, 2016 and Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The last date for submission of claim as per Public Announcement was 04.02.2025.

29. The Resolution Professional (RP) initially received a claim from only one financial creditor i.e. Omkara Assets Reconstruction Pvt. Ltd., within the prescribed due date for submission of claims and prior to the constitution of the Committee of Creditors (CoC). Pursuant to receipt of claims, the said claims were verified by IRP and accordingly, a Committee of Creditors (CoC) was constituted on 11.02.2025, in accordance with provisions of Section 21 of the IBC, 2016. A list of creditors along with a report certifying the constitution of the Committee of Creditors was filed with Hon'ble NCLT on 13.02.2025 in accordance with regulation 13(2)(d) and 17(1) of IBBI (CIRP) Regulations, 2016 respectively. The said report was taken on record by Hon'ble NCLT. COC confirmed the appointment of Mr. Mangesh Vitthal Kekre, Interim Resolution Professional as Resolution Professional in accordance with the provision of section 22 (3) (a) of the Code. Subsequently, after the constitution of CoC, a claim was received from another secured financial creditor, HDFC Bank Limited, on 18.02.2025. (NPA Date 28.09.17). This claim was verified and accepted for collation in accordance with Regulation 13 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. As a result, the CoC was reconstituted on 02.04.2025. Thereafter, HDFC Bank Limited submitted a revised claim on 03.04.2025, which was also duly verified and accepted for collation. It is pertinent to mention that HDFC Bank Ltd had sanctioned and disbursed various credit facilities to the Corporate Debtor. The account of corporate debtor was classified as Non-Performing assets on 28 September 2017. Later, the debt in respect of the said credit facilities along with all the underlying security interest, rights, title

& interest therein has been assigned by HDFC Bank Ltd in favor of Pegasus Assets Reconstruction Pvt. Ltd. (Pegasus ARC) vide assignment agreement dated June 30, 2025 under the aegis of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The details of creditors in the COC is as below:

S. No.	Financial Creditor	Category	Clam Admitted	Voting Share
1.	Omkara Assets Reconstruction Pvt. Ltd.	Financial Creditor – Unsecured	3,89,89,710.00	10.05%
2.	Pegasus Assets Reconstruction Pvt. Ltd. (Pegasus ARC) Assignee of debt from HDFC Bank Limited	Financial Creditor – Secured	34,90,22,088.76	89.95%

30. The undersigned in his capacity as IRP and RP, made numerous efforts to establish contact with the suspended management and sought information in relation to assets of the Corporate Debtor as well as other information relevant in the process. However, they have not responded to any of the intimations/request letters/emails. As also their contact details were initially not available with RP, RP made a preliminary enquiry with respect to the Corporate Debtor's present affairs, offices locations, Location of assets including factory location, directors/promoters, change in addresses, change in directorships, audited financial, ROC filings, bank borrowings, bank accounts etc. based on available information on MCA portal, local enquiries, telephonic discussions with the last statutory auditor, bankers etc. After collecting information and locations of the offices of the CD, he visited all such office addresses. At all such addresses, premises were found to be

locked, and various notices of the Bank were found affixed outside those office addresses. In this process, RP had also sent letters along with a copy of CIRP order to the personal email as well as addresses of the directors which could be found in the records. However, despite successful delivery, they chose not to respond to the emails and also refused to receive letters posted to their address. RP also attempted calling them on the contact number which was made available by the Bank, on multiple occasions, but it was not responded as well. RP shared a copy of letters posted to their address over their WhatsApp number, which was delivered to Mr. Rajendra Panda (Suspended Director). However, he neither responded to this nor to all other notices sent by RP. It could be seen from all such efforts that the suspended directors are deliberately avoiding contact with RP. Finally, RP made a personal visit to the available addresses of directors, two of the premises were found locked and it could be seen from the condition out there, that it has been locked for years now. On one other address, when RP rang the bell, neither the door was opened nor anyone came out of the house. One of the Financial creditors HDFC filed its claim to the RP from where it came to the knowledge that one commercial property belonging to the CD is mortgaged to the bank. RP took over the possession of said property on 16.05.2025.

31. The suspended management filed an appeal before Hon'ble NCLAT [Company Appeal (AT) (Insolvency) No. 372 of 2025) challenging the order of Hon'ble NCLT for initiation of the CIRP. Hon'ble NCLAT vide its order dated 28/02/2025 gave interim directions as "while let the CoC may proceed with its functions, no Form G shall be issued". Accordingly, the said direction is

being duly complied with. Thereafter, matter has been listed before Hon'ble Appellate Tribunal on various occasions. The matter is still pending final adjudication.

32. That Despite numerous efforts, no contact could be established with the Suspended Directors. RP has even reached out to the statutory auditor, bankers, and the legal representative of the suspended directors in the NCLAT proceedings. However, no relevant information could be obtained from any of these parties. RP preferred filing an application before the Hon'ble National Company Law Tribunal (NCLT) under Section 19(2) of the Insolvency and Bankruptcy Code, 2016, for seeking necessary directions in such a peculiar case against the respondent (suspended Directors). The said application [IA(I.B.C.) 380/2025] filed was listed on 12.08.2025, whereby counsel for RP presented before the Hon'ble Bench, issues faced in conduct of process. The counsel for the respondents appeared and sought time to file a reply and the same was allowed. The matter was last listed on 17.11.2025, wherein the Respondent expressed its inability to file the reply due to certain difficulties. The Hon'ble Tribunal granted a final opportunity to file the same and directed that the matter be listed for further consideration on 16.12.2025.

33. As per Regulation 27 of IBBI (Insolvency Resolution Process of Corporate Persons) Regulations, 2016, RP has appointed 2 registered valuers each for asset class being Land & Building on 08.03.2025 to determine fair value and liquidation value of Land & Building of CD in accordance with

regulation 35. Valuers for other asset classes, namely plant and machinery as well as securities and financial assets, have not been appointed due to the non-availability of necessary documents and information and ongoing non-cooperation from the suspended management.

34. In accordance with the provisions of Regulation 36 of the CIRP Regulations, the Information Memorandum (IM) is required to be issued to each member of the Committee of Creditors. The IM was issued to all CoC members on 10.10.2025, containing the details of the corporate debtor as prescribed.

35. As directed in the CIRP commencement order passed by Hon'ble NCLT, Indore bench, intimation to various statutory authorities like Income Tax, VAT department, GST department, Industrial Development Center etc, have been sent apprising them of the commencement of Corporate Insolvency Resolution Process (CIRP) of the CD. Similarly, intimations have also been sent to the banks and financial Institutions that have charges registered over CD with ROC requesting them to submit their claims as well as to other financial institutions, enquiring if CD is maintaining an account with them and if so, sharing details and account statements. Further, as mandated in regulation 6A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, IRP/RP is required to send mails along with a copy of public announcement to the creditors of the CD based on the last available books of accounts of the CD through post or electronic means wherever the information for communication is available. However, List of Creditors of CD

is not available in the last audited Balance Sheet downloaded from the website of MCA. Hence, RP approached the statutory auditor of CD to provide a complete set of financial statements including list of creditors as well as last audited data available in his records, in order to comply with the requirements of said regulation. It was informed by the auditor that he is not in possession of any such information.

36. Till date, 4 CoC meetings have been conducted. During these meetings the members were apprised of the progress of the CIRP and the CIRP expenses incurred. Details of incurred CIRP Expenses- As on 31.10.2025, the total CIRP cost incurred amounts to Rs. 13,81,440/-, which includes the fees of the Resolution Professional. RP has written to all CoC members requesting them to contribute their proportionate share of the CIRP expenses.

37. The initial CIRP period of 180 days, commencing from 21.01.2025, was scheduled to expire on 20.07.2025. Accordingly, an application IA/343(MP)/2025 was filed before this Hon'ble Tribunal under Section 12(3) of the Insolvency and Bankruptcy Code, seeking extension of the CIRP period. The application was listed on 30.07.2025, and this Hon'ble Tribunal was pleased to grant an extension of 90 days, thereby extending the CIRP until 18.10.2025. As the extended period was due to expire on 18.10.2025, another application, IA/525(MP)/2025, was filed before the Hon'ble NCLT on 17.10.2025, seeking exclusion of 210 days-i.e., from 28.02.2025 (the date of the Hon'ble NCLAT's direction restraining issuance of Form G) to 26.09.2025 (the date of the last effective order continuing the interim relief already

granted). Vide order dated 14.11.2025, Hon'ble Tribunal was pleased to allow the application and exclude the period of 210 days (28.02.2025 to 26.09.2025) from the computation of the CIRP timeline of the Corporate Debtor. Consequently, the CIRP timeline stands extended by 210 days. And now the CIRP closure date is 16.05.2026.

Appraisal

38. We have heard the counsels of both sides and also perused the material placed on record. The issue which emerges is whether the claim filed under Section 7 of the code is below threshold or not and whether the application is barred by limitation or not.

Issue of Threshold

39. With respect to threshold the Appellant claims that the principal amount as in Form 1 Application under Section 7 of the Code was only Rs. 64,33,286/- and the interest was claimed to be Rs. 76,07,249/- aggregating to Rs.1,40,40,535/-, which is incorrect and defective. Appellant contends that since the quantum of the debt calculated by the Answering Respondent is incorrect and is less than threshold and therefore, the Impugned Order must be set aside. We delve into this issue to find out whether the impugned order can be sustained on this ground and some other grounds raised by the Appellant.

40. The defence taken by Appellant with respect to threshold as per his reply before the adjudicating authority in his reply is noted as below [from page 329 of APB]:

“7. It is also humbly and respectfully submitted that the application has been filed for repayment of debt of Rs.67,17,390/- as of 24th April, 2017 which is wrongly calculated and no such amount has been acknowledged in the balance sheets on the respondent company. Appellant claims that as per the audited balance sheet of the Appellant company.

8. As regards calculation of interest is concerned, it is most humbly submitted that as per the application itself, the default has occurred on 24th April, 2017 and therefore, no interest could have been charged, furthermore, the amount of interest has not been acknowledged in the balance sheets of the respondent company and therefore, charging of the entire amount of interest is denied and disputed by the respondent company.

9. It is also most humbly and respectfully submitted that the amount of claim being less than the threshold limit of Rs.1,00,00,000/-, the present application is not maintainable pursuant to provision of section 4 of the Code.”

41. We observe that it was a cryptic reply without any supportive ledgers and calculations, which didn't justify his arguments. However, at the appellate stage the Appellant has submitted detailed calculations to justify that the threshold is not met by the financial creditor while filing Section 7 application. His justification is noted as below:

“3. As per the Audited Balance Sheet of Appellant Company at 31st March, 2017, (Page No.210 of Appeal) the balance outstanding was Rs.48,01,648.43; as at 31 March, 2018, (Page No.228 of Appeal) the balance outstanding was Rs.40,06,309.79; as at 31 March, 2019, (Page No.248 of Appeal) the balance outstanding was Rs.40,06,309.79; and as at 31 March, 2020, (Page No.269 of Appeal) the balance outstanding was Rs.40,06,309.79 only.

4. A bare perusal of the sanction letter dated 17th July, 2013, (Page 108 of the Appeal) the sanctioned limit was Rs.150 lacs, with tenure of 90 days from disbursement, on which accrued interest was payable at the end of every month in the first week of next month and delayed payment charges (emphasis supplied)

for 91-120 days was @ 16% and 121 days onwards @ 22% p.a. for the period of delay. The sanction letter does not provide for payment of interest beyond 90 days and instead provides for payment of delayed payment charges and the sanction letter nowhere provides for compounding of interest as wrongly alleged in the application under Section-7.

5. Furthermore clause 1.5.7 of the Facility Agreement Page 112-116 of Appeal) provides that interest shall be calculated on a 365 day year basis, there is no mention about monthly compounding of alleged interest.

6. The Summary Schedule as per clause 1.5.2 of the Facility Agreement, (Page 126 of the Appeal) provides for interest @ 13.75% p.a. for 90 days, and interest accrued at the end of every month was payable on or before 10th day of next month. The summary schedule does not provide for payment of interest beyond 90 days period and only provides for payment of Delayed Payment Charges for 91-120 days @ 16% p.a. and 120 days onwards @ 22% p.a. on the defaulting amount for the period of default. The legal notice dated 19th April, 2017 at Page No.131 of the appeal also mentions "Delayed Payment Charges" and not the word Interest and therefore, no payment of interest was envisaged in the contractual terms.

7. Therefore, the summary schedule, which is part of the facility agreement does not provide for compounding of interest, much less monthly compounding of interest beyond 90 days. Further, respectfully submitted that the term "Accrued" and "Compounding" are different phrases in the commercial parlance and cannot be equated or interchanged.

8. The assignment agreement dated 24th September, 2019 (at Page 143 of the Appeal), which is in favour of the Respondent No.2, (at Page 157 of the Appeal) has a table under item No.21 of which the amount assigned to the Respondent No.2 on 24th September, 2019 as "Unsecured" (emphasis supplied) was Rs.63,04,190/-, (including interest) which demonstrates that as on 24th September, 2019 the amount outstanding (including interest) was only Rs.63,04,190/-.

9. Therefore, the table attached to the application under Section-7 (Page 193 of the appeal) showing the outstanding amount of Rs.1,40,40,535/- (including principal of Rs.64,33,286/- and interest of Rs.76,07,249/-) suffers the following defects:

9.1 The table is based on "Compound Interest Calculation" which was never intended and contractually agreed between the parties and therefore the amount arrived at is incorrect;

9.2 The table shows "monthly compounding of interest" which is also not as per the contractual terms;

9.3 The table starts calculation for arriving at amount of alleged interest instead of Delayed Payment Charges with effect from 28th April, 2018 while the assignment had taken place on 24th September, 2019 and therefore the first 18 entries in the table are of a period prior to Deed of Assignment for which an alleged interest amount of Rs.43,43,043.24 has been wrongly charged for arriving at the total amount of alleged interest of Rs.76,07,428.85, and therefore the very basis of calculation of total alleged interest of Rs.76,07,248.85, is wrong, being not as per the contractual terms;

9.4 The residual amount of the alleged interest of Rs.32,64,205/- also suffers from several defects because it is calculated on monthly compounding basis, which is not as per the contractual terms; since as per the contractual terms mentioned in the summary schedule at Page-126 of appeal, delayed payment charges @ 22% p.a. was payable and therefore the total amount of Delayed Payment Charges (Not the Interest) on the assigned principal amount of Rs.40,06,310/- till the date of filing of application i.e. 4' April, 2022 comes out to Rs.22,03,470/- only which has been worked out as under:

Sr. No.	Period	INR
1.	24.09.20 19 to 3 1.12.20 19	2,20,347
2.	01.01.2020 to 31.12.2020	8,81,388
3.	01.01.2021 to 31.12.2021	8,81,388
4.	0 1.0 1.2022 to 3 1.03.2022	2,20,347
	Total	22,03,470

9.5 As per the contractual terms, the aforesaid amount of delayed payment charges, starting from the date of Assignment (24th September, 2019) till the date of filing of the application (4th April, 2022) under Section 7 comes out to Rs.22,03,470/-only, which if added with the outstanding principal of Rs.40,06,310/-, comes out to Rs.62,09,780/- only, which is less than the threshold.”

42. Furthermore, we observe that the Appellant has not been of cooperating in the proceedings, which has been noted by the Adjudicating Authority as follows:

“3. Moreover, the respondent neither replied nor has appeared in any of the hearings before this Adjudicating Authority even after serving the notice and newspaper publication. Therefore, the respondent was set ex-parte vide order dated 23.02.2023 of this Adjudicating Authority. Subsequently, the matter was heard and was reserved for order, however, on an application (IA 381 of 2024) filed by the respondent the matter was released for giving an opportunity to the respondent to file its reply.

XXX

8. Furthermore, the present application CP(IB) 40 of 2022 was once heard and reserved for order on 28.08.2024, however, before the pronouncement of the order in the matter, the respondent filed IA 381 of 2024 under. Rule 11 of NCLT Rules, 2016 seeking direction from this Adjudicating Authority to recall the ex-parte order dated 23.05.2023 passed against the respondent and also to recall the order dated 28.08.2024 i.e. when the present application was heard and was reserved for order.

Thereafter, vide order dated 16.10.2024 in IA 381 of 2024, the respondent was given an opportunity to file their reply. Thus, the respondent has through its reply contended that the limitation period begins from the date when the account of the respondent was declared NPA ie. 11.06.2016 and the present application being filed in the year 2022 is barred by limitation. Moreover, the respondent contended that since the respondent was declared NPA no interest thereon can be added to the outstanding amount.”

43. The above conduct shows that the Appellant has been evading to appear before the Adjudicating Authority and thus wasting the precious time and resources of everyone.

44. We also observe that both sides have provided differing calculations at different stages of the case to put forth their claims and counter claims. Since there is a keen contest for determination of the threshold, we have gone through the calculations provided by both sides and it is evident from the calculations provided by FC that the Financial Debt owed to the Financial Creditor exceeds the threshold limit of Rs. 1,00,00,000/- (Rs. One Crore) as envisaged under Section 4 of the Code. Hence, the contention of the Appellant that the Corporate Debtor has acknowledged a lesser amount in its balance sheets is devoid of any merit. The FC's calculations, as provided at the stage of arguments, are noted as follows:

FY	Acknowledgment (Date)	Interest applied on Lowest Amount -Rs	Period	Interest Charges (22%)	Total outstanding -Rs	Repayment as per Corporate Debtor -Rs	Balance outstanding -Rs
31.03.2016 to 31.03.2017	85,59,134 [31.03.2016] (amount acknowledged by CD @210 of APB)	48,01,648	01.04.2016 to 31.03.2017	10,56,363	96,15,479	37,57,486 (85,59,134 – 48,01,648)	58,57,993 (as on 31.03.2017) (96,15,479 – 37,57,486)
	48,01,648 [31.03.2017] (amount acknowledged by CD without interest in BS)				[85,59,134 (Principal) + 10,56,363 (Interest)]		
31.03.2017 to 31.03.2018	58,57,993 [31.03.2017]	40,06,648	01.04.2017 to 31.03.2018	8,81,463	67,39,456	7,95,338 (48,01,648 – 40,06,310)	59,44,118 (as on 31.03.2018) [58,57,993 (Principal) + 86,125 (Interest)]
	40,06,310 [31.03.2018] (amount acknowledged by CD without interest in BS)				[(58,57,993 (Principal) + 8,81,463 (Interest)]		

31.03.2018 to 31.03.2022	58,57,993 (31.03.2018)	58,57,993	01.04.2018 to 31.03.2022	51,55,032 [12,88,758 *4]		1,10,99,150 (as on 31.03.2022) (59,44,118 + 51,55,032)
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45. In the above table we note the following:

- The interest has been applied on the lowest amount found in the FY
- Repayments by the CD have been accounted for
- The interest has been charged as per the facility letter which prescribed interest at the rate of 22%. The facility agreement dated 17.07.2013 [@108 of APB] needs to be noted herein which has been relied heavily by the Appellant, which reads as follows:

Facility	Short Term Revolving Facility
Borrower	Panda Technologies India Private Limited
Lender	L&T FinCorp Limited (LTFCL)
Scheme	FINCORP VALFIN
Sanctioned Limit	Rs.150 lacs (Revolving Limit for one year)
Tenure	90 days from date of disbursement
Interest Rate %	Subject to change at sole discretion of L&T FinCorp Limited. Presently 13.75% p.a. for 90 days payable monthly.
Principal Repayment Mode	Direct Payment by the Dealer to L&T FinCorp Limited on due date
Interest Payment Mode	Interest accrued as at the end of every month shall be payable in the first week of next month
Delayed Payment Charges	91-120 days @ 16% p.a. and 121 days onwards @ 22% p.a. for the period of delay to be borne by the borrower.

46. The Appellant has objected to it in his Additional WS and contends that:

“The financial creditor has to stick to the contents of the Original Application; and calculations defying the claims in the Original Application to arrive at the threshold by giving different-different figures and calculations of the outstanding amount

[(1) in the application, (2) reply to appeal; and (3) fresh table at the time arguments] particularly the fresh calculation at the verge of final arguments that too without affidavit and without any prior notice to the appellant as this practice is not only against the Principles of Natural Justice, but is also contrary to the provisions of the Code *qua* the Section 7 application, where the details of the default are required to be made out from the particulars given under Part-IV.”

47. Further, countering the calculations of the FC, the Appellant brings to our notice the Ledger Account of the financial creditor as maintained by the Corporate Debtor for the period from 1st April, 2016 to 31st March, 2018, which completely matches with the balances in the Balance Sheets of the Appellant which is as follows as placed by the Appellant:

Date	Particulars	Paid	Credit	Balance
01.04.2016	Opening Balance	-	-	85,59,134
06.04.2016	SBI Cash Credit SBINR52016040	3,00,000	-	82,59,134
19.05.2016	SBI Cash Credit SBINR52016070	5,00,000	-	77,59,134
05.07.2016	SBI Cash Credit SBINR52016070	30,00,000	-	47,59,134
17.10.2016	Interest	-	42,514	48,01,648
	Balance as on 31.03.17			48,01,648
05.12.2017	HDFC 52017120559550068	5,00,000	-	43,01,648
05.12.2017	HDFC 52017120559595665	3,00,000	-	40,01,648
07.12.2017	Legal Charges		4,662	40,06,310
	Principal Balance 31.03.2018 Onwards			40,06,310

48. We observe that the above ledger has been relied upon by the Appellant and claims that the outstanding amount as per the Balance Sheets of the Appellant as on 31st March, 2017 till the end, other charges @ 22% have to be calculated as under:

Period	Amount	No. of Days	Other Charges
01.04.2016 to 05.04.2016	85,59,134	5	25,794
06.04.2016 to 19.05.2016	82,59,134	41	2,02,102
20.05.2016 to 05.07.2016	77,59,134	47	2,19,806
06.07.2016 to 17.10.2016	47,59,134	104	2,69,640
18.10.2016 to 31.03.2017	48,01,648	168	4,74,639
	A	Total for 16-17	11,66,187
01.04.2017 to 05.12.2017	48,01,648	249	7,20,641
06.12.2017 to 31.03.2018	40,06,310	116	2,80,112
	B	Total for 17-18	10,00,753
01.04.2018 to 31.03.2019	40,06,310	365	8,81,388
01.04.2019 to 31.03.2020	40,06,310	365	8,81,388
01.04.2020 to 31.03.2021	40,06,310	365	8,81,388
01.04.2021 to 31.03.2022	40,06,310	365	8,81,388
	C	Total for 4 Years	35,25,552
	A+B+C	Grand Total	56,92,492

49. Basis above the Appellant contends that:

“8. The aforesaid two tables demonstrate that as per the Assignment Agreement, the last principal amount outstanding is Rs.40,06,310/- and the total outstanding “Other Charges” arrived at on the diminishing balance method are Rs.56,92,492/- aggregating to Rs.96,98,802/-, which is less than the threshold and therefore the present appeal, even as per the R-2 financial creditor, deserves to be allowed and the order impugned liable to be set aside.

9. The fresh table of calculation submitted by the R-2 financial creditor suffers from deformity, because it calculates interest on the principal amount of Rs.58,57,993/- as on 31th March, 2018 which comes out to Rs.12,88,758/- for four years, which is grossly incorrect, because after 7th December, 2017 the balance principal outstanding was Rs.40,06,310/- only on which Other Charges @ 22% p.a. comes to Rs.8,81,388/- and NOT Rs.12,88,758/- per annum (for four years) as wrongly calculated; and for the reasons given herein above the present appeal, deserves to be allowed and the order impugned is liable to be set aside on this short ground.”

50. The above arguments of the Appellant are basis the assumption that no compounding of interest could have been done. Appellant claims that Clause 1.5.7 of the Facility Agreement provides that interest shall be

calculated on a 365-day year basis and there is no mention about monthly compounding of alleged interest. Appellant also claims that the Summary Schedule as per clause 1.5.2 of the Facility Agreement, provides for interest @ 13.75% p.a. for 90 days, and interest accrued at the end of every month was payable on or before 10th day of next month and also it does not provide for payment of interest beyond 90 days period and only provides for payment of Delayed Payment Charges for 91-120 days @ 16% p.a. and 120 days onwards @ 22% p.a. on the defaulting amount for the period of default. Therefore, the summary schedule, which is part of the facility agreement does not provide for compounding of interest, much less monthly compounding of interest beyond 90 days. Further, the term "Accrued" and "Compounding" are different phrases in the commercial parlance and cannot be equated or interchanged. But we observe that the sanction letter [facility agreement dated 17.07.2013] executed by the corporate debtor clearly provides for the delayed payment charges at the rate of 16% if the delay is beyond 90 days and if the delay is beyond 121 days at the rate of 22% per annum on such defaulted amount from the date of default till the date of payment.

51. Appellant has on his own interpretation basis *“total outstanding “Other Charges” arrived at on the diminishing balance method”* principle claims that no interest could have been added into the outstanding after the expiry of the 90 days. We find that this is not as per the facility agreement. We also observe that such contentions cannot be accepted. Even the Adjudicating Authority in the impugned order has noted as below:

“We have heard the learned counsel for the applicant as well as for the respondent. After perusing the material available on record, it is noted that L&T FinCorp Limited sanctioned the financing facility of Rs.1,50,00,000/- to the respondent on 17.07.2013 for which a facility agreement on the same date was also executed. As per the said agreement the respondent was to repay the loan within 90 days from the date of disbursement with interest @ 13.75 % p.a. It was also agreed that if in case there is delay in repayment of the loan by the respondent or 91-120 days or beyond 121 days then the delayed payment charges at 16% p.a. and 22% p.a. respectively would be payable by the respondent to the applicant. It is also noted that L&T FinCorp Limited and L&T Finance Limited was merged in the year 2016. Pursuant to the said merger, L&T Finance Limited (L&T) vide assignment agreement dated 24.04.2019 assigned its debt, all rights, title and interest against the respondent to the applicant i.e. Omkara Assets Reconstruction Private Limited.”

52. We do not find any infirmity in the methodology which has been noted by the adjudicating authority which is bases the facility agreement dated 17.07.2013, and which was executed by the original financial creditor and the CD and which has been adopted by FC in calculating the outstanding balance and which was presented during the hearing. We also observe that considering that a year consists of 365 days, the interpretation adopted by the Appellant is completely contrary to the terms of the sanction letter, which itself provides that the interest is payable in the first week of every month. Consequently, we cannot accept the revised calculations presented by the Appellant, which don't account for adding of delayed payment charges on to the outstanding and we thus go along with the calculations of the FC-R2. Basis these calculations, we find that the FC had met the threshold even though the amount above Rs one crore is different from the original claim and in also as was in the reply.

53. R2-FC also places its reliance on:

- **Rajesh Kedia v. Phoenix ARC Private Limited in Company Appeal (AT) (Ins) No. 916/2021** wherein it was held that once the threshold is crossed, it is not for the Ld. Adjudicating Authority to decide the exact 'Quantum of Debt', but what has to be examined is whether there is a 'Debt' and 'Default'.
- **Mr. Vineet Khosla Vs. M/s Edelweiss Asset Reconstruction Company Ltd. & Ors., Company Appeal (AT) (Ins) No.441 of 2019** wherein this Appellate Tribunal made it clear that dispute over the quantum of debt cannot be a ground for rejection of insolvency petition.
- **Mr. Gouri Prasad Goenka Ex- Chairman of NRC Limited v. Punjab National Bank and Anr. Company Appeal (AT) (Insolvency) No. 28 of 2019** wherein it was held that the Adjudicating Authority is not concerned with the quantum of the payable debt at the stage of admission of the petition under Section 7 of the Code.

All above judgements support the case of the financial creditor.

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

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

55. We also note that this position was also reaffirmed by the Hon'ble Supreme Court in the matter of **M Suresh Kumar Reddy vs Canara Bank Civil Appeal No. 7121** of 2022 that once the Adjudicating Authority is satisfied that a default has occurred, there is little discretion left for the Adjudicating Authority to refuse admission of the Application under Section 7 of the Code. Hence, the Adjudicating authority was bound to admit the petition on account of the default of the Corporate Debtor and as such there is no infirmity in the Impugned Order.

56. Therefore, in the facts and circumstances of the case we observe that once the threshold was crossed, it was not for the Adjudicating Authority to decide the exact 'Quantum of Debt', but what had to be examined was whether there was a 'Debt' and 'Default'. Therefore, the Appeal deserves to be rejected on this count that the petition doesn't meet the threshold of one crore. Furthermore, we note the Appellant had neither before the NCLT nor before this Appellate Tribunal filed any ledger account to establish the amount in default as on 15.06.2022.

Application barred by Limitation?

57. Now we delve into the claim of the Appellant that the Application is barred by Limitation as the account of the appellant was classified as NPA on 11th June, 2016 and thereafter the Demand Notice dated 19th April, 2017 was issued and the application under section 7 was filed on 4th April, 2022 and therefore, the application is barred by limitation.

58. We observe that the loan facility was sanctioned by L&T Finance Limited to the Corporate Debtor on 17.07.2013. The date of default of the Corporate Debtor is 24.04.2017. Accordingly, the period of limitation will run from the date of default i.e., 24.04.2017. It was the case of the Appellant that the repayment under the facility agreement was to be completed within a period of 90 days from the date of disbursement. The period of 90 days from the last disbursement on 09.09.2015 expired on 08.12.2015 and as such the Appellant claims that the correct date of default ought to be 08.12.2015 and limitation would expire on 07.12.2015.

59. However, we note that the Corporate Debtor itself in its Financial Statements of the year 2016-2017, 2017-2018, 2018-2019 and 2019-2020 had acknowledged the debt between the Corporate Debtor and the Financial Creditor. Therefore, in terms of Section 18 of the Limitation Act, the acknowledgment of liability in respect of the present loan will extend the limitation period and a fresh period of limitation shall begin from the date of acknowledgement. Section 18 of the Limitation Act, 1961 is reproduced below:

“Section 18. Effect of acknowledgment in writing:

- (1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing

signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.”

60. The FC has also placed its reliance on the judgement of the Hon’ble Supreme Court in the matter of **Asset Reconstruction Company (India) Limited v. Bishal Jaiswal (2021) 6 SCC 366** wherein it was categorically held that the entries in balance sheets of the Corporate Debtor shall be considered as a valid acknowledgment of debt. Therefore, in this case basis acknowledgment in the Balance Sheets, it is evident that the present petition has been filed within the period of limitation. Hence, the contention of the Appellant that the petition by the FC was not filed within the limitation period is devoid of any merit and is rejected on this count.

61. We also note that the **Hon’ble Supreme Court in March 2020** took **suo moto** cognizance of the difficulties faced during the COVID-19 pandemic and directed in *Suo Motto WP(C) 3 of 2020* that the period from *15.03.2020 till 28.02.2022* shall stand *excluded* in computing the limitation period. Accordingly, limitation period will start running from 01.03.2022. Therefore, the we find that the petition under Section 7 of the Code was within the period of Limitation.

Negligent conduct of the Appellant

62. We also need to note the conduct of the Appellant which has impacted the CIRP process in this case, basis materials placed on record. The petition under Section 7 of the Code was filed before the Adjudicating Authority in April, 2022. Thereafter, notice was issued against the Corporate Debtor vide

order dated 24.06.2022. However, the Appellant failed to enter appearance before the Adjudicating Authority to plead its case. Subsequently, the Adjudicating Authority directed the Financial Creditor to also serve the Corporate Debtor by way of substituted service. Accordingly, the Financial Creditor issued publication in two newspapers namely Raj Express Bhopal (Hindi) and Central Chronicle Bhopal (English) on 20.08.2022. Thereafter, the Corporate Debtor again failed to appear before the Adjudicating Authority and also failed to file a reply despite multiple opportunities being granted before the Adjudicating Authority. Subsequently, the Adjudicating Authority vide order dated 23.02.2023 set the Corporate Debtor ex-parte. The FC filed the balance sheets of the Corporate Debtor as well as the Record of Default filed with the Information Utility. Adjudicating Authority again sought some clarifications from the FC pursuant which were clarified on dated 18.11.2023.

63. Subsequently, the company petition was heard at length by the Adjudicating Authority and the matter was reserved for orders vide order dated 28.08.2024. After a delay of more than two years, an application bearing I.A. No. 381 of 2024 was filed by the Corporate Debtor seeking recall of the order dated 28.08.2024 as well as the order dated 23.02.2023 passed by the Adjudicating Authority, whereby the Corporate Debtor was set ex-parte. Subsequently, vide order dated 16.10.2024, the Adjudicating Authority allowed I.A. No. 381 of 2024 filed by the Corporate Debtor and allowed the Corporate Debtor to file a reply to the company petition with a delay of over two years in the interest of justice.

64. Similar submissions have also been made by the Resolution Professional that the Appellant who is the suspended director of the corporate debtor has not been cooperating in the CIRP process, which has been noted by us herein earlier. RP brings to our notice that he made several efforts to establish contact with the suspended management and sought information in relation to assets of the Corporate Debtor as well as other information relevant in the process, but the Appellant did not respond to any of the intimations/request letters/emails.

65. We find that the Corporate Debtor had been continuously delaying the proceedings by not appearing before the Adjudicating Authority. Thus, we observe that the conduct of the Appellant has been nothing short of negligent at all stages.

Orders

66. Basis above analysis we conclude that the appeal is devoid of any merit and is accordingly dismissed. All related IA's are also disposed of. No orders as to costs. CIRP process stands revived.

**[Justice N. Seshasayee]
Member (Judicial)**

**[Arun Baroka]
Member (Technical)**

**New Delhi.
February 13, 2026.**

Pawan