



**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT-II)**

**Company Petition No. (IB)-545(ND)/2023**

**IN THE MATTER OF:**

**Federal Bank Limited**

Registered Office:  
Federal Tower  
LCRD Division, West Patel Nagar,  
New Delhi – 110008

**... Petitioner/  
Financial Creditors**

**VERSUS**

**M/s Feedback Infra Private Limited**

Registered Office at:  
311, 3<sup>rd</sup> Floor, Vardhaman Plaza,  
Poekt-7, Plot No.6, Sector-12,  
Dwarka, New Delhi-110078

**... Respondent/  
Corporate Debtor**

**Order Delivered on: 11.01.2024**

**Under Section: 7 of IBC, 2016**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)**

**SH. L. N. GUPTA, HON'BLE MEMBER (T)**

**PRESENT:**

**For the Petitioner** : Mr. Brijesh Kumar Tamber and Mr. Prateek  
Kushwaha

**For the Respondent** : Sr. Adv. P Nagesh, Adv. Vipul Wadhwa, Adv.  
Kashika Gera and Adv. Akshay Sharma



## **ORDER**

### **PER: SH. ASHOK KUMAR BHARDWAJ, MEMBER (J)**

As can be gathered from the contents of the application filed on behalf of the applicant, the applicant (hereinafter referred to as FC) provided various credit facilities to the Corporate Debtor including term loan and cash credit facilities. The Corporate Debtor had executed the Corporate Guarantee in favour of the applicant to facilitate the principal borrower viz., MS feedback energy distribution Company Ltd. to secure loan from the applicant. As per Board Resolution/power attorney dated 07.09.2009, issued by the Board of Director of the FC, all officials of the FC are authorised to file necessary application/affidavit etc. before this Tribunal, and Hon'ble NCLAT qua the proceedings under the provisions of IBC 2016.

2. The present application has been preferred by Mr. Vineeth PP, currently posted as Deputy Vice-I, loan collection & Recovery Department, located at New Delhi who was duly authorised by the applicant to prefer the same. The copy of the Board Resolution/power of attorney dated 07.09.2009 is enclosed as Annexure A-1 to the application.

3. The Corporate Debtor was incorporated on 27.06.1990, in terms of provisions of Companies Act and registered with Registrar of Company Delhi. It provided multiple Corporate Guarantees to the Financial Creditor agreeing to take responsibility for the obligation of the principal borrower (Debtor) viz. M/S feedback energy distribution Company Ltd. obligation for re-paying the loan taken by it.



4. The present application is preferred under Section 7 of IBC 2016 (hereinafter referred to IBC) seeking initiation of CIRP qua the Corporate Debtor i.e., M/s Feedback Infra Private Limited. The CD defaulted in repayment of the Credit facilities availed by it from the FC. It also defaulted in repaying the credit facilities availed by M/s. Feedback Energy Distribution Company Limited, for which it stood as Corporate Guarantor.

5. The Corporate Debtor approached the Financial Creditor to avail financial assistance in the shape of Term Loan of Rs. 40,00,00,000/-. The FC sanctioned the loan amount in terms of sanction letter dated 22.08.2019, in terms of the conditions contained in the letter, which were duly accepted by the Corporate Debtor. Copy of sanction letter is available on record as Annexure A-4 to the application. The Corporate Debtor through its Director, duly authorised in terms of the Resolution passed by it on 20.08.2019 executed the various loan and security documents in favour of the Financial Creditor to avail the loan facility on 26.08.2019. Copies of Board Resolution dated 20.08.2019 and Term Loan Agreement, Security Delivery Letter, Demand Promissory Note, Undertaking, Letter of Set-Off and Letter for Disbursement, all dated 26.08.2019 are enclosed as Annexures A-5 to A-11 to the application. Copy of agreement for pledge of shares held in dematerialised form, dated 26.08.2019 is enclosed as Annexure A-12 to application.

6. To secure the loan and advance availed by the CD, its Directors agreed to stand and stood as Personal Guarantor and executed Guarantee Agreement dated 26.08.2019 in favour of the Financial Creditor. A copy of Guarantee



Agreement dated 26.08.2019 is on record as Annexure A-13 to the application. M/s. Mission Holdings Pvt. Ltd. having its registered office at 311, 3<sup>rd</sup> Floor, Vardhman Plaza, Pocket No. 7, Plot No. 6, Sector 12, Dwarka, New Delhi-110078 through its directors authorised in terms of the resolution passed by it, agreed to stand and stood as Guarantor in favour of the FC for the loan sanctioned by it to the Corporate Debtor. The Corporate Guarantee executed and signed by the said Corporate Guarantor on 26.08.2019 is enclosed as Annexure A-14 to the application.

7. The aforementioned loan amount disbursed by the Financial Creditor was credited in the term loan account no. 15287100001375 and was utilised by the CD as for its need and requirement.

8. Yet again, the CD through its director requested the FC to accord another loan facility i.e. Working Capital/Term Loan for a sum of Rs. 10 Crores and the Financial Creditor considered the demand and sanctioned the said Working Loan Limit/demand loan for a sum of Rs. 10,00,00,000/- (Rupees Ten Crores Only) vide sanction letter dated 18.02.2020 on the terms and condition as stipulated therein which were duly accepted by the Corporate Debtor. A copy of sanction letter dated 18.02.2020 is placed on record as Annexure A-15 to the application. Through its Director, duly authorised in terms of the resolution dated 19.02.2020, the Corporate Debtor executed various loan and security documents in favour of the Financial Creditor on 19.02.2020 to avail the aforementioned loan facility. A copy of the Board Resolution is on record as Annexure A-16 to the application. The copies of Agreement for Clean Demand Loan, Letter to DPN, Demand Promissory



Note, Undertaking Letter and Letter of Set-Off, all dated 19.02.2020 are on record as Annexure A-17 to A-21 to the application. The Directors qua the CD as also M/s. Mission Holding Pvt. Ltd., stood as Personal and Corporate Guarantor in favour of the Financial Creditor and accepted obligation to repay the loan sanctioned to the Corporate Debtor. Copies of Guarantee Agreement dated 19.02.2020 are enclosed as Annexures A-22 and A-23 to the application.

9. The loan amount (ibid) disbursed by the Financial Creditor was credited in Demand Loan Account No. 15287100001417 and was utilised by the CD as per its needs and requirements.

10. Further, again the Corporate Debtor through its Director requested the FC for another loan facility i.e. Working Capital/Cash Credit Limit for a sum of Rs. 5 Crores. The FC sanctioned the loan amount vide sanction letter dated 30.04.2020 on the terms of condition as stipulated therein, which were duly accepted by the Corporate Debtor. Copy of sanction letter is on record as Annexure A-24 to the application. All the necessary documents required to be executed for sanction of the loan amount were duly executed and signed on behalf of the CD. The Directors qua the CD and M/s. Mission Holdings Pvt. Ltd. stood as Personal and Corporate Guarantors for the loan amount. The amount disbursed by the Financial Creditor was disbursed in Demand Loan Account No. 15285300001104 and was utilised by the CD as per its need and requirement.



11. Even also thereafter, the Financial Creditor sanctioned further loan of Rs. 11,60,00,000/- to the CD under Emergency Guarantee Credit Line (GECL)/Term Loan introduced by the Government of India through Ministry of Finance, on 17.12.2020. All requisite formalities in this regard were completed by the CD and the required documents were executed.

12. The loan amount was disbursed by the Financial Creditor in GECL/Term Loan Account No.15286900000140 and was utilised by the CD as per its needs and requirements. The Corporate Debtor also maintained the Current Account No. 15280200003664 with the Financial Creditor which got overdue as the Corporate Debtor could not pay the interest in the Demand Loan Account, therefore interest had to be debited from the Current Account of the CD. The development was well within the knowledge of the Corporate Debtor.

13. M/s. Feedback Energy Distribution Company Limited (Principal Borrower) availed multiple loan facilities from the Financial Creditor. Several loan and security documents were executed by the Principal borrower in favour of the Financial Creditor. The Corporate Debtor executed multiple Corporate Guarantee in favour of the Financial Creditor. The details of multiple loans availed by the Principal borrower viz. M/s. Feedback Energy Distribution Limited are given in para 26 of the written synopsis filed by the Applicant. The number of total loans sanctioned by FC to the Principal borrower is eight. The details of disbursement of loan to the CD as given in para 55 of the written synopsis reads thus: -



| <b>Date of Disbursement</b> | <b>Amount disbursed (in Rupees)</b> |
|-----------------------------|-------------------------------------|
| 26.08.2019                  | 40,00,00,000.00                     |
| 18.05.2020                  | 5,00,00,000.00                      |
| 20.02.2020                  | 10,00,00,000.00                     |
| 10.03.2021                  | 10,000.00                           |
| 29.12.2020                  | 11,60,00,000.00                     |

14. The Financial Creditor had disbursed the funds to the Principal borrower on the dates mentioned in 2<sup>nd</sup> table of para 56 of the synopsis which reads thus: -

| <b>Date of Disbursement</b> | <b>Amount disbursed (in Rupees)</b>                   |
|-----------------------------|---|
| 04.11.2019                  | 5,75,00,000.00  |
| 25.02.2021                  | 1,98,00,000.00  |
| 26.11.2021                  | 5,74,00,000.00 (sub-limit to BG Limit of Rs.15.83 Cr) |
| 07.01.2023                  | 2,00,07,080.00  |
| 25.01.2023                  | 8,09,11,800.00  |

15. To secure the loan facility availed from the Financial Creditor, the Corporate Debtor created security interest of the Financial Creditor qua the assets mentioned in para 55 of the written synopsis (property schedules A, B and C). The schedules read thus: -

A. **“Property Schedule ‘A’ :**

*Hypothecated Machinery etc. stored in or about at borrower's godowns or premises stored at:*



- (i) 15th Floor, Tower 9B, DLF Cyber City, Phase-III, Gurugram 122022
- (ii) 3rd floor. Gala Impacca, Next to Marrot Courtyard Hotel, Jitendra Estate, AndheriKurla Road, Andheri East, Mumbai 400059.
- (iii) 4th Floor, Haveli Extension above radhe Sweets, sector 11, Gandhinagar 382011 Gujrat
- (iv) First Floor, Langford Avenue No. -14, Langford Garden Lalbagh Road (Near Richmond Road) Banglore 560025.
- (v) 5th Floor, Jss Tower Infocity Area, Plot No.-E-11/1, E-11/2, Bhubaneswar-751023 Odisha India.

**B. Property Schedule 'B' :**

*First Pari-Pasu Charge over Current & movable fixed assets (both present & Future) of the Corporate Debtor.*

**C. Property Schedule 'C' :**

*Pledge of 30% of FEDCO shares owned by the Corporate Debtor.”*

16. The Principal borrower, Corporate Debtor and Guarantors, to secure the loan facilities availed by the Principal borrower from the Financial Creditor also created security interest on the assets mentioned in para 58 of the synopsis. The details of the assets reads thus :-

- “a. Term Loan: Paripassu first charge on the entire movable fixed assets of the Principal borrower both present and future*
- b. Cash credit; Paripassu first charge on the entire current assets of the Principal borrower both present and future*
- c. Term Loan: Paripassu first charge on entire current assets of the Principal borrower, both present and future.*





- d. *Cash credit: Paripassu first charge on the entire movable fixed assets of the Principal borrower both present and future.*
- e. *Hypothecate all the stock lying at any premises of the Principal borrower/anywhere in India, including stock in transit and stock which accrue in future on paripassu basis;*
- f. *Hypothecate the present and future receivable/book debts of the Principal borrower and all rights and accruals thereto and if necessary, to give power of attorney to collect the receivable/book debts to the bank on paripassu basis;*
- g. *Hypothecate all the present and future movable fixed assets of the Principal borrower at any premises of the Principal borrower/anywhere in transit on paripassu basis;*
- h. *Other such assets as may be agreed between the Principal borrower and the Financial Creditor and to request the Corporate Debtor to provide corporate guarantee for the facility of Rs.46 Crore.*
- i. *Paripassu charge on entire current assets of the Principal borrower both present and future with margin of 25%.*
- j. *Paripassu second charge on the entire movable fixed assets of the Principal borrower both present and future.*
- k. *OD: Paripassu first charge on the current assets relating to the work contracts awarded by Odisha Small Industries Corporation Limited.*
- l. *BG: 10% cash margin and extension of charges on the current assets related to the EPC contracts awarded by Odisha Small Industries Corporation Limited.*
- m. *OD: Paripassu second charge on the entire movable fixed assets of the Principal borrower both present and future, with RBL bank Ltd.”*



17. Besides the above, to secure the loan facilities availed by the Principal borrower, following Bank Guarantee Agreements were executed: -

- *“Personal Guarantees of Directors of the Corporate Debtor being Mr.VinayakChaterjee, Mr.Rayaprolu Sambamoorthi Ramasubramaniam and Mrs. Rumjhum Chatterjee dated 26.08.2019, 19.02.2020 and 12.05.2020.*
- *Corporate Guarantee of M/s. Feedback Infra Pvt. Ltd./ the Corporate Debtor dated 04.07.2014, 19.07.2015, 29.03.2016, 11.07.2017, 11.01.2019 and 20.06.2020.*
- *Corporate Guarantee executed by M/s. Mission Holdings Pvt. Ltd. for the loan facilities availed by the Corporate Debtor as well as loan availed by the Principal Borrower.”*

18. As the Corporate Debtor failed to maintain the financial discipline, its loan account was classified as Non-Performing Asset (NPA) by the Financial Creditor on 28.05.2021. The Financial Creditor has taken the plea that the date of NPA may be considered as date of default for the purpose of present application. Besides, since the Principal borrower also failed to maintain the Financial discipline, its loan amount was also classified as Non-Performing Asset (NPA) by the Financial Creditor on 19.11.2022. It is again the plea raised by the Applicant that the said date may also be perceived as date of default for the purpose of present proceedings.

19. Regarding the loan/credit facility availed by the CD, the Financial Creditor issued Demand Notice under Section 13(2) of the SARFAESI ACT, 2002, on 23.09.2021, but the CD failed to repay the loan amount. A copy of SARFAESI Notice (ibid) is on record as Annexure A-136 of the application.



20. As a result, the Financial Creditor filed O.A. No. 386 of 2022/TA No. 400/2022 for the recovery of dues from the Principal borrower and the Corporate Debtor.

21. The Financial Creditor recalled the entire loan facilities granted to the Principal borrower vide recall notice dated 31.01.2023. The Principal borrower failed to make payment in terms of the recall notice. As despite service of the recall notice, the Principal borrower did not give any heed to the notices and did not act upon the same, the Financial Creditor filed an application viz. O.A. Diary No. 609 of 2023 for the recovery of dues from Principal borrower and the Corporate Debtor on 30.04.2023. The Corporate Debtor acknowledged the debt by signing the letter of acknowledgement of debt dated 12.05.2020. A copy of the letter of acknowledgement of debt is on record as Annexure A-138 to the application. The Principal borrower also acknowledge the debt by signing the letter of Acknowledgement of Debt dated 25.02.2021. The letter is enclosed as Annexure A-139 to the application. The Principal borrower also signed a letter of acknowledgement dated 17.11.2021. Neither the account of CD nor that of Principal borrower are regularised as yet. Para 70 and 71 of the synopsis filed by the FC reads thus: -

| <b>Loan Type</b>        | <b>Account number</b> | <b>Date</b> | <b>Payments made(in Rupees)</b> |
|-------------------------|-----------------------|-------------|---------------------------------|
| <b>WCDL</b>             | 15285300001104        | Nil         | Nil                             |
| <b>TERM LOAN</b>        | 15287100001417        | 31.05.2021  | 41,40,000.00                    |
| <b>OD DEPOSIT/CLEAN</b> | 15280200003664        | Nil         | Nil                             |
| <b>TERM LOAN</b>        | 15287100001375        | NIL         | NIL                             |
| <b>GECL</b>             | 15286900000140        | 29.05.2021  | 10,22,815.00                    |
|                         |                       | 31.05.2021  | 10,000.00                       |



| Loan Type        | Account number  | Date       | Payments made(in Rupees) |
|------------------|-----------------|------------|--------------------------|
| CC               | 13905500000943  | 28.11.2022 | 54782.86                 |
|                  |                 | 22.12.2022 | 18,524.00                |
|                  |                 | 28.02.2023 | 15000.00                 |
|                  |                 | 15.05.2023 | 2,35,871.80              |
| WCDL             | 11055300000198  | 28.11.2022 | 97,48,269.00             |
| GECL             | 110569000002238 | 25.11.2022 | 4,95,078.00              |
| OD-BG<br>Invoked | 110556000006168 | 17.01.2023 | 23,29,722.00             |
|                  |                 | 23.01.2023 | 56,90,000.00             |

21. The Part-IV (2) of the application which contains the total amount of disbursed loan and dates of default reads thus: -

| 2.           | <b>AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM)</b> | <p>The total amount claimed to be in default Rs.97,80,50,412.43(Rupees Ninety Seven Crore Eighty Lakh Fifty Thousand Four Hundred Twelve and paise Forty Three Only)which is due and Payable as on <b>10.08.2023</b>. The said amount consist of the outstanding's of loan availed by the Corporate Debtor and the outstanding's of the loan availed by the Principal Borrower in which the Corporate Debtor stood as a guarantor. The summary of both are reproduced below:</p> <table border="1" style="width: 100%;"><thead><tr><th>Sr. No.</th><th>Borrower</th><th>Outstanding (in Rs.)</th></tr></thead><tbody><tr><td>1.</td><td>Feedback Infra Private Limited (Corporate Debtor) as on 10.08.2023</td><td>80,67,42,710.46</td></tr><tr><td>2.</td><td>Feedback Energy Distribution Company Limited (Principal Borrower)as on 10.08.2023</td><td>17,13,07,701.97</td></tr><tr><td colspan="2" style="text-align: center;"><b>Total</b></td><td><b>97,80,50,412.43</b></td></tr></tbody></table> <p><b><u>Default in the loan availed by the Corporate Debtor</u></b><br/>The Corporate Debtor has defaulted in repayment of credit facilities availed from the financial creditor.</p> | Sr. No. | Borrower | Outstanding (in Rs.) | 1. | Feedback Infra Private Limited (Corporate Debtor) as on 10.08.2023 | 80,67,42,710.46 | 2. | Feedback Energy Distribution Company Limited (Principal Borrower)as on 10.08.2023 | 17,13,07,701.97 | <b>Total</b> |  | <b>97,80,50,412.43</b> |
|--------------|---|--|---------|----------|----------------------|----|--|-----------------|----|---|-----------------|--------------|--|------------------------|
| Sr. No.      | Borrower  | Outstanding (in Rs.)   |         |          |                      |    |  |                 |    |   |                 |              |  |                        |
| 1.           | Feedback Infra Private Limited (Corporate Debtor) as on 10.08.2023  | 80,67,42,710.46  |         |          |                      |    |  |                 |    |   |                 |              |  |                        |
| 2.           | Feedback Energy Distribution Company Limited (Principal Borrower)as on 10.08.2023   | 17,13,07,701.97  |         |          |                      |    |  |                 |    |   |                 |              |  |                        |
| <b>Total</b> |   | <b>97,80,50,412.43</b>   |         |          |                      |    |  |                 |    |   |                 |              |  |                        |



|  |  |   |
|--|--|---|
|  |  | <p><b>DATE OF DEFAULT: <u>28.05.2021</u></b></p> <p>The account of the Corporate Debtor was classified as Non-Performing Asset ('NPA') as per the guidelines issued by the Reserve Bank of India.</p> <p><b><u>23.09.2021</u></b></p> <p>Since the Corporate Debtor failed to maintain the financial discipline and failed to regularise the loan account, the Financial creditor was forced to serve demand notice under Section 13(2) of SARFAESI Act, 2002 to the Corporate Debtor recalling all the outstanding loan amounts.</p> <p><b><u>31.03.2022</u></b></p> <p>The Financial Creditor filed an application under Section 19 of the Recovery of Debt and Bankruptcy Act, 1993 being O.A. No. 386 of 2022 for the recovery of Rs. 64,90,13,975.78 along with future interest which is pending for final disposal.</p> <p><b><u>31.03.2022</u></b></p> <p>The Financial Creditor filed an application under Section 19 of the Recovery of Debt and Bankruptcy Act, 1993 being O.A. No. 386 of 2022 for the recovery of Rs. 64,90,13,975.78 along with future interest which is pending for final disposal.</p> |
|  |  | <p>Since the date of NPA, the loan account of the Corporate Debtor is under default and has not been regularised till the date of filing of the present application.</p> <p>Cause of action against the Corporate Debtor is continuing as the Corporate Debtor is still in default.</p> <p><b><u>Default in the loan availed by the Principal Borrower</u></b></p> <p>Since the liability of the Corporate Debtor is co-extensive of the Principal borrower in view of the invocation of the Corporate Guarantees, the Corporate Debtor defaulted in making payments to the Financial Creditor.</p> <p><b>DATE OF DEFAULT: <u>19.11.2022</u></b></p> <p>The account of the Principal borrower was classified as Non-Performing Asset ('NPA') as per the guidelines issued by the Reserve Bank of India.</p>   |



|  |   |
|--|---|
|  | <p><b><u>31.01.2023</u></b><br/>Loan recall letter was sent to the Principal borrower and by way of same letter the financial creditor has invoked the Corporate Guarantee executed by the Corporate Debtor.</p> <p><b><u>30.04.2023</u></b><br/>The Financial Creditor filed an application under Section 19 of the Recovery of Debt and Bankruptcy Act, 1993 being O.A. Diary No. 609 of 2023 for the recovery of Rs. 16,13,49,069.81 along with future interest which is pending for final disposal.</p> <p>Since the date of NPA, the loan account of the Principal borrower is under default and has not been regularised till the date of filing of the present application.</p> <p>Cause of action against the Corporate Debtor is still continuing as the Principal Borrower is still in default.</p> |
|--|---|

22. In the reply filed on behalf of the Corporate Debtor, the salient plea raised on behalf of the CD are: - (i) there is no default committed by the CD in repayment of loan; (ii) there is no debt due and payable within the meaning of Section 3(12) of the Code; (iii) the Application is barred by Section 10A of the Code, as there was a moratorium period of 6 months on repayment of the term loans facility. As the moratorium, expired only on 27.02.2020, the repayment was to be made quarterly w.e.f. 31.05.2020. Thus, if there was default, in repayment of the loan, it was committed on 31.05.2020. According to the CD, the Application is not maintainable, as the date of default falls during the period covered by Section 10A of IBC, 2016. According to it, regarding the default in payment of interest for emergency credit loan facility, the default was dated 28.02.2021 i.e. again covered by the period mentioned in Section 10A of IBC, 2016. (iv) Corporate Guarantee for the loan taken by FEDCO was invoked by the Applicant vide loan recall notice 31.01.2023 which remains unpaid. Since the Applicant could club the recall notice with the loan



amount defaulted to be paid during the period covered by Section 10A of IBC, 2016, the Application is not maintainable.

23. As can be seen from the Reply filed by it, the CD has taken self-contradictory stand. On the one hand, it has taken the plea that the CD has not committed any default, as there was no debt due and payable by it and on the other hand, it has pleaded that the default was committed during the period mentioned in Section 10A of IBC, 2016, thus no application under Section 7 could be filed by the Applicant in this regard. As can be seen from Part IV (2) of the Application, the dates of default mentioned by the Applicant are 28.05.2021 and 19.11.2022, when the account of the CD and Principal Borrower were declared as NPA. As far as the present Application is concerned, the account of Principal Borrower was classified as NPA on 19.09.2023 and the Corporate Guarantee given by the CD was invoked only on 31.01.2023. Thus, the Date of Default qua the amount of Rs 16,13,49,069.81/- is the date of invocation of Bank Guarantee i.e. 31.01.2023. Till the declaration of the account of Principal Borrower as NPA, the Corporate Guarantee could not have been invoked. It is not the case of the CD that the Corporate Guarantee was not invoked prior to 30.01.2023. The CD has also not raised the plea that the account of Principal Borrower is not declared as NPA. The plea regarding filing of the joint application qua default in payment of different amounts of debt is noted only to be rejected. As can be seen from Section 7 of the Code, a Financial Creditor may either itself or jointly with other Financial Creditors or any other person on behalf of the Financial Creditor may file an Application under Section 7 of IBC, 2016.



It is also clear from the Explanation given below Third Proviso to Section 7(1), a default includes not only the default in respect of a financial debt qua the Applicant Financial Creditor but also regarding any other Financial Creditor of the CD. Thus, while considering an application under Section 7 of IBC, 2016, what we need to see is only that a debt of Rs. 1 crore was disbursed to the CD and it defaulted in payment of the same. Such conditions are satisfied in the present case. It is also seen from Part-V (3) that the FC had reported the debt and default to NeSL on 09.05.2023 and the Corporate Debtor had authenticated the same on 11.06.2023. The Part-V (3) of the Application reads thus: -

|   |   |
|---|---|
| 3. RECORD OF DEFAULT WITH THE INFORMATION UTILITY- IF ANY | Details to the NeSL was lastly submitted by the financial creditor on 09.05.2023 and the Corporate Debtor has authenticated the debt on 11.06.2023 with respect to the loan availed by the principal borrower. It also shows the authentication by the Corporate Debtor |
|---|---|

24. In view of the aforementioned, we are left with no option but to admit the present Application. Ordered accordingly. **Ergo, the CIRP commences qua the CD.**

25. **In the wake, moratorium as provided under Section 14 of IBC, 2016 is declared qua the CD and** as a necessary consequence thereof the following prohibitions are imposed, which must be followed by all and sundry:

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





- (b) Transferring, encumbering, alienating or disposing of by the Respondent any of its assets or any legal right or beneficial interest therein;
- (c) Any action to foreclose, recover or enforce any security interest created by the Respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the Respondent.

26. As proposed by the Petitioner, Mr. Rajneesh Kumar Aggarwal, having Registration No. IBBI/IPA-001/IP-P00886/2017-18/11483 (e-mail id: [ca@arkadvisors.in](mailto:ca@arkadvisors.in)) is appointed as IRP, subject to the condition that no disciplinary proceeding is pending against him and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order. It is further ordered that Mr. Rajneesh Kumar Aggarwal, having Registration No. IBBI/IPA-001/IP-P00886/2017-18/11483 (e-mail id: [ca@arkadvisors.in](mailto:ca@arkadvisors.in)) shall take charge of the CIRP of the Corporate Debtor with immediate effect and would take steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016 read with extend provisions of IBBI (Insolvency Resolution of Corporate Persons) Regulations, 2016.

27. The Petitioner is directed to deposit Rs. 2,00,000/- only with the IRP to meet the immediate expenses. The amount, however, will be subject to



adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

28. A copy of this Order shall immediately be communicated by the Registry/Court Officer of this Tribunal to the Petitioner /Financial Creditor, the Respondent/Corporate Debtor and the IRP mentioned above.

29. In addition, a copy of this Order shall also be forwarded by the Registry/Court Officer of this Tribunal to the IBBI for their records.

**Sd/-**  
**(L. N. GUPTA)**  
**MEMBER (T)**

**Sd/-**  
**(ASHOK KUMAR BHARDWAJ)**  
**MEMBER (J)**