IN THE NATIONAL COMPANY LAW TRIBUNAL

KOCHI BENCH

CP (IB)/10/KOB/2026

(Under Section 7 of the Insolvency and Bankruptcy Code, 2016)

Date of Institution: 16.03.2026

Order delivered on: 07.07.2026

In the matter of:

M/s Morgan Securities and Credits Private Limited v BPL Limited

MEMO OF PARTIES:

M/s. Morgan Securities and Credits Pvt Ltd
CIN: U46909DL1996PTC077623
Address: 53 Friends Colony (East), New Delhi, India, 110 065.
Through its Authorised Representative,
Email: secretarial@goyalgroup.com

...Petitioner/Financial Creditor

-Vs-

BPL LIMITED
CIN: L28997KL1963PLC002015
Address: BPL Works Palakkad,
Palakkad, Kerala -678 007.
Email: investor@bpl.in
Represented by its Managing Director

...Respondent/Corporate Debtor

Coram:

HON'BLE MEMBER (JUDICIAL) : SHRI. VINAY GOEL

HON'BLE MEMBER (TECHNICAL) : SHRI. RAVICHANDRAN RAMASAMY

Appearances:

For the Petitioner : Mr. Santhosh Mathew, Senior Advocate,
Mr. Niraj Chamyal, Advocate.
Mr. Akhil Suresh, Advocate.

For the Respondent : Mr. K G Raghavan, Senior Advocate
Mr. Cyriac Tom, Advocate
Mr. Arjun K Perikal, Advocate.

ORDER

Per Coram

1. This petition has been filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'Code' or 'IBC') by M/s. Morgan Securities & Credits Private Limited (hereinafter referred to as the 'Financial Creditor' or 'MSCPL') on 16.03.2026 through its authorised representative, Mr. Sriniwas Chandan, who has been duly authorised vide Board Resolution dated 10.12.2025, against BPL Limited (hereinafter referred to as the 'Corporate Debtor') seeking initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as the 'CIRP'), appointment of an Interim Resolution Professional (hereinafter referred to as the 'IRP'), and declaration of moratorium on account of default in repayment of a financial debt amounting to Rs. 13,23,70,00,924/- (Rupees Thirteen Hundred Twenty-Three Crores Seventy Lakhs Nine Hundred Twenty-Four Only).

2. Part I of the petition sets out the particulars of the Financial Creditor. It is stated that the Financial Creditor is a company incorporated under the provisions of the Companies Act, 1956, bearing Corporate Identification Number

U46909DL1996PTC077623. The Financial Creditor was recognised as a Non-Banking Financial Company by the Department of Non-Banking Supervision, Reserve Bank of India, New Delhi, vide Certificate No. B14.02441 dated 23.08.2001, authorising it to carry on the business of a non-banking financial institution without accepting public deposits. Subsequently, vide order dated 02.11.2018, the Reserve Bank of India cancelled the said Certificate of Registration.

3. As per Part II of the petition, the Respondent/Corporate Debtor is a Public Limited Company with Corporate Identification Number: L28997KL1963PLC002015. The date of incorporation is 16.04.1963. The registered office of the Respondent/Corporate Debtor is situated at BPL Works Palakkad, Palakkad, Kerala, India, 678 007. Therefore, this Bench has jurisdiction to deal with this petition.

4. Perusal of Part III of the Petition reveals that the Petitioner/Financial Creditor has proposed AAA Insolvency Professionals LLP, having its office at First Floor, 64, Okhla Estate, Phase-III, New Delhi – 110020, bearing Registration No. IBBI/IPE/002/IPA-1/200-23/50001, to act as the Interim Resolution Professional (IRP). The proposed IRP has filed its written communication in Form-2, annexed to the Petition, in compliance with Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

5. Part IV of the petition signifies the amount of debt to the tune of **Rs. 13,23,70,00,924/-** (Rupees Thirteen Hundred Twenty-Three Crores Seventy Lakhs Nine Hundred Twenty-Four Only). The date of default is **14.06.2007**.

6. Part V of the petition describes the particulars of Financial Debt; documents, records and evidence of default as described below:

1) Bill Discounting Facility Agreement dated 27.12.2002 and 11.06.2003 for Rs 6 Crores and 6.5 Crores.
2) Tabulation of all bills of exchange issued pursuant to the bill discounting dated 27.12.2002 & 11.06.2003 as on 10.08.2007 for Rs 27,89,34,259/-
3) Acknowledgement letter dated 02.02.20227 sent and signed by the Corporate Debtor to the Financial Creditor.
4) Demand Notice dated 06.06.2007 for Rs.25,79,91 ,096/-
5) Copy of Notice by MSCPL to BPL dated 28.06.2007 for invocation of Arbitration proceedings for Rs.25,79, 91,096/-
6) Copy of the statutory Winding-Up Notice dated 07.06.2007 and the order passed in the winding-up proceedings.
7) A copy of the Order passed by the Hon'ble High Court of Delhi dated 04.12.2012.
8) Copy of the Orders dated 08.02.2013, 12.09.2025 and 04.12.2025 passed by the Hon'ble Supreme Court.
9) Copy of the Arbitral Award dated 14.12.2016.
10) Copies of the SEBI disclosures dated 24.12.2024 and 05.12.2025.
11) The detailed computation of the default amount, reflecting the award sums and interest accrued and the bank statement of the Financial Creditor for the period 06.07.2002 to 13.01.2026.
12) Copy of the Financial Statement of BPL Limited, the Corporate Debtor for the FY 2022-23, 2023-24 and 2024-25.
13) A copy of the entries and account details in the Banker's Book.

7. **Brief Facts of the Case, as stated in the Petition:**

a) M/s. BPL Display Devices Limited (hereinafter referred to as the 'BDDL') had supplied goods to the Corporate Debtor, BPL Limited, over a period of time. Due to delays in payment, BDDL and the Corporate Debtor jointly approached M/s. Morgan Securities & Credits Private Limited for bill discounting facilities, which were sanctioned vide Bill Discounting Agreements dated 27.12.2002 and 11.06.2003 for amounts up to Rs. 6 crores and Rs. 6.5 crores respectively.

b) Under the said arrangements, funds were disbursed against Bills of Exchange accepted by the Corporate Debtor, with BDDL as Drawer and BPL Limited as Drawee. Both parties were jointly and severally liable to repay the discounted amounts along with the agreed interest. In the event of default, the concessional rate of interest stood withdrawn and contractual interest at 36% per annum with monthly rests became payable.

c) The Corporate Debtor acknowledged its liability vide letter dated 02.02.2007. Thereafter, MSCPL/Financial Creditor issued a Demand Notice dated 06.06.2007 to BPL Limited and BDDL demanding payment of Rs. 25,79,91,096/- along with applicable interest within seven days.

d) It is stated that, upon failure to recover the outstanding dues from the Corporate Debtor, MSCPL/Financial Creditor invoked arbitration in terms of Clause 6 of the Bill Discounting Agreement and sought the appointment of a Sole Arbitrator. Pursuant thereto, the Learned Sole Arbitrator passed a detailed Award dated 14.12.2016, substantially allowing the claims of MSCPL, the Financial Creditor and directing the Corporate Debtor to pay the awarded amount along with contractual and post-award interest.

e) The Corporate Debtor challenged the said Award under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996, however, the challenges were dismissed by the Hon'ble High Court of Delhi. The Review Petition was also

rejected. Thereafter, the Hon'ble Supreme Court of India, vide judgment dated 04.12.2025, dismissed the Special Leave Petitions and affirmed the Arbitral Award, thereby rendering the liability of the Corporate Debtor final and enforceable.

f) The Financial Creditor initiated execution proceedings before the City Civil Court, Bengaluru, but recovery remained stalled due to pending appellate proceedings. During the Supreme Court proceedings, the Corporate Debtor deposited substantial amounts, including Rs. 72 crores to the Financial Creditor and Rs. 96 crores before the Hon'ble Supreme Court Registry; however, the full liability, including contractual interest, remains unpaid.

g) The Hon'ble Supreme Court held that the transactions were valid commercial bill discounting transactions and upheld the contractual interest of 36% per annum with monthly rests. Accordingly, the financial debt and default stand conclusively established, and the Corporate Debtor has also acknowledged the liability in its SEBI disclosures.

h) It is submitted that the Corporate Debtor has defaulted in payment of Rs.13,23,70,00,924/-, which exceeds the threshold under Section 4 of IBC, 2016. The amount constitutes a financial debt under Sections 5(8)(e) and 5(8)(f), and the default falls within Section 3(12) of the IBC, 2016. Therefore, according to the Petitioner, in view of the admitted and crystallized liability, the present Section 7 Petition deserves to be admitted, and CIRP initiated against the Corporate Debtor.

8. **Submissions on behalf of the Respondent/Corporate Debtor: -**

a) The Respondent/Corporate Debtor, BPL Limited, submitted that the present Section 7 petition arises from bill discounting transactions undertaken between 2002 and 2004 for its subsidiary, BDDL and not for the Respondent

directly. It is submitted that the principal amount has already been paid, and the present claim of over Rs.13,23,70,00,924 crores pertains mainly to exorbitant and unconscionable interest.

b) The dispute has already been subjected to arbitration, execution proceedings, and earlier winding-up proceedings. Although the Hon'ble Supreme Court upheld the arbitral award and the contractual interest, a review petition is presently pending before the Hon'ble Supreme Court, which fact has not been disclosed by the Petitioner/Financial Creditor. Admission of the CIRP during the pendency of the review petition would cause serious prejudice.

c) The petition is barred by limitation, as the alleged default dates back to 14.06.2007 and the present proceedings were initiated well beyond the limitation period prescribed under Article 137 of the Limitation Act. It is also contended that there was no valid acknowledgement of debt under Sections 18 or 19 of the Limitation Act, and statutory disclosures made before SEBI/MCA cannot be treated as admissions of liability.

d) The Respondent submitted that IBC,2016, is not a recovery mechanism, the Petitioner is not a "Financial Creditor," and the alleged claim does not qualify as a "financial debt" under the Code. The transaction in question was a non-recourse commercial bill discounting arrangement and therefore does not constitute a "financial debt" under Section 5(8) of the IBC,2016. It is submitted that liability was primarily upon BDDL, the drawer, and the Respondent's obligation was limited under the terms of the sanction letter. The Respondent further submitted that the arbitral award itself clarifies that the transaction was not a loan.

e) The principal amount has already been paid, and the present claim relates only to interest, which by itself cannot qualify as a financial debt under the

IBC,2016. According to the Respondent, no valid "default" under Section 3(12) of IBC, 2016 has been established, as there is no proof of demand, non-payment, or recoverability against the Respondent.

f) The Respondent further submitted that the present petition is an attempt to use the IBC,2016 as a recovery mechanism following the Hon'ble Supreme Court judgment, which is impermissible in law. Accordingly, the Petitioner is neither a "Financial Creditor" nor is there any "financial debt" or "default" warranting initiation of CIRP against the Respondent.

g) The Petitioner/Financial Creditor has already initiated execution proceedings before the City Civil Court, Bengaluru, and obtained attachment orders against the Respondent's assets. Therefore, the present Section 7 petition is a parallel and coercive recovery attempt, amounting to misuse of the IBC,2016, as a debt recovery mechanism rather than for insolvency resolution.

h) It is further submitted that substantial amounts have already been paid/deposited pursuant to the Hon'ble Supreme Court orders, and the Respondent continues to be a solvent, listed, going-concern company. The Respondent stated that CIRP would cause disproportionate and irreversible prejudice despite the availability of effective execution remedies.

i) The Respondent also submitted that similar winding-up proceedings under Section 433(e) of the Companies Act,2013 had earlier been closed by the Hon'ble High Court and therefore, the present petition is barred by limitation, *res judicata*, and Section 65 of the IBC, 2016. Accordingly, the petition is stated to be misconceived, not maintainable, and liable to be dismissed with costs.

9. **Submissions on behalf of the petitioner/Financial Creditor in the rejoinder state as follows:**

a) It is submitted that the Financial Creditor denies all averments and contentions raised by the Corporate Debtor in its reply. The Corporate Debtor's plea that the petition is barred by limitation is misconceived. Although the original default arose on 14.06.2007, the cause of action continued through subsequent proceedings and attained finality only upon the Hon'ble Supreme Court's judgment dated 04.12.2025.

b) The Financial Creditor had extended Bill Discounting facilities on a recourse basis, making both M/s. BPL Display Devices Ltd. and M/s. BPL Ltd. is jointly and severally liable. Upon default, a demand notice dated 06.06.2007 was issued, claiming Rs. 25.79 Crores with interest. As payment was not made within the stipulated period, default occurred on 14.06.2007, Arbitration proceedings were thereafter initiated on 28.06.2007 for the recovery of the outstanding dues.

c) The Arbitral Award dated 14.12.2016 was challenged up to the Hon'ble Supreme Court, which finally affirmed the liability by judgment dated 04.12.2025. The debt thus stands crystallised and enforceable. The liability has also been acknowledged in the Corporate Debtor's financial statements for FY 2022-23, 2023-24, 2024-25 and the quarter ending 31.12.2025.

d) In view of the law laid down in Dena Bank v. C. Shivakumar Reddy, a final adjudication or decree gives rise to a fresh cause of action for initiating proceedings under Section 7 of the IBC,2016. Without prejudice, the benefit of Section 14 of the Limitation Act is also available, as the Petitioner had diligently prosecuted winding-up proceedings before the Hon'ble High Court of Kerala and other remedies in good faith.

e) Further, pursuant to orders of the Hon'ble Supreme Court, the Corporate Debtor paid substantial amounts towards the adjudicated liability, including deposits made in December 2024 and September 2025. These payments constitute a clear acknowledgement and part-payment of debt. Accordingly, the payments and acknowledgements extend limitation under Sections 18 and 19 of the Limitation Act and establish a continuing default in respect of a subsisting adjudicated debt. Hence, the plea of limitation is untenable.

f) The Corporate Debtor's reliance on the pendency of Review Petition Diary No. 612/2026 before the Hon'ble Supreme Court is misconceived and does not render the present proceedings non-maintainable. The Review Petition, filed on 05.01.2026, has not even been assigned a regular case number and continues to remain under defects without being listed. Mere filing of such a defective review petition cannot be treated as a pending proceeding so as to stall the present petition. It is settled law that filing of a review petition does not suspend or dilute the operation of the judgment under review unless a specific stay order is granted. The judgment dated 04.12.2025 upholding the Arbitral Award continues to remain valid, binding, and enforceable.

g) The Petitioner has relied on the judgment of the Hon'ble Supreme Court in Sanjiv Kumar Singh v. State of Bihar, which held that mere filing of an appeal does not operate as a stay in the absence of an interim order. The same principle applies with greater force to a review petition. Therefore, unless the judgment dated 04.12.2025 is stayed, recalled, or set aside, the Financial Creditor is fully entitled to rely upon the same and maintain the present petition under Section 7 of the IBC, 2016.

h) The contention that the Financial Creditor is not a "financial creditor" is misconceived. The bill discounting arrangement squarely falls within the definition of "financial debt" under Section 5(8) of the IBC, 2016. The Financial Creditor had discounted bills drawn by BDDL on the Corporate Debtor, with repayment secured by post-dated cheques and joint and several liability of BDDL and the Corporate Debtor. The transaction, therefore, qualifies as "receivables discounted" under Section 5(8)(e) and also has the commercial effect of borrowing under Section 5(8)(f) of the IBC, 2016.

i) The finding in the arbitral award that the transaction was not a "loan" was only in the context of the Usurious Loans Act and similar statutes. The Adjudicating Authoritynevertheless recognised the repayment obligation with interest and awarded the claim accordingly. The transaction was clearly on a recourse basis, as the sanction letters imposed joint and several liability on both BDDL and the Corporate Debtor.

j) The Corporate Debtor's contention regarding interest is untenable. The outstanding amount represents the total adjudicated liability, including principal and interest, which the Hon'ble Supreme Court has already upheld.

k) The Petitioner has relied on the judgment of the Hon'ble Supreme Court in Innoventive Industries Ltd. v. ICICI Bank, which held that once financial debt and default are established, the petition must be admitted. In the present case, the debt and default stand conclusively established by the arbitral award and subsequent judgments. The Corporate Debtor has admitted payment of the principal amount but has failed to clear the remaining adjudicated dues, thereby establishing a default under Section 3(12) of the IBC, 2016.

l) The Corporate Debtor's SEBI disclosures and financial statements consistently acknowledge the subsisting liability, including disclosure under contingent liabilities, which constitutes relevant evidence of debt and default. The plea that the Corporate Debtor is a listed company and a going concern is irrelevant. The IBC,2016, applies equally to all corporate debtors, and insolvency proceedings cannot be avoided on that ground. The present petition satisfies all requirements under Section 7 of the IBC, 2016, as the existence of financial debt, default, and the status of the Petitioner as Financial Creditor stand fully established.

10. The Respondent/Corporate Debtor filed IA(IBC)/185/KOB/2026 seeking leave of this Adjudicating Authority to place on record an Additional Statement of Objections in the present Section 7 Petition. According to the Respondent, additional grounds and documents are required for the proper adjudication of the present Section 7 Petition.

11. The Respondent submits that the proposed Additional Statement of Objections raises several legal issues, including that the Petitioner, being an award-holder/decree-holder, cannot automatically invoke the provisions of the Insolvency and Bankruptcy Code, 2016; that the underlying bill discounting transactions do not constitute a financial debt under Section 5(8) of the Code; that the Petition is barred by limitation; that there was no direct lending relationship between the parties; that assignment does not alter the nature of the debt; that the Code cannot be used as a substitute for execution proceedings or as a debt recovery mechanism; and that payments made by the Corporate Debtor had been adjusted towards the principal amounts.

12. The Respondent has further sought to place on record additional documents in support of the above contentions, including copies of proceedings before the Hon'ble Supreme Court, the adjustment chart filed by the Petitioner in the

arbitral proceedings, and the cross-examination of the Petitioner's witness before the learned Sole Arbitrator, which, according to the Respondent, are relevant for determining the nature of the debt, limitation and the extent of recoveries already effected by the Petitioner.

13. The Respondent, along with the additional reply, filed certain documents to substantiate its pleadings. The Petitioner has not denied the existence or admissibility of those documents but has contended that they have no bearing on the proceedings under Section 7 of the Code. Further, the Petitioner has pleaded that whatever objection the Respondent intends to raise by way of additional defence, as an extension of the earlier defence, cannot be entertained. It is also contended that some of the objections sought to be raised have already been decided by the Arbitral Tribunal, the Hon'ble High Court, or the Hon'ble Supreme Court, and therefore, those issues cannot be reagitated before this Adjudicating Authority in the present Section 7 application.

Analysis and Findings

14. We have heard the Learned Counsel for both parties and perused the documents available on record. Before proceeding further, it is pertinent to note that the Respondent had filed additional objections along with supporting documents through IA(IBC)/185/KOB/2026. In view of the judgment dated 11.06.2026 passed by the Hon'ble High Court of Kerala in W.P.(C) No. 1914348 of 2026 concerning the said pleadings and documents, the additional objections, the documents produced therewith filed by the Respondent to the additional objections, reply, and rejoinder to the additional objections, were taken on record vide order dated 12.06.2026.

15. The Respondent, through IA(IBC)/185/KOB/2026, has raised additional objections contending, inter alia, that the Petitioner, being an Award Holder/Decree Holder, does not automatically become a Financial Creditor

under the Code, that the underlying bill discounting transaction does not constitute a Financial Debt under Section 5(8) of the Code and that the Petitioner has already pursued arbitration and execution proceedings, obtained substantial recoveries and is attempting to invoke the Code as a recovery mechanism, that the Corporate Debtor is a going concern and a listed company, that substantial amounts have already been paid pursuant to various judicial orders, and that documents relied upon from the arbitral proceedings indicate that the principal amounts stood discharged and that the surviving dispute substantially relates to interest calculations.

16. Subsequently, the Hon'ble High Court of Kerala, in W.P.(C) No. 19348 of 2026 dated 11.06.2026, passed orders concerning the said pleadings and documents. In view of the judgment of the Hon'ble High Court, the additional objections, the documents produced therewith, and the counter objections filed by the Respondent are taken on record. The reply filed by the Petitioner to the additional objections is already on record. The rejoinder filed by the Petitioner is also taken on record. Accordingly, all pleadings and documents placed by the parties have been considered for adjudication of the present Petition. This Adjudicating Authority is conscious that any point raised by the Respondent and parties before Arbitration about the alleged transaction cannot be reagitated in this section 7 petition, which refers to the nature of the loan, contractual obligation, and rights and liabilities of the parties under the said contract.

17. Before examining the issues for determination, this Adjudicating Authority considers it appropriate to set out the chronology of material events giving rise to the present proceedings. The sequence of events, as borne out from the records placed before this Tribunal, is summarised hereunder:

Sl. No.	Date	Event
1	27.12.2002	Bill Discounting Facility of Rs. 6 Crores sanctioned in favour of BPL Display Devices Ltd. (BDDL) with BPL Limited as Drawee.
2	11.06.2003	Additional Bill Discounting Facility of Rs. 6.5 Crores sanctioned.
3	2003–2004	Bills of Exchange matured, and payment obligations allegedly remained unpaid.
4	02.02.2007	The Corporate Debtor issued a letter acknowledging liability and sought time for repayment.
5	07.06.2007	Winding-up notice issued by the Petitioner under the Companies Act, 1956.
6	28.06.2007	Arbitration was invoked by the Petitioner for the recovery of dues.
7	26.06.2008	Company Petition for winding up filed before the Hon'ble High Court of Kerala.
8	06.01.2011	Winding-up proceedings closed, granting liberty to pursue remedies after arbitration.
9	2012–2013	Proceedings under Section 9 of the Arbitration and Conciliation Act, 1996, and subsequent challenges up to the Hon'ble Supreme Court.
10	14.12.2016	Arbitral Award passed substantially in favour of the Petitioner.
11	14.03.2017 / 10.03.2017	Section 34 petitions filed challenging the Award.
12	13.12.2018	Execution Petition No. 4621 of 2018 filed before Bengaluru Civil Court.
13	18.12.2018	Section 34 challenge partly allowed; Award otherwise upheld.
14	05.02.2019	Appeal under Section 37 filed by the Corporate Debtor.

15	19.07.2024	Section 37 Appeal dismissed by Delhi High Court.
16	18.11.2024	Review Petition dismissed.
17	03.12.2024	SLP filed before the Hon'ble Supreme Court.
18	11.12.2024	Supreme Court directed payment of Rs. 72 Crores to the Petitioner.
19	24.12.2024	Rs. 72 Crores paid by Corporate Debtor to the Petitioner.
20	12.09.2025	Supreme Court directed deposit of Rs. 96 Crores with Registry.
21	04.12.2025	Supreme Court dismissed Civil Appeal Nos. 14565-14566 of 2025 and upheld the Award.
22	04.12.2025	Rs. 96 Crores deposited before the Supreme Court directed to be released to the Petitioner.
23	05.12.2025	SEBI disclosure made by the Corporate Debtor regarding Supreme Court judgment and payment obligations.
24	16.03.2026	Present Section 7 Application filed.
25	Present Claim	Petition filed claiming Rs. 13,23,70,00,924/-.

18. This Adjudicating Authority has heard the learned counsels for both parties and has gone through the pleadings, documents on record, written submissions, and oral arguments made at the Bar, and the case laws cited on behalf of the rival parties. Accordingly, these points attract attention by this Adjudicating Authority for judicious adjudication of the present case are:

❖ what is the effect of the underlying transaction on the Arbitral Award.

❖ what is the nature of the transaction between the parties and whether it constitutes a financial debt under the Code

❖ whether the present application is within limitation

- ❖ whether this Adjudicating Authority is bound to admit an application under Section 7 of the Code upon existence of debt and default, ignoring all other facts and circumstances
- ❖ whether the provisions of the Code can be used as an arm twisting mechanism for recovery
- ❖ whether the benefit of Section 14 of the Limitation Act, 1963 is available to a litigant who, at the time of filing the application for insolvency under the Code, is enjoying the fruits of the litigation and pursuing execution proceedings and
- ❖ whether the Petitioner by filing execution proceedings to enforce the Arbitral Award, discontinued the continuous chain of cause of action arising from the original transaction for the purpose of claiming limitation on account of continuing cause of action or a fresh cause of action under the principles laid down in Dena Bank v. C. Shivakumar Reddy. Whether the courts adopted to pursue remedies available at different stages would have any bearing on the section 7 petition or not
- ❖ whether the amounts deposited pursuant to the orders of the Court constitute a valid acknowledgment of debt under Section 18 or Section 19 of the Limitation Act, 1963, in the facts and circumstances of the present case
- ❖ whether the present Petition is barred by the principle of res judicata on account of the earlier winding-up proceedings initiated against the Respondent under the provisions of the Companies Act, 1956
- ❖ whether the pendency of the Review Petition before the Hon'ble Supreme Court affects the maintainability of the present Section 7 application

19. The Corporate Debtor has raised a preliminary objection regarding the maintainability of the present Petition on the ground that the Petitioner is not a Financial Creditor and that the claim does not constitute a Financial Debt within the meaning of Sections 5(7) and 5(8) of the Code. The case of the Respondent is that the underlying transaction was merely a commercial bill discounting arrangement and not a loan transaction and, therefore, the Petitioner cannot invoke Section 7 of the Code. The Respondent has placed reliance upon the judgment dated 04.12.2025 passed by the Hon'ble Supreme Court in Civil Appeal Nos. 14565-14566 of 2025. On the other hand, the Petitioner has contended that the transaction squarely falls within Section 5(8)(e) and 5(8)(f) of the Code, which specifically includes receivables sold or discounted other than on a non-recourse basis. It is submitted that amounts were disbursed by the Petitioner against Bills of Exchange accepted by the Corporate Debtor and that the Corporate Debtor had undertaken liability to repay the discounted amounts together with interest.

20. This Adjudicating Authority notes that the Bill Discounting Facility Agreements dated 27.12.2002 and 11.06.2003 were admittedly executed between the parties. Section 5(8)(e)[1] and 5(8)(f)[2] of the Code specifically includes within the ambit of financial debt, "receivables sold or discounted other than any receivables sold on a non-recourse basis" and therefore, the legislature itself has recognised certain forms of receivable financing and discounting transactions as constituting financial debt. The transaction involved in the present case arises out of a bill discounting arrangement under

[1] 5(8) "financial debt" means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes—
(e) receivables sold or discounted other than any receivables sold on a non-recourse basis;
[2] 5(8) "financial debt" means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes—
(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;

which funds were advanced by the Petitioner against receivables represented through Bills of Exchange accepted by the Corporate Debtor and having commercial effect of borrowing. Thus, the transaction cannot be excluded from consideration merely because it is not a conventional loan. Further, Section 5(8)(f) of the Code includes within the definition of financial debt any amount raised under a transaction having the commercial effect of a borrowing. In the present case, funds were made available by the Petitioner under the bill discounting arrangement and the Corporate Debtor was under an obligation to repay the amounts due. Therefore, the transaction also has the commercial effect of borrowing and would fall within the ambit of Section 5(8)(f) of the Code.

21. This Adjudicating Authority also finds that the reliance placed by the Respondent on the observations of the Hon'ble Supreme Court in Civil Appeal Nos. 14565-14566 of 2025 is misplaced. Paragraphs 47 to 50 in Civil Appeal Nos. 14565-14566 of 2025 of Hon'ble Supreme Court reads as under:

> ***H. NATURE OF THE COMMERCIAL CONTRACT BETWEEN THE PARTIES***
>
> *47. As the entire debate revolves around clause 4 of the agreement providing for bill discounting facility, and more particularly, the rate of interest specified therein, we should try to understand the basic difference between a business loan and bill discounting. It is necessary to understand this difference to meet with the case put up by the appellant that interest at the rate of 36% with monthly rest is opposed to public policy and could be said to be unconscionable.*
>
> *48. The crucial difference is that a bill discounting facility is a short-term financing option where a business sells its unpaid invoices to a financial institution for immediate cash, while a business loan is a traditional debt obligation where the business receives a lump sum and is responsible for repaying it with interest. High interest rates are prescribed in a contract, relating to a bill discounting facility primarily due to the higher risk profile of the financing, its nature as a short-term unsecured funding source and the need for the financial institution to compensate for the associated costs and potential for non-payment.*

49. The higher rate is a trade-off for the business, which gains immediate liquidity and operational flexibility by paying a premium to offload the waiting period and associated payment risks to a financial institution. In other words, contracts relating to a bill discounting facility typically contain high rates of interest primarily due to the higher risk profile for the lender, the unsecured and short-term nature of the financing, and the quick and hassle-free access to cash it provides.

50. Keeping the fine distinction between a loan and a bill discounting facility in mind, the High Court did well to take the view that the provisions of the Usurious Loans Act, 1918 would not be applicable in the present case. The High Court said so because in the present litigation the commercial transaction was one relating to the bill discounting facility and not a loan. The Usurious Loans Act, 1918 would apply to a loan and not to transaction relating to bill discounting facility.

22. A reading of paragraphs 47 to 50 of the judgment shows that the Hon'ble Supreme Court has pleased to examine the distinction between a loan transaction and a bill discounting facility for the purpose of considering the applicability of the Usurious Loans Act, 1918. The Hon'ble Supreme Court has pleased to observe that bill discounting is a commercial financing arrangement through which immediate liquidity is made available by a financial institution against receivables and that such transactions carry a different commercial character from conventional loans. The observations of the Hon'ble Supreme Court were made in the context of examining the nature of a bill discounting transaction vis-à-vis a loan transaction while considering the applicability of the Usurious Loans Act, 1918. Since the said judgment does not contain any determination regarding the classification of a bill discounting transaction as a financial debt under Section 5(8) of the Code, the observations contained therein cannot be construed as conclusively deciding whether the present transaction falls within the ambit of financial debt under the Code.

23. The Arbitral Award merely quantified and crystallised the liability arising from the underlying transaction. The character of the debt does not stand altered merely because the liability has been adjudicated through arbitral proceedings.

The source of the claim continues to remain the bill discounting transactions entered into between the parties.

24. In the present case, the liability of the Corporate Debtor under the Bill Discounting Facility Agreements is no longer res integra. The same has been adjudicated through arbitral proceedings. The existence of liability arising from the underlying transaction, therefore, cannot be disputed. This Adjudicating Authority is satisfied that the claim of the Petitioner arises from transactions covered under Section 5(8) of the Code and that the Petitioner answers the description of a Financial Creditor under Section 5(7) of the Code. Prima facie, the transaction falls within the ambit of Section 5(8) of the Code, and the Petitioner can be treated as a Financial Creditor for the purpose of maintaining the present proceedings.

25. It is further contended on behalf of the respondent that the Section 7 Petition against the Respondent is not maintainable as no money was directly disbursed to the Respondent. This Adjudicating Authority has gone through the documents on record. The Respondent, under the commercial transaction documents, had admitted its joint and several liability along with BPL Display Devices Limited. Accordingly, arbitration proceedings were initiated against both the companies, and the Respondent was also a beneficiary of the said transaction. As such, the defence taken by the Respondent is not tenable.

26. The defence taken by the Respondent is that the Corporate Debtor is a listed company and, therefore, insolvency proceedings cannot be initiated against it. This Adjudicating Authority finds no merit in the said contention. The status of the debtor as a corporate entity is sufficient to attract the provisions of Sections 7, 9 and 10 of the Insolvency and Bankruptcy Code, 2016. Whether the company is listed or unlisted has no bearing on the right of a Financial Creditor to initiate

insolvency proceedings, provided the statutory requirements relating to debt, default, threshold amount and limitation are satisfied.

27. The pendency of the Review Petition filed by the Respondent before the Hon'ble Supreme Court has no bearing on the merits of the present case, as the said Review Petition was lying under defects on the date of filing of the present Section 7 Petition. Moreover, even after the filing of the Review Petition, no interim order has been passed by the Hon'ble Supreme Court. Therefore, the pendency of the Review Petition does not affect the maintainability of the present application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016.

28. Having held that the Petitioner is a Financial Creditor and that the claim arises from a Financial Debt, the next question that arises for consideration is whether the present application has been filed within the period of limitation prescribed under law.

29. The date of default stated by the Petitioner in Part IV in the petition is 14.06.2007. The present application has been filed only on 16.03.2026. Therefore, on the face of the record, the application has been filed nearly nineteen years after the date of default. A Financial Creditor can file a Section 7 within 3 years from the date of default or within further extended period of limitation is extendable due to acknowledgement of debt or by other measures as recognised by law.

30. The Petitioner contends that the application is saved by various circumstances, namely, acknowledgments allegedly made by the Corporate Debtor, part-payments made towards the debt, exclusion of time under Section 14 of the Limitation Act, 1963, and, most importantly, the Arbitral Award dated 14.12.2016, which was ultimately affirmed in Civil Appeal no. 14565 - 14566 of 2025 by the Hon'ble Supreme Court on 04.12.2025. According to the Petitioner,

the Award furnished a fresh cause of action in terms of the judgment of the Hon'ble Supreme Court in Dena Bank v. C. Shivakumar Reddy, (2021) ibclaw.in 69 SC and therefore limitation must be reckoned from the date on which the Award attained finality.

31. At the outset, it is necessary to note that the Petitioner itself has unequivocally stated the date of default as 14.06.2007 in Form-1. It is settled law that limitation for an application under Section 7 of the Code is governed by Article 137 of the Limitation Act, 1963. Therefore, unless the Petitioner is able to demonstrate a legally sustainable ground for extension, exclusion or fresh commencement of limitation, the present application would prima facie be barred by time.

32. The Petitioner has placed reliance upon the acknowledgment letter dated 02.02.2007, certain subsequent SEBI disclosures made by the Corporate Debtor and the arbitral proceedings with Award dated 14.12.2016.

33. This Adjudicating Authority is of the considered view that the Award dated 14.12.2016, which has subsequently been affirmed in appellate proceedings, constitutes a relevant factor that cannot be completely ignored while examining the question of limitation. The judgment of the Hon’ble Supreme Court in Dena Bank recognises that a judgment, decree or recovery certificate may furnish a fresh cause of action for initiation of proceedings under the Code.

34. The Petitioner seeks to rely upon the Arbitral Award and simultaneously invokes Section 14 of the Limitation Act, 1963. The pleadings in Part V, page 44 in the petition are reproduced below:

> *C. Exclusion of Time under Section 14 of the Limitation Act*
>
> *Without prejudice to the above, Section 14 of the Limitation Act provides for exclusion of time spent in bona fide prosecution of civil proceedings, prosecuted with due diligence and in good faith.*

In the present case, upon default, the Financial Creditor invoked arbitration on 28.06.2007. The matter was adjudicated by the Learned Arbitral Adjudicating Authority, culminating in an Award dated 18.12.2016. Thereafter, the Corporate Debtor initiated proceedings under Section 34 and subsequently Section 37 before the Hon'ble Delhi High Court, followed by proceedings before the Hon'ble Supreme Court. The Award attained finality only upon dismissal of the Special Leave Petition on 04.12.2025. Throughout this period, the Financial Creditor was continuously and diligently prosecuting its remedies before competent judicial forums. The debt remained sub judice and was being adjudicated. The time consumed in these proceedings, which were bona fide and directly concerned the same cause of action, is liable to be excluded in computing limitation.

35. Section 14 of the Limitation Act, 1963 is founded on the principle that a litigant who has prosecuted a proceeding with due diligence before a forum which ultimately could not entertain the matter on account of a defect of jurisdiction or other cause of a like nature should not suffer on account of the time spent in such proceedings. The benefit of Section 14 of the Limitation Act, 1963 is therefore available where a party has approached an inappropriate forum in good faith and the proceeding fails for reasons relating to maintainability or jurisdiction.

36. When this Adjudicating Authority noticed an apparent inconsistency in the stand taken by the Petitioner, namely, that on the one hand it was relying upon the Arbitral Award and its subsequent affirmation as furnishing a fresh cause of action, while on the other hand seeking exclusion of the period spent in the arbitral proceedings under Section 14 of the Limitation Act, 1963, clarification was sought regarding the submissions made in the pleadings and about the date of default. It is also noted that the proceedings of the hearing held on 27.04.2026, as recorded in the daily order, are as follows: -

Counsel for the Petitioner submitted that he intends to continue with the pleadings as made in this Petition before the Adjudicating Authority.

Both parties argued at length.

Oral hearing is concluded in this matter.

Parties are directed to file their written submissions along with the case laws, if any, they wish to rely upon, within 2 days.

In case parties fail to file their written submissions, this Adjudicating Authority will pass appropriate orders on the basis of materials available on record.

37. It is pertinent to note that, when the apparent contradiction in the Petitioner's pleadings was specifically brought to its notice by this Adjudicating Authority, including the inconsistency between the reliance placed on the Arbitral Award as furnishing a fresh cause of action and the date of default disclosed in the Petition as 14.06.2007, the Petitioner expressly stated during the hearing held on 27.04.2026 that the Petitioner intended to continue with the pleadings as filed. It is further noticed that, during the course of oral hearing, specific queries were raised by this Adjudicating Authority regarding the maintainability of the plea under Section 14 of the Limitation Act, 1963 and its apparent inconsistency with the Petitioner's reliance on the Arbitral Award and the date of default stated in the Petition. Despite such queries, the Petitioner neither sought to amend its pleadings nor chose to abandon or modify any of the stands taken therein. Rather, the Petitioner consciously elected to proceed on the basis of the Petition as originally presented. The Petitioner thus maintained its stand that limitation should be computed with reference to the date of default of 14.06.2007, while simultaneously seeking exclusion of the period spent in the arbitral proceedings under Section 14 of the Limitation Act, 1963 and also relying upon the Arbitral Award and its subsequent affirmation up to the Hon'ble Supreme Court as furnishing a fresh cause of action. In these circumstances, the contradictory stands taken by the Petitioner cannot be ignored and are liable to be examined on their own merits. The pleadings must be clear and without any ambiguity. A person cannot be allowed to take inconsistent pleas. Individual separate pleas under section 14 of the Limitation Act and individual exclusive reliance upon finalisation of the cause of action on

account of Arbitral proceedings are permissible but simultaneously reliance upon both aspects are not permissible.

38. It is alleged on behalf of the Respondent that the present Petition is barred by the principle of res judicata, as the Petitioner had filed winding-up proceedings under Section 433(e) of the Companies Act, 1956. Having considered the submissions, this Adjudicating Authority is of the considered opinion that those proceedings would not constitute res judicata because the decision therein was not on the merits, and liberty was granted to the Petitioner under the said provision to approach the Court again after the arbitration proceedings was over.

39. In the present case, the Petitioner itself admits that after the alleged default, it consciously invoked the arbitration clause contained in the Bill Discounting Facility Agreements. The arbitral proceedings so initiated were the appropriate proceedings to the case and remedy attributable to the petitioner. On the contrary, they resulted in an Award substantially in favour of the Petitioner. The said Award was defended by the Petitioner before the Hon’ble High Court and ultimately before the Hon'ble Supreme Court. The Petitioner has consistently relied upon the Award as a valid adjudication of its rights and has also sought to be a fresh cause of action from the Award by placing reliance upon the judgment of the Hon’ble Supreme Court in Dena Bank. In this regard, the Hon'ble Kerala High Court in *P.T. Babu v. Vijaya Bank and Ors.* (2025) ibclaw.in 3490 HC, observed that

> ***15.*** *In the case on hand, the controversy arises only with reference to condition No. (3) above. From the plain language of Section 14, it is manifest that, to claim the benefit of exclusion of time, it must be established that the court which declined to entertain the earlier proceeding was unable to do so by reason of a* ***defect of jurisdiction or other cause of a like nature****. The provision attracts only when a party bona fide chooses a wrong forum and then diligently prosecutes it. The provision contemplates a situation where, the litigant, acting in good faith, had instituted a proceeding before a forum*

which, in law, lacked jurisdiction to entertain the matter, or for some cause of like nature the forum is unable to adjudicate the cause. When a court, which in fact has jurisdiction, refuses to entertain the proceeding holding that it lacks jurisdiction, it is only an erroneous order.

16. *Resultantly, Section 14 does not extend to a case where the court, which possesses jurisdiction, erroneously declines to entertain the proceeding on a mistaken perception or wrong application of legal principles. In such a situation, the remedy available to the aggrieved party lies elsewhere by way of a challenge before the higher forum or seeking correction of that erroneous order by the same forum and not by instituting a successive proceeding of the same nature before the very same forum. In such a case, resort cannot be made to Section 14. To permit such recourse would defeat the legislative intent of the provision and obliterate the distinction between lack of jurisdiction and erroneous exercise of jurisdiction. In* ***Bakhtawar Singh v. Sada Kaur*** *(supra) it is held as follows:*

> *"As regards the exclusion of time under S.14 of the Limitation Act it was essential for its application to show that the proceedings related to the same matter in issue and the plaintiff prosecuted the suit in good faith in a court which, from defect of jurisdiction or other cause of like nature is unable to entertain it. As discussed above the plaintiffs / appellants have miserably failed to show as to what was the defect of jurisdiction or any other cause of like nature by reasons of which the earlier suit was not entertainable or competent. That being so, the benefit of the provisions of S.14 cannot be legitimately extended to the suit of the plaintiffs. In these facts and circumstances the plaintiffs suit has rightly been dismissed as barred by limitation."*

Similar view was expressed in ***Rajarethna Naikkan v. Parameswara Kurup*** *(1997 (1) KLT 777).*

40. Therefore, Section 14 does not extend to cases where the earlier proceedings were entertained by a competent forum and culminated in adjudication. In the present case date of default as disclosed is 14.06.2007, and the Applicant has consciously opted for such date of default to make its case in synchronisation with its pleadings about the exemption claimed under Section 14 of the Limitation Act. If Applicant had intentions to avail the benefit of finalization of Arbitral proceedings after the decision of the Hon'ble Supreme Court, Applicant would have mentioned the date of default after December 2025, i.e., after the date of the order of the Hon'ble Supreme Court. A party can file an application

under Section 7 within three years from the date of default, and this period can be enlarged if there exists any acknowledgement of debt.

41. Once such a stand is taken, it becomes difficult to simultaneously contend that the period spent in arbitration proceedings and the subsequent challenges thereto should be excluded under Section 14 of the Limitation Act, 1963. The arbitration proceedings were not proceedings before a forum lacking jurisdiction. On the contrary, the proceedings resulted in a binding adjudication, which the Petitioner now seeks to rely upon as the very foundation of the present application. The simultaneous invocation of Section 14 of the Limitation Act and reliance upon the Arbitral Award as furnishing a fresh cause of action are, in the facts of the present case, antithetical to each other.

42. This Adjudicating Authority also notices that, upon the occurrence of the alleged default in 2007, the Petitioner had multiple remedies available under law, including:

    (i) institution of appropriate civil proceedings for recovery of the alleged dues;
    (ii) invocation of the arbitration clause contained in the Bill Discounting Facility Agreements;
    (iii) initiation of winding-up proceedings under the provisions of the Companies Act, 1956;

43. The Petitioner consciously selected to invoke arbitration by issuing a Notice of Arbitration on 28.06.2007. Simultaneously, the Petitioner also initiated winding-up proceedings by filing Company Petition No. 28 of 2008 before the Hon'ble High Court of Kerala. By order dated 06.01.2011, the Hon'ble High Court of Kerala noticed that the very debt forming the subject matter of the

winding-up petition was already pending adjudication before the Arbitrator. Taking note of the pendency of the arbitral proceedings, the Hon'ble High Court declined to proceed with the winding-up petition at that stage and closed the same, while expressly reserving liberty to the Petitioner to approach the Court again after the arbitration proceedings are over, if the debt was quantified and remained unpaid.

44. Thereafter, the arbitral proceedings culminated in an Award dated 14.12.2016, substantially in favour of the Petitioner. The Award was subsequently challenged before the Hon'ble High Court of Delhi under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996, and was ultimately affirmed by the Hon'ble Supreme Court. Significantly, even during the pendency of the appellate proceedings, the Petitioner selected to enforce the Award by initiating Execution Petition No. 4621 of 2018 before the City Civil Court, Bengaluru, on 13.12.2018, thereby treating the Award as an executable adjudication of its rights.

45. The payment made pursuant to the Court's directions cannot be considered as an acknowledgment of debt under Section 18 of the Limitation Act, as the said deposits lack voluntariness, and the Applicant has failed to place on record any accompanying admission in writing allegedly made along with such deposit so as to satisfy the requirements of Section 19 of the Limitation Act. Therefore, the defence so taken is liable to be ignored.

46. Accordingly, the application is barred by limitation from the date of default, as by filing the execution application before the Civil Court, the Applicant broke the chain of continuity. Subsequently, the deposits made before the Court would not come within the ambit of Sections 18 or 19 of the Limitation Act. The benefit of the law laid down by the Hon'ble Supreme Court in the Dena Bank case would not be available to the Applicant to claim limitation on the basis of

a continuous cause of action from the initiation till the finalisation of the arbitral proceedings. By its own acts and conduct, the Applicant diverted the course by filing the execution application. To claim such benefit, the Applicant would have pursued the arbitral proceedings in one course and was required to mention the date of default after the finalisation of the arbitral proceedings. So, in a nutshell, this Adjudicating Authority is inclined to hold that the Section 7 Petition filed by the Applicant is barred by limitation.

47. The significance of these facts is that the Petitioner was never prevented from pursuing its remedies. On the contrary, the Petitioner consciously chose arbitration as its primary remedy, pursued the arbitral proceedings to their conclusion, successfully defended the Award before the appellate forums, and thereafter invoked the execution jurisdiction for recovery of the awarded amounts. The time consumed in arbitration, appellate proceedings, and execution proceedings was therefore the consequence of the remedies consciously elected and pursued by the Petitioner and not because it was bona fide prosecuting proceedings before a forum lacking jurisdiction. Consequently, the requirements for the invocation of Section 14 of the Limitation Act, 1963, do not appear to be satisfied.

48. There can be no dispute with the proposition in Dena Bank v. C. Shivakumar Reddy that an adjudicated liability may furnish a fresh cause of action. Thus, the conduct of the Petitioner shows that the Award has been treated as an executable decree and that the Petitioner has been actively pursuing recovery thereunder. The present proceedings under Section 7 have been initiated only after prolonged execution proceedings and after the award has been affirmed by the Hon'ble Supreme Court. The question that therefore arises is whether the insolvency process can now be invoked as an additional mechanism for recovery of the same adjudicated claim.

49. It is also significant that, upon obtaining the Arbitral Award, the Petitioner had two remedies available in law, namely,

    (i) to enforce the Award through execution proceedings

    (ii) to invoke the provisions of the IBC, 2016 at the relevant time as by that time, IBC was duly enacted, replacing the winding up provision combining the Companies Act 1956, and the Companies Act 2013 in terms of the liberty granted by the Hon'ble High Court in winding up proceedings.

50. The Petitioner consciously elected to pursue execution proceedings and continued with the same for several years. Having chosen the execution route and having obtained attachment orders and substantial recoveries thereunder, the Petitioner treated the Award as an executable decree and pursued enforcement of the adjudicated claim through the machinery of the Civil Court. Even though there is no material on record that the petitioner has withdrawn those arbitration proceedings before taking the defence of Section 14 of the Limitation Act, in the considered view of this Adjudicating Authority, once the Petitioner consciously chose to enforce the Award through execution proceedings, the continuous cause of action arising from the original debt stood broken and merged into the adjudicated Award, which thereafter became the basis of its recovery efforts. The conduct of the Petitioner unmistakably demonstrates that the primary objective was the enforcement and recovery of the adjudicated claim. Having selected to pursue execution and having actively availed the recovery machinery of the Civil Court, the Petitioner cannot now seek to invoke the insolvency jurisdiction as an additional or parallel mechanism for recovery of the balance amount claimed under the Award. Such a course would be contrary to the settled principle that the Code is not intended to serve as a substitute for execution proceedings or as a debt recovery forum.

51. It is also relevant to note that Annexure A1 produced along with IA(IBC)/185/KOB/2026 in CP(IBC)/10/KOB/2026, contains the evidence adduced before the learned Sole Arbitrator wherein an admission has been made that the principal amount due under the bill discounting transactions has already been paid, which reads as follows:

BEFORE JUSTICE MS. USHA MEHRA (RETD.)
SOLE ARBITRATOR

IN THE MATTER OF ARBITRATION:-

BETWEEN:

M/s Morgan Securities & Credits Pvt. Ltd. ....Petitioner /Claimant

Versus

M/s BPL Display Devices Ltd. and Ors. ...... Respondents

FURTHER CROSS-EXAMINATION OF MR. P.K.GUPTA, CW-1 BY MR. SUBRAT BIRLA, COUNSEL FOR RESPONDENT NO.2.

Q.52 Please look to the Chart filed by you on 11.05.2012 marked Ex. CW1/R-3. Is it correct that BPL Display Devices has paid principal amounts under the following Hundies ? NOI/056, NOI/055, NOI/054, NOI/086, NOI/087, PKD/031, PKD/030, PKD/029, PKD/028, PKD/027, PKD/026, PKD/025, PKD/024, PKD/023, PKD/022, PKD/021, PKD/034, PKD/033, PKD/032, PKD/035, OMR/028, OMR/029, OMR/030, NOI/089, OMR/031, OMR/032, OMR/033 and OMR/035.

A. It is not correct. Because if principal amount is fully paid and not the interest part of it, we don't call it fully paid. As per chart, original principal amounts due had been fully paid wherever it is so mentioned in the chart.

Q.53 Is it correct that BPL Display Devices has paid the principal amounts of Hundies under Sanction letter dated, 11.06.2003 i.e. Hundi No.OMR/03 and OMR/22 ?

A. Original principal amount of Hundies was fully paid by the respondent but not the interest component of it.

52. This Adjudicating Authority, by reproducing the above portion of the cross-examination, is not giving any finding on the quantum of the principal amount.

The same has been referred to only for the limited purpose of bringing the relevant facts on record. The Respondent has produced the said document along with its additional reply, and the Petitioner has failed to dispute its genuineness or authenticity. Though the Petitioner, being the award-holder, may be entitled to recover the amount in terms of the Arbitral Award, it is a matter of record that the amount originally claimed in the Arbitration Notice dated 28.06.2007 was Rs.25,79,91,096/- (Rupees Twenty-Five Crores Seventy-Nine Lakhs Ninety-One Thousand and Ninety-Six only), where, in the present Section 7 Petition, the Petitioner claims a total amount of Rs.13,23,70,00,924/- (Rupees One Thousand Three Hundred Twenty-Three Crores Seventy Lakhs Nine Hundred and Twenty-Four only) on the basis of the said Arbitral Award.

53. The Respondent has specifically relied upon the above evidence to contend that the principal amounts covered under the bill discounting transactions had already been discharged and that the surviving claim substantially relates to interest and consequential amounts. A perusal of the testimony extracted above shows that the witness examined on behalf of the Petitioner admitted that, in respect of the hundies referred to therein, the original principal amounts had been fully paid and that the dispute persisted only on account of the interest component. While this Adjudicating Authority is not called upon to adjudicate the correctness of the quantum claimed under the Award, the aforesaid admission assumes relevance while examining the nature of the present proceedings and the contention of the Respondent that substantial recoveries have already been effected and that the present petition is essentially directed towards recovery of the balance amounts claimed under the Award.

54. The materials on record further disclose that, during the course of the proceedings arising from the Arbitral Award dated 14.12.2016, including the

proceedings before the Hon'ble High Court of Delhi and the proceedings before the Hon'ble Supreme Court in SLP (C) Diary No. 56596 of 2024, subsequently registered as SLP (C) Nos. 32849-32850 of 2025 and culminating in Civil Appeal Nos. 14565-14566 of 2025, substantial amounts were realised by the Financial Creditor. These included a payment of Rs.72 Crores made directly by the Corporate Debtor and the subsequent release of Rs.96 Crores, along with interest, from the amounts deposited before the Hon'ble Supreme Court pursuant to its orders. Thus, a total sum of Rs. 168 Crores has already been recovered against the amount for Rs. 25,79,91,096/-, for which the arbitration proceedings were originally initiated.

55. The above facts assume considerable significance. There is no other transaction between the parties. As far as the amount due and recoverable is concerned, that has already been crystallised in the Award. The materials placed on record indicate that the principal amounts under several of the bill discounting transactions stood discharged. It is also a matter of record that the aggregate Bill Discounting Facilities originally sanctioned in favour of the Corporate Debtor were Rs.6 Crores on 27.12.2002 and Rs.6.5 Crores on 11.06.2003, aggregating to Rs.12.5 Crores. The materials placed on record, particularly those relied upon by the Respondent in IA(IBC)/185/KOB/2026, indicate that the principal amounts under several of the bill discounting transactions had already been discharged. It is also not in dispute that the Petitioner has received Rs.72 Crores from the Corporate Debtor and a further sum of Rs.96 Crores, together with accrued interest, pursuant to the orders of the Hon'ble Supreme Court. The execution proceedings instituted by the Petitioner continue to remain pending and attachment orders have also been obtained. These circumstances lend support to the contention of the Respondent that the Petitioner has already realised amounts far in excess of the original financial

accommodation extended under the Bill Discounting Facility Agreements and that the surviving dispute substantially relates to the balance amounts claimed under the Award, including interest and consequential accruals.

56. This aspect assumes significance because the jurisdiction under Section 7 of the Code is not intended to function as an alternative forum for enforcement of decrees, awards or recovery certificates. The object of the Code is resolution of insolvency and revival of a corporate person in financial distress. The Code is not intended to be invoked merely because a creditor has been unable to realise the entire amount claimed under an adjudicated award. The argument advanced by the Learned Counsel for the Petitioner regarding the diversion of funds by the Respondent Corporate Debtor to other sister concerns does not constitute a valid ground for initiating the insolvency resolution process in the facts and circumstances of the present case

57. The Hon'ble Supreme Court has repeatedly emphasised that the provisions of the Code cannot be permitted to be used as a substitute for recovery proceedings. The Hon'ble Supreme in Anjani Technoplast Ltd. v. Shubh Gautam (2026) ibclaw.in 209 SC, the Hon'ble Supreme Court held that,

> ***18.*** *The central question before us is not whether the respondent is owed money by the appellant. That may well be the case. The question is whether, in the facts and circumstances of this case, the initiation and continuation of the Corporate Insolvency Resolution Process under the IBC is justified and whether the respondent can seamlessly resort to the insolvency process as a substitute for the execution of a Civil Court decree. In other words, an alternative execution process is a recovery mechanism.*
>
> ***19.*** *The legislative object of the IBC is well settled and requires no extended elaboration. The Code was enacted to provide for the reorganisation and insolvency resolution of corporate persons in a time-bound manner for the maximisation of the value of assets. It is not a debt recovery legislation. This Court has held so in clear and express terms on more than one occasion. In* ***Swiss Ribbons (P) Ltd. v. Union of India [(2019) ibclaw.in 03 SC]***[4]*, while upholding the constitutional validity of the IBC, this Court explained the nature and object of the Code in paragraph 28 as follows:*

"28. It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors. The interests of the corporate debtor have, therefore, been bifurcated and separated from that of its promoters/those who are in management..."

The above referred passage identifies the essential character of the IBC, whose purpose is the rescue and revival of the corporate debtor as a going concern. It is not a proceeding for the benefit of individual creditors seeking to recover their dues. The moratorium under Section 14 operates in the interest of the corporate debtor itself. The resolution process is not intended to be adversarial toward the corporate debtor but rather to be protective of its interests.

***20.** The same principle was affirmed by this Court in **Pioneer Urban Land and Infrastructure Ltd. v. Union of India [(2019) ibclaw.in 13 SC]**[5], where a three-Judge bench made it clear that the IBC is not a forum for individual creditors to realise their dues through the back door of insolvency. The moment a Section 7 petition is admitted, the process moves entirely beyond the control of the petitioning creditor and operates for the collective benefit of all stakeholders. The insolvency mechanism cannot, therefore, be pressed into service as a substitute for ordinary execution or recovery proceedings.*

***21.** In another instance, a three-Judge Bench of this Court in **GLAS Trust Co. LLC v. BYJU Raveendran [(2024) ibclaw.in 275 SC]**[6], consolidated the position in paragraph 39.3 in the following terms:*

"39.3. IBC must not be used as a tool for coercion and debt recovery by individual creditors. Improper use of the IBC mechanism by a creditor includes using insolvency as a substitute for debt enforcement or attempting to obtain preferential payments by coercing the debtor using insolvency proceedings. That the mechanism under the IBC must not be used as a money recovery mechanism has been reiterated in a consistent line of precedent by this Court."

This statement of the law is directly applicable to the present case. The respondent, holding a final decree and having the full machinery of civil execution at his disposal, chose instead to invoke the insolvency jurisdiction. Such conduct is precisely what this Court in GLAS Trust (supra) has characterised as an improper use of the IBC using insolvency as a substitute for debt enforcement and as a means of coercing the corporate debtor into payment.

***22.** This Court had occasion to state the same principle with equal clarity in **Tottempudi Salalith v. State Bank of India [(2023) ibclaw.in 123 SC]**[7], while dealing with the interplay between proceedings before the Debt Recovery Adjudicating Authority and the initiation of CIRP under the IBC, held as follows:*

"21. IBC itself is not really a debt recovery mechanism but a mechanism for revival of a company fallen in debt, but the procedure envisaged in IBC substantially relates to ensuring recovery of debts in the process of applying such mechanism. The question of election between the fora for enforcement of debt under the 1993 Act and initiation of CIRP under IBC arises only after a recovery certificate is issued. The reliefs under the two statutes are different and once CIRP results in declaration of moratorium, the enforcement mechanism under the 1993 Act or the SARFAESI Act gets suspended. In such circumstances, after issue of recovery certificate, the financial creditor ought to have option for enforcing recovery through a new forum instead of sticking on to the mechanism through which recovery certificate was issued."

(emphasis supplied)

***23.** The distinction drawn above by this Court is important and bears emphasis. While the IBC incidentally results in the satisfaction of creditors' claims, that consequence is a byproduct of the resolution process and not its primary object. The object is the revival of the corporate debtor as a going concern. It follows that a creditor who approaches the NCLT not with any genuine concern for the resolution of the corporate debtor but purely to secure payment of his individual dues is acting contrary to the purpose and spirit of the Code. The existence of adequate and efficacious alternative remedies makes such misuse all the more apparent.*

***24.** Lastly, Section 65 of the IBC provides that if any person initiates the insolvency resolution process fraudulently or with malicious intent for any purpose other than the resolution of insolvency, the Adjudicating Authority may impose a penalty. The presence of this provision in the statute itself underscores the legislative intent that the IBC is not to be misused as a tool for recovery or as a lever to coerce payment.*

58. In the present case, the conduct of the Petitioner assumes relevance. After obtaining the Award, the Petitioner choose to pursue execution proceedings and has continued with the same. The Award has thus been treated by the Petitioner as an executable adjudication capable of enforcement through the ordinary process of law. Having chosen to pursue execution and having already recovered substantial amounts pursuant to orders passed in the arbitral and appellate proceedings, the Petitioner now seeks initiation of CIRP against the Corporate Debtor for recovery of the balance amount claimed under the Award.

59. This Adjudicating Authority is of the considered view that once the Petitioner has elected to treat the Arbitral Award as the basis of its recovery and has

invoked the execution jurisdiction for enforcement thereof, the insolvency process cannot ordinarily be resorted to as an additional mechanism for recovery of the amounts claimed under the Award.

60. The effect of the facts noticed above leads this Adjudicating Authority to the conclusion that the present proceedings bear the characteristics of an attempt to enforce and recover amounts under an adjudicated Award rather than a genuine invocation of the insolvency resolution process contemplated under the Code. The existence of a debt and an adjudicated liability cannot by themselves justify admission of a petition under Section 7 when the overall facts demonstrate that the insolvency jurisdiction is being invoked primarily as a recovery mechanism after pursuing arbitration, appellate remedies and execution proceedings over an extended period of time.

61. The cumulative effect of the facts noticed above leads this Adjudicating Authority to the conclusion that the present proceedings bear the characteristics of an attempt to enforce and recover amounts under an adjudicated Award rather than a genuine invocation of the insolvency resolution process contemplated under the Code.

62. This Adjudicating Authority notes that upon the occurrence of the alleged default in the year 2007, the Petitioner consciously invoked arbitration under the Bill Discounting Facility Agreements and pursued the arbitral proceedings to their conclusion, resulting in an Award in its favour. The Petitioner thereafter successfully defended the Award before the appellate forums and ultimately before the Hon'ble Supreme Court. Following the Award, the Petitioner initiated execution proceedings, which continue to remain pending, and has also recovered substantial amounts during the course of the proceedings. The materials placed on record further indicate that, in respect of several transactions, the principal amounts had already been discharged and that the

surviving dispute substantially relates to the claim for contractual interest and consequential amounts.

63. In these circumstances, the Petitioner cannot simultaneously rely upon the Award as a valid and binding adjudication giving rise to a fresh cause of action while also seeking exclusion of the period spent in the arbitral proceedings under Section 14 of the Limitation Act. Having elected to pursue arbitration, defended the Award up to the Hon'ble Supreme Court and invoked execution proceedings for its enforcement, the Petitioner has consistently treated the Award as the basis of its recovery. The scope of the Insolvency and Bankruptcy Code, 2016 is confined to the resolution of insolvency of a corporate person and not to provide an additional forum for enforcement of awards, decrees or recovery of money claims. The Code is intended to address genuine cases of insolvency and facilitate revival of the Corporate Debtor as a going concern in a time-bound manner. It is not within the scope of the Code to function as a substitute for execution proceedings or as a parallel recovery mechanism after a creditor has already pursued adjudicatory and execution remedies under ordinary law. Permitting such a course would amount to expanding the scope of the Code beyond its legislative intent and converting the insolvency process into a recovery forum, which is impermissible in law.

64. Considering the facts and circumstances of the present case, this Adjudicating Authority is of the view that the present proceedings are essentially an attempt to recover the balance amount claimed under the Award after having pursued arbitration, appellate proceedings and execution remedies for several years. Such use of the insolvency process is not in consonance with the object and scheme of the Code.

65. Accordingly, this Adjudicating Authority is of the considered opinion that the present Company Petition does not warrant admission under Section 7 of the Code and is liable to be dismissed.

66. No observation in this order will have any bearing on the respective rights and liabilities of the parties under the arbitration award. The above discussions has been made with reference to the adjudication of this Section 7 petition.

67. In view of the above, **CP(IBC)/10/KOB/2026** is, therefore, **dismissed** and disposed of accordingly, with no order as to costs.

68. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.

69. 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.

70. Let the Certified Copy of this order be issued, if applied for, upon compliance with all requisite formalities.

Sd /-	**Sd /-**
RAVICHANDRAN RAMASAMY	**VINAY GOEL**
(MEMBER TECHNICAL)	**(MEMBER JUDICIAL)**

Signed on this the 7th day of July 2026.

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