May 8, 2026

To,
National Stock Exchange of India Limited
Listing Department,
Exchange Plaza, Bandra Kurla Complex,
Bandra East, Mumbai – 400 051
Fax Nos.: 26598237 / 26598238

To,
BSE Limited
Listing Department,
Phiroze Jeejeebhoy Towers, Dalal Street,
Mumbai – 400 001
Fax Nos.: 22723121/2037/2039

Ref: Scrip Code: BSE: 532748 / NSE: PFOCUS

Re: Disclosure under Regulation 30 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, as amended ("LODR Regulations")

Sub: Update on Orders of NCLT and NCLAT

Dear Sir/Madam,

This is in continuation of our disclosures dated May 7, 2026 and May 8, 2026, wherein the Company had informed the Exchanges regarding:

(i) **NCLT Oral Order:** The oral pronouncement dated 6th May 2026 by the Hon'ble National Company Law Tribunal ("**NCLT**"), Mumbai Bench, in CP (IB)/845/MB/2023, admitting a petition filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") against Prime Focus Limited ("**Company**"); and

(ii) **NCLAT Directions:** The interim direction dated 8th May 2026 of the Hon'ble National Company Law Appellate Tribunal ("**NCLAT**") in Company Appeal (AT) (Ins.) No. 850 of 2026 filed by one of the Company's directors, directing that **till the next date of hearing, that is, Monday, 11.05.2026, the Interim Resolution Professional ("IRP") shall not take any further steps in pursuance of the impugned NCLT order**.

Further, as per the NCLT order (a) NPV Insolvency Professionals Private Limited (formerly Mantrah Insolvency Professional Private Limited), IBBI Registration No. IBBI/IPE-0040/IPA-2/2022-23/50021 has been appointed as IRP, (b) amount of default is Rs. 353,79,74,505/- (approximately Rs. 353.79 crores, inclusive of interest on principal amount of Rs. 200 crores).

PRIME FOCUS LIMITED

022 2648 4900
022 2646 5500
INFO@PRIMEFOCUS.COM
WWW.PRIMEFOCUS.COM

REGISTERED ADDRESS:
PRIME FOCUS HOUSE, LINKING ROAD,
KHAR (W), MUMBAI 400052, INDIA

CIN NUMBER: L92100MH1997PLC108981

The orders of both the NCLT (dated 6th May 2026) and the NCLAT (dated 8th May 2026) are now available and are enclosed herewith as **Annexure 1** and **Annexure 2**.

Thanking you,

For Prime Focus Limited

PARINA NIRAV SHAH

Digitally signed by PARINA NIRAV SHAH
Date: 2026.05.08 20:48:15 +05'30'

Parina Shah
Company Secretary and Compliance Officer

PRIME FOCUS LIMITED

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Annexure 1

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT VI

Item No. P1&P2

IA (I.B.C)/5178(MB)2023 a/w

C.P. (IB)/845(MB)2023

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **06.05.2026**

NAME OF THE PARTIES**:** **Reliance Alpha Services Private Limited**

V/s

Prime Focus Limited

Under Section 7 and 60(5) of the IBC.

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, *vide* separate order. Detailed order is being uploaded on the NCLT portal today.

Sd/-

NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL,
BENCH – VI, MUMBAI

CP(IB)/845/MB/2023 with IA 5178/MB/2023

(An Application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

*In the matter of **M/s. Prime Focus Limited***

M/s Reliance Alpha Services Private Limited

Having its registered office at
Manek Mahal, 6th Floor
90 Veer Nariman Road
Mumbai - 400 020

… Applicant/Financial Creditor

VERSUS

M/s. Prime Focus Limited

Having Its Registered Office at
Prime Focus House, Opposite Citi Bank
Linking Road, Khar (West)
Mumbai – 400052

Corporate Office

At True North, Plot No. 63, Road No. 13
Opposite Hotel Tunga Paradise
MIDC, Andheri (East)
Mumbai – 400093

…Respondent/Corporate Debtor

Order pronounced on 06.05.2026

CORAM:

SH. NILESH SHARMA, HON'BLE MEMBER (JUDICIAL)

SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)

Appearance (*Hybrid Mode*):

In CP

For Financial Creditor: Adv. Mr. Rohit Gupta a/w Adv. Mr. Ayaan Zariwalla & Adv. Ms. Bhakti Chandan.

For Corporate Debtor: Adv. Mr. Tushar Hathiramani a/w Adv. Mr. Kale, Adv. Ms. Shalvika Nachankar, Adv. Ms. Aditya Ojha, Adv. Ms. Meenakshi Krishna i/b Naik Naik & Co.

In IA

For Applicant/Corporate Debtor: Sr. Adv. Gaurav Joshi a/w Adv. Tushar Hathiramani, Adv. Abhishek Kale a/w. Adv. Shalvika Nachankar, Adv. Aditya Ojha, Adv. Meenakshi Krishna i/b Naik Naik & Co.

For Respondent/Financial Creditor: Adv. Rohit Gupta a/w Adv. Ayaan Zariwalla & Adv. Bhakti Chandan.

O R D E R

PER: BENCH

1. This is an Application filed by Reliance Alpha Services Private Limited (hereinafter referred to as **"Financial Creditor"**) against M/s. Prime Focus Limited (hereinafter referred to as **"Corporate Debtor"**) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), seeking to initiate the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor, to appoint IRP and to initiate moratorium.

2. From Part I of the Application, it is seen that this is an Application filed by Reliance Alpha Services Private Limited, a company incorporated under the

Company's Act having CIN No. U67120MH1993PTC218678 and Registered Office at Manek Mahal, 6th Floor, 90 Veer Nariman Road, Mumbai – 400020.

3. The Application was affirmed by Mr. Ganesh Atmaram Pawde duly authorised by a Board Resolution dated 19.07.2023.

4. The Respondent in the present Application is one Prime Focus Limited having CIN No. L92100MH1997PLC108981. The Respondent was incorporated on 24.06.1997 and Registered Office at Prime Focus House, Opposite Citi Bank, Linking Road, Khar (West), Mumbai – 400052 and Corporate Office at True North, Plot No. 63, Road No. 13, Opposite Hotel Tunga Paradise, MIDC, Andheri (East), Mumbai – 400093.

5. The Applicant has proposed the name of Mantrah Insolvency Professional Private Limited having Registration No. IBBI/IPE-0040/IPA-2/2022-23/50021 as the proposed IRP to be appointed by this Tribunal in case the Application is admitted.

6. Perusal of the Part-IV reveals that the total amount claimed in default is Rs. 353,79,74,505/- (Three Hundred and Fifty-Three Crores Seventy-Nine Lakhs Seventy-Four Thousand Five Hundred and Five Rupees).

7. The date of default is mentioned as 01.12.2021.

8. It is stated that a sum of Rs. 200,00,00,000/- (Two hundred Crores Rupees) was disbursed by the Applicant to the Respondent between the period from March, 2015 to March, 2017. Applicant has attached the details of disbursement at Page No. 318 of the Application.

9. It is stated that the Applicant is holding Personal Guarantee dated 25.05.2021 of Mr. Namit Malhotra, a promotor of the Corporate Debtor.

10. The Applicant has attached record of default being Form-D issued by NeSL on Page No. 42, which is in "**disputed**" status.

11. Applicant has attached Loan Agreement dated 25.05.2019 at "**Annexure H**".

12. It is stated that the Financial Creditor issued a notice to the Corporate Debtor calling upon it to make payment under the Loan Agreement in February, 2021 marked as "**Annexure I**" of the Application.

13. It is stated that the Corporate Debtor issued a reply denying any event of default, however, the Corporate Debtor acknowledged the Loan Agreement and its obligation to make repayment in accordance with the Schedule thereto marked as "**Annexure J**" of the application.

14. It is stated that the Financial Creditor granted an extension of 90 days on payment of interest due on 01.06.2021 to the Corporate Debtor. Such extension was granted by way of an email dated 01.06.2021, in response to a request in this behalf made by the CD dated 27.05.2021, (**Annexure K and L**).

15. It is stated that the Financial Creditor granted a further extension up to 30.11.2021 on interest due on 01.06.2021. This extension was granted by way of Financial Creditor's email dated 27.10.2021.

16. The Financial Creditor exercising its right under Clause 11.2 of the Loan Agreement, through notice dated 06.07.2023, recalled the loan. Such recall notice was replied by the Corporate Debtor through email dated 10.07.2023 as under:

> *"As you are aware we are already in commercial discussions and this letter is not justified. You are hereby asked to withdraw this letter immediately so that the discussions can continue in good faith."*

17. It is stated that no such discussions were on going between the parties. The Applicant has relied upon the following documents:

(1) *The Inter-Corporate Deposit Facility Agreement dated 7th April 2015, a copy of which is annexed and marked as **Annexure Q**;*

(2) *The Financial Creditor's bank statements, a copy of which is annexed and marked as **Annexure R;***

(3) *The Business Transfer Agreement dated 19th November 2014 executed between Reliance Mediaworks Limited ("**RMWL**"), the Corporate Debtor and one Reliance Land Private Limited.*

(4) *The extracts of the relevant portions of the Annual Reports/ Financial Statements of the Corporate Debtor for F.Y. 2018-19, F.Y. 2019-20, F.Y. 2020-21 and F.Y. 2021-22, copies of which are annexed and marked as **Annexures S-1 to S4**.*

(5) *A schedule containing details of disbursements made and payments received from RMWL which is annexed and marked as **Annexure T.***

18. It is stated that the Corporate Debtor and one Reliance Mediaworks Limited executed a Business Transfer Agreement dated 19.11.2014 (the "**BTA**"). Under the said BTA various Business Assets and Business Liabilities were transferred to the Corporate Debtor. This included "Definitive Debt Amount" not exceeding Rs. 200 crores, which was transferred to the Corporate Debtor. The said loan of Rs. 200 crores was advanced by the Applicant.

19. It is stated that subsequently, an Inter-Creditor Deposit agreement dated 07.04.2015 was executed between the Financial Creditor and Corporate

Debtor whereby the Financial Creditor agreed to lend a sum not exceeding Rs. 900 crores.

20. It is stated that pursuant to the BTA, following Assignment Agreements were executed:

> *a. Assignment of BOT Agreement between RMWL, the Corporate Debtor and Maharashtra Film Stage and Cultural Development Limited for Assignment of Studio Type VII;*
> *b. Assignment of BOT Agreement between RMWL, the Corporate Debtor and Maharashtra Film Stage and Cultural Development Limited for Assignment of Studio Type VIII; and*
> *c. Assignment of BOT Agreement between RMWL, the Corporate Debtor and Maharashtra Film Stage and Cultural Development Limited for Assignment of Studio Type IX.*

21. As on 7th February 2019, an amount of Rs. 215,00,00,000/- crores was payable by RMWL to the Financial Creditor. Accordingly, in line with the BTA (which, as set out above, provided that the terms and conditions relating to the Definitive Debt Amount would be in an agreed form), a Loan Agreement dated 25th February 2019 (the "Loan Agreement") was executed between the Financial Creditor (as the lender) and the Corporate Debtor (as the borrower).

22. The salient terms of the Loan Agreement are as follows:

> *a) Under the Loan Agreement, an amount of Rs. 200 crores (being the Definitive Debt Amount that now stood transferred to the Corporate Debtor) was treated as the principal (the "Principal Amount").*

b) *Interest on the Principal Amount would be charged at 10% p.a. (Clause 5.1 read with S. No. 4 of Schedule I).*

c) *Non-payment by the Corporate Debtor of the Loan on the Due Date(s) would amount to an Event of Default (Clause 11.1.1)*

d) *Default interest at the rate of 1% per month would be charged on any amounts in default under the Loan Agreement (Clause 5.3.1 read with S. No. 10 of Schedule I).*

23. It is pertinent to note that the Corporate Debtor has admitted the financial debt comprising the Principal Amount of Rs. 200,00,00,000/- (Rupees Two Hundred Crores only) due and payable to the Financial Creditor in its books of account. The same is reflected in its Annual Reports/ Financial Statements for F.Y. 2018-19, F.Y. 2019-20, F.Y. 2020-21, and F.Y. 2021-22.

24. It is stated that Corporate Debtor failed to repay the loan.

25. This Tribunal *vide* interim order dated 27.02.2026 sought clarification regarding the applicability of the judgment of ***Hon'ble Supreme Court in the matter of Power Trust (Promoter of Hiranmaye Energy Ltd.) Vs. Bhuvan Madan, IRP of Hiranmaye Energy Ltd. and Other***, in the present matter and directed the parties to go through the judgment.

26. The Corporate Debtor, in compliance of the above order, has filed written submissions on the said judgment, which are reproduced hereunder:

i. The CD submits that the reliance on the aforesaid judgment is misplaced and inapplicable in the facts of the present case. The decision in Power Trust arose in a completely different factual and legal matrix where the existence of undisputed financial debt and clear default was established on record.

ii. The present case involves the following issues:

a. absence of any actual disbursement of loan to the Corporate Debtor;

b. the alleged liability arising out of a BTA (to which the Financial Creditor was not a party) for the transfer of the entire “Business” (on a slump sale-basis) of Reliance Media Works Ltd. to the Corporate Debtor and thus could never give rise to a “financial debt” under the IBC;

c. complex contractual disputes pending before the Hon’ble Bombay High Court; and

d. the absence of a transaction possessing the commercial effect of borrowing under Section 5(8) of the IBC. Consequently, the ratio of Power Trust cannot be mechanically applied to compel admission of the present Section 7 petition.

iii. It is submitted that Section 5(8) of the IBC defines “financial debt” as a debt along with interest, disbursed against the consideration for the time value of money. This principle distinguishes financial creditors from ordinary claimants. In the present case the alleged loan fails this essential requirement. The obligation arises purely from adjustments within a commercial settlement, and therefore does not satisfy the statutory definition of financial debt.

iv. It is stated that the CD is a financially viable company and the initiation of CIRP would hinder the company’s wealth of more than Rs. 20,000 Crores.

REPLY:

27. Reply to the present application was filed by the Corporate Debtor through an affidavit, which is dated 03.11.2025 and affirmed by one Ms. Parina Shah stated to be authorized signatory to the Corporate Debtor.

28. The salient points in reply are as below:

i. There is no contractual obligation of the Corporate Debtor. The application is contingent upon transfer of immoveable property.

ii. There is no disbursement against the consideration for time value of money involved.

29. The Corporate Debtor admits to having executed the business transfer agreement dated 19.11.2014 between Reliance Mediaworks Limited (RMW) and Reliance Land Private Limited pursuant to which the Corporate Debtor was to purchase from RMW its film and media services business as a going concern on a slump sale basis.

30. The Corporate Debtor admits that certain Business Assets and Business Liabilities were to be transferred to the Corporate Debtor.

31. The Corporate Debtor admits that the “Definitive Debt Amount” of the BTA not exceeding Rs. 200 crores were to be transferred to the Corporate Debtor.

32. It is stated that the Definitive Debt Amount, which was purported to be transferred to the Corporate Debtor was contingent upon transfer of immoveable property being:

> “9. *Under the BTA, definition of Business Asset under Clause 1.1 (A) inter alia included the transfer of studio situated within the complex ('**Studio**') and Leasehold Property which included land, property and buildings set out in Section B of Part A of Schedule 5 to the BTA*

*and which inter alia included the "Film City Premises" i.e., the Adlabs Building (**'Adlabs Building'**).”*

33. It is stated that the transfer of the Definitive Debt Amount under BTA was conditional upon and subject to satisfaction of the “Additional Conditions” as provided under Clause 6.1 and 6.7 read with Clause 3 of the BTA.

34. It is stated that the Debt Facilities was subject to receipt of the occupation certificates for Studio Types VII, VIII and IX and the consent of Maharashtra Film Stage and Cultural Development Corporate Limited to transfer the BOT Agreement pertaining to the Studios and the Definitive Debt Amount mutually agreed by the Transferor and the Transferee.

35. The Respondent admits that BTA came into effect on 07.04.2015, except for the transfer of the Studio, the Adlabs building and assumption of the Definitive Debt Amount, which remained outstanding.

36. It is stated that in furtherance of the BTA, the Corporate Debtor paid the consideration of INR 350 crores by issuing 67,307,692 equity shares for consideration other than cash towards film and media services provided at a price of Rs. 52 per share for a net consideration of INR 350 crores to RMW in 2015. These facts were disclosed to the Stock Exchange.

37. It is stated that on 07.02.2019, RMW obtained the consent of Maharashtra Stage Cultural Development Corporation Limited (i.e., the licensor of the Studio under the BOT Agreement) to transfer the BOT Agreement to the Corporate Debtor.

38. It is stated that the occupation certificates with respect to the Studio had not been obtained till date.

39. It is stated that the Corporate Debtor recorded the Studio in its books of accounts at its fair value i.e., INR 200.14 crores on the presumption that it stood transferred and assurance of the Respondent that it would provide the Occupation Certificates and accordingly, made the disclosure in its financial statements for the Financial Year 2018-19.

40. It is stated that since the Corporate Debtor accounted for the Studio as an acquisition and the Corporate Debtor had executed the Loan Agreement with Applicant on 25.02.2019, the above disclosures were made.

41. It is stated that till date, the Applicant has failed to transfer the Business Assets under the BTA.

42. It is stated that fundamental defects rendering the transfer of the Studio under BTA non-satisfactory.

43. It is stated that on account of non-transfer of the Adlabs building, which was to be used as the Corporate Debtor's office, it had taken on rent basis outside building and to pay rent of nearly 1.92 crores for the alternate premises. It is the contention of the Corporate Debtor that they have admitted the Debt Facilities of INR 200 crores.

44. It is stated that the BTA contains an arbitration agreement being Clause 17.3 and that disputes can be decided under the said arbitration agreement.

45. It is stated that out of abundant caution, (since the Corporate Debtor had disclosed in its financial statement that Studio was acquired and the debt was assumed), the Corporate Debtor requested for an extension of the due date for payment of the interest payment of INR 20 crores scheduled on 01.06.2021.

46. It is submitted that the extensions sought cannot and do not impose upon the Corporate Debtor any liability under the Loan Agreement since, the Applicant has not disbursed any monies to the Corporate Debtor.

47. It is stated that the Applicant did not raise any demand for loan repayment from 25.02.2019 till 06.07.2023, i.e., four years and for the first time recalled the loan on 06.07.2023. This was wrongful and mala-fide intentions on the part of the Applicant.

48. The Corporate Debtor herein has filed Commercial Suit being Commercial Suit (L) No. 21566 of 2023 before the Hon'ble Bombay High Court seeking an order and decree declaring that the Corporate Debtor is not liable to pay any amounts under the BTA, Loan Agreement or any sums demanded by the Applicant.

49. The said Commercial Suit is still pending.

50. The Corporate Debtor states that in view of the above there is a pre-existing dispute between the parties.

51. The Corporate Debtor reiterates that in view of the above, Applicant does not meet the requirements of Financial Debt.

52. It is stated that the petition is arising out of a contingent contractual obligation of the Corporate Debtor based upon reciprocal promises, an obligation arising out of transfer of immoveable property, an obligation, which, till date has not arisen, to be a financial debt.

53. It is stated that such contingent contractual obligation of the Corporate Debtor was upon the transfer of the Definitive Debt Amount from RMW to the Corporate Debtor, which never came into effect as an additional condition never completed. The Corporate Debtor submits that the present application

is not meeting the definition of Financial Debt as mentioned as Section 5(8) of IBC, 2016.

54. It is stated that there is nothing to prove on record that the disbursements were against time value of money. It is the submission of the Corporate Debtor that even without assuming while denying that there is any debt due and payable by the Corporate Debtor to the Applicant, the same does not amount to a Financial Debt. At the very most, this would put Applicant in the position of "any other creditor" and neither Financial Creditor and nor an Operational Creditor.

55. It is the submission of the Corporate Debtor that there is no default of any debt i.e. due and payable by the Corporate Debtor to the Applicant herein.

56. It is stated that the Applicant herein is using Code for recovery of a debt, which is disputed and which is not a Financial Debt.

57. It is stated that the present matter be relegated to the Civil proceedings and is a matter of pre-existing contractual dispute. The Corporate Debtor, thereafter, seeks dismissal of the present application.

REJOINDER:

58. Rejoinder dated 18.11.2025 was filed by the Applicant. The salient features in the Rejoinder are as under:

59. It is submitted that as per the BTA, the Corporate Debtor agreed to take over the assets along with liabilities, including the liability owed to the Financial Creditor. The liability that existed at the time was undeniably a financial debt.

60. It is stated that it is not even the case of Corporate Debtor that it has terminated the BTA. Having accepted the transfer of assets and liabilities under BTA, the

Corporate Debtor is estopped from disputing the liability. Having assumed the liability under the BTA and having affirmed the same by executing the Loan Agreement post-BTA, it is not open for the Corporate Debtor to now challenge or question the liability.

61. It is stated that the Loan Agreement defines the terms of repayment as well as the liability payable by the Corporate Debtor without any caveat or conditions. It is stated that the Corporate Debtor is deliberately diverting the attention of this Hon'ble Tribunal from following the core and undisputed facts viz:

> *12.1. The BTA executed between Reliance Media Works Limited ("RMWL") and the Corporate Debtor was an independent commercial arrangement dealing with transfer of business assets and liabilities and does not in any manner supersede, condition, or extinguish the obligations undertaken by the Corporate Debtor under the said Loan Agreement;*
>
> *12.2. there exists a valid, binding, and enforceable Loan Agreement dated 25th February 2019 ("**Loan Agreement**") executed between the Financial Creditor and the Corporate Debtor;*
>
> *12.3. the said Loan Agreement constitutes a financial debt within the meaning of Section 5(8) of the Code;*
>
> *12.4. the Corporate Debtor has committed default in repayment of its admitted financial obligations, thereby entitling the Financial Creditor to initiate proceedings under Section 7 of the Code.*

62. It is stated that the BTA executed between RMW, Reliance Land Private Limited and the Corporate Debtor was a stand-alone commercial arrangement for the transfer of RMW's business undertaking to the Corporate Debtor on a

going-concern basis. Under the BTA, the Corporate Debtor expressly assumed the liabilities of RMW, including the debt owed to the Financial Creditor, thereby substantiating the Financial Creditor's claim that the BTA did not supersede or extinguish the loan obligation but merely served as an enabling instrument through which the Corporate Debtor became liable to the Financial Creditor.

63. It is stated that Loan Agreement was executed between the Financial Creditor and the Corporate Debtor to formalise and crystallise the Corporate Debtor's liability in its own name which is independent of BTA.

64. It is stated that the reliance on Clause 6.10 of BTA is misplaced.

65. It is stated that the Applicant has attached the ICD agreement dated 07.04.2015, between the Financial Creditor and RMW for a sum not exceeding Rs. 900 crores against the payment of interest and as such there exists a written contract for the loan given to the Corporate Debtor.

66. It is stated that Corporate Debtor's Annual Reports for Financial Years 2018-19 onwards record the liability towards the Financial Creditor under the headings "Note 32" and "Note 34" for FY 2018-19 and FY 2019–20, respectively.

67. It is submitted that BTA, therefore, has no bearing on the validity and enforceability, etc. of the Loan Agreement/ transfer of assets etc.

68. It is stated that Corporate Debtor's own conduct and contemporaneous correspondence clearly demonstrates that it has all times acknowledged its liability under the Loan Agreement, more particularly vide-

"22.1. Reply dated 20th February 2021(Annexure 'J' to the Company Petition): The Corporate Debtor admitted the existence of the Loan Agreement and its repayment obligations, merely disputing default.

22.2. Personal Guarantee dated 25th May 2021 ("Exhibit 'B' to the Reply in IA 5178 of 2023): Mr. Namit Malhotra, Promoter of the Corporate Debtor, executed a Personal Guarantee in favour of the Financial Creditor, unconditionally guaranteeing repayment of all sums due under the Loan Agreement.

22.3. Email dated 27th May 2021 (Annexure 'K' to the Company Petition): The Corporate Debtor admitted its obligation to pay interest and requested a ninety (90) day extension for payment of Rs. 20 crores due on 1st June 2021, expressly recognising the subsisting liability.

22.4. Email dated 10th July 2023 (Annexure 'O' to the Company Petition): In response to the recall notice, the Corporate Debtor did not dispute the existence or quantum of debt; instead, it sought continuation of "commercial discussions" and requested withdrawal of the notice - a clear implied admission of indebtedness.

22.5. Further, the Corporate Debtor's own audited financial statements for FY 2018–19 through FY 2022-23, as referenced hereinabove, consistently record the dues to the Financial Creditor."

69. It is submitted that the transaction evidenced by the ICD Agreement, the BTA, and the Loan Agreement, constitutes a financial debt within the meaning of Section 5(8) of the IBC.

70. It is stated that disbursal of funds is evidence through (Annexure 'T' of the Petition) disbursal of the funds against interest.

71. It is stated that the Corporate Debtor has consistently deducted and remitted Tax rates ("TDS") under Section 194A of the Income Tax Act, 1961, on the interest payable to the Financial Creditor under the Loan Agreement. Such deduction of TDS evidenced through Form 26AS statements of the Financial Creditor for the Financial Year 2019–20, 2020-21, 2021–22, 2022-23, and 2023-24.

72. The Corporate Debtor has consistently deducted and remitted substantial amounts of TDS aggregating between Rs. 2 crores and Rs. 2.3 crores per year, in respect of interest payable to the Financial Creditor.

73. The Applicant has thereafter attached the Form 26AS as Annexure "**A1 to A5**" of the rejoinder.

74. The Corporate Debtor's attempt to characterise the transaction as a non-financial or contractual liability is therefore wholly misconceived and contrary to record.

75. It is submitted that the Corporate Debtor's contention that a debt which was not originally financial in nature cannot subsequently be converted a financial debt is entirely baseless and contrary to record.

76. It is stated that the ICD itself records the lending of money by the Financial Creditor RMWL for consideration of interest, thereby creating, a financial debt from inception.

77. The BTA was executed through which RMWL transferred the Financial liability to the Corporate Debtor as a part of business undertaking and the subsequent Loan Agreement did not convert the nature of debt.

78. It is stated that the default on the part of Corporate Debtor is continuing default.

79. It is stated that Corporate Debtor defaulted on interest repayment and has admitted in its own email dated 27.05.2021, wherein the Corporate Debtor sought 90 days extension to pay the interest.

80. It is stated that the Financial Creditor issued a recall notice dated 06.07.2023, calling upon the Corporate Debtor to repay the entire outstanding principal and accrued interest.

81. In response to the same, the Corporate Debtor, vide its email dated 10.07.2023, did not deny the existence or quantum of liability, but merely referred to the ongoing “commercial discussions” and requested for withdrawal of the recall notice.

82. It is stated that Corporate Debtor’s audited financial statements for subsequent financial years continued to reflect the said amount as outstanding, due to no payments or adjustments recorded towards reduction of debt. The Corporate Debtor has thus continued to acknowledge the debt while simultaneously failing to discharge the same.

83. It is submitted that failure of the Corporate Debtor to pay outstanding dues under Loan Agreement, despite multiple acknowledgments and demands, squarely satisfies the definition of default as contained in Section 3(12) of the Code.

84. It is stated that the Financial Creditor has approached this Tribunal to resolve the insolvency of the Corporate Debtor and the present application is not a tool for recovery of debt.

85. It is stated that the pendency of Commercial Suit (L) No. 21566 of 2023 before Hon’ble Bombay High Court filed by the Corporate Debtor is no bar for the present application and the present Section 7 is maintainable.

86. It is submitted that Commercial Suit has been filed by the Corporate Debtor as a litigation stage and defensive measure, subsequent to the occurrence of default and issuance of recall notices with the sole intention of creating an artificial dispute and delaying the present proceedings.

87. The Financial Creditor, thereafter, requests for admission of the Corporate Debtor through insolvency.

INTERLOCUTORY APPLICATION (IA NO. 5178 OF 2023)

88. This is an Interlocutory Application (IA) bearing No. 5178/MB/2023, filed by Prime Focus Limited, the Applicant/Corporate Debtor, on 17.10.2023 under section 60(5) of the Code read with Rule 11 of the NCLT Rules, 2016 against the Reliance Alpha Services Pvt Ltd., the Respondent/Financial Creditor.

89. This Application challenges the maintainability of the Application filed under Section 7 of the Code [CP (IB) No. 845/2023] by the Respondent. The Applicant argues that the Respondent is not a financial creditor of the Applicant and there is no financial debt or default owed by the Applicant. The alleged debt arises from a contingent contractual obligation related to the transfer of immovable property, without any disbursement for the time value of money. The Applicant claims that Section 7 is being misused to settle a contractual dispute through the Code.

90. The Applicant seeks the following prayers against the Respondent:

    a. That this Hon'ble Tribunal be pleased to dismiss the present Petition *in limine* on grounds of non-maintainability.

    b. That the Respondent be directed to pay the costs of the present proceedings.

c. That in the event the Application is dismissed, the Applicant be granted liberty to file a reply to the Petition within two weeks' from the date of the order of such dismissal by this Hon'ble Tribunal.

d. Interim and ad interim relief in terms of prayer clause (a) and (c)

e. Any such other and further reliefs as this Hon'ble Court may deem fit and proper.

91. It is submitted that the entire premise of the main Company Petition and the alleged financial debt claimed by the Respondent is based on purported transfer of the Definitive Debt Amount to the Applicant.

92. Under the BTA, definition of Business Asset under Clause 1.1 (A) inter alia included the transfer of studio situated within the complex ('Studio') and Leasehold Property which included land, property and buildings set out in Section B of Part A of Schedule 5 to the BTA and which inter-alia included the "Film City Premises" i.e., the Adlabs Building ('Adlabs Building'). Business Liabilities under Clause 1.1 (B) of the BTA include the Definitive Debt Amount of up to INR 200 Crores.

93. The Respondent has failed to establish any disbursement of monies to Applicant under the loan agreement dated 25.02.2019. It was believed that the Loan Agreement was related to the transfer of the Debt Facilities under the BTA, which was contingent on the delivery of all assets, including the Adlabs Building and Studio. The Applicant executed the Loan Agreement based on assurances from RMW and RLP regarding compliance with these conditions. However, no actual disbursement was requested or made under this agreement.

94. The alleged debt does not qualify as a financial debt, as it was contingent upon fulfilling additional conditions and was not disbursed against the consideration for the time value of money. The Respondent's attempt to reclassify a contractual obligation as a financial debt is impermissible. Disbursement of money is a sine qua non for a debt to constitute a financial debt, as held in "*Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Limited & Ors." (2020)* and in *"Pioneer Urban Land and Infrastructure Limited & Anr. v. Union of India", Writ Petition (Civil) No. 43 of 2019*. In the present case, no such disbursement has been established.

95. The Applicant has relied on the following judgments*:*

i. Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Limited & Ors." (2020) 8 SCC 40

ii. Pioneer Urban Land and Infrastructure Limited & Anr. v. Union of India, Writ Petition (Civil) No. 43 of 2019

iii. Jushya Realty Pvt. Ltd. v. Ninety Properties Pvt. Ltd., Company Appeal (AT) (Ins.) No. 543 of 2023

iv. Namdeo Ramchandra Patil v. Vishal Ghisulal Jain, RP of Corporate Debtor, CA (Insolvency) No. 821 of 2021,

v. Ashok Hi-Tech Builders Private Limited v. Ashok Kundra & Anr., CA (Insolvency) No. 821 of 2021 (NCLAT).

vi. M/s. Bareilly Electricity Supply Co. Ltd. v. The Workmen & Ors., (1971) 2 SCC 617

vii. Budhpur Buildcon Pvt. Ltd. v. Abhay Narayan Manudhane, 2021 SCC OnLine NCLAT 2339

REPLY OF THE RESPONDENT/FC IN IA 5178 OF 2023

96. The Respondent filed its reply on 11.12.2023 and states that the Applicant challenged the maintainability of the Company Petition mainly on four grounds and each of these grounds were responded by the Respondent, which are as follows:

97. The Respondent contends that the BTA facilitated the transfer of business liabilities, constituting a financial debt owed by RMWL, to the Applicant. Subsequently, an ICD Agreement dated 07.04.2015 was executed between the Respondent and RMWL, under which the Respondent agreed to lend RMWL a sum not exceeding INR 900 crores against interest payments. This lending by the Respondent to RMWL undeniably constituted a financial debt. The Respondent asserts that the Applicant has not referenced the ICD Agreement in its submissions, despite its significance in establishing the existence of the financial debt. The Respondent disbursed amounts to RMWL under the ICD Agreement, as evidenced by the bank statements annexed to the Company Petition.

98. The Applicant's assertion that the "Additional Conditions" in Clause 6.10 of the BTA were not fulfilled is irrelevant. The Loan Agreement is absolute and not contingent or conditional upon the occurrence of any event or circumstance. Furthermore, the Applicant has acknowledged the debt in its Annual Report for F.Y. 2018-19 (Note 32). Similarly, the Applicant’s Annual Reports for F.Y. 2019-20, F.Y. 2020-21 and F.Y. 2021-22 explicitly state the default in the payment of interest amounting to Rs. 20.00 crores. The Applicant's Annual Report makes no mention of its current claim that the debt liabilities under the BTA were not transferred. Notably, the Applicant did not disclose the financial

debt as a contingent liability. The Annual Report for F.Y. 2018-19 contains separate disclosures for contingent liabilities (Note 35, page 172 of the Company Petition), yet the financial debt in this Petition is not listed.

99. In response to recall notices, the Applicant did not deny the existence of the debt but instead engaged in commercial negotiations, implying acknowledgment of the debt. The issuance of a personal guarantee by Namit Malhotra, the promoter of the Corporate Debtor, on 25.05.2021, further substantiates this acknowledgment and the assumption of financial debt. The Corporate Debtor's email dated 27.05.2021 explicitly references the Loan Agreement and the Applicant did not, in its email, deny the debt's existence, the debt's quantum, or the fact that a default in repayment had occurred. This email should therefore be construed as an admission of these facts, constituting a categorical admission of the financial debt.

100. The Applicant further argues that the transfer of the Definitive Debt Amount cannot be classified as a disbursal for the time value of money, "*contending that a debt originally not considered a financial debt cannot later be transformed into one through a subsequent agreement".* This argument is both legally untenable and irrelevant. The nature of the prior disbursement is immaterial in light of the covenants of the Loan Agreement. Moreover, the debt in question has always been a Financial Debt, as it was disbursed to RMWL by the Respondent under the ICD Agreement, with RMWL being liable to repay it with interest. The same Financial Debt, along with the corresponding liability to repay, was transferred to and assumed by the Applicant under the terms of the BTA.

REJOINDER BY THE APPLICANT IN IA 5178 OF 2023

101. While the Respondent asserts that the Loan Agreement is an independent contract, the Applicant submits that the alleged loan of ₹200 crore relates to ICD disbursed to RMWL under the BTA. The transfer of the Definitive Debt Amount to the Applicant is expressly contingent upon completion of the transfer of Business Assets under Clause 1.1(A) of the BTA, which has not occurred. Accordingly, even if the ICD constitutes a financial debt against RMWL, it cannot be treated as a financial debt against the Applicant under the Loan Agreement.

102. Moreover, the Respondent has failed to provide any record of a request by the Applicant for the loan disbursement or evidence of any actual disbursement pursuant to such a request.

103. The Applicant disclosed the Loan Agreement in its financial statements for FY 2018-19. However, such disclosure, made out of abundant caution, does not indicate any actual disbursement under the Loan Agreement, since no funds were received. Similarly, the disclosures in the financial statements for FY 2019-20 to 2021-22 do not impose any liability on the Applicant where none arose under the Loan Agreement.

104. The Applicant argues that the mere execution of Personal Guarantees, which were ancillary to the Loan Agreement, cannot be construed as an admission of debt or a basis for imposing liability. Accordingly, there is no question of default on any alleged debts by the Applicant. Furthermore, the Applicant's email dated 27.05.2021 cannot be read as an admission that the alleged "financial debt" was assumed. Similarly, the Applicant's email dated 10.07.2023, in response to the Respondent's recall notice dated 06.07.2023,

does not constitute an admission of the alleged "Financial Debt" claimed in the Company Petition, merely because the Applicant did not specifically state that no loan was payable or that the conditions for the transfer of the Debt Liabilities had not occurred.

105. **LIST OF DATES AND EVENTS.**

Sr.No.	Date	Event
1.	19 November 2014	A Business Transfer Agreement **(BTA)** was executed between Prime Focus Limited **(PFL/the Corporate Debtor),** Reliance Media Works Limited **(RMWL)** and Reliance Land Private Limited. Under the BTA, various Business Assets and Business Liabilities were transferred by RMWL to the Corporate Debtor.
2.	7 April 2015	An ICD Agreement was executed between Reliance Alpha Service Private Limited and RMWL, whereby the Financial Creditor agreed to lend RMWL a sum not exceeding Rs. 900 crores.
3.	7 February 2019	The assignment of the agreements and their underlying assets ("Business Assets" of RMWL) took place pursuant to the BTA.
4.	7 February 2019	As on this date, an amount of Rs. 215.81 crores was payable by RMWL to the Financial Creditor. Details of the disbursements made by the Financial Creditor in favour of RMWL and repayments made by RMWL are provided.
5.	25 February 2019	In line with the BTA, a Loan Agreement was executed between the Financial Creditor and the Corporate Debtor **(Loan Agreement).** Under the Loan Agreement, an amount of Rs. 200 crores (being the Definitive Debt Amount that now stood transferred to the Corporate Debtor) was treated as the

		principal.
6.	6 September 2019	The Corporate Debtor's Annual Report for FY 2018-19.
7.	31 July 2020	The Corporate Debtor's Annual Report for FY 2019-20.
8.	February 2021	The Financial Creditor issued the 1st Notice to the Corporate Debtor calling upon it to make payments under the Loan Agreement.
9.	20 February 2021	The Corporate Debtor issued a Reply to the 1st Notice from the Financial Creditor denying any event of default under the Loan Agreement.
10.	25 May 2021	The Corporate Debtor's promoter, Namit Malhotra, executed a Personal Guarantee in favour of the Financial Creditor.
11.	27 May 2021	The Corporate Debtor addressed an email to the Financial Creditor seeking extension of time for making interest payments falling due under the terms of the Loan Agreement on 1 June 2021.
12.	1 June 2021	The Financial Creditor addressed an email to the Corporate Debtor allowing an extension of 90 days for making interest payment.
13.	30 June 2021	The Corporate Debtor's Annual Report for FY 2020-21.
14.	27 October 2021	Pursuant to oral request from the Corporate Debtor, the Financial Creditor issued an email allowing a further extension until 30 November 2021 for making interest payments under the Loan Agreement.
15.	1 December 2021	**First Default of Loan Agreement due to non-payment of interest falling due on 30 November 2021.**
16.	27 May 2022	The Corporate Debtor's Annual Report for FY 2021-22.
17.	2 June 2022	**Second Default of Loan Agreement due to non-payment of interest falling due on 1 June 2022.**

18.	2 June 2023	**Third Default of Loan Agreement due to non-payment of interest falling due on 1 June 2023.**
19.	6 July 2023	The Financial Creditor issued a Recall Notice to the Corporate Debtor calling upon it to make payment of Rs. 353.79 crores.
20.	10 July 2023	The Corporate Debtor addressed an email to the Financial Creditor stating **'…** *As you are aware we are already in commercial discussions and this letter is not justified.* *You are hereby asked to withdraw this letter immediately so that the discussions can continue in good faith.'*
21.	4 August 2023	The Financial Creditor filed Record of Financial Information on NeSL Information Utility **(NeSL)** intimating about the default by the Corporate Debtor.
22.	18 August 2023	The Financial Creditor received an email from NeSL containing the Corporate Debtor's response to the Financial Creditor's application for Record of Financial Information as follows: *"Debt never availed by me, Others - ...*'

ANALYSIS AND FINDINGS

106. We have heard the Ld. Counsels for the Applicant and the CD in the main Petition and in the IA and have perused the records as placed before us. Our findings in the matter are as under: -

107. As the contentions of the IA are similar to that of the Reply in the main Petition and also that prayers in the IA are mainly for dismissal of the CP, we will be dealing with the main Petition for the sake of brevity and to avoid repetition and a single order will be passed in both, i.e., IA and CP.

108. On perusal of the record, it is observed that the Financial Creditor has shown the disbursal, through its Bank Statements, to the original borrower i.e. RMWL, as stated in Part-IV of the Application.

109. The Financial Creditor herein is claiming outstanding amount of debt of Rs. 353,79,74,005/- as on 06.07.2023. The principal amount claimed in the Application is Rs. 200,00,00,000/-.

110. It is the case of the Applicant that the said principal amount was disbursed by the Financial Creditor to RMWL under an ICD agreement between the period from March, 2015 to August, 2015.

111. Under a Business Transfer Agreement (BTA) dated 19.11.2019, between the Corporate Debtor, Reliance Media Works Ltd. (RMWL) and Reliance Land Pvt. Ltd., the Corporate Debtor acquired RMWL's film and media services business for consideration other than cash. As per the BTA certain assets were acquired along with assumption of liabilities to the extent of Rs. 200 Crores. Both the sides have no dispute regarding the execution of the said BTA.

112. It is the contention of the Applicant that post the BTA, in respect of the debt obligation assumed pursuant to the BTA, the Corporate Debtor signed a loan agreement with them on 25.02.2019. In the said agreement loan of Rs. 200 Crores was treated as Principal and interest rate of 10% is specified.

113. Corporate Debtor's Annual Reports for the Financial Years 2018-19, 2019-20, 2020-21, and 2021-22 consistently acknowledge the debt payable to the Applicant for an amount of Rs. 200 Crores under non-current borrowings. A reference to the Loan Agreement is also made.

114. Corporate Debtor has capitalized in its books the assets, which have been transferred to it under the BTA. This capitalization was done in the year 2018-19.

115. It is the contention of the Applicant that interest on the loan of Rs. 200 Crore amounting to Rs. 20 Crore was payable on 01.06.2021, however, the Corporate Debtor by an email dated 27.05.2021 sought extension of 90 days in payment of the said interest, which was agreed by the Financial Creditor *vide* its email dated 01.06.2021 with a caveat that other payments would continue to accrue in terms of the loan agreement. *Vide* a further mail dated 27.10.2021, a further extension upto 30.11.2021 was granted by the Applicant to the Corporate Debtor for making payment of the defaulted interest amount. However, the Corporate Debtor failed to clear the defaulted amount and therefore, the date of default has been treated as 01.12.2021.

116. The loan was, thereafter, recalled by the Financial Creditor *vide* loan recall notice dated 06.07.2023. In reply, the Corporate Debtor did not dispute the debt or default, however it referred to commercial discussions. The Corporate Debtor, has further defaulted in making payment of the recalled amount of debt.

117. The non-payment of interest on the loan amount is reflected in the financial statement of the Corporate Debtor.

118. The Corporate Debtor has deducted TDS under Section 194A of the Income Tax Act, a section applicable for TDS on interest and has deposited TDS. Applicant has placed Form 26AS in regard to deposit of TDS for the Financial Years 2019-20 to 2023-24 on record.

119. On the other hand, the Corporate Debtor has raised the following contentions:-

a. Certain assets under BTA are yet not transferred, commercial suit (L) 21566 of 2023 is pending before Hon'ble Bombay High Court, hence there exists a dispute

b. No fresh disbursement of loan.

c. Debt was originally not a financial debt, cannot be converted later to a financial debt.

d. Entries in balance sheets are no proof of acknowledgement of liability.

e. Corporate Debtor is a running viable company

120. Several decisions have been placed by both the sides for our perusal, however, for the sake of brevity we are only considering the most relevant citations.

121. As regards the 'disputed debt' and non-transfer of certain assets under the BTA as raised by the Corporate Debtor, Applicant has placed reliance on the decision of Hon'ble Supreme Court in the matter of ***Innoventive Industries Ltd. vs. ICICI Bank, Civil Appeal No. 8337-8338 of 2017*** more particularly para 30, which is reproduced below: -

> *"30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise."*
>
> (Emphasis Supplied)

122. In view of the above judgment in Innoventive (Supra), we are of the view that the "disputed" status of authentication of default as per NeSL Form D and

also pendency of commercial suit before Hon'ble Bombay High Court or the dispute as to alleged non-transfer of some of the business assets pursuant to the BTA do not make Application under Section 7 inadmissible as existence of debt and default exceeding the threshold of Rs. 1 Crore has been established by the Financial Creditor.

123. For establishing the existence of debt and default, the Applicant has mainly relied upon the following documents:

i. ICD facility agreement dated 07.04.2015

ii. Loan Agreement dated 25.05.2019

iii. Bank statements of the Financial Creditor

iv. Annual Reports/ Financial Statements of the Corporate Debtor for FY 2018-19, 2019-20, 2020-21 and 2021-2022.

v. Various email correspondences and letters exchanged between the parties.

124. We are of the view that the Corporate Debtor having: -

a. not denied existence of the BTA,

b. accepted and capitalized certain assets in its books of accounts,

c. paid part consideration by issue of securities to be issued under BTA

d. recognized the loan as liability in its books,

e. deducted and deposited TDS u/s 194A of the Income Tax Act,

f. requested the Applicant further time for payment of interest,

g. signed a loan agreement with the applicant

has proved beyond doubt that there was a loan for a consideration for the time value of money.

125. Further, Hon'ble Supreme Court in ***Swiss Ribbons Pvt. Ltd. vs. Union of India WP (Civil) No. 99 of 2018*** has reproduced the above para as quoted in Innoventive (supra).

126. Relying on the judgment of Hon'ble Supreme Court in Innoventive (*supra*), we are of the view that once the applicant has proved that there exists a financial debt, we need not look into the dispute at this stage of adjudication.

127. Reliance by the Corporate Debtor on ***Anuj Jain, IRP of Jaypee Infratech Ltd. V Axis Bank Ltd. & Ors (2020) 8 SCC 40*** is not applicable to the facts of the present matter since the applicant has filed the present application based on the debt disbursed to the Reliance MediaWorks Ltd (RMWL), which stood transferred to the Corporate Debtor pursuant to the Business Transfer Agreement dated 19.11.2014. The case of the Applicant is not based on the mortgage over the assets of the Corporate Debtor extended by the Holding Company to its Financial Creditor in respect of debt raised and disbursed to the Holding Company, which was the case in Anuj Jain (Supra) matter. Moreover, disbursement in the present matter is proved beyond doubt based on bank statements of the Applicant, which are attached on page nos. 97-113 of the Application, based on details of disbursement as given on Page no. 318 of the Application.

128. Reliance by the Corporate Debtor on the judgment of Hon'ble Supreme Court in the matter of ***Pioneer Urban Land and Infrastructure Pvt. Ltd. v Union of India and Ors (2019) 8 SCC 416*** is also misplaced. We are of the view that the said judgment was in facts and circumstances of that case. The analysis

of financial debt therein cannot come to the rescue of the Respondent herein as the decision in that case was that the allottees of real estate project were considered as financial creditors and the amount invested by these allottees was considered to be financial debt. This judgment was solely in favour of the homebuyers.

129. Further, the reliance placed by the Corporate Debtor on the judgment of Hon'ble Supreme Court in the matter of ***Bareilly Electricity Supply Co. Ltd. v. The Workmen & Ors., (1971) 2 SCC 617*** to contend that entries in balance sheet cannot be read as proof of acknowledge of liability is misplaced. In the present case, not only through the entries in balance sheet but also through various actions such as (a) correspondence seeking extension of time for interest payment, (b) deduction and deposit of TDS, (c) a fresh loan agreement, (d) extending personal guarantee by one of the directors of CD, the Corporate Debtor has acknowledged debt. We place reliance on the judgment of Hon'ble Supreme Court in ***Asset Reconstruction Company (India) Ltd. v. Bishal Jaiswal & Anr***., [(2021) ibclaw.in 55 SC], wherein the Hon'ble Court upheld the view that balance sheets signed by the corporate debtor acknowledging the liability can be considered as acknowledgment of debt for the purpose of limitation under Section 18 of the Limitation Act.

130. Reliance was placed by the Corporate Debtor on ***Budhpur Buildcon Pvt. Ltd. V Abhay Narayan Manudhane, 2021 SCC online NCLAT 2339*** to contend that a debt which was not originally a financial debt cannot subsequently be converted into a financial debt is also misplaced as in the present case, the debt has always been a financial debt arising from disbursement of money, which was for time value of money to the original borrower, i.e., RMWL. A

mere assumption of liability by another entity by way of BTA in our considered view cannot change the nature of the debt.

131. As regards reliance placed by the Respondent on the judgment of Hon'ble Supreme Court in the matter of ***Vidharba Industries Ltd. vs Axis Bank (Civil Appeal No. 4633 of 2021)***, stating that the Corporate Debtor is a going concern and that adjudicating authority is vested with discretion not to admit an application u/s 7 of the Code, we place reliance on the judgment of Hon'ble Supreme Court in the matter of ***M. Suresh Kumar Reddy vs Canara Bank and Ors (Civil Appeal 7121 of 2022)*** which is contained in para 13 of the said judgment as below :-

> *"Thus, it was clarified by the order in review that the decision in the case of Vidarbha Industries was in the setting of facts of the case before this Court. Hence, the decision in the case of Vidarbha Industries cannot be read and understood as taking a view which is contrary to the view taken in the cases of Innoventive Industries and E.S. Krishnamurthy. The view taken in the case of Innoventive Industries still holds good."*

132. The CD relies on the judgment of Hon'ble NCLAT in ***Jushya Realty Pvt Ltd v Ninety Properties Pvt Ptd v Viprah Technologies Limited***, Company Appeal (AT) (Ins.) No. 543 of 2023, wherein it was held that the the Appellant therein has not annexed any document relating to the promised Share Purchase Agreement, and only relied on the existence of the transaction of Rs. 1.25 crores in balance sheets of various years as proof of financial debt. In present case, the Financial Creditor has attached sufficient proof to establish debt and default as enumerated in the above paragraphs. Therefore, this case does not come to the aid of the Corporate Debtor.

133. Further, in the cases of ***Namdeo Ramchandra Patil v Vishal Ghisulal Jain RP of Corporate Debtor***, CA (Insolvency) No. 821 of 2021 and ***Ashok Hi-Tech Builders Private Limited v Sanjay Kundra and Ors***, CA (AT)

(Insolvency) No. 46 of 2023, the Hon'ble NCLAT had made observations that the landowners entered into a Development Agreement with a real estate developer (Corporate Debtor) for area sharing and were allotted flats and shops in lieu of their entitlement, such landowners are not **Financial Creditors** under Section 5(8)(f) of the Code, as there was no amount raised from them against the time value of money; the transaction does not constitute a financial debt. The facts of the present case are different from the above said judgments, hence it does not come to the rescue of the Corporate Debtor.

134. As per the clarifications sought by this Tribunal as to the applicability of the recent judgment of ***Hon'ble Supreme Court in Power Trust (Promoter of Hiranmaye Energy Ltd.) v. Bhuvan Madan, IRP of Hiranmaye Energy Ltd. and Ors. [Civil Appeal No(s). 2211/2024 decided on 18.02.2026*****,** the written submissions of the CD have been addressed in the above findings and we are of the view that this judgment is apposite to the present case. The relevant portion of the judgment is reproduced hereunder:

> ***"B. Validity of CIRP Admission***
>
> *28. The other aspect on which the Appellant has heavily relied is the acceptance of various sums of money paid by the Corporate Debtor purportedly under the 1st and 2nd restructuring proposals, which according to them amounts to deemed approval of such proposal. As discussed earlier, such argument flies in the face of the fact that the 2nd Respondent had resolutely maintained and rightly so, that the restructuring proposals were underpinned on pre-implementation conditions which the Corporate Debtor had failed to fulfil. Under such circumstances, receipt of various sums of money would not amount to acceptance of the restructuring proposals, thereby novating the earlier loan agreement. Neither would such part payments constitute full satisfaction of the existing debt so as to render the Section 7 application inadmissible.*
>
> *29. It has also been vociferously contended that the Corporate Debtor is an ongoing concern and does not lack the ability to repay the debt. It has a subsisting PPA for 25 years with WBSEDCL, and has raised bills of Rs. 906*

crore from 01.11.2024 to 31.03.2025. It also has a continuous fuel supply arrangement with Mahanadi Coalfields Ltd. under the SHAKTI scheme and had earned EBIDTA of Rs. 20 crore per month during the CIRP. These facts though attractive at first blush, do not yield either legal or factual justification to rebut the admission of the Section 7 application.

30. On the legal score, one must bear in mind the scope and purpose for which IBC was promulgated. The main objective of its enactment was to create a complete code for easy, prompt and seamless resolution of insolvency process and thereby ensure that the net worth of the corporate debtor is not dissipated and the entity is salvaged from corporate death through a viable resolution plan accepted by its CoC. The Code prescribes whenever a corporate debtor defaults on a debt that is due and payable, an insolvency process may be initiated. Section 3(12) defines "default" as non payment of a debt which has become due and payable, and includes default in respect of a part or instalment thereof. Such insolvency process may be initiated either by the corporate debtor itself, or by its creditors who are classified as financial creditor or operational creditor. "Financial creditor" is defined as any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned.26 A "financial debt" means a debt along with interest if any, which is disbursed against the consideration for time value of money and includes money borrowed against payment of interest.27 "Operational creditor" is defined as a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned.28 "Operational debt" is a claim in respect of the provision of goods or services including employment or a debt in respect of payment of dues arising under any law for the time being in force and payable to the Central or State government, or any local authority.29 31. In Swiss Ribbons (P) Ltd. v. Union of India [(2019) ibclaw.in 03 SC],30 such classification of creditors as financial creditors and operational creditors has been held to be constitutionally valid. The Bench underscored the essential differences between a financial creditor and operational creditor and held that financial creditors were mostly secured creditors like banks and financial institutions who extended finance to enable a corporate debtor to set up and/or operate its business. Such credit is extended to a corporate debtor under well-defined loan agreements having specified repayment schedules and reserving rights to recall the loan in case of default or restructure the same enabling a corporate debtor to tide over unforeseen financial stress. On the contrary, operational creditors are mostly unsecured creditors and their claims are relatable to supply of goods and services in the operation of the business. Ordinarily, operational debts are not based on admitted documents and the possibility of genuine disputes with regard to such debts is much higher compared to financial debts.

32. In light of such classification, the Code makes a distinction in the manner in which an insolvency process may be initiated by a financial creditor under Section 7, IBC in contradistinction to an operational creditor

under Section 8 and 9, IBC. Unlike an operational creditor, a financial creditor may trigger an insolvency process under Section 7 in respect of default of any financial debt, whether owed to itself or to any other financial creditor. While the financial creditor may directly file an application under Section 7 setting out the particulars of the financial debt and evidence of default, the operational creditor, on the occurrence of a default, is to first deliver a demand notice of the unpaid debt to a corporate debtor and the latter may within 10 days of receipt of such demand notice bring to the notice of the operational creditor the existence of a dispute or record the pendency of a pre-existing suit or arbitration proceeding in respect of such debt. Once a corporate debtor demonstrates a dispute regarding the existence of the debt, the insolvency process stands aborted vis-à-vis the operational creditor. But when the financial creditor initiates the insolvency process for the purposes of admission, the Adjudicating Authority is only to ascertain the existence of a default from the records of the information utility or the evidence furnished by the financial creditor within fourteen days from the receipt of such application. At this stage, neither is a corporate debtor entitled nor is the Adjudicating Authority required to examine any dispute regarding the existence of such debt. This significantly reduces the scope of enquiry at the stage of a time-bound admission of an insolvency process by a financial creditor which has been succinctly summed up in Innoventive (supra):

"30…… in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise."

33. Reiterating the ratio in Innoventive (supra), this Court in ES Krishnamurthy v. Bharath Hi-Tech Builders (P) Ltd. [(2021) ibclaw.in 173 SC]32 held as follows: "34. The adjudicating authority has clearly acted outside the terms of its jurisdiction under Section 7(5) IBC. The adjudicating authority is empowered only to verify whether a default has occurred or if a default has not occurred. Based upon its decision, the adjudicating authority must then either admit or reject an application, respectively. These are the only two courses of action which are open to the adjudicating authority in accordance with Section 7(5). The adjudicating authority cannot compel a party to the proceedings before it to settle a dispute."

34. In a similar vein, the Adjudicating Authority is not required to go into the inability of a corporate debtor to pay its debt. This is a clear departure from the scheme of winding up envisaged under Section 433(e) of the erstwhile Companies Act, 1956 which required the Adjudicating Authority

to come to a finding with regard to the inability of the company to pay the debt and thereby arrive at a requisite satisfaction whether it is just and equitable to wind up the company.

The Code restricts the scope of enquiry for admission of an insolvency process by a financial creditor merely to the existence of default of a debt due and payable and nothing more. The legislative intent behind such prompt and summary intervention 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."

35. The Appellant has heavily relied on Vidarbha (supra) to argue that the Adjudicating Authority has ample discretion to apply its mind to relevant factors including the feasibility of initiation of insolvency process notwithstanding the existence of default on a debt due and payable by the Corporate Debtor. In Vidarbha (supra), this Court observed:-

"61. In our view, the Appellate Authority (NCLAT) erred in holding that the adjudicating authority (NCLT) was only required to see whether there had been a debt and the corporate debtor had defaulted in making repayment of the debt, and that these two aspects, if satisfied, would trigger the CIRP. The existence of a financial debt and default in payment thereof only gave the financial creditor the right to apply for initiation of CIRP. The adjudicating authority (NCLT) was required to apply its mind to relevant factors including the feasibility of initiation of CIRP, against an electricity generating company operated under statutory control, the impact of MERC's appeal, pending in this Court, order of Aptel referred to above and the overall financial health and viability of the corporate debtor under its existing management.

……

90. We are clearly of the view that the adjudicating authority (NCLT) as also the Appellate Tribunal (NCLAT) fell in error in holding that once it was found that a debt existed and a corporate debtor was in default in payment of the debt there would be no option to the adjudicating authority (NCLT) but to admit the petition under Section 7 IBC."

36. However, in review, this Court clarified that observations made in Paragraph 90 are restricted to the facts of Vidarbha (supra):-

"6. The elucidation in para 90 and other paragraphs [of the judgment under review] were made in the context of the case at hand. It is well settled that judgments and observations in judgments are not to be read as provisions of statute. Judicial utterances and/or pronouncements are in the setting of the facts of a particular case."

37. Finally, the apparent dichotomy between Innoventive (supra) and Vidarbha (supra) was set at rest in M. Suresh Kumar Reddy (supra), wherein this Court observed: "14. Thus, it was clarified by the order in review that the decision in Vidarbha Industries was in the setting of facts of the case

before this Court. Hence, the decision in Vidarbha Industries cannot be read and understood as taking a view which is contrary to the view taken in Innoventive Industries and E.S. Krishnamurthy. The view taken in Innoventive Industries still holds good."

38. In light of the ratio in M. Suresh Kumar Reddy (supra) there is no cavil that the ratio in Innoventive (supra) lays down the correct proposition of law and the observations in Vidarbha (supra) were made in the facts of the case and do not operate as binding precedent.

39. Even otherwise on facts, Vidarbha (supra) does not come to the aid of the Appellant. In Vidarbha (supra), this Court had taken note of an award passed by APTEL in favour of the corporate debtor which far exceeded the claim of the financial creditor, and held in the setting of such facts, initiation of CIRP was unwarranted. In the present case, Appellant's contention regarding Corporate Debtor's viability is highly dubious. Though the Corporate Debtor strenuously demonstrates its commercial viability, the NCLAT has noted that the extent of outstanding liability as on 02.01.2024 was Rs. 3103.31 crore, which far exceeds the bills raised on WBSEDCL to the tune of Rs 906 crore and EBITDA of Rs. 20 crore per month during the CIRP.

40. For these reasons, we are of the opinion the admission of the Section 7 application was lawful and does not call for interference."

(emphasis wherever required supplied)

135. Thus, it is clear from perusal of the record that an amount of more than the threshold limit of Rs.1 Crore under Section 4 of the Code is due and payable by the Corporate Debtor to the Applicant and that the Corporate Debtor has committed a default in respect of the same. Hence, we find that the Applicant has been able to substantiate the existence of a financial debt due and payable by the Corporate Debtor which remained unpaid. The debt so owed by the Corporate Debtor to the Applicant falls within the definition of "financial debt" under Section 5(8) of the Code.

136. In view of the above, we find that requisite conditions necessary to trigger CIRP in respect of the Corporate Debtor are fulfilled, besides establishment of debt and default as aforesaid, we are of the view that the Application is complete as all the relevant documents have been attached by the Applicant

along with the Application. Further, the Applicant has proposed the name of NPV Insolvency Professionals Private Limited (formerly known as Mantrah Insolvency Professional Private Limited) as IRP in the matter and based on the consent of said proposed IRP as given in Form-2, it is clear that no disciplinary proceeding is pending against the proposed IRP. As a result, the matter deserves to be admitted under Section 7 of the Code.

137. Accordingly, we pass the following order.

ORDER

i. The Corporate Debtor, namely, **PRIME FOCUS LIMITED** [CIN: L92100MH1997PLC108981], is hereby **admitted** into the Corporate Insolvency Resolution Process under Section 7(5)(a) of the Code.

ii. As a consequence, thereof, moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code:

a. The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

b. transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

c. any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including

any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

d. the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor;

e. The provisions of sub-section (1) shall however, not apply to such transactions, agreements as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to the Corporate Debtor.

iii. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33 of the IBC, 2016, as the case may be.

iv. It is further directed that the supply of essential goods/services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period as per provisions of sub-sections (2) and (2A) of Section 14 of IBC, 2016.

v. We hereby appoint **NPV Insolvency Professionals Private Limited (formerly known as Mantrah Insolvency Professional Private Limited),** having **Registration No. IBBI/IPE-0040/IPA-2/2022-23/50021** and e-mail address ipe@npvca.in having valid Authorisation for Assignment up to 31.12.2026 (as per IBBI site**)**.

vi. The Financial Creditor is directed to pay an advance of **Rs. 3,00,000/-** (Rupees Three Lakhs Only) to the above-named IRP within a period of 7 days from the date of this order **to meet the cost of CIRP** arising out of issuing public notice and inviting claims etc. till the CoC decides about his fees/expenses.

vii. The IRP shall perform all his functions as contemplated, inter-alia, under Sections 17, 18, 20 & 21 of the IBC, 2016. It is further made clear that all personnel connected with the Corporate Debtor, its Promoters or any other person associated with the management of the Corporate Debtor are under legal obligation under section 19 of the IBC, 2016 for extending assistance and co-operation to the IRP. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

viii. This Adjudicating Authority directs the IRP to make a public announcement for the initiation of CIRP and call for the submission of claims under Section 15, as required by section 13(1)(b) of the IBC, 2016.

ix. The IRP is expected to take full charge of the Corporate Debtor's assets, and documents without any delay whatsoever.

x. The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.

xi. The IRP shall be under duty to protect and preserve the value of the property of the Corporate Debtor and manage the operations of the Corporate Debtor as a going concern, to the extent possible, as a part of obligation imposed by Section 20 of the IBC, 2016.

xii. The Registry is directed to communicate a copy of this order to the Financial Creditor, Corporate Debtor and to the IRP and the concerned Registrar of Companies, after completion of necessary formalities, on the same day and upload the same on the NCLT portal immediately after the pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specifically mentioning regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.

xiii. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

138. **Accordingly, IA 5178/MB/2023 is dismissed as not maintainable and CP (IB)/845(MB)2023 stands admitted**.

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

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

//Raees/VM//

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 850 of 2026

IN THE MATTER OF:

Nishant Avinash Fadia **...Appellant**

Versus

Raspalfa Services Private Limited & Anr. **...Respondents**

Present:

For Appellant : **Mr. Arun Kathpalia, Sr. Advocate and Mr. Abhijeet Sinha, Sr. Advocate with Mr. Malak Bhatt, Mr. Shreyansh Chopra, Ms. Diksha gupta, Ms. Heena Kochar, Advocates.**

For Respondents : **Mr. Sunil Fernandes, Sr. Advocate with Mr. Akshaye Ringe, Mr. Harash Murtaza, Mr. Sameer Sharma, Advocates for R-1.**

O R D E R
(Hybrid Mode)

08.05.2026: This appeal has been filed against order which was passed on 06.05.2026. Learned counsel for the Appellant submits that order has not yet been uploaded. Learned counsel for the Financial Creditor submits that a mention was made before the Court (NCLT, Mumbai) and order is likely to be uploaded today. Learned counsel for the Appellant submits that the Corporate Debtor is a listed company. Learned counsel for the Appellant relies on order passed in Company Appeal (AT) (Ins.) No.788 of 2025 on 29.04.2026 where we directed as follows:

> *"4. In view of the above, we permit the appellant to bring the order on record as and when it is uploaded. We provide that for period of two working days after uploading of the order, no publication shall be made.*

Cont'd.../

Liberty is given to bring the copy of the order on record."

As submitted by learned counsel for the Respondent, order is to be uploaded today. In view of the fact that order is likely to be uploaded today, till Monday i.e. 11.05.2026 the IRP shall not take any further steps in pursuance of the impugned order.

Order as and when uploaded be brought on record. Both the parties are permitted to bring copy of order on record before Monday i.e. 11.05.2026.

List this appeal on **11.05.2026.**

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Archana/md