

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (I.B.C) No. 3/KB/2026

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

**IN THE MATTER OF:
BANK OF INDIA**

... Financial Creditor/ Applicant.

Versus

SUNBEAM DEALERS PRIVATE LIMITED

... Corporate Debtor/ Respondent.

Date of Pronouncement: 15.05.2026.

CORAM:

SMT. BIDISHA BANERJEE, MEMBER (JUDICIAL)

CMDE . SIDDHARTH MISHRA, MEMBER (TECHNICAL)

APPEARANCE:

For the Financial Creditor-

Ms. Sanjana Nandi, Adv.

ORDER

PER: Siddharth Mishra, Member (Technical):

1. The Court congregated through physical / hybrid mode.
2. Heard the Learned Counsel for the Financial Creditor.
3. Vide order dated 24.02.2026, this Adjudicating Authority directed issuance of notice to the Corporate Debtor and filing of its reply affidavit within two weeks, failing which an ex parte order would

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

follow. Thereafter, vide order dated 07.04.2026, the Bank and Registry were directed to effect DASTI service; however, none appeared on behalf of the Corporate Debtor. On 16.04.2026, an official of the Bank visited the registered address of the Corporate Debtor and found another company operating therefrom. The order of this Bench, along with a covering letter, was thereafter served upon Mr. Amit Sarawgi, Director of the Corporate Debtor, who duly acknowledged receipt. The matter was reserved for orders on 23.04.2026.

4. FACTUAL MATRIX:

- 4.1 The instant company petition has been filed under Section 7 of the Insolvency and Bankruptcy Code (“IBC”) read with Rule 4 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, by **“Bank of India”**, hereinafter referred to as **“Financial Creditor”/ “Applicant”** against **“Sunbeam Dealers Private Limited”**, hereinafter referred to as **“Corporate Debtor”/ “CD”/ “Respondent”** seeking direction to initiate Corporate Insolvency Resolution Process (for brevity “CIRP”) in respect of the Corporate Debtor due to a default in repayment of a financial debt amounting to Rs. 17,54,26,237.99/- as on 17.10.2025.
- 4.2 The corporate debtor is a private limited company incorporated under the provisions of the Companies Act, 2013, having CIN No. U51311JH2013PTC001555, its registered address is at Shop No- 206, 2nd Floor, Samriddhi Square, Kishorganj, Ranchi- 834001. It is involved in wholesale of textiles, clothing and footwear.

5. SUBMISSIONS OF THE LD. COUNSEL FOR THE BANK:

- 5.1 Ld. Counsel for the Financial Creditor submit that the Board Resolution dated 25.09.2014 was passed by the CD authorising Mr. Amit Sarawgi to borrow from the Bank. A copy of Board Resolution dated 25.09.2014 is attached in the Petition as **Annexure- “A-3”**.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

- 5.2 Ld. Counsel submit that the Bank had extended financial assistance to Sunbeam Dealers Private Limited by sanctioning a cash credit facility of Rs. 2.50 crore on 26.09.2014 for its business operation. The CD executed the necessary loan and security documents along with its guarantors. A copy of the Sanction letter dated 26.09.2014 is attached in the petition as **Annexure- "A-3"**.
- 5.3 Ld. Counsel submit that the CD has executed a document, namely, Demand Promissory Note dated 26.09.2014, whereby the CD had promised to pay the Bank the sum of Rs. 2.5 crore together with interest. A copy of the Demand Promissory note dated 26.09.2014 is attached in the petition as **Annexure- "A-4"**.
- 5.4 Ld. Counsel submit that the CD approached the Bank for enhancement of the Credit Cash Loan Facility to Rs. 10 crore which was sanctioned by the Bank on 30.09.2016. A copy of the Sanction Letter dated 30.09.2016 along with board resolution dated 28.09.2016 are attached in the petition as **Annexure- "A-5"**.
- 5.5 Ld. Counsel submit that after the sanction of the said above loan the CD executed D.P Note dated 30.09.2016 and accepted the terms and conditions for sanction of the said credit facility and executed an Acknowledgement of Debt on 30.09.2016. A copy of both the documents are attached as **Annexure- "A-6 & A-7"**.
- 5.6 Ld. Counsel submit that the CD had duly accepted the terms and conditions governing the sanction of the aforesaid credit facilities and had undertaken to repay the amounts availed thereunder along with interest at the prevailing rate of 11.25% per annum with monthly rests, subject to variation in accordance with the guidelines and circulars issued by the Reserve Bank of India from time to time.
- 5.7 Ld. Counsel submit that despite availing the said credit facilities, the Corporate Debtor failed to adhere to the agreed repayment schedule. Repeated requests and reminders were issued by the Applicant to the Corporate Debtor for repayment of the outstanding dues, but no

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

payment was made. Consequently, owing to such persistent default, the loan account of the Corporate Debtor was classified as a Non-Performing Asset (“NPA”) on 30.04.2018 in accordance with the applicable directives and guidelines of the Reserve Bank of India.

- 5.8 Ld. Counsel submit that the Bank issued a demand/legal notice dated 21.06.2018 calling upon the Corporate Debtor to comply with the terms of the loan agreement and to repay the outstanding dues. A copy of the said notice has been annexed and marked as **Annexure “A-8”**.
- 5.9 It is further submitted that the total amount due and payable by the Corporate Debtor to the Financial Creditor is Rs. 17, 54, 26,237.99/- (Rupees Seventeen Crore Fifty-Four Lakh Twenty-Six Thousand Two Hundred Thirty-Seven and Ninety-Nine Paise Only) as on 17.10.2025. The said amount comprises a principal sum of Rs. 9,05,27,791.58 (Rupees Nine Crore Five Lakh Twenty-Seven Thousand Seven Hundred Ninety-One and Fifty-Eight Paise Only), together with interest and other applicable charges calculated at the rate of 11.25% per annum from 31.03.2018 onwards.
- 5.10 Ld. Counsel submit that the date of default is stated to be 30.04.2018, being the date on which the account of the Corporate Debtor was classified as NPA. Ordinarily, the limitation period of three years would have expired on 30.04.2021. However, in view of the suo motu orders passed by the Hon’ble Supreme Court in *In Re: Cognizance for Extension of Limitation* (Suo Motu Writ Petition (Civil) No. 3 of 2020), the period from 15.03.2020 to 28.02.2022 stands excluded for the purpose of computation of limitation, thereby extending the limitation period up to 15.04.2023. A copy of details of the computation of amount of default and days of default is attached as **Annexure- “A-9”**.
- 5.11 It is further submitted that a Recovery Certificate in respect of the same debt was issued by the Debts Recovery Tribunal (“DRT”) on 06.12.2023. In light of the law laid down by the Hon’ble Supreme

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

Court in *Dena Bank v. C. Shivakumar Reddy & Anr.* (2021) 10 SCC 330, the issuance of such Recovery Certificate gives rise to a fresh cause of action and a renewed limitation period of three years commencing from 06.12.2023. Accordingly, the present Application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 is within the prescribed period of limitation under Article 137 of the Limitation Act, 1963. A copy of the order passed by the DRT, Ranchi dated 06.12.2023 is annexed as **Annexure- "A-10"**.

5.12 Ld. Counsel submits that record of default as maintained by CIBIL is attached as Annexure- "A-11". The copies of entries in a bankers book in accordance with the Bankers Books Evidence Act, 1891 is attached as **Annexure- "A-12"** and the last audited balance sheet of the CD is attached as **Annexure- "A-13"**.

5.13 Ld. Counsel for the Bank submit that this Adjudicating Authority vide daily order dated 23.04.2026 directed the Bank to put on record the NeSL Report and the same attached in the written statement filed on 30.04.2026 as **Annexure- 1**.

5.14 Ld. Counsel for the Bank relied on the following judgments to established a case under Section 7 of the IBC:- (I) *Innoventive Industries Ltd. ICICI Bank* [(2018) 1 SCC 407] (II) *Elegna Co-Op. Housing And Commerical Society Ltd. Vs. Edelweiss Asset Reconstruction Company Limited & Anr.* [(2026) SCC OnLine SC 82].

6. ANALYSIS AND FINDINGS

6.1 We have heard Ld. Counsel appearing for the Financial Creditor and considered the pleadings, the documents placed on record and written notes filed by the Financial Creditor.

6.2 At the outset, it is observed that this Adjudicating Authority, in adherence to the principles of natural justice, afforded sufficient opportunity to the CD to enter appearance and file its reply affidavit. Despite due service of notice through speed post as well as dasti

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

service, the CD failed to record its appearance or submit any reply. In view of such non-compliance, this Adjudicating Authority was constrained to proceed **ex-parte** against the CD.

- 6.3 The present application has been filed under Section 7 of the IBC, 2016. At the threshold, this Adjudicating Authority is required to confine its enquiry to the jurisdictional facts contemplated under Section 7(2) and 7(5) of the Code, namely, whether a financial debt exists and whether default has occurred.
- 6.4 It is noted that the corporate debtor has availed two credit facilities amounting to **Rs 10,00,00,000/-** from the financial creditor. The said loans/credit facilities were sanctioned and disbursed by the financial creditor on 26.09.2014 and 30.09.2016. The CD had accepted the terms and conditions for sanction of the said credit facilities and executed an acknowledgement of debt on 30.09.2016. Thereafter, the CD had failed to adhere to the repayment schedule and after repeatedly requested by the Bank the CD failed to repay the outstanding dues and as a result the loan account of the CD was classified as NPA on 30.04.2018. In view of the NPA, the Bank issued a demand/legal notice on 21.06.2018 for the repayment of the dues amount.
- 6.5 The Hon'ble Supreme Court in **Innovative Industries Ltd. Vs. ICICI Bank**, [(2018) 1 SCC 407], has held that the Adjudicating Authority, at the admission stage, is not required to examine the viability of the CD or adjudicate upon disputed questions of facts, and its satisfaction is limited to existence of debt and default based on the record.
- 6.6 This position of law has been consistently reiterated, including in **E.S Krishnamurthy Vs. Bharath Hi-Tech Builders Pvt. Ltd.**, [(2022) 3 SCC 161], wherein it has been held that upon satisfaction of these jurisdictional facts, admission of the application is mandatory.
- 6.7 Section 5(8) of the Code defines "**Financial Debt**" to mean debt disbursed against the consideration for the time value of money and

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

includes money borrowed against payment of interest. In the present case, the material placed on record established that the Financial Creditor disbursed an aggregate sum of **Rs. 10,00,00,000/-** to the Corporate Debtor in two tranches into the designated bank account of the CD. The said disbursement are duly reflected in the statement of account as attached as **Annexure- "A-12"**.

- 6.8 The credit facilities avail by the CD through sanction letter dated 26.09.2014 and 30.09.2016 records the terms of disbursement, repayment and interest. Further, the correspondence exchanged between the parties, including Demand Promissory Note dated 26.09.2014 and 30.09.2016 and Acknowledgement of debt/securities dated 30.09.2016 corroborates the existence of a borrowing arrangement and the obligation to repay.
- 6.9 The Hon'ble Supreme Court in **Pioneer Urban Land and Infrastructure Ltd. Vs. Union of India** [(2019) 8 SCC 416], has clarified that the essential feature of a financial debt is disbursal coupled with an obligation to repay, thereby reflecting the time value of money.
- 6.10 Further, in **Orator Marketing Pvt. Ltd. Vs. Samtex Desinz Pvt. Ltd.** [(2021) 6 SCC 584], the Supreme Court held that even in the absence of interest, a transaction may constitute a financial debt if disbursal and repayment obligation are established.
- 6.11 In view of the above, we are satisfied that the amount disbursed by the Financial Creditor constitutes a **"Financial Debt"** within the meaning of Section 5(8) of the IBC, 2016.
- 6.12 Section 3(12) of the IBC, 2016, defines **"Default"** as non-payment of debt when the same has become due and payable. As per the terms of the said Credit Facility the CD have failed to adhere to the repayment schedule as stipulated in the sanction letter.
- 6.13 Consequently, the loan account of the CD was classified as NPA on **30.04.2018**. The same is supported by the statement of account and

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

demand notice placed on record. The Hon'ble Supreme Court in **Laxmi Pat Surana Vs. Union Bank of India** [(2021) 8 SCC 481], has held that default is an objective fact, ascertainable from the records and does not depend upon the Corporate Debtor's denial. Therefore, this Adjudicating Authority is therefore satisfied that default has occurred within the meaning of Section 3(12) of the IBC, 2016.

6.14 This Adjudicating Authority is inclined to accept the submission of the Financial Creditor regarding the limitation period. The date of default is 30.04.2018 and the limitation period of three year would expiry on 30.04.2021.

6.15 The Hon'ble Supreme Court in **In Re: Cognizance for Extension of Limitation** [Suo Moto WP (Civil) No. 3 of 2020], the period from 15.03.2020 to 28.02.2022 stood excluded for the purpose of computing limitation. Consequently, limitation period was set to expire on 15.04.2023.

6.16 This Adjudicating Authority observes that the DRT, Ranchi issued a Recovery Certificate dated 06.12.2023 in respect of the same debt. In view of the law laid down by the Hon'ble Supreme Court in **Dena Bank Vs. C. Shivakumar Reddy & Anr.** [(2021) 10 SCC 330], the issuance of a Recovery Certificate constitutes a fresh cause of action. Relevant Para of the judgment is quoted below for convenience-

“143. Moreover, a judgment and/or decree for money in favour of the Financial Creditor, passed by the DRT, or any other Tribunal or Court, or the issuance of a Certificate of Recovery in favour of the Financial Creditor, would give rise to a fresh cause of action for the Financial Creditor, to initiate proceedings under Section 7 of the IBC for initiation of the Corporate Insolvency Resolution Process, within three years from the date of the judgment and/or decree or within three years from the date of issuance of the Certificate of Recovery, if the dues of the Corporate

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

***Debtor to the Financial Debtor**, under the judgment and/or decree and/or in terms of the Certificate of Recovery, or any part thereof remained unpaid.”*

(Emphasis Added)

6.17 It is pertinent to note that the three-judge bench of the Hon’ble Supreme Court in the case of **Kotak Mahindra Bank Limited Vs A. Balakrishna** (Reported in 2022 9 SCC 186) upheld the judgment of the two-judge bench of the Hon’ble Supreme Court in **Dena Bank (Supra)** and held that the Recovery Certificate gives rise to fresh cause of action, and the certificate holder is a Financial Creditor under Section 5(7) of the Code. Hence, the said issue of limitation is no longer *res integra*. Relevant Para of the judgment is quoted below for convenience-

*“84. To conclude, we hold that a liability in respect of a claim arising out of a Recovery Certificate would be a “financial debt” within the meaning of clause (8) of Section 5 of the IBC. Consequently, the holder of the Recovery Certificate would be a financial creditor within the meaning of clause (7) of Section 5 of the IBC. **As such, the holder of such certificate would be entitled to initiate CIRP, if initiated within a period of three years from the date of issuance of the Recovery Certificate.***

85. We further find that the view taken by the two-Judge Bench of this Court in the case of Dena Bank (supra) is correct in law and we affirm the same. We further find that in the facts of the present case, the application under Section 7 of the IBC was filed within a period of three years from the date on which the Recovery Certificate was issued. As such, the application under Section 7 of the IBC was within limitation and the learned NCLAT has erred in holding that it is barred by limitation.”

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

(Emphasis Added)

- 6.18 Therefore, the Recovery Certificate was issued on 06.12.2023 and the present petition under Section 7 of the IBC, 2016, was filed in NCLT portal on 26.12.2025, the present application is well within the limitation period as prescribed under Article 137 of the Limitation Act.
7. In light of the foregoing discussion, this Adjudicating Authority is satisfied that a financial debt exists between the parties, default has occurred, the application is complete in all aspects and is filed within limitation period.
8. The **C.P (IB) No. 3/KB/2026** filed under Section 7 of the IBC, 2016, stands **ALLOWED**, and accordingly, we order the initiation of Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor.
- 8.1 The Application filed by Bank of India (Financial Creditor) under Section 7 of the IBC, 2016, is hereby, **admitted** for initiating the Corporate Debtor Insolvency Process in respect of Sunbeam Dealers Private Limited.
- 8.2 As a consequence of this Petition being admitted in terms of Section 7 of the IBC, 2016, moratorium as Respondent/(CD) as per clauses (a) to (d) of Section 14(1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come into force.
- 8.3 The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of CD under section 33 of the IBC, as the case may be.
- 8.4 The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

- 8.5 The provisions of sub-section (1) of the Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- 8.6 The Applicant has proposed the name of **Mr. Rajesh Kumar Agarwal**, having Registration No. **IBBI/IPA-001/IP-P01023/2017-18/11722**(Email ID: rajesh521@yahoo.com) as the Interim Resolution Professional (“**IRP**”). We have perused that there is a written communication and consent of IRP in Form- 2 with Declaration, annexed at pages 21-24 to the petition, as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. In addition, further necessary disclosures have been made by “**Rajesh Kumar Agarwal**” as per the requirement of the IBBI Regulations. Accordingly, he satisfies the requirement of Section 7(3)(b) of the code. Hence, we appoint “**Rajesh Kumar Agarwal**” as the Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the I&B Code.
- 8.7 In pursuance of Section 13 (2) of the Code, we direct the IRP or the RP, as the case shall cause a public announcement immediately with regard to the admission of this application under Section 7 of the Code and call for the submission of claims under Section 15 of the Code. The public announcement referred to in Clause (b) of sub-section (1) of Section 15 of the IBC, 2016, shall be made immediately. The expression immediately means within three days as clarified by

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- 8.8 During the CIRP period, the management of affairs of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, in terms of Section 17 of the IBC, 2016. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow. There shall be no future opportunities in this regard.
- 8.9 The Interim Resolution Professional is also free to take police assistance to take full charge of the Corporate Debtor, its assets and its documents without any delay, and this Court hereby directs the concerned Police Authorities and/or the Officer-in-Charge of Local Police Station(s) to render all assistance as may be required by the Interim Resolution Professional in this regard.
- 8.10 The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIR Process in respect of the Corporate Debtor.
- 8.11 The Financial Creditors shall be liable to pay to IRP a sum of **Rs. 3, 00,000/-**-(Rupees Three Lakhs only) as payment to meet the cost of CIRP arising out of issuing public notice and inviting claims etc., as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment. The expenses relating to the CIRP are subject to the approval of the Committee of Creditors (CoC).
- 8.12 In terms of sections 7(5) and 7(7) of the Code, the Registry of this Adjudicating Authority is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by Speed Post and through email immediately, and in any case, not later than two days from the date of this Order.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 3/KB/2026

- 8.13 Additionally, the Registry of this Adjudicating Authority shall serve a copy of this Order upon the Insolvency and Bankruptcy Board of India (IBBI) for their record and also upon the Registrar of Companies (RoC), Kolkata to whom the company is registered with, by all available means for updating the Master Data of the Corporate Debtor.
- 8.14 The Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- 8.15 The IRP/RP shall be liable to submit the periodical report including the minutes of the CoC of the Corporate Debtor, with regard to the progress of the CIR Process in respect of the Corporate Debtor to this Adjudicating Authority from time to time.
- 8.16 The order of moratorium shall cease to have effect as per Section 14(4) of the I&B Code.
9. Certified copies of this order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.
10. Post the Company Petition on **24.06.2026** for filing the Periodical Progress Report by the IRP/RP as appointed herein

Cmde Siddharth Mishra
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Order signed on the 15th day of May, 2026.

S.T (LRA)