

NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT VI

Item No. P-1 & P-2
IA (I.B.C) 514/MB/2026
in
C.P. (IB)/1119/MB/2025
&
C.P. (IB)/1119/MB/2025

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **19.06.2026**

NAME OF THE PARTIES:

Union Bank of India

Vs.

Rashmi Realty Builders Private Limited

Under Section 65 & 7 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)

//AS//

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

C.P. (IB)/1119/MB/2025

[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]

UNION BANK OF INDIA

[PAN No.: AAACU0564G]

239, Union Bank Bhavan

Vidhan Bhavan Marg,

Nariman Point, Mumbai – 400021.

...Financial Creditor

V/s

RASHMI REALTY BUILDERS PRIVATE LIMITED

[CIN No.: U45400MH2008PTC179053]

B/215, Shanti Shopping Centre

Opp. Railway Station

Mira Road (East), Thane – 401107.

...Corporate Debtor

IA (I.B.C) 514/MB/2026

in

CP (IB) No. 1119/MB/2025

[Under Section 65 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 11 of the National Company Law Tribunal Rules, 2016]

RASHMI REALTY BUILDERS PRIVATE LIMITED

... Applicant/CD

V/s

UNION BANK OF INDIA

... Respondent No. 1/FC

Ms. Archana J.S.

... Respondent No. 2

Pronounced: 19.06.2026

CORAM:

HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)

HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid

For FC: Adv. Kaushal Ameta a/w Adv. Drishti Ojha i/b Legal Prism

For CD: Adv. Anirban Bhattacharya, Adv. Mr. Rajeev Chowdhary

ORDER

[PER: CORAM]

1. BACKGROUND

1.1 This C.P. (IB) No. 1119 of 2025 (Application) was filed on 12.09.2025 by Union Bank of India, the Financial Creditor (FC) having PAN No.: AAACU0564G, under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Rashmi Realty Builders Private Limited, the Corporate Debtor (CD), having CIN No.: U45400MH2008PTC179053.

1.2 This Application has been affirmed by one Mrs. Archana J.S., Chief Manager of Union Bank of India. As per Part IV of the Application, the amount claimed to be in default is Rs. 60,97,67,085/- (Rupees Sixty Crore Ninety-Seven Lakh Sixty-Seven Thousand Eighty-Five Only) as on 31.12.2025. The date of default is stated to be 31.12.2016.

1.3 The Applicant has proposed Mr. Purusottam Behera, having Registration No. IBBI/IPA-002/IP-N00940/2019-2020/12993, to act as the Interim Resolution Professional (IRP) in case the Application is admitted.

2. CONTENTIONS OF FC

2.1 The Applicant, Union Bank of India, is a body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.

2.2 The Corporate Debtor, M/s. Rashmi Realty Builders Pvt. Ltd., is a private limited company incorporated under the Companies Act, 1956, engaged in real estate development and construction, including infrastructure.

2.3 The Corporate Debtor, being a constituent of the Applicant's Santacruz (West) Branch since 2014, approached the Applicant for financial assistance of Rs.32 Crores Working Capital Term Loan (WCTL) for financing its project "*Rashmi Starcity Phase II and III*" at Naigaon (East), District Palghar.

2.4 The Applicant sanctioned the facility vide Sanction Letter dated 29.01.2014 (Ref. No. UBI:SNZ:ADV:29:2014). The loan was to be repaid in 24 monthly instalments of Rs.1.33 Crores each, after a moratorium of 24 months, with interest to be serviced monthly. The Corporate Debtor accepted the terms by Letter dated 31.01.2014 and Board Resolution dated 14.02.2014.

2.5 On 06.03.2014, the Corporate Debtor executed various loan and security documents, including the General Term Loan Agreement, Demand Promissory Note, Letter of Continuity, Undertakings, Interest Agreement, and Composite Hypothecation Deed.

- 2.6 To secure repayment, Directors Mr. Yogesh Bosmiya and Mr. Hemendra Bosmiya executed personal guarantees and mortgaged immovable properties. A Registered Indenture of Mortgage dated 04.03.2014 was executed at Sub-Registrar, Vasai.
- 2.7 In December 2016, the Applicant further sanctioned a Temporary Overdraft (TOD) of Rs.6.90 Crores in the CD's current account, repayable within 14 days, carrying 18.25% p.a. interest.
- 2.8 The Corporate Debtor defaulted, and the account was classified as NPA on 31.12.2016.
- 2.9 The Applicant issued a Recall Notice dated 18.01.2017, based on the outstanding as on the NPA classification date, i.e., 31.12.2016, calling upon the CD to repay a total sum of Rs. 28,10,25,983/-, along with further contractual interest and charges towards Working Capital Term Loan (WCTL) & Temporary Overdraft (TOD) facility.
- 2.10 On continued default, the Applicant issued a Demand Notice dated 05.04.2017 under Section 13(2) of the SARFAESI Act, 2002, calling upon the CD to repay a sum of Rs.28,88,44,708.35/-, being the outstanding dues as on 31.03.2017, together with further interest and charges.
- 2.11 Despite classification as NPA, the Corporate Debtor made sporadic part-payments between 2017 and 2022, the last being on 23.06.2022, evidencing continuing acknowledgment of liability.
- 2.12 On 17.02.2025, the Corporate Debtor offered a One- Time Settlement (OTS) of Rs.27.50 Crores, which the Applicant rejected vide email dated 24.03.2025 for want of upfront 10% deposit.

2.13 Despite ample opportunities, the CD has failed to discharge its admitted debt. Default, as defined under Section 3(12) of the IBC, continues to subsist.

2.14 The Applicant has attached the following supporting documents along with the Application:

- a) Copy of Power of Attorney of Authorised Representative of FC.
- b) Copy of Master Data of CD from MCA website.
- c) Copy of the Consent of Proposed Interim Resolution Professional in Form 2 & Authorization of Assignment in Form B.
- d) Copy of Statements of Account.
- e) Copy of Form D-Record of Default issued by NESL.
- f) Copy of Banker's Book Certificate.
- g) Copy of Sanction letter dated 29.01.2014 bearing Ref No.: UBI:SNZ:ADV:29:2014.
- h) Copy of General Term Loan Agreement dated 06.03.2014.
- i) Copy of Composite Hypothecation Deed dated 06.03.2014.
- j) Copy of Demand Promissory Note dated 06.03.2014.
- k) Copy of Indenture of Mortgage dated 04.03.2014.
- l) Copy of Letter of Guarantee dated 06.03.2014.
- m) Copy of Recall Notice dated 18.01.2017.
- n) Copy of Notice dated 05.04.2017 u/s SARFAESI Act, 2002.
- o) Copy of OTS Proposal by the CD dated 17.02.2025.
- p) Copy of OTS rejection email dated 24.03.2025.
- q) Copy of Particulars of Claim.
- r) Copy of table demonstrating computation of limitation.

s) Copy of Form-2, IRP's IBBI Registration Certificate & AFA.

3. ADDITIONAL AFFIDAVIT (FC) dt. 06.11.2025

3.1 Pursuant to the interim order dated 28.10.2025, passed by us, the Applicant has placed on record the balance sheet of the CD for the financial year ending on 31.03.2019, in compliance with the said direction.

3.2 It is contended by the FC that the debt granted by the FC is reflected in the Balance Sheet of the CD under "*long term borrowing*" as well as under "*short term borrowing*" at Note No.4 & Note No.5 to the Balance Sheet, respectively, and hence it is an acknowledged debt.

Rashmi Realty Builders Private Limited
Notes Forming Integral Part of the Balance Sheet as at 31st March, 2019

| Note 4: Long Term Borrowings | | Rs. | | Rs. | |
|------------------------------|---|--------------------|--------------------|--------------------|--------------------|
| Sr. No | Particulars | 31-Mar-19 | | 31-Mar-18 | |
| | | Current | Non - Current | Current | Non - Current |
| 1 | Project Loans - Secured - From Bank Indian Overseas Bank Loan A/c No. 331903921300001 (Secured against Mortgage of Development Rights of land Forming part of Project Rashmi Star City - Phase 5 & Exclusive charge on Stocks/ Building Material.) | 26,037,430 | - | 30,742,494 | - |
| 2 | Union Bank of India Loan A/c No: 319206390001589 (Secured against Project related Receivables and Registered Mprtgage of Land under Development of the Rashmi Star City - Phase 2 & Phase 3) | 201,469,872 | - | 201,550,171 | - |
| 3 | Oriental Bank of Commerce Loan A/c No: (Secured against Mortgage of Stocks, Building Materials & Receivables relating to Project Rashmi Residency - Smart Homes at Hyderabad) | - | - | 43,137,721 | - |
| 4 | Loans & Advances From Outsiders | - | 77,058,699 | - | 69,478,123 |
| 5 | Loans & Advances From Related Parties | - | 51,533,564 | - | 15,906,029 |
| 6 | Long Term Advance from Customers | - | 709,754,202 | - | 673,069,677 |
| 7 | Loans From Directors | - | 39,312,454 | - | 13,446,953 |
| | Total | 227,507,301 | 877,659,019 | 275,430,385 | 771,900,782 |

| Note 5: Short-term Borrowings | | Rs. | |
|-------------------------------|---------------------|-------------------|-------------------|
| Sr. No | Particulars | 31-Mar-19 | 31-Mar-18 |
| 1 | Bank of Maharashtra | - | - |
| 2 | HDFC Bank | - | - |
| 3 | Union Bank of India | 58,934,698 | 62,578,698 |
| | Total | 58,934,698 | 62,578,698 |

4. CONTENTIONS OF CD

4.1 Affidavit-in-Objection dated 10.01.2026 was filed and affirmed by one Mr. Yogesh Bosmiya, who is stated to be the authorized representative and Director of the CD, as to the maintainability of the Application.

4.2 At the threshold, the CD submits that the Application at hand is hopelessly time-barred.

4.3 Additionally, the alleged FC has wrongly relied on the bank entries, which in the absence of requisite Affidavits cannot be controverted to on merits at this stage.

4.4 The Deponent herein chalked down the list of the Affidavits required under Bankers' Books Evidence Act, 1891, which are missing/defective from the Company Petition:

- a) Affidavit under Section 2-A (a) which reads - *(a) a certificate to the effect that it is a printout of such entry or a copy of such printout by the principal accountant or branch manager, and*
- b) Affidavit under Section 2-A (b) which reads- *b) a certificate by a person in-charge of computer system containing a brief descriptions of the computer system and the particulars of – (A) the safeguards adopted by the system to ensure that data is entered or any other operation performed only by authorised persons; - (B) the safeguards adopted to prevent and detect unauthorised change of data,- (C) the safeguards available to retrieve data that is lost due to systemic failure or any other reasons,- (D) the manner in which data is transferred from the system to removable media like floppies, discs, tapes or other electro-magnetic data storage devices,- (E) the mode of verification in order to ensure that data has been accurately transferred to such removable media,- (F) the*

mode of identification of such data storage devices,- (G) the arrangements for the storage and custody of such storage devices,- (H) the safeguards to prevent and detect any tampering with the system, and any other factor which will vouch for the integrity and accuracy of the system.

Note- The Affidavit is defective, and is not correct as per the clause of the Section 2-A (b), and the name of concerned person signing is also not mentioned.

c) Affidavit under Section 2-A (c) which reads - *(c) a further certificate from the person in-charge of the computer system to the effect that to the best of his knowledge and behalf, such computer system operated properly at the material time, he was provided with all the relevant data and the printout in question represents correctly, or is appropriately derived from, the relevant data.]*

4.5 It is stated that the alleged FC has also not appended an Affidavit under Section 63(4) of the Bharatiya Sakshya Adhinyam, 2023, and the requirements of tendering an Affidavit to that effect is mandatory before relying on any electronic evidence.

4.6 The alleged FC has emphatically attempted to make up a case for continuous acknowledgments of the debt; however, the said entries cannot be looked into, and the Deponent herein deny any assumption of renewal of the limitation period as contended by the alleged FC.

4.7 The FC states that the existence of financial debt and the occurrence of default stand independently and conclusively established through the

Record of Default issued by NeSL, which has been authenticated by the CD, and therefore admits of no dispute.

5. REJOINDER dt. 29.01.2026 to the affidavit in objection as to maintainability

5.1 At the stage of admission of an application under Section 7 of the IBC, 2016, the scope of enquiry before this Tribunal is confined to the determination of the existence of a financial debt and the occurrence of default, both of which stand conclusively established on record.

5.2 The loan account of the Corporate Debtor was classified as NPA on 31.12.2016. Thereafter, the CD made part-payments from time to time between 2017 and 2022, the last such payment having been made on 23.06.2022; and the CD submitted an OTS proposal dated 17.02.2025.

5.3 Each of the aforesaid acts constitutes a clear, conscious and unequivocal acknowledgment of liability within the meaning of Section 18 of the Limitation Act, 1963, thereby extending limitation. The present Company Petition is therefore well within limitation.

5.4 The FC has placed on record certified statements of account, the requisite Bankers' Books Certificate, and the Record of Default issued by the Information Utility, which conclusively establish the existence of financial debt and occurrence of default and are more than sufficient for the purposes of admission of a petition under Section 7 of the IBC.

5.5 The objections raised in paragraphs 5(a), 5(b) and 5(c) of the Affidavit in Objection, purportedly under Section 2A of the Bankers' Books Evidence Act, 1891, are misconceived, untenable and devoid of merit. Proceedings under Section 7 of the IBC are summary in nature, and at the stage of

admission, this Tribunal is not required to apply strict rules of evidence or examine the internal functioning, safeguards or certification of the bank's computer systems, as sought to be contended by the CD. Without prejudice, it is submitted that the existence of financial debt and occurrence of default stand independently and conclusively established through the Record of Default issued by NeSL, which has been authenticated by the CD, and therefore admits of no dispute.

5.6 The allegation contained in paragraph 6 of the Affidavit in Objection that the absence of an interest calculation sheet renders the Application defective is incorrect, misleading and untenable. The quantum of financial debt and the occurrence of default are clearly reflected in the statements of account and the Record of Default issued by the Information Utility, both of which form part of the record. The CD has never disputed either the financial liability or the fact of default, and the objection raised is therefore wholly misconceived.

5.7 The contention raised in paragraph 7 of the Affidavit in Objection that electronic records cannot be relied upon without further affidavits is legally unsustainable, misconceived and contrary to the scheme of the IBC. Under the IBC framework, a Record of Default issued by an IU, once authenticated, carries statutory evidentiary value for the purposes of admission of a petition under Section 7, and no further proof or affidavits are required at the admission stage.

5.8 The reliance placed in paragraph 8 of the Affidavit in Objection on Section 63(4) of BSA, 2023 is misplaced, misconceived and wholly inapplicable to the present proceedings. Proceedings before this Tribunal u/s 7 of IBC are

governed by the provisions of IBC and the NCLT Rules, and not by trial-stage evidentiary requirements, as sought to be contended by the CD.

6. CD's REPLY TO APPLICATION

- 6.1 Affidavit-in-Reply dated 31.01.2026 was filed and affirmed by one Mr. Yogesh Bosamiya, who is stated to be the Director and authorized representative of the CD.
- 6.2 That the present reply is in addition to the Affidavit in objection as to the maintainability of the company petition filed by the CD on 11.01.2025. The contents of the same are reiterated herein and the same may be read as part of this reply.
- 6.3 Further, it is submitted that the present petition is barred by limitation inasmuch as the same has been filed on 15.09.2025, which is more than three (3) years after the stated date of default, which is the date of classification of CD NPA, i.e. 31.12.2016. That in order to extend the period of limitation, the alleged FC has pleaded as under:

"13. Despite classification as NPA/the Corporate Debtor made sporadic part-payments between 2017 and 2022/the last being on 23.06.2022/ evidencing continuing acknowledgment of liability.

14. On 17.02.2025 the Corporate Debtor offered a One Time Settlement (OTS) of Rs.27.50 Crores/which Applicant rejected vide email dated 24. 03.2025 for upfront 10% deposit."

6.4 At the outset, it is denied by the CD that any such payment/s was/ were made by the CD as no overt and voluntary steps were taken by the Corporate Debtor to make any payments. Further the alleged last payment dated 23.06.2022 relied upon by the alleged Financial Creditor clearly appears to be mere accounting entry in the bank statements relied upon the alleged Financial Creditor and the same is not a payment made by the CD. That other entries relied upon by the alleged Financial Creditor also are not acknowledgements made by the CD.

6.5 Further, assuming without admitting that such payment was made by the CD, then making such payments can have the effect of extending the limitation only if they fall within the parameters of Section 19 of the Limitation Act, 1963 which provides as under:

“19. Effect of payment on account of debt or of interest on legacy. –Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made:

Provided that save in the case of payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of; or in a writing signed by, the person making the payment.

Explanation. –For the purposes of this section, –

- (a) where mortgaged land is in the possession of the mortgagee/ the receipt of the rent or produce of such land shall be deemed to be a payment;*
- (b) “debt” does not include money payable under a decree or order of a court.”*

6.6 Thus, to get the benefit of Section 19 of the Limitation Act, two conditions are essential; first, payment must be made within the prescribed period of limitation and secondly, it must be acknowledged by some form of writing either in the handwriting of payer himself or signed by him. The both conditions are clearly absent in the present case. Therefore, the alleged payments referred to by the alleged Financial Creditor would not extend the period of limitation. That it is further submitted that alleged financial creditor failed to take any timely steps within the period of limitation from NPA date. The entries relied upon by the alleged Financial Creditor are beyond limitation, and further not an acknowledgment made by the CD. The alleged Financial Creditor wrongly claims the payments were made by the CD, which is completely misplaced.

6.7 As such the letter dated 17.02.2025 relied upon by the alleged Financial Creditor cannot enable extension of limitation since it is not issued within the prescribed period of limitation as per Section 18 of the Limitation Act, 1963.

6.8 That the CD relies on the judgment of ***Ramdas Dutta v. IDBI Bank Limited & Anr.*** Comp. App. (AT)(Ins.) No. 1285 of 2022, passed by the Hon'ble NCLAT, in which the admission order was set aside:

"20. In so far as/ the issue regarding the payment of Rs. 2. 75 Lakh on 29. 03.2017 by the Appellant in their account is concerned, it has now been well settled by three judge bench of the Hon'ble Supreme Court in the case of Shanti Conductors Pvt. Ltd. (Supra), that Section 19 would come into play if the payment is acknowledged in the handwriting of, or in a writing signed by the person making the payment

21. Therefore/ no advantage can be given to the Bank of the entry dated 29. 03.2017.

22. As regards the OTS, it has come on record that the OTS has occurred much after the expiry of period of limitation therefore, it cannot be taken into consideration for the purpose of Section 18 to extend the period of limitation. 23. Thus, in view of the aforesaid facts and circumstances, we are of the considered opinion that the impugned order is patently illegal and the appeal is thus hereby allowed and the impugned order is set aside. No costs."

6.9 It is a settled legal position that the CIRP of the CD must be restricted to the Project wise insolvency and not of the entire CD.

6.10 That the present petition peculiarly filed by alleged bank/financial institution against a real estate company is not maintainable since despite the admitted position by the alleged Financial Creditor that the financial assistance was rendered by it to the CD "for financing its project Rashmi

Starcity Phase II and III" at Naigaon (East), District Palghar." (See Para 5 of the Synopsis), the alleged Financial Creditor has not filed its petition project-wise which is in teeth of the latest decisions of the Hon'ble Supreme Court of India in ***Mansi Brar Fernandes vs. Shubha Sharma and another***, 2025 SCC Online SC 1972 and the decision of this Hon'ble NCLAT in ***Gagan Tandon & Ors. vs. IL& FS Financial Services Ltd. & Ors.***, Company Appeal (AT) (Insolvency) No. 500 of 2025 wherein the Hon'ble NCLAT followed the decision in Mansi Brar (supra) and its earlier decision in ***Flat Buyers Association Winter Hills - 77, Gurgaon vs. Umang Realtech Pvt. Ltd. through IRP & Ors.***, Company Appeal (AT) (Ins) No. 926 of 2019.

6.11 That in the event of admission of the present petition in the manner it has been filed by the alleged FC would lead to extension of the CIRP against the CD to its other following projects which have no connection and relevance to the financial assistance which is subject matter of the present petition.

6.12 Thus, the CD group herein is developing different projects and has allotted units to different homebuyers and allottees of residential and commercial assets.

6.13 That further the sanction letter dated 29.01.2024 relied upon by the alleged Financial Creditor [at pg. 173; relevant at pg. 174] indicates the purpose of loan as "Project Finance". That terms of the said sanction letter are otherwise also clearly indicate that the alleged financial assistance provided by the alleged Financial Creditor was for financing a particular project of the CD. Moreover, Recital C to the Indenture of Mortgage dated 04.03.2024 clearly states that the CD "approached Union Bank of India for a grant of a

Term Loan Limit of Rs.32,00,00,000/- (Rupees Thirty Two Crore only) to Borrower Company for the purpose of project finance of the project to be known as "*Rashmi Star City Phase II & Phase III*" to be constructed on land described in First schedule written hereunder." That the project being "*Rashmi Star City Phase II & Phase III*" has been described in the First Schedule to the Indenture of Mortgage dated 04.03.2024 as under:

All that piece and parcel of NA land bearing Old Survey No. 331. New Survey no. 366/ Hissa no. 1P, area adm. H.R.P.0.24.3 i.e. 24.30 Guntha & Old Survey No. 330/ New Survey no. 360 Hissa No. 7, area adm. H.R. P.0.40.0, i.e., 40.00 Guntha/ total adm. 64.3 Guntha, and the structure and building constructed/ to be constructed thereon situate, lying and being at Village: Jychandra, Taluka; Vasai, Dist Thane/ within the limits of CIDCO/ Vasai- Virar Mahanagar Palika

AND

All that piece and parcel of NA land bearing Old Survey no, 370, New Survey no. 99, Hissa no. 3, area adm. H.R.P. 0,81.0 i.e. 81.00 Guntha, and the structure and building constructed/ to be constructed thereon situate, lying and being at Village: Chandrapada, Taluka: Vasai Dist. Thane/ within the limits of CIDCO/ Vasai- Virar Mahanagar Palika.

6.14 That the security and loan documents are clearly indicative of the project to which the financial facility, which is subject matter of the present petition. Therefore, it is submitted that by neither filing the present petition project-wise of the CD nor by seeking initiation of CIRP limited to the project, the present petition is non-maintainable and is against the law laid down by the Hon'ble Supreme Court of India in *Mansi Brar (supra)* and *Gagan Tandon (supra)*.

6.15 The Hon'ble Supreme Court of India in *Mansi Brar* clearly directed that the resolution of a CD of a real estate project should be project-wise. It has been directed that:

"21.2 (5) Since real estate is the second largest sector in IBC proceedings, IBB/24, in consultation with RERA authorities, shall constitute a council to frame specific guidelines for insolvency proceedings in real estate, including timelines for project-wise CIRP, and safeguards for allottees.

(6) Resolution of real estate insolvency should, as a rule, proceed on a project specific basis rather than the entire corporate debtor, unless circumstances justify otherwise. This would protect solvent projects and genuine homebuyer from collateral prejudice. IBB shall also devise a mechanism to enable handover of possession to willing allottees where substantial units in a project are complete."

6.16 That the Hon'ble NCLAT on 07.01.2026 in *Gagan Tandon (supra)* clearly observed that "*in the CIRP against a real estate, if allottees (Financial Creditors) or Financial Institutions are of one project initiated CIRP against the CD, it be confined to the particular project and it cannot affect other projects of the real estate company in other places*". The Hon'ble NCLAT further examined the loan agreements and the security documents and noticed the relevant projects and held that:

"93. We are of the view that when securities, which were given by the CD for repayment of the term loan given by the IL&FS are confined to only few projects, the CIRP initiated by the impugned order cannot engulf all the projects of the CD, which are in no manner affected by financial facilities extended by the IL&FS to the CD.

94. The other projects apart from projects, which were noticed and dealt with in the Loan Agreements between the parties, cannot be affected at the instance of the IL&FS in the CIRP against the CD, As noted above/ the Loan Agreements itself have noticed that projects of the CD, which are in different parts of the country. The securities as noticed above are confined to assets of the CD at Mother City Lucknow and three Cities in the State of Rajasthan. The Financial Institution and the CD having noticed in the Agreements that projects of the CD spread over entire

country and assets of only few projects having been referred to and relied on by the Financial Institutions for its repayment and securities, we are of the view that CIRP initiated by the impugned order should be confined to the projects, which are referred to as securities and repayment. Including other projects will cause hardship to the stakeholders of different projects, which are not connected or concerned with the CIRP projects of the CD, which are subject matter of the Loan Agreements.”

6.17 Therefore, the time barred present Company Petition if allowed would take wrongly into its fold all the solvent projects being run by the CD which have no relevance and connection with the financial assistance rendered by the CD, which would further also severely prejudice the interests of homebuyers.

6.18 That the intent of the alleged Financial Creditor is not to resolve but to agitate a time barred debt, by keeping the averments therein as vague and unclear. That a mere perusal of the Company Petition indicates that the entire S. 7 Petition is silent on any computation, which is a sine qua non to the Company Petition.

7. REJOINDER

7.1 Rejoinder dated 01.04.2026 was filed and affirmed by one Mrs. Archana J. S., who is stated to be the Chief Manager and authorized representative of the Applicant.

7.2 The CD has deliberately avoided dealing with the core jurisdictional requirements under Section 7 of the IBC, and has instead raised technical and untenable objections which do not withstand legal scrutiny.

7.3 It is submitted that the CD has failed to raise any bona fide or substantial dispute in respect of the following foundational and undisputed facts:

- a) The sanction and disbursement of financial facilities by the Financial Creditor;
- b) The execution of loan, security and guarantee documents in favour of the Financial Creditor; and
- c) The subsistence of outstanding financial liability, as reflected in the books of account and admitted through subsequent conduct.

7.4 Significantly, the Corporate Debtor has not denied the existence of the lending relationship or the execution of the underlying financial documents, and its Reply is conspicuously silent on material admissions, including:

- a. Acknowledgment of debt in its financial statements;
- b. Continuous correspondence with the Financial Creditor; and
- c. Submission of a One-Time Settlement proposal.

7.5 It is further submitted that the Reply proceeds on an erroneous assumption that limitation runs mechanically from the date of NPA, ignoring the well-established legal position that. Subsequent acknowledgements and payments extend the period of limitation.

7.6 The CD has failed to deal with the material fact that in its duly signed Balance Sheet dated 25.06.2019, it has acknowledged the subsisting financial liability owed to the Financial Creditor.

7.7 It is well settled that:

- a) Entries in a duly signed Balance Sheet amount to a valid acknowledgment under Section 18 of the Limitation Act, 1963, and
- b) Such acknowledgment gives rise to a fresh period of limitation commencing from the date of such acknowledgment.

7.8 The CD has deliberately ignored the binding and authoritative directions issued by the Hon'ble Supreme Court in In Re: Cognizance for Extension of Limitation, whereby the period from 15.03.2020 to 28.02.2022 has been excluded for the purposes of computing limitation.

7.9 Upon giving effect to the said exclusion, the limitation period, which commenced on 25.06.2019, stood substantially extended, and continued to subsist well beyond the dates sought to be relied upon by the CD.

7.10 In its letter dated 13.09.2022, the CD has, in clear and unequivocal terms:

- a. Acknowledged the grant and subsistence of credit facilities extended by the Financial Creditor;
- b. Admitted its repayment obligations in respect of the said facilities; and
- c. Continued engagement with the Financial Creditor in relation to the outstanding dues.

7.11 The aforesaid communication, read in conjunction with the Financial Creditor's letter dated 06.09.2022, constitutes a clear, conscious and unequivocal acknowledgement of liability in writing and evidences the subsistence of the debtor-creditor (jural) relationship between the parties, within the meaning of Section 18 of the Limitation Act, 1963.

7.12 The CD has sought to contend that the payment dated 23.06.2022 is merely an accounting entry and not a valid payment towards the debt. The said

contention is factually incorrect, unsupported by any material, and liable to be rejected.

7.13 The CD has placed reliance on the decision in Ramdas Dutta v. IDBI Bank.

The said reliance is wholly misplaced, misconceived, and inapplicable to the facts of the present case.

7.14 The said judgment is clearly distinguishable on facts and in law, inter alia, for the following reasons:

a. In the present case, there exist multiple and successive written acknowledgments of liability by the CD, including acknowledgment in its duly signed Balance Sheet and subsequent written communications;

b. The record demonstrates continuous financial dealings and part payments, including payments made towards the loan account, which attract the provisions of Section 19 of the Limitation Act, 1963;

c. The CD has, through its conduct, repeatedly acknowledged the subsisting debtor-creditor (jural) relationship, thereby extending limitation under Section 18 of the Limitation Act, 1963;

d. The present case involves a continuous and unbroken chain of acknowledgments and payments, which is materially distinct from the factual context considered in the judgment relied upon by the CD.

7.15 The CD has selectively relied upon isolated observations from the said judgment, without appreciating the underlying ratio or the factual distinctions, and has sought to apply the same in a mechanical and erroneous manner. It is well settled that a precedent cannot be applied divorced from its facts, and any such attempt amounts to misapplication of law.

7.16 The CD has sought to contend that the insolvency proceedings initiated under Section 7 of IBC ought to be confined to specific real estate projects and not against the Corporate Debtor as a whole. The said contention is wholly misconceived, contrary to the statutory scheme of the Code, and liable to be rejected outright.

7.17 It is submitted that the insolvency framework under IBC is entity-centric in nature, and not project-centric. An application under Section 7 is maintainable against the CD as a juridical person, and not against any specific asset, project, or undertaking of the CD.

7.18 The Code recognises the "Corporate Debtor" as the subject of insolvency proceedings, and the trigger for initiation of CIRP is the existence of financial debt and the occurrence of default by the CD, irrespective of the manner in which such debt is deployed across its internal business segments or projects.

8. Written Submissions (FC) dt. 10.04.2026

8.1 Since the contents of the Written Submissions of the Financial Creditor are similar to its other documents, we are not reiterating the same for the sake of brevity.

9. Written Submissions (CD) dt. 16.04.2026

9.1 Since the contents of the Written Submissions of the CD are similar to its other documents, we are not reiterating the same for the sake of brevity.

9.2 The CD submitted that the present application has been filed by the Financial Creditor "*with malicious intent for any purpose other than for the*

resolution of insolvency” which is proscribed by Section 65 of the IBC. The element of fraud or malicious intent is writ large from the Application filed under Section 7 of the IBC because the Financial Creditor firstly, failed to confine its application to the particular projects for which the financial assistance was rendered which makes the filing of the application contrary to the law laid down by the Hon’ble Supreme Court of India in **Mansi Brar** (supra) and by the Hon’ble NCLAT in **Gagan Tandon** (supra) and secondly, the as far as the question arises for proceeding against the CD on project wise basis leading to initiation of CIRP only with respect to the project being “Rashmi Star City Phase II & Phase III”, it is submitted by the CD that the same would be impracticable, unworkable or unachievable because the Corporate Debtor has already sold all flats and shops in the project being “Rashmi Star City Phase II & Phase III” and the said fact was brought to the notice of the Financial Creditor *vide* letter dated 17.02.2025 wherein it was stated that “*In Phase II & III consists of following buildings namely as B10, B11, B13 & D1, D2, D3, D4, D5, D6 , D7, D8 consists Residential affordable flats & shops. In that we are sold all flats & shops.*”. Therefore, despite being aware of this fact, the Financial Creditor has still filed the Application under Section 7 of the IBC which leads to the only inference that the said application has been filed “*with malicious intent for any purpose other than for the resolution of insolvency,*”.

9.3 The Financial Creditor has made a fallacious contention that since it has demonstrated the existence of financial debt and default, the Application under Section 65 of the IBC (talked about in point “10.”) lacks substance. In this regard it is submitted that notwithstanding the fact that in the present

case there does not exist any debt payable in law and thus no default, demonstration of alleged existence of financial debt cannot make the intent behind filing of the application under Section 7 of the IBC as non-malicious. Reliance in this regard is placed on the decision of the Hon'ble NCLAT in ***Wave Megacity Centre Pvt. Ltd. v. Rakesh Taneja & Ors.***, (2023) ibclaw.in 05 NCLAT [Paras 15 and 21].

10.IA/514/(MB)2026

10.1 The present Interlocutory Application (I.A.) bearing IA/514/(MB)2026 was filed on 28.01.2026 by the Applicant, Rashmi Realty Builders Private Limited (which is the Respondent in C.P. 1119/2025), through one Mr. Yogesh Bosamiya, Director and authorised representative of the CD, under Section 65 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC"), seeking the following reliefs: -

“(a) Allow the present Application;

(b) Reject the Company Petition (IB) No. 1119(MB)/2025 filed by the Respondents/alleged Financial Creditor;

(c) Pass directions under Section 65 of the Code against the Respondents for Fraudulent initiation of Corporate Insolvency Resolution Process of the Corporate Debtor;

(d) During the pendency of the present application grant ex-parte ad-interim stay on the proceedings in

*Company Petition (IB) No. 1119/MB OF 2025 filed by
the Respondents;*

*(e) Pass such other or further order / order(s) as may
be deemed fit and proper in the facts and
circumstances of the instant case.”*

10.2 In the present case, the alleged Financial Creditor did not disclose the true purport of the commercial transaction entered into with the CD. Moreover, the bank statements, ledgers, computations, etc. were also deliberately concealed from this Hon'ble Adjudicating Authority to procure a completely fraudulent and illegal order in the present matter.

10.3 The CD had entered into commercial arrangements with the CD, and the same are not disclosed by the FC properly in their Section 7 Petition. It is submitted that despite entering into a commercial arrangement with the CD, the control of the CD, the bank accounts, etc., remained with the alleged FC/Petitioner.

10.4 The Hon'ble NCLAT in ***Expert Realty Professionals Private Limited v. Logix Infrastructure Private Limited*** [Comp. App. {AT} {Ins.} No. 383 of 2025}, categorically held that the purpose and intent behind the enactment of Section 65 of the Code by the legislature is evidently to protect and preserve the interest of the legitimate creditors of the Corporate Debtor. Section 65 of the Code entrusts a duty upon the Ld. Adjudicating Authority to deliberate on the actions undertaken and the intent behind the filing of the insolvency petition by the Applicant therein.

10.5 The alleged FC did not disclose that the lending in the underlying loan documents was only restricted to a few projects and not the whole CD, and the Company Petition is wholly not maintainable.

10.6 It is the case of the Applicant herein that the alleged financial creditor has made out a completely false case under S.19 of the Limitation Act.

10.7 The Hon'ble Supreme Court in the matter of ***Pioneer Urban Land and Infrastructure Ltd. v. Union of India***, (2019) 8 SCC 416 issued a word of strong caution to be exercised by the Court. The Court underlined the following:

"56. It can thus be seen that just as information utilities provide the kind of information as to default that banks and financial institutions are provided under Sections 214 to 216 of the Code read with Regulations 25 and 27 of the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017, allottees of real estate projects can come armed with the same kind of information this time provided by the promoter or real estate developer itself, on the basis of which, prima facie at least, a "default" relating to amounts due and payable to the Allottee is made out in an application under Section 7 of the Code. We may mention here that once this prima facie case is made out the burden shifts on the

promoter/real estate developer to point out in their reply and in the hearing before NCLT, that the Allottee is himself a defaulter and would therefore, on a reading of the Agreement and the applicable RERA Rules and Regulations, not be entitled to any relief including payment of compensation and/or refund entailing a dismissal of the said Application. At this stage also, it is important to point out in answer to the arguments made by the petitioners, that under Section 65 of the Code, the real estate developer can also point out that the insolvency resolution process under the Code has been invoked fraudulently with malicious intent or for any purpose other than the resolution of Insolvency. This is the real estate developer may do by pointing out for example, that the Allottee who has knocked at the doors of NCLT is a speculative investor and not a person who is genuinely interested in purchasing a flat/apartment. They can also point out that in a real estate market which is falling, the Allottee does not, in fact, want to go ahead with its obligation to take possession of the flat/Apartment under RERA, but wants to jump

ship and really get back, by way of this coercive measure, monies already paid by it. Given the above, it is clear that it is very difficult to accede to the petitioners' contention that a wholly one-sided and futile hearing will take place before NCLT by trigger-happy allottees who would be able to ignite the process of removal of the management of the real estate project and/or lead the corporate debtor to its death.”

10.8 Adverting to the facts of the present real estate group, the Applicant herein states that the Corporate Debtor group are having various projects under the flagship name of Rashmi Starcity, lending in all projects is different, and a few of the Projects are unencumbered (having no secured creditor). That an attempt of the alleged Financial Creditor to proceed against the entire Corporate Debtor with respect to a time-barred law.

FC'S CONTENTIONS IN REPLY

10.9 The jurisdiction of the Adjudicating Authority under Section 7 of the Code is limited to determining whether a financial debt exists and whether a default has occurred. Once these two conditions stand established from the material placed on record, the application is liable to be admitted.

10.10 The Applicant seeks to invoke Section 65 of the Code, which is an exceptional provision intended to address situations where insolvency proceedings are initiated:

a. Fraudulently,

- b. with malicious intent, or
- c. for purposes other than the resolution of insolvency.

10.11 The threshold for invoking Section 65 is therefore stringent and narrowly construed, and the burden lies squarely upon the Applicant to demonstrate specific acts of fraud, mala fides or abuse of process, supported by cogent material.

10.12 In the present case, the Applicant has failed to demonstrate any element of fraud or malicious intent whatsoever. On the contrary, the record placed before this Hon'ble Tribunal clearly establishes that:

- a. the financial debt owed to the Financial Creditor is undisputed;
- b. the default is evidenced through statutory financial records, including the Record of Default issued by the Information Utility; and
- c. the CD has itself acknowledged its subsisting liability on multiple occasions, including through part payments, its written acknowledgment dated 13.09.2022, and by submission of an OTS proposal, all of which clearly evidence the continuing liability and negate any allegation of fraud or mala fides.

10.13 It is pertinent to note that the CD has never disputed the sanction of the loan facilities, execution of the loan and security documents, or the classification of the account as NPA.

10.14 The CD has itself acknowledged the subsisting financial liability, inter alia, by:

- a. making part payments from time to time, the last such payment having been made on 23.06.2022;
- b. issuing a written communication dated 13.09.2022 acknowledging the credit facilities and its repayment obligations; and

c. submitting a OTS proposal dated 17.02.2025 seeking settlement of its outstanding dues.

10.15 These acts of the CD constitute unequivocal acknowledgments of liability, and further demonstrate that the existence of financial debt and default cannot be seriously disputed.

10.16 The Applicant has alleged that the Section 7 Petition has been filed without proper authorization from the Financial Creditor. The said allegation is incorrect, misleading and contrary to the record of the present proceedings, and is therefore denied.

10.17 The Section 7 Petition has been instituted by Ms. Archana J. S., Chief Manager of Union Bank of India, who is a duly authorised officer of the Financial Creditor, who has been authorised to institute and prosecute legal proceedings on behalf of the Bank pursuant to a valid Power of Attorney executed in her favour by the Financial Creditor.

10.18 It is respectfully submitted that the Section 7 Petition has been filed strictly in accordance with Form-1 prescribed under the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, and all material particulars required under the statutory framework have been duly disclosed.

10.19 It is settled law that vague and general allegations of suppression, unsupported by particulars of evidence, cannot form the basis for invoking Section 65 of IBC.

10.20 The statements of account have been filed together with the requisite Bankers' Books certificate, thereby satisfying the evidentiary requirements under the Bankers' Books Evidence Act, 1891. In addition, the Financial Creditor has placed on record the Record of Default issued by the Information Utility (NeSL),

which independently corroborates the existence and quantum of the default committed by the CD.

10.21 The aforesaid documents clearly and unequivocally demonstrate:

- a. the amount of financial debt granted,
- b. the amount outstanding and claimed to be in default, and
- c. the date on which the default occurred.

11. **ANALYSIS AND FINDINGS**

11.1 We have perused the documents as placed before us and heard both the Ld. Counsels for the FC and the CD.

11.2 The following facts emerge as undisputed from the pleadings and documents placed on record:

- (i) sanction of Working Capital Term Loan facility of Rs.32 Crores by the Financial Creditor in favour of the CD *vide* Sanction Letter dated 29.01.2014;
- (ii) execution of the requisite loan, security and mortgage documents including the General Term Loan Agreement, Composite Hypothecation Deed, Demand Promissory Note, Indenture of Mortgage and Deeds of Guarantee during March 2014;
- (iii) classification of the loan account as NPA on 31.12.2016;
- (iv) issuance of Recall Notice dated 18.01.2017 and Demand Notice under Section 13(2) of the SARFAESI Act on 05.04.2017;
- (v) reflection of the outstanding borrowings in the Balance Sheets of the CD; and
- (vi) submission of an OTS proposal dated 17.02.2025 by the CD.

11.3 The principal disputes raised by the CD pertain to:

- (i) limitation,
- (ii) admissibility and evidentiary value of the financial records relied upon by the Financial Creditor,
- (iii) applicability of Sections 18 and 19 of the Limitation Act,
- (iv) maintainability of the present proceedings against the CD as a whole instead of on a project-specific basis, and
- (v) the allegation that the present petition has been initiated with malicious intent within the meaning of Section 65 of the IBC.

11.4 The CD herein filed I.A. 514 of 2026 on 28.01.2026 under Section 65 of the IBC, seeking the reliefs as mentioned herein above.

11.5 The sanction letter, loan agreements, security documents, mortgage deeds, statements of account, Bankers' Books Certificate and the Record of Default issued by NeSL collectively establish beyond any manner of doubt that substantial financial facilities were extended by the Financial Creditor to the CD and that the said liabilities remain unpaid. Significantly, the CD has nowhere disputed either the lending relationship between the parties or the execution of the underlying loan and security documents. The defence of the CD is essentially confined to technical objections relating to limitation, maintainability and evidentiary compliance.

11.6 The foremost objection raised by the CD is that the present petition is barred by limitation since the account was classified as NPA on 31.12.2016, whereas the present Petition came to be filed in the year 2025. The legal position that entries in a duly signed balance sheet constitute acknowledgement of liability under Section 18 of the Limitation Act now stands conclusively settled by the Hon'ble Supreme Court in ***Asset Reconstruction Company (India) Limited v. Bishal***

Jaiswal [Civil Appeal No.323/2021]. Pursuant to the directions issued by this Tribunal, the Financial Creditor has placed on record the Balance Sheet of the Corporate Debtor for the financial year ending 31.03.2019, which was signed on behalf of the Board of Directors of the CD and by the auditors of the CD on 25.06.2019, wherein the borrowings from the Financial Creditor are specifically reflected under the heads of long-term and short-term borrowings. The said acknowledgement having been made within the subsisting period of limitation, i.e. on 25.06.2019, when the Balance Sheet for the financial year ending 31.03.2019 was signed on behalf of the Board of the CD, a fresh period of limitation commenced from the date of such acknowledgement.

11.7 Further, the Financial Creditor is also entitled to the benefit of exclusion of limitation granted by the Hon'ble Supreme Court in *In Re: Cognizance for Extension of Limitation*, whereby the period commencing from 15.03.2020 till 28.02.2022 stood excluded for computation of limitation. As a result, the limitation period stood extended till 24.06.2022. Apart from the aforesaid acknowledgement in the balance sheet, the Financial Creditor has also placed reliance upon the communication dated 13.09.2022 issued by the CD, wherein the Corporate Debtor unequivocally acknowledged the subsisting credit facilities and admitted its obligation to repay the dues of the Financial Creditor. The following excerpt from the 13.09.2022 communication may be referred to for the same:

“5. It is not that the company has intentionally tried to stop repayment of your dues or do not intend to repay your dues.....It is on the basis of this very same commercial integrity and goodwill that you have advanced credit facility to

the principal Borrower and are even today continuing with principal Borrower in these difficult times...”

The tone and contents of the said communication unmistakably demonstrate acknowledgment of the continuing jural relationship between the parties and therefore squarely attract Section 18 of the Limitation Act. The subsequent OTS proposal dated 17.02.2025 further reinforces the CD's continuing acknowledgment of liability.

11.8 The contention of the CD that the OTS proposal cannot revive a time-barred debt is wholly misconceived in the facts of the present case. By virtue of the acknowledgment contained in the Balance Sheet dated 25.06.2019, read together with the exclusion of limitation granted during the COVID period and the subsequent written acknowledgment dated 13.09.2022, the debt remained alive and enforceable in law on the date of the OTS proposal. The further contention that the entries reflecting part-payments are merely accounting entries and not voluntary payments within the meaning of Section 19 of the Limitation Act does not materially advance the case of the CD since the Petition independently survives based on successive acknowledgments under Section 18 itself. Therefore, even assuming arguendo that the requirements of Section 19 are not fully satisfied, the Petition, which was filed on 12.09.2025, remains well within the limitation on account of repeated and unequivocal written acknowledgments of liability.

11.9 The reliance placed by the CD on the judgment of the Hon'ble NCLAT in *Ramdas Dutta v. IDBI Bank Limited* is misplaced and clearly distinguishable on facts. In the said case, there was no continuous chain of acknowledgments,

such as duly signed balance sheets, subsequent written admissions, and settlement proposals, during the subsistence of the limitation. In the present matter, the Financial Creditor has established a clear and uninterrupted chain of acknowledgments through balance sheet entries, correspondence, and OTS proposals. It is trite law that precedents are to be applied having regard to the factual context in which they are rendered and not as abstract propositions divorced from their underlying factual matrix. The ratio of Ramdas Dutta, therefore, does not assist the CD.

- 11.10 Equally untenable are the objections raised by the CD regarding the admissibility of the statements of account and electronic records. Proceedings under Section 7 of the IBC are summary in nature, and the jurisdiction of the Adjudicating Authority at the admission stage is confined to determining the existence of financial debt and the occurrence of default. The Financial Creditor has placed on record certified statements of account together with the requisite Bankers' Books Certificate and the Record of Default issued by the Information Utility. The evidentiary value attached to an authenticated Record of Default under the statutory scheme of the IBC cannot be disregarded merely on hyper-technical objections pertaining to evidentiary formalities. The CD has neither disputed the correctness of the financial transactions reflected in the records nor demonstrated any prejudice having been caused by the alleged procedural deficiencies under the Bankers' Books Evidence Act or the Bharatiya Sakshya Adhinyam. Such objections, in our considered view, are devoid of substance and do not detract from the overwhelming material establishing debt and default.
- 11.11 The next issue that requires consideration pertains to the plea of the CD that the insolvency proceedings, if admitted, ought to remain confined only to the

project “*Rashmi Starcity Phase II & III*” and cannot extend to the CD as a whole. The CD has relied upon the judgments of the Hon’ble Supreme Court in *Mansi Brar Fernandes v. Shubha Sharma* and the judgments of the Hon’ble NCLAT in *Gagan Tandon v. IL&FS Financial Services Ltd.* in support of the proposition that in the case of real estate insolvencies, CIRP ought to proceed on a project-wise basis.

11.12 Upon careful examination of the material placed on record, we find considerable merit in the aforesaid contention to the limited extent that the CIRP in the present case deserves to remain confined to the specific project in relation to which the financial facilities were extended. The Sanction Letter dated 29.01.2014 specifically records that the financial assistance was sanctioned for financing the project “*Rashmi Starcity Phase II & III*” situated at Naigaon (East), District Palghar. The Indenture of Mortgage dated 04.03.2014 also unequivocally records that the term loan facility was granted for the purpose of project finance of the said project and that the mortgage security created in favour of the Financial Creditor is confined to the lands and assets related to the said project. The loan documentation and security structure, therefore, unmistakably establish that the financial debt in question was intrinsically linked to the project “*Rashmi Starcity Phase II & III*” alone.

11.13 The evolving jurisprudence governing real estate insolvencies has consistently recognized the necessity of adopting a project-centric approach in appropriate cases to balance the objectives of insolvency resolution with the need to safeguard the interests of homebuyers and stakeholders of unrelated projects. In *Mansi Brar Fernandes v. Shubha Sharma*, the Hon’ble Supreme Court observed that, as a rule, real estate insolvency ought to proceed on a project-

specific basis rather than against the corporate entity as a whole, unless circumstances justify otherwise. The Hon'ble Supreme Court emphasized that such an approach is necessary to prevent solvent projects and genuine homebuyers from suffering collateral prejudice on account of defaults related to a separate project.

11.14 Similarly, in *Gagan Tandon v. IL&FS Financial Services Ltd.*, the Hon'ble NCLAT held that where the financial facilities and securities are confined to specific projects, CIRP initiated at the instance of a financial institution cannot automatically engulf unrelated projects of the same real estate company. The Hon'ble NCLAT observed that extending insolvency proceedings to projects having no nexus with the subject debt would result in serious hardship to stakeholders and homebuyers connected with such unrelated projects.

11.15 More recently, in ***Surender Singh v. IDBI Trusteeship Services Ltd.*** (2026 ibclaw.in 383 NCLAT), the Hon'ble NCLAT reiterated in unequivocal terms that where a CIRP initiated by allottees or financial institutions relates to one particular project, the insolvency process must remain confined to the said project and cannot take within its fold other real estate projects situated in different cities or states. The Hon'ble NCLAT observed that where the debt and security are confined to a specific project, extending CIRP beyond such project would unjustly prejudice stakeholders having no nexus whatsoever with the default in question. Similar principles have also been reiterated by the Hon'ble NCLAT in its earlier order in ***Amit Jain v. IDBI Trusteeship Services Ltd.*** (Company Appeal no. 1186 / 2025), wherein the CIRP was confined only to the project in relation to which the debt and security existed.

11.16 The principle emerging from the aforesaid judgments is that while IBC is generally entity-centric in its framework, the peculiar nature of real estate insolvencies necessitates a more nuanced and project-oriented approach in cases where the debt, security, and development activities are evidently confined to a specific project. Such an interpretation advances the underlying objective of IBC by preserving viable projects and protecting innocent homebuyers from avoidable insolvency contagion.

11.17 In the present case, the Financial Creditor itself has consistently pleaded that the subject financial facilities were sanctioned specifically for financing the project "*Rashmi Starcity Phase II & III*". The mortgage deeds, security documents and charge creation documents are also confined exclusively to the said project. There is no material on record to suggest that the financial facilities were extended for the general operations of the CD across all its projects. In such circumstances, extending the CIRP to unrelated projects of the CD would run contrary to the principles laid down in *Mansi Brar Fernandes, Gagan Tandon, Amit Jain* and *Surender Singh* and may result in avoidable prejudice to stakeholders and homebuyers of projects wholly unconnected with the present default.

11.18 We are therefore of the considered view that while the present Section 7 Petition is maintainable and deserves admission, the CIRP arising therefrom ought to remain confined only to the project "*Rashmi Starcity Phase II & III*" situated at Naigaon (East), District Palghar and shall not extend to the unrelated projects of the Corporate Debtor.

11.19 The CD has also sought to invoke Section 65 of the IBC, alleging that the present proceedings have been initiated fraudulently and with malicious intent.

We find no merit whatsoever in the said contention. Section 65 is an exceptional provision intended to deal with cases involving abuse of the insolvency process through fraudulent or malicious initiation. Mere institution of a Section 7 petition by a financial creditor in respect of an admitted financial debt and continuing default cannot, by any stretch of imagination, constitute malicious initiation. The Financial Creditor has established disbursal of financial facilities, execution of security documents, classification of the account as NPA, issuance of recall and SARFAESI notices and repeated acknowledgments of liability by the CD. The present proceedings are therefore founded upon a genuine financial debt and continuing default. No material whatsoever has been placed on record to substantiate the allegations of fraud, *mala fides* or abuse of process.

11.20 The reliance placed by the CD on *Pioneer Urban Land and Infrastructure Ltd. v. Union of India* and *Wave Megacity Centre Pvt. Ltd. v. Rakesh Taneja* is equally misconceived. The observations in *Pioneer Urban* were rendered in the context of speculative homebuyers misusing insolvency proceedings for extraneous purposes. The present case stands on an entirely different footing and concerns a scheduled bank seeking initiation of CIRP on the basis of admitted financial liabilities arising from formal loan transactions. Bald and unsupported allegations of suppression or ulterior motive cannot form the basis for the invocation of Section 65 of the IBC.

11.21 The further contention of the CD that the project in question is substantially completed and that flats and shops therein have already been sold also does not render the present proceedings non-maintainable. The completion status of a project or sale of units therein does not extinguish the financial liability owed

to the Financial Creditor, nor does it erase the occurrence of default under the IBC. The debt admittedly continues to subsist and remains unpaid.

11.22 It is also significant that the CD has continuously engaged with the Financial Creditor over the years through correspondence, acknowledgements, and settlement proposals. Such conduct is wholly inconsistent with the stand now sought to be adopted that the debt is either unenforceable or non-existent. The objections raised appear to be an attempt to defeat insolvency proceedings on technical grounds despite admitted borrowing and continuing default.

11.23 Hon'ble Supreme Court in Civil Appeal No(s). 2211/2024 decided on 18.02.2026 in the matter of ***Power Trust (Promoter of Hiranmaye Energy Ltd.) v. Bhuvan Madan, IRP of Hiranmaye Energy Ltd. and Ors.*** while examining the validity of the admission of the Corporate Debtor to CIRP has laid down as under :-

“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 WBSUEDCL, 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 WBSUEDCL 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)

11.24 To summarize the above judgment, we observe as under:-

- a. The Code prescribes that 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.

- b. 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.
- c. 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).
- d. The Adjudicating Authority is not required to go into the inability of a corporate debtor to pay its debt
- e. 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.

11.25 Applying the ratio of Power Trust (*supra*) and also considering that the Application contains all the required details and documents, we are of the view that the Application is complete in all respects; the Applicant has advanced a

financial debt which is in default for an amount exceeding Rs. 1 Crore. The Applicant has placed necessary proof, being a record of default issued by the information utility which clearly indicates that the debt is in default. It is noted that the CD has not denied the disbursement and default. The objections raised by the CD, save and except to the limited extent concerning project-wise CIRP, are devoid of merit and liable to be rejected. Consequently, IA/514/(MB)2026 filed under Section 65 of the IBC also deserves rejection, there being no material whatsoever to establish fraudulent or malicious initiation of insolvency proceedings by the Financial Creditor. However, having regard to the project-specific nature of the financial facilities and securities involved in the present matter and in view of the law laid down in *Mansi Brar Fernandes (supra)*, *Gagan Tandon (supra)*, *Amit Jain (supra)* and *Surender Singh (supra)*, we hold that the CIRP initiated pursuant to the present petition shall remain confined only to the project “*Rashmi Starcity Phase II & III*” situated at Naigaon (East), District Palghar and shall not extend to the unrelated projects of the CD.

11.26 Accordingly, **IA No. 514/(MB)2026** filed under Section 65 of the Insolvency and Bankruptcy Code, 2016, is **rejected**.

11.27 In view of the above, we are forced to order commencement of CIRP on the Project, i.e. *Rashmi Starcity Phase II & III*” situated at Naigaon (East), District Palghar belonging to the Corporate Debtor, Rashmi Realty Builders Private Limited.

11.28 As such, the contention of the Corporate Debtor for project-wise insolvency is allowed.

11.29 Accordingly, we pass the following order.

11.30 As a consequence of the above analysis, the present Application being CP(IB)/1119/MB/2025 is being admitted in terms of Section 7 of the Code only in regard to the project “*Rashmi Starcity Phase II & III*” of the Corporate Debtor M/s Rashmi Realty Builders Private Limited.

- i. The **project named “RASHMI STARCITY PHASE II & III”** is admitted to the Corporate Insolvency Resolution Process under Section 7 of the IBC, 2016.
- ii. As a consequence thereof, the moratorium under Section 14 of the IBC, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the IBC, 2016 with regard to the specific project of the Corporate Debtor, i.e. “RASHMI STARCITY PHASE II & III,” hereinafter referred to as “the said project”
 - a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor in regard to the said project, including the 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 in regard to the said project;
 - c) any action to foreclose, recover, or enforce any security interest created by the Corporate Debtor in regard to the said project 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 possession of the Corporate Debtor in regard to the said project.
- 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 CIRP or until this Tribunal approves the resolution Plan under Section 31(1) of the IBC or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.
- iv. It is further directed that the supply of essential goods/services to the said project of 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. Since the Applicant has named the IRP, we hereby appoint **Mr. Purusottam Behera**, having **Registration No. IBBI/IPA-002/IP-N00940/2019-2020/12993**, and **e-mail address purusosbbj@yahoo.com**, having AFA valid till 31.12.2026, as the IRP in regard to the said project.
- vi. 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 said project of the Corporate Debtor, its Promoters or any other person associated with the management of

the said project 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 the IRP, do not assist or co-operate, the IRP is at liberty to make an appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- vii. 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 in regard to the said project.
- viii. The IRP is expected to take full charge of the Corporate Debtor's said project and documents without any delay whatsoever.
- ix. The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority a periodical report with regard to the progress of the CIRP in respect of the said project of the Corporate Debtor.
- x. The IRP shall be under a duty to protect and preserve the value of the property of the said project of the Corporate Debtor and manage the operations of the said project of the Corporate Debtor as a going concern, to the extent possible, as a part of the obligation imposed by Section 20 of the IBC, 2016.
- xi. **The Financial Creditor is directed to pay an advance of Rs. 3,00,000/- (Rupees Three Lakhs Only) to the 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.

- 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, and upload the same on the website 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 the MCA portal specifically mentioning the admission of this Application in regard to the said project and shall forward the compliance report to the Registrar, NCLT.
- xiii. The commencement of the Corporate Insolvency Resolution Process in regard to the said project shall be effective from the date of this order.
- xiv. The IRP is directed to issue notice of admission upon all the statutory authorities of the said project of the Corporate Debtor without fail.
- xv. IRP is directed to publish the Form-A on Flex at the specified project, i.e. RASHMI STARCITY PHASE II & III, at a prominent place besides the Registered Office of the Corporate Debtor.

11.31 Accordingly, **CP(IB)/1119/MB/2025 in regard to the said project stands admitted.**

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

Sd/-

**NILESH SHARMA
MEMBER (JUDICIAL)**

/AS//

Sd/-

**SAMEER KAKAR
MEMBER (TECHNICAL)**