

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

Company Petition (IB) No. 287/KB/2024

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

**IN THE MATTER OF:
Punjab National Bank**

... Financial Creditor/Petitioner

Versus

M/s Siddhanth Vedant Cold Storage Private Limited

... Corporate Debtor/Respondent

Date of Pronouncement: 09.06.2026.

CORAM:

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)
CMDE SIDDHARTH MISHRA, HON'BLE MEMBER (TECHNICAL)**

APPEARANCE:

For the Financial Creditor:

Mr. Snehasish Chakraborty, Adv.

Mr. Shaunak Mitra, Adv.

For Corporate Debtor:

Mrs. Manju Bhuteria, Sr. Adv.

Ms. Meenakshi Manot, Adv.

Mr. Rajesh Upadhyay, Adv.

Ms. Surabita Biswas, Adv.

ORDER

Per: Smt. Bidisha Banerjee, Member (Judicial)

1. This Court congregated through a hybrid mode.

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

Company Petition (IB) No. 287/KB/2024

2. The Learned Sr. Counsels/Counsels for both parties were heard in extenso.

3. *Factual Matrix :*

3.1. The present Company Petition has been filed by Punjab National Bank, the Financial Creditor, under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of the Corporate Insolvency Resolution Process against M/s Siddhanth Vedant Cold Storage Private Limited, the Corporate Debtor, who availed diverse credit facilities and was lastly sanctioned Rs. 15.74 Crores.

3.2. Meanwhile RBI had issued several circulars dated 01.01.2019 and 27.03.2020, wherein the Banks were directed to restructure loans of MSMEs. The Union Bank of India, which later amalgamated into Punjab National Bank, formulated a policy wherein the restructuring scheme would extend to units engaged in agriculture, food processing and cold storage.

3.3. Although the Financial Creditor and the Corporate Debtor were engaged in several discussions for restructuring of the loan account, the said discussion fell through and the parties could not agree upon any restructuring proposal. Later, the loan account of the Corporate Debtor was declared NPA.

3.4. The classification of the Corporate Debtor's account as NPA was quashed by the Hon'ble High Court of Calcutta vide order dated 05.08.2025 in WPA 9820 of 2021.

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

Company Petition (IB) No. 287/KB/2024

3.5. The Petitioner claims that an aggregate amount of Rs. 26,92,44,579.25/- (Rupees Twenty Six Crores, Ninety Two lakhs, Forty Four Thousand, Five Hundred Seventy Nine and Twenty Paise Only) inclusive of interest calculated upto 31.03.2024 remains due and payable.

4. Submissions on Behalf of Applicant:

4.1 It is submitted that the Corporate Debtor had availed of diverse credit facilities and was lastly sanctioned an aggregate amount of Rs. 15.74 Crores as per the sanction letter dated 20.03.2019.

4.2 It is further submitted that as per the payment schedule in the sanction letter, Rs. 38.08 Lacs had to be repaid within 30.09.2019. However, due to insufficiency of funds, the Corporate Debtor failed to deposit the amount within the stipulated time and as such committed default on and from 01.10.2019.

4.3 It is claimed that the promoter/director of the Corporate Debtor and the Corporate Debtor itself have acknowledged the existing debt vide letters dated 20.02.2021 and 01.10.2020 respectively.

4.4 It is submitted that the Corporate Debtor's contention that the date of default mentioned in the NESL Report is 30.03.2020 is erroneous as all the documents and relevant state of accounts certified by the banker's book has established that the default occurred on 01.10.2019. Further, the Financial Creditor itself have categorically pleaded that the default occurred on 01.10.2019.

4.5 It is further submitted that as per Section 7(4) of the IBC, 2016, the Learned Adjudicating Authority may ascertain the existence of a default from the information utility report or on the basis of other evidence

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

Company Petition (IB) No. 287/KB/2024

furnished by the Financial Creditor under sub Section 3. In this regard, the sanction letter dated 20.03.2019 and statement of accounts exhibit that the default occurred on 01.10.2019.

- 4.6** Financial Creditor would assert that the restraint order passed by the Hon'ble High Court in MAT No. 643 of 2021 wherein the classification of loan as NPA was challenged has no bearing on the Section 7 application. That, under IBC, this Tribunal is concerned only with the date of default and not the date of NPA. As such there is no restriction imposed on this Tribunal to initiate CIRP against the Corporate Debtor based on the date of default. As per **Mr. Abhyay Narendra Lodha v. Bank of Baroda and Anr, NCLAT, Principal Bench Order 20.12.2022**, the trigger for initiation of CIRP is date of default and not the date of NPA.
- 4.7** It is submitted that the restructuring of the debt could not be processed as the Corporate Debtor, despite reminders, failed to comply to the conditions stipulated in the letter dated 30.01.2021 for submitting the requisite information. Further, the Corporate Debtor itself had sought time to submit TEV reports vide letter dated 20.02.2021, but failed to submit the TEV reports.
- 4.8** It is submitted that the Hon'ble Supreme Court by its suo moto order dated 10.01.2022 has directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial and quasi-judicial proceedings. Since a period of 1 year and 11 months has been excluded in computing limitation, the limitation period for filing the present petition would come to an end in August 2024. Thus, the present petition has been filed within the period of limitation.

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

Company Petition (IB) No. 287/KB/2024

5. Submissions on behalf Corporate Debtor:

- 5.1** Riddhi Siddhi Cold Storage Pvt. Ltd., Rajaram Sevak Multipurpose Cold Storage (P) Ltd., Siddhi Vinayak Himghar (P) Ltd. and Siddhanth Vedant Cold Storage (P) Ltd. are a group of companies under the same management. The Financial Creditor herein filed a Section 7 Application against all the four companies. In all the four petitions, the Corporate Debtor raised the contention that the petition is hit by Section 10A and there is no default.
- 5.2** It is contended that facts of the instant petition are similar to that of C.P. No. 274/KB/2024 (Punjab National Bank v. Riddhi Siddhi Cold Storage Pvt. Ltd.) and C.P. (IB) No. 318/KB/2024 (Punjab National Bank v. Rajaram Sevak Multipurpose Cold Storage (P) Ltd.), wherein it was held that the Petition is not maintainable and hit by Section 10A.
- 5.3** It is further contended that Section 10A provides that no application can be filed in respect of default during the period 25.03.2020 to 24.03.2021. However, the Financial Creditor has maliciously mentioned the date of default in the petition as 01.10.2019, while the documents annexed to the application, namely the NeSL Report indicate that the Financial Creditor itself has submitted the date of default as 31.03.2020.
- 5.4** It is stated that the Financial Creditor is fully aware that there is no default and the the classification of NPA is illegal and in contravention of the RBI guidelines. The Writ Petition filed by the Corporate Debtor challenging the classification of the Corporate Debtor's Account as NPA was allowed vide order dated 05.08.2025. Further, the Hon'ble High Court at Calcutta also observed that that conduct of the Financial Creditor falls short of the standards of good faith and fairness expected of a public financial institution and amounts to an abuse of process,

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

Company Petition (IB) No. 287/KB/2024

designed to harass the Corporate Debtor and frustrate their legitimate rights.

- 5.5** It is further stated that the contractual clauses forming the subject matter of the present Petition are substantially similar to those considered in C.P. (IB) No. 274/KB/2024 and C.P. (IB) No. 318/KB/2024 wherein the term “preferably” was not accorded any determinative significance nor treated as a distinguishing factor. Accordingly, the contention of the Financial Creditor seeking to distinguish the present case from the orders passed in the aforementioned cases is misconceived and untenable in law.
- 5.6** It is stated that in order dated 14.08.2025 passed in C.P. IB No. 274/KB/2024, the Hon’ble Tribunal observed that if the date of default in NeSL was incorrect, the Financial Creditor could have reported the NeSL about the error in the submitted form. The bye laws of the National E-Governance Services provide for the same and that since the date of default mentioned in the NeSL is 31.03.2020, the date of default mentioned in the petition cannot be considered as date of default in terms of Section 3(12) of the IBC.
- 5.7** It is averred that the Financial Creditor has suppressed material facts namely, decision of the Hon’ble High Court at Calcutta to quash classification of Corporate Debtor’s account as NPA and fraud and mala fide conduct of the Financial Creditor in not restructuring the account of the Corporate Debtor in contravention of the circulars of RBI.
- 6.** The learned counsels for the parties have been heard, the records have been perused and the rival contentions have been noted.

7. *Analysis and Findings:*

7.1 The primary issues for consideration before this Adjudicating Authority is to ascertain: (i) Whether the date of default is 01.09.2019 as mentioned in the petition or the date mentioned in the NeSL Report, i.e., 31.03.2020? (ii) Whether the instant petition is within the period of limitation and maintainable in law?

a. On the existence of debt and default:

7.2 It is well settled that for an application under Section 7 of the Insolvency and Bankruptcy Code, 2016, the Adjudicating Authority is required to examine whether the debt is due and payable and whether the application is filed within the period of limitation prescribed under Article 137 of the Limitation Act, 1963.

7.3 In the present case, the terms of the repayment schedule of the Sanction Letter dated 20.03.2019 provides that an aggregate amount of Rs. 38.08 Lac had to be repaid within 30.09.2019. Since the Corporate Debtor failed to pay the amount due within the stipulated time, clearly the default occurred on and from 01.10.2019. The said default is a continuing one, and an aggregate amount of about Rs. 26 Crores remains due, which is well above the threshold prescribed under the IBC, 2016.

7.4 Although the date of default has been reflected as 31.03.2020 in the NeSL Report, the Financial Creditor submits that the said date has been erroneously recorded. Further, the Financial Statements and the repayment schedule annexed to this Petition clearly establishes that the default occurred on and from 01.10.2019. In view of the inaccuracy in the NeSL Report, this Tribunal is not bound to treat the said date as the actual date of default.

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

Company Petition (IB) No. 287/KB/2024

7.5 Further, in ***Asset Reconstruction Company (India) Ltd. v. Manyata Developers Pvt. Ltd., (2023) ibclaw.in 769 NCLT***, NCLT Bengaluru Bench refused to rely upon the inaccurate date of default mentioned in the NeSL Report and held that:

“6. ...The NeSL reports merely states that for the purposes of the generation of these reports, the date of NPA has been taken as the date of default. The purpose of NeSL reports and Information Utilities is merely to record that the CD has committed a default, and not when the default took place. The CD has admitted to its liability in its financial statement as on 29.11.2021 and that the entire loan is disclosed as repayable on demand. In the Synopsis filed vide Diary No.1611 dated 21.03.2023, the FC further stated that Sec. 7(3)(a) makes it clear that the FC need not rely only on the RoD recorded with the I.U. As per Regulations 2-A and 8 of the IBBI (CIRP) Regulations, 2016, the FC can rely other documents to evidence the existence of the debt.”

(emphasis Added)

7.6 Thus, the NeSL Report, being a repository for keeping records of default is not a conclusive proof of date of default. Therefore, the date of default as inferred from the records annexed to this Petition is 01.10.2019 and not 31.03.2020.

7.7 In view of the above, this Tribunal is of the considered view that a debt and default within the meaning of Section 5(8) and 3(12) of the IBC, 2016 exists.

b. On Maintainability of the Instant Petition in law:

7.8 The Corporate Debtor had appealed to the Hon'ble High Court of Calcutta in WPA 9820 of 2021, challenging the classification of the loan account of Corporate Debtor as NPA.

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

Company Petition (IB) No. 287/KB/2024

7.9 In the aforementioned case, the mala fide conduct of the Corporate Debtor namely lack of adherence to circulars issued by RBI, deliberate fragmentation of issues across separate proceedings to gain advantage and filing a petition for initiation of CIRP before determination of issues was disapproved by the Hon'ble High Court. The relevant portion of the judgement is reproduced herein below for clarity:

“46. However, under the impression that such restraint would not operate as an impediment to proceeding under the Insolvency and Bankruptcy Code, 2016 ("the IBC"), the Bank proceeded to file a petition for initiation of the Corporate Insolvency Resolution Process (CIRP) before the NCLT, without awaiting the determination of the issues by this Court. Such conduct appears to be an attempt to render the present proceedings infructuous, despite the fact that the Hon'ble Division Bench has directed this Court to adjudicate the issues raised in the writ petition. This conduct is not expected from a responsible litigant engaged in pending litigation.”

7.10 Further, the Financial Creditor was directed to consider the restructuring proposals of the Corporate Debtors before initiating any other recovery proceedings before any forum. The relevant portion of the order dated 05.08.2025 is reproduced herein below:

“47. The Bank is directed to consider the petitioners' proposal for restructuring their MSME accounts, keeping in view the objectives underlying the RBI circular dated 1st January 2019, the corresponding UBI circulars issued pursuant to the RBI directive, the resolution adopted by the State Level Bankers' Committee (SLBC), and the observations made in this order. The Bank shall undertake this consideration prior to initiating or continuing any recovery proceedings against the petitioners before any forum.”

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

Company Petition (IB) No. 287/KB/2024

- 7.11** There is no evidence on record to establish that the Financial Creditor, subsequent to the said order, has considered the restructuring proposals of the Petitioners before filing the present Petition. The Hon'ble High Court of Calcutta has placed a clear embargo upon the Financial Creditor from initiating proceedings before any forum in absence of such consideration. Accordingly, the present Petition is not maintainable.
- 7.12** It is also pertinent to note that the Section 7 Petitions filed against the other three companies namely, Riddhi Siddhi Cold Storage Pvt. Ltd., Rajaram Sevak Multipurpose Cold Storage (P) Ltd., Siddhi Vinayak Himghar (P) Ltd., which the Corporate Debtors forms a part of, have also been dismissed on distinct grounds.
- 8.** In view of the foregoing discussions, the instant Petition being **Company Petition (IB) No. 287/KB/2024** is **dismissed**.
- 9.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Lid. Counsel for information and for taking necessary steps.
- 10.** Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Cmde Siddharth Mishra
Member (Technical)

Smt. Bidisha Banerjee
Member (Judicial)

The Order signed this, on the **9th** day of **June 2026**.

Anubhuti S (LRA)