NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No.2265 of 2024

(Arising out of Order dated 28.11.2024 passed by the Adjudicating Authority (National Company Law Tribunal), Chandigarh Bench (Court-I) in IA No.120 of 2022 and CP(IB) 171/CHD/HRY/2021)

IN THE MATTER OF:

Vinod Kumar ...Appellant

Versus

Omkara Asset Reconstruction Pvt. Ltd. & Anr. ...Respondents

Present:

For Appellant	:	**Mr. Abhijeet Sinha, Sr. Advocate with Mr. Abhishek Anand, Mrs. Priyadarshini Dewan, Ms. Shankari Mishra, Ms. Heena Kochar, Ms. Devna Soni, Mr. Ashish Garg, Mr. Shubham Aggarwal, Ms. Simran Bajaj, Ms. Niti Khanna, Ms. Devna Soni, Mr. Jatin Sehgal, Advocates.**
For Respondents	:	**Mr. Arun Kathpalia Sr. Advocate with Mr. Siddhant Kant, Ms. Diksha Gupta, Mr. Aditya Dhupar, Mr. Satyajit Bose and Ms. Sanyukta Fauzdar, Advocates.**

J U D G M E N T

ASHOK BHUSHAN, J.

This Appeal by Suspended Director of the Corporate Debtor ("**CD**") has been filed challenging order dated 28.11.2024 passed by National Company Law Tribunal, Chandigarh Bench (Court-I), admitting Section 7 Application and direction for commencement of Corporate Insolvency Resolution Process ("**CIRP**") against CD. Aggrieved by which order this Appeal has been filed.

2. Brief facts of the case to be noticed for deciding the Appeal are:

i. Indusland Bank sanctioned a Term Loan Facility of Rs.300 crores for financing the development of an IT-SEZ Project at Golf Course Extension Road, Gurgaon, Haryana to the CD – G.P. Realtors Pvt. Ltd. in the year 2016. Sanction Letter was issued on 29.06.2016. In continuance of the Sanction Letter, an Original Fee Letter dated 29.06.2016 was issued, capturing the interest rate. A Master General Terms Agreement and Multi-Facility Loan Agreement, laying down the terms and conditions were also executed on 04.08.2016. Various ancillary documents were executed along with the execution of the Facility Agreement and Master General Terms Agreement on 04.08.2016. As per the Sanction Letter, the repayment of the loan was to be made in one-shot bullet payment of Rs.300 crores at the end of 48 months. The interest was payable as per the negotiated rates. Default interest rate was provided as 18.75% per annum. The interest was payable monthly.

ii. Addendum was issued by the Financial Creditor extending the availability period of the Credit Facility from 04.02.2019 to 31.07.2019 and subsequently shifting the Date of Commencement of Commercial Operation from 10.08.2018 to 31.07.2019.

iii. On 25.03.2020, suspension period as per Section 10A of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "**IBC**") began. The Reserve Bank of India ("**RBI**") issued first Covid-19 Regulatory Package, permitting Financial Institutions to grant moratorium of three months of payment on installment, falling between 01.03.2020 to 31.05.2020. The CD requested for moratorium of three months from repayment under the credit facility. Therefore, the 48 months tenure for repayment, which was to end on 11.08.2020, stood extended by three months to 11.11.2020. Under second Covid-19 Regulatory Package, the CD further sought extension of moratorium by three months. Thus, the 48 months tenure, which was to end on 11.11.2020, stood extended to 11.02.2021.

iv. On 11.02.2021, repayment schedule of 48 months as stipulated under the Term Loan Facility for principal amount came to an end, which date fell during the period indicated under Section 10A of the IBC. On 01.06.2021, Demand Notice was issued by erstwhile Financial Creditor, demanding payment of Rs.272,66,31,168/- as principal amount and an amount of Rs.15,40,73,336/- towards additional interest as on 31.05.2021. On 03.09.2021, Demand Notice under Section 13(2) of the SARFAESI Act, 2002 was issued. On 09.06.2021, Section 7 Application was filed before the NCLT Chandigarh Bench, claiming default of Rs.282,04,75,836/- as on 31.05.2021 towards principal amount and

Rs.9,38,44,668/- towards the interest/ default interest accrued from 26.03.2021 till 31.05.2021.

v. The Financial Creditor - Indusland Bank Ltd. vide assignment dated 30.09.2021, assigned the Loan Facility in the name of Omkara Asset Reconstruction Pvt. Ltd. - Respondent No.1 in the present Appeal. Omkara Asset Reconstruction filed an Application for its substitution in the proceeding on the strength of assignment, which was allowed by the Adjudicating Authority on 24.01.2024.

vi. IA No.122 of 2020 was filed by the CD, seeking dismissal of Section 7 Application on account of default date falling within the excluded period under Section 10A of the IBC.

vii. Adjudicating Authority heard the parties on IA 120 of 2022 and CP(IB)171/CHD/HRY/2021 and by the impugned order dated 20.11.2024 admitted Section 7 Application. The Adjudicating Authority held that interest/ default interest calculated from 26.03.2021 to 31.05.2021 is Rs.9,38,44,668/-, which is much beyond the threshold amount of Rs.1 crore, therefore, the petition deserve to be admitted. Order of admission was passed on 20.11.2024, against which this Appeal has been filed.

3. When the Appeal was heard, Learned Counsel for the Appellant offered to deposit the defaulted amount of interest without prejudice to any rights and contentions. This Tribunal recorded the above statement

of the Appellant and passed an interim order on 06.12.2024, directing that no further steps shall taken in pursuance of the impugned order. Notices were issued on 06.12.2024, on which notice, the CD has appeared and filed the reply, to which rejoinder has also been filed.

4. We have heard Shri Abhijeet Sinha, learned Senior Counsel and Shri Abhishek Anand, Learned Counsel for the Appellant; Shri Arun Kathpalia, learned Senior Counsel appearing for the Financial Creditor.

5. Shri Abhijeet Sinha, learned Senior Counsel appearing for the Appellant submits that when default of payment of entire loan of Rs.300 crores fell on 11.02.2021, i.e. during Section 10A period, the Application filed by Financial Creditor was clearly barred by Section 10A and deserve to be rejected. It is submitted that when default of entire loan account fell on 11.02.2021, no default regarding interest can be considered, interest being clearly related to principal loan amount. It is submitted that default took place on 11.02.2021, hence the deemed date of default as 26.03.2021 treated by Financial Creditor is unacceptable. The Adjudicating Authority has not given any finding on the debt and default of the CD. The Adjudicating Authority having accepted that date of default as 11.02.2021, it erred in admitting Section 7 Application, relying on interest amount due from 26.03.2021 to 31.05.2021. The filing of Section 7 Application falls foul on the very ethos and legislative intent of Section 10A, where the interest component on account of non-payment would continue to accrue. The interest component on account of non-payment is not separately identifiable as a default of its own. The

judgment relied by Adjudicating Authority of ***Harish Raghavji Patel vs. Clearwater Capital Partners Singapore Fund IV Private Ltd. – (2023) SCC OnLine NCLAT 2367*** is distinguishable and does not help the Financial Creditor in the present case, since the term of loan/ credit facility in the above judgment is distinctive from the term of repayment in the Appellant's loan, which was a one-shot bullet payment, which could only have one date of default. The Respondent cannot be allowed to setup an alternative case in the Appeal. The Appellant is ready to deposit the entire defaulted amount of interest as claimed in Part-IV, which has actually been deposited. No case has been made out to permit continuance of Section 7 proceeding. It is submitted that date of default cannot be shifted or changed by the Financial Creditor. The statutory bar under Section 10A cannot be avoided.

6. Shri Arun Kathpalia, learned Senior Counsel appearing for Respondent refuting the submission of the Appellant submits that total debt disbursed to the CD was Rs.300 crores and interest rate was fixed @ 11% per annum payable monthly and interest rate upon default in repayment was fixed at 18.75% per annum and interest was to be capitalized upon any default in payment. The CD has not contested the existence of default and default in relation to the credit facility. The CD's financial statements clearly record an outstanding liability that is payable in respect of the credit facility. There is no dispute that the threshold for filing of Section 7 Application has been met and Section 7 Application has rightly been admitted. The interest defaults after the expiry of the

suspension period under Section 10A are independent and can be severed from default in principal. The interest default from 26.03.2021 to 31.05.2021 was Rs.9,38,44,668/-. It is submitted that the Appellant's assertion that there can only be one date of default and there can be no separate and distinct date of default for interest is contrary to the settled law. Each default in repayment of principal or interest, constitutes a separate event of default. The legislative intent behind Section 10A was not to grant permanent immunity to defaulting borrowers. The Adjudicating Authority has rightly come to the conclusion that interest default subsequent to 10A period was more than the threshold of Rs.1 crore. It is submitted that willingness of the Appellant to make payment of interest amount of Rs.9,38,44,668/- cannot be a reason to compel the Financial Creditor to settle with the Appellant. Total interest default between 01.06.2021 to 24.12.2024 is more than Rs.9.38 crores. After admission of Section 7 Application the proceedings are now *in rem*.

7. We have considered the submissions of learned Counsel for the parties and have perused the records.

8. The Sanction Letter dated 29.06.2016 has been brought on record by the Appellant in the Appeal, which sanctioned Term Loan Facility of not exceeding Rs.300 crores. With regard to interest rate, it is mentioned as per negotiated rates. Repayment schedule is mentioned to the following effect:

"Repayment Schedule	Loan will be repayable in bullet installment of Rs.300 crs at the end of 48th month from date of first disbursement. Company to intimate IBL 30 days in

	advance before making payment. Bank shall have a put option at the end of 36 months and 42 months from first disbursement on the borrower. In case the borrower fails to repay the loan within 15 days from the date of invocation, the Bank shall have the right to invoke the Securities. The Bank has Right of First Offer "ROFO" for LRD facility to take out the construction loan at the time of leasing and payment of the construction loan."

9. Default interest rate is also provided in Sanction Letter to the following effect:

"Default interest rate	Applicable rate + 1% for non-compliance of sanction terms. For irregularities in the account(s) – 18.75% p.a."

10. Vide letter dated 29.06.2016, Indusland Bank communicated interest rate as 11% p.a. for facility of Rs.300 crores. The Master General Terms Agreement was also executed between the parties on 04.08.2016. Multi-Facility Loan Agreement was also executed on the same day, i.e. 04.08.2016. Annexure A-1, 'Term Loan Facility' in paragraph dealt with 'Interest'. Paragraph 2.1, 2.2, 2.3 and 2.4 are as follows:

"**2. INTEREST**

2.1 The Borrower shall pay to the Bank interest on the principal amount of the Term Loan Facility outstanding from time to time, and on all fees, costs, commissions, charges and other amounts due under or in respect of this Agreement/ Term Loan Facility (the "Outstanding Amounts) at the Interest rate ('Interest Rate) as mentioned in the Schedule to Annexure A-1 hereto or at such other rate as may be notified by the

Bank from time to time on the date(s) as mentioned in the Schedule 1. The Interest Rate shall be calculated with reference to the Bank's Marginal Cost of Funds based lending rate (MCLR) and shall comprise of MCLR plus margin. The MCLR shall be reviewed and reset from time to time as specified in Sanction Letter.

2.2 In default of payment of interest as stated above, the same shall be capitalised and added to the principal and shall be treated as an advance to the Borrower and the Bank shall be entitled to charge interest at the aforesaid rate/Interest Rate on the debit balance / outstanding capitalised as aforesaid

2.3 In the event of default on the part of the Borrower in making payment of the Outstanding Amounts as and when the same are due to be paid, the Borrower shall pay to the Bank additional interest at the additional interest rate (Additional Interest Rate) as mentioned in the Schedule to Annexure A-1. such additional interest to be payable on and from the date of default to and including the date on which such delay / default is rectified. The Bank's riht to claim such additional interest shall be without prejudice to the Bank's right to take any other action available to it under the terms of this Agreement or at law in respect of such event of default

2.4 All interest payable under this Term Loan Facility shall accrue in the manner set forth in the Schedule"

11. There is no dispute between the parties that period of 48 months after extension came to an end on 11.02.2021. Thus, the date for repayment of Rs.300 crores fell on 11.02.2021, which admittedly is a date, which falls within 10A period. We need to notice the Part-IV of Section 7 Application. In Column-2 of Part-IV, Financial Creditor has pleaded following:

“2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM)	The total amount in debt in default on part of the Corporate Debtor as on 21st May 2021, is Rs.282,04,75,836/- (Rupees Two Hundred Crores Four Lakhs Seventy Five Thousand Eight Hundred Thirty Six Only) comprising of a default in repayment of Rs.272,66,31,168/- (Rupees Two Hundred Seventy-Two Crores Sixty Six Lakhs Thirty One Thousand and One Hundred Sixty Eight Only) towards the principal amount and Rs.9,38,44,668/- (Rupees Nine Crores Thirty-Eight Lakhs Forty Four Thousand Six Hundred Sixty Eight only) towards the interest/ default amount accrued from 26 March 2021 till 31 May 2021. It may be noted that the amount of debt under the Credit Facility was repayable by the Corporate Debtor at the end of 48 (Forty-Eight) months from the date of drawdown i.e. 12 August 2016 in the present cae. Thus, the repayment under the Credit Facility by the Corporate Debtor was due and payable on 11 August 2020. However, in light of the Covid-19 Regulatory Package introduced by RBI (*whereby moratorium was permitted to be granted by the banks, financial institutions to the borrowers in respect of repayments under the credit facilities),* the Corporate Debtor was also granted the benefit of moratorium for a period of six months from 1 March 2020 to 31 August 2020. As a result thereof, the repayment date under the Financing Documents was extended by six months from 11 August 2020 to 11 February 2021. However, despite the grant of moratorium by the Financial Creditor to the Corporate Debtor, the Corporate Debtor defaulted on its obligations to repay the principal amount under the Credit Facilities amounting to Rs.272,66,31,168/- (Rupees Two Hundred Seventy-Two Crores Sixty Six Lakhs Thirty One Thousand and One Hundred Sixty Eight Only) along with the applicable interest and default interest in terms of the Financing Documents and the same continues to be in default till date. At this juncture, it would be pertinent to highlight for the purpose of filing the present application, keeping in view the provisions of Section 10A of the Code, while the amounts under the Credit Facility became due on 11 February 2021, the present application is being filed deeming 26 March 2021 as the date of default as the amounts under the Credit Facility have continued to remain in default. Accordingly, the default interest payable by the Corporate Debtor in terms of the Financing Documents has also been calculated deeming 26 March 2021 as the date of default and the amount of default interest due and payable by the Corporate Debtor to the Financial Creditor as on 31 May 2021 is Rs.9,38,44,668/- (Rupees Nine Crores Thirty-Eight Lakhs Forty Four

		Thousand Six Hundred Sixty Eight only). Whereas in view of Section 10A the default in interest between 11 February to 25 March 2021, has not been accounted for. It is Financial Creditor's respectful stand that the principal repayment being due as one bullet repayment in accordance with the terms or the Financial Documents, and the said default continuing beyond the period of suspension ending on 25 March 2021 under Section 10A of the Code. The Financial Creditor is entitled to treat the principal amount as due and payable as on 26 March 2021, and is entitled to prefer the present application on the basis of such default and that it is sufficient compliance of Section 10A of the Code, as long as the Financial Creditor does not claim default qua the interest default during 11 February 2021 to 25 March 2021. **Without prejudice in the aforestated** in case, it is held that gien that the principal repayment amount became due prior to 25 March 2021, during the period or suspension under Section 10A of the Code, even then, the Corporate Debtor is in default of its obligation to pay the interest amount to the extent of Rs.9,38,44,668/- (Rupees Nine Crores Thirty-Eight Lakhs Forty Four Thousand Six Hundred Sixty Eight only) between 26 March 2021 to 31 May 2021 which default being in excess of the threshold of Rs.1 Crore prescribed under Section 4 of the Code, is also sufficient to file the present application and that the corporate insolvency resolution process can be initiated on this basis alone. Accordingly, in the alternative the amount of default for the purpose of satisfaction of Section 10A read with Section 4 of the Code may be treated as Rs.9,38,44,668/- (Rupees Nine Crores Thirty-Eight Lakhs Forty Four Thousand Six Hundred Sixty Eight only) on account of interest default between 26 March 2021 and 31 May 2021. The details regarding the date amount and the days of defaults with respect to the facilities granted by the Financial Creditor to the Corporate Debtor, in a tabular form, are annexed along with the present Application as ANNEXURE 6. As highlighted above, the Financial Creditor is filing the present application deeming 26 March 2021 as the date of default. Accordingly, the Financial Creditor reserves its liberty to file claim to the extent of full amount of default including the principal amount along with interest from 11 February 2021 till the date of insolvency commencement date with the Interim Resolution Professional or the Resolution Professional as the case may be, at the time of filing of its claim as Section 10A applies only for

		the purposes of determination of default under Section 7 of the Code and not otherwise. This application under Section 7 of the Insolvency and Bankruptcy Code, 2016 is being filed without prejudice to the rights to the Financial Creditor as available under Sections 13 and 15 of the Insolvency and Bankruptcy Code, 2016 read with the underlying regulations."

12. From the above, it is clear that without prejudice to claim made in Part-IV, it was pleaded that the Corporate Debtor is in default of its obligation to the interest amount to the extent of Rs.9,38,44,668/- between 26.03.2021 to 31.05.2021, which default in excess of threshold amount of Rs.1 crore, which is sufficient to entitle Financial Creditor to present Section 7 Application.

13. There can be no dispute to the proposition that no Application under Section 7 can be entertained for any default which occurred during 10A period, which is law settled by Hon'ble Supreme Court in ***Ramesh Kymal vs. Siemens Gamesa Renewable Power Pvt. Ltd. – (2021) 3 SCC 224***. In the impugned order, one of the question framed by the Adjudicating Authority for consideration was, "*Whether CIRP can be initiated for default of interest component on the loan amount after the Section 10A period*". The said issue was considered in paragraph 13 of the judgment and after noticing the Annexure-6 of the petition, which gave the details regarding the amount and its default, the Adjudicating Authority held following in paragraph 13:

> "In the case in hand, Financial Creditor has enclosed at Annexure-6 of the Petition the details regarding date, amount and days of default as below:
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> It may be seen from the above that the interest/ default interest calculated from 26 March 2021 to 31May 2021 is Rs.9,38,44,668/-, which is much beyond the threshold amount of Rs.1 crore, therefore the Petition deserves to be admitted."

14. The Adjudicating Authority has relied on judgments of this Tribunal in ***Harish Raghavji Patel vs. Clearwater Capital Partners Singapore Fund IV Private Limited – (2023) SCC OnLine NCLAT 2367*** and ***Beetel Teletech Ltd. vs. Arcelia IT Services Pvt. Ltd. [Company Appeal (AT) (Ins.) No.1459 of 2022]***. We need to first notice the aforesaid judgments, which have been referred to and relied by Adjudicating Authority. **Harish Raghavji** was a case where Section 7 Application was admitted by the Adjudicating Authority. In the Appeal, the submission was made that Application was hit by Section 10A of the Code. In the said case, this Tribunal held that after the end of 10A period, there was a clear default in payment of interest, which was more than Rs.1 crore. Following was held in paragraphs 28 and 29:

> "**28.** For sake of argument if we do not take 1st June, 2021 as date of default, the default on the payment of interest after end of the 10A period i.e. after 24th March, 2021 there is clear default on the payment of interest and payment of default in the interest of both the Financial Creditors is more than Rs. 1 Crore which is threshold amount for filing of the Application under Section 7. The tabular chart given in Exhibit K contains the details of interest accrued interest paid and interest outstanding even if we take period after 10A period i.e. period from 31st March, 2021 as

mentioned in the tabular chart total overdue interest after 10A period is much more than threshold amount of Rs. 1 Crore. Details of overdue interest has been captured in the tabular form in exhibit K. For example, with regard to Respondent No. 1 overdue interest on 31st March, 2021 was Rs. 4,17,36,492/- and overdue interest on 30th June, 2021 was Rs. 5,45,41,732/- thus the defaulted amount during this quarter was itself more than Rs. 1 Crore. Similarly, with regard to Respondent No. 2 overdue interest on 31st March, 2021 was Rs. 29,47,74,305/- and overdue interest on 30th June, 2021 was Rs. 42,01,93,862/-. The date of default in payment of interest after there are several date of default in payment of interest after Section 10A period which is captured in the tabular form filed as Exhibit K in Part-IV of the Application, Financial Creditors have also filed the working for computation of the amount and days of default in tabular form thus the date of default cannot be confined only to date 1st June, 2021 as mentioned in Part-IV. The date of default which is mentioned in the tabular form cannot be ignored it is clear that there was default of more than Rs. 1 Crore i.e. threshold period in payment of default by the Corporate Debtor after Section 10A period.

29. The above default is very much there even if we ignore the default on the basis of Facility Acceleration Notice dated 30th May, 2021/31st May, 2021. We thus are of the view that even after Section 10A period there being default in payment of interest which was more than threshold amount, the Application under Section 7 deserves to be admitted."

15. Learned Counsel for the Appellant sought to distinguish the above judgment stating that the term of loan credit facility in the present case is distinctive from the term of repayment in the above case. It is true that in the present case, principal amount of loan was payable in one installment after 48 months, which default fell on 11.02.2021. What is prohibited by Section 10A is not to initiate any Application for default committed by CD

during 10A period. In event, the CD defaults after the end of 10A period, the said default can very well be made basis for any Application under Section 7 and in the present case, finding of the Adjudicating Authority is that amount of default from 26.03.2021 to 31.05.2021 was Rs.9,38,44,668/-. The interest liability shall not come to an end merely on the ground that default of principal amount fell during 10A period. The interest was payable on outstanding loan as per the terms of the Facility Agreement as noted above. Prohibition to initiate Section 7 Application for default under 10A period, cannot mean that liability is wiped out. If the outstanding amount continues even after 10A period, the interest liability on outstanding amount on the CD shall not come to an end.

16. Another judgment relied by Adjudicating Authority was ***Beetel Teletech Ltd.*** (supra), where this Tribunal in the above case held that object of Section 10A was never to cover any default, which occurred before Section 10A period and continued thereafter. In paragraph 14, following was held by this Tribunal:

> "**14.** The present is a case where default has been committed by the Corporate Debtor since 29.02.2020 which is prior to commencement of Section 10A period. Hence, this is a case where the default was undisputedly committed before the bar of Section 10A came into play. There being categorical default by the Corporate Debtor prior to Section 10A period, the Corporate Debtor was clearly not entitled to claim the benefit of Section 10A period."

17. Learned Counsel for the Appellant has also relied on judgment of this Tribunal in ***Company Appeal (AT) (Ins.) No.1725 of 2025 – Office***

Beanz Pvt. Ltd. In the said case, Section 7 Application was rejected on the ground of bar of 10A, which order was challenged in the Appeal. Dealing with the purpose and object of 10A, this Tribunal made following observation:

> "The mere fact that the observation of the Hon'ble Supreme Court that debt owed by the Corporate Debtor is not extinguished is the law declared by the Hon'ble Supreme Court, but their being clear prohibition for filing an application under Section 7, 9 and 10, for default occurring in 10A period there is apparent case. The language of the statute provides that no application for initiation of Corporate Insolvency Resolution Process of a Corporate Debtor shall be filed for any default arising on or after 25.03.2020. The provision cannot be read to mean that after the period is over the application can be filed. If such interpretation is accepted, the whole purpose and object shall be defeated. The purpose and object of introduction of Section 10A was to give relief to the Corporate Debtor who committed default during the period which is covered by Section 10A. The debt is not wiped out is only for the purpose that other proceedings are not prohibited, but Sections 7, 8 and 10 applications are clearly barred. No application can be filed, even after expiry of the period under Section 10A for the default which occurred during the 10A period."

18. There can be no dispute to the proposition of law as noticed by this Tribunal in the above case. The present case, however, is founded on the basis that even after end of 10A period, the CD defaulted in its obligation to pay monthly interest and liability of interest from 26.03.2021 to 31.05.2021 was more than Rs.9.38 crores.

19. Another judgment relied by the Appellant is judgment of this Tribunal in ***Mr. Bhavit Sheth (Through Authorised Representative Ms.***

Nikita Mehta_ vs. Mr. Madan Bajrang Lal Vaishnawa and Anr. – Company Appeal (AT) (Ins.) No.328 of 2024 decided on 18.04.2024, which was a case where Adjudicating Authority has admitted Section 9 Application, following was observed by this Tribunal in paragraph 11:

> "**11.** Section 10A of the Code prohibited filing an application under Sections 7, 9 & 10 for any default arising on or after 25.03.2020. The prohibition continues for one year from 25.03.2020 i.e., upto 24.03.2021. When we look into the Part IV of the application as well as the statement showing particulars of claim it is clear that apart from lease rental from April 2021, all claim was within the 10A period. For lease rental of April 2021, no CIRP can be commenced since it did not fulfil the threshold."

20. In the above case, the Application for amendment filed by the CD was also rejected. In the facts of the said case, this Tribunal held that no Application could have been filed due to bar of Section 10A. In the above circumstances, this Tribunal held that Application was clearly barred under Section 10A and except the lease rent of April 2021, all operational debt was barred by Section 10A. The above observations were made in paragraphs 18, 19, and 20. Lease rent for April 2021 as has been noted in paragraph 8 was only Rs.49,83,636/- and the Application under Section 9 filed subsequent to 24.02.2020, which required threshold of Rs.1 crore. In the above background, this Tribunal held that Application was barred by 10A. The above judgment was in its own facts and does not render any help to the Appellant in the present case.

21. The Adjudicating Authority having returned a finding that Section 7 Application was entertainable on the basis of default of interest, which

is subsequent to the end of 10A period, i.e. with effect from 26.03.2021 to 31.05.2021, we do not find any error in the order admitting Section 7 Application. The question as to what should be the amount of claim of the Financial Creditor is not to be determined at the time of admission of Section 7 Application and that is the subject matter of collation and verification by the RP in the CIRP. We make it clear that while upholding the decision of the Adjudicating Authority admitting Section 7 Application, we are not expressing any opinion on the amount of claim of the Financial Creditor, which need to be determined in the CIRP in accordance with relevant statutory provisions. Subject to observations as made above, we dismiss the Appeal. There shall be no order as to cost.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

NEW DELHI

4th April, 2025

Ashwani