



IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)

(Through physical/web based video conferencing platform)

CP (IB) No. 65/BB/2024

Application U/s. 7 of the Insolvency & Bankruptcy Code, 2016
R/w Rule 4 of the Insolvency & Bankruptcy
(Application to Adjudicating Authority) Rules, 2016

IN THE MATTER OF:

M/s Embassy Services Private Limited

1st Floor, Embassy Point,
150, Infantry Road,
Bengaluru 560 001

...

Petitioner/Financial Creditor

VERSUS

Redwoods Infrastructure Private Limited

No. 403, the Estate, No.121,
Dickenson Road, Bangalore,
Karnataka- 560 042.

...

Respondent/Corporate Debtor

Order delivered on: 07/04/2025

Coram: 1. Hon'ble Shri. Sunil Kumar Aggarwal, Member (Judicial)
2. Hon'ble Shri. Radhakrishna Sreepada, Member (Technical)

Present:

For the Petitioners : Shri Srihari. S
For the Respondent : None

ORDER

1. The present Petition has been filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'IBC/Code') r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 on 22.09.2023 by **M/s. Embassy Services Private Limited** (hereinafter referred to as 'Petitioners / Financial Creditors') with a prayer to initiate the Corporate Insolvency Resolution Process (CIRP) against **M/s. Redwoods Infrastructure Private Limited** (hereinafter referred to as 'Respondent / Corporate Debtor') for a total outstanding of Rs. 2,16,03,836 (Rupees Two Crore Sixteen Lakhs Three Thousand Eight Hundred and Thirty Six only), wherein the Principal amount is Rs. 1,00,00,000 along with interest at 18% therein being Rs. 1,16,03,836 (from 20.10.16 till 31.03.23, as per the working sheet attached). The Date of Default is 19.05.2023 as mentioned in Part IV of Form No. 1 filed with the Petition.
2. Brief facts of the Petition are given hereunder:
 - i. The Petitioner/ Financial Creditor was incorporated on 28.09.1995 having its registered office at 1st Floor, Embassy Point, 150, Infantry Road, Bengaluru, Karnataka -560001.
 - ii. The Corporate Debtor, incorporated on 27.02.2008 under the Companies Act, 1956 having registered office at No. 403, The Estate, No. 121, Dickenson Road, Bangalore, Karnataka- 560042.
 - iii. The Corporate Debtor had sought financial assistance from the Financial Creditor to expand its business. The Financial Creditor and the Corporate Debtor entered into a loan Agreement on 25.10.2016 for lending a sum of Rs. 1,00,00,000/-. The Corporate Debtor also provided a Demand Promissory Note dated 20.10.2016 and acknowledgement receipt.

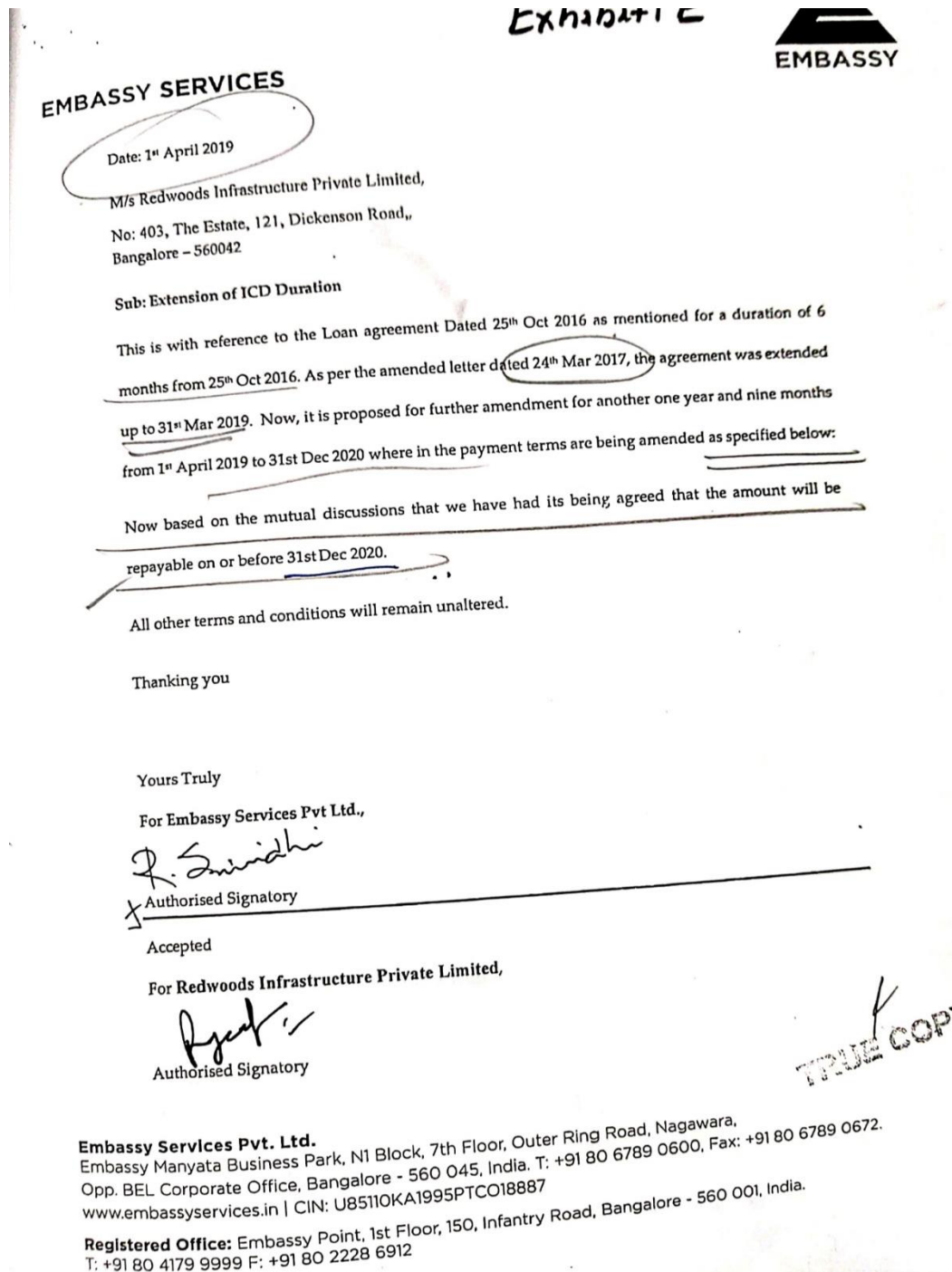


- iv. The loan Agreement stipulates that the loan amount disbursed would have to be repaid within a period of 6 months, as per clause 4 of the Agreement. This time period has been extended to 31.12.2020 vide letters dated 24.03.2017 and 01.04.2019.
 - v. On 05.05.2023 a legal notice was issued by the Financial Creditor calling upon the Corporate Debtor to repay the outstanding amount. Reply dated 22.05.2023 was issued by the Corporate Debtor.
 - vi. The Corporate Debtor has failed to repay the outstanding amount, hence, the present application.
3. The Respondent has filed the Statement of Objection, vide, Diary No: 3467, dated 18.06.2024 and contended as under:
- i. That the present Petition is not maintainable in law as the same is barred by limitation; the necessary and requisite stamp duties have also not been paid on the Instruments based on which the captioned Petition is filed.
 - ii. That the extract of Board Resolution dated 05.08.2022 marked as Exhibit-B, only gives authorization for acts done in Normal Course of business activity of the Financial creditor and does not specifically authorize filing of any suit/proceeding. Consequently, present Petition should be dismissed as filed without valid authorization.
 - iii. The Respondent submits that Loan Agreement dated 25.10.2016 for a sum of Rs. 1,00,00,000/- has been executed on a stamp paper of Rs. 200/- and is not sufficiently stamped as per the Karnataka Stamp Act, 1957. Further, the Agreement also does not bear signatures of the witnesses so the attestation of the Document is not complete and therefore, it cannot be construed as a valid document.



- iv. The Respondent submits that the Demand Promissory note dated 20.10.2016 is not an enforceable document as it does not meet all the requirements of a promissory note as defined under the Negotiable Instruments Act, 1881 and the same is also barred by limitation and consequently not a document that can be admitted in a suit/proceeding.
 - v. The Respondent submits that the instant Petition is barred by limitation as the Petitioner has not initiated the proceedings within the period of 3 years from the alleged extended period of date i.e., 31.12.2020. The instant Petition has been filed on 21.09.2023, whereas the proceedings had to be completed before 01.01.2023. Hence, the instant matter is barred by limitation.
 - vi. The Respondent further submits that the interest rate denoted in the Loan Agreement is exorbitant and prohibited under Karnataka Money Lender Act, 1961.
4. It must be noted that vide order dated 08.07.2024, the Ld. Counsel for Petitioner has stated that no rejoinder is required to be filed. Heard the Ld. Counsel for the Petitioner and perused the pleadings on record. None appeared on behalf of the Respondent, despite today being the last opportunity. We therefore, could not have the benefit of hearing the Ld. Counsel for the Respondent.
 5. The instant petition was filed on 22.09.2023, while the date of default indicated in Part IV, Form No. 1 is 19.05.2023, as per the record of Default ('ROD') issued by NESL. Consequently, the present petition is within the prescribed limitation period. The ROD, which is annexed as Exhibit H to the Petition, also specifies that the status of authentication for the default as deemed to be authenticated.
 6. The contention of the Respondent that the present matter is barred by limitation is devoid of merit. The repayment date was mutually extended

to 31st December 2020, as indicated in the letter dated 1st April 2019, which is attached as Exhibit E to the Petition. Further, it can be clearly observed that the authorized signatory for the Corporate Debtor has signed it. Same is also reproduced below, for reference:



Additionally, assuming that the date of default is 31st December 2020 as per the contention of the Respondent, the prescribed period of limitation would expire on 31st December 2023. Accordingly, the

present application, having been filed prior to the expiration of the limitation period, is well within the statutory limitation and cannot be dismissed on the grounds of limitation.

7. The total amount in default is mentioned as Rs. 2,16,03,836/- in Part IV of Form no. 1. The working sheet has been attached as **Exhibit M**, and reproduced below for reference:

Start Date	End Date	ROI	Opening	Addition	Closing	Interest
20/10/16	31/03/17	18%	-	1,00,00,000	1,00,00,000	8,03,836
01/04/17	31/03/18	18%	1,00,00,000		1,00,00,000	18,00,000
01/04/18	31/03/19	18%	1,00,00,000		1,00,00,000	18,00,000
01/04/19	31/03/20	18%	1,00,00,000		1,00,00,000	18,00,000
01/04/20	31/03/21	18%	1,00,00,000		1,00,00,000	18,00,000
01/04/21	31/03/22	18%	1,00,00,000		1,00,00,000	18,00,000
01/04/22	31/03/23	18%	1,00,00,000		1,00,00,000	18,00,000
Total				1,00,00,000		1,16,03,836

8. Under Section 7 of the Insolvency and Bankruptcy Code (IBC), in order to initiate the Corporate Insolvency Resolution Process (CIRP), it is imperative for the Petitioner to establish the existence of a financial debt, as defined under Section 5(8) of the IBC, 2016, and to demonstrate that a default, as per Section 3(12), has occurred concerning that financial debt. In the present case, the material on record unequivocally establishes that the Corporate Debtor was extended a loan, which is further corroborated by the acknowledgment of the loan amount in the balance sheets of the Corporate Debtor for the financial years 2018-2019 through 2021-2022. Further, the Hon'ble



Supreme Court in the case of *Innoventive Industries Ltd. vs. ICICI Bank and Ors.* reported in (2018) 1 SCC 407 has held as under:

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

The Hon'ble Apex Court in the above mentioned judgment has clearly pointed out to the records of the information utility reflecting the existence of a debt and a default to be a corroborative factor. In instant matter also the NeSL has further confirmed the date of default mentioned in Form D, Record of Default and established the existence of the Debt and the default.

9. It is the contention of the Respondent that the Loan Agreement relied upon by the Petitioner to establish debt is insufficiently stamped and not attested properly. However, it is a well settled law that insufficiently stamped/ unstamped agreements do not present a bar to a Section 7 application. Reference to be made to the case of ***Axis Trustee Services Limited vs Reliance Infrastructure Consulting & Engineers Pvt. Ltd., CP (IB) 1/MB/2023*** wherein Hon'ble NCLT Mumbai Bench held in Para 28 that:

"28....Therefore, inadequacy of any document in terms of requirement of the Stamp Act, in our considered view, cannot be made a ground to nonsuit the Petitioner in an Application u/s 7 of the Code. Rather, in such proceedings, this Authority has simply to arrive at a conclusion that the Corporate Debtor has not been able to repay its debts of more than Rs. 1 crore and is no longer in a position to sustain itself financially so much that it requires resolution. Besides,



in an Application u/s 7 of the Code, for the purposes of admission, it is not necessary to record findings with regard to the outstanding liabilities of the Corporate Debtor merely on the basis of loan documents only which might have been executed to secure a financial debt. Such findings can be based on many other documents such as NeSL report, bank statements, balance sheets and acknowledgements executed by the Corporate Debtor etc...."

10. Regarding the objection raised by the Respondent concerning the high interest charged on the loan amount, reference is again made to the **Innoventive Industries Ltd. case (Supra)**, where it was held that the mere fact that the debt is disputed does not affect the application, as long as the debt is due. It was further emphasized that once the debt and default are established, the Adjudicating Authority is obligated to admit the Section 7 application. Further, it should be noted that the Respondent has raised several technical objections; however, as both the Debt and Default have already been clearly established, these objections are without merit and do not stand.
11. In the given facts and circumstances, the present petition being complete and having established the default in payment of the financial debt and for the default amount being above Rs. 1,00,00,000/- (Rupees One Crore), the petition is liable to be admitted in terms of Section 7 of the IBC, 2016.
12. Accordingly, the instant Company Petition bearing CP (IB) No. 65/BB/2024 is admitted and moratorium is declared in terms of Section 14 of the Code. As a necessary consequences of the moratorium in terms of Section 14, thereby prohibiting all of the following:
 - a. The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;



- b. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - c. Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
 - d. The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the Corporate Debtor;
13. It is directed that the supply of essential goods or services to the Corporate Debtor, shall not be terminated or suspended or interrupted during the moratorium period in accordance with sub-section (2) of Section 14 of the Code;
14. The provisions of Sub- section (3) of Section 14 of the Code shall however, not apply to such transactions 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 a Corporate Debtor;
15. The order of moratorium shall have effect from the date of this order till completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under sub-section (1) of Section 31 of the Code, or passed an order for liquidation of Corporate Debtor under Section 33 of the IB Code, 2016 as the case may be;
16. In Part-III of Form No.1, Mr. Venkataraman Jayagopal, bearing Registration No. IBBI/IPA-002/IP-N00574/2017-2018/11741 has been proposed as Interim Resolution Professional (IRP). His written consent and credentials have been given in Form No.2. In view of the above, we appoint Mr. Venkataraman Jayagopal, Registration No. IBBI/IPA-002/IP-N00574/2017-2018/11741, having registered address at E-003, Victoria



Haven, Patel Ram Reddy Road, Domlur 1st Stage, Bangalore- 560071, contact no.:9341240595 and [email:jayagopalassociates@gmail.com](mailto:jayagopalassociates@gmail.com) as the Interim Resolution Professional. The IRP is directed to take the steps as mandated under the IBC, especially under Sections 15, 17, 18, 20 and 21 of IBC, 2016.

17. The Financial Creditor shall deposit a sum of Rs. 2,00,000/- (Rupees Two Lakhs Only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors.
18. The Interim Resolution Professional shall after collation of all the claims received against Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days for filing the report of Constitution of the Committee. The Interim Resolution Professional is further directed to send regular progress reports to this Adjudicating Authority monthly.
19. A copy of the order shall be communicated to both the parties. The learned Counsel for the Petitioner shall deliver copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send the copy of this order to the Interim Resolution Professional at his e-mail address forthwith.

-Sd-

**RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)**

-Sd-

**SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)**