

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, Court-I, CHANDIGARH**



CP (IB) No. 45/Chd/Hry/2024

(An application under 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)

In the matter of:

IDBI TRUSTEESHIP SERVICES LIMITED

having its registered office at
Ground Floor, Universal Insurance Building,
Sir Phirozshah Mehta Road,
Fort Bazargate, Mumbai - 400001
through authorized signatory: Ramesh Sachdeva

...Petitioner/Financial Creditor

Vs.

VATIKA LIMITED

having its registered office at
Unit No. - A-002, INXT City Centre,
Ground Floor, Block -A, Sector -83,
Vatika India Next, Gurgaon - 122 012

...Respondent/Corporate Debtor

Judgment delivered on: 03.02.2026

**Coram: HON'BLE MR. KHETRABASI BISWAL, MEMBER (JUDICIAL)
HON'BLE SH. SHISHIR AGARWAL, MEMBER (TECHNICAL)**

Present:-

For the Applicant:

Mr. Gopal Jain, Senior Advocate
Ms. Meghna Mishra, Advocate
Mr. Nikhil Ratti Kapoor, Advocate
Ms. Yashodhara Gupta, Advocate
Mr. Abhijeet Chaudhary, Advocate
Mr. Kevin Chadha, Advocate

For the Respondent:

Mr. Anand Chibbar, Senior Advocate
Mr. Vaibhav Sahni, Advocate
Ms. Swati Vashisth, Advocate

**CORAM: HON'BLE MR. KHETRABASI BISWAL, MEMBER (JUDICIAL)
HON'BLE MR. SHISHIR AGARWAL, MEMBER (TECHNICAL)**

JUDGMENT



1. The present petition has been filed on 07.02.2024 by IDBI Trusteeship Services Limited, (hereinafter referred to as the **“Petitioner”** or **“Financial Creditor”**), under Section 7 of the Insolvency and Bankruptcy Code, 2016, (hereinafter referred to as the **“Code”** or **“IBC”**) by inter alia seeking to initiate Corporate Insolvency Resolution Process (hereinafter referred to as the **“CIRP”**) against Vatika Limited (hereinafter referred to as the **“Respondent”** or **“Corporate Debtor”**), with consequential orders.

2. Brief facts of the case, as averred in the Petition, which are relevant to adjudicate the issue involved in the case, are as follows:


2.1. IDBI Trusteeship Services Limited, the Petitioner herein, is a Union Government Company incorporated under the Companies Act, 1956 and duly authorized to function as a Debenture Trustee. Pursuant to the Debenture Trustee Agreement dated 30.06.2017, the Corporate Debtor, Vatika Limited appointed the Petitioner as Debenture Trustee. It relies on its Master Data, a Board Resolution dated 02.02.2021 and a Power of Attorney dated 04.03.2022 to establish proper authorization to file and prosecute the present petition. The Petitioner acts in a fiduciary capacity on behalf of two SEBI-registered Alternative Investment Funds, namely Indiabulls India Opportunities Fund and Indiabulls High Yield Fund, who by their communication dated 18.01.2024 expressly instructed for initiation of proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016.

2.2. The Corporate Debtor, Vatika Limited, was incorporated on 02.07.1998 and engaged in real-estate development, raised financial assistance through issuance of 1,460 fully secured, unlisted, redeemable Non-Convertible Debentures of face value ₹10,00,000 each, aggregating to ₹146 crore. These debentures were issued under the Debenture Trust Deed dated 30.06.2017 executed between the Petitioner, the



Debenture Holders, the Corporate Debtor, its land-owning companies Aplin Developers Pvt. Ltd. and Malvina Developers Pvt. Ltd., and the Promoter/Personal Guarantors. **The initial contractual tenure of the NCDs under Schedule IX to the Trust Deed was 48 months from the investment date, with the redemption date originally falling due on 30.06.2021. However, at the repeated requests of the Corporate Debtor, the parties executed an Amendment Deed dated 28.06.2021 extending the redemption date to 30.06.2022. Thereafter, the Corporate Debtor issued further request letters dated 24.06.2022 and 26.06.2023, and corresponding Extension Letters dated 26.06.2022 and 27.06.2023 were issued by the Debenture Trustee, finally extending redemption up to 30.06.2024.** It is submitted that these extensions were granted purely as commercial indulgence without waiving any contractual obligations of the Corporate Debtor.


2.3. NCDs carried quarterly coupon interest at 11.39% per annum, compounded monthly, and that failure to pay quarterly coupon interest attracted default coupon interest at 5% per annum, compounded monthly, in terms of Clauses 3.2 and 7.1. The Debenture Holders were contractually entitled to a fixed redemption premium of 2.68% per annum, compounded monthly, along with a variable redemption premium. **It is emphasised that Clause 19 of the Trust Deed defined “Event of Default” to include non-payment of any amount payable under the “Definitive Agreements”, including the Debenture Trust Deed itself. Hence, any non-payment of coupon interest, premium or other contractual amounts constituted a contractually recognised “Event of Default”.** NCDs were secured by an extensive security structure comprising an equitable mortgage created through a Memorandum of Deposit of Title Deeds dated 31.03.2023 over approximately 6.64 acres of land owned by Aplin Developers Pvt. Ltd. and approximately 5.575 acres owned by Malvina Developers Pvt. Ltd. at Village Harsaru, Gurugram. The security package additionally



comprised a first pari-passu hypothecation charge over receivables and project assets under a Deed of Hypothecation dated 30.06.2017, unconditional and irrevocable personal guarantees of the Promoters, corporate guarantees of the land-owning companies, a Shortfall Undertaking dated 30.06.2017, execution of post-dated cheques covering repayment obligations, and an Escrow Agreement dated 12.11.2022 regulating project cash flows. The Petitioner states that notwithstanding this comprehensive security architecture, the Corporate Debtor defaulted in honouring its repayment obligations.

2.4. Despite repeated indulgence and multiple extensions, the Corporate Debtor failed to continue servicing quarterly coupon interest and made no interest payments after 15.06.2022. This, according to the Petitioner, triggered an Event of Default under Clause 19 of the Trust Deed and resulted in a continuing default within the meaning of Section 3(12) of the IBC. It is stated that even if certain part-payments were made earlier, they were insufficient to clear the full interest obligations and did not cure the default. **Due to persistent non-payment, a demand notice dated 01.09.2023 was issued calling upon the Corporate Debtor, the land-owning companies and the Promoters to pay outstanding quarterly interest of ₹24,26,61,821 together with default coupon and penalty charges within fifteen days. As default remained uncured, a second demand notice dated 29.12.2023 was issued demanding outstanding quarterly interest of ₹29,72,29,959. It is submitted that neither of these notices was replied to or disputed, and the Corporate Debtor did not effect payment of the outstanding dues.**

2.5. The Petitioner relies on the 'Record of Default' dated 14.01.2024 issued by National E-Governance Services Limited (NeSL), which independently records non-payment of debt, and is placed on record under Sections 7(3)(a) and 7(4) of the Code. The Petitioner has also filed a computation sheet showing that as on




19.01.2024, the total amount in default was ₹274,13,45,241, comprising principal of ₹146 crore, interest of ₹29.37 crore, default interest of ₹43.32 crore and fixed redemption premium of ₹55.43 crore, and submits that the debt is far above the statutory threshold and continues to remain unpaid even after the maturity of the NCDs.

2.6. It is asserted that the petition is complete in all respects and has been filed in Form-1 along with a detailed supporting affidavit, Master Index, proof of service, statutory fee of ₹25,000/-, and PAN and email particulars in compliance with the IBBI circular dated 14.06.2022. There are pending arbitration, civil suits, one-time settlement proposals or earlier IBC proceedings between the parties relating to the same debt. It has proposed the name of Mr. Jayant Prakash (IBBI/IPA-001/IP-P00597/2017-2018/11049), qualified Resolution Professional to be appointed as Interim Resolution Professional.


3. The Respondent has opposed the Petition by filing its Reply dated 07.11.2024 by inter-alia contending as follows:

3.1. The instant Petition is wholly misconceived, premature and not maintainable in the eyes of law and same was on incorrect, erroneous and misleading factual averments, and has been instituted with the sole intention of exerting undue pressure on the Corporate Debtor, sabotaging its reputation, and converting what is essentially a commercial disagreement into an insolvency proceeding. It is a company duly incorporated under the Companies Act, 1956 and is a well-established real-estate developer engaged in developing, selling and dealing with commercial and residential real-estate. The present reply is filed through its authorised signatory, Mr. Sanjeev Kumar Tirthani, Head of Legal, duly authorized by Board Resolution dated 22.09.2023.



3.2. It is stated that NCDs were to be redeemed on 30.06.2022 under the original Trust Deed; however, on the basis of the business requirements of the project, the Corporate Debtor sought an extension, which was duly accepted and confirmed by the Investment Manager of the Debenture Holders, namely Indiabulls Asset Management Company Limited, extending the redemption date first to 30.06.2023 and then to 30.06.2024. These extensions were mutually agreed and were contractually binding, and are also evidenced in the Amendment Deed dated 28.06.2021 and subsequent confirmations. Therefore, when the petition was filed on 24.01.2024, the redemption date had not yet arisen and the question of default did not arise in law.

3.3. The Petition is liable to be dismissed as non-maintainable because on the date of filing there was no default, actual or alleged, capable of invocation under Section 7 of the IBC. It is alleged that the Financial Creditor has intentionally misrepresented the date of default as 15.06.2022, which is factually and contractually incorrect. When the redemption date stood extended up to 30.06.2024 with the full knowledge and consent of the Debenture Holders, no earlier date could be characterised as a “default” under Section 3(12) of the Code. It is further stated that the petition has been filed even prior to the legally recognized date of maturity, thereby rendering the present proceedings premature and not maintainable. Contrary to the case set up by the Petitioner, substantial payments were made by the Corporate Debtor towards interest and other obligations throughout the period leading up to the filing of the petition. Payments were made between January 2023 and the filing of the petition, payments amounting to around ₹37.20 crore had been made to the Debenture Holders, and documentary proof of such payments has been placed on record. It is contended that the Petitioner has conveniently ignored these payments while



computing the alleged outstanding amount and has manufactured an inflated and fictitious figure of default.

3.4. A central grievance of the Respondent is that the Petitioner was contractually obligated to provide Provisional No-Objection Certificates (NOCs) in respect of new unit sales, which were critical to the Corporate Debtor's ability to generate cash flows and service its obligations. As per the loan and security structure, the Corporate Debtor could receive sale proceeds of real-estate units only after receiving the Petitioner's provisional NOC, and delays in issuing NOCs directly impacted the Respondent's liquidity and its ability to repay. The Respondent has requested for 11 provisional NOCs by email dated 09.10.2023, but the Petitioner issued the NOCs only on 01.11.2023 after a delay of 22 days, which severely hampered the Respondent's cash flows. Further, the Respondent made a request for 57 NOCs on 22.05.2024, well prior to the redemption date of 30.06.2024, but not a single NOC was issued by the Petitioner. This has caused a substantial loss of revenue estimated at around ₹40 crore, which would have otherwise been utilised towards repayment of the debenture dues. It is alleged that the Financial Creditor's conduct of withholding NOCs amounts to a breach of the contractual framework and has directly led to the alleged shortfall in servicing the NCDs. It is stated that the Petitioner has approached this Tribunal suppressing its own breaches and omissions, and seeks to obtain an order of admission by misleading the Tribunal regarding the true factual and contractual position. The Respondent asserts that the Petitioner's own failure to perform necessary obligations artificially creates the alleged default and cannot be used as a foundation for initiating CIRP.


3.5. It is further contended that the entire petition is a disguised recovery attempt and does not fall within the true ambit and purpose of the IBC. The Financial Creditor is attempting to misuse the insolvency mechanism to arm-twist the Corporate Debtor,



relying upon inflated and selectively presented figures. Section 7 cannot be used as a substitute for recovery, and the present petition is filed with ulterior motives. The Respondent relies on the settled principle that the IBC is not a debt recovery mechanism and that a petition filed for collateral purposes must be dismissed. It is alleged that the Record of Default uploaded by NeSL is itself based on incorrect information furnished by the Petitioner and cannot prevail over the actual contractual documents and payment records placed on record by the Respondent. No independent verification was conducted by the Information Utility and the so-called default is merely a reflection of the Petitioner's unilateral assertion. It is contended that none of the conditions required for admission of a petition under Section 7 of the Code are satisfied, as there is neither a debt that has become due nor any default within the meaning of Section 3(12). Reliance is placed on judicial precedents emphasising that CIRP cannot be triggered unless an undisputed default has occurred, and that IBC cannot be invoked as a substitute for debt recovery. The Respondent refers to the principles laid down in **Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd., (2018) 1 SCC 353**, and other judgments asserting that where substantial disputes or foundational defects exist in the creditor's claim, the petition must be rejected.

4. With reference to averments made in the Reply by the Respondent, the Petitioner has filed a Rejoinder dated 14.01.2025 by inter-alia contending as follows:

4.1. The Corporate Debtor did not respond to either of the demand notices dated 01.09.2023 and 29.12.2023 and raised objections for the first time only in reply to the Section 7 petition. The explanations now offered by the Corporate Debtor regarding market slowdown, project delays, cash-flow issues or alleged delay in issuance of provisional NOCs were never contemporaneously raised and appear to be afterthoughts. The Petitioner reiterates that default arose when quarterly coupon



interest became due and remained unpaid, and that even on the Corporate Debtor's own showing, the outstanding amounts were not cleared in June 2024 when no further extension existed.

4.2. On the issue of provisional NOCs, it is stated that Corporate Debtor for the first time sought such NOCs only on 22.05.2024, which was after the filing of the present petition and at a stage when the Corporate Debtor was already in default. It was under no contractual obligation to issue NOCs after the occurrence of default and that emails dated 24.09.2024 and 01.10.2024 show that reminders were nevertheless issued. It is stated that part-payments made after filing the petition amount to an admission of liability and do not extinguish the substantial outstanding dues.

4.3. By an affidavit dated 13.10.2025, an updated Excel sheet of outstanding dues has been placed on record, confirming that as on 07.07.2025 the outstanding amounts comprised principal of ₹146 crore, interest of ₹18.28 crore and fixed redemption premium of ₹77.37 crore, aggregating to approximately ₹241.66 crore, exclusive of default interest and variable premium. It is affirmed that these figures are drawn from the ordinary books of account of the Debenture Holders and that nothing material has been concealed. Once financial debt and default are established, admission of a Section 7 petition is mandatory. Reliance is placed on the judgments of the Hon'ble Supreme Court in **Innoventive Industries Ltd. v. ICICI Bank**, (2018) 1 SCC 407; **M. Suresh Kumar Reddy v. Canara Bank & Ors.**, 2023 SCC OnLine SC 608; and the judgments of the Hon'ble NCLAT in **Base Realtors Pvt. Ltd. v. Grand Realcon Pvt. Ltd.**, Company Appeal (AT) (Ins.) No. 882 of 2022; and **Supreet Singh Suri v. Pragati Impex India Pvt. Ltd.**, Company Appeal (AT) (Ins.) No. 1431 of 2022.

4.4. Finally, it is stated that the Debenture Trust Deed, security documents, continuing default post-15.06.2022, unanswered demand notices, NeSL Record of



Default, computation of dues and updated affidavit conclusively establish the three jurisdictional requirements under Section 7 of the IBC, namely: existence of financial debt, occurrence of default and the status of the Petitioner as a Financial Creditor acting on behalf of the Debenture Holders. The Petitioner accordingly prays for admission of the petition and initiation of CIRP against the Corporate Debtor, Vatika Limited.

5. In the short note covering points of their arguments, the Corporate Debtor has stressed on the non-issue of NOCs by the FC precipitating the alleged default and the project wise insolvency. These points and the Applicant's reply are summarised hereinafter: -

Reply of the Corporate Debtor	Response of the Applicant
<p>1. Non issuance of Provisional NOCs The Corporate Debtor contends that issuance of provisional No Objection Certificates was a contractual obligation of the Applicant and was essential for generation of project cash flows. It is submitted that delays in issuance of NOCs, including delay of 22 days in October 2023 and non-issuance of 57 NOCs sought on 22.05.2024, severely hampered liquidity and directly affected the ability of the Corporate Debtor to service debenture dues. It is alleged that withholding of NOCs resulted in loss of revenue and artificially created the alleged default. The Corporate Debtor asserts that the Applicant has suppressed its own contractual breaches while approaching this Tribunal.</p>	<p>The Applicant submits that payment of quarterly coupon interest under the Debenture Trust Deed was unconditional and expressly payable irrespective of availability of project cash flows. It is contended that the Debenture Trust Deed does not make servicing of interest contingent upon issuance of NOCs. The Applicant submits that the Corporate Debtor defaulted in payment of interest commencing 15.06.2022, much prior to the request for 57 NOCs dated 22.05.2024, which was made after filing of the present petition and after occurrence of default. It is further submitted that part payments made during pendency of the petition amount to acknowledgment of liability and do not cure the default. Reliance is placed on <i>Innoventive Industries Ltd. v. ICICI Bank</i>, (2018) 1 SCC 407 and <i>M. Suresh Kumar Reddy v. Canara Bank</i>, 2023 SCC OnLine SC 608.</p>
<p>2. Project-wise Insolvency The Corporate Debtor contends that the debenture financing was intrinsically linked to a specific real estate project and therefore insolvency, if any, can only be project wise and not against the Corporate</p>	<p>The Applicant submits that the debenture transaction constitutes a corporate level financial debt advanced for general business and corporate purposes of the Corporate Debtor and is not project specific. It is contended that the security structure including personal guarantees,</p>



<p>Debtor as a whole. It is submitted that corporate wide CIRP would adversely affect other ongoing projects and stakeholders. Reliance is placed on Mansi Brar Fernandez v. Shubha Sharma, 2025 SCC OnLine SC 1972, Flat Buyers Association Winter Hills 77 v. Umang Realtech Pvt. Ltd., 2020 SCC OnLine NCLAT 1199 and Amit Jain v. IDBI Trusteeship Services Ltd., 2025 SCC OnLine NCLAT 1753.</p>	<p>corporate guarantees, hypothecation of receivables and escrow arrangements clearly establishes an enterprise-wide obligation. The Applicant submits that project wise insolvency is not mandatory and depends upon the facts of each case. Reliance is placed on Base Realtors Pvt. Ltd. v. Grand Realcon Pvt. Ltd., 2022 SCC OnLine NCLAT 1603 and Supreet Singh Suri v. Pragati Impex India Pvt. Ltd., Company Appeal (AT) (Ins.) No. 1431 of 2022.</p>
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OBSERVATIONS AND ANALYSIS:

6. We have heard the Ld. Counsels for both Parties and carefully perused all the pleadings placed on record by the Parties, extant provisions of Code and Rules made thereunder and the settled position of law on the issue.

7. Firstly, we will refer to relevant provisions of Code and cardinal principles underlined in it. In terms of Section 7 of Code, an Application/Petition can be filed by a Financial Creditor before Adjudicating Authority, either by itself or jointly with other Financial Creditors, to initiate corporate insolvency resolution process (CIRP) against a corporate debtor when a default has occurred along with 'Record of the Default' recorded with the information utility or such other record or evidence of default. The Petitioner has to specify the name of a Resolution professional proposed to act as an Interim Resolution Professional.

Section 7(5) of IBC provides as under:

(5) Where the Adjudicating Authority is satisfied that—

(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application;

or

(b) default has not occurred or the application under sub-section (2) is incomplete or any disciplinary proceeding is pending against the proposed resolution professional, it may, by order, reject such application ...



It is relevant to refer to what is 'debt' and 'default' under provisions of Code. Section 3(11) and 3(12) of Code define these terms as under:

(11) "**debt**" means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;

(12) "**default**" means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be;


8. In the light of above provisions of the Code, we have to examine whether the instant Petition satisfies the provisions or not. It is not in dispute that the Corporate Debtor raised financial assistance through issuance of 1,460 fully secured, unlisted, redeemable Non-Convertible Debentures of face value ₹10,00,000 each, aggregating to ₹146 crore. The initial contractual tenure of the NCDs under Schedule IX to the Trust Deed was 48 months from the investment date, with the redemption date originally falling due on 30.06.2021. However, at the repeated requests of the Corporate Debtor, the parties executed an Amendment Deed dated 28.06.2021 extending the redemption date to 30.06.2022. Thereafter, the Corporate Debtor issued further request letters dated 24.06.2022 and 26.06.2023, and corresponding Extension Letters dated 26.06.2022 and 27.06.2023 were issued by the Debenture Trustee, finally extending redemption up to 30.06.2024. However, the Corporate Debtor failed to continue servicing quarterly coupon interest and made no interest payments after 15.06.2022. It is not in dispute that the Respondent made part payments which were insufficient to clear the full interest obligations and the Respondent did not cure the default. The Respondent failed even to respond to two demand notices dated 01.09.2023 and 29.12.2023 issued by the Petitioner.

9. The Petitioner has filed **Record of Default dated 14.01.2024 issued by National E-Governance Services Limited (NeSL), which independently records**



non-payment of debt in terms of Sections 7(3)(a) and 7(4) of the Code and also filed a computation sheet showing that as on 19.01.2024, the total amount in default was ₹274,13,45,241, comprising principal of ₹146 crore, interest of ₹29.37 crore, default interest of ₹43.32 crore and fixed redemption premium of ₹55.43 crore and it is more than statutory threshold prescribed under the Code to entertain the Petition. The instant Petition is filed in prescribed Form -1 along with a detailed supporting affidavit, Master Index, proof of service, statutory fee of ₹25,000, and PAN and email particulars in compliance with the IBBI circular dated 14.06.2022. There are pending arbitration, civil suits, one-time settlement proposals or earlier IBC proceedings between the parties relating to the same debt. It has proposed the name of Mr. Jayant Prakash (IBBI/IPA-001/IP-P00597/2017-2018/11049), qualified Resolution Professional to be appointed as Interim Resolution Professional.

10. Once a Petition is filed in accordance with the provisions of the Code and 'debt' and 'default' are established and a qualified Resolution Professional has been proposed, there is very little scope left for the Adjudicating Authority to reject such a Petition based on grounds raised by the Respondent. In this regard, it is relevant to refer to judgments of the Hon'ble Supreme Court in **Innoventive Industries Ltd. v. ICICI Bank, (2018) 1 SCC 407** wherein it was held that the moment the Adjudicating Authority is satisfied that there is a debt and a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the Adjudicating Authority; In **M. Suresh Kumar Reddy v. Canara Bank & Ors., 2023 SCC OnLine SC 608**, the Hon'ble Supreme Court further held that once NCLT is satisfied that the default has occurred, there is hardly a discretion left with NCLT to refuse admission of the application under Section 7.



The Hon'ble NCLAT has also reiterated the same principles in **Base Realtors Pvt. Ltd. v. Grand Realcon Pvt. Ltd., Company Appeal (AT) (Ins.) No. 882 of 2022** and **Supreet Singh Suri v. Pragati Impex India Pvt. Ltd., Company Appeal (AT) (Ins.) No. 1431 of 2022.**

11. The Corporate Debtor's contention that the petition is premature because the final redemption date was extended to 30.06.2024 is legally untenable. The Debenture Trust Deed stipulates the payment of quarterly coupon interest as a distinct and independent obligation. The failure to pay interest due from 15.06.2022 onwards constitutes a contractually recognized 'Event of Default' under Clause 19 of the Trust Deed. An extension of the final maturity date for the principal does not *ipso facto* grant a moratorium on accrued and future interest obligations unless explicitly stated in the Amendment Deed.

12. So far as the allegation of the Respondent that entire petition is a disguised recovery attempt and it does not fall within the true ambit and purpose of the IBC and the Petitioner is attempting to misuse the insolvency mechanism to arm-twist the Corporate Debtor, relying upon inflated and selectively presented figures is concerned, it is hereby clarified the Adjudicating Authority is strictly interpreting extant provisions of Code and the rules made thereunder and applying settled position of law on the issue as stated supra. We are not persuaded by other grounds raised by the Respondent and they are not all tenable.

NON-ISSUANCE OF NOC

13. So far as the allegation of the Respondent regarding non-issuance of NOC is concerned, it is seen that the liability to pay financial debt is an absolute contractual obligation and is not contingent upon the Financial Creditor's performance of secondary duties, such as the issuance of NOCs. The DTD does not expressly make the debt 'reciprocal'.



14. With respect to the above and the other defences raised by the respondent, it is relevant to refer to the law laid down by the Hon'ble Supreme Court in ***Elegna Co-Op. Housing and Commercial Society Ltd. v. Edelweiss Asset Reconstruction Company Ltd., (2026) ibclaw.in 17 SC***. In the said case, the Corporate Debtor had raised contentions similar to the present matter, including that the alleged default occurred due to non-issuance of No Objection Certificates by the Financial Creditor, as outlined in para 12.1 quoted hereunder:

“12. Question No. 1 – Admission of the Corporate Debtor into CIRP

*12.1. The Corporate Debtor contends that the initiation of CIRP by the respondent – EARCL lacked bona fides and was intended to operate as a recovery mechanism rather than a resolution process. It is urged that the Corporate Debtor was a going concern; that the real estate project was substantially completed; and that adequate receivables from unsold inventory were available to service the debt. **The default, according to the Corporate Debtor, was not wilful but occurred due to EARCL’s refusal to issue provisional No Objection Certificate, which allegedly frustrated further sale of remaining units. Such conduct, it is contended, disentitles EARCL from invoking Section 7 of the Code.**”*

The Hon'ble Supreme Court, while rejecting such contentions, held as under:

“12.3. The legal position is now well settled. In Innoventive Industries, this Court held that once the Adjudicating Authority is satisfied that a financial debt exists and a default has occurred, it must admit the application unless it is incomplete. The inquiry under Section 7(5)(a) is confined strictly to the determination of debt and default, leaving no scope for equitable or discretionary considerations.

12.4. This principle was reiterated in E.S. Krishnamurthy, wherein this Court clarified that no discretion survives once default is established. Similarly, in Swiss Ribbons, this Court reaffirmed that the trigger for CIRP is default, and the object of the Code is to ensure timely resolution to preserve enterprise value.

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12.8. Applying the aforesaid principles to the present case, the Corporate Debtor admittedly possesses no adjudicated or realisable claim exceeding the amount in default. **Its reliance on business viability, unsold inventory, project status, or anticipated receivables does not constitute “good reasons” in law to defer or deny admission of CIRP.**

12.9. The existence of a financial debt owed to EARCL is undisputed. Persistent defaults stand admitted and are conclusively established on record, including breach of the restructuring agreement and failure to pay instalments within the stipulated cure period. The restructuring arrangement failed due to non-payment by the Corporate Debtor, thereby triggering an express event of default under its terms.

12.10. Any alleged non-cooperation by EARCL **occurred subsequent to the default and cannot absolve the Corporate Debtor of its admitted failure to comply with its payment obligations.** The NCLAT correctly held that considerations such as ongoing operations, partial project completion or anticipated receivables are extraneous to the statutory mandate under Section 7.

12.11. The contention that EARCL misused the Code as a recovery tool is equally untenable. **The Code does not prohibit a financial creditor from invoking CIRP merely because recovery proceedings under the SARFAESI Act or before the DRT are pending or have been initiated.** Section 238 accords overriding effect to the Code, and upon admission, the moratorium under Section 14 stays all such proceedings.

12.12. **Allegations of mala fide invocation can be examined only within the framework of Section 65 of the Code, which requires specific pleadings and proof of abuse of process by the Corporate Debtor. No such case has been pleaded or established on the facts of the present case.”**

In view of the above, it is clear that once default has occurred, subsequent allegations of non-cooperation or non-issuance of NOCs by the Financial Creditor cannot dilute or extinguish the statutory consequence flowing from such default. Applying the same principle to the facts of the present case, the issue of alleged non issuance of provisional NOCs, even if assumed, arises only after the occurrence of default and

therefore cannot constitute a valid ground to reject an application filed under Section 7 of the Code.

15. Other petitions filed against the CD for initiation of CIRP

It is also relevant to put out here that on verification of the records, it is noticed that the following Company Petitions are pending before this Tribunal for adjudication against the Corporate Debtor, Vatika Limited:


S. No	CASE NO.	CASE TITLE	FILED UNDER SECTION
1.	C.P.(IB)/256(CH)/2022	SGY PROPERTIES PRIVATE LIMITED VS VATIKA LIMITED	Section 9, IBC
2.	C.P.(IB)/276(CH)/2024	BASANT KUMAR PARDASANEY VS VATIKA LIMITED	Section 7, IBC
3.	C.P.(IB)/74(CH)/2022	VINOD AGARWAL & ORS VS VATIKA LIMITED	Section 7, IBC

Project-wise Insolvency:

16. The Respondent has vehemently contended that the present debt is project-specific in nature and, therefore, insolvency, if any, ought to be initiated only on a project-wise basis and not against the Corporate Debtor as a whole. This submission, though elaborately argued, is neither borne out from the factual matrix nor sustainable in law and deserves to be rejected for the reasons recorded hereinafter.

16.1. Statutory Scheme under the IBC

At the outset, it is pertinent to note that the Insolvency and Bankruptcy Code, 2016 recognises insolvency of a “Corporate Debtor” and not of an individual project. Section 3(8) of the Code defines ‘Corporate Debtor’ as a corporate person who owes a debt to any person. The Code does not envisage a real estate project as an independent juridical entity capable of being subjected to initiation of CIRP. Further, Section 7(5)(a) mandates admission of an application once debt and default are established against



the Corporate Debtor. The present petition has been filed against Vatika Limited as a corporate debtor and not against any specific project, and the statutory mandate cannot be diluted at the threshold by importing a project-wise filter at the admission stage.

16.2. Nature of Debt and Security Structure

The Debenture Trust Deed has been executed by Vatika Limited in its capacity as a corporate borrower and the debenture liability is an obligation of the Corporate Debtor itself. The security architecture clearly demonstrates that the debt is not ring-fenced to a single project. Apart from mortgage over project land held by land-owning companies, the transaction is secured by unconditional and irrevocable personal guarantees of the Promoters, corporate guarantees of the land-owning companies, a Shortfall Undertaking dated 30.06.2017 executed by the Corporate Debtor, and post-dated cheques issued by the Corporate Debtor towards repayment obligations. Such a composite security structure unequivocally evidences an enterprise-wide financial debt and not a project-limited exposure.

16.3. Utilisation of Funds and Enterprise-Level Liability

The Debenture Trust Deed itself, particularly in Clause 8.3, stipulates that the subscription amount was to be utilised to meet the ongoing funding requirements of the Corporate Debtor for its business activities and general corporate purposes. The term “Business” has been defined expansively to include development of real estate projects for residential and commercial use, including but not limited to the project in question. Also, the Respondent has failed to establish, by any cogent material, that the funds raised through the impugned debentures were exclusively utilised for a single project and were not commingled with the general funds of the Corporate Debtor or not deployed across other projects. In the absence of such proof, there is



no legal or factual basis to confine the insolvency process to one project alone at the admission stage.

16.4. Multiplicity of Proceedings and Object of the Code

As already noted in paragraph 15 above, multiple insolvency petitions filed by different creditors against the same Corporate Debtor are pending for adjudication. Entertaining a project-wise insolvency at the threshold would lead to fragmentation of proceedings, multiplicity of processes, and a disjointed resolution framework, which would be wholly antithetical to the objectives of the Code, particularly maximisation of value of assets of the Corporate Debtor as a whole. The Debenture Holders are financial creditors asserting corporate-level financial debt and are not homebuyer allottees seeking project-specific relief under Section 5(8)(f) of the Code.

16.5. Code provides for Project wise Resolution and not for Project-wise Insolvency

At this stage, it is relevant to refer Regulations 4D and 36A to the Insolvency and Bankruptcy Board of India (Resolution Process for Corporate Persons) Regulations, 2016, as inserted in the said Regulations, 2016 by the Insolvency and Bankruptcy Board of India (Resolution Process for Corporate Persons) (Amendment) Regulations, 2024. Regulation 4D, of the Regulations, 2016, reads as under:

“4D. Operating separate bank account for each real estate project. Where the corporate debtor has any real estate project, the interim resolution professional or the resolution professional, as the case may be, shall operate a separate bank account for each real estate project.”

Further, Regulation 36A, of the Regulations, 2016 provides as follows:

“36A. Invitation for expression of interest. (1) The resolution professional shall publish brief particulars of the invitation for expression of interest in Form G of the Schedule I at the earliest, not later than sixtieth day from the insolvency commencement date, from interested and eligible prospective resolution applicants to submit resolution plans.


[Clarification: The resolution professional after the approval of the committee may invite a resolution plan for each real estate project or group of projects of the corporate debtor.]”



A conjoint reading of the aforesaid provisions makes it abundantly clear that the statutory scheme under the Code and the Regulations provides only for *project wise resolution* after admission of the application, subject to approval of the Committee of Creditors, and does not contemplate initiation of insolvency proceedings on a project wise basis. The role of the Resolution Professional to invite resolution plans for individual projects arises only after commencement of CIRP and cannot be invoked to defeat admission of an application under Section 7 of the Code.

16.6. It is also apposite to note, that the very concept of “project-wise insolvency” has been viewed as inherently inconsistent with the foundational structure of the Insolvency and Bankruptcy Code, 2016. In this context, it is necessary to understand the legislative intent behind the framework as was also explained by Sri Baijayant Panda, Chairperson of the Parliamentary Select Committee on the Insolvency and Bankruptcy Code (Amendment) Bill, 2025. It has been observed that insolvency under the Code is necessarily of a company and not of a project. The distinction drawn is between project-wise resolution, which may be operationally undertaken within CIRP, and insolvency itself, which statutorily attaches only to the corporate person. It is to be noted that permitting insolvency to remain confined to a project would dilute the core principle of the Code that default results in displacement of control of the corporate debtor and replacement of the promoter. Allowing promoters to retain control of the corporate entity while carving out isolated projects for insolvency would defeat the deterrent and disciplinary architecture embedded in the Code. This reinforces the position that while project-wise resolution mechanisms may be employed post admission within the CIRP framework, the initiation of insolvency proceedings itself cannot be restricted to a project alone.


16.7. Accordingly, the contention of the Corporate Debtor seeking project wise insolvency at admission stage is untenable and deserves to be rejected.



17. For aforesaid reasons and circumstances and in the light of extant provisions of Code and Rules and Regulations made thereunder and by taking into consideration of settled position of law, we find that that the instant Application/petition has been filed in accordance with extant provisions of Code, wherein the 'debt' and 'default' has been established and also Applicant/Petitioner proposes the **name of Mr. Jayant Prakash (IBBI/IPA-001/ IP-P00597/ 2017-2018/11049), who is a qualified Resolution Professional, to appoint him as Interim Resolution Professional.** He has filed a Declaration in specified form that he is eligible to be appointed as IRP and he is not facing any disciplinary proceedings. Therefore, it is a fit case for initiating CIRP against the Corporate Debtor.

18. Accordingly, in exercise of powers conferred U/s 7(5)(a) and other extant provisions of the IBC, 2016 and the Rules and Regulations made thereunder, this Adjudicating Authority is passing the following Order:

- I. Corporate Debtor- **Vatika Limited** is admitted to the Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016.
- II. A moratorium under section 14 of the Insolvency and Bankruptcy Code, 2016 is declared prohibiting all of the following, in terms of Section 14(1) of the Code:
 - (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 Securitisation 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.


(e) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator as also not applicable to surety.

- III. The order of moratorium shall have effect from the date of this Order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor under Section 33 of the IBC, 2016, as the case may be.
- IV. As proposed by the financial creditor, **Mr. Jayant Prakash (IBBI/IPA-001/IP-P00597/2017-2018/11049)** is appointed to act as an IRP under Section 13(1)(c) of the IBC, 2016 in respect of the CIRP of the corporate debtor. IRP shall conduct the Corporate Insolvency Resolution Process of the corporate debtor as per the provisions of the Insolvency and Bankruptcy Code, 2016 read with Regulations made thereunder.
- V. The IRP so appointed shall make a public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) as required by Section 13(1)(b) of the Code and call for submission of claims under Section 15. To ensure intimation to claimants, the IRP is directed to also put up Flex-Boards/Hoardings at appropriate places of the CD's projects and at the Corporate Office of the CD and insert a ticker on the website of the CD announcing the initiation of CIRP alongwith the name, contact details and email of the IRP at which the claims could be made by the creditors/homebuyers.
- VI. The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted



during the moratorium period. The corporate debtor to provide effective assistance to the IRP as and when he takes charge of the assets and management of the corporate debtor.

- VII. The IRP shall perform all functions as contemplated, inter alia, in sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person, is required to assist or co-operate with IRP, does not assist or co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- VIII. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency and Bankruptcy Code, 2016.
- IX. The Financial Creditor is directed to pay an advance of ₹4,00,000/- (Rupees Four Lacs only) to the IRP within two weeks from the date of receipt of this order to meet the initial CIRP cost for smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount before this Adjudicating Authority along with First Progress Report. Subsequently, the IRP may raise further demands for Interim funds, which shall be provided as per Rules.
- X. The Registry is directed to communicate a copy of this order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, within seven working days and upload the same on website immediately after pronouncement of this order.
- XI. The IRP shall also intimate the initiation of CIRP and manner and timelines for submission of claims, if any to various departments



such as Income Tax, GST, State Trade Tax and Provident Fund, etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/ employee's associations so that they are timely informed about the initiation of CIRP against the Corporate Debtor.

XII. The commencement of the Corporate Insolvency Resolution process shall be effective from the date of this Order.

19. Accordingly, the **CP (IB) No. 45/CHD/Hry/2024** is allowed.

Sd/-

Shishir Agarwal
Member (Technical)

Sd/-

Khetrabasi Biswal
Member (Judicial)
Aakash