



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

Number 241

(September 15, 2025)

Canara Bank vs. M/s. S. S. Aluminium Pvt. Ltd.

C.P (IB) No.18/CB/2024

Date of NCLT Judgement, 09 September 2025

Facts of the Case: -

The present application was filed by Canara Bank (hereinafter referred as 'Petitioner/Financial Creditor') against S.S. Aluminium Pvt. Ltd. (hereinafter referred as 'Respondent/Corporate Debtor') under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

The Financial Creditor had sanctioned various credit facilities for the modernisation and expansion of the Corporate Debtor's aluminium extrusion unit at Haldiapada. These included a Cash Credit limit of Rs. 3,50,00,000 and Term Loan-I of Rs. 5,44,00,000. Later, an additional Term Loan-II of Rs. 88,64,000 was sanctioned on 11.07.2015, followed by an enhancement in the Cash Credit facility to Rs. 5,00,00,000 on 23.03.2016. Further, a Bank Guarantee of Rs. 50,00,000 was issued in favour of M/s National Small Industries Corporation Ltd., which was invoked for Rs. 53,99,430(including interest), and this amount was debited from the respondent's Cash Credit account.

On 29.06.2019, a Debt Restructuring Agreement was executed, and further facilities were sanctioned — including Term Loan-III of Rs. 17,33,000 and a Working Capital Term Loan of Rs. 1,50,00,000. Additionally, the Financial Creditor sanctioned a Covid Funded Interest Term Loan of Rs. 34,32,390 and Rs. 2,00,00,000 under the GECL scheme. Despite these accommodations, the Corporate Debtor defaulted in payment of instalments and interest. The loan accounts were declared Non-Performing Assets (NPA), and a Loan Recall Notice was issued on 04.11.2021, demanding repayment of Rs. 13,48,00,000. Recovery action under the SARFAESI Act was initiated with notices under Sections 13(2) and 13(4). Subsequent auction attempts failed due to lack of bidders. The Bank also filed writ petitions before the Hon'ble High Court of Orissa seeking directions for registration of the Sale Certificate and disposal of pending SARFAESI applications.

The respondent, in its reply and written submissions, has challenged the Section 7 application, citing discrepancies in loan details. It questioned the issuance of two Section 13(2) SARFAESI notices on different dates, creating ambiguity about the date of default and NPA. Allegations of fraud have been made, including forgery of the mortgagor's signature. The respondent disputes the loan amount and claims protection under Section 10-A of the IBC and the Limitation Act, 1963. It also asserts that its MSME status required compliance with the statutory revival framework which was not followed.



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NCLT's Observations:

The Tribunal observed that the primary issue was whether the debt extended by the financial creditor qualified as a financial debt and whether the respondent had defaulted. Despite the respondent's FIR alleging fraud, this could not serve as grounds to reject the application under Section 7 of the IBC, 2016, as a pre-existing dispute does not bar the admission of such an application. The tribunal noted that the respondent's default was established through loan account statements and an acknowledgment of debt, with no dispute raised by the respondent during the proceedings. The default occurred after the Section 10A period, and thus, the application was not affected by this provision.

The respondent's late claim of MSMEs status was rejected as it was introduced only in the written submissions without supporting evidence. Additionally, the tribunal found no merit in the respondent's argument about discrepancies in the SARFAESI notices, as the respondent had previously acknowledged the debt through multiple One-Time Settlement proposals. Consequently, the tribunal concluded that the respondent had defaulted on a debt exceeding Rs. 1 crore and that the application was filed within the limitation period, making it admissible.

The NCLT rejected the respondent's argument regarding the default occurring during the Section 10A period, referring to the NCLAT judgment in *NuFuture Digital (India) Ltd. v. Axis Trustee Services Ltd. (2023)*. It was held that any default occurring after the Section 10A period should not be considered for exclusion. In this case, the loan account statement showed that the default happened after the Section 10A period, with the NPA date being 11.05.2021. Therefore, the default did not fall within the Section 10A timeframe, and the application was not barred by this provision of the IBC.

Order/Judgement:

The Adjudicating Authority ordered the initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor under Section 7 of the Insolvency and Bankruptcy Code, 2016. A moratorium is declared, prohibiting various actions against the Corporate Debtor. The IRP is directed to make public announcements, protect the assets, and ensure smooth conduct of the CIRP, with periodic reports to be submitted to the Adjudicating Authority.

Case Review: CIRP Application allowed.