IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.302 - C.P.(IB)/269(AHM)2025
With
ITEM No.303 – IA/1078(AHM)2025

C.P.(IB)/269(AHM)2025

Under Section 7 of IB Code, 2016

IN THE MATTER OF:

HDFC Bank Limited
V/s
Turnrest Resources Pvt. Ltd

.....Applicant

.....Respondent

IA/1078(AHM)2025

Under Section 65 of IB Code, 2016

IN THE MATTER OF:

Turnrest Resources Pvt. Ltd
V/s
HDFC Bank Limited

.....Applicant

.....Respondent

Order delivered on: 07/11/2025

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

O R D E R
(Hybrid Mode)

The case is fixed for pronouncement of order. The common order is pronounced in the open court, vide separate sheet.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT –I, AHMEDABAD

CP (IB)/269(AHM)/2025
With
IA/1078 (AHM) 2025

(An application 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 ***Turnest Resources Private Limited***

HDFC Bank Limited
Having its Registered Office at:
HDFC Bank House, Senapati
Bapat Marg Lower Parel W,
Mumbai, Maharashtra, India –
400013.

Having its Branch Office at –
HDFC Bank House, Opp. Jain
Derasar, Navrangpura,
Ahmedabad – 380009.

Having its Branch Office at –
HDFC Bank Ltd., Department for
Special Operations, 3rd Floor, C-
Wing, Sheetal West Park Imperia,
Nr. Alpha One Mall, Vastrapur,
Ahmedabad – 380015.

...Applicant/Financial Creditor

VERSUS

Turnest Resources Private Limited,
(CIN: U93090GJ2017PTC096979)
Having its Registered Office at:
D-1001, Swati Crimson & Clove, Nr.
Shilaj Circle Vill: Shilaj,
Tal: Dask, Roi, Ahmedabad,

Ahmedabad, Gujarat, India – 380059.

Also having office at – 4th Floor, Sunshine Arcade, Vidyakunj Society, Main Road, Rajkot, and Gujarat – 360005.

WITH

IA/1078 (AHM) 2025

(An application filed under Section 65 of the Insolvency and Bankruptcy Code, 2016)

Turnest Resources Private Limited
(CIN: U93090GJ2017PTC096979)
Having its Registered Office at:
D-1001, Swati Crimson & Clove, Nr. Shilaj Circle Vill: Shilaj,
Tal: Dask, Roi, Ahmedabad,
Gujarat, India – 380059.

Also having office at – 4th Floor, Sunshine Arcade, Vidyakunj Society, Main Road, Rajkot, and Gujarat – 360005

... Applicant/ Corporate Debtor

VERSUS

HDFC Bank Limited
Having its Registered Office at:
HDFC Bank House, Senapati Bapat Marg Lower Parel W,
Mumbai, Maharashtra, India – 400013.
Having its Branch Office at –
HDFC Bank House, Opp. Jain Derasar, Navrangpura,
Ahmedabad – 380009.

Having its Branch Office at –

HDFC Bank Ltd., Department for Special Operations, 3rd Floor, C-Wing, Sheetal West Park Imperia, Nr. Alpha One Mall, Vastrapur, Ahmedabad – 380015.

...Respondent/Financial Creditor

Order pronounced on: 07.11.2025

C O R A M:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E

For the Applicant/FC : Mr. Jay Kansara, Adv. a.w.
Ms. Vinisha Jain, Adv.
For the Respondent/CD : Mr. Arjun Sheth, Adv. a.w.
Mr. Rajiv Chawla, Adv.

C O M M O N O R D E R
Per Bench

CP (IB)/269(AHM)/2025

1. The present common order disposes of the Company Petition bearing No. **CP (IB)/269(AHM)/2025**, filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC, 2016") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "IB (AAA) Rules, 2016"), and the connected Interlocutory Application bearing No. **IA/1078 (AHM) 2025**, filed by the Application/Corporate Debtor under Section 65 of the Insolvency and Bankruptcy

Code, 2016,

2. The Company Petition CP (IB) No. 269 OF 2025 is filed on 11.07.2025 by the Applicant - **HDFC Bank Limited** (hereinafter referred to as **"Financial Creditor"**) against the Respondent - **Turnest Resources Private Limited** (hereinafter referred to as **"Corporate Debtor"**) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as **"IBC, 2016"**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as **"IB (AAA) Rules, 2016"**) for initiation of Corporate Insolvency Resolution Process (**CIRP**), to appoint Interim Resolution Professional (hereinafter referred to as **"IRP"**) and declare the moratorium for having defaulted in payment of the outstanding Financial Debt of Rs.30,50,29,341.25ps including interest. The date of default as stated to be 16.07.2024.

3. On Perusal of Part-I of the Form-1 revealed that Financial Creditor - HDFC Bank Limited was incorporated on 30.08.1994 under the Companies Act, 1956 bearing CIN: L65920MH1994PLC080618 and having its Registered Office at: HDFC Bank House, Senapati Bapat Marg Lower

Parel W, Mumbai, Maharashtra, India – 400013.

4. It is submitted that Mr. Anil Shankhla, is duly authorized to submit the present Petition on behalf of the Financial Creditor. It is further submitted that the address of the authorized representative is HDFC Bank Ltd., Department for special operations, 3rd Floor, C-wing, Sheetal West Park Imperial, Nr. Alpha One Mall, Vastrapur, and Ahmedabad – 380015. A copy of the Board Resolution dated 22.11.2023 authorizing Mr. Anil Shankhla to file the present Petition is annexed hereto and marked as **Annexure A.**

5. On perusal of Part-II of the Form-1 reveals that the Corporate Debtor– Turnest Resources Private Limited was incorporated on 20.04.2017 under CIN: U93090GJ2017PTC096979, having its registered office at: D - 1001, Swati Crimson & Clove near Shilaj Circle, Village: Shilaj, **Tal**: Daskroi, Ahmedabad, Gujarat 380059. The authorized Share Capital of the Company is Rs. 87, 00,000/- and the Paid-Up Share Capital is Rs. 87, 00,000/- (Rs. Eighty Seven Lakhs only). The data provided above is as per Company's MCA master data, Copy of which is attached in the Petition as **Annexure-B**.

6. On perusal of Part-III of the Form-1 reveals that the Financial Creditor has **proposed** the name of Mr. Rajendra Devidas Puranik, having Registration No. IBBI/IPA-001/IP-P 02029/2020-2021/13149 under section 13 (1) (c) of the Code to act as Interim Resolution Professional **(IRP)**. He has filed his written communication annexed with the Petition as Form-2 as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. A copy of Form-2 is attached as **Annexure-C** in the Petition.

7. On perusal of Part-IV of the Form-1 reveals that total defaulted amount dues as claimed by the Financial Creditor is Rs.30,50,29,341.25ps. consisting of amount Rs.27,24,28,863.71ps. being principle, amount of Rs.1,87,53,272.20ps. being interest as up-to 26.06.2025 and being Penal amount is Rs.1,41,47,205.34ps. It is sated that the financial Creditor **sanctioned** and disbursed various credit facilities to the Corporate Debtor from December 2020 onwards, aggregating to a total financial exposure of approximately Rs. 160 crores (Rupees one hundred and sixty crores only). These disbursements were made through

multiple tranches between 31.12.2020 and 30.12.2022, as detailed in the sanction and disbursement scheduled annexed with the petition. The Financial Creditor has placed the facts though this Petition in the following manner: -

i. It is submitted that the Petitioner Bank extended various credit facilities to the Corporate Debtor under Letter of Credit, Cash Credit, SBLC for BC-WC, and PSR (sub-limits of LC). The amounts were disbursed from time to time between 31.12.2020 and 30.12.2022, aggregating to a total financial exposure of approximately 160 crores Rs. Additional disbursements was made under sub-limits such as cash credit, SBLC for BC-WC, and PSR between July 2021 and September 2021. The aforesaid advances collectively constitute the total amount of financial debt claimed by the Petitioner against the Respondent Company.

ii. The credit facilities were extended and renewed from time to time vide sanction letters dated 28.12.2020, 18.01.2021, 19.06.2021, 04.03.2022, 28.07.2022, and 26.02.2024, bearing reference numbers 84954877, 85132803, 85406120, 86049156, 86717525, and 89285779 respectively. The copies of the said sanction letters are placed on record as **Annexure D (Colly).**

iii. To secure repayment of the said credit facilities, the corporate Debtor executed multiple security and loan documents, details whereof are set out in **Part V** of the

Petition.

iv. The Corporate Debtor through Letter dated 01.10.2023, expressly acknowledged its liability towards the Financial Creditor to the tune of Rs. **91,85,91,810/-** (Rupees Ninety – one crore eighty-five lakh Ninety-one Thousand Eight Hundred and Ten Only/-). The said acknowledgement is annexed as **(Annexure E)**.

v. However, after availing of the aforesaid credit facilities, the Corporate Debtor failed and neglected to pay the regular monthly installments per the terms and conditions agreed upon under the facility agreement. Upon persistent failure of Corporate Debtor to service the debt despite repeated reminders, the Financial Creditor issued a show cause notice dated 05.07.2024 **(Annexure F)** to regularize the loan account. But the Corporate Debtor failed to do so and committed default on 16.07.2024. Thereafter a Loan Recall notice dated 14.08.2024 **(Annexure G),** was issued demanding payment of Rs. **66,50,06,262.87/-** as on 13.08.2024 along with further contractual interest.

vi. The Financial Creditor entered into an agreement for release dated 11.09.2024 with the erstwhile corporate guarantor and certain individual guarantors, under which partial settlement was reached and specific immovable property mortgaged at kothariya, Rajkot was released. The said document is annexed as **(Annexure H)**.

vii. However, on account of continuous and deliberate default on the part of the Corporate Debtor, on 14.10.2024, the

account of the Corporate Debtor was declared as a Non-Performing Asset (NPA). Thereafter, a statutory demand notice under Section 13(2) of the SARFAESI Act, 2002, dated 12.12.2024 was issued, demanding payment of Rs. **27,79,49,613.98**, payable within 60 days **(Annexure I).**

viii. The Financial Creditor also filed Original Application No. 106 of 2025 before the Debt Recovery Tribunal-I, Ahmedabad on 06.02.2025, seeking recovery of Rs. 28,44,55,667.08/- from the Corporate Debtor and guarantors.

ix. It is noted that an earlier petition under section 7 of the IBC, being CP (IB) No. 139/2025, had been filed by the same Financial Creditor. The said petition was permitted to be withdrawn by this Hon'ble Tribunal vide order dated 28.04.2025, with liberty to file a fresh petition with better particulars **(Annexure J)**. The present petition is filed in exercise of such liberty.

x. The account of the Corporate Debtor was subsequently declared fraudulent on 29.05.2025 under the RBI Master Directions on Fraud Risk Management in Commercial Banks and Financial Institutions, 2024. The civil report showing the details of days past due (DPD) is annexed as **(Annexure K)**.

xi. As per the petition, the total amount claimed to be in default as on 26.06.2025 is Rs. 30,50,29,341.25/-, comprising- Principle Rs. 27,24,28,863.71/-, interest Rs. 1,87,53,272.20/- and Penal Interest Rs. 1,41,47,205.34/-.

(Total computation supported by **(Annexure L)**.

xii. The Financial Creditor has given credit of ₹41,00,00,000/- received on 11.09.2024 vide Release Agreement. Net amount in default as on 26.06.2025 is ₹30,50,29,341.25/-.

xiii. The Financial Creditor submits that despite repeated opportunities, the Corporate Debtor has failed to regularize its account, has lost its financial substratum, and is unable to discharge its admitted liabilities, thereby justifying initiation of corporate Insolvency Resolution Process (CIRP) under section 7 of the IBC, 2016.

8. On perusal of Part-V of the Form-1 reveals that, the Financial Creditor has produced comprehensive documentary evidence in support of the existence of financial debt and the occurrence of default on the part of the Corporate Debtor, as mandated under Section 7(3) (a) – (b) of the Insolvency and Bankruptcy Code, 2016.

i. It is placed on record that the Corporate Debtor had availed various credit facilities from the Financial Creditor under the master facility agreements dated 1st January 2021 and 22nd February 2021 each providing a sanctioned limit of Rs. 15,00,00,000/- (Rupees Fifteen Crores only).

ii. The said Master Facilities agreements were modified through Addendums dated 1st January 2021, 30th June 2021, and 30th July 2022 whereby the spread and computation of

interest were revised corresponding to changes in the benchmark rate.

iii. The parties executed supplemental Agreements dated 30th June 2021, 9th March 2022, 30th July 2022, and 30th December 2022, enhancing the credit exposure from Rs. 15 crores to Rs. 160 crores, evidencing continued financial engagement between the parties.

iv. The record further contains sanction letters dated 28th December 2020, 18th January 2021, 28th June 2021, 4th March 2022, 28th July 2022, and 26th February 2024, collectively sanctioning and revising the total facility limits aggregating to Rs. 180 crores.

v. The Financial Creditor has also relied on Acknowledgement of Debt dated 1st October 2023 (**Annexure E**), wherein the corporate debtor and its guarantors have expressly acknowledged their outstanding liability.

vi. To establish the initiation of recovery proceedings, the Financial Creditor has annexed a show cause notice dated 5th July 2024 (**Annexure F**), a recall notice dated 12th December 2024 issued under Section 13(2) of the SARFAESI Act, 2002 (**Annexure I**), cumulatively evidencing repeated calls for repayment prior to filing the present petition.

vii. The evidentiary record includes Demand Promissory Notes dated 30th June 2021, 9th March 2022, and 30th July 2022, duly executed by the corporate debtor as continuing securities for the respective credit facilities.

viii. Multiple letters of continuing guarantee executed by the promoters, directors and related guarantors between 2021 and 2024 have been furnished, securing repayment obligations up to Rs. 180 crores.

ix. The deed of hypothecation dated 1st January 2021 and supplementary deeds of hypothecation dated 30th June 2021 and 30th July 2022 have been produced, creating a pari passu charge on movable assets of the Corporate Debtor, such as stock and receivables **(Annexure M).**

x. The said charges stand duly registered with the Registrar of Companies, as evidenced by the Certification of registration of charge (**Annexure N**).

xi. The Memorandum of Deposit of title deeds (Mortgage Deed) dated 5th December 2022 executed by the Corporate Debtor and its Guarantors) establishes an exclusive charge over immovable property situated at "Swati crimson and clover", Ahmedabad.

xii. The charge created under the above mortgage corroborated by CERSAI Search Reports bearing transaction IDs 200317008012 and 200317002020, confirming subsistence of encumbrance over the said property.

xiii. A power of attorney dated 1st January 2021 executed by the Corporate Debtor in favor of the financial authorizes the latter to act on its behalf for enforcement of security interests and related actions.

xiv. The financial creditor has also annexed: Record of default

filed with the information utility (Annexure O), Credit Information Report issued by a registered credit information company (Annexure P) and certified bank statements of the Loan accounts maintained under the Banker's Book Evidence Act, 1891 (Annexure Q Colly).

xv. The financial creditor further relies on a prior order dated 28.04.2025 passed by this Hon'ble Tribunal in CP (IB) No. 139 of 2025, evidencing a related transaction and establishing the continuity of default.

xvi. Collectively, the above annexures substantiate that the Corporate Debtor had availed credit facilities aggregating to Rs. 180 crores, executed multiple security documents, created both movable and immovable charges, and failed to discharge its repayment obligations despite statutory notices and recall communications.

xvii. Hence, the Financial Creditor has prima facie complied with the requirements prescribed under Section 7(3)(a), (b), and (c) of the Insolvency and Bankruptcy Code, 2016 by furnishing all documentary evidence establishing the debt, default, and authorization to initiate the present proceedings.

9. That on issuance of the notice, the Corporate Debtor appeared though it's Counsel and filed Present **Interlocutory Application** bearing No. **IA/1078 (AHM) 2025**, under Section 65 of the Insolvency and Bankruptcy Code, 2016, alleging that the said petition was filed with fraudulent and malicious

intent both arising out of the same cause of action between the same parties, seeking following relief : -

a. *Declare that the Company Petition (IB) No. 269 of 2025 filed by the Respondent (Original Petitioner) has been initiated fraudulently and/or with malicious intent and for purposes other than for the resolution of insolvency of the Applicant, within the meaning of Section 65 of the Insolvency and Bankruptcy Code, 2016.*

b. *Dismiss the Company Petition (IB) No. 269 of 2025 filed by the Respondent/Original Petitioner as being not maintainable.*

c. *To pass such order and further relief(s) as may deem fit in the interest of justice.*

i. The Corporate Debtor submits that the Financial Creditor has filed the main company petition under section 7 of the IBC claiming an alleged financial debt of Rs. 30,50,29,341.25/- (Rupees Thirty Crores Fifty Lakhs Twenty-Nine Thousand Three Hundred Forty-one and paise Twenty-Five Only) in respect of curtain sanctioned loan facilities. It is the Applicant's case that the said petition has been filed fraudulently and maliciously with intent to exert undue pressure and harass the Corporate Debtor rather than to genuinely resolve any insolvency. Copy of the board Resolution authorizing the deponent herein to file present application **(Annexure A)**.

ii. It is submitted that the Applicant's company had availed

various loan facilities from the Respondent bank wherein corporate and personal guarantees were furnished by the following guarantors: -

1. Avadh Infrastructure Pvt Ltd. (Corporate Guarantor and Mortgagor)
2. Mr. Rameshbhai Virjibhai Tilara
3. R.V. Patel Tilara (HUF)
4. Mr. Jeel Rameshbhai Tilara
5. Mrs. Hansaben Rameshbhai Tilara
6. Mr. Arvindbhai Jasmatbhai Ramani
7. Mrs. Kashmira Arvind Ramani
8. Mr. Keshubhai Haribhai Bodar
9. Mr. Khodabhai Mohanbhai Boghara
10. Mr. Jay H. Chotalia
11. Mr. Mitesh K. Sanghvi

iii. The bank vide its letter dated 01.10.2023, issued an acknowledgement of debt confirming the above guarantors, which was duly signed and acknowledged by all. Copies of loan facility documents and list of shareholders are collectively annexed as **(Annexure – B),** copies of letter dated 01.10.2023 and the Applicant's reply letter dated 01.10.2023 is annexed as **(Annexure C)**.

iv. The Applicant submits that vide email dated 01.09.2023, the Respondent Bank informed that the request for release of mortgaged property- Residential Plot No. 6, R.S. No. 132/1/2, Mota Mava, Rajkot, Gujarat- owned by certain

guarantors had been approved and requested the Applicant to fund the account to facilitate release. The Applicant responded vide email dated 21.09.2023, stating that a fixed deposit had already been provided as replacement security and requested issuance of a No Due certificate. Copies of said communications are annexed as **(Annexure – D)**.

v. The bank thereafter through letter dated 21.11.2023, confirmed the release of personal guarantees of Mr. Rameshbhai Tilara, Mr Rameshbhai Tilara (HUF), and Mrs. Hansaben Rameshbhai Tilara. However, subsequently, vide letter dated 18.07.2024, the bank took a contradictory stand, asserting that the said guarantees were not released. Copies of both letters are annexed as **(Annexure – E)**.

vi. The Applicant points out that the Respondent Bank, on multiple occasions up to July 2024, issued contradictory communications denying the release of personal guarantees despite earlier confirmations. The Bank's email dated 06.07.2024 and 24.07.2024, and its letter dated 22.07.2024, collectively annexed as **(Annexure F),** reaffirms this inconsistency.

vii. The Applicant avers that the Respondent Bank, vide **Agreement for release dated 11.09.2024**, unilaterally released the personal guarantees of eight guarantors upon receipt of Rs. 41 crores, without any prior intimation or consent from the Applicant or remaining guarantors. Copies of the Agreement for release are annexed as **(Annexure – G)**.

viii. The Applicant states that it came to know about this unilateral release during a meeting held on 01.10.2024, and thereafter sought clarification through email dated 03.10.2024, calling upon the bank to disclose the details of settlement, payments made, and properties released. The Bank failed to provide such details despite repeated follow-ups. The chain of communications between 26.09.2024 and 17.10.2024 are collectively annexed as **(Annexure – H)**.

ix. The Applicant submits that as per financial statements of Avadh Infrastructure Pvt. Ltd. and CA certificates confirming the net worth of other release guarantors, the net worth of the release guarantors far exceeded the alleged outstanding dues. However, the bank colluded with such guarantors to reach a clandestine settlement without the Applicant's knowledge, thereby wrongfully shifting the liability upon the Applicant and remaining guarantors. Copies of the said documents are annexed as **(Annexure – I)**.

x. The Applicant further submits that prior to the alleged date of default, it had proposed a one-time settlement (OTS) through letter and email dated 23.05.2025 and 27.05.2025, which was summarily rejected by the bank vide letter dated 10.06.2025 without providing any reason. Copies of the OTS proposal and rejection are annexed as **Annexure – J** and **Annexure – K**, respectively.

xi. The Applicant also states that the Respondent Bank has

simultaneously filed Original Petition No. 106 of 2025 before the Debt Recovery Tribunal – 1, Ahmedabad, on the same cause of action and for the same alleged default. The Applicant contends that this parallel proceeding further evidences that the Bank's intention behind initiating the present insolvency proceedings is to harass and pressurize the Applicant, not to achieve any genuine Insolvency Resolution.

xii. The cumulative conduct of the Respondent Bank – including the selective release of financially stronger guarantors, contradictory correspondence, rejection of settlement offers, and multiplicity of proceedings clearly reveals malicious intent and abuse of the insolvency process, thus attracting the mischief of Section

10. The Respondent/Corporate Debtor also filed **reply** to the main Petition on 15.09.2025, vide Inward Diary No. 6245 along with proof of deposit of cost of Rs. 30,000/- in Prime Minister National Relief Fund with copy of the deposited sheet dated 24.09.2025. The Corporate Debtor inter-alia contended through in the following manner: -

i. The Corporate Debtor submits that there is a contradiction in the date of default mentioned by the Applicant – 16.07.2024 in Form – 1 and 14.10.2024 in the NESL Record of default – rendering the petition defective. (Annexure – O of CP)

ii. The Applicant has failed to disclose the pendency of OA No. 106/2025 before the DRT, Ahmedabad, amounting to suppression of material facts.

iii. The Corporate Debtor had availed financial assistance from HDFC Bank which was secured by corporate and personal guarantees. (Annexure-B)

iv. The Applicant Bank issued a letter of Acknowledgement of Debt dated 01.10.2023 confirming the details of the guarantors. (Annexure-C)

v. The Applicant informed the Corporate Debtor on 01.09.2023 that the request for release of mortgaged property was approved, and the corporate debtor confirmed replacement of security through email dated 21.09.2023. (Annexure-D)

vi. The Applicant, vide letter dated 21.11.2023, confirmed release of certain personal guarantees, but later, by letter dated 18.07.2024, denied the same, showing inconsistency. (Annexure-E)

vii. The Applicant further denied release of guarantees through communications dated 06.07.2024, 22.07.2024, and 24.07.2024. (Annexure F)

viii. The Applicant unilaterally executed an Agreement for release dated 11.09.2024, releasing eight guarantors upon receipt of Rs. 41 crores without informing the Corporate Debtor. (Annexure G)

ix. The Corporate Debtor sought clarification by emails dated 03.10.2024, 26.09.2024, and 17.10.2024, but the applicant failed to respond. (Annexure H)

x. Th released guarantors possessed sufficient financial strength as reflected from audited financial statements and CA Certificates. (Annexure I)

xi. The Corporate Debtor proposed an OTS on 27.05.2025, which was rejected by the Applicant on 10.06.2025 without valid reasons. (Annexure – J and K)

xii. The Applicant has simultaneously pursued DRT proceedings and the present insolvency petition, constituting forum shopping and abuse of process.

xiii. The Corporate Debtor contends that the Applicant acted maliciously by releasing strong guarantors, rejecting genuine settlement offers, and misusing IBC provisions.

xiv. The Corporate Debtor therefore prays for dismissal of the Company Petition and for initiation of action under section 65 of the IBC against the Applicant for filing the petition with fraudulent and malicious intent.

11. Further, a Rejoinder has also been filed to the reply of the Respondent/ Corporate debtor by the Financial Creditor on 26.09.2025, vide Inward Diary No. D-6582, denying most contentions raised by the Corporate Debtor in its reply. The contents of the Rejoinder are reproduced as follows: -

i. The Applicant reiterates that the present petition under section 7 of the Insolvency and Bankruptcy Code, 2026, has been filed on account of default committed by the Respondent on 16.07.2024, and that the loan account of the Respondent was classified as Non-performing Asset (NPA) on 14.10.2024 in accordance with the RBI Master Circular On prudential Norms dated 01.04.2025. (Annexure-A)

ii. The Applicant submits that despite liquidation of fixed deposits and their hypothecated assets, the Respondent failed to fund the account towards liquidation of letters of credit on 16.07.2024, constituting an event of default under the master facility agreement dated 22.02.2021.

iii. The Applicant further submits that failure of the Respondent to submit stock statements from June 2024, involvement in circular transactions, and continued irregularity in repayment led to the declaration of the Respondent's account as "Fraud" under the Master directions on fraud risk management, 2024, vide order dated 29.05.2025 passed by the Applicant Bank. (Annexure B)

iv. It is submitted that the respondent has challenged the aforesaid fraud classification order before the Hon'ble High Court of Gujarat in special civil Application No. 7897 of 2025, which is pending adjudication.

v. The Applicant states that the pendency of the original Application No. 106 of 2025 before DRT-I, Ahmedabad,

does not amount to adjudication on default, and that the Applicant has disclosed the said proceeding in the petition. Copies of order dated 01.03.2025, 24.03.2025, 30.06.2025, and 10.07.2025 passed by the DRT are annexed. (Annexure-C Colly)

vi. The Applicant further clarifies that the Respondent had availed credit facilities duly acknowledged vide letter of acknowledgement dated 01.10.2023, and that the same establishes the existence of financial debt and acknowledgment of liability by the Respondent.

vii. The Applicant submits that the release agreement dated 11.09.2024 was executed between the Applicant and certain guarantors, under which an amount of Rs. 41,00,00,000/- (Rupees Forty-one crores) was paid, and the said release was a commercial decision taken within the Applicant's contractual rights. The respondent was under no privity to the said agreement and cannot raise objections thereto.

viii. It is submitted that the Respondent's contention regarding alleged collusion for mala fides is baseless, as the liability of the Respondent remains primary, and the contract of guarantee is a separate and independent contract governed by its own terms.

ix. The Applicant denies that the proceedings under section 7 of the IBC amount to forum shopping and submits that simultaneous proceedings under the IBC and RDB Act are legally permissible, as both enactments operate for distinct

purposes- resolution of insolvency and recovery of debt respectively.

x. The Applicant submits that the Respondent has lost its financial substratum and is unable to discharge its admitted liabilities. The existence of financial debt and continuing default stands duly established through the records and documents placed on file.

12. The matter was listed and heard on 13.10.2025, where it is seen that a Reply to an IA has been filed by the Financial Creditor on 01.10.2025 contending that the said IA is frivolous, vexatious, and devoid of merit. The contents of the Reply to the IA are reproduced as follows: -

i. The FC submits that the Corporate Debtor has failed to establish any fraudulent or malicious intent as required under Section 65 of the IBC and that the present Petition under Section 7 has been filed solely for the purpose of insolvency resolution, and not for any ulterior motive.

ii. It is contended that the CD has neither denied the existence of financial debt, nor disputed the default in repayment or liability towards the FC. Hence, the IA deserves dismissal with costs.

iii. The FC submits that the IA has been filed belatedly, after a delay of about 45 days from the date of service of notice (29.07.2024) issued by this Hon'ble Tribunal, and the CD has failed to provide any justification for such delay.

iv. The FC denies that the Petition was filed "fraudulently" or "maliciously" and submits that the CD has not pleaded or proved any specific facts indicating fraudulent or malicious intent. The IA lacks the basic ingredients required under Section 65, and therefore no interference is warranted.

v. The FC asserts that despite having been granted credit facilities vide Sanction Letter dated 26.02.2024 and Master Facility Agreement, the CD has continuously defaulted in repayment. The IA is an attempt to delay and obstruct the insolvency proceedings.

vi. The FC submits that the CD itself, in the IA, has admitted the existence of financial debt, acknowledged default, and accepted its weak financial position, thereby disproving its own allegations of mala fide intent.

vii. With respect to the Release Agreement dated 11.09.2024, the FC clarifies that the same was executed between the Bank and certain Released Guarantors upon their request and payment of ₹41,00,00,000/-. The FC asserts that this was a commercial decision taken within its contractual rights and not a unilateral or fraudulent act.

viii. The FC contends that the contract of guarantee is independent of the principal contract with the Corporate Debtor, and therefore the FC was under no obligation to seek consent of the CD before entering into the Release Agreement.

ix. The FC submits that the account of the CD was duly

credited with the amount received from the Released Guarantors under the Release Agreement and that the CD's liability stood reduced to that extent.

x. The FC denies the CD's contention that communications of July 2024 were wrongly referred to as of July 2025, clarifying that the said correspondence relates to the year 2024, as evident from the CD's own annexures.

xi. The FC states that the Release Agreement was entered into with the following guarantors:

1. Avadh Infrastructure Pvt. Ltd.
2. Rameshbhai Tilara
3. Rameshbhai Tilara (HUF)
4. Jeel Rameshbhai Tilara
5. Hansaben Rameshbhai Tilara
6. Arvindbhai Jasmatbhai Ramani
7. Kashmiraben Arvind Ramani
8. Keshubhai Haribhai Bodar
9. Khodabhai Bhogara

xii. The FC submits that the CD has failed to make out any case under Section 65 of the IBC, as the Petition was filed bona fide for resolution and revival of the CD. The allegations of fraud and malice are unsupported by facts or documents.

xiii. The FC prays that the Interlocutory Application No. 1078 of 2025 filed by the CD under Section 65 of the IBC be dismissed with costs, as being devoid of merit and a clear

attempt to delay insolvency proceeding.

13. The matter was listed and heard on 17.10.2025, where it is seen that this Tribunal passed an order to file a written submission within 14 days, the petitioner filed their written submissions dated 31.10.2025 vide Inward Diary NO. D7242, Where the petitioner relied upon various case laws which are listed below:-

1. *SBI v. Rae Bareilly Allahabad Highway (P) Ltd., 2024 SCC OnLine NCLT 628*
2. *Ms. Prateek Apparels Private Limited v. Canara Bank, CP (IB) No. 61 of 2024, Hon'ble National Law Tribunal, Bengaluru Bench*
3. *Puneet P. Bhatia v. ASREC (India) Ltd., 2024 SCC OnLine NCLT 3761*
4. *SBI v. Vivimed Labs Limited, CP (IB) No. 167/BB/2022, Hon'ble National Company Law Tribunal, Bengaluru Bench*
5. *M/S Asset Reconstruction Company (India) Ltd. vs. M/S Manyata Developers Pvt. Ltd., CP (IB) No. 125/BB/2022, Hon'ble National Company LAW Tribunal, Bengaluru Bench*
6. *Laxmi Pat Surana v. Union Bank of India and Another,(2021) 8 SCC 481*
7. *Encore Asset Reconstruction Company Private Limited v. New Tech Imports Private Limited, CP (IB) 823 OF 2022, Hon'ble National Company Law Tribunal, New Delhi*
8. *Edelweiss Asset Reconstruction Co. Ltd. v. Perfect Engine Components Private Ltd., 2022 SCC OnLine NCLAT 1622*
9. *Amar Vora v. City Union Bank Ltd., 2022 SCC OnLine*

NCLAT 276 223-226.

10. *Edelweiss Asset Reconstruction Co. Ltd. v. Takshashila Heights India (P) Ltd., (2025) 258 Comp Cas 675*

11. *Rakesh Kumar Gupta v. Mahesh Bansal, (2021) 224 Comp 259-264 Cas 151*

12. *BRS Ventures Investments Ltd. v. SREI Infrastructure Finance Ltd., (2025) 1 SCC 456*

13. *Monotrone Leasing Private Limited v. PM Cold Storage Private Limited, Company Appeal (AT) (Insolvency) No. 99 of 2020, Hon'ble National Company Law Appellate Tribunal, New Delhi*

14. *M/s Fly creative Online Pvt. Ltd. (Formerly known as Creative Tours & Travels India Pvt. Ltd.) v. Go Airlines (India) Limited, Company Petition No. (IB) - 264/PB/2023, Hon'ble National Company Law Tribunal, Delhi*

15. *Amour Infrastructure LLP v. Digital Integrated Technologies Pvt. Ltd., Company Appeal (AT) (Ins.) No. 884 of 2022 & I.A. No. 2458 of 2022, Hon'ble National Company Law Appellate Tribunal, New Delhi*

16. *M. Suresh Kumar Reddy v. Canara Bank and Ors., 2023 SCC Online SC 608*

17. *ES Krishnamurthy and Ors. v. Bharath Hi-Tecch Builders Private Limited, (2022) 3 SCC 161*

18. *Dena Bank v. C. Shivakumar Reddy, (2021) 10 SCC 330*

19. *Innoventive Industries Ltd. v. ICICI Bank, (2018) 1 SCC 407*

14. Though, the Respondent belatedly filed written submissions on 06.11.2025 vide Inward Diary No. D7402. However, the same is taken in to consideration. The Respondent has inter alia contended through its written submissions which is as under: -

i. The present petition under Section 7 of the Insolvency and Bankruptcy Code, 2016, has been filed by the petitioner bank for an alleged financial debt of Rs 30,50,29,341.25/- arising from loan facilities extended to the Respondent Company.

ii. The Respondent has filed an affidavit in Reply dated 10.09.2025 and I.A. No. 1078 of 2025 under Section 65 of the IBC, contending fraudulent and malicious initiation of CIRP by the Petitioner Bank.

iii. The Loan facilities were sanctioned by the petitioner solely on the basis of the guarantees extended by corporate and personal guarantors collectively possessing a net worth of 400 crores Rs.

iv. Despite such solvent guarantors being in a position to discharge the alleged dues, the petitioner bank unilaterally released all guarantors except the directors of the Respondent Company vide Agreement of Release dated 11.09.2024, without any notice or consultation with the Respondent.

v. The said release, despite the Bank's awareness of the Respondent's financial stress, has resulted in engineered default, as the account was thereafter classified as NPA on 14.10.2024 and proceedings under SARFAESI were initiated instead of recovery from guarantors.

vi. The petitioner being a custodian of public funds, was expected to act with commercial prudence, however by

releasing solvent guarantors and their securities (including property of Avadh Infrastructure Pvt Ltd. valued for above the released consideration of Rs. 41 crores), the bank acted contrary to public interest.

vii. The Respondent submits that the Bank's conduct violates the Master Circular on Guarantees and Co- Acceptances issued by the reserve bank of India dated 01.04.2024, which mandates that guarantees shall be obtained or release only when absolutely warranted and after due diligence.

viii. The Petitioner's reliance on BRS Ventures Investment Ltd. v. SREI Infrastructure Finance Ltd. (2025) 1SCC 456 is misconceived, as the said judgment does not authorize use of CIRP proceedings following a compromise with guarantors to the exclusion of the borrower.

ix. The act of releasing solvent guarantors, who were the primary source of repayment, despite knowledge of the Respondent's financial stress, is a deliberate attempt to manufacture default and invoke insolvency proceedings with mala fide intent.

x. Such conduct is fraudulent and falls squarely within the ambit of Section 65 of the IBC. The petition under Section 7, being malicious and lacking bona fides, observes to be rejected.

xi. The following judgments have also been relied on by the Respondent: -

1. The Central Railway Employees Co-operative Credit Society v. Bank of Baroda 1996 SCC OnLine Bom 163
2. Trissur District Co-operative Bank v. State of Kerla MANU/KE/0173/2003
3. Satyadeo Kumar Son of Rajvanshi Ram, v. State Bank of Patiala and ors. 2016 SCC OnLine jhar 2626
4. State Bank of India and ors v. Singhania Roller Flour Milla and ors. MANU/BH/0344/2011
5. Telha Sareshwala vs. Parsoli Motors Works Pvt. Ltd. and ors MANU/NL/0256/2022
6. Mohd. Shariq vs. Punjab National Bank and ors MANU/SC/0360/2023

xii. It is therefore humbly submitted by the Respondent that this Hon'ble Tribunal be pleased to allow I.A. No. 1078 of 2025 filed under Section 65 of the IBC and dismiss the main petition filed by the petitioner under Section 7 of the code.

15. We have heard the Ld. Counsel for the Financial Creditor, Ld Counsel for the Corporate Debtor and considered the submission of the Financial Creditor as well as of the Corporate Debtor and perused the material on record.

16. The Bench has carefully examined the pleadings, documents, and submissions of both parties in the context of the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC). The core issue before us is whether the Company Petition under Section 7, filed by HDFC Bank Limited (Financial

Creditor), merits admission for initiation of the Corporate Insolvency Resolution Process (CIRP) against Turnest Resources Private Limited (Corporate Debtor), or if it ought to be dismissed under Section 65 of the IBC as alleged by the Corporate Debtor in IA/1078(AHM)/2025, on grounds of fraudulent and malicious intent.

17. At the outset, it is trite law that under Section 7 of the IBC, a financial creditor may initiate CIRP upon occurrence of a default in repayment of financial debt. The threshold requirements are: (i) existence of a financial debt; (ii) occurrence of default; and (iii) compliance with the procedural mandates under Section 7(3), including filing of requisite documents. The Hon'ble Supreme Court in ***Innoventive Industries Ltd. v. ICICI Bank [(2018) 1 SCC 407]*** has clarified that the Adjudicating Authority (AA) is required to satisfy itself of a prima facie case of default, without embarking on a full-fledged enquiry into disputed facts at the admission stage.

18. In the present case, the Financial Creditor has placed on record comprehensive documentation under Section 7(3), including: (i) sanction letters and master facility agreements

evidencing disbursement of credit facilities aggregating to approximately Rs. 160 crores; (ii) acknowledgements of debt dated 01.10.2023; (iii) demand promissory notes, deeds of hypothecation, and mortgage deeds creating security interests; (iv) show cause notice dated 05.07.2024; admission of default by the Corporate Debtor on 16.07.2024; loan recall notice dated 14.08.2024; declaration as NPA on 14.10.2024; and SARFAESI demand notice dated 12.12.2024; (v) record of default from the Information Utility (NESL); (vi) credit information reports; and (vii) certified extracts of loan accounts under the Bankers' Books Evidence Act, 1891.

19. These documents unequivocally establish the existence of financial debt and a default commencing from 16.07.2024, with the outstanding amount as on 26.06.2025 quantified at Rs. 30,50,29,341.25 (principal: Rs. 27,24,28,863.71; interest: Rs. 1,87,53,272.20; penal interest: Rs. 1,41,47,205.34), after crediting Rs. 41 crores received under the release agreement dated 11.09.2024.

20. The Corporate Debtor does not dispute the availing of credit facilities, the execution of security documents, or the quantum of outstanding dues. Nor does it contest the date of default or

the classification of its account as Non-Performing Asset (NPA) on 14.10.2024 and as fraudulent on 29.05.2025 under RBI guidelines. Instead, the Corporate Debtor's primary grievance centers on the Financial Creditor's execution of the release agreement dated 11.09.2024 with certain guarantors, allegedly without notice or consent, which it claims constitutes malice, collusion, and an abuse of process under Section 65 of the IBC. It is contended that this selective release of "solvent" guarantors (with collective net worth exceeding Rs. 400 crores) engineered the default, shifted liability onto the Corporate Debtor, and reflects a deliberate intent to harass rather than resolve insolvency.

21. Section 65 of the IBC empowers the AA to dismiss an application if it is found to be filed with malicious intent or for purposes other than insolvency resolution, and to impose costs or penalties. However, invocation of Section 65 requires cogent evidence of fraud or mala fides, not mere allegations or inferences drawn from commercial decisions.

22. We find no merit in the Corporate Debtor's allegations under Section 65. The release agreement dated 11.09.2024 was a bilateral commercial arrangement between the Financial

Creditor and the released guarantors (including Avadh Infrastructure Pvt. Ltd., Mr. Rameshbhai Virjibhai Tilara, and others), executed upon receipt of Rs. 41.00 crores as partial settlement. This reduced the Corporate Debtor's liability pro tanto, as evidenced by the adjusted claim in the petition. The contract of guarantee is independent and co-extensive with the principal obligation, as affirmed in ***State Bank of India v. Indexport Registered [(1992) 3 SCC 159]***. The Financial Creditor, as a secured creditor managing public funds, was entitled to pursue recovery from any obligor without the Corporate Debtor's consent, provided it adheres to contractual terms and RBI guidelines on guarantees (Master Circular dated 01.04.2024). No evidence of collusion or violation of due diligence is forthcoming; the Corporate Debtor's reliance on the net worth of released guarantors is irrelevant, as settlement terms are confidential and commercially driven.

23. The alleged inconsistencies in correspondence (e.g., letters dated 21.11.2023 vs. 18.07.2024 on guarantee releases) reflect evolving negotiations, not malice. The rejection of the Corporate Debtor's One-Time Settlement (OTS) proposal dated 23.05.2025/27.05.2025 was a legitimate commercial call,

unassailable at this stage. Further, the pendency of OA No. 106/2025 before the Debt Recovery Tribunal (DRT), Ahmedabad, does not bar Section 7 proceedings. The IBC and Recovery of Debts and Bankruptcy Act, 1993, operate in distinct domains—insolvency resolution versus debt recovery. The Financial Creditor's disclosure of the DRT proceedings in the petition negates any suppression.

24. The Corporate Debtor's challenge to the fraud classification (pending before the High Court of Gujarat in SCA No. 7897/2025) and the minor discrepancy in default dates (16.07.2024 in Form-1 vs. 14.10.2024 in NESL for NPA declaration) are technical and do not vitiate the petition. The default crystallized on 16.07.2024 due to failure to fund letters of credit, as per the master facility agreement dated 22.02.2021. The prior withdrawal of CP(IB) No. 139/2025 on 28.04.2025 with liberty to refile further underscores the bona fides of the present petition.

25. In light of the foregoing, a prima facie case of default in excess of Rs. 1 crore (as required under Section 4) is made out. The Financial Creditor's petition is not vitiated by malice or fraud; rather, the Corporate Debtor's IA appears to be a dilatory

tactic to evade accountability, warranting dismissal. We draw support from ***BRS Ventures Investments Ltd. v. SREI Infrastructure Finance Ltd. [(2025) 1 SCC 456***], which upholds the creditor's right to pursue CIRP post-partial settlements, and affirming that independent guarantee contracts do not entitle the principal debtor to veto releases. This aligns with the Supreme Court's clarification in ***M. Suresh Kumar Reddy v. Canara Bank (2023) SCC OnLine SC*** 608 that Innoventive's view holds, mandating admission on prima facie default without discretion.

26. The Corporate Debtor has filed **IA No. 1078 of 2025** under section 65 of the code, alleging that the petition under Section 7 has been filed fraudulently and with malicious intent, and praying for dismissal of the main petition and imposition of penalty upon the Financial Creditor. The Corporate Debtor inter alia raised the following contentions:

a. That present CP(IB)/269/2025 has been filed fraudulently and maliciously under Section 65(1) of the code and not for the genuine purpose of Insolvency resolution.

b. That the Financial Creditor, without taking the Corporate Debtor into confidence, has unilaterally

released certain guarantors dated 11.09.2024 who were financially sound and capable of discharging the entire debt obligation of the Respondent Company.

c. That an original petition No. 106/2025 is pending before DRT-I Ahmedabad, for recovery of the same debt, and hence, the initiation of IBC Proceedings amounts to forum shopping.

d. That one-time settlement offers made by the Corporate Debtor vide letter dated 23.05.2025 and 27.05.2025 were rejected without reason, indicating absence of bona fides.

e. That the bank acted with ulterior motives to harass the Corporate Debtor and its directors by selectively releasing guarantors with stronger financial capacity, thereby shifting the burden on the weaker guarantors.

27. The Financial Creditor, in response, has denied the allegations and submitted that the petition is bona fide, filed strictly in accordance with the provisions of the code upon establishment of default, and that all statutory requirements have been complied with. Upon perusal of the records and consideration of the rival submissions, the tribunal finds as follows: -

a. The documents annexed with the petition, including the sanction letters, Master facility agreement, statement of

accounts, clearly demonstrate that the financial creditor had disbursed funds to the corporate debtor against contractual repayment obligations, thereby satisfying the definition of "Financial Debt" under section 5(8) of the code. The Record of default and bank statement establish that the corporate debtor failed to service its debt, and the account was declared NPA on 14.10.2024, thus confirming default under section 3(12) of the code.

b. The Corporate Debtor contention that release of certain guarantors absolves the principle borrower is untenable. It is specifically noted that the financial creditor released the same guarantor who was capable of paying the entire outstanding debt, albeit partially, without the consent of the corporate debtor. Such partial release does not extinguish the liability of the principal debtor under **Section 138 of the Indian Contract Act, 1872**, as the release of one co-surety does not discharge others or the principal obligation, which governs as:

   i. *138. Release of one co-surety does not discharge others.—where there are co-sureties, a release by the creditor of one of them does not discharge the others; neither does it free the surety so released from his responsibility to the other sureties.*

c. The Tribunal further notes the decision in **BRS Ventures Investment Ltd. v. SREI Infrastructure Finance Ltd. (2024) ibclaw.in 170 SC** case which is been relied by the Financial Creditor, wherein it was held that the

release of a guarantor, even one capable of satisfying the debt in full, does not preclude initiation of insolvency proceedings against the principal debtor.

15. *"If the creditor recovers a part of the amount guaranteed by the surety from the surety and agrees not to proceed against the surety for the balance amount, that will not extinguish the remaining debt payable by the principal borrower. In such a case, the creditor can proceed against the principal borrower to recover the balance amount. Similarly, if there is a compromise or settlement between the creditor and the surety to which the principal borrower is not a consenting party; the liability of the borrower qua the creditor will remain unaffected. The provisions regarding the discharge of the surety discussed above show that involuntary acts of the principal borrower or creditor do not result in the discharge of surety."*

d. The liability of the Corporate Debtor continues to be co-extensive with the guarantees unless expressly discharged by mutual consent. **Section 128 of Indian Contract Act, 1872** lays down the fundamental principle that the liability of the surety is co-extensive with that of the principal debtor unless otherwise provided by the contract.

ii. *128. Surety's liability.—the liability of the surety is co- extensive with that of the principal debtor, unless it is otherwise provided by the contract.*

e. Accordingly, the Financial Creditor is within its rights to proceed against the Corporate Debtor for the balance Debt, and the allegations of mala fide intent on this ground are unsubstantiated.

f. The corporate debtor has not denied the availing of facilities nor produced any material evidencing repayment. Hence, the existence of financial debt and default stands proved.

g. Allegation of malicious or fraudulent filing under section 65: ***Section 65 of the code provides that "if any person initiates the insolvency resolution process fraudulently or with malicious intent for any purpose other than resolution of insolvency, he shall be punishable with fine".*** To invoke this section a clear case of mala fide intent or collateral purpose must be established. Mere assertions without proof are insufficient.

h. In the present case, apart from bald allegations the corporate debtor has not placed any evidence showing that the financial creditor acted with fraudulent or malicious intent. The pendency of recovery proceedings before the DRT or rejection of a settlement proposal cannot, by itself, constitute mala fides. The pendency of DRT proceedings does not disentitle a financial creditor from initiating proceedings under section 7, and that section 65 cannot be invoked merely because parallel

proceedings exist.

i. Further, the Hon'ble Supreme Court in ***Innoventive Industries Ltd. V. ICICI Bank, (2018) 1 SCC 407***, laid down that once the Adjudicating Authority is satisfied that a financial debt exists and default has occurred, admission is mandatory and not discretionary. Therefore, the allegations under section 65 are unsubstantiated and devoid of merit.

j. The Corporate Debtor contention that release of certain guarantors absolves the principal borrower is untenable. The Agreement for release dated 11.09.2024 is a commercial arrangement between the Financial Creditor and those guarantors. As held in ***Laxmi Pat Surana v. Union Bank of India, (2021) ibclaw.in 53 SC***, the liability of the borrower and guarantor is co-extensive under **section 128 of the Indian Contract Act. 1872.** The release of some guarantors does not extinguish the liability of the principal Debtor. The Financial Creditor is well within its right to proceed against the Corporate Debtor for the balance amount.

k. The Corporate Debtor's plea regarding the pendency of O.A. No. 106/2025 before the DRT is also misplaced. The Hon'ble Supreme Court in ***E.S. Krishnamurthy v. Bharath Hi-Tech Builders Pvt. Ltd., (2022) 3 SCC 161***, clarified that the IBC and the recovery of debts and bankruptcy Act operate in distinct speres- The former being for resolution and the later for recovery. Pendency

of DRT proceedings does not bar initiation under section 7.

l. The Corporate Debtor reliance on rejection of OTS is misconceived. Acceptance of a settlement proposal is a commercial decision of the Financial Creditor. The Hon'ble Supreme Court in ***K. Sashidhar v. Indian Overseas Bank, (2019)12 SCC 150***, held that the commercial wisdom of financial creditors is non-justiciable. The bank's refusal to accept OTS cannot be equated with mala fide intent.

m. The plea that the bank selectively released financially stronger guarantors to prejudice the Corporate Debtor is also not supported by evidence. The correspondence on record, including emails dated 03.10.2024, 06.07.2024, and 24.07.2024, shows that the bank acted in accordance with contractual terms and that no fraud has been demonstrated.

n. The tribunal has also taken into the consideration the case laws and the precedents cited by the Respondent in the present case. However, this Tribunal notes that the said precedents and case laws are not relevant with the facts of the present petition and are not applicable in the presesent facts and circumstances of the case.

o. Thus, the Tribunal finds no merit in the contention that the Financial Creditor acted with malice or ulterior motive.

28. In view of the detailed observations and reasons recorded hereinabove, the Tribunal is satisfied that the Financial Creditor has successfully established the existence of a financial debt and default committed by the Corporate Debtor within the meaning of Sections 5(8) and 3(12) of the Insolvency and Bankruptcy Code, 2016 ("the code").

29. The Corporate Debtor has failed to demonstrate any fraudulent or malicious intent on the part of the Financial Creditor to attract the provisions of section 65 of the code. The allegations raised in IA No. 1078/2025 are found to be unsubstantiated and without merit.

30. Accordingly, **IA NO. 1078 of 2025** filed under Section 65 of the code is hereby dismissed.

31. Having satisfied the requirements of Section 7(5)(a) of the code and Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, the Company Petition filed under section 7(2) of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process (CIRP) against the Respondent/Corporate Debtor deserves to be admitted.

32. Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under: -

a. The Respondent/ Corporate Debtor - **Turnest Resources Private Limited** is admitted in the Corporate Insolvency Resolution Process (CIRP) under Section 7 of the IBC, 2016.

b. As a consequence, thereof, a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code:

i. *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;*

ii. *transferring, encumbering, alienating, or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*

iii. *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;*

iv. *the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

v. *The provisions of sub-Section (1) shall however, not apply to such transactions, agreements 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. The moratorium does not apply to transactions notified by the Central*

Government, as per Section 14(3)(a) of the IB Code, 2016

c. The order of moratorium under section 14 of the Code shall come to 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 section 31 or passes an order for liquidation of the Corporate Debtor under Section 33 of the IBC 2016, as the case may be.

d. However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the Corporate Debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.

e. As proposed by the Financial Creditor, we appoint **Mr. Rajendra Devidas Puranik,** having Registration No. IBBI/IPA-001/IP-P 02029/2020-2021/13149, (email-rdpuranik@gmail.com, Mobile No.9820127828) under section 13 (1)(c) of the Code to act as Interim Resolution Professional **(IRP).** He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

f. The IRP so appointed shall make a public announcement (e.g., newspapers, websites) under Regulation 6(2) of IBBI Regulations, 2016, of the initiation of the Corporate Insolvency Resolution Process and call for submissions

of claims under section 15 within three days of appointment as per Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, as required by Section 13(1)(b) of the Code.

g. The IRP shall perform all his functions as contemplated, inter-alia, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the Corporate Debtor, its promoters, or any other person associated with the management of the Corporate Debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the Corporate Debtor, its promoters, or any other person required to assist or co-operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

h. The IRP is expected to take full charge of the Corporate Debtor's assets and documents without any delay whatsoever within seven days of this order. The IRP is at liberty to approach the concerned Superintendent of Police/Police Station In charge with a copy of this order in case of any obstruction in taking possession, whereupon police assistance shall be provided.

i. The IRP shall be under a 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 the

obligation imposed by section 20 of the Code.

j. The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority a periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.

k. We direct the Financial Creditor to pay IRP a sum of **Rs.5,00,000/- (Rupees Five Lakh Only)** in advance exclusive of applicable taxes, within 7 days from the date of this order to meet the initial costs of the CIRP, including issuing public notice and inviting claims, as per Regulation 33(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. This amount shall be adjustable against the IRP's fees and expenses as approved by the Committee of Creditors (CoC) under Regulation 33(3), with any excess refundable to the Financial Creditor or shortfall recoverable from the Corporate Debtor's estate as CIRP costs.

l. The Registry is directed to communicate this order to the Financial Creditor, Corporate Debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days, and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update the Corporate Debtor's Master Data on the MCA portal to reflect its status as 'under Corporate Insolvency Resolution

Process' within 7 working days of receiving this order and submit a compliance report to the Registrar, NCLT, within 14 working days.

m. The public announcement under Regulation 6(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, shall be published in at least one English (national edition) and one vernacular newspaper with wide circulation in the state of the Corporate Debtor's registered office (Gujarat) and on the Corporate Debtor's website, if any, as per Form A of the said Regulations.

n. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

33. Accordingly, this Application **CP(IB)/269/7/AHM/2025** is hereby **admitted.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

AJ