

When the Corporate Debtor deposits the entire default amount, no purpose and occasion shall survive to still proceed with the Insolvency Resolution of the Corporate Debtor: NCLAT, New Delhi

CASE TITLE	Reliance Commercial Finance Limited vs. Darode Jog Builder Private Limited ¹
CASE CITATION	Company Appeal (AT) (Insolvency) No. 1005 of 2022
SECTIONS/REGULATION	Section 7 of IBC
DATE OF ORDER	19.09.2022
COURT/ TRIBUNAL	Principle Bench, NCLAT New Delhi
CASES REFERRED	Vidarbha Industries Power Limited Vs. Axis Bank Limited, (2022)

Brief of the case:

Reliance Commercial Financial Limited (Financial Creditor) had sanctioned Term Loans of Rs.19.5 crores to Darode Jog Builders Pvt. Ltd. (Corporate Debtor) on 29.07.2013. In 2017, the loan amount were declared Non-performing assets. Thereafter, on 04.11.2019, the Financial Creditor filed a petition under section 7 of Insolvency and Bankruptcy Code, 2016 (IBC), seeking initiation of Corporate Insolvency Resolution Process against the Corporate Debtor over a default of Rs.15.79 crores. On the date of hearing, Corporate Debtor submitted that it is willing to deposit the entire amount. However, Financial Creditor expressed its unwillingness to settle this matter. Adjudicating Authority did not admit the petition under section 7 and accorded the Corporate Debtor an opportunity to pay/settle the full amount of default despite the unwillingness of Financial Creditor to settle the matter

Aggrieved by the Order, the Financial Creditor come up with this Appeal.

Decision:

While relying on the Judgement, “Vidarbha Industries Power Limited Vs. Axis Bank Limited.”, Hon’ble NCLAT dismissed the appeal and held that:

“14. ..the Corporate Debtor deposits the entire defaulted amount whether still the Adjudicating Authority was required to necessarily admit the Section 7 Application. The answer would be obviously no. When the Corporate Debtor has complied to deposit the entire defaulted amount of the Financial Creditor as permitted by the Adjudicating Authority, no purpose and occasion shall survive to still proceed with the Insolvency Resolution of the Corporate Debtor. The proceeding under Section 7 are proceeding for resolution of the insolvency of the Corporate Debtor. We do not find any error in the course adopted by the Adjudicating Authority to ascertain as to whether the Corporate Debtor can comply to deposit the entire defaulted amount in the Bank Account of the Financial Creditor.”

QR CODE FOR FULL ORDER/JUDGEMENT:



¹ <https://ibbi.gov.in/uploads/order/da5fb8159201301fd3e4b64f71065bd4.pdf>