

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 615 of 2025**

**[Arising out of the Impugned Order dated 24.03.2025 passed by the Adjudicating Authority, National Company Law Tribunal, Special Bench at Indore in CP (IB) No. 18/MP/2024 and IA/98(MP)2025]**

**In the matter of:**

**Mr. Abhinav Bhatnagar,**  
Shareholder and Erstwhile  
Management of Extol Industries Ltd.  
(Under CIRP)  
Address: B 299 Shahpura Bhopal

...Appellant

**Versus**

**1. Bank of Baroda And Ors.**

Bank of Baroda  
(CIN: U99999MH1911PLC007676)  
Registered Office: Bank of Baroda,  
Baroda House, Near Mandvi,  
P.B. No. 506, Vadodara- 390005  
Branch Address: 1489, Wright Town,  
Near Manas Bhawan, Jabalpur M.P. (India)

**2. Ms. Teena Saraswat Pandey**

Resolution Professional  
Registration No. IBBI/IPA-001/IP-P00652/2017-18/11126  
Address: 387F, 114 Scheme Part-1,  
Behind Diksha Boys Hostel, Sant Nagar,  
Indore, Madhya Pradesh,  
452010

**3. Extol Industries Limited**

Through Resolution Professional  
(CIN: U01122MP1997PLC012390)  
Registered Office: Extol Tower,  
Jahangirabad, Bhopal  
Madhya Pradesh- 462008

...Respondents

**Present:**

For Appellant : Mr. Gaurav Mitra, Mr. Arjun Gaur, Mr. Vineet Gupta, Ms. Lavanya, Mr. Shaurya, Advocates.

For Respondent : Mr. Abhindra Maheshwari, Mr. Mohan Singh, Advocates for R-1.

Mr. Abhishek Naik, Ms. Gulafsha Kureshi, Ms. Deepsikha Mishra, Mr. Falak Zaidi, Advocates for R2 (IRP).

**WITH**  
**Company Appeal (AT) (Insolvency) No. 616 of 2025**

**[Arising out of the Impugned Order dated 24.03.2025 passed by the Adjudicating Authority, National Company Law Tribunal, Special Bench at Indore in CP (IB) No. 17/MP/2024 and IA/99(MP)2025]**

**In the matter of:**

**Mr. Aditya Bhatnagar,**  
Shareholder and Erstwhile  
Management of Xyron Technologies Limited  
(Under CIRP)  
Address: B 299 Shahpura Bhopal  
Email ID: [aditya@xyroninda.com](mailto:aditya@xyroninda.com)

...Appellant

**Versus**

**1. Bank of Baroda And Ors.**

Bank of Baroda  
(CIN: U99999MH1911PLC007676)  
Registered Office: Bank of Baroda,  
Baroda House, Near Mandvi,  
P.B. No. 506, Vadodara- 390005  
Branch Address: 1489, Wright Town,  
Near Manas Bhawan, Jabalpur M.P. (India)  
Email ID: [dbwrig@bankofbaroda.com](mailto:dbwrig@bankofbaroda.com)

**2. Ms. Teena Saraswat Pandey**

Resolution Professional  
Registration No. IBBI/IPA-001/IP-P00652/2017-18/11126  
Address: 387F, 114 Scheme Part-1,  
Behind Diksha Boys Hostel, Sant Nagar,  
Indore, Madhya Pradesh,  
452010  
Email ID: [teenasaraswat@yahoo.co.in](mailto:teenasaraswat@yahoo.co.in)

**3. Xyron Technologies Limited**

Through Resolution Professional  
Registration No. IBBI/IPA-001/IP-P00652/2017-18/11126  
Address: 387F, 114 Scheme Part-1,  
Behind Diksha Boys Hostel, Sant Nagar, Indore  
Madhya Pradesh,  
Email ID: [teenasaraswat@yahoo.co.in](mailto:teenasaraswat@yahoo.co.in)

...Respondents

**Present:**

For Appellant : Mr. Gaurav Mitra, Mr. Arjun Gaur, Mr. Vineet Gupta, Ms. Lavanya, Mr. Shaurya, Advocates.

For Respondent : Mr. Abhindra Maheshwari, Mr. Mohan Singh, Advocates for R-1.  
Mr. Abhishek Naik, Ms. Gulafsha Kureshi, Ms. Deepsikha Mishra, Mr. Falak Zaidi, Advocates for R2 (IRP).

**J U D G M E N T**  
**(Hybrid Mode)**

**Per: Barun Mitra, Member (Technical)**

The present two appeals filed under Section 61(1) of Insolvency and Bankruptcy Code 2016 (**‘IBC’** in short) by two different Appellants against the common Financial Creditor arises out of two separate Orders dated 24.03.2025 (hereinafter referred to as **‘Impugned Order’**) passed by the Adjudicating Authority (National Company Law Tribunal, Special Bench at Indore) in CP(IB) No. 18/MP/2024 and CP(IB) No.17/MP/2024. By the impugned orders, the Adjudicating Authority has admitted Section 7 of IBC filed by the Financial Creditor-Bank of Baroda bringing both the Corporate Debtors into the fold of Corporate Insolvency Resolution Process (**“CIRP”** in short). Aggrieved by the impugned orders, the present two Appeals have been preferred by the respective suspended management of the Corporate Debtor.

**2.** Though the factual matrix of both the appeals are not a mirror image of each other, the questions involved in both the cases from the perspective of facts and law are largely identical. It is therefore, proposed to deal with the facts of Company Appeal No. 615 of 2025 in the first place and apply the findings arrived at on the facts of the Company Appeal No. 616 of 2025.

**3.** Setting out the factual background, Shri Gaurav Mitra, the Ld. Counsel for the Appellant submitted that the Financial Creditor-Bank of Baroda had sanctioned to Extol Industries Ltd.-Corporate Debtor a term loan of Rs 12.72 Cr. bearing interest @15.75% p.a. on 30.04.2011 followed by a second term loan. On 03.05.2011 a Cash Credit Limit of Rs 15 Cr. was also sanctioned bearing interest @13.25% p.a. The term loans were restructured and the Cash Credit Limit was renewed by the Bank on 26.06.2013. All instalments payable were complied with by the Appellant. The Corporate Debtor was regular in repaying the loan which is substantiated by a No Due Certificate ("**NDC**" in short) issued by the Financial Creditor on 16.01.2016. However, for inexplicable reasons, the Financial Creditor arbitrarily declared the account of the Corporate Debtor as NPA on 31.03.2016 and basis this date of default filed a Section 7 application in 2024 which has been erroneously admitted by the Adjudicating Authority, aggrieved by which they have come up in appeal.

**4.** Assailing the impugned order, it has been contended that the impugned order failed to take into account that the date of default shown by the Respondent-Financial Creditor in Part-IV of the Section 7 application was premised on the classification of the Corporate Debtor as NPA which classification itself was wrong as it was made in violation of the RBI guidelines. When the Financial Creditor had issued a NDC to the Corporate Debtor on 16.01.2016, the account of Corporate Debtor could not have been declared as NPA on 31.03.2016 seventy five days therefrom. For NPA to have occurred on 31.03.2016, the Corporate Debtor was required to be in default since 31.12.2015 to meet the 90 days period as prescribed by the RBI master circular. Submission

was further pressed that Section 7 petition was time-barred since the date of default therein was depicted as 31.03.2016, while the Section 7 petition was filed in 2024 after eight years. Additionally, it was pointed out that the Section 7 petition was admitted ex-parte. Since the Appellant was denied an opportunity to file a reply, it was pointed out that they filed IA No. 98 of 2025 before the Adjudicating Authority for grant of another opportunity to file reply but the Adjudicating Authority rejected I.A. No. 98 of 2025. Having been denied the right of opportunity to be heard, the impugned order was vitiated for having been passed in gross violation of the principles of natural justice. It was also added that the Financial Creditor had invoked the jurisdiction of the Adjudicating Authority not for purposes of legitimate insolvency resolution.

**5.** Refuting the contentions of the Appellant, it has been contended by the Shri Abhindra Maheshwari, Ld. Advocate for Respondent No.1-Financial Creditor that the plea of incorrect NPA classification is not sustainable. The objection raised by the Appellant, basis a communication of 16.01.2016, that the date of NPA is incorrect cannot become a valid ground for rejecting the Section 7 petition. It was emphatically asserted that for the purpose of considering a Section 7 application, the only requirement that needs to be seen by the Adjudicating Authority is the existence of debt and default. The Corporate Debtor did not dispute debt and default at any stage. The Adjudicating Authority has clearly noted debt and default at para 17-18 of the impugned order. Since the default was found to persist even after the account of the Corporate Debtor was declared NPA, the debt liability was a continuous and subsisting one. Attention was adverted to the decision of the Hon'ble Supreme Court in the

matter of ***M. Suresh Kumar Reddy Vs Canara Bank & Ors. in Civil Appeal No. 7121 of 2022*** wherein it has been held that all that is required to be seen in deciding a Section 7 application is whether there is debt and default. In the present case, since debt and default has been proven, and there is continuous acknowledgment of debt in the balance sheet, the Adjudicating Authority has rightly admitted the Section 7 application. It was further added that the outstanding debt was consistently recorded in the balance sheets of the Corporate Debtor from FY 2015-16 onwards till FY 2022-23. These balance sheets of the Corporate Debtor evidences debt and default and therefore extended the period of limitation.

**6.** We have duly considered the arguments advanced by the Learned Counsel for the parties and perused the records carefully.

**7.** Coming to the first limb of argument canvassed by the Appellant which is that the date of declaration of NPA as 31.03.2016 was wrong as the declaration was done in violation of the directions contained in the RBI Master Circular which provides that an account can be declared as NPA only if interest and/or instalments of principal amount remain overdue for a period of more than 90 days in respect of a loan. In the present case, the Financial Creditor had issued NDC to the Corporate Debtor on 16.01.2016. But even before the expiry of period of 90 days therefrom, the account of the Corporate Debtor was illegally declared as NPA by the Financial Creditor. It was also submitted that both the DRT as well as the Hon'ble High Court of Madhya Pradesh had adjudicated that the NPA classification was wrongly done. Amplifying further it was added that the DRT had set aside the NPA classification of the accounts of the Corporate Debtor as

illegal, while the NPA notice issued by the Bank was also stayed by the Hon'ble High Court. Questioning the conduct of the Financial Creditor, it was asserted that they wilfully failed to disclose the findings given by other competent forums that the NPA classification was illegal and void and such suppression of material facts show that the Financial Creditor did not approach the Adjudicating Authority with clean hands. Even the Adjudicating Authority erroneously turned a blind eye to the orders of the DRT and Hon'ble High Court of Madhya Pradesh and wrongly held that default had persisted for 90 days prior to the NPA at para 18 of the impugned order. It was strenuously contended that the reliance placed by the Adjudicating Authority on the NPA as date of default is contrary to the facts on record since the Financial Creditor had issued a NDC to the Corporate Debtor 75 days before declaring the Corporate Debtor to be NPA. It is also contended that when the date of default is clearly incorrect, the Section 7 application could not have been admitted by the Adjudicating Authority basis a wrong date of default depicted in the Section 7 application. It was asserted that as laid down by the Hon'ble Supreme Court in the matter of **Ramesh Kymal Vs Siemens Gamesa Renewable Power Pvt. Ltd. (2021) 3 SCC 224**, the Bank cannot claim that the date of default can be changed.

**8.** Per contra, it is the contention of the Respondent-Financial Creditor that even after the restructuring of both the Term Loans and renewal of Cash Credit Limit on 26.06.2013, the Corporate Debtor failed to maintain financial discipline as per the terms and conditions of the loan agreement. This had led to the classification of the accounts of the Corporate Debtor as NPA on 31.03.2016. It was also stated that a notice was issued on 28.04.2016 by the Financial Creditor

indicating not only the over-dues in respect of the various accounts of the Corporate Debtor but also the minimum repayment required towards discharging the debt obligations. The Financial Creditor has also contended that it has placed on record statement of accounts as per Banker Books Evidence Act to prove that there was debt qua the Financial Creditor and there was default prior to 90 days before the NPA classification. This debt had continued to subsist even thereafter as may be seen from the balance sheets of the Corporate Debtor from FY 2015-16 to FY 2022-23.

9. To return our findings on this bone of contention, it may be useful to take notice of two documents which have been relied upon by the rival parties. The first document which has been relied upon by the Appellant is the purported NDC dated 16.01.2016 which was issued by the Financial Creditor to the Corporate Debtor which is as extracted below:

*Bank of Baroda*  
*TO WHOMSOEVER IT MAY CONCERN*

*This is to certify that M/s Extol Industries Ltd. has been enjoying various credit facilities from our branch.*

*As on date, accounts are regular and there are no overdue in the accounts.*

*This certificate is issued at the request of M/s Extol Industries Ltd.*

*Chief Manager*

*PLACE : BHOPAL (M.P.)*

*DATE : 16.01.2016”*

*(Emphasis supplied)*

10. The second document which on the other hand is relied upon by the Respondent No.1- Financial Creditor relates to a communication issued on 28.04.2016 by the Financial Creditor to the Corporate Debtor regarding ‘Classification/overdue of various accounts of M/s Extol Industries Ltd., M/s



Xyron Technologies Ltd. and Personal Accounts'. This document is reproduced below:

**BOB/TTN/ADV/16-17/22**

**DATED: 28.04.2016**

Shri G.K. Bhatnagar, Shri Aditya Bhatnagar, Shri Abhinav Bhatnagar,  
Smt. Sheela Bhatnagar & Smt. Sudarshana Bhatnagar,

**Dear Sir,**

**Re: Classification/overdue of various accounts of M/s Extol**

**Industries Ltd ,M/s Xyron Technologies Ltd. And personal accounts**

We may inform you that conduct of various accounts, pertaining to M/s Extol Industries Ltd, M/s Xyron Technologies Ltd. as well as individual accounts of promoters/directors is not at all satisfactory and in view of this, Central Statutory Auditors have downgraded advances accounts related to M/s Extol Industries Ltd. into NPA category as on 31.03.2016.

In order to upgrade these accounts and to retain other accounts into standard category, minimum repayment as per following details is required:

<b>A/c No.</b>	<b>Name of the account</b>	<b>Overdue as on date</b>	<b>Approx amount of interest &amp; instalment up to June 2016</b>	<b>Total amount to be deposited</b>
12230500 000094	M/s Extol Ind. Ltd.	Rs. 575701/-	Rs. 5690000/-	Rs. 6265701/-
12230600 001554	M/s Extol Ind.	Rs. 195617/-	Rs. 8390000/-	Rs. 8585617/-
12230600 001910	M/s Extol Ind.	Rs. 11162/-	Rs. 730000/-	Rs. 741162/-
<b>Total</b>				<b>Rs. 15592480/-</b>
12230600 001393	Shri G.K. Bhatnagar Others	Rs. 541532/-	Rs. 1081980/-	Rs. 1623512/-
12230600 002068	Shri G.K. Bhatnagar	NIL	Rs. 168717/-	Rs. 168717/-

	<i>others</i>			
<b>TOTAL</b>				<b>Rs. 1792229/-</b>
12230600 002126	M/s Xyron Technologies Ltd.	NIL	Rs. 1355401/-	Rs. 1355401/-

*We, therefore request you to arrange to deposit the amount as mentioned above, at your earliest so that degraded accounts may be upgraded.*

*Your Faithfully,  
Chief Manager*

*(Emphasis supplied)*

**11.** When we peruse the letter of 16.01.2016 which letter has been the primary basis for the Appellant to contend that the declaration of NPA was wrong, we find that this certificate was issued at the request of the Corporate Debtor. The purpose for which this letter had been sought from the Financial Creditor by the Appellant is also not clear as there is no mention of any reason on the body of the said letter to throw light on why this NDC was requested for by the Appellant. Further, we find the NDC to be cryptic as it contains no details about the account numbers and also bereft of the specific details of the loan facility disbursed and payments received. Hence, not much credence can be attached to this letter to determine the financial health of the Corporate Debtor or evaluate the status of loan facilities taken by the Appellant or the status of repayments made so far.

**12.** On the other hand, when we look at the communication from the Financial Creditor to the Corporate Debtor dated 28.04.2016 we find that the same contains details of the various accounts held by the Corporate Debtor including the instalments overdue for repayment as well as the total amount outstanding.

This letter clearly states that the accounts of the Corporate Debtor has been downgraded into NPA category as on 31.03.2016 alongwith request to arrange to deposit requisite minimum sums indicated therein to regularise the various accounts. This down-grading of the account was done by the Central Statutory Auditors of the Financial Creditor. We also notice that in the same communication the bank had given an opportunity to the Appellant to deposit the overdue amount in their account to resolve the issue. However, nothing has been placed on record to show that the Appellant had taken any steps to clear the overdue amount. This is a clear pointer that the default has been continuing from a period prior to 31.03.2016. Rather than endeavouring to repay the loan qua the bank for which repayment, we find that the Appellant has instead instituted litigations at multiple fora questioning the declaration of NPA.

**13.** It has also been submitted by the Respondent No.1-Financial Creditor that the Hon'ble High Court of Madhya Pradesh in its order dated 23.08.2017 had directed the Financial Creditor to consider and decide on the alleged objections raised by the Corporate Debtor on the alleged capricious classification of the accounts of the Corporate Debtor as NPA. We find that the Financial Creditor-Bank of Baroda in its communication dated 23.11.2017 to the Corporate Debtor had sent a detailed response to the directions raised by the Appellant in compliance of the directions of the Hon'ble High Court of Madhya Pradesh. In their reply, it was clearly pointed out by the Financial Creditor that the Corporate Debtor had not paid the quarterly instalments on the due dates due to which the term loan accounts had become irregular and that this status had been duly communicated to the Appellant on 03.06.2015, 24.08.2015 and

02.03.2016. In spite of these repeated communications, the Corporate Debtor had not taken remedial action. This communication also mentions that the Appellant had defaulted 24 times in Term Loan-I facility and 11 times in Term Loan-II facility besides pointing out that the Appellant had failed to ensure that the credit-turnover in their account remained more than the interest debited during each quarter leading to unsatisfactory operation of the loan account showing poor repayment capacity of the Corporate Debtor. This communication is placed at page 161-164 of APB. On 22.01.2018, the Respondent issued the final recall notice to the Appellant. When we see the statement of Accounts placed on record by the Financial Creditor as per Banker Book Evidence Act buttressed by entries in the Balance sheets of the Corporate Debtor and the tabular chart forwarded by the Financial Creditor to the Appellant on 28.04.2016, we are persuaded to believe that default had arisen well before the declaration of the accounts of the Corporate Debtor as NPA. When we put all these facts and documents together, the clear picture that evolves is that the Corporate Debtor stood as a defaulter qua the debt borrowed from the Financial Creditor-Respondent No.1 since 31.03.2016.

**14.** The second bone of contention raised by the Appellant is that if the default had arisen on 31.03.2016, then the Section 7 application having been filed 8 years from the date of default, the present application is clearly barred under Article 137 of the Limitation Act. In terms of the provisions of the Limitation Act, the period of limitation is to run for 3 years. Thus, for any Section 7 application which is based on the date of default of the Corporate Debtor as of 31.03.2016, the period of limitation would run only until 30.03.2019. However, the present

Section 7 petition has been filed after a protracted delay of eight years in 2024 and thus become time-barred. It is the counter contention of the Financial Creditor that while indubitably Section 18 of the Limitation Act, 1963 is fully applicable to IBC proceedings, however entries in the balance-sheets of a Corporate Debtor would amount to be an acknowledgement under Section 18 of the Limitation Act which would extend the period of limitation. It was contended that the Adjudicating Authority has correctly noted in paras 19-21 of the impugned order that the 3 years period of limitation stood extended basis clear acknowledgment of debt liability as reflected in the balance sheets of the Corporate Debtor from FY 2015-16 until 2022-23.

**15.** At this juncture, we may notice the provisions of Section 18 of the Limitation Act which provides that a fresh period of limitation starts from the date of acknowledgement. For ease of reference, the language of Section 18 is quoted as under:

*“18. Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.”*

On a plain reading of the above statutory provision, we have no quarrel with the proposition canvassed by the Appellant that if the default has occurred over 3 years prior to the date of filing of Section 7 application, then the Section 7 application would be barred under Article 137 of the Limitation Act. Be that as it may, we also notice that the language of Section 18 clearly suggests that

limitation can well be extended subject to such acknowledgment of liability arising before the expiration of the period of limitation.

**16.** When we peruse the impugned order, we find that the Adjudicating Authority has noted at para 19 therein that the Financial Creditor has presented credible evidence that the outstanding debt of the Corporate Debtor is recorded in their balance sheets from FY 2015-16 until 2022-23. The Adjudicating Authority has also noted that these entries were not contested by the Corporate Debtor during the oral arguments and hence held these entries to be acknowledgments of debt and basis these acknowledgement held the Section 7 petition to be within the period of limitation.

**17.** When we look at the material placed on record, we find that the balance sheet of FY 2016-17 is placed at page 766-767 of APB which contains the closing balance of borrowings of the period FY 2015-16. The balance sheet of FY 2017-18 is placed at page 766-777 of APB; the balance sheet of FY 2018-19 is placed at page 644 of APB; the balance sheet of FY 2019-20 is at page 568-569 of APB and the balance sheet of FY 2020-21 is at page 488 of APB. The balance sheet of FY 2022-23 is placed at page 343-347 of APB which also reflects the closing balance of the borrowings as on 31.03.2022. When we look into these balance sheets of the Corporate Debtor from FY 2015-16 upwards, there is clear depiction of the borrowings of near identical amounts in the balance sheet.

**18.** It is however the case of the Appellant that there is no mention of the name of Financial Creditor in the balance sheets and there is no specific acknowledgment of the debt qua the Financial Creditor. It was contended that the borrowings mentioned in the above balance sheets also pertain to

debts/borrowings qua other financial lenders of the Corporate Debtor. Hence, for purposes of limitation, the Financial Creditor cannot rely on these balance sheets to claim acknowledgement of debt liability qua the debt claimed under Part-IV of the Section 7 petition.

**19.** The stand taken by the Appellant that the borrowings reflected in the balance sheets do not indicate the name of the Financial Creditor is misconceived. When we look at the balance sheet of 2022-23, we notice that there is a clear mention that the Corporate Debtor had Rs 24,80,91,780/- as outstanding amount under the head of “Long Term Borrowing” qua the Bank of Baroda which happens to be the present Financial Creditor. It would also be constructive to reproduce here the ‘Disclosure’ made in the Auditor’s Report for FY 2022-23 as placed at page 343 of APB. We find that it has been noted in the Annexure to the Auditor’s Report at Sr. No. (ix)(a) in the Balance sheet of 2022-23 that the Corporate Debtor has defaulted in repayment of loans along with interest taken from the Financial Creditor-Bank of Baroda as reproduced below:

*“(ix)(a) based upon the audit procedures performed and information and expansions given to us, the Company has defaulted in repayment of loans alongwith interest taken from various banks. As stated by the company in its Contingent Liability also, the matter with Debt Recovery Tribunal and final amount will be paid only after the order in this regard. No further details as desired under paragraph 3(ix)(a) of the Order have been provided to us. The amounts outstanding as per the Balance Sheet are as under:*

<b>Bank</b>	<b>Amount (Rs.)</b>
Bank of Baroda A/c 01554	89623400.00
Bank of Baroda Term Loan-1	152457220.00
Bank of Baroda Term Loan-2	6011160.00

**20.** Thus, even though the balance sheets of FY 2015-16 onwards prior to FY 2022-23 do not specifically mention the name of the Financial Creditor, it is an undisputed fact that the name of Financial Creditor is specifically mentioned in the Balance sheet of 2022-23. This specific mention of the name of the Financial Creditor in the Balance sheet of the Corporate Debtor is sufficient to establish the jural relationship between them as of debtor and creditor. Moreover, the outstanding balance as shown in the balance sheet of FY 2022-23 is also reflected in the balance sheets of the previous years which therefore clearly shows that it is the historical debt which is being carried forward. Further, the fact that the Appellant has not made any averment or placed any material on record to show that they had obtained any fresh loan from any other Financial Creditor during this period, it would not be wrong to infer that the “Long Term Borrowings” reflected in the Balance sheet was in the context of present Respondent No.1-Financial Creditor and not for any other Financial Creditor. Neither did the present Financial Creditor give any fresh loan during this period other than the restructured loan amount from 26.06.2013, therefore, it may not be wrong either to hold the view that the “Long Term Borrowing” reflected in the Balance sheet of the Corporate Debtor until 2022-23 relates to a continuing and subsisting liability qua the Financial Creditor from 2015-16 onwards.

**21.** In this regard, we are also guided by the well settled legal precept laid down by the Hon’ble Supreme Court in ***Dena Bank v. C. Shivkumar Reddy, (2021) 10 SCC 330*** wherein it has been held as hereunder:

*“111. As per Section 18 of the Limitation Act, an acknowledgement of present subsisting liability, made in writing in respect of any right claimed by the opposite party and signed by the party against whom the right is claimed, has the effect of commencing a fresh period of limitation from the date on*



*which the acknowledgement is signed. Such acknowledgement need not be accompanied by a promise to pay expressly or even by implication. However, the acknowledgment must be before the relevant period of limitation has expired.”*

**22.** It is also well settled that if a Corporate Debtor acknowledges its debt in writing before the expiration of the 3 years period, the limitation period would get extended by another 3 years. We also notice that the Adjudicating Authority has relied on the judgment of Hon’ble Supreme Court in ***Asset Restructuring Company (India) Ltd. Vs Bishal Jaiswal and Anr. in Civil Appeal No. 323 of 2021*** wherein it was held that the entries in balance sheets constitute an acknowledgement of debt for the purposes of Section 18 of the Limitation Act.

**23.** In our considered opinion, there is sound basis to hold that the Corporate Debtor in their balance sheet had acknowledged the debt consistently year on year from FY 2015-16 onwards. In such circumstances, the Adjudicating Authority has correctly concluded that the Section 7 application fell well within limitation. We are therefore satisfied that the Adjudicating Authority has returned the correct finding that the debt having been acknowledged year over year from 2015-16 onwards until 2022-23, it was not barred by limitation. The debt having become due and payable and a default thereto having been committed, the Adjudicating Authority has correctly applied the ratio of the judgment of the Hon’ble Supreme Court in ***Innoventive Industries Ltd. Vs ICICI Bank in Civil Appeal No. 8337-38 of 2017*** that in a Section 7 application, the Adjudicating Authority is to be only satisfied that there is a debt which is above the threshold limit which has become due and payable and if a default thereto

has occurred, a Section 7 application ought to be admitted even if the debt is disputed.

**24.** We now come to the last issue raised by the Appellant that the Adjudicating Authority had passed the impugned order without giving the Appellant a right to reply. It is the contention of the Appellant that they could not appear before the Adjudicating Authority due to some genuine reasons including critical medical condition of the mother of the ex-promoter of the Corporate Debtor besides defects in service of notice and non-availability of legible petition documents etc. It was contended that IA No. 98 of 2025 filed by the Appellant seeking rehearing was turned down by the Adjudicating Authority causing severe miscarriage of justice.

**25.** We find that the Adjudicating Authority has accorded due consideration to the plea raised by the Appellant in IA 98 of 2025. The prayers of the Appellant contained in IA No. 98 of 2025 for reopening the right to file reply were not acceded to after giving a detailed reasoning by the Adjudicating Authority. After correctly noting the need of adhering to the strict timelines contemplated in the IBC framework the Adjudicating Authority while passing a speaking order has stated that the main petition was listed for hearing on several occasions giving both parties ample opportunity to be heard. The Appellant had however absented themselves from hearing multiple times and did not chose to file their reply on time. When the Appellant was himself prima-facie casual and negligent, the Appellant cannot be seen to take advantage of their own wrong.

**26.** Now we come to the factual matrix of Company Appeal No. 616 of 2025. In this case, the Respondent No.1-Financial Creditor had sanctioned a Term

Loan of Rs 4.97 Cr. on 29.09.2015 (further modified on 04.01.2016) to the Corporate Debtor-Xyron Technologies Ltd. The Corporate Debtor failed to maintain financial discipline following which the account of the Corporate Debtor was classified as NPA on 31.03.2017 which is also reflected in Part-IV of the Section 7 application filed by the Financial Creditor. The total dues claimed by the Financial Creditor in Part-IV is Rs 9.57 Cr. consisting of Rs 4.97 Cr. as principal amount and Rs 4.51 Cr. as interest. Satisfied with the evidence of debt and default, the Adjudicating Authority vide impugned order dated 24.03.2025 admitted the Corporate Debtor-Xyron Technologies Ltd. into CIRP. The grounds on which the impugned order has been assailed are the same grounds on which the impugned order in Company Appeal No. 615 of 2025 has been challenged. These grounds are that there was no default preceding the date of default of 31.03.2017 as claimed in Part-IV; that the Section 7 petition was time-barred and that IA No. 99 of 2025 seeking remedial action for having been denied the right to hear had been rejected by the Adjudicating Authority. On the issue of debt and default, we find that the Financial Creditor had placed on record Statement of Account alongwith certificate as per provisions of Bankers Book Evidence Act, 1891 as well as balance sheet from FY 2015-16 to 2021-22 as evidence of debt and default. Like in Company Appeal No.615 of 2025, in the present Appeal too, the Corporate Debtor has failed to show that the debt liability was liquidated. The Adjudicating Authority after considering the material on record had therefore rightly concluded that there was outstanding debt qua the Financial Creditor and that there was continuing default. In the present Appeal too as in Company Appeal No. 615 of 2025, the Financial Creditor has relied on

the balance sheets for the purpose of acknowledgment of debt liability for the purpose of limitation. We have also noticed that the Adjudicating Authority has noted that the balance sheets in the present case also extends the period of limitation. Like in the case of IA No. 98 of 2025 which had been rejected in Company Appeal No. 615 of 2025, the same grounds for rejection holds good in Company Appeal No. 616 of 2025 also. We are therefore satisfied with the findings of the Adjudicating Authority in admitting the Corporate Debtor-Xyron Technologies Ltd. into the rigours of CIRP.

**27.** For the reasons explained above, we find both the appeals to be devoid of merit and dismiss them. Both the impugned orders are affirmed. All IAs stand closed. No order as to costs.

**[Justice Ashok Bhushan]  
Chairperson**

**[Barun Mitra]  
Member (Technical)**

**[Arun Baroka]  
Member (Technical)**

**Place: New Delhi  
Date: 30.05.2025**

Abdul