

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV

COMPANY PETITION (I.B.) NO. 421 OF 2025

(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:

SAMRIDHI REALTY HOMES PRIVATE LTD.

...Applicant/Financial Creditor

Versus

NEXGEN INFRACON PVT. LTD.

...Respondent/ Corporate Debtor

CORAM:

**SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)**

Order Delivered on: 04.11.2025

PRESENT:

For the Applicant : Mr. Madhur Dhingra,
Ms. Harleen Dhingra,
Mr. Akshay Sharma, Advs.

ORDER
PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The instant Company Application is filed by **Samridhi Realty Homes Private Ltd.** (**'Applicant/ Financial Creditor'**) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (**'Code'**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiating the Corporate Insolvency Resolution Process (**'CIRP'**) against **M/s. Nexgen Infracon Pvt. Ltd.** (**'Respondent/Corporate Debtor'**) having CIN: U70102DL2010PTC199519 on the ground that the Corporate Debtor had committed a default in payment of Rs. 1,12,70,928/- (Rupees One Crore Twelve Lakhs Seventy Thousand Nine Hundred Twenty-Eight Only) comprising of Principal Amount: Rs. 1,07,61,455/- (Rupees One Crore Seven Lakh Sixty-One Thousand Four Hundred Fifty-Five Only) and Interest amount of Rs. 5,09,473/- (calculated from 12.02.2025 to 31.05.2025)
2. The Corporate Debtor i.e. **M/s. Nexgen Infracon Pvt. Ltd.** having CIN: U70102DL2010PTC199519 incorporated on 25.01.2010 under the Companies Act 1956 is having its registered office situated at C-227 Vivek Nagar, Phase 1, Delhi, 110095. Since the registered office of the Corporate Debtor is in New Delhi, this Tribunal having territorial jurisdiction over the NCT of Delhi is the Adjudicating Authority in relation to the prayer for initiation of Corporate Insolvency Resolution Process in respect of respondent corporate debtor under sub-section (1) of Section 60 of the Code.

3. Briefly stated facts of the case as mentioned in the Company Application, which are relevant to the issue in question, are as follows:-

- a.** The present Petition has been filed by Samridhi Realty Homes Private Limited (“Financial Creditor”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“Code”) seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against Nexgen Infracon Private Limited (“Corporate Debtor”) for an alleged default amounting to ₹1,12,70,928/- (Rupees One Crore Twelve Lakh Seventy Thousand Nine Hundred Twenty-Eight Only) as on 31.05.2025.
- b.** It is stated that the Financial Creditor and the Corporate Debtor had executed a Loan Agreement dated 30.03.2021, pursuant to which the Financial Creditor disbursed a sum of ₹1,00,00,000/- (Rupees One Crore Only) to the Corporate Debtor at an agreed rate of interest of 9% per annum, repayable within a period of 36 months.
- c.** It is submitted by the Applicant that the Corporate Debtor approached the Financial Creditor and requested an extension of time to repay the entire loan amount on or before 29.06.2024. Pursuant thereto, the Corporate Debtor made a part payment of ₹30,00,000/- (Rupees Thirty Lakh Only) to the Financial Creditor on 13.09.2024 towards partial discharge of its liability under the said Loan Agreement.
- d.** It is further submitted by the Applicant that the Corporate Debtor duly issued a balance confirmation acknowledging the outstanding

loan amount and further reflected its liability towards the Financial Creditor in its annual financial statements. Since the Corporate Debtor failed to repay the loan amount by 29.06.2024, the Financial Creditor issued a Demand Notice dated 14.02.2025 seeking payment of ₹1,07,61,455/- (Rupees One Crore Seven Lakh Sixty-One Thousand Four Hundred Fifty-Five Only) within seven days.

- e.** Subsequently, the applicant stated that the parties executed a Compromise Deed dated 11.04.2025, wherein the Corporate Debtor acknowledged its liability and agreed to pay ₹1,00,00,000/- (Rupees One Crore Only) in five monthly instalments of ₹20,00,000/- each, payable on or before 30.09.2025. It was further agreed that upon default of any instalment, the entire outstanding amount of ₹1,07,61,455/- would become immediately due and payable with interest at 16% per annum from 12.02.2025.
- f.** The Applicant submitted that the Corporate Debtor defaulted in payment of the first monthly instalment of ₹20,00,000/- (Rupees Twenty Lakh Only) due on 31.05.2025, in terms of the Compromise Deed dated 11.04.2025. Consequently, in accordance with Clause 2 of the said Deed, the entire outstanding amount of ₹1,07,61,455/- (Rupees One Crore Seven Lakh Sixty-One Thousand Four Hundred Fifty-Five Only) became immediately due and payable. Thereafter, the Financial Creditor issued a Loan Recall Notice dated 27.06.2025, demanding repayment of the said amount along with interest at 16% per annum from 12.02.2025.

ANALYSIS AND FINDINGS

4. We have heard the Ld. Counsel on behalf of the Applicant/Financial creditor and further perused the averments made in the Application.
5. The matter was taken up on 07.08.2025. During the hearing, this Adjudicating Authority directed the Applicant to file an affidavit addressing the issue of maintainability of the petition. Subsequently, on 19.08.2025, the Applicant was granted three (03) days-time to comply with the directions contained in the order dated 07.08.2025.
6. On perusal of the casefile, we note that the Financial Creditor and the Corporate Debtor entered into a Loan Agreement dated 30.03.2021, whereby a sum of ₹1,00,00,000/- was disbursed at an agreed interest rate of 9% per annum, repayable within 36 months. The Corporate Debtor subsequently sought an extension of time to repay the loan by 29.06.2024 and made a part payment of ₹30,00,000/- on 13.09.2024 towards partial discharge of its liability. The Corporate Debtor also issued a balance confirmation and reflected the outstanding amount in its financial statements. Upon failure to repay the dues by the extended date, the Financial Creditor issued a Demand Notice dated 14.02.2025 for ₹1,07,61,455/-. Thereafter, both parties executed a Compromise Deed dated 11.04.2025, under which the Corporate Debtor acknowledged its liability and agreed to pay ₹1,00,00,000/- in five monthly instalments of ₹20,00,000/- each, payable on or before 30.09.2025, with a stipulation that default in any instalment would render the entire sum of ₹1,07,61,455/- immediately due and payable with interest at 16% per annum from 12.02.2025. The Financial Creditor thereafter issued a Loan Recall Notice

dated 27.06.2025 demanding repayment of the said amount. Accordingly, the present petition is filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, seeking initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor.

- 7.** The issue for consideration is that whether in terms of this agreement the obligation to pay the outstanding liability shall be constituted as a 'financial debt' within the purview of Section 5(8) of the 'I&B Code' and whether the Applicant can be treated as 'Financial Creditor' entitled to trigger Corporate Insolvency Resolution Process as Financial Creditor against the Respondent. Section 5(8) of the 'I&B Code' is reproduced herein below:

"5. Definition.-(8) "financial debt" means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes—

(a) money borrowed against the payment of interest;

(b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;

c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;

(e) receivables sold or discounted other than any receivables sold on nonrecourse basis;

(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing; (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;

(h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;

(i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause;

8. We further observe that the record does not clearly indicate which entity has sanctioned the alleged loan. Moreover, the loan recall notice dated 30.06.2025 reflects that the loan has been purportedly re-called jointly by Best Move Developers Pvt. Ltd. and M/s Samridhi Realty Homes Pvt. Ltd. The said notice has been addressed to the following three entities:

- i. Mahagun Real Estate Pvt. Ltd.
- ii. Nextgen Infracon Pvt. Ltd.
- iii. Logix Heights Pvt. Ltd.

9. It is observed that the loan agreement placed on record reflects that the purported loan transaction was executed between the parties on 31.03.2021. The said agreement at one instance records that the *Borrower*, in the interest of its business, approached the *Lender* for a loan amount of

Rs. 3,00,00,000/- (Rupees Three Crore Only), whereas the loan disbursed to the Corporate Debtor herein was for Rupees 1 Crore only. Further, the agreement stipulates that interest @ 9% per annum was payable and was to be settled at the conclusion of each financial year. Accordingly, the first instance of default, if any, would arise on 31.03.2022. Even assuming this date as the date of default, the present Application filed on 30.07.2025 falls beyond the prescribed limitation period and is therefore barred.

10. Further, the Applicant has neither filed the Balance Sheet nor placed on record the Form-D issued by NeSL to substantiate the alleged debt and default. In the absence of requisite documentary proof, the Application is not maintainable and stands dismissed.

11. It is pertinent to note that the Applicant had disbursed a loan amount of Rs. 1,00,00,000/- (Rupees One Crore Only) to the Corporate Debtor, out of which a sum of Rs. 30,00,000/- (Rupees Thirty Lakh Only) was repaid on 13.09.2024 and duly adjusted against the outstanding liability. However, upon the Corporate Debtor's subsequent failure to make further payments, the parties executed a Compromise Deed dated 11.04.2025 for repayment of the remaining dues.

12. Mere obligation to pay does not, by itself, bring a liability within the ambit of a 'financial debt'. For a debt to qualify as a financial debt under Section 5(8) of the Insolvency and Bankruptcy Code, 2016, it must involve disbursement against consideration for the time value of money. A mere breach of the terms of an agreement, including a Settlement or Compromise Deed under which payment becomes due, would not constitute a financial debt in the absence of such disbursement. Admittedly, between the parties,

there is no disbursement made against consideration for the time value of money. Accordingly, we are of the considered view that the breach arising out of the Compromise Deed dated 11.04.2025 does not fall within the definition of 'financial debt' as contemplated under Section 5(8) of the Code

13. Accordingly, we are of the considered view that the outstanding debt claimed as per the petition filed under section 7 of the IBC, 2016 does not fall under the definition of financial debt as defined under section 5(8) of the Code. Resultantly, **C.P. (I.B.) NO. 421 of 2025 is hereby dismissed.**

14. However, this order shall not preclude the Applicant from seeking remedies, if so advised, under other laws that may be applicable in the facts of the case. The parties are at liberty to approach the civil court or any other appropriate forum and may explore other legal remedies available as per law.

Sd/-
ATUL CHATURVEDI
MEMBER (TECHNICAL)

Sd/-
MANNI SANKARIAH SHANMUGA SUNDARAM
MEMBER (JUDICIAL)