

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL**  
**SPECIAL BENCH, NEW DELHI**

**C.P. NO.IB-172(PB)/2019**

**IN THE MATTER OF:**

Edelweiss Asset Reconstruction Company Limited

....Petitioner

Vs.

Manogayan Estates Pvt Ltd.

....Respondent

**SECTION: Under Section 7 of the Insolvency and Bankruptcy Code, 2016**

**Order delivered on: 07.03.2019**

**Coram:**

**CHIEF JUSTICE (RTD.) M.M. KUMAR**

**Hon'ble President**

**Dr. DEEPTI MUKESH**

**Hon'ble Member (Judicial)**

**PRESENTS:**

For Petitioner

: Mr. Atul Sharma, Mr. Shashank K. Lal,  
Mr Vikram Babbar, Advs.

For Respondent

:Ms. Manisha Chaudhary, Ms. Deepti Bhardwaj,  
Advs.

**ORDER**

**M.M.KUMAR, PRESIDENT**

This order shall dispose of (IB)-168(PB)/2019,  
(IB)-169(PB)/2019, (IB)-170(PB)/2019, (IB)-171(PB)/2019,  
(IB)-190(PB)/2019, (IB)-191(PB)/2019, (IB)-192(PB)/2019 &  
(IB)-193(PB)/2019 as common questions of law & facts are

involved and are pertaining to the corporate guarantee for securing the loan disbursed to Adel Landmarks Limited (for brevity 'Principal Borrower').

2. However facts are referred from IB – 172(PB)/2019 and in the present petition it is submitted by the Petitioner that Adel Landmarks Limited (formerly known as Era Landmarks Limited) had availed a term loan of Rs. 170 Crores from ECL Finance Limited and the Respondent – Corporate Debtor has guaranteed repayment of the said credit facility. Copies of the loan agreement and guarantee agreement have been placed on record (**Annexure 6 & 8**). ECL Finance Limited vide an Assignment Agreement dated 23.03.2017 (**Annexure 7**) had assigned the debt to Edelweiss Asset Reconstruction Company Ltd.

3. It is also submitted by the Petitioner – Financial Creditor that the loan sanctioned to Adel Landmarks Limited was recalled vide notice dated 02.07.2018 (**Annexure 12(Colly) d**) and further the Petitioner – Financial Creditor had invoked the said Corporate Guarantee vide notice bearing reference no.

EdelARC/1028/2018-19 dated 10.07.2018 **(Annexure 12(Colly) e).**

4. The precise case of the Petitioners is that the total amount in default due to the financial creditor by the corporate debtor as on 31.12.2018 is Rs. 420,12,98,442/- . A tabular chart depicting working of the amount in default is annexed **(Annexure – 9).**

5. It is pertinent to mention that against the 'Principal Borrower' - Adel Landmarks Limited the petition for initiation of corporate insolvency resolution process was admitted vide order dated 05.12.2018 in C.P. No. 1083(PB)/2018.

6. The necessity of triggering corporate insolvency resolution process would not be warranted as for the same debt a petition has already been admitted against the principal borrower and CIRP was triggered vide Order dated 05.12.2018.

7. In **Dr. Vishnu Kumar Agarwal Vs. M/s. Piramal Enterprises Ltd., Company Appeal (AT) (Insolvency) No. 346 of 2018 decided on 08.01.2019**, the Learned Appellate Tribunal held that:

*“.....However, once for same set of claim application under Section 7 filed by the ‘Financial Creditor’ is admitted against one of the ‘Corporate Debtor’ (‘Principal Borrower’ or ‘Corporate Guarantor(s)’), second application by the same ‘Financial Creditor’ for same set of claim and default cannot be admitted against the other ‘Corporate Debtor’ (the ‘Corporate Guarantor(s) or the ‘Principal Borrower’).....”*

8. The parties are at a liberty to file their claim before the Insolvency Professional in IB- 1083(PB)/2018 as the same amount cannot be claimed in separate petitions. For the reasons stated above all the petitions fail and the same stands dismissed as not maintainable.

9. We make it clear that any observations made in this order shall not be construed as an expression of opinion on the merit of the controversy and the right of the Petitioners before any other

forum shall not be prejudiced on account of dismissal of the instant petition.

Let the copy of the order be served to the parties.

Sd/-  
**(M.M.KUMAR)**  
**PRESIDENT**

Sd/-  
**(DEEPTI MUKESH)**  
**MEMBER (JUDICIAL)**

07.03.2018  
(VIDYA)