

NATIONAL COMPANY LAW TRIBUNAL  
COURT-V, MUMBAI BENCH

101. C.P. (IB)/292(MB)2024

**IN THE MATTER OF**

LINEAR COMMERCIAL PVT.LTD.

... Petitioner

Vs

HARD ROCK CONSTRUCTION COMPANY PVT LTD

... Respondent

U/s 7 of the Insolvency and Bankruptcy Code, 2016

**Order Delivered on 30.04.2024**

CORAM:

MS. REETA KOHLI,  
MEMBER (J)

MS. MADHU SINHA,  
MEMBER (T)

**Appearance through VC/Physical/Hybrid Mode:**

For the Petitioner: Adv. Shourjyo Mukherjee (VC)

For the Respondent:

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**ORDER**

The present Petition has been filed under Section 7 for a default of an amount of Rs. 1.07 Crores. The Ld. Counsel submits that the first default was committed on 19.10.2019 and subsequent to the same, the Petitioner made repayment in tranches till 23.12.2020 and paid an amount of Rs. 2.40 Crores. Clause 2.3 of the Loan Agreement states that the interest is to be calculated @9% p.a. on half yearly and payment is on half yearly basis. The loan was disbursed on 20.10.2018. The date of default has been stated to be the last payment made by the Petitioner i.e. 23.12.2020. The Ld. Counsel has drawn our attention also to the clause pertaining to 'event of default' which does not show any penal interest to be charged. The Ld. Counsel drew our attention to page 91 which is the tabulation where the total amount due after the calculation of interest, as stated by the Ld. Counsel @9% comes to Rs. 86,97,708/- which is below threshold limit. The submission of the Ld. Counsel is that over this amount, penal interest has been calculated. On asking, the Ld. Counsel for the Petitioner has not been able to show any clause or provision in the loan

agreement with respect to imposition of penal interest. Otherwise also, the Ld. Counsel has stated that the date of default is 23.12.2020. The Petition is being listed in 2024 which is beyond limitation. On this, the contention of the Ld. Counsel for the Petitioner is that the Petition was filed on 21.08.2023 and the same is listed today i.e. 30.04.2024. We are constrained to note that this dereliction on the part of the Petitioner in not getting the Petition listed for a long time and otherwise also on merits, the case being below threshold limit deserves to be **dismissed**. Accordingly, the CP is **disposed of** as such.

Sd/-  
MADHU SINHA  
Member(Technical)

Sd/-  
REETA KOHLI  
Member(Judicial)

/Ziyaul/