



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.302
CP(IB)/142(AHM)2023

Proceedings under Section 9 IBC

IN THE MATTER OF:

Shubh Cotton

Vs.

Rajeshwari Cotspin Limited

.....Applicant

.....Respondent

Order delivered on: 17/09/2025

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

CHITRA HANKARE
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

COMPANY PETITION (IB) 142 (AHM) 2023

*(Application under Section 9 Read with rule 6 of the Insolvency and
Bankruptcy Rules, 2016)*

In the matter of:

M/s. SHUBH COTTON

Through its authorized representative
Mr. Jay Jitendrakumar Patel
Vavdi Raod,
Tal:- Moti Kukavav,
Dist. Amreli- 365 450.

..... Applicant

Versus

RAJESHWARI COTSPIN LIMITED

Registered Office:

A/5, Shilpgram Siddhi Bungalows,
Opp. Rajbhavan Bungalows, Nr. Suryam Flora,
Nikol, Ahmedabad- 382350.
E-mail: rajeshwaricotspin@gmail.com.

..... Respondents

Order pronounced on 17.09.2025

Coram:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

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**Present:**

For the Applicant :Mr. Mohit Gupta, Adv.


For the Respondent :Mr. Harmish Shah, Adv.

JUDGEMENT

1. This application is filed by the Operational Creditor viz, M/s. Shubh Cotton, a partnership firm through its authorized representative Mr. Jay Jitendrakumar Patel under Section 9 of Insolvency and Bankruptcy Code, 2016 ("I&B Code, 2016) against the Corporate Debtor viz. Rajeshwari Cotspin Limited seeking initiation of Corporate Insolvency Resolution Process (CIRP) as against the Corporate Debtor for having default of an amount of Rs.4,27,89,552.64/- including interest. The date of default is stated to be 07.01.2020.
2. The factual backdrop averred by the applicant is as under:
 - a. The Applicant supplied cotton bales to the Corporate Debtor under various purchase orders and invoices issued during the period 07.05.2019 to 23.12.2019. The corporate debtor agreed to pay the amount within 15 days from the date invoice and last date of invoice is as on 23.12.2019. Despite receiving the goods the corporate debtor failed to clear its dues. Hence, the date of default

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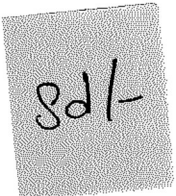


is stated as 07.01.2020 which is also mentioned in the invoice. The relevant e-way bills are also enclosed.

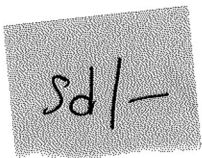
b. The corporate debtor had issued following cheques towards the payment of debt:

- i. Cheque No. 061844 dated 22/01/2021 for Rs. 40,00,000/-;
- ii. Cheque No. 061845 dated 22/01/2021 for Rs. 40,00,000/-;
- iii. Cheque No. 061846 dated 22/01/2021 for Rs. 40,00,000/-;
- iv. Cheque No. 061847 dated 22/01/2021 for Rs. 40,00,000/-;
- v. Cheque No. 061848 dated 22/01/2021 for Rs. 35,41,445/-;
- vi. Cheque No. 000110 dated 14/12/2022 for Rs. 12,42,238/-;
- vii. Cheque No. 000111 dated 14/12/2022 for Rs. 20,27,286/-;
- viii. Cheque No. 000112 dated 15/12/2022 for Rs. 20,36,007/-;
- ix. Cheque No. 000113 dated 15/12/2022 for Rs. 20,24,171/-.


c. The Cheque No. 061844 to 061848 and Cheque no. 000110 to 000113 were dishonoured and the applicant proceeded against the corporate debtor under section 138 of the Negotiable Instruments Act, 1981 and filed



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criminal case before the court of JMFC, Amreli. It is further submitted that the Hon'ble High Court granted stay on the proceeding as the applicant did not make the company as one of the accused which is mandatory as per the dictum of Aneeta Hada vs Godfather and Tours Pvt. Ltd. reported in (2012) 5 SCC 661.

- d. The applicant herein issued demand notice dated 29.04.2023 in terms of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 under Rule 5 of the IBC(AAA) Rules 2016. It is submitted that vide its reply dated 10.05.2023 has falsely denied its liability and failed to make it payments.
3. The Respondent/CD in its reply affidavit dated 07.11.2023 denies the allegations in the demand notice and submits that no operational debt is due or payable. It is contended that there have been no business dealings between the parties after 2019 and that all dues had been cleared. The Applicant's claim of Rs.4.27 crore is stated to be false and barred by limitation as the stated default date is 07.01.2020 i.e. 15 days from the date of invoice from 23.12.2019. The amount of the invoice dated 23.12.2019 is Rs.19,23,052.00/- which is below the threshold limit for

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filing the application under IBC. It is further contended that there is no clause for interest in the invoice. The cheques relied upon by the Applicant were issued only as security, and upon closure of the Corporate Debtor's current account in January 2021 (pursuant to RBI's notification dated 06.08.2020), the cheque book was surrendered. It is argued that the Applicant has misused the cheques with mala fide intent and also has not filed certified copy of its bank statements.

4. In its rejoinder dated 01.03.2024, the operational creditor denies all allegations raised in the reply and submits that the petition is maintainable. The Applicant contends that it is a registered partnership firm and has placed on record Form-G issued by Registrar of Firms and an MSME unit and entitled to claim interest under Section 16 of MSMED Act, 2006. A copy of the MSME certificate (Annexure-Q) has been produced. On the issue of limitation, the Applicant relies upon issuance of cheques dated 22.01.2021, 14.12.2022, and 15.12.2022 as acknowledgment of debt. Additionally, reliance is placed on the order of the Hon'ble Supreme Court dated 10.01.2022 in Suo Motu Writ Petition (C) No. 3 of 2020, whereby limitation stood extended between

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15.03.2020 and 28.02.2022. The applicant denies that the cheques were issued merely as security and asserts that they were issued towards discharge of outstanding liability. It is argued that the Respondent's conduct of issuing cheques from a closed account reflects lack of bona fides. It is further submitted that all relevant purchase orders, invoices, e-way bills, and documents evidencing supply of goods and existence of debt have been produced. The allegations of suppression or misrepresentation are denied.

5. The applicant by way of its affidavit dated 12.08.2024 filed Form- Record of Default, GST Returns filed by the Petitioner with reference to invoices raised on the Corporate debtor and the copy of its bank statements.
6. Both the parties have filed their written submissions.
7. Heard the counsels for the petitioner as well as the respondent. Perused the documents available on record.
8. Observations & findings:
 - a. The applicant has furnished necessary records of invoices, e-way bills in support of supply of goods for which the respondent has confirmed by letters prior to the supply seeking supply of bales. The stated invoices are also observed to be tax invoices, evidencing genuineness of the

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transactions. The date of default is 07.01.2020 whereas this application has been filed on 09.06.2023. The applicant has derived the benefit of suo-motto COVID exemption period which is allowed and thereby the issue of limitation is addressed.

- b. As regards the stated cheques issued no stay is granted, and these cheques seem to have been issued on 22.01.2021 by the CD and are subsequent to invoices dates and cannot be construed as security deposits. It is not material whether the Section 138 of NI Act, 1981 filed against the respondents before another authority, as the dues are not evidently on the invoices for which cheques were issued and the matter is not against the respondent No.1. It is not denied as far as the principal amount is Rs.2,16,09,036 and claim of interest is not mentioned in invoice is objected but applicant has claimed due to the MSME status of the applicant, howsoever, the principal amount is beyond the threshold limit of Rs 1 crore. We are not deciding on the merits of the interest charged at this stage, whether it is applicable will have to be decided at the appropriate stage by the RP. As regards the e-way bills the applicant has produced record of certain

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transport carrier and the shipment address which confirms that of the respondent.

c. There is no pre-existing dispute letter placed on record before the demand notice was issued on 29.04.2023.

9. In view of the above, we pass the following orders:

ORDER

- I. The CP (IB) 142 of 2023 is allowed.
- II. The Corporate Debtor – M/s Rajeshwari Cotspin Limited is admitted into Corporate Insolvency Resolution Process under section 9(5) of the Code.
- III. The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.
- IV. However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.



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- V. We hereby appoint from the panel suggested by IBBI, Mr. Malav Jitendra Ajmera, Registered IP having IBBI registration no. as IBBI/IPA-001/IP-P01190/2018-2019/11908, Email-malav.ajmera@maassociates.co.in, under section 13 (1)(c) of the Code to act as Interim Resolution Professional (IRP). He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.
- VI. The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.
- VII. The IRP shall perform all his functions as contemplated, inter-alia, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or co-

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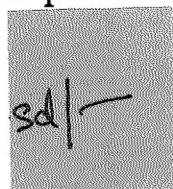
operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.


VIII. The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.

IX. The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of obligation imposed by section 20 of the Code.

X. The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.

XI. We direct the Operational Creditor to pay IRP a sum of Rs.2,00,000/- (Rupees Two Lakh Only) in advance within a period of 7 days from the date of this order to





meet the cost of CIRP arising out of issuing public notice and inviting claims till the CoC decides about his fees/expenses.

XII. The Registry is directed to communicate this order to the Operational Creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.

XIII. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.



Sd/-

DR. V.G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Prachi-LRA



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CHITRA HANKARE
MEMBER (JUDICIAL)