



IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH -I

CP(IB)No. 366/MB/2024

Under Section 7 of the Insolvency and
Bankruptcy Code, 2016 read with Rule 4 of the
Insolvency and Bankruptcy (Rule 4 of the
Insolvency and Bankruptcy (Application to
Adjudicating Authority) Rules, 2016

In the matter of

M/s Mohandas Chhataram

Mohandas Chhataram, Sarda Building

Maskasath, Itwari Nagpur-440008

.....Applicant/
Financial Creditor

Versus

Gokul Sugar Industries Limited

[CIN: U15424PN2008PLC140027]

Datta Nagar, Post Dhotri, Taluka South Solapur-
413258

.....Corporate Debtor/
Respondent

Order Delivered on : 27.06.2024

Coram:

Prabhat Kumar

Hon'ble Member (Technical)

Justice V.G Bisht, (Retd).

Hon'ble Member (Judicial)

Appearances:

For the Financial Creditor : Prakhyat Sharma, Advocate

For the Corporate Debtor : Swastika Kumari, Advocate



ORDER

Per: Justice V.G Bisht, (Retd)


1. This Company Petition has been filed by **M/s Mohandas Chhataram ("Financial Creditor")**, a non-banking finance company is seeking to initiate Corporate Insolvency Resolution Process ("**CIRP**") against **Gokul Sugar Industries Limited. ("Corporate Debtor")** by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for having committed a default in repayment of outstanding principal debt of INR 33,00,00,000/- (Rupees Thirty-Three Crores Only) along with 12% P.a. The date of default which is recorded in the National E-Governance Services Limited is 25.01.2023.

Submissions made by the Financial Creditor:

2. The Financial Creditor contends that in approximately 2019, the Corporate Debtor approached them to seek financial assistance for its business operations. Between 17.05.2019, and 03.02.2020, the Financial Creditor disbursed funds to the Corporate Debtor on multiple occasions. However, the Corporate Debtor failed to repay these amounts to the Financial Creditor.
3. The Financial Creditor commenced Corporate Insolvency Resolution Process (CIRP) proceedings against the Corporate Debtor under Section 7 of the IBC, 2016, through CP (IB) No. 599 (MB) 2021, which was admitted on 18.02.2022. The order of 18.02.2022 was challenged by the Suspended Director through Company Appeal (AT) (Ins.) No. 224 of 2022. Following the filing of the Appeal, the Appellant and Respondent reached an amicable settlement. In accordance with this settlement agreement, they executed Consent Terms dated 01.03.2022. As a result of the Consent Terms, the Appeal was resolved and concluded on March 04.03.2022.



4. The Financial Creditor submits that Under the Consent Terms, it was agreed between the Financial Creditor and the Corporate Debtor that the Corporate Debtor would pay Rs. 50,00,00,000/- (Rupees Fifty Crore Only) towards the principal amount, along with accrued interest as stipulated in the Consent Terms. Any remaining unpaid amount, including all due and overdue installments, would then constitute the principal amount owed by the Corporate Debtor, along with applicable interest.
5. Furthermore, it was agreed that failure to make payment within the 10-day grace period would constitute a breach of the Consent Terms. In such an event, the Financial Creditor would have the option to pursue revival or restoration of Company Petition No. 599 of 2021 before the Hon'ble NCLT, Mumbai Bench, or alternatively, to file a fresh Company Petition and initiate appropriate proceedings under the IBC, 2016, if the Corporate Debtor fails to comply with the Consent Terms.
6. The Financial Creditor has repeatedly requested repayment of the outstanding dues from the Corporate Debtor. While the Corporate Debtor has acknowledged the debt on various occasions, they are currently unable to fulfill their obligation to the Financial Creditor. To date, however, the Corporate Debtor has not made any repayment towards the outstanding dues as per the agreed schedule and terms outlined in the Consent Terms dated 03.03.2022.
7. However, despite various assurances, it appeared that no serious attempts were made by the Corporate Debtor to repay the loan / financial assistance. Thus, the Financial Creditor approached the Corporate Debtor and asked him to repay the amount. The Corporate Debtor paid no heed.
8. The default commenced on 25.06.2022, with the most recent default occurring on January 25.01.2023. The current debt represents an ongoing




default situation, which the Corporate Debtor has consistently acknowledged, most recently in the balance confirmation dated 15.02.2022. However, the Corporate Debtor has yet to settle the amounts owed to the Financial Creditor up to the present time.

9. The Financial Creditor submits that on 01.03.2024, the Financial Creditor sent an email to the Corporate Debtor demanding payment of the outstanding amount due and payable.
10. However, despite various repeated reminders, it appeared that no serious attempts were made by the Corporate Debtor to repay the balance outstanding dues, resultantly defaulting in repayment of its debt and hence, failed to repay the amounts disbursed to the Financial Creditor.

Submissions made by the Corporate Debtor:

11. The Corporate Debtor submits that they have approached the Financial Creditor somewhere in 2019 for financial assistance in order to carry on business operation.
12. The Corporate Debtor submits that The Financial Creditor commenced Corporate Insolvency Resolution Process (CIRP) proceedings against the Corporate Debtor under Section 7 of the IBC, 2016, through CP (IB) No. 599 (MB) 2021, which was admitted on 18.02.2022. The order of 18.02.2022 was challenged by the Suspended Director through Company Appeal (AT) (Ins.) No. 224 of 2022. Following the filing of the Appeal, the Appellant and Respondent reached an amicable settlement. In accordance with this settlement agreement, both parties executed Consent Terms dated 01.03.2022. As a result of the Consent Terms, the Appeal was resolved and concluded on March 04.03.2022.
13. The Corporate Debtor submits that both the parties entered into a Consent Terms and it was agreed that the Corporate Debtor would pay Rs.



50,00,00,000/- (Rupees Fifty Crore Only) towards the principal amount, along with accrued interest as stipulated in the Consent Terms. Any remaining unpaid amount, including all due and overdue installments, would then constitute the principal amount owed by the Corporate Debtor, along with applicable interest.

14. The Corporate Debtor admits the payment of the outstanding amount, but due to the following reasons, the Corporate Debtor could not make the payment of the outstanding due from June, 2022:

i. drought situations in Maharashtra, leading to scarcity of water, which is a necessary component for production of sugarcane, leading to a yield that was not satisfactory for generation of revenue;


ii. protests initiated by the farmers, leading to lack of manpower for the purpose of harvesting;

iii. cash crunch of the Corporate Debtor on account of the above enumerated factors.

15. The aforementioned factors have significantly contributed to the unprecedented loss and impairment of the business continuity and financial liquidity of the Corporate Debtor. Delays in client payments, combined with various other occupational factors and pre-existing financial challenges, have further exacerbated the financial strain on the Corporate Debtor.

16. The Corporate Debtor submits that despite valiant efforts on the part of Corporate Debtor who has been enduring a prolonged financial distress, the Corporate Debtor always assured the financial creditor that all amounts disbursed by them would be paid in due course of time.

17. However, despite the Corporate Debtor having already paid Rs. 17 crores by June 2022, following the execution of the Consent Terms, and despite the assurances provided to the Financial Creditor by the Corporate Debtor



regarding the repayment of financial assistance extended to them, and being fully aware of the Corporate Debtor's longstanding financial predicament, the Financial Creditor chose to file this petition.


Findings

18. Heard learned counsel and perused the materials on record.
19. We find that the Corporate Debtor has defaulted on several terms and has also failed to repay the outstanding amount due. The Financial Creditor committed a default in repayment of outstanding principal debt of INR 33,00,00,000/- (Rupees Thirty-Three Crores Only) along with 12% P.a. The date of default which is recorded in the National E-Governance Services Limited is 25.01.2023.
20. We take a note that on 01.03.2024, the Financial Creditor sent an email to the Corporate Debtor demanding payment of the outstanding amount due and payable.
21. During the Oral arguments before this tribunal the Corporate Debtor itself acknowledges the impact of the financial crisis and inability to settle its outstanding debt with the Financial Creditor.
22. We find that from the Corporate Debtor's submission that they are currently combating with a financial exigency within the business operations, compounded by the prevailing downtrend observable within the market. This has resulted in the Borrower encountering unavoidable challenges and intricate complexity that hinder the ability to adhere to the terms of repayment agreed by both the parties.
23. From perusal of the record and the documents relied upon by the Applicant it stands proved that there has been a financial debt in respect of which default has been committed by the Corporate Debtor and further that the Application has been filed within the period of limitation. Therefore, the Application u/s

7 of the Code, deserves to be admitted. It is ordered accordingly in the following terms:

ORDER

- a. The petition bearing CP (IB) 366/MB/C-I/2024 filed by **M/s Mohandas Chhataram**, the Financial Creditors, under Section 7 of the Code read with Rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process against **Gokul Sugar Industries Limited**, the Corporate Debtor, is admitted.
- b. This Bench hereby **appoints Neehal Mahamulal, Registration No: IBBI/IPA-001/IP-P01561/2018-2019/12406 as the Interim Resolution Professional** having **email: - canechalpathan@gmail.com** to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. There shall be a moratorium under section 14 of the IBC, in regard to the following:
 - i. The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - iii. Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;

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- iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- d. Notwithstanding the above, during the period of moratorium: -
- i. The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
 - ii. That the provisions of Sub-Section (1) of Section 14 of the Code shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- e. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under Sub-Section (1) of Section 31 of the Code or passes an order for liquidation of Corporate Debtor under Section 33 of the Code, as the case may be.
- f. Public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code read with Regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- g. The Financial Creditor shall deposit an amount of **Rs. Three Lakhs** towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- h. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 of the Code. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.



- i. The Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by speed post and email immediately, and in any case, not later than two days from the date of this Order.
- j. IRP is directed to send a copy of this Order to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

Sd/-

PRABHAT KUMAR
Member (Technical)

Sd/-

JUSTICE V.G. BISHT
Member (Judicial)