

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1



ITEM No.301
C.P.(IB)/303(AHM)2024

Proceedings under Section 7 IBC

IN THE MATTER OF:

Central Bank Of India
V/s
Repute Foods Pvt. Ltd

.....Applicant

.....Respondent

Order delivered on: 07/01/2025

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

-sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I, AHMEDABAD**

CP (IB) No.303/AHM/2024

(An application 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:

Central Bank of India

Having Registered or Head Office at:
Chandermukhi,
Nariman Point,
Mumbai – 400021.

And having Branch Office at:
Patani Building,
MG Road,
Rajkot.

...Applicant/Financial Creditor

VERSUS

M/s. Repute Foods Pvt. Ltd.

CIN No. U15400GJ2011PTC067117

Registered office at:

Survey No.244, Plot No.6,

Opp. Galaxy Building, B/h. Artech Eng. Off.,

Gondal – Rajkot Highway,

Shapar (Veraval), Dist. Rajkot,

Gujarat – 360024.

...Respondent/Corporate Debtor

CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Applicant : Mr. Mrugesh Jani, Adv.
For the Respondent : Ms. Ina Jagad, Proxy Adv.

O R D E R

1. The Present Application is filed on 28.08.2024 by the Applicant- **Central Bank of India** (hereinafter referred to as "**Financial Creditor**") against the Respondent- **M/s. Repute Foods Pvt. Ltd.** (hereinafter referred to as "**Corporate Debtor**") under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "**IB (AAA) Rules, 2016**") for initiation of Corporate Insolvency Resolution Process (**CIRP**), to appoint Interim Resolution Professional (hereinafter referred to as "**IRP**") and declare the moratorium for having defaulted payment of its outstanding dues of



Rs.20,46,31,392/- including interest. The date of default as stated to be 11.08.2023. The application has been affirmed by one Mr. Akash Chandrakant Dave, Chief Manager, Central Bank of India, Rajkot Branch.

2. Perusal of Part – III of Form – 1 reveals that the Applicant has names one Mr. Chirag Rajendrakumar Shah, having IBBI Registration No. IBBI/IPA-001/IP-P01169/2018-19/11837 having AFA validity upto 31.05.2025, who has given his consent in Form – 2, which is annexed at Annexure – A to the application.
3. A perusal of the Part – IV indicates that the Applicant has granted the following debt to the Respondent:
 - (1) Cash Credit of Rs. 13.50 Crores
 - (2) Term Loan (for construction) of Rs. 2.80 Crores
 - (3) Term Loan (for Plant & Machinery) of Rs. 2.80 Crores
 - (4) Cent GECL of Rs. 1.98 Crores
 - (5) Cent GECL 1.0 (Extension) of Rs. 99.50 Lacs



4. As regards the disbursement, it is stated that the cash-credit facilities were first disbursed on 04.04.2014, the term loan was first disbursed on 20.10.2021, GECL loans were disbursed on 06.06.2020 and then on 01.02.2022.
5. The Applicant has claimed a sum of Rs. 20,46,31,392/-, computation for which is attached at Annexure – B. The date of default is mentioned as 11.08.2023. The Applicant has attached various certificates from NeSL from page-29 to page-64 of the application. Perusal of the same reveals that the NeSL record of default i.e. Form – D is in authenticated stage and the authentication was completed on 18.02.2024.
6. A perusal of the Part– V reveals that the Applicant is holding the following securities of the Corporate Debtor as security.

(A) Property belongs to REPUTE FOODS P. LTD.

Land admeasuring 2126.64 sq. mtrs. of Plot No. 6 of Revenue Survey No. 244 paiki of village Shaper (Veraval), Taluka Kotada Sangani, Dist. Rajkot in the state of Gujarat, with the building thereon and bounded as under:

North: Adjoining Plot No. 7,



South: Waste Land,

East: Property of Adjoining Survey No. 244 paiki,

West: 49.52 mtrs. Internal Road.

(ESTIMATED VALUE RS. 5,20,00,000/-)

(B) Property belongs to REPUTE FOODS P. LTD.

Open Land admeasuring 836.25 sq. mtrs. of Plot No. 7 of Revenue Survey No. 244 paiki of village Shaper (Veraval), Taluka Kotada Sangani, Dist. Rajkot in the state of Gujarat, with the building thereon and bounded as under:

North: Land of Survey No. 244,

South: Road,

East: Plot No. 8,

West: Plot No. 6.

(ESTIMATED VALUE 2,10,00,000/-)

Besides above, there are certain other securities provided by the other Guarantors.

7. The Applicant relies upon the following documents:

a) Sanction Letter Dated 17.12.2013



- b) D.P. Note for Rs. 1,80,00,000/- duly signed and executed by the Director of the Company and guarantors dated 17.12.2013
- c) Letter of waiver for Rs. 1,80,00,000/- duly signed and executed by the Director of the Company dated 17.12.2013
- d) Promissory note duly signed and executed by the Director of the Company dated 17.12.2013
- e) Articles of agreement duly signed and executed by the Director of the Company dated 17.12.2013
- f) General irrevocable power of attorney duly signed and executed by the Director of the Company dated 17.12.2013
- g) Agreement of Hypothecation of tangible movable plant machineries, stock, goods & Book Debts duly signed and executed by the Director of the Company dated 17.12.2013
- h) Copy of Mortgage Deed registered with SRO- KOS at Sr. No. 2011 Dated 17.12.2013
- i) Copy of sanction letter: CC revised sanction from 17 cr. to 13.50 Cr.

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- j) Sanction Letter Dated 01.11.2015
- k) D.P. Note for Rs. 4,00,00,000/- duly signed and executed by the Director of the Company dated 07.11.2015
- l) Letter of waiver for Rs. 4,00,00,000/- duly signed and executed by the Director of the Company dated 07.11.2015
- m) Articles of Agreement duly signed and executed by the Director of the Company dated 07.11.2015
- n) Documents for Term Loans Granted against fixed assets duly signed and executed by the Director of the Company dated 07.11.2015
- o) Declaration duly signed and executed by the Director of the Company dated 07.11.2015
- p) Declaration-cum-undertaking duly signed and executed by the Director of the Company dated 07.11.2015
- q) Supplementary Agreement duly signed and executed by the Director of the Company dated 07.11.2015
- r) Agreement of supplemental Deed of Hypothecation of goods for increase in limit/facility duly signed and



executed by the Director of the Company dated
07.11.2015

- s) Letter of hypothecation duly signed and executed by the Director of the Company dated 07.11.2015
- t) Letter of Hypothecation-Book Debts-loans duly signed and executed by the Director of the Company dated 07.11.2015
- u) Copy of Mortgage Deed registered with SRO- KOS at Sr. No. 2582 Dated 07.11.2015
- v) Sanction Letter Dated 30.03.2017
- w) Supplemental Deed of Hypothecation duly signed and executed by the Director of the Company dated 03.04.2017
- x) letter of Hypo.-book debts-loans duly signed and executed by the Director of the Company dated 03.04.2017
- y) Copy of Mortgage Deed registered with SRO- KOS at Sr. No. 723 Dated 03.04.2017
- z) Sanction Letter Dated 07.09.2018



- aa) D.P. Note for Rs. 10,00,00,000/- duly signed and executed by the Director of the Company dated 12.09.2018
- bb) D.P. Note for Rs. 10,00,00,000/- duly signed and executed by the Director of the Company dated 12.09.2018
- cc) Letter of waiver Rs. 10,00,00,000/- duly signed and executed by the Director of the Company dated 12.09.2018
- dd) Supplementary Agreement for Rs. 10,00,00,000/- duly signed and executed by the Director of the Company dated 12.09.2018
- ee) Supplemental Deed of Hypothecation duly signed and executed by the Director of the Company dated 12.09.2018
- ff) Letter of hypothecation-book debts-loans duly signed and executed by the Director of the Company dated 12.09.2018
- gg) Board Resolution of M/s REPUTE FOODS F. LTD. dated 07.05.2018

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- hh) Board Resolution of M/s REPUTE FOODS P. LTD.
dated 12.09.2018
- ii) Sanction Letter Dated 01.06.2020
- jj) Letter dated 26.05.2020 requesting the bank to
increase cash credit facility
- kk) WCTL duly signed and executed by the Director of
the Company dated 04.06.2020
- ll) Sanction Letter Dated 25.06.2021 (for release of
REPUTE POLYMERS P. LTD.)
- mm) Sanction Letter 14.10.2021
- nn) Document for Term loans Granted against fixed
assets duly signed and executed by the Director of
the Company dated 18.10.2021
- oo) Document for Term loans Granted against fixed
assets duly signed and executed by the Director of
the Company dated 18.10.2021
- pp) Letter of Hypothecation (Rs. 4.10 Cr.) duly signed
and executed by the Director of the Company dated
16.10.2021



- qq) Letter of Hypothecation (Rs. 3.76 Cr.) duly signed and executed by the Director of the Company dated 16.10.2021
- rr) Copy of Mortgage Deed registered with SRO- KOS at Sr. No. 4012 Dated 16.10.2021
- ss) Sanction Letter Dated 05.05.2022
- tt) Letter of continuity duly signed and executed by the company dated 05.05.2022
- uu) Supplementary Agreement duly signed and executed by the company dated 05.05.2022
- vv) Letter of hypothecation book debts-loans duly signed by the company dated 05.05.2022
- ww) Agreement of hypothecation to secure demand cash credit against goods duly signed and executed by the company dated 05.05.2022
- xx) Copy of Mortgage Deed registered with SRO- KOS at Sr. No. 3495 Dated 14.07.2022
- yy) Notice of 13(2) of SARFAESI Act Dated 14.08.2023.
- zz) Legal notice issued by the advocate on behalf of bank dated 28.02.2024.
- aaa) Extract of CERSARSI details



bbb) Interest certificate issued by the Bank.

ccc) POA of Bank Manager authorizing to make affidavit

8. The matter was first listed before this Bench on 09.10.2024, where notice was issued to the Respondent with directions to file reply within 07 days from the date of receipt of the notice. As per the Affidavit of Service filed by the Applicant, notice was duly served upon the Respondent on 22.10.2024. Ld. Counsel Mr. Mohit Gupta appeared on 25.11.2024 and sought extension to file reply within 07 days, which was allowed subject to deposit of cost of Rs.5000/- in the Prime Minister's National Relief Fund.
9. The matter was again listed on 06.12.2024. The Corporate Debtor e-filed the reply. But the physical copy was not filed nor any proof of payment of cost was produced before this Tribunal. Ld. Counsel for the Respondent undertook to file the proof of the same.
10. The case was again listed on 03.01.2025 where the Proxy Counsel appeared for Respondent and only sought adjournment. There was no proof of payment of cost of Rs.5000/- levied on the Respondent vide order dated



25.11.2024. In view of same, this Tribunal vide order dated 03.01.2025 decided as follows:

“Again no proof of deposit of costs is placed either in the E-form on DMS Portal nor in physical form.

Since, the respondent is in constant disobedience of the orders of this Tribunal and has not placed any proof for deposit of cost of Rs.5,000/- levied on the respondent on 25.11.2024. Further, the order dated 06.12.2024 erroneously record that the cost of Rs.25,000/-. However, it also records that no proof of payment of costs is placed as the respondent is in constant disobedience of the order. Therefore, reply filed by the Respondent is not taken into consideration and rejected accordingly. Further, right to file reply is treated closed.

We have heard the learned Counsel for the Applicant as well as learned Proxy Counsel for the Respondent and perused the record.

Reserved for the order.”

11. We have heard the Ld. Counsel for the Applicant as well as the Ld. Proxy Counsel for the Respondent.



12. Ld. Counsel for the Applicant has proved that the Applicant Bank has disbursed various facilities on various dates to the Corporate Debtor.
13. The amount claimed and defaulted is Rs. 20,46,31,392/-. The Applicant has placed the record of default being Form-D from page-29 to page-64 of the application issued by NeSL and a perusal of the same reveals that the record of default are in authenticated stage.
14. The date of default is mentioned as 11.08.2023. The present petition was filed on 14.08.2024 and is filed within the limitation period.
15. The Hon'ble Supreme Court in the matter of ***Innoventive Industries Limited v. ICICI Bank Limited***, where it has discussed extensively the scope of the Adjudicating authority under section 7 of the IBC is limited to assessing the records provided by the financial creditor to satisfy itself that the default has occurred.

28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor – it need not be a debt owed to the



applicant financial creditor. Under Section 7(2), an application is to be made under sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the application is made by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in part III, particulars of the financial debt in part IV and documents, records and evidence of default in part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the “debt”, which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under sub-section (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.


30. On the other hand, as we have seen, in the case

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of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.

16. The Applicant has proved that there is debt which is in default and amount claimed is more than Rs. 01 Crore.
17. Hence, the application filed under section 7 of the Insolvency and Bankruptcy Code, 2016 for initiation of Corporate Insolvency Resolution Process (CIRP) against the Respondent/Corporate Debtor deserves to be admitted.
18. Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under:-
 - (i) The Respondent/Corporate Debtor **M/s. Repute Foods Pvt. Ltd.** is **admitted** in Corporate Insolvency Resolution Process (**CIRP**) under section 7 of the IBC, 2016.
 - (ii) As a consequence thereof, moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is



declared for prohibiting all of the following in terms of Section 14(1) of the IBC, 2016.

- a. *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;*
 - b. *Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;*
 - c. *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 Act, 2002;*
 - d. *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.*
 - e. *The provisions of sub-Section (1) shall however, not apply to such transactions, agreements as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a Corporate Debtor.*
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- (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. The corporate debtor to provide effective assistance to the IRP as and when he takes charge of the assets and management of the corporate debtor.
- (v) As proposed by the Financial Creditor, we appoint **Mr. Chirag Rajendrakumar Shah** having **Registration No. IBBI/IPA-001/IP-P01169/2018-19/11837** 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-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

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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 Financial 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 etc. till the CoC decides about his fees/expenses.
- (xii) The Registry is directed to communicate this order to the Financial 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.

19. Accordingly, this Application **CP(IB)/303/AHM/2024** is hereby admitted. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

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SAMEER KAKAR
MEMBER (TECHNICAL)

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SHAMMI KHAN
MEMBER (JUDICIAL)

SDP