

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

ITEM No.306
C.P. (IB)/65(AHM)/2022

Order under Section 7 IBC

IN THE MATTER OF:

Raj Radhe Finance Ltd.

....Applicant

Vs.

Kingston Paptech Pvt. Ltd.

....Respondent

Order delivered on: 07/03/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

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

PRESENT:

For the Applicant :

For the Respondent :

ORDER

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
AHMEDABAD BENCH
COURT-I**

CP (IB) No.65/AHM/2022

(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:

Raj Radhe Finance Ltd.

Registered office at:
47, Shyamal Row House 3/B,
Nr. Shyamal Cross Roads, Satellite,
Ahmedabad, Gujarat-380015

...Applicant / Financial Creditor

VERSUS

Kingston Paptech Private Limited,

Having its registered office at:
A/904, 9th Floor, Solitaire Corporate Park,
Nr. YMCA Club, S.G. Highway,
Ahmedabad, Gujarat-380054.

...Respondent/ Corporate Debtor

Order Pronounced On: 07.03.2024

CORAM:

**SH. SHAMMI KHAN, MEMBER (JUDICIAL)
SH. SAMEER KAKAR, MEMBER (TECHNICAL)**

APPEARANCE:

For the Applicant/FC : Ms. Noopur K. Dalal, Advocate
For the Respondent/CD : Ex. parte

ORDER

1. The Present Application was filed on 10.02.2022 initially by the State Bank of India (hereinafter referred to as **“the Applicant/Financial Creditor”**) against the Respondent Kingston Paptech Private Limited (hereinafter referred to as **“the Respondent/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 for initiation of Corporate Insolvency Resolution Process (**CIRP**) against the Respondent/Corporate Debtor, to appoint Interim Resolution Professional (hereinafter referred to as **“IRP”**) and declare the moratorium for having defaulted payment of its outstanding dues **Rs.50,44,56,716.35ps.** including interest.

2. Perusal of Part-I of the Form-1 reveals that the Applicant is a company incorporated under the provisions of the Companies Act, 1956 with CIN No.U67120GJ1985PLC007576. The registered office of the Applicant is situated at 47, Shayamal Row House 3/B, Nr. Shayamal Cross Roads, Satellite, Ahmedabad, Gujarat-380015.

3. Perusal of Part-II of the Form-1 reveals that the Respondent/Corporate Debtor is one Kingston Paptech Private Limited having CIN No. 21000GJ2008PTC055648. The Respondent/Corporate Debtor was incorporated on 11.12.2008 and having registered office at A/904, 9th Floor, Solitaire Corporate Park, Nr. YMCA Club, S.G. Highway, Ahmedabad, Gujarat-380054.
4. Initially, vide order dated 14.03.2022, a notice was issued to the Respondent with directions to the applicant to serve the respondent by post as well as by email and to file proof of service within two weeks. Service was affected upon the Respondent but no one appeared on behalf of the Respondent.
5. However, on the next date of hearing, on 04.05.2022, Ld. Counsel for the applicant (State Bank of India) submitted that the debt has been assigned and wishes to make certain amendments in the title.
6. Subsequently, an I.A. No.435 of 22 was filed by the present Applicant assignee M/s. Raj Radhe Finance Limited for substitution in place of State Bank of India on the ground that the debt has been assigned in their filing by the original

Financial Creditor/State Bank of India. The Petition was accordingly disposed of vide order dated 29.06.2022.

7. Later on, a Restoration Application no. 01 of 2023 was filed for the restoration of CP No.65 of 2022, which was allowed vide order dated 31.07.2023. An I.A. No.435 of 2022 was also allowed vide even dated order, permitting the applicant, M/s. Raj Radhe Finance Limited to make amendments in the main petition with further direction to serve the amended application to the Respondent.
8. On 03.10.2023, a fresh notice was issued to the Respondent/Corporate Debtor after restoration as well as amendments in the main petition. However, the Respondent was served only through paper publication. Despite due fresh service through paper publication, the Respondent neither appeared, nor filed any reply despite the opportunities given by this Tribunal. Hence, vide order dated 29.01.2024, the Respondent was proceeded Ex-Parte.
9. However, on 14.02.2024, the counsel for the Applicant, M/s. Raj Radhe Finance Limited submitted that Ex-Parte-Respondent had approached the Applicant with request for a

settlement and sought two weeks of time to submit the proposal. Hence, the Counsel for the Applicant requested adjournment of the matter. Accordingly, the applicant was directed to file an affidavit for deferment of the proceeding along with copy of written proposal of the Respondent.

10. Thereafter, an affidavit was filed by Ms. Virati D. Shah, the authorized person of the applicant on 17.02.2024 wherein, a letter dated 08.02.2024 of the Respondent was annexed. In the said letter, a reference was made to one letter of the Applicant No. RRFL/AHM/1085/2023-24 dated 08.01.2024 through which OTS was sanctioned by the applicant. The Applicant undertook to place on record the said OTS Sanction Letter within two days of order and the matter was reserved for order.
11. On 21.02.2024, in compliance of order dated 19.02.2024, another affidavit of Ms. Virati D. Shah was filed by the Applicant along with copy of OTS sanction letter dated 08.01.2024(OTS). As per the said OTS, the Applicant/ Financial Creditor approved the OTS for payment of Rs.12.00 Crores to be paid in three (03) installments, out of which, last

installment is to be paid /deposited within three (03) months from the date of OTS.

12. Since the matter has already been settled during the pendency of the present petition vide OTS letter dated 08.01.2024 this petition is rendered infructuous as the debt has been novated and no default or cause survives.
13. Accordingly, this Application **C.P.(IB)/65(AHM)2022** is dismissed as settled out of court.
14. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities. File be consigned to record.

**-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)**

**-Sd-
SHAMMI KHAN
MEMBER (JUDICIAL)**

AT