

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No.301
C.P. (IB)/236(AHM)2023

Proceedings under Section 7 IBC

IN THE MATTER OF:

RAJ RADHE FINANCE LIMITED
VS
L G FIBRE PRIVATE LIMITED

.....**Applicant**

.....**Respondent**

Order delivered on 21/12/2023

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.

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

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CHITRA HANKARE
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD (COURT - II)

CP(IB) No. 236 / NCLT / AHM / 2023

(Filed under Section 7 of the Insolvency & Bankruptcy Code, 2016 r.w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016)

IN THE MATTER BETWEEN

Raj Radhe Finance Limited

... Financial Creditor

Vs.

L G Fibre Private Limited

... Corporate Debtor

Order pronounced on 21.12.2023

Coram:

MRS. CHITRA HANKARE

HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G VENKATA CHALAPATHY

HON'BLE MEMBER (TECHNICAL)

MEMO OF PARTIES

Raj Radhe Finance Limited

47, Shyamal Row House 3/B,
Nr. Shyamal Cross Roads,
Satellite, Ahmedabad-380015

... Financial Creditor

Versus

L G Fibre Private Limited

G-19, Basement, Sarthi Avenue,
B/h. Satelite Police Station,
Satelite Ahmedabad-380015

... Corporate Debtor

Present:

For the Applicant : Mr. Monaal Davawala, Adv.

For the Respondent : Mr. Jaimin Dave, Adv. a.w Ms. Hirwa Dave

JUDGEMENT

1. Under consideration, is an application filed by the Financial Creditor viz. Raj Radhe Finance Limited under Section 7 of Insolvency and Bankruptcy Code 2016 (hereinafter referred to as "IBC, 2016") against the Corporate Debtor viz. L G Fibre Private Limited seeking thereof to initiate Corporate Insolvency Resolution Process (CIRP) as against the Corporate Debtor.

2. In Part I of the application it is stated that the Financial Creditor is incorporated on 17.01.1985. In Part II of the application it is stated that the Corporate Debtor was incorporated on 21.02.2013 with the Authorised Share capital of Rs.4,00,00,000/- (Rupees Four Crores only) and the paid up share capital of Rs.4,00,00,000/- (Rupees Four Crores only).
3. In Part III of the Application the Financial Creditor has proposed a name of one Mr. Rahul N. Shah as the Interim Resolution Professional, who has also filed his written consent in Form 2.
4. In Part IV of the application the default amount is stated to be Rs.9,94,92,860.57/- (Rupees Nine Crore Ninety-Four Lakhs Ninety-Two Thousand Eight Hundred Sixty and Fifty-Seven Paise Only) and date of default is mentioned as 31.05.2018.
5. We have heard the Ld. Counsel appearing for the Applicant and the Respondent and perused the averments made in the application and reply filed on behalf of the party.
6. The Hon'ble Supreme Court in the case **Innoventive Industries Limited -Vs- ICICI Bank & Anr., (2018) 1 SCC**

407 has held that Tribunal is required to see whether there is a 'debt' which is due and payable under the law and whether the default is more than Rupees One Lakh (now Rupees One Crore). The moment where default amount exceeds rupees one crore, this Tribunal is required to initiate a Corporate Insolvency Resolution Process as against the Corporate Debtor.

7. In the present case the material on record clearly goes to show that CD had availed various credit facilities from Bank of India and has committed default in repayment of the outstanding loan amount. The stated loan was assigned by way of an agreement dated 21.10.2021 with the applicant who is a NBFC (registered with the RBI) whereby all its rights, title and interest in the Financing Documents and underlying Security Interests, pledges and/or guarantees and/or mortgages in respect of such loans on "As is where is and without recourse basis against the Assignor." The Corporate Debtor has neither denied the existence of debt and nor the factum of default.
8. Since, the Financial Creditor has proved that there is a debt. The default is more than Rs.1 crore which satisfies the

mandate under Section 7 of the Insolvency & Bankruptcy Code, 2016. We therefore admit this application and order for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor.

9. The Financial Creditor has proposed the name of Mr. Rahul N. Shah, having Reg. No. IBBI/IPA-001/IP-P-02170/2020-2021/13367; Email ID: carahulnshah@gmail.com as the Interim Resolution Professional (IRP) who has also filed his consent in Form - 2 and also upon verification from the IBBI website, it is seen that the said person holds valid Authorization for Assignment till 06.02.2024. Mr. Rahul N. Shah, is appointed as the IRP is directed to take charge of the Corporate Debtor's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the IBC, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

10. As a consequence of the Application being admitted in terms of Section 7 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;
- a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent in respect of its property including any action under the Securitization 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 respondent.

11. However, during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

(3) The provisions of sub-section (1) shall not apply to -

(a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority; a surety in a contract of guarantee to a corporate debtor.

- (b) a surety in a contract of guarantee to a corporate debtor.
12. The duration of period of moratorium shall be as provided in Section 14(4) of the Code.
 13. The IRP is directed to take charge of the Corporate Debtor's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the IBC, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
 14. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15, 17, 18 of the IBC, 2016 and file his report within 30 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.
 15. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors of the Corporate

Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 of IBC, 2016 for the purpose of discharging his functions under Section 20 of IBC, 2016.

16. The IRP shall take custody of the records of information relating to the assets, finances and operations of the Corporate Debtor referred in clause (a) of section 18 and such other information required under regulation 36; and also the assets recorded in the balance sheet of the Corporate Debtor or in any other records referred in clause (f) of section 18 of IBC, 2016 and the personnel of the Corporate Debtor, its promoters or any other person associated with the management of the Corporate Debtor shall provide to the IRP, the list of assets in terms of Regulation 3A of the IBBI (Insolvency Resolution Process of Corporate Persons) Regulations, 2016.
17. The RP shall further, constitute the CoC in terms of Sec 21 of the IBC 2016 after receipt of claims as specified in Sec 15 of the Act. The IRP shall conduct the Corporate Insolvency Resolution Process in respect of the Corporate Debtor as

stipulated under Chapter VIII of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

18. Based on the above terms, the Petition stands admitted in terms of Section 7 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Financial Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.
19. Hence the tribunal is passing the following order:

ORDER

CP(IB) No. 236 of 2023 is admitted.

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DR. V. G. VENKATA CHALAPATHY

CHITRA HANKARE

MEMBER (TECHNICAL)

MEMBER (JUDICIAL)