

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**COURT - 2**



ITEM No.303  
TP/02(AHM)2023  
(CP 156 of 2014)

**Orders under Section 7 IBC**

**IN THE MATTER OF:**

Star Orechem International Pvt Ltd  
V/s  
Megha Insulations Pvt Ltd

.....Applicant

.....Respondent

**Order delivered on: 24/10/2024**

**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)**

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**



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

**TP/02(AHM)2023  
CP 156 OF 2014**

[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:**

**Star Orechem Interntional Pvt. Ltd.**

Plot No. 3A, Nawab Area,  
Opp. Law College, Behind Surbhi Girls Hostel,  
Tilak Nagar,  
Nagpur, Maharashtra 440010

**...Applicant/Financial Creditor**

Versus

**Megha Insulations Pvt. Ltd.**

A-11/6th Floor,  
Dada Saheb Flats, Kalanala,  
Bhavnagar, Gujarat 364001

**...Respondent/Corporate Debtor**

**Order pronounced on 24.10.2024**

**Coram:**

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

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



**Present:**

For the Applicant : Ms. Anushree Soni, Adv

For the Respondent : Ex- Parte

**JUDGEMENT**

1. This petition is filed on 30.09.2022 by the Financial Creditor Star Orechem International Pvt. Ltd. (hereinafter referred to as "Applicant/Financial Creditor") against the Corporate Debtor Megha Insulations Pvt. Ltd. (hereinafter referred to as "Respondent") 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 initiating the Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") against the Respondent, for a total financial default of Rs.2,65,00,000/- along with interest @24% p.a.. The date of default as stated by the financial creditor is 31.08.2013.

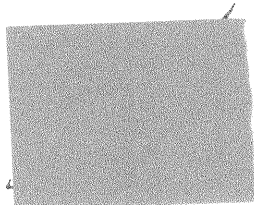
2. On perusal of the Form-1, it reveals that the Applicant is a Company incorporated on 25.05.2001 under the provisions of the Companies Act, 1956 having CIN-U74110MH2001PTC132122 engaged in the business of




Trading and has Distributorship business and the Corporate Debtor is a company incorporated on 24.10.1994 having CIN-U74999GJ1994PTC023386 and is engaged in the business of manufacturing of Calcium Silicate Insulation bricks/blocks.

3. The averments made by the Applicant in its application are summarized hereunder:-


- a) That the Corporate Debtor sought debt and/or equity to release the mortgage properties, pay statutory taxes and dues and for meeting working capital demands. In response the applicant advanced an amount of Rs.75,00,000/- during the year 2011-2012 and the same was repaid by the respondent in January, 2012.
- b) In May-June, 2012, the corporate debtor again requested for the disbursement of Rs.65,00,000/- to release its sister concern, Mona Chemicals which was acknowledged by the Corporate Debtor vide e-mail dated 16.06.2012 and also deposited its titled documents as security for the additional loan availed by the Corporate Debtor.
- c) It further states that a total amount of Rs.1,30,00,000/- advanced to the Corporate Debtor which is reflected in the





balance sheet of the respondent/Corporate Debtor of financial year 2012-2013 as on 14.08.2012.


- d) In September 2012 the Corporate Debtor again availed the loan amounting Rs.50,00,000/- for the settlement of the Sales Tax dues and bank dues and the same is admitted by the Corporate Debtor vide email dated 17.10.2012. The applicant further disbursed the loan of Rs.30,00,000/- and Rs.20,00,000/- to the Corporate Debtor on 18.10.2012 and 21.11.2012 respectively, therefore by 21.11.2012 a total amount of Rs.2,65,00,000/- was disbursed to the Corporate Debtor on loan.
- e) It is submitted by the Applicant that the corporate debtor agreed to repay the aforesaid amount along with the interest @24% p.a..
- f) It is further submitted by the Applicant that the Respondent issued 2 cheques amounting Rs.50,00,000/- and Rs.75,00,000/- on 03.10.2012 pursuant to the loan. However, one of the cheques amounting Rs.50,00,000/- was dishonoured and subsequently the applicant initiated criminal proceedings against the corporate debtor and the same is pending. The Corporate Debtor never denied its



liability to pay, however, despite several reminders and notice, failed to make the payments citing various reasons. Consequently the applicant issued notice dated 18.09.2013 under section 434 of the Companies Act, 1956 to pay the amount due along with the interest @ 24% p.a..

g) It further stated that the Respondent mortgaged its partnership firm and sister concern M/s Mona chemicals, as a security. Corporate debtor has also executed demand promissory note dated 27.09.2012 for Rs.1,25,00,000/- to be paid @20% p.a. and a pledge agreement in favour of the applicant was also executed by the respondent to pledge 5,00,000 shares as a security for the loan of Rs.1,25,00,000/-. On 13.12.2013, Laxmi Vilas Bank had taken possession of the properties of the Corporate Debtor under section 13(4) of the SARFAESI Act.

h) The applicant filed the company petition on 04.06.2014 under section 433, 434 and 439 of the Companies Act, 1956 r/w Rule 95 of Companies (Court) Rules, 1956 before the Hon'ble High Court of Gujarat. The High Court admitted the said matter vide order dated 04.07.2018. Thereafter, vide order dated 12.04.2022, the High Court



transferred the aforementioned matter to the NCLT, Ahmedabad bench.

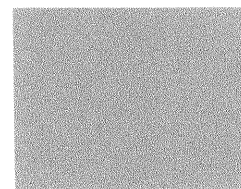
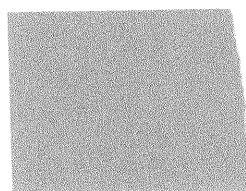
i) The applicant further submitted that the total principle amount due and payable by the respondent is Rs.2,65,00,000/- along with the interest amount Rs.9,56,86,733/- @24% p.a. from due date, thus, the total receivable amount as on 31.07.2022 is Rs.12,21,86,733/- from the date of default. The date of default is stated to be 31.08.2013.

4. The financial creditor has proposed the name of Mr. Rathin Amishbhai Majmudar having Registration No. IBBI/IPA-001/IP-P-02576/2021-2022/13928, to act as Interim Resolution Professional (IRP). The proposed IRP has given its written consent and the same is taken on record.

5. The financial creditor served notice to the Corporate Debtor through email and published the notice in English and vernacular language newspapers. However, the Corporate Debtor chose not to appear before this Adjudicating Authority. Therefore, vide order dated 26.06.2024 this Adjudicating Authority decided to proceed ex-parte against the Corporate Debtor.



6. We heard learned counsel and perused the documents available on record. It is noted that the applicant Star Orechem International Pvt. Ltd. may by virtue of its object mentioned under clause B(10) of its Memorandum of Association, "to form, constitute, float lend money to assist and control similar companies, associations or undertaking whatsoever.". It is further noted that the Corporate Debtor availed various credit facilities from the financial creditor which were sanctioned and disbursed on various dates from 16.06.2012 to 21.11.2012 as per the bank certificate attached by the applicant amounting Rs.2,65,00,000/-. It is further noted that respondent vide email dated 20.08.2012 enclosed its liabilities towards the financial creditor in the balance sheet for the FY 2012-2013 as on 14.08.2012 amounting Rs.1,30,00,000/-. On 27.09.2012 the respondent executed mortgage deed of the M/s Mona chemicals against the loan amounting Rs.80,00,000/-, the pledge agreement of 5,00,000 shares against the sanctioned loan of Rs.1,25,00,000/- and issued a promissory note to repay the loan amounting Rs.1,25,00,000/- along with interest @20% p.a.. Subsequently the corporate debtor issued two cheques vide





letter dated 03.10.2012 amounting Rs.50,00,000/- and Rs.75,00,000/-, one of which amounting Rs.50,00,000/- was dishonoured and the applicant initiated the criminal proceeding against the corporate debtor. The respondent vide email dated 17.10.2012 acknowledged the debt of Rs.1,00,00,000/- as against the loan of Rs.1,25,00,000/- agreed to be provided by the financial creditor. It is pertinent to note that the loan disbursed by the applicant on 18.10.2012 and 21.11.2012 of Rs.30,00,000/- and Rs.20,00,000/- respectively are included in the debt acknowledged by the corporate debtor via its email dated 17.10.2012. It is also noted that the Laxmi Vilas Bank has taken possession of the properties of the respondent under section 13(4) of the SARFAESI Act. The respondent despite various emails and letters failed to make the payments and had never denied their liabilities to pay the dues. Subsequently, the financial creditor issued demand notice under section 434 of the Companies Act, 1956. Thereafter, the applicant filed a Company Petition under section 433, 434 and 439 of the Companies Act, 1956 and the same was admitted by the Hon'ble High Court of Gujarat vide order dated 04.07.2018.



The Hon'ble High Court transferred the said petition to the NCLT, Ahmedabad vide order dated 12.04.2022.

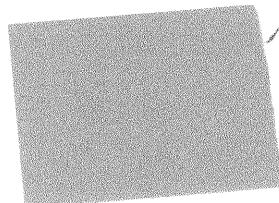
7. As per the above observations, it is established that loans were availed by the corporate debtor from the financial creditor, and the corporate debtor defaulted to repay the dues. The date of default stated by the financial creditor is 31.08.2013 as the respondent failed to reply to the notice and failed to repay the amount dues. Moreover, the Corporate Debtor, through balance confirmation emails dated 16.06.2012, 20.08.2012 and 17.10.2012, acknowledged its liability for the dues payable to the financial creditor. The Hon'ble High Court vide order dated 12.04.2022 transferred the company petition 156 of 2014 filed by the applicant to the NCLT, Ahmedabad and stated that *"after the order of admission no further orders were passed with regard to the winding up of the company or advertisement of the petition nor the court has appointed the provisional Liquidator."* and stated to proceed with the matter from the stage at which it is transferred. It is being observed that since the Hon'ble High Court had not appointed the provisional Liquidator with regard to winding up of the corporate debtor company, this



Tribunal may proceed with the CIRP. The Applicant/Financial Creditor is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. The outstanding financial debt is of more than the threshold limit as per section 4 of the Code and is well within the limitation for filing the present application. Accordingly, we inclined to admit the application filed under section 7 of the Insolvency and Bankruptcy Code, 2016 for initiation of corporate insolvency resolution process against the Corporate Debtor. In light of the above facts and circumstances, we pass the following orders:

### **ORDER**

- I. The present application i.e., TP 2 of 2023 is allowed.
- II. The Corporate Debtor Megha Insolutions Pvt. Ltd. is admitted in the Corporate Insolvency Resolution Process under section 7 of IBC, 2016.
- III. As a consequence, thereof, the moratorium under section 14 of the IBC, 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.*




- IV. Further, litigation or any application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to the pronouncement of this order such proceedings are expected to be dealt with in accordance with law i.e. section 14 and section 238 of the Code.
- V. The 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 Bench approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under section 33, as the case may be.
- VI. 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.
- VII. As proposed by the Financial Creditor, we appoint Mr. Rathin Amishbhai Majmudar having Registration No. IBBI/IPA-001/IP-P-02576/2021-2022/13928, under



section 13 (1)(c) of the Code, to act as Interim Resolution Professional (IRP) subject to the condition that no disciplinary proceedings are pending against him. He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

VIII. The IRP so appointed shall make a public announcement of the Corporate Insolvency Resolution Process be made immediately as specified under section 13 of the Code and by calling for submissions of claims under section 15 of the Code.

IX. 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.

- X. 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.
- XI. The IRP shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- XII. We direct the financial creditor to pay IRP a sum of Rs.2,00,000/- as fees and expenses till the COC decides about his fees/expenses.
- XIII. The Registry is directed to communicate this order to the financial creditor, corporate debtor, and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. A copy of the order may be communicated



to the IBBI for their record and for getting the status of the CD updated in the MCA portal.

XIV. The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST (centre), State Trade Tax, Provident Fund etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/employees associations so that they are informed timely of the initiation of CIRP against the Corporate Debtor timely.

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

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

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**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**

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