

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



ITEM No.301  
C.P. (IB)/138(AHM)2024

**Order under Section 7 IBC**

**IN THE MATTER OF:**

Rajradhe Finance Limited  
V/s  
Dharti Cotton Private Limited

.....Applicant

.....Respondent

**Order delivered on: 25/10/2024**

**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)**

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

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

**CP(IB) No. 138 / NCLT / AHM / 2024**

(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 Limited**

...Petitioner/Operational Creditor

Versus

**Dharti Cotton Private Limited**

...Respondent/Corporate Debtor

**Order pronounced on 25.10.2024**

**Coram:**

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

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

**MEMO OF PARTIES**

**Raj Radhe Finance Ltd.**

(CIN: U67120GJ1985PLC007576)

Having its registered office at:

47, Shyamal Row House 3/B,

Nr. Shyamal Cross Raods, Satellite,

Ahmedabad, Gujarat-380015

...Petitioner

Versus

**Dharti Cotton Private Ltd.**

(CIN No: U17111GJ2009PTC057242)

Having its Registered Office at:  
S. No. 190/2, Atkot Bhavnagar  
Highway, Vil. Jangvad, Opp,  
Sumbham Ginning and Pressing Pvt. Ltd  
Jasdan, Rajkot, GJ360040 In

...Respondent

**Present:**

For the Applicant : Ms. Noopur Dalal, Adv.


For the Respondent : Mr. Shivam Parikh, Adv.

**JUDGEMENT**

1. The applicant, being the financial creditor has filed this application under Sec 7 of IBC 2016. It is stated that by way of an assignment of debt, the applicant being a registered Non-Banking Financial Company took over the debt from the State Bank of India (original creditor) of the corporate debtor M/s Dharti Cotton Private Limited. The corporate debtor is stated to have not paid an amount of Rs.15,81,04,090.92 ps (Rupees Fifteen Crore Eighty-One Lakhs Four Thousand Ninety and Ninety-Two paise) including interest till 29.02.2024.
2. The applicant submits that the corporate debtor approached the SBI Jasdan, Rajkot Branch, Gujarat for certain credit facilities. The SBI assigned the account of the corporate




debtor to Raj Radhe Finance Limited for the loan disbursed with all rights and title and interest and underlying security vide assignment agreement dated 06.10.2022 which was registered on the same date. It is stated that the respondent CD was sanctioned various credit facilities by way of Cash Credit amounting to Rs.12 crores on 15.03.2019 and Book Debt of Rs.25 lakhs. The borrower was already having arrangements with the SBI and had executed various documents on 05.11.2009 including the hypothecation of loan & Guarantee agreement on 10.11.2009. It is also submitted that these facilities were extended including the documents renewed on various dates in between till the last revival letter on 15.04.2019. A demand notice under Sec 13(2) of the SARFESI Act was issued on 30.11.2019 after the account became an NPA on 28.11.2019 and a recall notice was issued on 23.06.2020 by SBI. Subsequently, it is stated that a One Time Settlement Offer letter was submitted by the corporate debtor to SBI on 31.03.2022 wherein the debt was acknowledged based on the amount of debt filed before the Hon'ble Debt Recovery Tribunal in OA.558/2020 under Sec 19 of RDBA, 1993 for an amount of



Rs.13,36,00,000/- proposing to pay in certain instalments, provided no further action is initiated by the SBI.

3. Subsequently, the SBI assigned the debt in favour of the applicant vide agreement deed dated 06.10.2022. A copy of the assignment deed assigning the stated debt by SBI in favour of the applicant, mentioning the details of the debt in Schedule 1, registered duly by the Sub Registrar of Jasdan is enclosed to this application. The applicant has produced a modification of charge dated 19.10.2022 created by the corporate debtor in favour of SBI modified in the name of the applicant. There is also an acknowledgement of debt dated 07.04.2023 submitted by the applicant which is signed by one of the directors on behalf of all the directors and guarantors for an amount of Rs.14,79,92,17245 ps. The applicant further submitted a clarification affidavit dated 29.08.2024 that in the OA filed before the DRT, SBI has substituted the name of the Petitioner to be of the applicant which was allowed vide orders dated 23.10.2022.
4. The Respondent No.1 by affidavit dated 21.06.2024 accepted the debt due to the applicant without dispute, stating that at this stage they are facing a financial crunch



to repay. He has also filed the necessary financial statements sought for the financial year 2021-22.

5. Based on the documents and submissions, we observe the following points before passing the necessary order:

- a) The debt is acquired by the applicant from another financial creditor, but due process has been undertaken including acknowledgement of the debt after the acquisition, necessary charge created in the records and the application filed is thereby observed to be within the period of limitation.
- b) The corporate debtor has also accepted the debt and filed the necessary affidavit, stating that he is not in a position to repay the debt to the applicant due to financial difficulties.

6. In view of the same, we pass the following orders:

**ORDER**


- I. The corporate debtor – Dharti Cotton Private Limited, is admitted in CIRP under Section 7 of the IBC, 2016.
- II. 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 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 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.




- III. The order of moratorium under section 14 of the code shall have 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 Corporate Debtor under Section 33 of the IBC, 2016, as the case may be.
- IV. It is further directed that the supply of essential goods/services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period as per provisions of Section 14(2) to section 14(3) of IBC, 2016.
- V. As proposed by the Financial Creditor, we appoint Shah Rahul Nareshbhai, having Registration No. IBBI/IPA-001/IP-P-02170/2020-2021/13367 email-carahulnshah@gmail.com, under section 13(1)(c) of the Code to act as Interim Resolution Professional ("IRP") of Corporate Debtor, subject to the condition that no disciplinary proceedings are pending against him. He shall conduct the Corporate Insolvency Resolution Process as per the IBC, 2016 r.w. Regulations made thereunder. Specific




consent of the IRP in Form 2 along with disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 is there on record.

- VI. The IRP shall perform all his functions contemplated, inter-alia, by sections 17, 18, 20 & 21 of the IBC, 2016. It is further made clear that all personnel connected with the Corporate Debtor, its Promoter or any other person associated with the management of the Corporate Debtor are under legal obligation under section 19 of the IBC, 2016 for extending assistance and co-operation to the IRP. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or co-operate the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- VII. This Adjudicating Authority directs the IRP to make a public announcement of the initiation of CIRP and call for the submission of claims under section 15 as required by section 13(1)(b) of the IBC, 2016.
- VIII. The IRP is expected to take full charge of the Corporate Debtor 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 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.
- X. The IRP shall be under duty to protect and preserve the value of the property of the Corporate Debtor and manage the operations of the Corporate Debtor as a going concern as a part of obligation imposed by Sec.20 of the IBC, 2016.
- XI. The Financial Creditor is directed to pay an advance of Rs.2,00,000/- (Rupees Two Lakh Only) to the IRP 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 a copy of this order to the Financial Creditor, Corporate Debtor and to the IRP and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on the website immediately after



the 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 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.

XIV. 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)**

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

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