

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH -I**

**CP (IB) No. 469/MB/2023**

Under section 7 of the Insolvency and  
Bankruptcy Code, 2016

*In the matter of*

**KAUSAR TEXTILES PRIVATE LIMITED**

**[CIN:U17120MH2009PTC19637]**

27A, Mezzanine Floor, Swadeshi Mill Building,  
Plot No.80/84, J.S.S Road, Opera House,  
Girgaon, Mumbai-400004.

... Financial Creditor /Petitioner

Versus

**Reward Real Estate Company Limited**

**[CIN: U51909MH2004PLC144099]**

1<sup>st</sup> Floor, Kamth Industrial Estate, 396, Veer  
Savarkar Marg, Opp Siddhi Vinayak Temple,  
Prabhadevi-Mumbai-400025.

...Corporate Debtor / Respondent

**Order Delivered on : 05.12.2023**

***Coram:***

Hon'ble Member (Judicial)	:	Hon'ble Member (Technical)
Justice V.G. Bisht, (Retd.)	:	Mr. Prabhat Kumar

***Appearances:***

For the Financial Creditor	:	Mr. Yahya Batatawala, Advocate
For the Corporate Debtor	:	Mr. Amey Nayak, Advocate

**ORDER**

***Per: Justice V.G. Bisht, Member (Judicial)***

1. This is a Company Petition filed under section 7 (“the Petition”) of the Insolvency and Bankruptcy Code, 2016 (IBC) by **Kausar Textile**

**Limited** ("the Financial Creditor"), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **Reward Real Estate Company Limited** ("the Corporate Debtor").

2. The Corporate Debtor is company incorporated on 20.01.2004 under the Companies Act, 1956, with the Registrar of Companies, Maharashtra, Mumbai.

**Facts:**

3. The Financial Creditor submits that Corporate Debtor vide letter dated 04.01.2016 requested that an amount of Rs.15,00,00,000/- (Rupees Fifteen Crore Only) be disbursed in favour of the Corporate Debtor as a loan. The said amount was disbursed, in order to evidence disbursement, the Financial Creditor has placed on record bank statements and ledger statement which are annexed to the Petition.
4. The Financial Creditor has placed on record board resolution authorizing Mr. Awadhesh Kumar Singh, Director to avail the loan from the Financial Creditor.
5. Further, the Corporate Debtor has executed a Demand Promissory Note dated 01.08.2016 whereby the Corporate Debtor has promised to the amount of Rs.15,00,00,000/- (Rupees Fifteen Crore only) along with interest at the rate of 20% p.a., with quarterly rest on maturity. Moreover, the Petitioner has enclosed board Resolution wherein it was

resolved to avail the loan of Rs. 15.00 Crore and Mr. Raman Singh Chauhan, Director of the Corporate Debtor was authorized to act on behalf of the Corporate Debtor company.

6. Since, the Corporate Debtor was unable to make repayments, the Financial Creditor has, vide letters dated 20.07.2021, 25.08.2021 and 28.01.2022, demanded the repayment of the entire outstanding amount.
7. Since, no repayment was forthcoming from the Corporate Debtor, the Financial Creditor sent a recall notice dated 18.07.2022 demanding repayment of the entire amount along with interest and overdue interest.
8. The total amount of debt claimed to be in default along with interest is Rs.49,17,09,900/- (Rupees Forty-Nine Crore Seventeen Lakh Nine Thousand Nine Hundred only). The computation of claim is at page 10 of the Petition. The date of default stated to be in Part-IV of the Petition is 31.07.2021.
9. The Corporate Debtor has acknowledged the liability vide letter dated 31.03.2019 and 31.03.2021. Further, to prove to existence of debt, the Financial Creditor has placed on record NeSL certificate vide additional affidavit dated 01.09.2023 wherein the default amount of Rs.49,17,09,900/- is reflected with the remark authenticated.

10. The defences raised by the Corporate Debtor are summarized hereinbelow:

- a) The Financial Creditor is neither a bank or a financial institution such as NBFC for disbursement of loan to the Corporate Debtor.
- b) The loan documents put forth by the Corporate Debtor are unstamped, hence are unenforceable.
- c) The Petitioner has not filed statement of accounts demonstrating the claim, further the interest/penal interest charged by the Petitioner at an exorbitant rate is illegal.
- d) The Respondent was not afforded a commercial bargain when the loan was availed. Further, it is submitted that the present Petition is solely filed for the purpose of recovery of dues.

**Findings:**

11. Heard Learned Counsels for both sides. Perused the record.
12. The Learned Counsel for Petitioner through his arguments articulated the existence of debt and default which are corroborated from the records annexed to the Petition. It is seen that the amount was disbursed to the Corporate Debtor and the Corporate Debtor has defaulted in repaying the amount. Moreover, the Corporate Debtor

- has, vide letters dated 31.03.2019 and 31.03.2021, categorically acknowledged that the amount is due to the Financial Creditor.
13. The defences raised by the Corporate Debtor are futile and misplaced, only to derail the admission of the Corporate Debtor in CIRP. It is settled law that a Section 7 Petition can be initiated by any person to whom a Financial Debt is owed so long as an amount of Rs. 1.00 crores is proved to be in default. Financial Debt means a debt along with interest, if any, which is disbursed against the consideration for time value of money.
14. The transaction before us is squarely covered within the definition of financial debt, the disbursement of Rs.15,00,00,000/- was at the interest rate of 20% to be compounded quarterly and the repayment of the said amount was fixed along with interest after five years. The board resolution placed at page 13 of the Petition clarifies this fact. It is not disputed that the amount was received by the Corporate Debtor. Therefore, it is explicit that it was financial debt. The aforesaid facts meet with the provisions contained in Section 5(vii) and 5(viii) of the IBC.
15. The Petitioner has placed on record, ledger accounts, bank statements, Nesl certificate and letters of the Corporate Debtor admitting the debt. The plea of the Corporate Debtor that the loan agreement is unstamped

and statement of accounts not being filed cannot be sustained, as the debt and default as required to be ascertained under Section 7 of the Code is established by the documents other than the loan agreement placed on record. Besides, in an Application u/s 7 of the Code, for the purposes of admission, it is not necessary to record findings with regard to the outstanding liabilities of the Corporate Debtor merely on the basis of loan documents only which might have been executed to secure a financial debt. Such findings can be based on many other documents such as NeSL report, bank statements, balance sheets and acknowledgements executed by the Corporate Debtor etc. Therefore, in our considered view, on the basis of the law laid down in N N Global's case or on the basis of some documents executed by the Corporate Debtor, which are not sufficiently stamped as per the Stamp Act, the Application u/s 7 cannot be dismissed.

16. Lastly, the defence raised by the Corporate Debtor that they were not afforded a commercial bargain and charging of exorbitant interest rate is a complete afterthought, there is enough correspondence placed on record to prove that the Corporate Debtor was completely aware of terms and conditions of loan and has accorded its consent to avail the said loan.

17. The application made by the Financial Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is more than minimum amount stipulated under section 4(1) of the IBC. Therefore, the debt and default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.
18. The Financial Creditor has proposed the name of **Mr. Modilal Dhanraj Pamecha**, having registration no. **IBBI/IPA-001/IP-P01231/2018-2019/12127**, as the Interim Resolution Professional of the Corporate Debtor. He has filed has written communication in Form 2 as required under rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
19. It is, accordingly, hereby ordered as follows: -
- (a) The Petition bearing **CP (IB) 469/MB/2023** filed by, **Kausar Textile Private Limited** the Financial Creditor, under section 7 of the IBC read with rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Reward Real Estate Company Limited [CIN:51909MH2004PLC144099]**, the Corporate Debtor, is **admitted**.

- (b) There shall be a moratorium under section 14 of the IBC, regarding the following:
- (i) 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;
  - (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - (iii) 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 (SARFAESI) Act, 2002;
  - (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (c) Notwithstanding the above, during the period of moratorium:-
- (i) The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
  - (ii) The provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by

the Central Government in consultation with any sectoral regulator;

- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IB Code.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (f) **Mr. Modilal Pamecha**, having address at C-802, Padmarag Co-op Hsg. Ltd., J.B. Nagar, Andheri (East), Mumbai-400059 is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions issued/as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.
- (g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP

within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

- (h) The Financial Creditor shall deposit a sum of Rs.5,00,000/- with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (i) Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (j) IRP is directed to send a copy of this Order to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

**Sd/-**

**PRABHAT KUMAR**  
**Member (Technical)**

05.12.2023  
Priyal

**Sd/-**

**JUSTICE V.G. BISHT**  
**Member (Judicial)**