

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**C.P.(I.B) No. 526/NCLT/AHM/2018**

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL  
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH  
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 23.10.2019**

Name of the Company: Bank of Baroda.  
V/s.  
Hillary Fashion Cotfab Ltd.

Section of the Companies Act : Section 7 of the Insolvency and Bankruptcy Code

| <u>S.NO.</u> | <u>NAME (CAPITAL LETTERS)</u> | <u>DESIGNATION</u> | <u>REPRESENTATION</u> | <u>SIGNATURE</u> |
|--------------|-------------------------------|--------------------|-----------------------|------------------|
|--------------|-------------------------------|--------------------|-----------------------|------------------|

|    |                                  |      |            |                                                                                       |
|----|----------------------------------|------|------------|---------------------------------------------------------------------------------------|
| 1. | AMAN SHANKAR<br>I/B. ATUL SHARMA | Adv. | Respondent |  |
| 2. |                                  |      |            |                                                                                       |

**ORDER**

The Respondent is represented through learned counsel.

The order is pronounced in the open court vide separate sheet.

  
**CHOCKALINGAM THIRUNAVUKKARASU  
MEMBER TECHNICAL**

Dated this the 23th day of October, 2019

  
**MANORAMA KUMARI  
MEMBER JUDICIAL**

**BEFORE ADJUDICATING AUTHORITY (NCLT)  
AHMEDABAD BENCH**

**C.P. No.(I.B) 526/7/NCLT/AHM/2018**

**In the matter of:**

Bank of Baroda  
(Earlier Dena Bank)  
Sector 16  
Gandhinagar, Gujarat

: **Applicant  
Financial Creditor**

**Versus**

M/s. Hillary Fashion Cotfab Ltd.  
S/230, Ranipur Patiya  
Narol  
Ahmedabad 380 004  
Gujarat.

: **Respondent  
Corporate Debtor**

**Order delivered on 23<sup>rd</sup> October , 2019.**

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)  
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

**Appearance:**

Advocate Mr. Ketan M. Parikh for financial creditor  
Advocate Mr. Atul Sharma for respondent

**ORDER**

[Per: **Mr. Chockalingam Thirunavukkarasu, Member (T)**

1. The Financial Creditor Dena Bank, now Bank of Baroda (Petitioner) has filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 ["Code" for short] read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 ["Adjudication Rules" for short] for the recovery of total

*Chockalingam*

*Manorama*

outstanding amount of **Rs. 6,46,18,619.10 (Rupees six crores forty-six lacs eighteen thousand six hundred nineteen and paise ten only)** which includes cash credit and term loan outstanding (page 10 of the petition) from the corporate debtor, Hillary Fashion Cotfab Ltd.

2. The counsel for the petitioner as well as for the respondent were present. The petitioner has stated that the respondent availed loan facilities starting from May, 2014. As the corporate debtor (respondent) was maintaining account with the bank (petitioner) as per the agreed terms and conditions, the account of the respondent was declared NPA by the financial creditor (petitioner) on 31.12.2015.
3. Form No. 1 is signed by Shri Madhav Das Motwani, Assistant General Manager, Dena Bank and in support the petitioner has filed authorisation papers.
4. The petitioner has stated that proceedings are initiated before DRT and under SARFAESI Act.
- 5 In support of the financial debt, the petitioner has filed copies of the loan accounts maintained by the respondent with the petitioner bank. The petitioner also filed copy of certificates of regulation of creation charges, copy of instrument relating to deposit of title deeds, copy of hypothecation agreement, copy of letter of guarantee etc.

*Shankar Singh*

*Shankar*

6. The learned lawyer appearing for the respondent sought time to file reply on 18.03.2019, 27.05.2019 and on 04.07.2019. On 27.08.2019 the learned lawyer for the petitioner completed the arguments but the learned lawyer for the respondent did not argue and took leave to file written submission. On perusal of records it is found that the respondent has not filed any written submissions so far.
7. In respect of application under section 7 for initiation of Corporate Insolvency Resolution Process by Financial Creditor the Adjudicating Authority has to see the existence of financial debt, whether default has occurred and whether the application is complete.
8. From the records submitted along with application:
  - a) The application in Form 1 is filed by Shri Madhav Das Motwani, Assistant General Manager of the Bank and in support of the same, the petitioner has filed authorisation papers. The application is complete.
  - b) There is a financial debt owed by the Respondent to the petitioner.
  - c) The date of default is 31.12.2015
  - d) The last transaction is cash credit account is on 28.01.2016 and in Term Loan account is on 13.07.2017
9. The petitioner has proposed the name of Mr. ChandraPrakash Jain, D-501, Ganesh Meridian, Opp.

*Shankar Singh*

*Shankar*

Gujarat High Court, Ahmedabad 380 060 having Registration No. IBBI/IPA-001/IP-P00147/2017-18/10311 to act as "Interim Insolvency Resolution Professional" under Section 13(1)(b) of the Code and written communication in Form 2 of IBBI has been filed by the proposed IRP.

10. From the material placed on record, this Adjudicating Authority is satisfied that a default has been committed by the Corporate Debtor in repayment of loan amount. The application is complete. As a consequence, the instant application is admitted in terms of section 7 of IBC and the moratorium as envisaged under the provisions of Section 14(1) of IBC and extracted hereunder shall follow in relation to the respondent corporate debtor.

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: -

- (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 Act, 2002 (54 of 2002);
  - (iv) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- (2) The supply of goods and essential services to the Corporate Debtor as may be specified shall not be, terminated or suspended or interrupted during moratorium period.
- (3) The provisions of sub-section (1) shall, however, not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.
- (4) The order of moratorium shall have effect from the date of receipt of authenticated copy 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 corporate debtor under Section 33 as the case may be.
11. This Adjudicating Authority hereby appoint Mr. ChandraPrakash Jain, D-501, Ganesh Meridian, Opp.

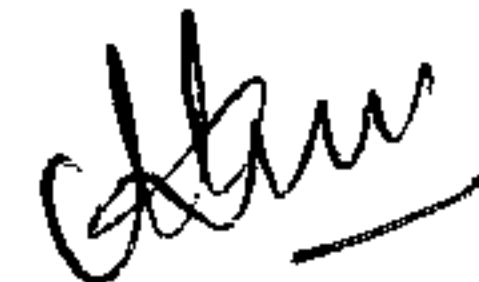
*ChandraPrakash Jain*

*ChandraPrakash Jain*

Gujarat High Court, Ahmedabad 380 060 having  
Registration No. IBBI/IPA-001/IP-P00147/2017-18/10311  
to act as "Interim Insolvency Resolution Professional"  
under Section 13(1)(b) of the Code.

12. This Petition stands disposed of accordingly with no order  
as to costs.
13. Communicate a copy of this order to the Applicant,  
Financial Creditor, Corporate Debtor and to the Interim  
Insolvency Resolution Professional.

  
**Chockalingam Thirunavukkarasu**  
Adjudicating Authority  
Member (Technical)

  
**Ms. Manorama Kumari**  
Adjudicating Authority  
Member (Judicial)

SS