

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 3
C.P.(IB)/62(AHM)2021

Order under Section 7 IBC

IN THE MATTER OF:

State Bank of India
V/s
Sysco Industries Ltd

.....Applicant

.....Respondent

Order delivered on 08.09.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the IRP/RP :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**IN THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

CP (IB) No.62/7/NCLT/AHM/2021

An application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016

In the matter of :

State Bank of India
Registered office at
SAMB (Stressed Assets Management) Branch,
2nd Floor, Paramsiddhi Complex, Ellisbridge,
Ahmedabad-380006 ... Financial Creditor

Versus

M/s. Sysco Industries Limited
CIN:L51101GJ2009PLC057954 Registered Office at:
206, Rajhans Complex, Civil Char Rasta,
Nr. Nirmal Children Hospital, Ring Road,
Surat-395002 Corporate Debtor

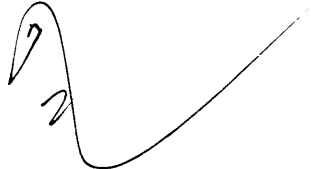
Date of Hearing: 07.09.2021

Date of Pronouncement of Order 08.09.2021

**Coram: MADAN B. GOSAVI, MEMBER(J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance :

Learned Counsel Mr. Manpreet Saluja a.w Learned Counsel Mr.
Rituraj Meena for the Financial Creditor.
Learned Counsel Ms. Khyati Punjabi for the Corporate Debtor.



ORDER**[Per: VIRENDRA KUMAR GUPTA, MEMBER (T)]**

1. This application filed under Section 7 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as CODE). The amount of default has been claimed at Rs.90,93,73,389.11 as on 28.02.2021 and date of classification of account as NPA has been stated as 30.06.2017.
2. Learned Counsel Ms. Manpreet Saluja for the Financial Creditor appeared and submitted that the limitation period to file the impugned application gets extended because of proposal submitted by the Corporate Debtor on 22.03.2018 which is within three years' period from the date of classification of the account of the Corporate Debtor as NPA.
3. Learned Counsel Ms. Khyati Punjabi for the Corporate Debtor appeared and sought time to file reply. However, the Bench raised query as to how this application was not maintainable or not liable to be admitted. In this respect, she could not give any effective reply.
4. We have considered the submissions made by both sides and material placed on record. It is noted that inspite of opportunities, Corporate Debtor neither filed its reply nor written submission. On consideration of facts of the case, it is noted that there is a debt which is more than threshold limit prescribed for initiation of insolvency proceedings under Section 7 of IBC, 2016. This debt has not been repaid, thus,

the event of default has occurred. The fact of revival proposal and debt thereof as remained uncontroverted by the Corporate Debtor, therefore, the period of limitation gets extended and application filed under Section 7 of IBC, 2016 is within limitation considering this fact.

5. The application is otherwise complete and defect free. The name of IRP has also been proposed which is mandatory for an application filed under Section 7 of CODE and whose consent is on record. It is also noted that no material exists on record as regard to disciplinary proceedings, if any, being pending against such person. Accordingly, We appoint Mr. Sunil Kumar Agarwal, having Registration No. IBBI/IPA-001-IP-P01390/2017-2018/12178, Email: anil91111@hotmail.com as Interim Resolution Professional. Hence, we admit Corporate Debtor in CIRP and pass following order:

ORDER

1. Corporate Debtor M/s Sysco Industries Ltd. is admitted in Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.
2. We appoint one Mr. Sunil Kumar Agarwal, having Registration No. IBBI/IPA-001-IP-P01390/2017-2018/12178, Email: anil91111@hotmail.com under Section 12(1)(c) of the IB Code as IRP.
3. That the Moratorium under Section 14 of the Code shall come to effect from 08.09.2021 till the completion of

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.

4. That the Bench hereby prohibits the institution of suits or continuation of pending suit 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(s), transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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 SARFAESI Act, 2002 the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
5. 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 pronouncement of this order such proceedings are expected to be dealt with in accordance with law r.w. Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.



6. That the supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the Moratorium, period. The Corporate Debtor to provide effective assistance to the IRP as and when he takes charge of the Corporate Debtor.
7. The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.
8. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. 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, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
9. The IRP shall be under 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 Insolvency & Bankruptcy Code, 2016.

10. We direct the Financial Creditor / Applicant to pay the IRP a sum of Rs. 5,00,000/- (Rs. Five Lakh) as advance against fees & expenses till the COC decides about his fees / expenses.
11. The Registry is directed to communicate a copy of this order to the Petitioner-Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within three working days and upload the same on website immediately after pronouncement of the order.
12. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.
13. CP(IB) No. 62/7/NCLT/AHM/2021 is allowed and stands disposed of.



(Virendra Kumar Gupta)]
Member (Technical)



(Madan Gosavi)
Member (Judicial)

Prakash