

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.303
C.P. (IB)/76(AHM)2024

Order under Section 7 IBC

IN THE MATTER OF:

Rajradhe Finance Limited

.....Applicant

V/s

Madhav Ginning and Pressing Private Limited

.....Respondent

Order delivered on: 16/04/2024

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

Sd/-

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

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT NO.2**

CP (IB)76(AHM)2024

(Company Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016)

In the matter of:

M/s. Raj Radhe Finance Limited
(CIN: U67120GJ1985PLC007576)

... Financial Creditor

Versus

M/s. Madhav Ginning and Pressing
Private Limited
(CIN:U17111GJ2005PTC046153)

... Corporate Debtor

Memo of Parties

M/s. Raj Radhe Finance Limited
(CIN: U67120GJ1985PLC007576)
A company incorporated under the relevant provisions of the Companies Act, 1956 and also registered as Non-Banking Financial Company with the Reserve Bank of India in accordance with the provisions contained under Section 45-IA of the Reserve Bank of India Act, 1934. Having its registered office at: 47, Shyamal Row House 3/B Nr. Shyamal Cross Roads, Satellite, Ahmedabad-380 015 Gujarat

... Petitioner/
Financial Creditor

Versus

M/s. Madhav Ginning and Pressing Private Limited

(CIN:U17111GJ2005PTC046153)

A company incorporated under the relevant provisions of the Companies Act, 1956. Having its registered address at: Survey No.768, Ahmedabad Highway, Near Suddheshwar Temple, Jadsan-360 050, Gujarat

... Respondent/
Corporate Debtor

Order pronounced on 16.04.2024

Coram:

Mrs.Chitra Hankare, Member (Judicial)

Mr.Velamur G Venkata chalapathy, Member (Technical)

Appearance:

For the Petitioner : Mr. Jaimin Dave, Advocate and
Ms. Hirva Dave, Advocate.

For the Respondent : Mr. Shivam Parikh, Advocate

JUDGMENT

1. This Company Petition is filed on 08.02.2024 by M/s. Raj Radhe Finance Limited (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code, 2016 ('IB Code') for initiating Corporate Insolvency Resolution Process (CIRP) against M/s. Madhav Ginning and Pressing Private Limited (Corporate Debtor).

2. Vide sanction letter dated 22.10.2007, State Bank of India sanctioned credit facilities to the corporate debtor. Accordingly, disbursed Rs.9,66,32,000/-. The credit facilities were secured by deposit of title deeds of properties of corporate debtor and guarantors. Vide sanction letter dated 14.10.2008, the credit facilities were enhanced and charge was created by mortgage executed by borrower as well as guarantors. Both have also executed supplemental agreement of loan cum hypothecation and guarantee agreement. On 30.11.2017, corporate debtor resolved for renewal of credit facilities to the tune of Rs.19,95,00,000/- by hypothecating entire assets of the corporate debtor. On 06.12.2017, State Bank of India (SBI) renewed said credit facilities. At that time, corporate debtor as well as guarantors has executed supplemental agreements. Again the credit facilities were renewed on 15.03.2019 and the corporate debtor issued balance confirmation letter on 02.04.2019.
3. The corporate debtor defaulted in repayment of the credit facilities from 28.08.2019. Hence, account was classified as Non-Performing Asset (NPA) on 28.11.2019. SBI issued notice under SARFAESI Act on 07.12.2019. Again another notice was issued on 10.09.2020 under SARFAESI Act and then filed application before Debts Recovery Tribunal (DRT) for recovery of dues, said application is still pending. In the meantime, corporate debtor acknowledged the debt on 31.03.2022 and given One Time Settlement (OTS).
4. It is further submitted that the debt was assigned by SBI to the applicant on 06.10.2022 by executing Assignment Deed. The

applicant made various attempt to recover outstanding debt but it was failed. The applicant-Financial Creditor has auctioned secured assets and realized amount of Rs.9,68,00,000/-, still amount of Rs.20,27,16,417.17 remains outstanding as on 31.12.2023. According to applicant, default occurred on 31.08.2019 while debt was acknowledged on 02.04.2019, 31.03.2022 and on 07.04.2023. They have also registered default in the record of NeSL. Hence, prayed for initiation of CIRP against the corporate debtor.

5. Respondent filed its reply. It is submitted that the company does not dispute the claim of the petitioner and is bound to pay Rs.20,27,16,417/- to the applicant. However, as it is going through a financial crunch, is unable to pay the dues. The respondent further submitted that they have approached applicant for sanction of OTS proposal, if the same is sanctioned present petition will not survive.
6. By way of additional affidavit, the applicant stated that the corporate debtor had given OTS proposal for outstanding dues for an amount of Rs.10,00,00,000/- but it did not approve by the State Bank of India and thereafter the debt was assigned to the applicant. The respondent also approached the applicant with the same OTS proposal it was also rejected in December, 2023. No further proposal is received from the respondent.
7. Heard both the counsels and perused the written submission of the applicant.
8. The date of default as per the applicant is 31.08.2019 and the

date of NPA is 28.11.2019. In the certificate of NeSL, the date of default mentioned is 28.11.2019. The State Bank of India assigned the debt to the present applicant by Assignment Agreement dated 30.09.2022. The present petition is filed on 08.02.2024. The corporate debtor lastly acknowledged its liability on 07.04.2023. Moreover, by filing reply, respondent-corporate debtor admitted its liability to pay debt mentioned in the application. The OTS proposal given by the respondent was not accepted by State Bank of India as well as by present applicant-Raj Radhe Finance Limited.

9. Hence, the debt as well as default is established by the applicant. Thus, requirements of Section 7 of IBC are fulfilled and there is no reason to reject the petition. Once, the Tribunal is satisfied as to the existence of default and that the petition is complete, the petition can be admitted. It is also necessary to see whether any disciplinary proceedings are pending against the proposed Insolvency Resolution Professional (IRP).
10. In view of the facts as discussed hereinabove, it is held that the corporate debtor has defaulted in repayment of its debts. Accordingly, we pass following order:-

ORDER

- i) CP(IB)/76(AHM)/2024 is admitted.
- ii) As a consequence thereof, moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of

the Code.

- a) *the institution of suits or continuation of pending suits or proceedings against the Respondent/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 Respondent/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 Respondent/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 Respondent/Corporate Debtor.*
- iii) The order of moratorium 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 Respondent / Corporate Debtor Company under Section 33 of the IBC, 2016, as the case may be.
- iv) We hereby appoint Mr. Shah Rahul Nareshbhai having Registration No. IBBI/IPA-001/IP-P-02170/2020-2021/13367, E-mail: carahulnshah@gmail.com to act as an IRP

under Section 13(1) (c) of the Code. He shall conduct the Corporate Insolvency Resolution Process as per the provisions of Insolvency and Bankruptcy Code, 2016 r.w. Regulation made thereunder.

- v) 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 to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person, is 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.
- vi) This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Code.
- vii) The IRP is expected to take full charge of the CD's 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.

- viii) 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.
- ix) It is further directed that the supply of goods/services to the Corporate Debtor Company if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
- 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 the obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
- xi) The Financial Creditor is directed to pay an advance of **Rs.1,00,000/- (Rupees One Lakh Only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of the Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report within 30 days.
- xii) The Registry is directed to communicate a copy of this order to the Financial Creditor, the 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. 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 Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.

11. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-

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

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

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