



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.1
C.P.(IB)/107(AHM)2023

Proceedings under Section 7 IBC

IN THE MATTER OF:

Rajradhe Finance Ltd
V/s
Kavan Cotton Pvt Ltd

.....Applicant

.....Respondent

Order delivered on: 11/09/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH - COURT-I**

CP(IB)/107/NCLT/AHM/2023

(Under Section 7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the Matter of:

M/s. Rajradhe Finance Limited

(CIN: U67120GJ1985PLC007576)

Through its Manager Mr. Meet Falgunbhai Shah,
47, Shyamal Row House 3/B,
Nr. Shyamal Cross Roads,
Satellite, Ahmedabad – 380015.

.... Applicant/Financial Creditor

VERSUS

M/s. Kavan Cotton Private Limited

(CIN: U26914GJ2008PTC053514)

Kavan Cotton,
Maliya-Jamnagar Highway,
Ta. Maliya (Miyana),
Chanchavadarda – 363636.

.... Respondent/Corporate Debtor

Order Pronounced On: 11/09/2023

Coram:

**SHAMMI KHAN,
HON'BLE MEMBER (JUDICIAL)**

**KAUSHALENDRA KUMAR SINGH,
HON'BLE MEMBER (TECHNICAL)**

**Appearance**

For the Applicant : Mr. Vinodkumar S. Shah, PCS, a.w.
Mr. Vishwas V. Shah, Advocate

For the Respondent : Mr. D.H. Rathore, Advocate.

ORDER

1. This application is filed by M/s. Rajradhe Finance Limited – the Financial Creditor through its authorized representative Mr. Meet F. Shah, who is duly authorized vide Board Resolution dated 13.04.2022, to file this Application, against M/s. Kavan Cotton Private Limited – the Corporate Debtor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 with a prayer to initiate the Corporate Insolvency Resolution Process (in short “CIRP”) against the Corporate Debtor. The amount claimed in default is Rs. 1,44,35,110/- (Including interest Rs.42,35,110/- and other charges as on 01.04.2021 as per the terms of the loan agreement dated 14.12.2020). The date of default is stated to be 02.04.2021.
2. The Financial Creditor i.e., M/s. Rajradhe Finance Limited is an NBFC and a limited company incorporated under the provisions of the Companies Act, 1956 on 17.01.1985 with CIN No. U67120GJ1985PLC007576. The registered office of the Financial Creditor is situated at 47, Shyamal Row House, 3/B, Nr. Shyamal Cross Road, Satellite, Ahmedabad – 380015.



3. The Corporate Debtor i.e., M/s. Kavan Cotton Private Limited is a company incorporated under the provisions of the Companies Act, 1956 on 07.04.2008 with CIN No. U26914GJ2008PTC053514. The said company is engaged in the business of cotton ginning, cleaning and bailing. The registered office of the Company is situated at Kavan Cotton, Maliya-Jamnagar Highway, Tal. Maliya (Miyana), Chanchavadarda – 363636. The authorized nominal Share Capital and Paid Up Share Capital of the Corporate Debtor are Rs. 3,00,00,000/- and Rs. 2,90,00,000/- respectively.
4. The averments made by the financial creditor in its petition and presented/argued by the learned counsel for the financial creditor are summarized hereunder:-
- I. At request of Corporate Debtor, M/s. Rajradhe Finance Limited provided a Loan of Rs.1,02,00,000/- on the basis of Most Important Terms and Conditions (MITC) dated 14.12.2020, pursuant to which an amount of Rs.1,02,00,000/- was disbursed to Corporate Debtor as follows:-

Sr. No.	Date of Disbursements	Amount
1.	22.12.2020	51,00,000.00
2.	23.12.2020	51,00,000.00
	Total	1,02,00,000.00

The bank statement reflecting disbursement of loan amount is placed on record on 09.05.2023.

- II. The loan provided by Rajradhe Finance Limited was secured by the following:-



- a) Title deed relating to immovable property i.e. Residential Flat No. 403 admeasuring built up area 93.235 Sq. Mtrs on 4th Floor of Tower-C of Aryaland constructed on lands of Plot No:161 admeasuirng 2617.77 sq. Mtrs of Mavdi Revenue Survey No:258 paiki 4 at present within limit of Rajkot City, Tal. & Dist. Rajkot in state of Gujarat.
- b) Personal Guarantees of Mr. Mayurbhai Hasmukbhai Bhalala, Mr. Popatbhai Ramjibhai Bhalala and Mr. Jitendrabhai Popatbhai Bhalala
- III. The Corporte Debtor had started defaulting in payment of Equated monthly Installments (EMIs) and the last payment made by the Corporate Debtor was on 19.02.2021 thereafter, the Corporate Debtor defaulted in making payment of monthly instalment and failed to make payment on 01.04.2021 therefore, the date of default is considered to be 02.04.2021.
- IV. The Corporate Debtor till date has only made payment of Rs.5,09,226/- and has failed to comply with the terms and conditions of the loan. The last payment made by Corporate Debtor was on 19.02.2021. Statement of working computation evidencing last receipt of payment from the Corporate Debtor is mentioned at Annexure “D” to the present petition. (Page-39).
- V. Despite of repeated requests the Corporate Debtor failed to make the payment of the loan amount and therefore, the



- Corporate Debtors loan account was classified as Non Performing Asset on 30.09.2021.
- VI. Subsequently on 26.11.2021, the Financial Creditor served a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 & Rules (SARFAESI) for the recovery of total dues of Rs. 1,14,43,706 against the Corporate Debtor.
- VII. Despite of repeated requests and issue of SARFAESI notice upon the Corporate Debtor, the outstanding amount still remains unpaid. Hence this application.
- VIII. The Corporate Debtor, in its reply para no.5 has clearly mentioned the incapacity to repay the debt unless the financial position of the company is improved.
5. On issuance of notice, learned counsel Mr. D.H. Rathore appeared for the Corporate Debtor. This Adjudicating Authority vide its order dated 10.05.2023, gave chance to the Corporate Debtor to file its reply within a week.
6. In compliance of order dated 10.05.2023, the Corporate Debtor filed its reply on 07.07.2023 and has not disputed its liability. In fact, it has admitted the debt in its reply at para no. 3 acknowledging the total debt of Rs.1,02,00,000/- plus interest and other charges of Rs.42,35,110/- aggregating to Rs.1,44,35,110/-.



7. We have heard the learned counsel for both the parties and perused the relevant documents available on record. It is noted that the Financial Creditor has disbursed an amount of Rs. 1,02,00,000/- (Rupees One Crore Two Lakh) to the Corporate Debtor during the month of December,2020. The Corporate Debtor had started defaulting in payment of instalments and the last payment made by the Corporate Debtor was on 19.02.2021. Despite repeated requests, no payment has been made by Corporate Debtor therefore, the loan account of the Corporate Debtor was declared by the Financial Creditor as NPA on 30.09.2021. Thereafter, notice was issued by the Financial Creditor under section 13(2) of SARFESI Act upon Corporate Debtor on 26.11.2021 for repayment of outstanding amount however, the same remains unpaid till date.
8. The present petition is filed before this Adjudicating Authority on 17.03.2023. The last payment made by the Corporate Debtor was on 19.02.2021 and the Corporate Debtor has acknowledged the debt in its reply at para no.3 filed on 07.07.2023. Therefore, the said petition is well within the prescribed limitation period.
9. This application is complete, the debt is admitted by the Corporate Debtor which is above threshold and application is filed within limitation. Accordingly, the Application filed under section 7 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the Respondent/Corporate Debtor deserves to be admitted.



10. The name of Interim Resolution Professional ('IRP') Mr. Vinod Tarachand Agrawal having Registration No. IBBI/IPA-001/IP-P00641/2017-18/11090 is proposed and the consent of the IRP is also placed on record.
11. In view of the above, we admit this petition and order as under:-
- (i) The Respondent/Corporate Debtor **Kavan Cotton Private Limited** is admitted in Corporate Insolvency Resolution Process under section 7 of the IBC, 2016.
 - (ii) As a consequence thereof, a 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 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 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 moratorium under section 14 of the Code shall come to 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 the corporate debtor under Section 33 of the IBC 2016, as the case may be.
- (iv) However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period
- (v) As proposed by the Financial Creditor, we appoint **Mr. Vinod Tarachand Agrawal** having Registration No. IBBI/ IPA-001/IP-P00641/2017-18/11090, having address at Address: 204, Wall Street-1, Nr. Gujarat College, Ellis



Bridge, Ahmedabad – 380006. (e-mail: ca.vinod@gmail.com) under section 13(1)(c) of the Code to act as Interim Resolution Professional (IRP) subject to the condition that no disciplinary proceedings be pending against him. He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

- (vi) The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.
- (vii) The IRP shall perform all his functions as contemplated, inter-alia, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or cooperate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- (viii) The IRP is expected to take full charge of the corporate debtor'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.

- (ix) 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 obligation imposed by section 20 of the Code.
- (x) 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.
- (xi) We direct the financial creditor to pay IRP a sum of **Rs.2,00,000/-** as fees and expenses till the COC decides about his fees/expenses.
- (xii) The Registry is directed to communicate this order to the financial creditor, 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. A copy of the order may be communicate to the IBBI for their record and for getting status of the CD updated in MCA portal.
- (xiii) The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST, 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.

12. Accordingly, this petition **CP (IB) No. 107 of 2023** is allowed and stands admitted. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

-SD-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

-SD-

**SHAMMI KHAN
MEMBER (JUDICIAL)**

Alpesh-PS/Arati-LRA