

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

ITEM No.202  
**C.P.(IB)/171(AHM)2022**

**Proceedings under Section 7 IBC**

**IN THE MATTER OF:**

State Bank of India

.....Applicant

V/s

Neesa Infrastructure Ltd

.....Respondent

**Order delivered on: 19/06/2023**

**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**

**CP(IB)/171/AHM/2022**

*(An application under section 7 of the Insolvency and Bankruptcy Code,  
2016 to initiate the Corporate Insolvency Resolution Process)*

**In the matter of:**

**State Bank of India**

Branch office:  
Stressed Assets Management,  
2<sup>nd</sup> Floor, Paramsiddhi Complex,  
Opp. V.S. Hospital, Ellisbridge,  
Ashram Road,  
Ahmedabad,  
Gujarat- 380006

**.....Petitioner/Financial Creditor**

**Versus**

**Neesa Infrastructure Limited**

CIN: U45203GJ2003PLC062049  
Having its registered address at:  
Plot No. 278/279,  
Panchratna Industrial Estate,  
Opp. Armec Cold Storage,  
Changodar,  
Ahmedabad,  
Gujarat- 382213

**.....Respondent/Corporate Debtor**

**Order Reserved On: 17.05.2023**  
**Order Pronounced On: 19.06.2023**

**Coram: Shammi Khan, Member (J)**  
**Kaushalendra Kumar Singh, Member (T)**

**Appearance:**

For Petitioner: Mr. Vishal Raval, Adv.  
For Respondent: Ex-Parte

## **ORDER**

1. This petition is filed on 17.06.2022, by Mr. Sunil D Rachchh, Assistant General Manager of State Bank of India (Financial Creditor) under section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (AA Rules) to initiate Corporate Insolvency Resolution Process (CIRP) against M/s Neesa Infrastructure Limited (Corporate Debtor). The default amount stated by the financial creditor is Rs 48,15,13,790/- as a principal due. The date of default as stated by the financial creditor is 01.03.2012.

2. The corporate debtor is a public limited company incorporated under the provisions of the Companies Act, 1956, having CIN No. U45203GJ2003PLC062049, its registered address is at Plot No. 278/279, Panchratna Industrial Estate, Opp. Armec Cold Storage, Changodar, Ahmedabad, Gujarat- 382213.

3. The averments made by the financial creditor in its application and presented/argued by the learned counsel for the financial creditor are summarized hereunder:

(i) The corporate debtor had approached the financial creditor for credit facilities for meeting its business requirements in the year 2005. The financial creditor by letter of arrangement dated 14.10.2005 sanctioned the total credit facilities of Rs 6 Cr to the corporate debtor. The facilities sanctioned were enhanced on several occasions. The financial creditor by letter of arrangement dated 29.03.2011 sanctioned credit facilities aggregating to Rs 56.87 Cr to the corporate debtor.

(ii) The facilities were granted in below manner by the financial creditor:

<b>Facility</b>	<b>Sanctioned Amount</b>	<b>Principal Amount</b>	<b>Outstanding</b>
<b>Fund Based</b>			
Cash Credit	22.50 Cr		14.13 Cr
Standby Line of Credit	3.00 Cr		0.00
Term Loan- I	1.00 Cr		34.01 Cr
Term Loan- II	1.30 Cr		
Term Loan- III			
Term Loan- IV	0.28 Cr		
Term Loan- V	0.17 Cr		
Term Loan- VI	0.32 Cr		
Term Loan- VII	27.30 Cr		
<b>Total Fund Based</b>	<b>55.87 Cr</b>		
<b>Non-Fund Based</b>			
Bank Guarantee (Financial)	1.00 Cr		0.00
<b>Total Exposure</b>	<b>56.87 Cr</b>		<b>48.15 Cr</b>

(iii) The facility-wise amount outstanding as on 15.06.2022 are as follows:

Account No.	Facility	Outstanding as on 31.10.2013 (Cr)	Interest from 01.11.2013 to 15.6.2022 (Cr)	Penal interest from 01.11.2013 to 15.06.2022 (Cr)	Credits after 31.10.2013 (Cr)	Total Dues Outstanding as on 15.06.2022 (Cr)
30020425937	CC	18.22	35.70	3.12	4.08	52.96
32907385449	TL	24.29	51.48	4.48	0.30	79.95
32907301376	WCTL	7.24	14.86	1.33	0.08	23.35
32907387832	FITL	2.89	6.13	0.53	0.03	9.52
	<b>Total</b>	<b>52.64</b>	<b>108.17</b>	<b>9.46</b>	<b>4.49</b>	<b>165.78</b>

(iv) The corporate debtor failed to repay the amount outstanding in the accounts and regularize the position. Subsequently, the corporate debtor approached the financial creditor for restructuring its debts under Corporate Debt Restructuring (CDR) mechanism, the CDR-empowered group approved the restructuring. The master restructuring agreement was executed on 23.03.2013 between the borrower and the financial creditor along with other lenders. The corporate debtor even after availing the opportunity granted by CDR failed to comply with the security conditions as per the CDR terms, therefore, the financial creditor has sought permission for withdrawal from CDR vide letter dated 07.06.2014. The accounts of the corporate debtor became NPA as on 28.01.2014 as per the guidelines relating to Asset classification issued by the RBI.

(v) One Time Settlement (OTS) letter dated 26.08.2019 was issued by the applicant for OTS amount of Rs 33,28,27,464/- against the book outstanding as on 31.03.2019 and the receipt of the same was acknowledged by the corporate debtor vide letter dated 18.10.2019.

(vi) The petition is well within the limitation period as the corporate debtor has executed the balance confirmation in the year

2014, and 2017 and issued OTS letter dated 26.08.2019. The present petition is filed on 17.06.2022.

4. The financial creditor served notice to the corporate debtor through email and published the notice in English and vernacular language newspapers. However, the corporate debtor chose not to appear before this Adjudicating Authority. Therefore, vide order dated 18.04.2023 this Adjudicating Authority decided to proceed *ex-parte* against the corporate debtor.

5. The financial creditor has proposed the name of Mr. Premraj Ramratan Laddha having Registration No. IBBI/IPA-001/IP-P00060/2016-17/10138 to work as Interim Resolution Professional (IRP). The proposed IRP has given its written consent and the same is placed on record.

6. We have heard the learned counsel and perused the material available on record. It is noted that the corporate debtor has availed various credit facilities amounting to Rs 56,87,00,000/- from the financial creditor. The said loans/credit facilities were sanctioned and disbursed by the financial creditor on 29.03.2011. Subsequently, a master restructuring agreement was executed between the parties dated 23.03.2013, and the credit facilities provided to the corporate debtor were restructured. After regular default in repayment, the financial creditor declared the corporate debtor's loan account as NPA on 28.01.2014. Subsequently, the financial creditor withdrew itself from the CDR and sent a legal notice dated 16.10.2014, recalling the entire amount due and payable by the corporate debtor. The corporate debtor has also confirmed the balance through various confirmation letters in the years 2014 and 2017 as well as vide OTS confirmation letter dated 18.10.2019. Further, this Adjudicating Authority vide order dated 18.04.2023 decided to proceed *ex-parte* against the corporate debtor.

As per the above observations, it is clear that loan/credit facilities were availed by the corporate debtor from the financial creditor, and the corporate debtor has failed to repay the dues. The present petition was filed on 17.06.2022. The date of default stated by the financial creditor is 01.03.2012. Following restructuring agreement dated 23.03.2013 and subsequent default the account of the corporate debtor was declared as NPA on 28.01.2014. Moreover, the corporate debtor, through balance confirmation letters dated 31.03.2014 and 31.03.2017, has acknowledged its liability for the dues payable to the financial creditor. Additionally, an OTS dated 17.09.2019 was offered by the financial creditor, and it was accepted by the corporate debtor through a letter dated 18.10.2019. Hence, the limitation period gets renewed as the corporate debtor has accepted its liability before the limitation period gets over. Accordingly, the present petition is well within the limitation period and the amount stated to be in default meets the threshold limit as prescribed under the Code.

7. Accordingly, we allow this petition and order as under:

- (i) The corporate debtor M/s Neesa Infrastructure Limited is admitted in Corporate Insolvency Resolution Process under section 7 of the Code.
- (ii) We appoint Mr. Premraj Ramratan Laddha having Registration No. IBBI/IPA-001/IP-P00060/2017-18/10138 under section 13(1)(c) of the Code as IRP.
- (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 Bench approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under section 33, as the case may be.

(iv) The Adjudicating Authority hereby prohibits 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, and further prohibits Tribunals, Arbitration Panels, or other Authority(s), transferring, encumbering, alienating or disposing of any of the corporate debtor 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.

(v) 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 the pronouncement of this order such proceedings are expected to be dealt with in accordance with law i.e. section 14 and section 238 of the Code.

(vi) 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. The corporate debtor to provide effective assistance to the IRP as and when he takes charge of the assets and management of the corporate debtor.

(vii) The IRP so appointed shall make a public announcement of the Corporate Insolvency Resolution Process be made immediately as specified under section 13 of the Code and by calling for submissions of claims under section 15 of the Code.

(viii) 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 co-operate 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.

(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) We direct the financial creditor to pay IRP a sum of Rs 1,00,000/- as fees and expenses till the COC decides about his fees/expenses.

(xi) 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.

(xii) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

(xiii) This petition CP(IB)/171/AHM/2022 is allowed. A certified copy of this order may be issued if applied for, upon compliance with all requisite formalities.

-SD-

**Kaushalendra Kumar Singh**  
**Member (Technical)**

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-SD-

**Shammi Khan**  
**Member (Judicial)**