

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
COURT - II**

COMPANY APPLICATION No. CP (IB) 130/NCLT/AHM/2021

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

In the Matter of:

State Bank of India

**Applicant/
Financial Creditor**

Versus

Yogiraj Ginning & Oil Industries

**Respondent/
Corporate Debtor**

Order Pronounced on: 18/04/2022

Coram:

**Dr. Deepti Mukesh, Hon'ble Member(Judicial)
Ajai Das Mehrotra, Hon'ble Member (Technical)**

MEMO OF PARTIES

State Bank of India

SAMB (Stressed Assets Management Branch)

2nd Floor, Paramsiddhi Complex

Ellisbridge

Ashram Road

AHMEDABAD 380 006

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Applicant/Financial Creditor

Versus

Yogiraj Ginning & Oil Industries Private Limited

B-164, New Sardar Marketing Yard

8-B National Highway

Gondal

RAJKOT

...

Respondent/Corporate Debtor

Appearance:

For the Applicant : Mr. Mandeep Singh, Advocate

For the Respondent : None

ORDER

1. The Present Application is filed under section 7 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') on 29.06.2021 by Mr. Pankaj Srivastava, Assistant General Manager, duly authorised vide authority letter dated 19.06.2021 **State Bank of India** (for brevity 'Applicant'), with a prayer to initiate the Corporate Insolvency process against

Yogiraj Ginning & Oil Industries Private Limited (for brevity 'Corporate Debtor').

2. The applicant Bank incorporated on 01.07.1955, having its registered office at Corporate Centre, Madame Cama Road, Mumbai having identification PAN: AAACS8577K, is in the banking business of providing various types of financial facilities including business loans, personal loans, consumer loans, loan against property, home equity loans, term loan etc.
3. The corporate debtor is a Private limited company, incorporated under the provisions of companies Act, 1956 on 27.11.2014, duly registered with Registrar of Companies, Ahmedabad with CIN: U17120GJ2014PTC081190 and having registered office at Gondal, Gujarat State. The Authorized share capital of the Respondent is Rs. 8,00,00,000/- and paid up share capital of the company is Rs. 8,00,00,000/-.
4. It is submitted by the applicant that as per the loan agreement the corporate debtor had availed Rs. 12.00 crores as cash credit facility and Rs. 1.45 crores as term loan. Total amount of loan facility availed by the corporate debtor is of Rs. 13.45 crores as on 07.01.2012. Total amount of debt is Rs. 15,50,08,733.40 along with interest at 4.60% above MCLR. In

addition to contractual rate of interest, defendants have agreed to pay enhanced interest upto 2% per annum till 22.06.2021, as mentioned in every letter of sanction issued by the bank. As per form 1, as on 22.06.2021 the corporate debtor is in default of Rs. 23,57,10,791.51 (Rupees twenty-three crores fifty-seven lacs ten thousand seven hundred ninety-one and paise fifty-one only). The account became NPA on 27.09.2018.

5. It is further submitted by the applicant that notice issued under Section 13 (2) of SARRFAESI Act, 2002 dated 25.10.2019 was replied by the corporate debtor vide letter dated 04.01.2020. The applicant has submitted copy of the following documents in support of its claim: -

Sl. No.	Particulars	Page Nos.
1	Affidavit in support of the petition	14-16
2	Authorisation letter	17
3	Master data of corporate debtor	18
4	Written consent letter of Ms. Vineeta Maheshwari, CA	19-21
5	Copy of letter of arrangements, agreements of loan cum hypothecation and guarantee agreement	22-57
6	Account statement as on 22.06.2021 along with computation sheet	58-66
7	Copy of Notice under Section 13 (2) of SARFAESI Act, 2002	67-80
8	Reply to notice u/s 13 (2) of SARFAESI Act, 2002	81-104
9	Record of default with the information utility	105-118
10	Copy of letter of arrangement	1190134

11	Copy of revival letters	135
12	Copy of letter of arrangement	136-156
13	Certificate under Banker's Book of Evidence, 1891	157-158
14	Copy of memorandum relating to deposit of title deeds for creation of charge for term loan/overall limits	159-174
15	Letter of confirmation for creation of mortgage by deposit of title deeds	175-194
16	Pegged letter	195
17	Partnership letter and undertaking from partners	196-197
18	Letter of arrangement	198-219
19	Letter of arrangement	220-221
20	Pegged letter	232
21	Certificate to be signed by borrower	233-234
22	Partnership letter and letter from incoming partners	235-240
23	Certificate to be signed by borrower	241
24	Revival letter	242
25	Board resolution	243-245
26	Letter of arrangement	246-256
27	Memorandum of deposit for creation of further charge for term loan/overall limit where the initial charge is created by way of mortgage by deposit of title deeds	257-258
28	Supplemental agreement of loan-cum-hypothecation	290-292
29	Undertaking for bank's fund	293
30	Undertaking for cash accruals	294
31	Undertaking for not forward sale	295
32	Undertaking for retain profit	296
33	Undertaking not to disinvest share and copy of certificate by the borrowers for credit facilities sanctioned them	297-298
34	Creation of charge in central registry	299-315
35	Proof of service to corporate debtor	317

6. The applicant has also filed service affidavit, the notice was served to the corporate debtor via email and registered post and as per tracking report annexed to the affidavit the notice is

delivered to the corporate debtor on 14.09.2021 at the address mentioned in the master data of the corporate debtor.

7. On 23.08.2021 none remained present for the corporate debtor. Notice dated 25.08.2021 was again issued calling upon the corporate debtor that the matter has been posted for hearing on 01.11.2021.

Order dated 01.11.2021 is reproduced below:

"None appears for the corporate debtor. If corporate debtor does not appear on the next date of hearing, corporate debtor will be proceeded ex-parte. We direct the applicant to serve this order to corporate debtor on email. List the matter for further consideration on 24.12.2021."

On 24.12.2021 the following order was passed:

"Notice is served. No one appears for the respondent. Matter be proceeded ex-parte against respondent. List for further consideration on 03.02.2022".

On 03.02.2022 the following order was passed:

"On 24.12.2021, matter was proceeded ex-parte against the respondent. Today, none appeared for both sides. In the interest of justice, we adjourn the matter. List the matter on 01.04.2022"

Despite giving number of opportunities, the corporate debtor neither appeared nor reply was filed. On 01.04.2022 also none appeared for the corporate debtor, so the applicant was heard.

8. Heard the submissions and perused the documents on record. It is beyond doubt that the default has occurred with respect to the payment of financial debt due to the applicant.

Disbursement of the loan is proof of debt received by the corporate debtor, as per bank statements of the applicant annexed to the application. The applicant has brought on record copy of sanction letters/letters of arrangement of different dates, right from the date of sanction 07.01.2012, as per the details given below, duly sealed, signed and acknowledged by the corporate debtor:

Letter of arrangement dated 07.01.2012		
Sl No.	Facility	Limit Rs. In lacs
1	Cash credit	1200
2	Term loan	145
Total limits		1345

Letter of arrangement dated 21.04.2016			
Sl No.	Facility	Existing Limit Rs. In lacs	Proposed limit
1	Fund based working capital limit	1550	1550
2	Fund based term loan (O/S)	42	42
Total of fund based limits		1265	1565

Letter of arrangement dated 26.04.2017			
Sl No.	Facility	Existing Limit Rs. In lacs	Proposed limit
1	Fund based working capital limit	1550	1550
2	Fund based term loan (O/S)	145	145
Total of fund based limits		1695	1695

All the above documents clearly reflect that the corporate debtor had availed disbursement of loan and has failed to repay the same. Moreover, the corporate debtor has neither disputed/ contested the claim of the applicant which amounts to admission of debt.

9. As per part IV of form 1 the date of default is 30.06.2018 and application is filed on 20.06.2021, which is within the period of limitation and not barred by law. As per the application, last entry of amount was on 30.06.2018 and the account became NPA on 27.09.2018.
10. The registered office of the corporate debtor is situated in Gondal, Dist. Rajkot, Gujarat State and, therefore, this Tribunal has jurisdiction to entertain and try this application.
11. The present application is complete in terms of Section 7 (5) of the Code. The applicant is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. In light of the above facts and records the present application is admitted and CIRP is ordered to be initiated against corporate debtor.
12. The applicant has proposed the name of Ms. Vineeta Maheshwari as Insolvency Resolution Professional, who is be and hereby appointed as IRP of corporate debtor having registration number IBBI/IPA-001/IP-P-00185/2017-18/10364 having office at M-19-21, Metro Tower, Ring Road, Surat 395 002 having e-mail ID ipvineetak@gmail.com and contact No. 9376781166, subject to the condition that no disciplinary proceedings are pending against her. Specific consent of the IRP is filed in Form 2 along with disclosures as required under

IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which is on record.

13. We direct the Financial Creditor to deposit a sum of Rs. 2.00 lacs (Rupees two lacs only) with the Interim Resolution Professional, namely Ms. Vineeta Maheshwari to meet out the expenses for performing functions assigned to her in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Financial Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Financial Creditor.
14. As a consequence of the application being admitted in terms of Section 7(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14(1), shall follow in relation to the Corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.
15. A copy of the order shall be communicated to the Applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

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CP (IB) /130/NCLT/AHM/2021

-Sd-

Ajai Das Mehrotra
Member (Technical)

Dr. Deepti Mukesh
Member (Judicial)

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