



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

ITEM No.45  
CP(IB) 83 of 2020

**Proceedings under Section 7 IBC**

**IN THE MATTER OF:**

Union Bank of India  
V/s  
Doshion Water Umbrella (Cuddalore) Pvt Ltd

.....Applicant

.....Respondent

**Order delivered on ..01/07/2022**

**Coram:**

Madan B. Gosavi, Hon'ble Member(J)  
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 open court vide separate sheet.

-SD-

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

-SD-

**MADAN B GOSAVI  
MEMBER (JUDICIAL)**



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

**CP (IB) No.83/7/NCLT/AHM/2020**

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

**In the matter of:**

**Union Bank of India**

Industrial Finance Branch situated  
At: C.U. Shah Chambers, Ashram  
Road, Ahmedabad – 380 014

**..... Financial Creditor/Applicant**

Versus

**M/s. Doshion Water Umbrella (Cuddalore) Pvt. Ltd.**

(Through its Director: Mr. Ashit Dhirajlal Doshi)

Building No. 9-10, Sigma Corporate,

B/h. Rajpath Club, Off. S.G. Road,

Bodakdev, Ahmedabad – 380 054

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

**Order delivered on 1<sup>st</sup> July, 2022**

Coram: **Madan B. Gosavi, Member (Judicial)**  
**Kaushalendra Kumar Singh, Member (Technical)**

**Appearance:**

Ms. Nalini Lodha, Advocate for the Financial Creditor.

Mr. Shashvata U Shukla, Advocate for the Corporate Debtor.



## ORDER

**[PER: MADAN B. GOSAVI, MEMBER (J)]**

1. This application is filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'IB Code') by the Union Bank of India/Financial Creditor to initiate Corporate Insolvency Resolution Professional (hereinafter to be referred as "CIRP") of the Corporate Debtor i.e. M/s. Doshion Water Umbrella (Cuddalore) Private Limited on the ground that the Corporate Debtor committed default in paying Financial Debt of Rs. 138,32,94,305.69/- (Rupees One Hundred Thirty-Eight Crores Thirty-Two Lacs Ninety-Four Thousand Three Hundred Five and Sixty-Nine Paise Only).

2. There is no dispute to the following facts, the Financial Creditor disbursed term loan and various credit facilities to the Corporate Debtor. Date of disbursements are 13.01.2012, 29.03.2014 & 10.02.2016. The Corporate Debtor executed demand promissory note and other documents i.e. term loan agreement, deed of hypothecation etc. These are on record as Annexure-I. The Corporate Debtor was to repay the loan in equal suitable monthly instalment.

3. It is say of the Financial Creditor that the Corporate Debtor committed default in paying the debt and thereby committed default. Hence, this proceeding is filed to initiate CIRP of the Corporate Debtor.



4. Notice of this application has been served on the Corporate Debtor. One of the Director, Mr. Rakshit Doshi filed a reply on behalf of the Corporate Debtor. We have gone through the contentions filed in reply, wherein, they are contesting the claim. The Corporate Debtor raises two defences: (i) That application is not filed by properly Authorized Officer of the Bank and (ii) The claim is time barred.

5. We heard Ms. Nalini Lodha, Advocate for the Financial Creditor and Mr. Shashvata Shukla, Advocate for the Corporate Debtor. There is no dispute relating to debt and default. We have only to consider whether the claim is time barred and application is filed by properly Authorized Officer of the Bank or not.

6. The Bank has produced on record special Power of Attorney executed by General Manager whereby Mr. Chandan Kumar Sahu was authorized to file this application under Insolvency and Bankruptcy Code, 2016. Learned Counsel for the Corporate Debtor submits that its Power of Attorney is not supported by Board Resolution. We make it clear that since it is not in dispute that loan was granted and disbursed by Union Bank of India in favour of the Corporate Debtor and Corporate Debtor committed default in paying the loan amount and, hence, the proceeding is initiated on behalf of the Bank. In view of the special Power of Attorney on record, we hold that the application is filed by properly Authorized Officer of the Bank. We reject the contention of the Corporate Debtor. Moreover, along with the rejoinder, the Bank has produced on record the Memorandum of Board of Director, wherein, it is resolved that the General Manager (HR)



will be given authority on behalf of the Bank to initiate proceedings under IB Code, 2016.

7. Second Defence of the Corporate Debtor is that the date is time barred. It is not in dispute that the account of Corporate Debtor became NPA on 30.09.2016, however, as on 29.01.2016, the Corporate Debtor had admitted in acknowledging the debt by sending debit balance to confirmation and acknowledgment letter in favour of the Bank. Not only that, in the balance sheet prepared as on 31.03.2017, the Corporate Debtor has reflected this debt in the balance sheet. This application is filed on 17.01.2020 within 3 years from the latest acknowledgement of the debt i.e. 31.03.2017. We do not find any merit in a defence raised by the Corporate Debtor that the date is time barred. In fact, the Corporate Debtor himself produced with written submissions with its OTS proposal to the Bank submitted on 13.02.2021, thereby, acknowledging the debt. There is no dispute in the above fact that the Corporate Debtor committed default in paying the debt, which is more than Rs.1,00,00,000/- as per Section 4 of the IB Code, 2016.

8. In view of the material and evidence on record, we hold that the Financial Creditor has proved that the Corporate Debtor committed default of financial debt more than Rs.1,00,00,000/- as per Section 4 of the IB Code, 2016. Hence, it has to be admitted in CIRP. The Financial Creditor suggested the name of one **Mr. Chandra Prakash Jain**, Registration No. **IBBI/IPA-001/IP-P00147/2017-18/10311** for the appointment as IRP against whom no disciplinary proceedings appear to be pending.



This application is defect free. Hence, we admit the Corporate Debtor in CIRP by following orders:

**ORDER**

(i) The Corporate Debtor, **M/s. Doshion Water Umbrella (Cuddalore) Private Limited** is admitted in Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016.

(ii) The 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 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.

(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 the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

(iv) We hereby appoint **Mr. Chandra Prakash Jain**, having Registration No. IBBI/IPA-001/IP-P00147/2017-2018/10311, (E-mail ID: [cpjain@cacpjain.com](mailto:cpjain@cacpjain.com)/[jaincp@yahoo.com](mailto:jaincp@yahoo.com)) to act as an Interim Resolution Professional under Section 13(1)(c) of the Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision 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



extending 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.

(vi) This Adjudicating Authority directs the IRP to make a 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) It is further directed that the supply of goods/service to the Corporate Debtor Company, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.

(viii) 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. The Financial Creditor is directed to pay an advance of **Rs.2,00,000/- (Rupees Two Lakhs Only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency



Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

(ix) The Registry is directed to communicate a copy of 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 website immediately after pronouncement of the order.

9. Accordingly, **CP(IB) No.83/7/NCLT/AHM/2020** stands admitted. However, Insolvency Resolution Professional / Resolution Professional to file progress report through IA so that which can be taken on record by this Adjudicating Authority.

-SD-

-SD-

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

**MADAN B GOSAVI**  
**MEMBER (JUDICIAL)**

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