



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH – II, CHENNAI  
CP(IB)/132(CHE)/2024**

*(Filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 4 of  
Insolvency and Bankruptcy Application to Adjudicating Authority Rules 2016)*

**STATE BANK OF INDIA,**

Represented by its Authorised Officer, Mrs. Sindu B,

Stressed Assets Management Branch

“Red Cross Buildings”

No.32,Red Cross Road,

Egmore,Chennai-600 008.

*... Financial Creditor*

-Vs-

**M/s. SHRUTHI MILK PRODUCTS PRIVATE LIMITED,**

CIN: U15200TN2008PTC066681

Having Registered Office at

No.18, Vellalar Street,

Ambattur, Chennai – 600 058,

Tamil Nadu.

*... Corporate Debtor*

Order Pronounce on **29th April 2025**

**CORAM**

**SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)**

**SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

*Present:*

*For Financial Creditor*

*:Mr.B.Dhanaraj, Advocate*

*For Corporate Debtor*

*:Mr. A.S. Sathish Kumar, Advocate*

**ORDER**

This Application has been filed under Section 7 of Insolvency and Bankruptcy Code, 2016 by **STATE BANK OF INDIA** (hereinafter referred to as Financial Creditors) seeking to initiate Corporate Insolvency Resolution Process against **SHRUTHI MILK PRODUCTS PRIVATE LIMITED** (hereinafter referred to as “Corporate Debtor”).



2. In Part-I of the Application it is averred that Applicant/ Financial Creditor is a Multinational, Public sector Banking and Financial services statutory body incorporated on 01.07.1955.
3. Part-II of the application contains the details of the corporate debtor and it is averted that the Corporate Debtor is a private limited company incorporated on 03.03.2008 under the companies Act, 1956. The Registered office of the Corporate Debtor is at No.18, Vellalar Street, Amabattur, Chennai-600058, Tamil Nadu, which is under the jurisdiction of this Tribunal.
4. In Part – III of the application, the Applicant has proposed Mr. R. Venkarakrishnan having Registration No.IBBI /IPA-001/IP-P00115/2017-2018/10250 to act as the Interim Resolution Professional.
5. In Part – IV of the Application, the applicant stated that the amount in default is Rs.34,07,70,390/- in which Loan dues is Rs.29,39,36,869/- and interest amount is Rs.4,54,25,174/- and charges is Rs.14,08,347/-. The Date of Default is mentioned as 28.06.2021.
6. In Part V of the application the following documents have referred to substantiate the debt disbursed to the corporate debtor.
  - a) Letter of Arrangement dated 04.05.2006, 23.12.2009
  - b) Latest Board Resolution dated 15.07.2022.
  - c) Latest Debit balance confirmation dated 30.09.2022



d) Record of Default issued by information utility dated  
28.06.2021

e) Minutes of the board meeting held on various dates.

7. It is submitted that Corporate Debtor namely, Shruthi Milk Products Private Limited which was formally known as M/s. Balamurugan Dairy Products incorporated on 03.03.2008 under companies Act, 1956 and engaged in the business of manufacturing dairy products.
8. It is submitted that the corporate debtor has opened a current account with the financial creditor in the year of 2004 and further submitted that since 2006 the corporate debtor has availed various credit facilities from the Financial Creditor by issuing the sanction letter on various dates.
9. It is submitted that equitable mortgage was created by way of deposit of title deeds creating a security interest in favour of the financial creditor. Further the corporate debtor has acknowledged its liability in respect to the credit facilities by executing a balance confirmation, revival letter, and other documents from time to time.
10. It is submitted that during FY2020-2021 and 2021-22, the Loan account of the corporate debtor has become irregular due to significant operational challenges across India and in furtherance to which financial creditor has issued a notice of irregularity to the corporate debtor dated 22.06.2022.



11. It is submitted that default was committed by the corporate debtor and hence the account of the corporate debtor was declared as NPA on 28.06.2021.
12. It is submitted that financial creditor has issued a notice under section 13(2) of the SARFASI Act on 12.06.2023, against the corporate debtor and the directors of the corporate debtor namely Shri.S.Kannaiah Reddy, Smt. K. Yamuna, calling upon them to discharge their liability and pay the outstanding dues to the sum of Rs.30,41,67,277/- as on 12.06.2023 within a period of 60 days and with future interest and incidental expenses, costs.
13. It is submitted that the corporate debtor has admitted their liability and has proposed a timeline plan for settling the loan amount within a period of 1.5 years vide letter dated 18.07.2023. The financial creditor vide letter dated 25.07.2023 has rejected the proposal stating the reason that

*(i) Substantial upfront amount is to be paid for examining the settlement*

*(ii) No specific timelines for payment of compromise amount*

*(iii) Time frame requested for making payment was too long and*

*(iv) Source of funds are not clearly mentioned.*

However, the corporate debtor has sent a revised letter compromise letter to financial creditor on 28.07.2023 and the same was rejected by the financial creditor on 02.08.2023.



14. On rejection of the letter of compromise, the corporate debtor on 20.11.2023 has made a proposal for one time settlement for Rs.11.52 Crores and the same was rejected by the financial creditor on 28.11.2023 as the said proposal amount was less as against the outstanding amount of Rs.33.23 as on 31.01.2024.
15. It is submitted that the financial creditor has issued a possession notice under section 13(4) of SARFAESI Act on 05.10.2023 which was challenged by the corporate debtor before Hon'ble DRT-III vide SA/641/2023. However, the Hon'ble DRT-III vide order dated 21.02.2024 has dismissed the application and the detailed extract is as follows:

SA No.641/2023 21.02.2024

Both sides are present. This SA is filed challenging the possession notice dated 05.10.2023 issued by respondent bank for recovery of a sum of Rs.31,86,29,412/-.

Heard Ld. Counsel appearing for respective parties. Ld. Counsel for applicant could not make out any infirmities in the procedure adopted by the respondent bank while issuing the impugned possession notice dated 05.10.2023.

Ld. counsel for respondent bank has demonstrated through their counter and typed set of documents, copies of which, are furnished on the Ld. counsel for applicant with regard to the service, affixture and causing of paper publication.

In the circumstances, as applicant could not make out any tenable infirmities in the procedure adopted by the respondent while issuing the impugned Possession Notice, the present SA is devoid of merits and is liable to be dismissed.

Accordingly, SA stands dismissed, however, without costs.

Interim stay, if any, granted and subsisting till this day stands vacated and all other IAs, if any pending stands closed.

PO

16. It is submitted that the in-spite of several remainders, the corporate debtor has failed to make payment of the outstanding dues to the



financial creditor and hence the Financial creditor has issued a notice on 02.03.2024 under Rule 8(6) of Security Interest (Enforcement) Rules, 2002 to the corporate debtor informing that the secured assets which was mortgaged/charged to the financial creditor shall be sold by public e-auction on 15.04.2024. However the public e-auction has failed.

17. It is submitted that the corporate debtor has failed to pay the outstanding dues of Rs.34,07,70,390/- as on 31.03.2024 and hence the financial creditor has filed this present application on 24.05.2024 for initiation of CIRP against the corporate debtor.

**COUNTER STATEMENT OF RESPONDENT/CORPORATE DEBTOR:**

18. The corporate debtor has filed counter statement vide SR No.1967, and stated that the corporate debtor was engaged in procurement and distribution of Dairy product and was operating at annual turnover of Rs.150 Crore and further submitted that financial creditor has given various credit facilities for operations of the corporate debtor.
19. The corporate debtor submitted that following the outbreak of COVID-19 the corporate debtor did not make any profit and hence was forced to narrow down its business operations.
20. The corporate debtor further submitted that due to the financial distress faced by the corporate debtor, the corporate debtor could not able to make payment for the credit facilities and hence the financial



creditor has classified the account of corporate debtor as Non-Performing Asset (NPA) on 28.05.2023 with a retrospective effect from 28.06.2021 as per RBI guidelines.

21. The corporate debtor submits that the business of the corporate debtor has been bounced back to an extent where it can sustain its day to day operations of the corporate debtor.
22. The corporate debtor has relied on **Swiss Ribbons Pvt Ltd .Vs. Union of India** and emphasized that the primary focus of the IBC is “resolution” of the Stressed companies and not liquidation or recovery of debts by creditors.
23. The corporate debtor further has made a reference to **Vidarbha industries Power Ltd. V Axis Bank Ltd (2022) [SCC online SC 841]** and stated that even if default exists, the NCLT has discretion to reject a section 7 application if there are compelling reasons to do so.
24. The corporate debtor submits that it remains viable and continues to generate revenue and has demonstrated its willingness to restructure its loans.

**REJOINDER BY APPLICANT/FINANCIAL CREDITOR:**

25. The Financial creditor has filed a rejoinder wherein the applicant/ financial creditor has denied the averments made in the counter and it reiterated the facts as stated in the application.



26. The financial creditor further submitted that the personal guarantors of the Corporate debtor namely Shri.S.Kannaiah Reddy, Smt. K. Yamuna has filed an application under section 94 of IBC,2016 in CP(IB)/138(CHE)/2024 and CP(IB)/139(CHE)/2024 to subject themselves to insolvency resolution process which clearly shows that the Corporate debtor is insolvent.
27. The financial creditor further submits that restructuring of corporate debtor's credit facility was failed due to non-payment of interest/ instalments and hence the financial creditor has classified the account of corporate debtor as NPA on 28.05.2023 with a retrospective effect from 28.06.2021 as per RBI guidelines.
28. The financial creditor further submits that investigation was conducted by the financial creditor on the corporate debtor's main unit at Chittor on 03.05.2024, where only 5-6 employees were working in the unit and all other activities were stopped except freezing of raw milk. Further there is no routing of funds through CC Account maintained with the financial creditor till date and hence the corporate debtor cannot be called as a solvent company.

**WRITTEN SUBMISSION OF THE APPLICANT/ FINANCIAL CREDITOR:**

29. The Financial creditor has filed written submission wherein it reiterated the facts as stated in the application and in the rejoinder.



30. In the written submission, the applicant has relied on the judgement of the Hon'ble Supreme Court in the matter of **Innoventive Industries Ltd -Vs- ICICI Bank & Anr** Wherein it was clarified that application under Sec 7 of IBC, 2016 must be admitted if a default is evident.

**WRITTEN SUBMISSION OF THE RESPONDENT/ CORPORATE DEBTOR:**

31. The Respondent/ Corporate debtor has filed their written submission where it reiterated the facts as stated in the counter.
32. In the written submission, the corporate debtor has relied on **Edelweiss Asset Reconstruction Company Limited Vs Takshashila Heights private limited** where in it was stated that *“simply because there is debt and default, CIRP cannot be initiated. Corporate debtor is going concern, Acts of applicant shows intent of only recovery of money through its process which is not at all object of IBC,2016”*

**FINDINGS OF THIS TRIBUNAL:**

33. Heard the submissions of Ld. Counsels of both the parties and perused the documents on record.
34. In this present case, the application is filed by State Bank of India against the Shruthi Milk Products Private Limited for initiation of CIRP against the corporate debtor/ Respondent under section 7 of IBC,2016.
35. From the facts and circumstances of this case, it is clear that, there is no dispute between the parties regarding the credit facilities availed



by the corporate debtor and it is an admitted fact that the corporate debtor has defaulted in repaying the dues and hence the financial creditor has declared the accounts of the corporate debtor as NPA on 28.05.2023 with a retrospective effect from 28.06.2021 as per RBI guidelines.

36. On perusal of records, we find that the corporate debtor has proposed for OTS on various dates and the same has been rejected by the financial creditor stating that the amount offered is less as compared to the outstanding dues.
37. At this juncture it is relevant to consider the judgment of the *Hon'ble NCLAT in Nakul Bharana Vs. National Asset Reconstruction Company Limited and Anr. Company Appeal (AT) (Insolvency) No.1930 of 2024 & I.A.No.7495 of 2024* wherein it was held that when a onetime settlement proposal submitted by the corporate debtor is rejected by the financial creditor and the debt remains unpaid, the application under section 7 of IBC,2016 must be admitted.
38. The relevant provision under IBC,2016 is as follows:

***"Section 5 Definition:***

...

(7) ***"Financial creditor"*** means any person to whom a financial debt is owned and includes a person to whom such debt has been legally assigned or transferred to;

(8) ***"Financial debt"*** means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes–

(a) Money borrowed against the payment of interest;

(b) Any amount raised by acceptance under any acceptance credit facility or its dematerialised equivalent;



*(c) Any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;*

*(d) The amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;*

39. Upon perusal of the above provisions of IBC,2016, Section 5(8) of IBC,2016, stipulates that financial debt is a debt disbursed against consideration for time value of money. In this present case, The Applicant/ Financial creditor has disbursed against consideration for the time value of money which falls within the nature of financial credit and hence the applicant is considered as the financial creditor.
40. From the factual matrix of the case and from the submissions made by the parties it is clear that the corporate debtor has defaulted in making payment and the date of default 28.06.2021 and the present application is filed on 24.05.2024 which is within the limitation period.
41. In this present case, we find that the corporate debtor has acknowledged the debt and has defaulted in repaying by the corporate debtor. The Amount of Default is Rs.34,07,70,390/- as on 31.03.2024 which is above the threshold limit of Rs.1 Crore as prescribed under IBC,2016. We find that, The NeSL has authenticated the debt and default and the record of default is extracted as below



**NeSL NATIONAL E-GOVERNANCE SERVICES LIMITED**  
India's First Information Utility

**FORM D  
RECORD OF DEFAULT (RoD)**

*(Issued By information utility under sub-regulation (4) of regulation 21 of the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017)*

This Record of Default is issued to the Financial Creditor M/s STATE BANK OF INDIA in respect of the default of debt as per details given below-

(a) Name of the Submitter: M/s STATE BANK OF INDIA  
(b) Schedule-2 Bank (Y/N): Y  
(c) Name of Corporate Debtor: M/s SHRUTHI MILK PRODUCTS PVT LTD  
(d) Unique Debt Identifier Number: AAACS8577K\_30978618013  
(e) Registered Address: SBI CORPORATE CENTRE, MADAM CAMA ROAD, NARIMAN POINT, MUMBAI  
(f) Total Outstanding Amount: 160609603.00  
(g) Default Amount: 148848904.00  
(h) Date of Default: 28-06-2021  
(i) Status of Authentication of Default: AUTHENTICATED  
(j) Date of Last Acknowledgement of Debt (AoD): Not Available

Filing of Default (Submission ID No.)	Submitted on	Status of Authentication (Authenticated/Disputed/Deemed to be authenticated)	Authentication completed on
(2)	21-10-2023 17:34:26	<b>AUTHENTICATED</b> Colour Code :GREEN	06-11-2023 00:09:14

NeSL is authorized to issue this record of default and has accordingly affixed its digital signature, as per the provisions of the Insolvency and Bankruptcy Code, 2016 read with Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017, Guidelines for Technical Standards for Performance of Core Services and Other Services and the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2017.

42. It is an well settled Law that for a company to be admitted into CIRP under IBC,2016 under section 7 of IBC,2016, there must be a debt, there must be default within the period of limitation and the amount of default should be above the threshold limit set out under section 4of IBC, 2016

43. The Hon'ble Supreme court in *Innoventive Industries Ltd Vs. ICICI Bank & Anr. (2017 SCC Online SC1025)*, held as follows,

*30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.*

44. On considering the averments made in the pleadings, the documents, and the above decisions Hon'ble supreme court, we are of the view



that the corporate debtor has committed the default in respect of the debt which is more than Rs.1 Crore and hence, it is a fit case for initiation of CIRP against the corporate debtor. Accordingly, this Tribunal allow this application and order to initiate the corporate insolvency resolution process against the corporate debtor.

45. The Financial Creditor has proposed the name of Mr.R.Venkatakrishnan having Registration No.IBBI/IPA-001/IP-P00115/2017-2018/10250,Email ID:[rvk@rvkassociates.com](mailto:rvk@rvkassociates.com) as the Interim Resolution Professional (“IRP”) who has also filed his consent in Form – 2 and also upon verification from the IBBI website, it is seen that the said person hold valid Authorization for Assignment till **31.12.2025**.
46. **Mr.R.Venkatakrishnan** is appointed as the IRP and is directed to take charge of the Corporate Debtor’s management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the IBC, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
47. As a consequence of the Application being admitted in terms of Section 7 of the Code, moratorium as envisaged under provisions of



Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

- a. *The institution of suits or continuation of pending suits or proceedings against the respondent 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 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 in respect of its property including any action under the Securitization 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.*

*Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;*

48. However, during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

(2) *The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*

(2A) *Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of*



*moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.*

(3) *The provisions of sub-section (1) shall not apply to*

*a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;*

*b) a surety in a contract of guarantee to a corporate debtor.*

49. The duration of period of moratorium shall be as provided in section 14(4) of the code which is reproduced below for ready reference;

*(4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:*

*Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.*

50. The IRP is directed to take charge of the Corporate Debtor's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the IBC, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



51. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15, 17, 18 of the IBC, 2016 and file his report within 30 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.
52. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 of IBC, 2016 for the purpose of discharging his functions under Section 20 of IBC, 2016.
53. The IRP shall take custody of the records of information relating to the assets, finances and operations of the Corporate Debtor referred in clause (a) of section 18 and such other information required under regulation 36; and also the assets recorded in the balance sheet of the Corporate Debtor or in any other records referred in clause (f) of section 18 of IBC, 2016 and the personnel of the Corporate Debtor, its promoters or any other person associated with the management of the Corporate Debtor shall provide to the IRP, the list of assets in terms of



Regulation 3A of the IBBI (Insolvency Resolution Process of Corporate Persons) Regulations, 2016.

54. The IRP shall conduct the Corporate Insolvency Resolution Process in respect of the Corporate Debtor as stipulated under Chapter VIII of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
55. Based on the above terms, the Petition stands admitted in terms of Section 7 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Financial Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.
56. Accordingly, **CP(IB)/132(CHE)/2024** stands **admitted**.

-SD-

**RAVICHANDRAN RAMASAMY**  
MEMBER (TECHNICAL)

-SD-

**JYOTI KUMAR TRIPATHI**  
MEMBER (JUDICIAL)