

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

ITEM No.301
C.P.(IB)/303(AHM)2024

Proceedings under Section 7 IBC

IN THE MATTER OF:

Central Bank Of India
V/s
Repute Foods Pvt. Ltd

.....Applicant

.....Respondent

Order delivered on: 07/01/2025

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER
(Hybrid Mode)

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

-sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

-sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

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

CP (IB) No.303/AHM/2024

(An application 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:

Central Bank of India

Having Registered or Head Office at:
Chandermukhi,
Nariman Point,
Mumbai – 400021.

And having Branch Office at:
Patani Building,
MG Road,
Rajkot.

...Applicant/Financial Creditor

VERSUS

M/s. Repute Foods Pvt. Ltd.

CIN No. U15400GJ2011PTC067117

Registered office at:

Survey No.244, Plot No.6,

Opp. Galaxy Building, B/h. Artech Eng. Off.,

Gondal – Rajkot Highway,

Shapar (Veraval), Dist. Rajkot,

Gujarat – 360024.

...Respondent/Corporate Debtor

CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Applicant : Mr. Mrugesh Jani, Adv.
For the Respondent : Ms. Ina Jagad, Proxy Adv.

ORDER

1. The Present Application is filed on 28.08.2024 by the Applicant- **Central Bank of India** (hereinafter referred to as "**Financial Creditor**") against the Respondent- **M/s. Repute Foods Pvt. Ltd.** (hereinafter referred to as "**Corporate Debtor**") under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "**IB (AAA) Rules, 2016**") for initiation of Corporate Insolvency Resolution Process (**CIRP**), to appoint Interim Resolution Professional (hereinafter referred to as "**IRP**") and declare the moratorium for having defaulted payment of its outstanding dues of

Rs.20,46,31,392/- including interest. The date of default as stated to be 11.08.2023. The application has been affirmed by one Mr. Akash Chandrakant Dave, Chief Manager, Central Bank of India, Rajkot Branch.

2. Perusal of Part – III of Form – 1 reveals that the Applicant has names one Mr. Chirag Rajendrakumar Shah, having IBBI Registration No. IBBI/IPA-001/IP-P01169/2018-19/11837 having AFA validity upto 31.05.2025, who has given his consent in Form – 2, which is annexed at Annexure – A to the application.
3. A perusal of the Part – IV indicates that the Applicant has granted the following debt to the Respondent:
 - (1) Cash Credit of Rs. 13.50 Crores
 - (2) Term Loan (for construction) of Rs. 2.80 Crores
 - (3) Term Loan (for Plant & Machinery) of Rs. 2.80 Crores
 - (4) Cent GECL of Rs. 1.98 Crores
 - (5) Cent GECL 1.0 (Extension) of Rs. 99.50 Lacs




4. As regards the disbursement, it is stated that the cash-credit facilities were first disbursed on 04.04.2014, the term loan was first disbursed on 20.10.2021, GECL loans were disbursed on 06.06.2020 and then on 01.02.2022.
5. The Applicant has claimed a sum of Rs. 20,46,31,392/-, computation for which is attached at Annexure – B. The date of default is mentioned as 11.08.2023. The Applicant has attached various certificates from NeSL from page-29 to page-64 of the application. Perusal of the same reveals that the NeSL record of default i.e. Form – D is in authenticated stage and the authentication was completed on 18.02.2024.
6. A perusal of the Part– V reveals that the Applicant is holding the following securities of the Corporate Debtor as security.

(A) Property belongs to REPUTE FOODS P. LTD.

Land admeasuring 2126.64 sq. mtrs. of Plot No. 6 of Revenue Survey No. 244 paiki of village Shaper (Veraval), Taluka Kotada Sangani, Dist. Rajkot in the state of Gujarat, with the building thereon and bounded as under:

North: Adjoining Plot No. 7,



South: Waste Land,

East: Property of Adjoining Survey No. 244 paiki,

West: 49.52 mtrs. Internal Road.

(ESTIMATED VALUE RS. 5,20,00,000/-)

(B) Property belongs to REPUTE FOODS P. LTD.

Open Land admeasuring 836.25 sq. mtrs. of Plot No. 7 of Revenue Survey No. 244 paiki of village Shaper (Veraval), Taluka Kotada Sangani, Dist. Rajkot in the state of Gujarat, with the building thereon and bounded as under:

North: Land of Survey No. 244,

South: Road,

East: Plot No. 8,

West: Plot No. 6.

(ESTIMATED VALUE 2,10,00,000/-)

Besides above, there are certain other securities provided by the other Guarantors.

7. The Applicant relies upon the following documents:

a) Sanction Letter Dated 17.12.2013

- b) D.P. Note for Rs. 1,80,00,000/- duly signed and executed by the Director of the Company and guarantors dated 17.12.2013
- c) Letter of waiver for Rs. 1,80,00,000/- duly signed and executed by the Director of the Company dated 17.12.2013
- d) Promissory note duly signed and executed by the Director of the Company dated 17.12.2013
- e) Articles of agreement duly signed and executed by the Director of the Company dated 17.12.2013
- f) General irrevocable power of attorney duly signed and executed by the Director of the Company dated 17.12.2013
- g) Agreement of Hypothecation of tangible movable plant machineries, stock, goods & Book Debts duly signed and executed by the Director of the Company dated 17.12.2013
- h) Copy of Mortgage Deed registered with SRO- KOS at Sr. No. 2011 Dated 17.12.2013
- i) Copy of sanction letter: CC revised sanction from 17 cr. to 13.50 Cr.



- j) Sanction Letter Dated 01.11.2015
- k) D.P. Note for Rs. 4,00,00,000/- duly signed and executed by the Director of the Company dated 07.11.2015
- l) Letter of waiver for Rs. 4,00,00,000/- duly signed and executed by the Director of the Company dated 07.11.2015
- m) Articles of Agreement duly signed and executed by the Director of the Company dated 07.11.2015
- n) Documents for Term Loans Granted against fixed assets duly signed and executed by the Director of the Company dated 07.11.2015
- o) Declaration duly signed and executed by the Director of the Company dated 07.11.2015
- p) Declaration-cum-undertaking duly signed and executed by the Director of the Company dated 07.11.2015
- q) Supplementary Agreement duly signed and executed by the Director of the Company dated 07.11.2015
- r) Agreement of supplemental Deed of Hypothecation of goods for increase in limit/facility duly signed and

executed by the Director of the Company dated
07.11.2015

- s) Letter of hypothecation duly signed and executed by
the Director of the Company dated 07.11.2015
- t) Letter of Hypothecation-Book Debts-loans duly
signed and executed by the Director of the Company
dated 07.11.2015
- u) Copy of Mortgage Deed registered with SRO- KOS at
Sr. No. 2582 Dated 07.11.2015
- v) Sanction Letter Dated 30.03.2017
- w) Supplemental Deed of Hypothecation duly signed
and executed by the Director of the Company dated
03.04.2017
- x) letter of Hypo.-book debts-loans duly signed and
executed by the Director of the Company dated
03.04.2017
- y) Copy of Mortgage Deed registered with SRO- KOS at
Sr. No. 723 Dated 03.04.2017
- z) Sanction Letter Dated 07.09.2018



- aa) D.P. Note for Rs. 10,00,00,000/- duly signed and executed by the Director of the Company dated 12.09.2018
- bb) D.P. Note for Rs. 10,00,00,000/- duly signed and executed by the Director of the Company dated 12.09.2018
- cc) Letter of waiver Rs. 10,00,00,000/- duly signed and executed by the Director of the Company dated 12.09.2018
- dd) Supplementary Agreement for Rs. 10,00,00,000/- duly signed and executed by the Director of the Company dated 12.09.2018
- ee) Supplemental Deed of Hypothecation duly signed and executed by the Director of the Company dated 12.09.2018
- ff) Letter of hypothecation-book debts-loans duly signed and executed by the Director of the Company dated 12.09.2018
- gg) Board Resolution of M/s REPUTE FOODS F. LTD. dated 07.05.2018



- hh) Board Resolution of M/s REPUTE FOODS P. LTD.
dated 12.09.2018
- ii) Sanction Letter Dated 01.06.2020
- jj) Letter dated 26.05.2020 requesting the bank to
increase cash credit facility
- kk) WCTL duly signed and executed by the Director of
the Company dated 04.06.2020
- ll) Sanction Letter Dated 25.06.2021 (for release of
REPUTE POLYMERS P. LTD.)
- mm) Sanction Letter 14.10.2021
- nn) Document for Term loans Granted against fixed
assets duly signed and executed by the Director of
the Company dated 18.10.2021
- oo) Document for Term loans Granted against fixed
assets duly signed and executed by the Director of
the Company dated 18.10.2021
- pp) Letter of Hypothecation (Rs. 4.10 Cr.) duly signed
and executed by the Director of the Company dated
16.10.2021

- qq) Letter of Hypothecation (Rs. 3.76 Cr.) duly signed and executed by the Director of the Company dated 16.10.2021
- rr) Copy of Mortgage Deed registered with SRO- KOS at Sr. No. 4012 Dated 16.10.2021
- ss) Sanction Letter Dated 05.05.2022
- tt) Letter of continuity duly signed and executed by the company dated 05.05.2022
- uu) Supplementary Agreement duly signed and executed by the company dated 05.05.2022
- vv) Letter of hypothecation book debts-loans duly signed by the company dated 05.05.2022
- ww) Agreement of hypothecation to secure demand cash credit against goods duly signed and executed by the company dated 05.05.2022
- xx) Copy of Mortgage Deed registered with SRO- KOS at Sr. No. 3495 Dated 14.07.2022
- yy) Notice of 13(2) of SARFAESI Act Dated 14.08.2023.
- zz) Legal notice issued by the advocate on behalf of bank dated 28.02.2024.
- aaa) Extract of CERSARSI details



bbb) Interest certificate issued by the Bank.

ccc) POA of Bank Manager authorizing to make affidavit

8. The matter was first listed before this Bench on 09.10.2024, where notice was issued to the Respondent with directions to file reply within 07 days from the date of receipt of the notice. As per the Affidavit of Service filed by the Applicant, notice was duly served upon the Respondent on 22.10.2024. Ld. Counsel Mr. Mohit Gupta appeared on 25.11.2024 and sought extension to file reply within 07 days, which was allowed subject to deposit of cost of Rs.5000/- in the Prime Minister's National Relief Fund.
9. The matter was again listed on 06.12.2024. The Corporate Debtor e-filed the reply. But the physical copy was not filed nor any proof of payment of cost was produced before this Tribunal. Ld. Counsel for the Respondent undertook to file the proof of the same.
10. The case was again listed on 03.01.2025 where the Proxy Counsel appeared for Respondent and only sought adjournment. There was no proof of payment of cost of Rs.5000/- levied on the Respondent vide order dated

25.11.2024. In view of same, this Tribunal vide order dated 03.01.2025 decided as follows:

“Again no proof of deposit of costs is placed either in the E-form on DMS Portal nor in physical form.

Since, the respondent is in constant disobedience of the orders of this Tribunal and has not placed any proof for deposit of cost of Rs.5,000/- levied on the respondent on 25.11.2024. Further, the order dated 06.12.2024 erroneously record that the cost of Rs.25,000/-. However, it also records that no proof of payment of costs is placed as the respondent is in constant disobedience of the order. Therefore, reply filed by the Respondent is not taken into consideration and rejected accordingly. Further, right to file reply is treated closed.

We have heard the learned Counsel for the Applicant as well as learned Proxy Counsel for the Respondent and perused the record.

Reserved for the order.”

11. We have heard the Ld. Counsel for the Applicant as well as the Ld. Proxy Counsel for the Respondent.



12. Ld. Counsel for the Applicant has proved that the Applicant Bank has disbursed various facilities on various dates to the Corporate Debtor.
13. The amount claimed and defaulted is Rs. 20,46,31,392/-. The Applicant has placed the record of default being Form-D from page-29 to page-64 of the application issued by NeSL and a perusal of the same reveals that the record of default are in authenticated stage.
14. The date of default is mentioned as 11.08.2023. The present petition was filed on 14.08.2024 and is filed within the limitation period.
15. The Hon'ble Supreme Court in the matter of ***Innoventive Industries Limited v. ICICI Bank Limited***, where it has discussed extensively the scope of the Adjudicating authority under section 7 of the IBC is limited to assessing the records provided by the financial creditor to satisfy itself that the default has occurred.

28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor – it need not be a debt owed to the

applicant financial creditor. Under Section 7(2), an application is to be made under sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the application is made by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in part III, particulars of the financial debt in part IV and documents, records and evidence of default in part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the “debt”, which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under sub-section (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.

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.

16. The Applicant has proved that there is debt which is in default and amount claimed is more than Rs. 01 Crore.
17. Hence, the application filed under section 7 of the Insolvency and Bankruptcy Code, 2016 for initiation of Corporate Insolvency Resolution Process (CIRP) against the Respondent/Corporate Debtor deserves to be admitted.
18. Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under:-
 - (i) The Respondent/Corporate Debtor **M/s. Repute Foods Pvt. Ltd.** is **admitted** in Corporate Insolvency Resolution Process (**CIRP**) under section 7 of the IBC, 2016.
 - (ii) As a consequence thereof, 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 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 order of 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. 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.
- (v) As proposed by the Financial Creditor, we appoint **Mr. Chirag Rajendrakumar Shah** having **Registration No. IBBI/IPA-001/IP-P01169/2018-19/11837** under section 13(1)(c) of the Code to act as Interim Resolution Professional (**IRP**). 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 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.
- (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/- (Rupees Two Lakh Only)** in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims etc. 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, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.



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

19. Accordingly, this Application **CP(IB)/303/AHM/2024** is hereby admitted. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

-sdt-
SAMEER KAKAR
MEMBER (TECHNICAL)

-sdt-
SHAMMI KHAN
MEMBER (JUDICIAL)

SDP

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 231 & 232 of 2025

IN THE MATTER OF:

Kishorbhai Bhanjibhai Vachhani

...Appellant

Versus

Central Bank of India & Anr.

...Respondents

Present:

For Appellant : Mr. Keith Varghese, Advocate.

For Respondents :

ORDER
(Hybrid Mode)

07.02.2025: Learned counsel for the Appellant submits that the Appellant has deposited the cost of Rs.5000 on 05.12.2024, which was also noted in order dated 06.12.2024, however, the proof of payment of cost could not be filed, hence, the Court did not consider the reply of the Corporate Debtor and reserved the order. Subsequently, by order dated 07.01.2025, Section 7 application has been admitted. It is submitted that the reply was already on the record as well as the rejoinder affidavit. Submission needs scrutiny.

Issue notice. Requisites along with process fee be filed within three days. Let Reply be filed within two weeks.

List this appeal for admission/ disposal on **28.02.2025**.

Cont'd.../

In the meantime, no further steps shall be taken in pursuance of the order dated 07.01.2025.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**[Arun Baroka]
Member (Technical)**

Archana/nn

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 231 & 232 of 2025

IN THE MATTER OF:

Kishorbhai Bhanjibhai Vachhani

...Appellant

Versus

Central Bank of India & Anr.

...Respondents

Present:

For Appellant: Mr. Keith Varghese, Advocate.

**For Respondents: Mr. Tushar Singh, Ms. Aastha Kaushik, Advocates
for R-1.**

ORDER
(Hybrid Mode)

16.07.2025: Heard learned counsel for the Appellant as well as learned counsel for the Central Bank of India. These two appeals have been filed against order dated 03.01.2025 and 07.01.2025 by which order the Adjudicating Authority directed that Appellant having not placed any proof for deposit of cost of Rs.5000/-, reply filed by the Appellant has not been taken into consideration and by subsequent order dated 07.01.2025, Section 7 application has been admitted.

2. When the Appeal was taken, submission of learned counsel for the Appellant was recorded that cost of Rs.5000/- was deposited on 05.12.2024, however, proof of payment of cost could not be filed. On 07.02.2025, this Tribunal passed following order:

“ORDER
(Hybrid Mode)

07.02.2025: *Learned counsel for the Appellant submits that the Appellant has deposited the cost of*

Cont'd.../

Rs.5000 on 05.12.2024, which was also noted in order dated 06.12.2024, however, the proof of payment of cost could not be filed, hence, the Court did not consider the reply of the Corporate Debtor and reserved the order. Subsequently, by order dated 07.01.2025, Section 7 application has been admitted. It is submitted that the reply was already on the record as well as the rejoinder affidavit. Submission needs scrutiny.

Issue notice. Requisites along with process fee be filed within three days. Let Reply be filed within two weeks.

*List this appeal for admission/ disposal on **28.02.2025.***

In the meantime, no further steps shall be taken in pursuance of the order dated 07.01.2025.”

3. A reply has been filed by the Respondent.
4. We have considered the submissions of learned counsel for the parties and perused the record.
5. There is no dispute that cost imposed by the Adjudicating Authority by order dated 25.11.2024 was to deposit the cost within 7 days of Rs.5000/- in Prime Minister Relief Fund. Appellant's case is that the cost came to be deposited on 05.12.2024 i.e. within the time allowed by the Court. Proof of deposit of cost has also been brought on the record at page 120 of the paper book, which is receipt of payment of Rs.5000/- in Prime Minister Relief Fund. The cost having been deposited by the Appellant, we are of the view that Reply filed by the Appellant ought to have been taken on record.

6. The Adjudicating Authority has passed order dated 07.01.2025 admitting Section 7 application after rejecting the reply of the Appellant.

7. After hearing learned counsel for the parties, we are of the view that the reply of the Appellant having been rejected to be taken on record, the order admitting Section 7 application is a consequential order without considering the reply. We are of the view that cost of Rs.5000/- having been already deposited by the Appellant, the reply was required to be looked into by the Adjudicating Authority. We, thus, set aside both orders dated 03.01.2025 and 07.01.2025 and revive Section 7 application filed by the Financial Creditor for fresh consideration after considering reply of the Appellant. Learned counsel for the Financial Creditor submits that rejoinder has already been filed before the Adjudicating Authority. We make it clear that we have not expressed any opinion on the merits of the Section 7 application and it is for the Adjudicating Authority to take a decision after considering the reply filed by the Appellant and the rejoinder, in accordance with law. With the aforesaid, both the appeals are disposed of.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

Archana/nn

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

ITEM No.229 - IA/254(AHM)2025
in
C.P.(IB)/303(AHM)2024

Proceedings under Section 7 IBC

IN THE MATTER OF:

Central Bank Of India
V/s
Repute Foods Pvt. Ltd

.....Applicant

.....Respondent

Order delivered on: 22/07/2025

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sanjeev Kumar Sharma, Hon'ble Member(T)

PRESENT:

For the Applicant/RP : Mr.Pratik Thakkar, Advocate
For the Original FC : Mr. Mrugesh Jani, Advocate

ORDER
(Hybrid Mode)

IA/254(AHM)2025

Ld. Counsel for the Applicant/Resolution Professional has placed before us a copy of the order of the Hon'ble NCLAT dated 16.07.2025, whereby the order of this Tribunal dated 03.01.2025 and 07.01.2025 has been set aside and Section 7 application filed by the FC revived for fresh consideration after considering the reply of the Respondent / Corporate Debtor. The order is taken on record.

In view of the above, **IA/254(AHM)2025** filed by the Applicant/RP is rendered infructuous and dismissed accordingly.

C.P.(IB)/303(AHM)2024

In view of the above, revival of this Company Application in terms of the order of the Hon'ble NCLAT dated 16.07.2025, let notice be issued to the Respondent for appearance on the next date for making submission in the matter.

Ld. Counsel for the Applicant/Financial Creditor is directed to serve the copy of this order as intimation of notice of hearing to the Respondent as well as to its Counsel.

Re-list for further consideration on 19.08.2025.

-sd-

SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

-sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

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

ITEM No.101
CP (IB) No.303/AHM/2024

(An application 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:

Central Bank of India

Having Registered or Head Office at:

Chandermukhi, Nariman Point,
Mumbai – 400021.

And having Branch Office at:

Patani Building, MG Road, Rajkot.

...Applicant/Financial Creditor

VERSUS

M/s. Repute Foods Pvt. Ltd.

CIN No. U15400GJ2011PTC067117

Registered office at:

Survey No.244, Plot No.6,

Opp. Galaxy Building, B/h. Artech Eng. Off.,

Gondal – Rajkot Highway,

Shapar (Veraval), Dist. Rajkot,

Gujarat – 360024.

...Respondent/Corporate Debtor

Order Delivered On: 29.08.2025

C O R A M:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

CP (IB) No.303/AHM/2024

Central Bank of India vs. M/s. Repute Foods Pvt. Ltd.



APPEARANCE:

For the Applicant : Mr. Mrugesh Jani, Advocate.
For the Respondent : Mr. Mohit Gupta, Advocate.

ORDER
(Hybrid Mode)

1. This application is filed on 28.08.2024 by Central Bank of India, hereinafter referred to as the Financial Creditor, against M/s. Repute Foods Pvt. Ltd., hereinafter referred to as the Corporate Debtor, 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, seeking initiation of the Corporate Insolvency Resolution Process, appointment of an Interim Resolution Professional, and declaration of moratorium for an outstanding debt of Rs. 20,46,31,392, including interest, with the date of default stated as 11.08.2023. The application is affirmed by Mr. Akash Chandrakant Dave, Chief Manager, Central Bank of India, Rajkot Branch.
2. The Financial Creditor submits that it extended the following financial facilities to the Corporate Debtor: Cash Credit of Rs. 13,50,00,000, Term Loan for construction of Rs. 2,80,00,000, Term Loan for plant and machinery of Rs. 2,80,00,000, Cent GECL of Rs. 1,98,00,000, and Cent GECL 1.0 Extension of Rs. 99,50,000. The disbursements commenced on 04.04.2014 for the Cash Credit, 20.10.2021 for the Term Loans, 06.06.2020 for the Cent GECL, and 01.02.2022 for the Cent GECL 1.0 Extension. The Financial Creditor claims that the Corporate Debtor defaulted on its repayment obligations, leading to the account being classified as a Non-Performing Asset on 11.08.2023. The computation of




the default amount of Rs. 20,46,31,392 is supported by a statement of account. The Financial Creditor holds security over two properties owned by the Corporate Debtor, located at Plot No. 6 and Plot No. 7, Survey No. 244 paiki, Shapar (Veraval), Rajkot, Gujarat, with estimated values of Rs. 5,20,00,000 and Rs. 2,10,00,000, respectively, along with additional securities from guarantors.

3. The Financial Creditor relies on several documents to substantiate its claims, including Sanction Letters dated 17.12.2013, 01.11.2015, 30.03.2017, 07.09.2018, 01.06.2020, 25.06.2021, 14.10.2021, and 05.05.2022; Demand Promissory Notes dated 17.12.2013 for Rs. 1,80,00,000, 07.11.2015 for Rs. 4,00,00,000, and 12.09.2018 for Rs. 10,00,00,000; Articles of Agreement dated 17.12.2013, 07.11.2015, and 05.05.2022; Mortgage Deeds registered with SRO-KOS on 17.12.2013, 07.11.2015, 03.04.2017, 16.10.2021, and 14.07.2022; a General Irrevocable Power of Attorney dated 17.12.2013; Hypothecation Agreements dated 17.12.2013, 07.11.2015, 03.04.2017, 12.09.2018, 16.10.2021, and 05.05.2022; a Notice under Section 13(2) of the SARFAESI Act dated 14.08.2023; a Legal Notice dated 28.02.2024; and NeSL Record of Default (Form-D) authenticated on 18.02.2024.
4. The Financial Creditor proposes Mr. Chirag Rajendrakumar Shah, with IBBI Registration No. IBBI/IPA-001/IP-P01169/2018-19/11837 and AFA validity until 31.12.2025, as the Interim Resolution Professional, with his consent provided in Form-2.
5. The matter was listed on 09.10.2024, and a notice was issued to the Corporate Debtor, directing a reply within seven days. The Affidavit of Service confirms that the notice was served on 22.10.2024. On 25.11.2024,



the Corporate Debtor's counsel sought an extension to file a reply, which was granted subject to a cost of Rs. 5,000 to be deposited in the Prime Minister's National Relief Fund. On 06.12.2024, the Corporate Debtor e-filed a reply but failed to submit a physical copy or proof of cost payment. On 03.01.2025, the Corporate Debtor's proxy counsel sought an adjournment without providing proof of cost payment. Consequently, this Tribunal, vide order dated 03.01.2025, rejected the Corporate Debtor's reply for non-compliance with the cost order and closed its right to file a reply, reserving the matter for orders.

6. Further, vide order dated 07.01.2025 Corporate Debtor was admitted to CIRP. However, Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No.231 & 232 of 2025 vide order dated 16.07.2025 set aside both orders dated 03.01.2025 and 07.01.2025 and revive Section 7 application filed by the Financial Creditor for fresh consideration after considering reply of the Corporate Debtor.
7. Accordingly, Corporate Debtor's reply is taken into consideration to understand its defence. The Corporate Debtor acknowledges availing the financial facilities but submits that it faced financial difficulties due to external factors. It claims registration as a Micro, Small, and Medium Enterprise and entitlement to benefits under the Framework for Revival and Rehabilitation of MSMEs dated 17.03.2016. The Corporate Debtor states that it approached the Financial Creditor for loan restructuring through a letter dated 20.05.2022 and contends that the Financial Creditor's response dated 12.05.2022 was inadequate. It initiated Special Civil Application No. 23783 of 2022 before the Gujarat High Court,



challenging the Financial Creditor's actions, and cites an order dated 30.07.2024 in Special Civil Application No. 11210 of 2024.

8. The Corporate Debtor provides account statements and an MSME certificate to support its financial position and claims ongoing efforts to revive its business. It relies on documents including a Board Resolution, letters dated 12.05.2022 and 20.05.2022, Special Civil Application No. 23783 of 2022, case status and orders, account statements, an MSME certificate, and the MSME Framework.
9. The Financial Creditor also filed a rejoinder, affirmed by an authorized officer at its Rajkot Branch, denying the Corporate Debtor's averments unless specifically admitted. The rejoinder clarifies that the Corporate Debtor defaulted, leading to the NPA classification on 11.08.2023. It states that communications occurred through letters, verbal discussions, and meetings on 03.08.2023 and 11.08.2023, with the Corporate Debtor showing no intent to regularize the account.
10. The Financial Creditor denies allegations of engineering a default or mandating auto-debit arrangements, stating that the Corporate Debtor failed to instruct fund debits despite having internet banking and cheque book facilities. The account was classified as a Special Mention Account in 2022 per Reserve Bank of India guidelines, reflecting payment irregularities. The Financial Creditor issued a letter dated 12.05.2022 to address CIBIL issues, stating it was without prejudice, and denies controlling CIBIL scores, which depend on repayment discipline.
11. The Financial Creditor addresses the Corporate Debtor's legal proceedings, stating that Special Civil Application No. 23783 of 2022, challenging the



RBI Ombudsman's order dated 22.08.2022, is irrelevant as the complaint was rejected for not approaching the bank first. The Securitization Application No. 879 of 2023 before the Debts Recovery Tribunal-II, Ahmedabad, was rejected on 21.03.2024, and the appeal at the Debts Recovery Appellate Tribunal, Mumbai, was dismissed for non-compliance with a Rs.9,00,00,000 pre-deposit. The Corporate Debtor withdrew Special Civil Application No. 11210 of 2024 on 03.12.2024.

12. The Financial Creditor refutes claims of excessive interest, stating that penal interest of Rs. 7,51,793 was reversed as a system adjustment, and interest was charged per the loan agreement. It cites compliance with Reserve Bank of India guidelines and the SARFAESI Act's Section 13(2) notice. The Financial Creditor submits that the Corporate Debtor's default of over Rs. 20,00,00,000 justifies CIRP under Section 7, supported by loan agreements, account statements, and NeSL records.
13. The Corporate Debtor's reliance on the Supreme Court's decision in *Central Bank of India v. Ravindra* is addressed, with the Financial Creditor clarifying that no interest was charged on penal interest, and any excess was reversed. The Corporate Debtor's claim of diligent repayment until 31.07.2023 is contradicted by account statements showing irregular payments. The Financial Creditor demands evidence of deposits in the three months prior to the NPA classification, noting that the Corporate Debtor's deposit of Rs. 10,00,000 was insufficient. It alleges fund diversion to group units and non-compliance with MSME guidelines, as no rehabilitation scheme was proposed.
14. The Financial Creditor's submissions emphasize that the requirements under Section 7 of the Insolvency and Bankruptcy Code, 2016, are met, as



a debt and default are established through loan agreements, NeSL records, and account statements. The Corporate Debtor's defenses, including MSME status and prior litigations, do not constitute a valid dispute under the Insolvency and Bankruptcy Code, 2016. The Financial Creditor cites judgments such as *Innoventive Industries Ltd. v. ICICI Bank (2018) 1 SCC 407*, which mandates admission of a CIRP application upon proof of debt and default, and *Swiss Ribbons Pvt. Ltd. v. Union of India (2019) 4 SCC 17*, which upholds the constitutional validity of Section 7, emphasizing minimal judicial intervention at the admission stage.

15. We have heard Ld. Counsel for the Financial Creditor, Ld. Counsel for the Corporate Debtor and perused the material on record. This Tribunal has considered the application, rejoinder, along with the Corporate Debtor's reply to ensure a comprehensive evaluation.
16. Section 7 of the Insolvency and Bankruptcy Code, 2016, requires the Adjudicating Authority to ascertain the existence of a financial debt and default. Section 3(12) defines default as non-payment of debt when due, and Section 5(8) defines financial debt as a debt with interest disbursed against the consideration for the time value of money. The Financial Creditor has established a financial debt through sanction letters, Demand Promissory Notes, and hypothecation agreements, with disbursements evidenced from 04.04.2014 to 01.02.2022. The default of Rs. 20,46,31,392 as of 11.08.2023 is substantiated by NeSL Form-D, account statements, and the SARFAESI notice.
17. The Corporate Debtor's defences, including financial difficulties, MSME status, and restructuring requests, do not negate the default. The MSME Framework dated 17.03.2016 requires the Corporate Debtor to propose a



rehabilitation scheme, which it failed to do. The letter dated 20.05.2022 requesting restructuring lacks evidence of follow-up or a formal proposal. The Financial Creditor's response dated 12.05.2022, issued without prejudice, does not admit liability or waive repayment obligations.


18. The Corporate Debtor's reliance on Special Civil Application No. 23783 of 2022 is misplaced, as the RBI Ombudsman's order dated 22.08.2022 rejected its complaint for procedural reasons, and the Gujarat High Court proceedings do not dispute the default. The withdrawal of Special Civil Application No. 11210 of 2024 on 03.12.2024 and the dismissal of the Debts Recovery Appellate Tribunal appeal for non-compliance further weaken the Corporate Debtor's position.
19. The Corporate Debtor's claim of excessive interest is un-supported, as the Financial Creditor reversed penal interest of Rs. 7,51,793 and applied interest per the loan agreement. The Supreme Court's decision in *Central Bank of India v. Ravindra* prohibits charging interest on penal interest, and the Financial Creditor's compliance is evidenced by the reversal. The Corporate Debtor's account statements confirm irregular payments, with only Rs. 10,00,000 deposited against a default exceeding Rs. 20,00,00,000. The NPA classification on 11.08.2023 adheres to Reserve Bank of India guidelines, which define an account as non-performing if the balance exceeds the sanctioned limit for 90 days or credits are insufficient to cover interest debited.
20. The Supreme Court in *Innoventive Industries Ltd. v. ICICI Bank* clarified that the Adjudicating Authority must admit a CIRP application if debt and default are established, without delving into extraneous matters. The Corporate Debtor's MSME status and prior litigations are extraneous and




do not dispute the debt or default. The Financial Creditor's compliance with the SARFAESI Act and Reserve Bank of India guidelines further supports its application.

21. The Financial Creditor proposes Mr. Chirag Rajendrakumar Shah as the Interim Resolution Professional, whose consent and valid registration are provided. The Tribunal finds no impediment to his appointment. The debt and default being established, the application under Section 7 is admissible. Consequently, a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016, is to be declared, prohibiting the institution or continuation of suits, execution of judgments, transfer of assets, and enforcement of security interests.
22. Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under:-
- (i) The Corporate Debtor **M/s. Repute Foods Pvt. Ltd.** is **admitted** in Corporate Insolvency Resolution Process (**CIRP**) under section 7 of the IBC, 2016.
 - (ii) As a consequence thereof, a moratorium under Section 14 of the 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, 2022;

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- 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 order of 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. 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.
- (v) As proposed by the Financial Creditor, we appoint **Mr. Chirag Rajendrakumar Shah** having **Registration No. IBBI/IPA-001/IP-P01169/2018-19/11837** under section 13(1)(c) of the Code to act as Interim Resolution Professional (**IRP**). 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 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.

- (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/- (Rupees Two Lakh Only)** in advance exclusive of applicable taxes, within 7 days from the date of this order to meet the initial costs of the CIRP, including issuing public notice and inviting claims, as per Regulation 33(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. This amount shall be adjustable against the IRP's fees and expenses as approved by the Committee of Creditors (CoC) under Regulation 33(3), with any excess refundable to the Financial Creditor or shortfall recoverable from the Corporate Debtor's estate as CIRP costs.
- (xii) The Registry is directed to communicate this order to the Financial Creditor, Corporate Debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days, and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update the Corporate Debtor's Master Data on the MCA portal to reflect its status as 'under



Corporate Insolvency Resolution Process' within 7 working days of receiving this order and submit a compliance report to the Registrar, NCLT, within 14 working days.

- (xiii) The public announcement under Regulation 6(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, shall be published in at least one English (national edition) and one vernacular newspaper with wide circulation in the state of the Corporate Debtor's registered office (Gujarat) and on the Corporate Debtor's website, if any, as per Form A of the said Regulations.
- (xiv) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.
23. Accordingly, this Application **CP(IB)/303/AHM/2024** is hereby **admitted**. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

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SANJEEV SHARMA
MEMBER (TECHNICAL)

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)