



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

ITEM NO. 204
C.P.(IB) No. 243/(AHM)/2022

Order under section 7 of IBC

IN THE MATTER OF :

Raj Radhe Finance Limited
V/s.

....Applicant/Financial Creditor

Savalia Cotton Ginning & Pressing Pvt. Ltd.

....Respondent/Corporate Debtor

Order delivered on: 31/07/2023

Coram:

Mr. Shammi Khan, Hon'ble Member (J)

Mr. Kaushalendra Kumar Singh, Hon'ble Member (T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

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

-Sd-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
(COURT NO. I)**

C.P.(IB) NO. 243/AHM/2022

(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:

Raj Radhe Finance Limited

CIN: U67120GJ1985PLC007576

Registered office at:

47, Shayamal Row House 3/B,
Nr. Shyamal Cross Roads, Satellite,
Ahmedabad-380015, Gujarat.

Email id: rahradhefinance@gmail.com

...Applicant / Financial Creditor

VERSUS

Savalia Cotton Ginning & Pressing

Private Limited

CIN: U27109GJ1996PTC029158

Registered office at:

Survey No. 242,
Opp. 266 KVP Power Station,
Veraval-360024, Gujarat.

Email id: savalia82@gmail.com

...Respondent/ Corporate Debtor

**Order reserved on: 17.05.2023
Order Pronounced on: 31.07.2023**



CORAM: Shammi Khan, Hon'ble Member (J)
Kaushalendra Kumar Singh, Hon'ble Member (T)

APPEARANCE:

For Applicant/Financial Creditor: Mr. Pratik Thakkar, Adv.

For Respondent/Corporate Debtor: Mr. Randhir Rajpurohit, Adv.

ORDER

1. The Present Application is filed on 09.08.2022 by Raj Radhe Finance Limited through its Authorised Officer Mr. Meet F. Shah **(Applicant)**, authorised vide board resolution dated 26.07.2022, under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IB Code) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 as a **Financial Creditor** for initiation of Corporate Insolvency Resolution Process **(CIRP)** against Savalia Cotton Ginning & Pressing Private Limited **(Corporate Debtor)** for having defaulted payment of its outstanding dues Rs. 41,38,44,724.17/- (Rupees Forty-One Crores Thirty-Eight Lakhs Forty-Four Thousand Seven Hundred Twenty-Four and Seventeen Paise Only) including interest. The date of default is stated to be started from 31.03.2016.
2. The Applicant is a company incorporated as on 17.01.1985 under the Companies Act, 1956 and registered as a non-banking finance company (NBFC) with Reserve Bank of India in accordance with the provisions contained under Section 45-IA of the Reserve Bank of India Act, 1934 and having identification No. U67120GJ1985PLC007576 and having registered office at Survey No. 242, Opp. 266 KVP Power Station, Veraval-360024, Gujarat. The Applicant has filed the present Petition by virtue of assignment agreement dated 28.09.2020 whereby State Bank of



India has assigned loan of Corporate Debtor to the Applicant. Copy of said assignment deed is enclosed to the Petition as Annexure-Q (Pg.206-245).

3. The Respondent is a company limited by shares, incorporated under the provisions of the Companies Act, 1956 on 26.03.1996, duly registered with Registrar of Companies, Ahmedabad with CIN: U27109GJ1996PTC029158 and its registered office is located at Survey no. 39, opp. Biliyala bus stop, National Highway 8-B, at Biliyala Gondal Rajkot Gujarat 360311. The authorized share capital of the Corporate Debtor is Rs. 3,50,00,000/- and Paid-up share capital of the Corporate Debtor is Rs 3,04,80,000/-

4. The averments made by the financial creditor in its application and presented/argued by the learned counsel for the financial creditor are summarized hereunder:
 - a) On 27.10.2012, the Corporate Debtor approached the State Bank of India for grant of loan facility. The State Bank of India vide an agreement cum loan hypothecation dated 05.12.2012 extended aggregate loan facility of Rs.34,90,00,000/-to the Corporate Debtor. Further, the Corporate Debtor twice made an application for renewal of working capital/term loan limit at an enhanced level, pursuant to said applications State Bank of India granted additional working capital facility in addition to previous exiting facility. The total amount disbursed to Corporate Debtor is as follows:



Sr. No.	Nature of facility	Limit (Rs.)
1.	Cash Credit	43,50,00,000/-
2.	SLC	3,00,00,000/-
3.	TL(P&M)	61,37,626/-
4.	TL(Car)	5,61,222/-
	Total	47,16,98,848/-

- b) The loan account of Corporate Debtor became irregular since 31.03.2016. The State Bank of India through its Advocate sent legal notice dated 14.06.2016 to regularize the loan account within 10 days. The Corporate Debtor failed to regularize the loan account. Therefore, State Bank of India issued notice upon Corporate Debtor on 01.07.2016, under section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002, wherein debt was classified as Non-Performing Assets on 28.06.2016.
- c) Since, loan was not repaid by Corporate Debtor an application was filed by State Bank of India for taking possession of secured assets of Corporate Debtor under section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 before the Hon'ble District Magistrate, at Rajkot. The Hon'ble District Magistrate, Rajkot by order dated 03.05.2018 assigned the possession of secured assets to the State Bank of India.



- d) Thereafter, State Bank of India assigned the debt of Corporate Debtor to the Financial Creditor vide deed of assignment dated 28.09.2020.
- e) Subsequently, the Corporate Debt vide letter dated 17.10.2020 offered an amount of Rs.14,00,00,000/- as one-time settlement to the Financial Creditor. The said offer was rejected by Financial Creditor vide letter dated 20.10.2020. The Financial Creditor has recovered an amount of Rs.12,25,67,694/- from the sale securities.
- f) The amount claimed to be in default as on 31.05.2022 is Rs.41,38,44,724.17/- [Rs.33,78,88,375.88 (Principal) + Rs.17,06,98,407.51/- (12% Interest) + Rs.2,78,25,634.78/- (2% Penal Interest) – Rs.12,25,67,694/- (recovered from Corporate Debtor)]. Computation of amount is enclosed to the Petition as Annexure-S (Pg. 249).
- g) Several requests for repayment of loan amount have been made by Financial Creditor to the Corporate Debtor however, the same still remains unpaid. Therefore, the present petition is preferred by Financial Creditor for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor.
- h) The Corporate Debtors loan account became irregular since 31.03.2016 and the same was classified as Non-Performing Asset on 28.06.2016. However, in view of one-time settlement proposal given on 17.10.2020 the present petition is within limitation. The Financial Creditor has



also place on record additional affidavit dated 16.05.2023 for the purpose of filing balance sheet of Corporate Debtor and judgement dated 18.04.2022 passed in UCO Bank Vs. Deegee Orchards (P) Ltd. to demonstrate the aspect of limitation.

i) The name of Interim Resolution Professional ('IRP') Mr. Sunil Kumar Agarwal, having registration No. IBBI/IPA-001/IP-P01390/2018-19/12178 is proposed and the consent of the IRP is also placed on record.

5. On issuance of the notice, the Respondent/Corporate Debtor appeared through counsel and did not file any reply. Rather, the Respondent/Corporate Debtor admitted the debt and default as they are unable to repay. Therefore, this Adjudicating Authority proceeded without reply.

6. We have heard the learned counsel for the Financial Creditor as well Respondent/Corporate Debtor and perused the relevant documents available on record. It is noted that, State Bank of India had granted loan amounting to Rs.47,16,98,848/- to the Corporate Debtor. The loan account of Corporate Debtor became irregular since 31.03.2016 and the same was declared as NPA on 28.06.2016. Thereafter, the Financial Creditor took possession of secured assets of the Corporate Debtor by filing application under section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 before the Hon'ble District Magistrate, at Rajkot. Subsequently, debt was assigned by State Bank of India to the Financial



Creditor. The Corporate Debtor proposed one-time settlement offer of Rs.14,00,00,000/- on 17.10.2020 which came to be rejected by the Financial Creditor. The Financial Creditor has recovered an amount of Rs.12,25,67,694/- from the securities. Thereafter, the Financial Creditor made several requests to the Corporate Debtor for repayment of outstanding amount however, the same remains unpaid till date.

7. The account of the Corporate Debtor was declared as NPA on 28.06.2016 and the Corporate Debtor has acknowledged the debt due to State Bank of India in Financial Statement for the period from 01.04.2017 to 31.03.2018. Hence, the limitation period gets renewed as the Corporate Debtor has accepted its liability before the limitation period gets over. Thereafter, OTS proposal was given by Corporate Debtor on 17.10.2020 and the present petition is filed before this Adjudicating Authority on 09.08.2022 therefore, the said petition is well within the prescribed limitation period. No reply is filed by the Corporate Debtor. The Ld. Counsel for the Corporate Debtor appeared and submitted that they admit the debt and default as they are unable to repay. This application is complete, the debt is admitted by the Corporate Debtor which is above threshold and application is filed within limitation.
8. In view of the above, we allow this petition and order as under:-
 - (i) The Corporate Debtor Savalia Cotton Ginning & Pressing Pvt. Ltd. is admitted in Corporate Insolvency Resolution Process under section 7 of the IBC, 2016.



- (ii) The moratorium under section 14 of the IBC, 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.*
- (iii) The moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this 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) As proposed by the Financial Creditor, we appoint **Mr. Sunil Kumar Agarwal** having Registration No. IBBI/IPA-001/IP-P01390/2018-19/12178, having address at Address: 603/6, Devnandan Heights, Near Poddar School, New C.G. Road, Chandkheda, Ahmedabad-382424, Gujarat. (e-mail: anil91111@hotmail.com) 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.
- (v) 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.
- (vi) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period. The corporate debtor to provide effective assistance to the IRP as and when he takes charge of the assets and management of the corporate debtor.
- (vii) The IRP 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 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.
- (ix) We direct the financial creditor to pay IRP a sum of Rs 2,00,000/- as fees and expenses till the COC decides about his fees/expenses.
- (x) The Registry is directed to communicate this order to the financial creditor, corporate debtor, and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order.
- (xi) The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST, State Trade Tax etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/employees



associations so that they are informed of the initiation of CIRP against the Corporate Debtor timely.

- (xii) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.
- (xiii) Accordingly, this petition CP (IB) No. 243 of 2022 is allowed and disposed of.

-Sd-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

-Sd-

**SHAMMI KHAN
MEMBER (JUDICIAL)**

Arati-LRA