



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD**

COURT - II

CP (IB) 320/NCLT/AHM/2022

(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

**APPLICANT/
FINANCIAL CREDITOR**

Versus

**SHREE RAMRAJYA COTEX
PRIVATE LIMITED**

**RESPONDENT/
CORPORATE DEBTOR**

Order Pronounced on: 03/02/2023

CORAM:

**DR. DEEPTI MUKESH
HON'BLE MEMBER (JUDICIAL)
AJAI DAS MEHROTRA
HON'BLE MEMBER (TECHNICAL)**



MEMO OF PARTIES

Raj Radhe Finance Limited

47, Shyamal Row House 3/B

Near Shyamal Cross Roads

Satellite

Ahmedabad 380 015

Gujarat State

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Applicant/Financial Creditor

Versus

Shree Ramrajya Cotex Private Limited

A-63, New Sardar Marketing Yard

Bypass Gondal, NH – 8B

Gondal 360 311

Gujarat State

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Respondent/Corporate Debtor

Appearance:

For the Applicant : Mr. Monaal Davawala, Advocate

For the Respondent : Mr. Parth Shah, Advocate



ORDER

1. The Present Application is filed on 25.11.2022 under section 7 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by **Raj Radhe Finance Limited** through its Authorised Officer Mr. Meet F. Shah (for brevity 'Applicant'), authorised vide board resolution dated 13.04.2022, with a prayer to initiate the Corporate Insolvency process against **Shree Ramrajya Cotex Private Limited** (for brevity 'Corporate Debtor').

2. The applicant is a company incorporated on 17.01.1985 under the Companies Act, 1956 and registered as a non-banking finance company (NBFC) with Reserve Bank of India having identification No. U67120GJ1985PLC007576 and having registered office at 47, Shyamal Row House 3/B, Near Shyamal Cross Roads, Satellite, Ahmedabad 380 015.

3. The corporate debtor is a private limited company, incorporated under the provisions of the Companies Act, 1956 on 27.08.2007, duly registered with Registrar of Companies, Ahmedabad with CIN:



U01403GJ2007PTC051608 and having registered office at a-63, New Sardar Marketing Yard, Bypass Gondal, NH – 8B, Gondal 360 311, Gujarat State. The Authorized share capital of the Respondent is Rs. 6,60,00,000/- and paid up share capital of the company is Rs. 6,60,00,000/-.

4. The corporate debtor was sanctioned cash credit limit of Rs. 500.00 lacs and term loan of Rs. 175.00 lacs by State Bank of India on 20.02.2008. The said facilities were renewed/extended by the bank on 15.12.2012, 19.04.2014 and 29.09.2015 after executing necessary documents. The bank filed suit No. 494/2016 dated 07.07.2016 before DRT, Ahmedabad claiming an amount of Rs. 17.92 crores. Subsequently Notice under Section 13 (2) of SARFAESI Act,2002 was issued on 10.11.2016. Symbolic possession of the asset was taken on 06.03.2017. Bank obtained District Magistrate's order under Section 14 of the SARFAESI Act, 2002 to take physical possession of the property charged to the bank and 14 days' notice was issued by Mamlatdar. Accordingly, possession of the properties were to be taken on 16.10.2018, however, DRT allowed SA filed by guarantor to the loan challenging District Magistrate's order. Therefore, possession of the properties could not be taken. The bank again filed



application and District Magistrate, Rajkot issued order on the basis of which Mamlatdar, Rajkot issued notice and fixed 22.11.2019 for taking physical possession. However, the borrower again filed SA 520/2019 before DRT on 26.10.2019 and the same was allowed on the ground of deficiency in order of District Magistrate. The bank has submitted fresh application under Section 14 of SARFAESI Act with District Magistrate, Rajkot. Thereafter, vide assignment agreement dated 28.01.2022 entered into between the applicant and State Bank of India, the applicant has acquired/purchased the loans sanctioned by original financial institution – State Bank of India to the corporate debtor subject to the conditions as envisaged under Section 5 (1) (b) of the SARFAESI Act.

5. It is submitted by the applicant that a total sum of Rs. 35,79,52,337.42 (Rupees thirty-five crores seventy-nine lacs fifty-two thousand three hundred thirty-seven and paise forty-two only) which includes interest of Rs. 8,74,52,337.42 (Rupees eight crores seventy-four lacs fifty-two thousand three hundred thirty-seven and paise forty-two only) is due and payable by the corporate debtor.



6. The applicant has submitted copies of the following documents:

Sl. No.	Particulars
01	Affidavit in support of the application
02	Master Data of applicant and corporate debtor
03	Original sanction letter dated 20.02.2008 issued by State Bank of Saurashtra
04	Demand Promissory note delivery letter dated 23.03.2010 duly acknowledged by the corporate debtor
05	Letter for enhancement of facilities dated 05.02.2011
06	Letter for renewal of working capital limits dated 15.12.2012, 19.04.2014 and 29.09.2015 duly acknowledged by corporate debtor
07	Notice under Section 13 (2) of the SARFAESI Act, 2002 dated 22.08.2016 for enforcement of security interest by State Bank of India
08	Assignment agreement dated 28.01.2022 entered into between the State Bank of India and the applicant
09	Letter of acknowledgement of debt of the corporate debtor dated 01.04.2022
10	NeSL report dated 05.09.2022
11	Written communication by the proposed IRP

7. The corporate debtor filed affidavit in reply stating that various credit facilities were sanctioned by the bank in the year 2008 which were enhanced at various intervals till 2015. The corporate debtor is an established company in existence for the last fifteen years and had taken loan from the bank. Due to various reasons the corporate debtor could not pay the dues of the bank, therefore, notice under section 13 (2) of the SARFAESI Act was issued by the bank on 22.08.2016, proceedings under which are continuing as on this date. The default as per the assignment agreement is to the tune of Rs.17,24,99,294/-



plus interest which is not denied, however, the claim amount is not wholly admitted. Even after the assignment agreement dated 28.01.2022, several payments were made by the corporate debtor totalling to Rs. 5,47,00,000/-.

8. As per Form 1, part IV, the corporate debtor is in default of Rs. 35,79,52,337.42 (Rupees thirty-five crore seventy-nine lacs fifty-two thousand three hundred thirty-seven and paise forty-two only) which includes interest of Rs. 8,74,52,337.42 (Rupees eight crore seventy-four lacs fifty-two thousand three hundred thirty-seven and paise forty-two only). As per the computation submitted by the applicant, last payment of Rs. 88,51,250/- was made by the corporate debtor on 06.05.2022. Therefore, this application is filed within the period of limitation and not barred by law.
9. The registered office of the corporate debtor is situated in Ahmedabad, Gujarat State and, therefore, this Tribunal has jurisdiction to entertain and try this application.
10. Heard submissions and perused the documents on record. From the facts of this case it is evident that the debt is due and payable and



default has occurred. During the course of hearing on 25.01.2023 counsel appearing for the corporate debtor acknowledged the debt. The application is within limitation and not barred by law. The present application is complete in terms of Section 7 (5) of the Code. The applicant is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. Moreover, in view of the admission and acknowledgement of debt and default by corporate debtor, it is beyond doubt that corporate debtor is incapable of discharging its debts and requires resolution. In light of the above facts the present application is admitted and CIRP of corporate debtor is ordered to be initiated.

11. The applicant has proposed the name of Mr. Keyur Jagdishbhai Shah as Insolvency Resolution Professional, who is hereby appointed as IRP of corporate debtor having registration number IBBI/IPA-002/IP-N-00244/2017-18/10729 having office at 1007, Sun Avenue One, Near Shreyas Foundation, Manekbaug Society, Ambawadi, Ahmedabad 380 015, Gujarat State, subject to the condition that no disciplinary proceedings are pending against him. Specific consent of the IRP in Form 2 along with disclosures as required under IBBI



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

12. We direct the Financial Creditor to deposit a sum of Rs. 2.00 lacs (Rupees two lacs only) with the Interim Resolution Professional, namely Mr. Keyur Jgdishbhai Shah to meet the expenses for performing functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Financial Creditor. The amount, however, shall be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Financial Creditor.

13. As a consequence of the application being admitted in terms of Section 7(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14 (1) shall follow in relation to the Corporate debtor, prohibiting actions as per clauses (a) to (d) of Section 14 (1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall remain in force.



14. A copy of the order shall be communicated to the applicant, IRP and the corporate debtor. A copy of order along with complete copy of application be served to IRP by the applicant within 7 days of order. In addition, a copy of the order shall also be forwarded to IBBI for its records and taking steps for updating the Master Data of the corporate debtor in MCA portal and shall forward the compliance report to the Registrar, NCLT.

Sd/-

Sd/-

AJAI DAS MEHROTRA
MEMBER (TECHNICAL)

DR. DEEPTI MUKESH
MEMBER (JUDICIAL)

Nair/Abhishek LRA