

**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**

**COURT - 2**

ITEM No149  
CP(IB) 386 of 2020

**Order under Section 7 IBC**

**IN THE MATTER OF:**

State Bank of India

.....Applicant

V/s

Shreebhav Polyknits Pvt Ltd

.....Respondent

**Order delivered on ..27/09/2021**

**Coram:**

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

**PRESENTS:**

For the Applicant :

For the Respondent :

**ORDER**

The matter is listed for pronouncement of order.

The order is pronounced vide separate sheet.

  
(VIRENDRA KUMAR GUPTA)  
MEMBER (TECHNICAL)

nair

  
(MADAN B GOSAVI)  
MEMBER (JUDICIAL)

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CP (IB) 386/NCLT/AHM/2020

**IN THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT 2**

**CP (IB) No.386/NCLT/AHM/2020**

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

**In the matter of :**

State Bank of India  
Corporate Center  
Madam Cama Road  
Nariman Point  
MUMBAI 400 031

... Financial Creditor

Versus

M/s. Shreebhav Polyknits Private Limited  
CIN:U17119GJ2002PTC040800  
Registered Office at:  
238-240, Unity Estate,  
Next to Batliboi Limited  
Bhestan  
Surat 395 023  
Gujarat State

.... Corporate Debtor


**Date of Hearing: 21.09.2021**

**Date of Pronouncement of Order 27.09.2021**

**Coram: MADAN B. GOSAVI, MEMBER (J)  
VIRENDRA KUMAR GUPTA, MEMBER (T)**

**Appearance :**

Learned Counsel Mr. Biju Nair for the Financial Creditor.  
Learned Counsel Ms. Khyati Punjabi for the Corporate Debtor.



**ORDER****[Per: VIRENDRA KUMAR GUPTA, MEMBER (T)]**

1. This application filed under Section 7 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as CODE). The amount of default has been claimed at Rs.28,05,00,000/- as on 29.12.2018 and date of classification of account as NPA has been stated as 29.03.2019.
2. The facts in brief are that the Financial Creditor had granted and disbursed loan to the corporate debtor under different schemes during the period from 05.05.2004 to 03.11.2017. In the reply by corporate debtor, it is claimed that the official who filed the application is not an authorised person. Another point which has been raised by the corporate debtor is that the copy of the application was not given to IBBI which is mandatory under Rule 4 (3) of (Application to Adjudicating Authority) Rules, 2016. Another point raised by the Corporate Debtor is that the amount which has been granted was not classified as per RBI guidelines/Regulations.
3. As far as the authorisation aspect is concerned, the financial creditor being the largest public sector bank of the country have devised/ prescribed procedure for filing applications under the IB Code, 2016. The Corporate Debtor has not brought on record any material to show that it inquired with the financial creditor as regard to authorisation of the signatory of this application. Further, no material has been brought on record by the corporate debtor to show that the bank has prescribed the procedure without authority of the Board Resolution. Thus, this claim remains unsubstantiated and appears to be a tactic to escape from the inevitable. As regard to violation of Rule 4 (3) of (Application to Adjudicating Authority) Rules, 2016 it is not in dispute as the administrative compliance prescribed therein cannot come into

the way of the basic provisions of the IB Code do not prescribe any such pre-condition for admission of the application filed under Section 7 of the IB Code, 2016. As regards non-compliance of RBI guidelines, we are of the view that this is not a condition precedent to admission of the application under section 7 and no material has been brought on record to show that the debt is not due and payable and default has not occurred giving cause of action to file this application.

4. We have considered the submissions made by both sides and material placed on record. The Corporate Debtor has filed its reply. On consideration of facts of the case, it is noted that there is a debt which is more than threshold limit prescribed for initiation of insolvency proceedings under Section 7 of IBC, 2016. This debt has not been repaid, thus, the event of default has occurred. The debt is not barred by limitation as it is appearing in the financial statements of the corporate debtor the date of default is 29.12.2018 which falls within a period of three years from the date of filing of this application.
  
4. The application is otherwise complete and defect free. The Financial Creditor has proposed the name of CA Nirav Tarkas to act as IRP which is mandatory for an application filed under Section 7 of CODE and whose consent is on record. It is also noted that no material exists on record as regard to disciplinary proceedings, if any, being pending against such person. Hence, we admit Corporate Debtor in CIRP and pass following order:

**ORDER**

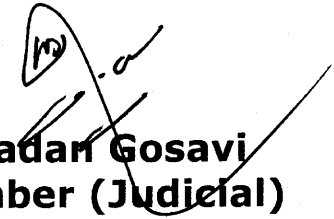
1. Corporate Debtor M/s Shreebhav Polyknits Private Ltd. is admitted in Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.

2. We appoint CA Nirav Tarkas, N.A. Tarkas & Co., 201-209 B N Chambers, R C Dutt Road, Opp. Welcom Hotel, Vadodara 390 005, having Registration No. IBBI/IPA-002/IP-N00776/2018-2019/12375, Email: [natshare@yahoo.co.in](mailto:natshare@yahoo.co.in) as Interim Resolution Professional.
3. That the Moratorium under Section 14 of the Code shall come to effect from 08.09.2021 till the completion of Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub- Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.
4. That the Bench hereby prohibits the institution of suits or continuation of pending suit 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(s), transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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 SARFAESI Act, 2002 the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
5. Further, litigation or any application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to pronouncement of this order such proceedings are expected to be dealt with in accordance with law r.w. Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.

6. That the supply of essential goods or services to 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 Corporate Debtor.
7. The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.
8. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
9. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
10. We direct the Financial Creditor / Applicant to pay the IRP a sum of Rs. 5,00,000/- (Rs. Five Lakh) as advance against fees & expenses till the COC decides about his fees / expenses.

11. The Registry is directed to communicate a copy of this order to the Petitioner-Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within three working days and upload the same on website immediately after pronouncement of the order.
12. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.
13. CP(IB) No. 386/7/NCLT/AHM/2020 is allowed and stands disposed of.

  
**Virendra Kumar Gupta**  
**Member (Technical)**

  
**Madan Gosavi**  
**Member (Judicial)**