

Sr.No - 179/2019

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IN THE NATIONAL COMPANY LAW TRIBUNAL

JAIPUR BENCH (RAJASTHAN)

CP No. (IB)-79/7/JPR/2019

**Coram: DR. POONDLA BHASKARA MOHAN,
HON'BLE JUDICIAL MEMBER**

**SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER**

IN THE MATTER OF SECTION 7 OF IBC, 2016.

IN THE MATTER OF:

SHREE BARKHA SYNTHETICS LIMITED.

Bazar No. 2, Bhilwara - 311001 (Rajasthan)

...FINANCIAL CREDITOR/APPLICANT

VERSUS

GLOBAL SYNTEX (BHILAWARA) LIMITED

RIICO Industrial Area Pur Road,

P.B. No. 70 Bhilwara - 311001 (Rajasthan)

...CORPORATE DEBBTOR/RESPONDENT

FOR PETITIONER (S) : PRAKUL KHURANA, ADV.

FOR RESPONDENT(S) : VIKAS KABRA, ADV.



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**Assistant Registrar
National Company Law Tribunal
Jaipur**

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ORDER PRONOUNCED ON: - 21.08.2019

ORDER

1. This application is filed by Shree Barkha Synthetics Limited, (for brevity "Applicant"), claiming to be a Financial Creditor, through its Director Mr. Puneet Kothari who is duly authorized vide Board resolution dated 01.03.2019 to file this application against the Corporate Debtor, Global Syntex (Bhilwara) Limited (for brevity "Corporate Debtor") under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 seeking initiation of the Corporate Insolvency Resolution Process (CIRP), pursuant to default in repayment of loan amount committed by the Corporate Debtor to the Applicant.
2. The Applicant is a Public Limited Company, incorporated under the Companies Act, 1956 on 25.11.1992 and duly registered with the Registrar of Companies, Jaipur having CIN U24304RJ1992PLC007064. The Registered Office of the company is at Bazar No. 2, Bhilwara - 311001 (Rajasthan).
3. The Corporate Debtor is a Public Limited company, incorporated under the Companies Act, 1956 on 06.03.1984 and duly registered with the Registrar of Companies, Jaipur having CIN: L24203RJ1984PLC002926. The



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company is having Registered Office at RIICO Industrial Area Pur Road, P.B. No. 70 Bhilwara - 311001 (Rajasthan). The authorized share capital of the company is Rs. 8,00,00,000/- (Rupees Eighty Crores Only) and paid up share capital of the company is Rs. 5,01,27,000/- (Rupees Five Crore One Lakh Twenty-Seven Thousand Only).

4. It is submitted by the Applicant that the Corporate Debtor has availed Short-Term Loan of Rs. 40,00,000/- (Rupees Forty Lakhs Only) and executed Term Sheet dated 10.11.2014. As per the terms of said Term Sheet the corporate Debtor was bound to repay the loan along with interest at the rate of 18% per annum on or before 31st March 2015. Copy of the Term Sheet dated 10.11.2014 is annexed as Annexure-3 with the Application. It is further stated that upon non-payment of the loan amount on due date i.e. 31.03.2015, at the request of the Corporate Debtor, an addendum was drawn wherein the time period of the repayment of loan was extended till 31st March 2016 subject to condition that, for the extended period, the company shall be liable to pay the interest at the rate of 24% per annum. The copy of the Addendum dated 31.03.2015 is annexed as Annexure-4 with the Application. The addendum dated 31.03.2015 was also not complied with by the Corporate Debtor and on request of the Corporate Debtor second addendum dated 31.03.2016 was drawn giving the last opportunity to re-pay the entire amount on or before 31.03.2018 on same terms and considerations and as against security the Corporate Debtor has issued undated cheque of



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Rs. 51,06,882 (Rupees Fifty-One Lakh Six Thousand Eight Hundred Eighty-Two Only) bearing No. 117000 along with cover letter dated 31.03.2016. The copy of the Addendum-II and cheque along with cover letter dated 31.03.2016 is annexed as Annexure-5 and Annexure -7 with the Application. Thereafter again on non-payment, the Corporate Debtor has issued another undated security cheque of Rs. 66,08,798 bearing No. 120879 along with a covering letter dated 31.03.2017.

5. The Applicant has issued Legal Notice dated 23.02.2019 calling upon the Corporate Debtor to repay the outstanding amount but the same has not been responded.
6. As a consequence, this application was filed. As claimed by the applicant, the Corporate Debtor is liable to pay an amount Rs. 1,05,40,702/- as on 31.03.2019 as an outstanding amount along with interest, as reflected in Part IV of the Form- 1 filed.

S. no.	Particulars of Financial Debt	
1.	Total amount of debt granted date(s) of Disbursement.	The total amount of debt is Rs. 40,00,000/-.
2.	Amount claimed to be in default and the date on which the default occurred	The total amount claimed to be in default is Rs. 1,05,40,702/- as on 31.03.2019 Date of Default: 31.03.2018 as per addendum dated 31.03.2016.



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7. The Corporate Debtor has filed a reply, admitting that the short-term Loan of Rs. 40,00,000/- was taken from the Applicant and states that the Corporate Debtor and Applicant have orally agreed that a relaxation in the interest component would be given upon the payment of the principal amount due. It is also stated that on receipt of the Legal Notice dated 23.02.2019, the Corporate Debtor approached the Director of the Applicant and requested for the extension of time for which the Director of the Applicant agreed. It is observed by the Tribunal that the Corporate Debtor has failed to provide any proof for the same. The Respondent further states that it has sufficient assets to make good the default but due to the present slump in the real estate market, the Respondent is not able to sell off its assets, thereby seeks 6 months time to make good the default. In view of admission made in the reply, the Corporate Insolvency Resolution Process can be initiated against the Corporate Debtor as it has committed default.
8. This Tribunal perused all the relevant papers and found them to be in order. The Registered Office of Corporate Debtor is situated in Bhilwara and therefore this Tribunal has jurisdiction to entertain and try this Application. The matter is within the limitation period as enunciated under the Law of Limitation.
9. The Applicant has named the Interim Resolution Professional (IRP), to be appointed by the order of Tribunal, one Mr. Prashant Agrawal having



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Prashant Agrawal
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Registration Number IBBI/IPA-001/IP-P00053/2017-18/10127 (email: ippagrawal@gmail.com, Mobile No. : 9828355000), duly registered with the Indian Institute of Insolvency Professional of ICAI, as the Interim Resolution Professional. The Applicant has filed consent in Form 2 under Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 stating therein that no disciplinary proceedings are pending against the named IRP.

10. It is apparent from the reply of the Respondent that the payment of claim amount has been defaulted by the Corporate Debtor to the Applicant.
11. In these circumstances, the claim stands established and prima facie presumption raised that there is default in payment of the amount due to the Applicant and in view of the reply of the Respondent the debt is admitted by the Respondent.
12. Hence, this Tribunal is inclined to initiate the Corporate Insolvency Resolution Process (CIRP) as against the Corporate Debtor as envisaged under the provisions of IBC, 2016.
13. Consequences of initiation of CIRP shall be inter-alia as follows:
 - (i) The Resolution Professional proposed by the Applicant is Mr. Prashant Agrawal who is an IP registered with the Indian Institute of Insolvency Professional of ICAI having Registration No. IBBI/IPA-001/IP-P00053/2017-18/10127 is hereby appointed as the



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Insolvency Resolution Professional (IRP) to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of IBC, 2016 including issue of publication in widely circulated Newspaper as contemplated under the provisions of IBC, 2016 and calling for the claims from the creditors of Corporate Debtor and collation of the same shall be done.

- (ii) Further, as a sequence of admission, moratorium as envisaged under Section 14 of IBC, 2016 is invoked in relation to the Corporate Debtor which will be in vogue during the Corporate Insolvency Resolution Process of the Corporate Debtor. The IRP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of IBC, 2016 in relation to the Corporate Debtor.
- (iii) The said IRP shall act strictly with the provisions of IBC, 2016 and with a view to defray his expenses to be incurred and fees on account, the Applicant is directed to deposit a sum of Rs. 2,00,000/- (Two Lacs Only) to the account of IRP within three days from the date of this order. The IRP shall duly file a status report appraising this Tribunal about the progress of CIRP unfolded in relation to the Corporate Debtor. In terms of Section 17 & 19 of IBC, 2016 all personnel of the Corporate Debtor including promoters and Board of Directors, whose powers shall stand suspended shall extend all



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cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.

- (iv) In terms of Section 7 of IBC, 2016, this order shall be communicated to the Applicant, Corporate Debtor as well as the Interim Resolution Professional (IRP) appointed by this Tribunal to carry out the CIRP at the earliest not exceeding one week from today. A copy of this order shall also be communicated to IBBI for its records.
- (v) In the circumstances, this Company Petition is admitted.

Sd—

SH. RAGHU NAYYAR,
MEMBER (TECHNICAL)

Sd—

DR. PÖONDĻĀ BHĀSKARĀ MOHAN
MEMBER (JUDICIAL)



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