IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.302
IA/91(AHM)2023
in
CP(IB) 386 of 2020

Proceedings under Section 60(5) IBC r.w Rule 11 of the NCLT Rules, 2016

IN THE MATTER OF:

Raj Radhe Finance Limited ....**Applicant**
V/s
Nirav Tarkas IRP of Shreebhav Polyknits Pvt Ltd ....**Respondent**

Order delivered on: 06/08/2026

Coram:
Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet.

Sd/-
DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-
CHITRA HANKARE
MEMBER (JUDICIAL)

SJ/ AD /AP

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, COURT-II,
AHMEDABAD

I.A. No. 91/AHM/2023

In

CP (IB) 386 OF 2020

[*Under Section 60 (5) of Insolvency & Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016]*

In the matter of :

Raj Radhe Finance Limited
(Amendment carried out as per order dated 24.02.2026)
105-106, Tilakraj,
Near Suryarath Complex,
Panchvati First Lane,
Ambawadi,
Ahmedabad- 380006

... Applicant

Versus

Nirav Tarkas
Interim Resolution Professional of
Shreebhav Polyknits Pvt. Limited
209, BN Chambers,
Opp. Welcom Hotel,
R.C. Dutt Road,
Vadodara- 390005
Email Address: natshare@yahoo.co.in

... Respondent

Order pronounced on 06.08.2026

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Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G. VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Appearance:

For the Applicant : Mr. Monaal .J. Davawala, Adv.

For Respondent : Mr. Yuvraj Thakore, Adv.

JUDGMENT

1. The present application is filed under Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 (In Short "Code") read with Rule 11 of the National Company Law Tribunal Rules, 2016(In Short NCLT Rules, 2016) by the Applicant, inter-alia, seeking following prayers:

   a) To order and direct the Respondent to forthwith refund the fees amounting to Rs. 8,56,680/- which have been unilaterally taken by him; and/or

   b) To order and direct the Respondent to forthwith refund the fees amounting to Rs. 8,56,680/- since the CoC has specifically refused to ratify the same even as on date.

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2. In, the present matter an application for substitution was filed, being I.A. No. 1128 of 2025. The said application was allowed by this Tribunal vide order dated 24.02.2026, pursuant to which the description of the Applicant in the memo of parties stands modified from "Vikash Jain, Resolution Professional of Shreebhav Polyknits Private Limited 204, Wall Street -1, Near Gujarat College, Ellisbridge, Ahmedabad -380006 to Raj Radhe Finance Limited 105-106, Tilakraaj, Near Suryarath Complex, Panchvati First Lane, Ambawadi, Ahmedabad-380006.

3. The Applicant states that the petition under Section 7 of the Code being Company Petition (lB) No. 386 of 2020 was filed by State Bank of India against Shreebhav Polyknits Private Limited (In Short "Corporate Debtor"). The Tribunal admitted the petition vide order dated 27.09.2021, declaring moratorium and initiating Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor. The Respondent was appointed as the Interim Resolution Professional of the Corporate Debtor with a direction from this Tribunal to Financial Creditor "to pay the IRP a sum of Rs. 5,00,000/- as advance against fees &, expenses till the

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CoC decides about his fees / expenses." It is further stated that the 1st meeting of the CoC was held on 01.12.2021 i.e. more than 2 months after the order of admission, with the Respondent IRP as the Chairperson of the meeting. The CoC resolved to replace the Respondent in the said meeting. While a host of agendas totalling 12 in number were discussed, including approval of expenses incurred by the Respondent, the approval of the fees of the Respondent IRP was not discussed.

4. The Applicant states that later on an application made by the CoC, this Tribunal appointed Mr. Vikash Jain as the Resolution Professional of the Corporate Debtor vide order dated 01.04.2022 passed in Interlocutory Application No. 100 of 2022. It is further stated that the Respondent IRP was invited to the 2nd CoC meeting held on 16.04.2022 for official handover and other formalities but he raised objections against Mr. Vikash Jain conducting the said meeting. Further, in the 3rd CoC meeting held on 27.05.2022, Mr. Vikash Jain put forth to the CoC the various expenses incurred until then for ratification. The CoC informed that all expenses incurred by the Respondent

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IRP were neither approved nor ratified by the CoC. In the voting held pursuant to the said meeting, the CoC duly ratified all other expenses incurred by the Respondent IRP except for his fees amounting to Rs. 8,56,680/-.

5. The Applicant states that that in the 4th CoC meeting held on 16.06.2022, the issue about non-ratification of fees was again discussed by the CoC. Mr. Vikash Jain informed the CoC that the fees amounting to Rs. 8,56,680/- were already taken by the Respondent IRP. The CoC was of the view that the same were taken without any approval or ratification, in spite of the order of admission being clear as to the fees of the Respondent IRP. The drawing of fees without express approval of CoC was against the Code and the Regulations made thereunder, and the Respondent IRP had no power to take it unilaterally. Later, Mr. Vikash Jain sent the email on 22.06.2022 and every 15 days thereafter, but to no avail there was no response forthcoming from the Respondent IRP . The Applicant relies on Regulation 33 of the Insolvency Resolution Regulations, 2016 along with the Circular No. IBBIIP/013/2018 dated 12.06.2018, the conjoint reading of the circular with the regulation establishes that approval or

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-SD-ratification of the CoC is required for drawing and taking fees as an IRP. In the absence of the same, as in the present case, the same is liable to be refunded back to the Corporate Debtor as it would essentially be a preferential transaction.

6. The Respondent had filed its reply and states that the present Interlocutory Application is filed without the authorisation of COC and hence not maintainable. The Applicant had approached this Tribunal with unclean hands and with suppression of material facts. The CoC of the Corporate Debtor comprises of Sole Secured Creditor which is State Bank of India and there are no other members. The applicant had not disclosed the crucial information that State Bank of India had invited expression of interest on 22.08.2020 for selection of Insolvency Professional to run the CIRP of the CD M/s Shreebhav Polyknits Private Limited as well as Shreebhav Polyweaves Private Limited and that on 08.10.2020, meeting for selection of IRP took place and vide sanction order dated 02.11.2020, the respondent himself was appointed as the Insolvency Professional for Corporate Debtor M/s Shreebhav Polyknits Private Limited

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as well as Shreebhav Polyweaves Private Limited . The fees of the IRP were fixed by the State Bank of India, whereby it was agreed for professional fees of Rs. 1.65 lakhs per month was fixed (Rs. 1.10 lakh + Rs 0.20 lakhs as out of pocket expenses + Rs. 0.35 lakhs CA Retainer fees).

7. The Respondent states that on further scrutiny of the decision dated 02.11.2020 as well as the minutes of the meeting of CoC of the Corporate Debtor, the same deputy manager, SBI as well as AGM, SBI who fixed the fees of him on 02.11.2020 were present in the 1st CoC meeting dated 01.12.2021. Hence, CoC members are estopped from making a U-turn from their own sanction dated 02.11.2020.

8. The Respondent states that he had given consent dated 29.09.2020 to act as IRP on request made by the Financial Creditor State Bank of India. It is further stated that order commencing CIRP was passed by this Tribunal on 27.09.2021 whereby State Bank of India (Financial Creditor) was directed to pay upfront Rs. 5,00,000 lacs as expenses to IRP against fees and expenses which financial creditor had not paid and committed a wilful disobedience of the order passed by this Tribunal. The Financial Creditor has

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committed a contempt of court and had not paid a single penny to the IRP till date. The Respondent denies that he had taken fee without ratification of Committee of Creditors. The Respondent further states that due to fatal health issues, he was in ICU for more than 70 days coupled with absence of co-operation from the suspended management, the CIRP process is delayed.

9. The Respondent states that he had raised the professional fees in light of the sanction order dated 02.11.2020. It is further stated that Regulation 33 and 34 will have relevance, where fees of the RP or IRP, has not been fixed. A pictorial representation showing the steps taken by the IRP after the CIRP order dated 27.09.2021 is reproduced

10. The Applicant had filed the rejoinder and states that the meeting dated 08.10.2020 and the selection of the Respondent dated 02.11.2020 is wholly irrelevant as far as the CIRP of the Corporate Debtor is concerned. The fees of the Respondent have been rejected repeatedly by the CoC. The Respondent has not produced a single document subsequent to the initiation of CIRP wherein his fees have been ratified by the CoC. Further, even as per Respondent's

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own admission, his fees were supposedly agreed at Rs 1.65 lakhs per month whereas the purported invoices raised by him during CIRP are at Rs. 1.21 lakhs per month which in itself is contradictory.

11. The Respondent had filed the purshis dated 29.02.2024 and states that IBBI, Disciplinary Committee has passed the order dated 21.12.2023 and he had filed the writ petition before Hon'ble Bombay High Court against the said order.

12. This Tribunal vide order dated 06.04.2026 had directed the Respondent to make payment of Rs. 8,56,680/- within 15 days by way of demand draft in the name of the applicant and submit it to the Registry. The Respondent had filed purshis dated 13.06.2026 and states that an appeal has been preferred before Hon'ble NCLAT on 21.04.2026 challenging the order dated 06.04.2026 passed by this Tribunal. The Respondent further states that he had not deposited the abovementioned amount before the registry as he awaits the outcome of the appeal pending before Hon'ble NCLAT.

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13. We have heard the learned Counsels for both the parties and perused the documents on record along with written submissions of the parties.

14. Observations:-

a) This tribunal has already passed an order dated 06.04.2026 had directed the Respondent to make payment of Rs. 8,56,680/- within 15 days by way of demand draft in the name of the applicant and submit it to the Registry. No more adjudication is required in the matter. Further, there are actions taken by IBBI on which he has appealed before Hon High Court and stated to have appealed against this order before Hon'ble NCLAT. It appears the respondent has not conducted the proceedings of the CD under CIRP as per the provisions from the date of meetings conducted. As already directed the Respondent to pay Rs. 8,56,680/-to the Applicant.

15. In, view of the above we pass the following order :-

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ORDER

I.A. No. 91 of 2023 in CP (IB) No. 386 of 2020 is allowed and disposed of.

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DR.V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

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CHITRA HANKARE
MEMBER (JUDICIAL)

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