



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
SPECIAL BENCH
COURT – 1

ITEM No.105-C.P.(IB)/35(AHM)2023

Proceedings under Section 7 IBC

IN THE MATTER OF:

Raj Radhe Finance Ltd Through Authorized Officer Mr.MeetApplicant

Falgunbhai Shah

V/s

.....Respondent

Jiya Eco-Products Ltd

Order delivered on: 24/04/2023

Coram:

Mr. Ashok Kumar Bhardwaj, Hon'ble Member(J)

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

PRESENT:

For the Applicant : Ms.Noopur K Dalal, Advocate

For the Respondent : Mr. Gaurav Bachani, PCS

ORDER

1. The prayer in the captioned petition reads thus:

- i. *Admit Corporate Insolvency Resolution Process against **Jiya Eco-Products Limited** having its Registered Office situated at Survey No.202/2/1,Navagam(G),Taluka,Vallabhipur,Bhavnagar-364313. having Corporate Identification No. L01111GJ2011PLC068414.*
- ii. *Declare a Moratorium against **Jiya Eco-Products Limited** having Corporate Identification No. L01111GJ2011PLC068414 in accordance with Sub-section (1) of Section 13 read with Section 14 of the Insolvency and Bankruptcy Code, 2016.*
- iii. *Cause Public Announcement of the initiation of Corporate Insolvency Resolution Process against **Jiya Eco-Products Limited** having Corporate Identification No. L01111GJ2011PLC068414 and call for submission of Claims in accordance with Sub-section (1) of Section 13 read with Section 15 of the Insolvency and Bankruptcy*



Code, 2016.

- iv. Appoint Shri Keyur Jagdishbhai Shah, Insolvency Professional, IP Reg. No: IBBI/IPA-002/IP-N00244/2017-18/10729 as Interim Resolution Professional in accordance with and in the manner laid down in sub-section (1) of Section 13 read with Section 16 of the Insolvency and Bankruptcy Code, 2016.*
- v. Any other and further reliefs deemed just and proper be granted in the interest of justice.*
- vi. To provide for cost of this Application*

2. Ld. Counsel appearing for the petitioner espoused that the petitioner herein could give the loan of Rs.1,02,00,000/- to the CD/Respondent. To make her submission good she referred to the bank statement of the FC i.e. the account of Financial Creditor maintained in HDFC Bank and referred to the entries dated 15.06.2021, 16.06.2021, 17.06.2021 and 18.06.2021 to show the disbursement of the amounts of Rs.50,00,000/-, Rs.25,00,000/-, Rs.20,00,000/- and Rs.7,00,000/- to the CD/ Respondent as loan amount. Further to buttress her submission regarding giving Term Loan to the respondent she referred to the hypothecation agreement dated 05.06.2021 as also to the notice sent by the petitioner to the respondent under Section 13(2) of SARFAESI. According to the Ld. Counsel for the petitioner, the total amount of debt including interest defaulted to be repaid by the CD to the petitioner is Rs.1,54,75,812.91ps. According to her, the date of default is 31.12.2021 and the present petition could be preferred within the period of limitation prescribed for the purpose i.e. three years. On the other hand, Ld. PCS Mr. Gaurav Bachani appearing for the CD did not dispute any of the contention put-forth by the Ld. Counsel appearing for the petitioner and could only say that due to the Pandemic Covid-19, the financial condition of corporate debtor could turn weak and the CD could not return the loan amount. He categorically admitted the amount of debt, the default in



payment as also the financial condition of the CD being weak. It is stare decisis that the object of IBC, 2016 is to rescue the CD and to ensure that the same is put back to its feet. As there is categorical admission by the Ld. Counsel for the respondent qua the amount of debt, default as also the poor financial condition of the CD, we are left with no option but to admit the CD to CIRP. Ordered accordingly. The Moratorium qua the Corporate Debtor is declared.

3. As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry:

- “(a) The institution of suits or continuation of pending suits or proceedings against the Respondent 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 Respondent 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 Respondent in respect of its property including any action under the Securitization 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 Respondent.”

4. As proposed by the Petitioner, Mr. Keyur Jagdishbhai Shah, having Registration No. IBBI/IPA-002/IP-N00244/2017-18/10729 (Email: keyur@keyurishah.com) is appointed as IRP, subject to the condition that no disciplinary proceeding is pending against him and disclosures as



required under IBBI Regulations, 2016 are made by him within a period of one week from this Order. It is further ordered that:

“Mr. Keyur Jagdishbhai Shah shall take charge of the CIRP of the Corporate Debtor with immediate effect and would take steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016 read with extent provisions of IBBI (Insolvency Resolution of Corporate Persons) Regulations, 2016.”

5. The Petitioner is directed to deposit Rs. 2,00,000/- only with the IRP to meet the immediate expenses. The amount, however, will 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.

6. A copy of this Order shall immediately be communicated by the Registry/Court Officer of this Tribunal to the Petitioner /Financial Creditor, the Respondent/Corporate Debtor and the IRP mentioned above.

7. In addition, a copy of this Order shall also be forwarded by the Registry/Court Officer of this Tribunal to the IBBI for their records.

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**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

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**ASHOK KUMAR BHARDWAJ
MEMBER (JUDICIAL)**