

IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD  
DIVISION BENCH  
COURT - 1

ITEM No.302  
C.P.(IB)/205(AHM)2024

Order under Section 7 IBC

IN THE MATTER OF:

Raj Radhe Finance Limited .....Applicant  
V/s  
Shyam Ginning And Pressing Pvt. Ltd .....Respondent

Order delivered on: 12/09/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)  
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant :  
For the Respondent :

ORDER  
(Hybrid Mode)

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sdl -  
SAMEER KAKAR  
MEMBER (TECHNICAL)

-Sdl -  
SHAMMI KHAN  
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT-I, AHMEDABAD**

**CP (IB) No.205/AHM/2024**

*(An application 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**

Having Address at:

101-104, Tilakraaj Complex,  
Nr. Surya - Rath, Panchvati First Lane,  
Ambawadi, Ahmedabad – 380006.

**...Applicant/Financial Creditor**

**VERSUS**

**Shyam Ginning and Pressing Private Limited**

CIN No. UL7 L19GJ 1996PTC030847

Registered office at:

27-National Highway,  
Rajkot-Gondal Road,  
At: Hadamtala,  
Tal: Gondal, Rajkot, Gondal,  
Gujarat, India, 360311.

**...Respondent/Corporate Debtor**

**Order Pronounced On: 12.09.2024**

**CORAM:**

**SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)**  
**SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)**

**APPEARANCE:**

For the Applicant : Mr. Prateek Thakkar, Advocate  
For the Respondent : **Ex-parte.**

**O R D E R**

1. The Present Application is filed on 17.05.2024 by the Applicant- **Raj Radhe Finance Limited** (hereinafter referred to as "**Financial Creditor**") against the Respondent- **Shyam Ginning and Pressing Private Limited** (hereinafter referred to as "**Corporate Debtor**") under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "**IB (AAA) Rules, 2016**") for initiation of Corporate Insolvency Resolution Process (**CIRP**), to appoint Interim Resolution Professional (hereinafter referred to as "**IRP**") and declare the moratorium for having defaulted payment of its outstanding dues of

**Rs.98,91,00,295.13ps.** including interest. The date of default as stated to be 31.05.2016.

2. On perusal of Part-I of the Form-1 reveals that the Applicant, Raj Radhe Finance Limited is a Non-Banking Finance Company which was incorporated on 17.01.1985 under the Companies Act, 1956 bearing CIN: U67120GJ1985PLC007576 and having its Registered Office at: 101-104, Tilakraaj Complex, Nr. Surya - Rath, Panchvati First Lane, Ambawadi, Ahmedabad, Gujarat – 380006.
3. It is submitted that the present application has been filed by Miss Virati D. Shah, Authorised Officer (Raj Radhe Finance Limited), being the Authorized Representative of the Applicant/Financial Creditor. It is further submitted that Miss Virati D. Shah is authorized to sign the documents on behalf of the Financial Creditor in terms of the Board Resolution dated 13.04.2022. Copy of the Board Resolution dated 13.04.2022 is annexed at **Annexure -A/2.**

4. On perusal of Part-II of the Form-1 reveals that the Respondent/Corporate Debtor is one Shyam Ginning and Pressing Private Limited having CIN No. UL7 L19GJ 1996PTC030847. The Corporate Debtor was incorporated on 01.10.1996 and having registered office at 27-National Highway, Rajkot-Gondal Road, At: Hadamtala, Tal: Gondal, Rajkot, Gondal, Gujarat-Pin 360311.
5. On perusal of Part-III of the Form-1 reveals that the Financial Creditor has named **Mr. Bhupendra Singh Narayan Singh Rajput** having Registration No. IBBI/IPA-001/IP-P00397/2017-18/10715, under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). He has filed his Written Communication dated 13.05.2024 as Form-2 as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. A copy of **Form-2** and **Form-B** being copy of AFA valid from 18.04.2024 to 30.06.2025 are attached with the Application as **Annexure -A/4.**



6. Part-IV of the Form-1 reveals that total dues as claimed by the Financial Creditor is Rs.98,91,00,295.13ps. consisting of Rs.50,75,02,008/- being principle and amount of Rs.53,61,82,236.82ps. as interest and Rs.9,94,40,960.31ps. as penal interest up-to 29.02.2024.

7. The Financial Creditor has placed the facts through this Petition in the following manner:-

i. The brief facts of case are that the Corporate Debtor on 05.09.2011 through its Directors availed approached State Bank of India for grant of financial assistance in the shape of Working Capital as well as Term Loan Facilities and submitted loan application. State Bank of India after considering the loan application on 29.11.2011 sanctioned a Cash Credit Limit of Working Capital of Rs.20.00 Crore & Term Loan of Rs.1.95 Crore against primary security of hypothecation of entire stocks, Book Debts, Plant & Machinery, personal guarantees of others and collateral security by way of equitable mortgage of immovable properties owned by

the Corporate Debtor and others in favour of State Bank of India. The Corporate Debtor and others executed and signed various loan and security documents on 29.11.2011 in favour of State Bank of India. The copies of the same are annexed as **Annexure -A/5 & Annexure -A/6.**

ii. Thereafter State Bank of India on 27.12.2012 sanctioned a Cash Credit Limit of Working Capital of Rs.27.50 Crore & Term Loan of Rs.1.35 Crore & CEL of Rs.20.00 Lakh by way of enhancement/Renewal for which again various executed and signed various loan and security documents on 27.12.2012 in favour of State Bank of India. Further, State Bank of India renewed Credit Facilities from time to time vide Sanction Letter dated 24.02.2014, 24.06.2015, 08.10.2015, 29.04.2016 for which again various executed and signed various loan and security documents by the Corporate Debtor in favour of State Bank of India. The copies of the same are annexed as

**Annexure -A/07 to Annexure -A/13.**

iii. However, after availing the aforesaid Loan/Credit Facilities, the Corporate Debtor failed to maintain financial discipline as per terms and conditions of the loan agreement and committed default on 31.05.2016 in loan accounts. Consequently, the said account of the Corporate Debtor was classified as NPA on 28.08.2016 Thereafter, State Bank of India served Demand Notice dated 21.04.2017 U/s 13(2) of the S.A.R.F.A.E.S.I. Act, 2002 to the Corporate Debtor and others to repay the outstanding dues but the Corporate Debtor failed to make the payment of outstanding dues.

iv. Thereafter, State Bank of India filed recovery suit being O.A. No.664 of 2017 before Debt Recovery Tribunal-II, Ahmedabad which is pending for adjudication. Copy of memo of Original Application No.664 of 2017 is annexed as **Annexure -A/15.**

vii. The Corporate debtor also filed Securitisation Application No. 643 of 2019 U/s 17 of the S.A.R.F.A.E.S.I. Act, 2002 challenging the S.A.R.F.A.E.S.I. action of the State Bank of India which

is also pending before Hon'ble DRT Court II. A copy of interim order dated 27.10.2022 passed by Hon'ble DRT Court II is annexed as **Annexure -A/21.**

- viii. Thereafter, Corporate Debtor has also issued two letters dated 15.04.2019 and 23.12.2021 to State Bank of India acknowledging the debt liability in favour of State Bank of India with respect limitation U/s 18 of the Limitation Act, 1963. The copies of the same are annexed as **Annexure -A/16 to Annexure -A/17.**
- ix. Further, the loan account of the Corporate Debtor was assigned to the Applicant/Financial Creditor by the State Bank of India through an Assignment Agreement dated 28.02.2023 which was registered on 06.03.2023. Copy of the Assignment Agreement is attached in the application as **Annexure -A/18.**
- x. The Financial Creditor has also created its charge on the Corporate Debtor by way of filing Form No.CHG-1 for Modification of Charge before the Registrar of Companies. The said charge is already reflected in the

Master Data of the Corporate Debtor. A Copy of Form No.CHG-1 is annexed herewith as **Annexure-A/19.**

- xi. The total amount due of financial debt against the Corporate debtor is Rs.98,91,00,295.13ps. consisting of Rs.50,75,02,008/- being principle and amount of Rs.53,61,82,236.82ps. as interest and Rs.9,94,40,960.31ps. as penal interest up-to 29.02.2024. A copy of banker's statement of State Bank of India is annexed as **Annexure-A/14** and a copy of statement of account of the Corporate Debtor maintained by the Financial Creditor is annexed herewith as **Annexure-A/20.**
- xii. The Financial Creditor has also filed **Form-D** being record of debt and default issued by National E-Governance Services Limited ("**NeSL**") in which date of default is reordered as 31.05.2016 with status "**Deemed to be Authenticated**" authenticated on 07.03.2024. A copy of the same is annexed with the Petition as **Annexure-A/22.**

xiii. The Financial Creditor submitted that the present petition is filed on 17.05.2024 which is with-in the period of limitation, in view of the series of events taken place between the actual date of default and the date of filing the present Petition. Further, The Corporate Debtor's loan accounts were classified as Non-Performing Asset on 28.08.2016. However, in view of the acknowledgement given by the Corporate Debtor on Limitation Act, 1963 from time to time the present petition is within Limitation.

8. The matter was taken up for hearing on 05.06.2024 where this Tribunal issued notice to the Respondent/Corporate Debtor who was directed to file a reply within a week of the receipt of the notice.
9. The matter was listed and heard on 28.06.2024, where the Financial Creditor submitted that they have filed Affidavit of Service for service of notice through Registered Post (which returned undelivered on 26.06.2024 with remarks addressee left without instruction). The notice through e-mail was

served on the registered E-mail ID on 20.06.2024. However, MCA data filed was not matching with the E-mail id on which the notice was sent as some of the portion of E-mail Id masked in the MCA data annexed at **Annexure-A/3**.

10. Learned counsel for the Financial Creditor requested for steps for service to the Corporate Debtor through Dasti Mode. Hence, Dasti Notice was issued to the Corporate Debtor by the Registry with direction to the Financial Creditor to serve Notice upon the Corporate Debtor along with copy of the order through Dasti Mode and file proof of service by way of affidavit.
11. The matter was again listed and heard on 15.07.2024, In compliance of order dated 28.06.2024, Dasti service report by way of affidavit was filed by the Financial Creditor. As per Dasti service report, Dasti notice along with copy of the order was duly received upon the Corporate Debtor through its director against acknowledgement on 10.07.2024. Hence, service upon Corporate Debtor was considered through Dasti mode sufficient and complete. However, despite due

service neither anyone appeared on behalf of the Corporate Debtor nor any reply was filed. Therefore, last opportunity was given for appearance and filing reply if any by the Corporate Debtor within extended period of 10 days with a copy to the opposite counsel. Thereafter, rejoinder if any.

12. The matter was again listed and heard on 12.08.2024, however, despite due service through dasti mode and extended opportunity, neither the Corporate Debtor again appeared, nor filed any reply. Therefore, the Corporate Debtor was proceeded **Ex-parte** by this Tribunal vide order dated 12.08.2024.
13. We have heard the arguments of Ld. Counsel for the Applicant/Financial Creditor, **ex-parte** against the Respondent/Corporate Debtor and perused the material on record.
14. On perusal of the records, it is found that on 05.09.2011 the State Bank of India had provided financial assistance in the shape of Cash Credit Limit of Working Capital of Rs.20.00 Crore & Term Loan of Rs.1.95 Crore to Corporate

Debtor for which various loan/security documents were executed and signed by the Corporate Debtor in favour of State Bank of India. Thereafter, the Credit Facilities were enhanced/renewed from time to time vide Sanction Letter dated 24.02.2014, 24.06.2015, 08.10.2015, 29.04.2016 for which again various loan/security documents were executed and signed by the Corporate Debtor in favour of State Bank of India.

15. However, after availing the aforesaid Loan/Credit Facilities, the Corporate Debtor failed to maintain financial discipline as per terms and conditions of the loan agreement and committed default on 31.05.2016 in loan accounts. Consequently, the said account of the Corporate Debtor was classified as NPA on 28.08.2016 Thereafter, State Bank of India served Demand Notice dated 21.04.2017 U/s 13(2) of the S.A.R.F.A.E.S.I. Act, 2002 to the Corporate Debtor and others to repay the outstanding dues but the Corporate Debtor failed to make the payment of outstanding dues.



16. Thereafter, Corporate Debtor has also issued on 15.04.2019 and 23.12.2021 two letters to State Bank of India acknowledging the debt liability in favour of State Bank of India with respect limitation U/s 18 of the Limitation Act, 1963. ***The present application is well within the period of limitation.***

17. The loan account of the Corporate Debtor was assigned to the Applicant/Financial Creditor by the State Bank of India through an Assignment Agreement dated 28.02.2023 which was registered on 06.03.2023.

18. The Financial Creditor has also created its charge on the Corporate Debtor by way of filing Form No.CHG-1 for Modification of Charge before the Registrar of Companies. The said charge is already reflected in the Master Data of the Corporate Debtor.

19. The total amount due of financial debt against the Corporate Debtor is Rs.98,91,00,295.13ps. consisting of Rs.50,75,02,008/- being principle and amount of

Rs.53,61,82,236.82ps. as interest and Rs.9,94,40,960.31ps. as penal interest up-to 29.02.2024. The amount has remained payable to the Financial Creditor. ***This amount exceeds the threshold of Rs. 1.00 Crore specified under Section 7 of the IBC for the admission of the application.***

20. Regarding the issue of default, it is an undisputed fact, based on the aforementioned submissions, that a default has occurred, as evidenced in Record of Default in **Form D** of the Information Utility. The date of default, as recorded in Form-D, is 31.05.2016 with status "**Deemed to be Authenticated**". ***Hence, the fact that a default has occurred is established.***

21. Section 7 of the Code states that:-

***"7. Initiation of corporate insolvency resolution process by financial creditor.***

1) A financial creditor either by itself or jointly with [other financial creditors, or any other person on behalf of the financial creditor, as may be notified by the Central Government] may file an

*application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority when a default has occurred.*

- 2) *The financial creditor shall make an application under sub-section (1) in such form and manner and accompanied with such fee as may be prescribed.*
- 3) *The financial creditor shall, along with the application furnish -*

- (a) *record of the default recorded with the information utility or such other record or evidence of default as may be specified;*
- (b) *the name of the resolution professional proposed to act as an interim resolution professional; and*
- (c) *any other information as may be specified by the Board.*

- 4) *The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub- section (3).*

5) Where the Adjudicating Authority is satisfied that –

(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application; or

(b) default has not occurred or the application under sub-section (2) is incomplete or any disciplinary proceeding is pending against the proposed resolution professional, it may, by order, reject such application:

Provided that the Adjudicating Authority shall, before rejecting the application under clause (b) of sub-section (5), give a notice to the applicant to rectify the defect in his application within seven days of receipt of such notice from the Adjudicating Authority. “

22. It can be seen from the judgment of the Hon'ble Supreme court in the matter of **M. Suresh Kumar Reddy Vs Canara Bank & Ors. (Civil Appeal No. 7121 OF 2022)** stating that in the matter of Section 7, the only thing which



is to be seen while ordering in Section 7 matters is whether there is debt and default.

23. The present application is complete in terms of Section 7(5) of the Code. The Applicant/Financial Creditor is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. The outstanding financial debt is of more than Rupees One Crore which meets the threshold limit as per section 4 of the Code and is well within the limitation for filing the present application. Moreover, the said default is not covered under the period exempted under Section 10A of IBC, 2016.
24. Further, the Hon'ble Supreme Court in the case of ***Innoventive Industries Limited v. ICICI Bank Limited***, where it has discussed extensively the scope of the Adjudicating authority under section 7 of the IBC is limited to assessing the records provided by the financial creditor to satisfy itself that the default has occurred.
28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the explanation to Section 7(1), a default is in respect of a

financial debt owed to any financial creditor of the corporate debtor – it need not be a debt owed to the applicant financial creditor. Under Section 7(2), an application is to be made under sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the application is made by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in part III, particulars of the financial debt in part IV and documents, records and evidence of default in part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the “debt”, which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under sub-section (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as

*the case may be.*

30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.

25. Hence, the Application filed under section 7(2) of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the Respondent/Corporate Debtor deserves to be admitted.
26. Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under:-

- (i) The Respondent/Corporate Debtor **Shyam Ginning and Pressing Private Limited** is **admitted** in Corporate Insolvency Resolution Process (**CIRP**) under section 7 of the IBC, 2016.



- (ii) As a consequence thereof, moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the IBC, 2016.
- a. *The institution of suits or continuation of pending suits 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;*
  - b. *Transferring, encumbering, alienating or disposing of by the Corporate Debtor 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 Corporate Debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2022;*
  - d. *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.*
  - e. *The provisions of sub-Section (1) shall however, not apply to such transactions, agreements as may be notified by the Central Government in*

*consultation with any financial sector regulator and to a surety in a contract of guarantee to a Corporate Debtor.*

- (iii) The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.
- (iv) However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, 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 assets and management of the corporate debtor.
- (v) As proposed by the Financial Creditor, we appoint **Mr. Bhupendra Singh Narayan Singh Rajput** having Registration No. IBBI/IPA-001/IP-P00397/2017-18/10715 under section 13 (1)(c) of the Code to act as

Interim Resolution Professional (**IRP**). He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

- (vi) The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.
  
- (vii) The IRP shall perform all his functions as contemplated, *inter-alia*, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or co-operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.



- (viii) The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- (ix) The IRP shall be under a 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 Code.
- (x) The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- (xi) We direct the financial creditor to pay IRP a sum of **Rs.2,00,000/- (Rupees Two Lakh Only)** in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims etc. till the CoC decides about his fees/expenses.



- (xii) The Registry is directed to communicate this order to the financial creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.
- (xiii) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

27. Accordingly, this Application **CP(IB)/205/AHM/2024** is hereby admitted. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

-sd/-

**SAMEER KAKAR  
MEMBER (TECHNICAL)**

-sd/-

**SHAMMI KHAN  
MEMBER (JUDICIAL)**

S/SP/Steno