

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.301
C.P. (IB)/300/AHM/2023

Order under Section 7 IBC

IN THE MATTER OF:

UNITY SMALL FINANCE BANK LIMITED

Vs

TENSILE STEEL LIMITED

.....Applicant

.....Respondent

Order delivered on: 16/07/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The 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)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT NO.2**

CP (IB)300(AHM)2023

(Under Section 7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the matter of:

Unity Small Finance Bank Limited
(CIN: U65990DL2021PLC385568)

... Applicant/
Financial Creditor

Versus

Tensile Steel Limited
(CIN: U99999GJ1960PLC001006)

... Respondent/
Corporate Debtor

Memo of Parties

Unity Small Finance Bank Limited
(CIN: U65990DL2021PLC385568)

Having its registered office at:
40, Basant Lok, Vasant Vihar, New
Delhi 110 057;

and its Regional/Head Office at
Centrum House, C.S.T Road,
Vidyanagari Marg, Kalina, Santacruz
East, Mumbai 400098.

... Financial Creditor

Versus

Tensile Steel Limited
(CIN: U99999GJ1960PLC001006)

Having its registered address at:

Hirabag, Vishwamitri Road, Baroda
Gujarat – 390009;

Also at: Basement Steel Centre, Sant
Tukaram Marg, Carnac Bunder,
Mumbai – 400009.

... Corporate Debtor

Order pronounced on 16.07.2024

Coram:

Mrs.Chitra Hankare, Member (Judicial)

Dr.Velamur G Venkata Chalapathy, Member (Technical)

Appearance:

For the Applicant : Ms. Aishwarya Venkitaraman, Adv.
a/w. Ms. Sonam Chandwani, Adv.

For the Respondent : Mr. Nisarg Raval, Adv.

JUDGMENT

1. This Company Petition is filed on 29.08.2023 by Unity Small Finance Bank Limited (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IB Code) for initiating Corporate Insolvency Resolution Process (CIRP) against Tensile Steel Limited (Corporate Debtor).
2. The registered office of the Financial Creditor is situated at New Delhi. In view of facts mentioned in Part-I, the applicant is authorized to file this petition as per Board Resolution dated 14.10.2021 read with authorisation letter dated 03.05.2022. As per facts submitted in Part-II, the registered office of

corporate debtor is situated at Vadodara, Gujarat. The corporate debtor has authorized share capital of Rs. 3,00,00,000/- (Rupees Three Crores Only) while paid-up share capital is Rs. 2,10,00,000/- (Rupees Two Crores Ten Lakhs Only). The applicant has also given particulars of the proposed Insolvency Resolution Professional in Part-III of the application along with his written consent.

3. The applicant submitted that originally Punjab & Maharashtra Co-operative Bank Limited (PMC Bank), subsequently merged into Unity Small Finance Bank Limited w.e.f. 25.01.2022, had sanctioned credit facilities in favour of the corporate debtor, vide sanction letter dated 22.12.2014, for a sum of Rs.41,75,00,000/- (Rupees Forty-One Crores Seventy-Five Lakhs Only). Accordingly, on 09.01.2015, registered Indenture of Mortgage was executed by the parties. Subsequently, on 30.06.2016, the PMC Bank had renewed/enhanced the additional credit facilities with aggregate limit of Rs. 38,25,00,000 / - (Rupees Thirty-Eight Crores and Twenty-Five Lakhs Only) thereby raising the total limit of the credit facilities to Rs. 80,00,00,000/- (Rupees Eighty Crores Only). Accordingly, on 10.08.2016, another registered Indenture of Mortgage was executed by the parties. Thereafter, existing credit facility was renewed on 07.03.2017. Subsequently, 16.10.2017, the said credit facility was reduced from Rs.80,00,00,000/- (Rupees Eighty Crores Only) to Rs.50,00,00,000/- (Rupees Fifty Crores Only). Furthermore, the bank had also issued three Letters of Credit dated 14.08.2019, 09.09.2019 and 29.06.2019, in favour of the

corporate debtor, in respect of various bills of exchange.

4. Subsequently, the corporate debtor defaulted in repaying the loan amounts. As a result, the corporate debtor was declared as a non-performing asset (NPA) on 17.02.2020. Therefore, on 24.02.2020, the bank issued a notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) for repayment of Rs. 49,39,29,868.40/- (Rupees Forty-Nine Crores Thirty-Nine Lakhs Twenty-Nine Thousand Eight Hundred Sixty-Nine and Forty Paise Only) with interest @ 14% p.a. Consequently, no repayment was made by the corporate debtor and therefore, on 11.10.2022, symbolic possession was taken by the bank and paper publication to that effect was made on 14.10.2022. Further, on 09.12.2022, a Demand Notice was also issued under Rule 7(1) of the Insolvency and Bankruptcy Rule, 2019 for an amount of Rs. 47,57,29,319.00/- (Rupees Forty-Seven Crores Fifty-Seven Lakhs Twenty-Nine Thousand Three Hundred and Nineteen Only).
5. The applicant submitted that, the corporate debtor company is therefore liable to pay the outstanding amount of Rs.54,85,35,455/- (Rupees Fifty-Four Crores Eighty-Five Lakhs Thirty-Five Thousand Four Hundred and Fifty Five Only) including interest as calculated @14% p.a. from 25.01.2022 till 28.02.2023 and the further interest payable by the corporate debtor as compounded @ 14% p.a. till date of actual payment is realized. Further, Form C - record of financial information issued by NESL dated 06.09.2023, recording the default amount as Rs. 55,35,35,407/- (Rupees Fifty-Five Crores

Thirty-Five Lakhs Thirty-Five Thousand Four Hundred and Seven Only) is also produced on record.

6. Heard both the counsels and perused the record.
7. The present petition is filed on 29.08.2023. The date of default recorded in Form C - record of financial information issued by NESL is 31.03.2020. However, Form D - record of default is not produced till date. Additionally, the respondent has produced a letter dated 19.04.2024, addressed by the applicant bank, regarding one time settlement (OTS) offer. As per the said letter, the applicant bank has mentioned that the company has approached us with an offer of One Time Settlement with an intension to clear all its liabilities and the same is under consideration.
8. In this regard, it is imperative to mention that vide Order dated 11.06.2024, it was observed that the applicant-bank stated that the matter has been settled and sought 1 month time till the repayment is made and was not ready to withdraw the matter. Thereafter, again on 13.06.2024, the Bank officer remained present virtually and submitted that they have accepted OTS proposal. However, the Ld. Counsel appearing for the bank inspite of the statement made by applicant continued to submit that they would seek time till the repayment installment is made by the respondent.
9. Therefore, it is reiterated that the IBC process is not a recovery mechanism, the applicant bank has accepted the OTS proposal and the same is confirmed by respondent corporate debtor.

Additionally, given the time frame under the IBC, the time bound process should be respected. In view of the settlement agreed by the parties nothing remains as such. Therefore, the petition is liable to be rejected.

10. In view of the facts as discussed hereinabove, we pass following order:-

ORDER

The petition CP(IB)300(AHM)2023 is dismissed and stands disposed of.

Sd/-

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

Sd/-

**CHITRA HANKARE
MEMBER (JUDICIAL)**

GP-LRA