

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.301
C.P. (IB)/274(AHM)2023

Order under Section 7 IBC

IN THE MATTER OF:

GOENKA BUSINESS & FINANCE LTD
VS
DHARTI PROTEINS LIMITED

.....Applicant

.....Respondent

Order delivered on: 29/04/2024

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 the order.

The common order is pronounced in the 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)274(AHM)2023

(Company Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016)

In the matter of:

Goenka Business & Finance Limited ... Applicant/
(CIN: L67120WB1987PLC042960) Financial Creditor

Versus

Dharti Proteins Limited ...Respondent/
(CIN:L67120GJ1994PLC022199) Corporate Debtor

Memo of Parties

Goenka Business & Finance Limited
(CIN: L67120WB1987PLC042960)

Having its registered office at:
18, Rabindra Sarani, Poddar Court
Gate No.4, 2nd Floor, Kolkata
West Bengal-700 001

And having another address at:
Office No.9, Sadguru Complex
4th Floor, Shivranjani Cross Roads
Satellite, Ahmedabad-380 015
Gujarat

E-mail:goenkabusines1987@gmail.com

... Financial Creditor

Versus

Dharti Proteins Limited
(CIN:L67120GJ1994PLC022199)
A company incorporated under the
relevant provisions of the Companies
Act, 1956 and having its registered
address at: 203, Abhijeet-1,
Mithakhali Six Roads, Ellisbridge,
Ahmedabad-380 006, Gujarat
E-mail:devikaproteins@yahoo.co.in/
dhirenthakkar72@gmail.com

... Corporate Debtor

Order pronounced on 29.04.2024

Coram:

Mrs.Chitra Hankare, Member (Judicial)

Dr.Velamur G Venkata chalapathy, Member (Technical)

Appearance:

For the Applicant : Ms. Hirva Dave, Advocate and
Mr. Jaimin Dave, Advocate.

For the Respondent : Mr. Shivam Parikh, Advocate

JUDGMENT

1. This Company Petition is filed on 10.11.2023 by Goenka Business & Finance Limited (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IB Code) for initiating Corporate Insolvency Resolution Process (CIRP) against M/s. Dharti Proteins Limited (Corporate Debtor).

2. The registered office of the Financial Creditor is situated at Kolkata, West Bengal. In view of facts mentioned in Part-I, the applicant is authorized to file this petition as per Board Resolution dated 04.09.2023. As per facts submitted in Part-II, the registered office of corporate debtor is situated at Ahmedabad. The corporate debtor has authorized share capital of Rs.11,00,00,000/- while paid-up share capital is Rs.10,27,72,000/- . 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 they have granted total loan of Rs.1,10,00,000/- on 25.03.2023 to the corporate debtor. Accordingly, loan agreement was executed so also mortgage was created by depositing Title Deeds by the corporate debtor. The corporate debtor also executed Demand Promissory Note in favour of the applicant. The entire loan was to be repaid before expiry of 1 year along with compounding interest @ 12% per annum with monthly rests. Though the corporate debtor was liable to pay interest, at the end of every month, it is not paid by them.
4. The applicant has taken follow-up with the corporate debtor but the interest was not paid so it has issued Demand Notice on 14.07.2023. Despite receipt of notice, the corporate debtor has failed to repay the outstanding dues. The total default amount due on 30.07.2023 is Rs.1,22,44,837/-.

5. The respondent submitted that the company does not dispute the claim of the petitioner and is bound to pay Rs.1,10,00,000/- towards principal outstanding along with interest of Rs.8,29,892/- and penal interest of Rs.4,14,946/- along with further interest. The company is going through financial crunch and is unable to pay the dues of the petitioner. Thus, the debt is admitted by the respondent-corporate debtor.
6. Heard both the counsels and perused the record.
7. The present petition is filed on 10.11.2023. The date of default is 30.07.2023. Hence, the petition is within the period of limitation. The default amount is more than Rs.1 crore.
8. The corporate debtor, by filing reply, admitted its liability to pay debt mentioned in the petition.
9. The debt as well as default is established by the applicant. Thus, requirements of Section 7 of IBC are fulfilled and there is no reason to reject the petition. Once, the Tribunal is satisfied as to the existence of default and that the petition is complete, the petition can be admitted.
10. There is no disciplinary proceedings are pending against the proposed Insolvency Resolution Professional (IRP).
11. In view of the facts as discussed hereinabove, it is held that the

corporate debtor has defaulted in repayment of its debts. Accordingly, we pass following order:-

ORDER

- i) CP(IB)/274(AHM)/2023 is admitted.
- 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 Code.
 - a) *the institution of suits or continuation of pending suits or proceedings against the Respondent/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 Respondent/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 Respondent/Corporate Debtor in respect of its property including any action under the Securitisation 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/Corporate Debtor.*
- iii) The order of moratorium shall have 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 Respondent / Corporate Debtor Company under Section 33 of the IBC, 2016, as the case may be.

- iv) We hereby appoint Mr. Manish Santosh Buchasia having Registration No. IBBI/IPA-002/IP-N00487/2017-2018/11449, E-mail: manishbuchasiacs@gmail.com to act as an IRP under Section 13(1) (c) of the Code. He shall conduct the Corporate Insolvency Resolution Process as per the provisions of Insolvency and Bankruptcy Code, 2016 r.w. Regulation made thereunder.
- v) The IRP shall perform all his functions as contemplated, inter-alia, by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person, is required to assist or co-operate with IRP, do not assist or Co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- vi) This Adjudicating Authority directs the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Code.
- vii) The IRP is expected to take full charge of the CD'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.
- viii) 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.
- ix) It is further directed that the supply of goods/services to the Corporate Debtor Company if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
- x) 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 the obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
- xi) The Financial Creditor is directed to pay an advance of **Rs.1,00,000/- (Rupees One Lakh Only)** to the IRP within

two weeks from the date of receipt of this order for the purpose of smooth conduct of the Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report within 30 days.

- xii) The Registry is directed to communicate a copy of this order to the Financial Creditor, the Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, 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 Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.

12. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-

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

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

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