

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 1
C.P.(IB)/135(AHM)2021

Order under Section 10 IBC

IN THE MATTER OF:

Eternal Motors Pvt Ltd

.....Corporate Applicant

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Corporate Applicant : Adv. Mr. Tirth Nayak on behalf of Adv. Mr.
Kurven Desai

ORDER

This application is filed under Section 10 of Insolvency and Bankruptcy Code, 2016.
Issue notice to Income Tax Department.

Corporate Applicant is directed to Issue notice to Income Tax Department and also
to publish notice of hearing of this application in widely circulated newspaper in
vernacular language where the registered office of the Company is situated.
Corporate Applicant is further directed to file affidavit of proof service of notice as
well as proof of paper publication within two weeks.

Matter to appear on 01.11.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 101
CP(IB) 63 of 2018

Order under Section 7 IBC

IN THE MATTER OF:

Phoenix ARC Pvt Ltd (Trustee of Phoenix Trust FY 14-9)

.....Applicant

V/s

Doshion Pvt Ltd

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : PCS Mr. Ashish Doshi

For the Respondent : Sr. Adv. Mr. Rashesh Sanjanwala a.w. Adv. Mr.
Shashvata Shukla

ORDER

This matter is very old. However, Learned PCS appearing for the Financial Creditor submits that he has instruction from his client that Corporate Debtor has submitted some settlement proposal and the same is under consideration. Hence, matter stands finally adjourned to 28.09.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 102
CP(IB) 59 of 2019

Order under Section 7 IBC

IN THE MATTER OF:

IDBI Bank Ltd
V/s
Doshion Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Adv. Mr. Akshat Khare
For the Respondent : Sr. Adv. Mr. Rashesh Sanjanwala a.w. Adv. Mr.
Shashvata Shukla

ORDER

Heard Learned Counsel for the Financial Creditor and Learned Senior Counsel for the Corporate Debtor.

The order is reserved.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 103
IA 936 of 2020
in
CP(IB) 195 of 2018

Order under Section 9 IBC

IN THE MATTER OF:

Agarwal Coal Corporation Pvt Ltd
V/s
Shriram Cement Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Sr. Adv. Mr. Navin Pahwa a.w. PCS Mr. Umesh Ved
For the IRP/RP :

ORDER

IA 936 of 2020

This application is filed by RP for approval of Resolution Plan.

Heard Learned Senior Counsel for the Applicant in part. As far as determination of fair value and liquidation value is concerned, we require the valuation reports to understand as to on what basis such values have been arrived at. The Corporate Debtor is being sold as a going concern under a Resolution Plan, hence, relevant internationally accepted valuation principles are to be followed as per Section 247 of the Companies Act, 2013 r.w. Valuation Rules framed by ICAI and IBBI .

List the matter on 13.09.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Sen

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 104
CP(IB) 143 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Kerman & Co LLP

.....Applicant

V/s

Narendra Emporis Ltd

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Adv. Mr. Rohit Lalwani

For the Respondent : Adv. Ms. Noopur K Dalal

ORDER

This application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016.

Pleadings are complete and written submissions are available on record.

Learned Counsel for both sides desired to argue the matter. Hence, matter stands adjourned for physical hearing on 27.09.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 105
CP(IB) 231 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

IVP Ltd

.....Applicant

V/s

Fitcast Founder & Engineers Pvt Ltd

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : None

For the Respondent : Adv. Mr. Kunal P Vaishnav

ORDER

This application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016.

Pleadings are complete.

Learned Counsel for the Operational Creditor Mr. Sanket Gupta is appearing through Car, hence, his presence is not recorded.

Matter stands adjourned for further consideration on 28.09.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 106
CP(IB) 307 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Montecarlo Ltd

.....Applicant

V/s

GRG Infrastructure Pvt Ltd

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Adv. Mr. Shashvata U Shukla

For the Respondent : Adv. Mr. Harmish K Shah

ORDER

This application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016.

Learned Counsel for the Corporate Debtor is directed to upload the documents on e-portal within two weeks.

Learned Counsel for both sides are directed to file written notes of argument (not more than five pages) within two weeks and upload the same on e-portal.

List the matter on 05.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 107
IA 805 of 2019
in
CP(IB) 485 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Aggcon Equipments International (P) Ltd
V/s
JMC Projects (India) Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : None
For the Respondent : Wadia Gandhi & Co

ORDER

This application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016.

Pleadings are complete. Main CP(IB) and IA to be heard together.

We direct both sides to complete pleadings/submissions on e-portal within two weeks, if already not completed.

Matter stands adjourned to 04.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 108
CP(IB) 509 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Checkmate Securities Pvt Ltd

V/s

Singhal Sheets & Foils Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : None

For the Respondent : None


ORDER

This application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016.

No document of Corporate Debtor is available on e-portal. Corporate Debtor is directed to upload the documents on e-portal within seven days.

Matter stands adjourned to 01.11.2021


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 109
CP(IB) 587 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Shrimali Industries Pvt Ltd
V/s
KRN Alloys Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Adv. Mr. Monaal J Davawala (online)
For the Respondent : Adv. Mr. Ketul Patel (physically)

ORDER

This application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016.

We direct Learned Counsel for both the sides to upload their respective pleadings/submissions on e-portal within seven days, if already not uploaded.

Matter stands adjourned to 05.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 110
CP(IB) 589 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Vaibhav Enterprise
V/s
KRN Alloys Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Adv. Mr. Monaal J Davawala (online)
For the Respondent : Adv. Mr. Ketul Patel (physically)

ORDER

This application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016.

We direct Learned Counsel for both the sides to upload their respective pleadings/submissions on e-portal within seven days, if already not uploaded.

Matter stands adjourned to 05.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 111
CP(IB) 685 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Padam Electronics

.....Applicant

V/s

Superchem Coatings Pvt Ltd

.....Respondent

Order delivered on ..24/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Counsel, Mr. Sunil Bhavsar

For the Corporate Debtor :

ORDER

No one appeared for the Corporate Debtor.

Pleadings are complete.

Corporate Debtor did not upload their pleadings. We direct Corporate Debtor to upload pleadings/submissions on E-portal within seven days without fail.

Matter to appear for hearing on 05.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 112
CP(IB) 143 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Kantilal Manilal Dudhwala
V/s
Pepperazzi Hospitality Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..24/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor :
For the Corporate Debtor : Learned Counsel, Mr. Kunal P Vaishnav

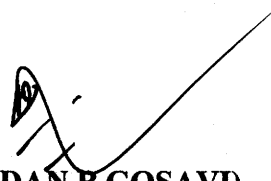
ORDER

No one appeared for the Operational Creditor.

Matter stands finally adjourned for hearing on 02.11.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 113
CP(IB) 367 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Gopalkrishan Mulkarji Gupta
V/s
Optus Laminates Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..24/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Counsel, Mr. Kamlesh Vaidankar (Online)
For the Corporate Debtor : Learned Counsel, Mr. Pratik Thakkar (Physically)

ORDER

Pleadings are completed.

Both of them submitted that parties were under negotiation for settlement.

Accordingly, matter stands adjourned to 02.11.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 114
CP(IB) 371 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Yug International Pvt Ltd
V/s
Optus Laminates Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..24/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Counsel, Ms. Megha Jani
For the Corporate Debtor : Learned Counsel, Mr. Pratik Thakkar

ORDER

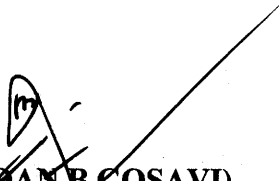
Pleadings are complete. Documents are available on E-portal.

Learned Counsel for both the sides seek some time to file written notes of submission. It is to be filed (not more than five pages) within two weeks and upload the same on E-portal.

Matter stands adjourned to 05.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta


(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 115
CP(IB) 391 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Mishal Dye Chem
V/s
Camex Ltd

.....Applicant

.....Respondent

Order delivered on ..24/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Counsel, Mr. Rasesh H Parikh
For the Corporate Debtor :

ORDER

No one appeared for the Corporate Debtor.

Learned Counsel for the Operational Creditor seeks time to file rejoinder. It is to be done within a week.

Matter stands adjourned to 05.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 116
CP(IB) 393 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Shree Sumitra Enterprise Partnership Firm Through its
Partner Chiranjibhai H Patel
V/s
SS Alloy Products Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..24/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Counsel, Mr. Kirtan Mistry
For the Corporate Debtor :

ORDER

No one appeared for the Corporate Debtor.

In spite of directions reply is not filed, hence, matter to proceed without reply of the Corporate Debtor.

Matter stands adjourned to 05.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 117
C.P.(IB)/5(AHM)2021
IA/458(AHM)2021

Order under Section 9 IBC

IN THE MATTER OF:

Alumilite Architecturals Ltd
V/s
Se Transstadia Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..24/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Counsel, Mr. Harshit D Dave
For the Corporate Debtor : Learned Counsel, Mr. Priyam Shah

ORDER

IA/458(AHM)2021

Since, the reply is filed, it is accepted for the interest of justice. Reply is served to the other side.

Accordingly, IA/458(AHM)2021 stands disposed of.

Main matter stands adjourned for further consideration on 18.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Sweta

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 118
C.P.(IB)/11(AHM)2021

Order under Section 9 IBC

IN THE MATTER OF:

EBPL Ventures Pvt Ltd
V/s
Sarguja Rail Corridor Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..24/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Counsel, Ms. Prachi Johari along with
Learned Counsel, Mr. Kunal Goyal
For the Corporate Debtor : Learned Counsel, Mr. Abhishek Shah

ORDER

Pleadings are complete. Documents are available on E-portal.

We direct both of them to file written submissions (not more than three pages) within two weeks and upload the same on E-portal.

Matter stands adjourned to 25.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 119
C.P.(IB)/13(AHM)2021

Order under Section 9 IBC

IN THE MATTER OF:

Albatross Blackgold Pvt Ltd
V/s
Mystic Shipping Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..24/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Counsel, Mr. Arghya Samaddar
For the Corporate Debtor : Learned Counsel, Mr. Vinayak Patil along with
Learned Counsel, Mr. Harshrajsingh S Vaghela

ORDER

Pleadings are complete. Documents are available on E-portal.

We direct both of them to file written submissions (not more than three pages) within two weeks and upload the same on E-portal.

Matter stands adjourned to 25.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 120
CP(IB) 199 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Welspun Speacialtiy Solutions Ltd
V/s
Bhavani Industries India LLP

.....Applicant

.....Respondent

Order delivered on ..24/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Operational Creditor : Learned Counsel, Mr. PratikThakkar (Physically)
For the Corporate Debtor : Learned Counsel, Mr. Jaimil Doshi (Online)

ORDER

Learned Counsel for the Operational Creditor submits that the matter is settled and withdrawal pursis is filed. The permission for withdrawal is granted.

Accordingly, CP (IB) No. 199 of 2020 is withdrawn and stands disposed of.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Sweta

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 121
CP(IB) 445 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Tata Motors Ltd

V/s

Hindage Oilfield Services Ltd

(Formerly HOEC Bardahl India Ltd)

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Aditya Chowdhary.

For the Respondent : Advocate, Mr. Anmol Mehta.

ORDER


Both the counsels submitted that the matter is settled.

Operational Creditor filed withdrawal pursis.

The permission of ^{file} withdrawal is granted.

Accordingly, the matter stands withdrawn and disposed of.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 122
C.P.(IB)/51(AHM)2021

Order under Section 59 IBC r.w reg 38 of IBBI,2017

IN THE MATTER OF:

Ravi Kapoor Liquidator of Gujarat Arogya Seva Private
Limited
V/s.
ROC Gujarat

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : PCS, Mr. Ashish Shah.

ORDER

We direct the Petitioner to serve the notice to Jurisdictional Commission of Income Tax Department as well as ROC and shall file affidavit of proof of service of notice.

The matter stands adjourned to 25.10.2021


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 123
CP(IB) 251 of 2020
IA 866 of 2020

Order under Section 95 IBC

IN THE MATTER OF:

State Bank of India

.....Applicant

V/s

Yogesh Jogindernath Mehra Personal Gaurantor to Wind
World (India) Ltd

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Nishant Lalakiya.

For the Respondent : Advocate, Mr. Dhruvil Merchant.

ORDER

Learned counsel for the Applicant appeared and seeks some time.

The matter stands adjourned to 25.10.2021

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 124
CP(IB) 252 of 2020
IA 867 of 2020

Order under Section 95 IBC

IN THE MATTER OF:

State Bank of India

.....Applicant

V/s

Ajay Jogindernath Mehra Personal Gaurantor to Wind World
(india) Ltd

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Nishant Lalakiya.

For the Respondent : Advocate, Mr. Dhruvil Merchant.

ORDER

Learned counsel for the Applicant appeared and seeks some time.

The matter stands adjourned to 25.10.2021


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 125
IA/88(AHM)2021
IA/225(AHM)2021
in
CP(IB) 51 of 2017

Order under Section 7 IBC

IN THE MATTER OF:

State Bank of India
V/s
Radheshyam Fibres Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Mr. Harmish Shah in IA/225(AHM)2021.
For the Liquidator : Advocate, Mr. Arjun Padhiyar.

ORDER

IA/88(AHM)2021

This application is filed under Section 54 of the IBC, 2016 for dissolution of the Company. Since, IA/225(AHM)2021 is pending, this application shall be considered after disposing the IA/225(AHM)2021.

We direct the Petitioner as well as Registry to serve notice to Respondent No. 2 i.e. Paschim Gujarat Vij Co. Limited and shall file affidavit of service of notice.

The matter stands adjourned for further consideration 25.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 126

IA/552(AHM)2021 in CP(IB) 333 of 2018

Order under Section 9 IBC

IN THE MATTER OF:

RP Cum Liquidator of
Steel Konnect (India) Pvt Ltd
V/s
MBC Agro Industries LLP

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant/IRP : Advocate, Mr. Aman A Mir.

ORDER

IA/552(AHM)2021

This application is filed by the RP under Section 12A of the IBC, 2016 for withdrawal of main petition on the ground that COC in its meeting dated 08.07.2021 by 90% voting passed resolution of withdrawal of CP(IB) 333 of 2018.

We heard the learned counsel. Since, matter is settled, permission to withdraw the main petition is granted.

The main CP and IA stands disposed of.

The Corporate Debtor is released from all rigours of CIRP.

We direct the Resolution Professional to handover the possession of the management to the Corporate Debtor.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 127
IA/28(AHM)2021
IA/288(AHM) 2021
in
CP(IB) 345 of 2018

Order under Section 7 IBC

IN THE MATTER OF:

Bank of India
V/s
Jyoti Power Corporation Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Resolution Applicant : Sr. Advocate, Mr. Saurabh Soparkar.
For the Suspended Management : Advocate, Mr. Arjun Sheth.
For the RP : Advocate, Ms. Nitu Chaturvedi.
For the COC : Advocate, Mr. Ketan Parikh.
For Respondent : Advocate, Mr. Tirth Nayak for R-3.

ORDER

Heard the learned Sr. Counsel for the Resolution Applicant.

On perusal of records, it is found that IA 557 of 2020 and IA27 of 2021 filed under Section 43 and 66 was to be disposed of before approval of resolution plan, which we have detagged because COC members had consented for not pursuing the same but it is seen from the record that IDBI Bank who is holding major voting share in COC has not consented so.

Accordingly, these IAs need to be disposed of before considering the approval of Resolution Plan.

We direct the registry to list IA 557 of 2020 and IA27 of 2021 along with this matter.

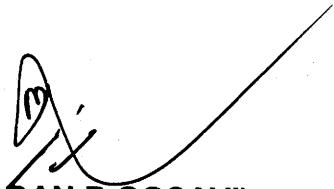
Abhishek

Valuation report is produced in seal cover. Affidavit is filed stating that personal bank guarantees have been invoked.

The matter stands adjourned to 28.09.2021.



(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)



(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 128
RST.A/6(AHM)2021
in
CP(IB) 451 of 2018

Order under Section 9 IBC

IN THE MATTER OF:

Mohini Health & Hygiene Ltd
V/s
Shree Ram Proteins Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:


For the Applicant : None.
For the Respondent : Advocate, Mr. Bharat Rao.

ORDER

The learned counsel for the Respondent seeks time.

The matter stands adjourned to 25.10.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 129
IA/262(AHM)2021
in
CP(IB) 458 of 2018

Order under Section 7 IBC

IN THE MATTER OF:

Bank of India

.....Applicant

V/s

Eagle Cotton Pvt Ltd

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Advocate, Ms. Nitu Chaturvedi.
Liquidator : Mr. Pradeep Kumar Kabra.
For the Respondent : None.

ORDER

We direct the Liquidator to furnish the postal address of the Respondents so that Registry can serve notice to them.

The matter stands adjourned to 25.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 130
IA/86(AHM)2021
in
CP(IB) 463 of 2019

Order under Section 7 IBC

IN THE MATTER OF:

Reliance Asset Reconstruction Co Ltd
V/s
Morakhia Copper & Alloys Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the COC : Advocate, Mr. Baiju Bhagat
For the RP : Advocates, Mr. Vishal Dave and Mr. Nipun Singhvi
along with RP in person.
For the Resolution Applicant : Sr, Advocate, Mr. Navin Pahwa.

ORDER

We direct the RP to file valuation report, value determination of fair value as well as liquidation. Affidavit regarding initiation of proceedings against the Suspended Management and other Guarantors independent of Corporate Debtor also required to be produced on record.

The matter stands adjourned to 07.09.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 131
IA/294(AHM)2021
in
CP(IB) 669 of 2019

Order under Section 9 IBC

IN THE MATTER OF:

Harish Vedkumar Anand Proprietor of Anand Enterprises
V/s
Radha Madhav Corporation Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the IRP/RP : Mr. Parth Shah, Adv.
For the Respondent :

ORDER

Heard Learned Counsel for the Resolution Professional.

List the matter for further consideration on 04.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 132

C.P.(CAA)/24(AHM)2021 in CA(CAA) 87 of 2020

Order under Section 230-232

IN THE MATTER OF:

Parag Sheth liquidator of Maxroth Impex Pvt Ltd

.....Applicant

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Jaimin Dave, Adv.
For the IRP/RP :
For the Respondent :

ORDER

This application is filed under Section 230-232 of the Companies Act, 2013. However, Regional Director raised some objections. To understand those objections, issue notice to personal attendance of the Regional Director. We direct the Petitioner to serve notice to the RD by Speed-post and by e-mail and to file affidavit within two weeks.

List the matter for further consideration on 21.09.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 133
C.P.(CAA)/36(AHM)2021 in
C.A.(CAA)/37(AHM)2021

Order under Section 230-232

IN THE MATTER OF:

Shrinidhi Safe Vault Pvt Ltd
Laxminarayan Safe Deposit Vault Pvt Ltd

.....Applicant

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Kunjal Dalal, PCS
For the IRP/RP :
For the Respondent :

ORDER

Regional Director & Registrar of Companies report is awaited.

List the matter for further consideration on 05.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 134
TP 75/2016(CP 38 of 2014)

Order under Section 397-398

IN THE MATTER OF:

Satyaketu Vitthaldas Patel
V/s
Hotel Oasis (Surat) Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Akshaya Ganpath, Adv.
For the IRP/RP :
For the Respondent :

ORDER

Matter is still pending before the Hon'ble Gujarat High Court and stay is operating.

List the matter for further consideration on 15.11.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 135
CP 215 of 2017

Order under Section 241-242-244

IN THE MATTER OF:

Kishorebhai Ramjibhai Kakadiya & Ors
V/s
Rim Concrete Pvt Ltd & Ors

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Arjun Sheth, Adv.
For the IRP/RP :
For the Respondent :

ORDER

Learned Counsel for the Respondent appeared. Pleadings are complete. However, parties are still trying for settlement. We direct parties to upload their respective pleadings / documents on E-Portal within **Seven (7) days**, if already not uploaded.

List the matter for further consideration on 29.11.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 136
CP 33 of 2020
Mis.A/5(AHM)2021

Order under Section 241 Co.Act, 2013

IN THE MATTER OF:

Neetaben Prabhubhai Pate
V/s
Prabhu Creations Pvt Ltd & Anr

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the IRP/RP :
For the Respondent : Mr. Arjun Sheht, Adv.

ORDER

No one appeared for the Petitioner.

List the matter for further consideration on 23.11.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 137
CP 95 of 2018

Order under Section 131

IN THE MATTER OF:

Sumeru Textiles Pvt Ltd
V/s
ROC, Gujarat

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Ms. Natasha Shah, Adv.
For the IRP/RP :
For the Respondent :

ORDER

At the request of Learned Counsel for Petitioner, the matter is adjourned. We direct parties to upload their respective pleadings / documents on E-Portal within **Seven (7) days**, if already not uploaded.

List the matter for further consideration on 26.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 138
CP 59 of 2018

Order under Section 271(e)

IN THE MATTER OF:

Ravindra Gupta

.....Applicant

V/s

Shree Balaji Dyeing and Printing Mill Pvt Ltd & 2 Ors

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Sandeep Jalan, Adv.

For the IRP/RP :

For the Respondent :

ORDER

No one appeared for the Respondent. Pleadings are complete. Issue notice to the Income Tax Department. We direct Petitioner to serve notice to the Income Tax Department by Speed-post and by e-mail and to file affidavit within two weeks.

List the matter for further consideration on 26.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 139
CP/27(AHM)2021

Order under Section 245 & 73(4) of Co.Act, 2013

IN THE MATTER OF:

Rasikbhai G Bhalodi

.....Applicant

V/s

Sachi Molding Solutions Pvt Ltd & Ors

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Vinit Nagar, PCS

For the IRP/RP :

For the Respondent : Mr. Saumitra Chaturvedi, Adv.

ORDER

Learned Counsel for Respondent did not file Vakalatnama. Learned Counsel for Corporate Debtor seeks time to file Vakalatnama and reply. It is to be filed within two weeks by giving copy to the Applicant. We direct parties to upload their respective pleadings / documents on E-Portal within **Seven (7) days**, if already not uploaded.

List the matter for further consideration on 26.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 140
IA/489(AHM)2021 in CP(IB) 249 of 2018

Order under Section 7 IBC

IN THE MATTER OF:

JM Financial Asset Reconstruction Company Ltd
V/s
Samay Electronics Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Jaimin Dave, Adv.
For the IRP/RP :
For the Respondent : Mr. Navin Pahwa, Sr. Adv. a.w Learned Counsel Mr.
Raju Kothari, Adv.

ORDER

Heard Learned Counsel for the Applicant and Learned Sr. Counsel for the Respondent. We direct parties to upload their respective pleadings / documents on E-Portal within **Seven (7) days**, if already not uploaded.

List the matter for further consideration on 18.10.2021.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

Prakash

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 141
CP(IB) 249 of 2018

Order under Section 7 IBC

IN THE MATTER OF:

JM Financial Asset Reconstruction Company Ltd
V/s
Samay Electronics Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

PRESENTS:

For the Applicant :
For the IRP/RP :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Prakash

**IN THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

CP (IB) No.249/7/NCLT/AHM/2018

In the matter of :

JM Financial Asset Reconstruction Company Limited
(Formerly known as JM Financial Asset Reconstruction
Company Private Limited)

7th Floor, Cnergy Appasaheb Marathe Marg,
Prabhadevi,

Mumbai-400025

... Financial Creditor

Versus

M/s Samay Electronics Private Limited

CIN:33309GJ1997PTC033333

Registered Office at:

M.R. Industrial Estate,

Morbi-Rajkot Highway,

Virpar Morbi

Rajkot-363641

.... Corporate Debtor

Date of Hearing: 13.07.2021

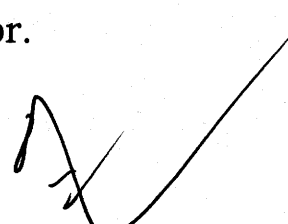
Date of Pronouncement of Order 27.07.2021

Coram: MADAN B. GOSAVI, MEMBER(J)

Appearance :

Learned Senior Counsel Mr. Navin Pahwa a.w Learned Counsel Mr.
Raju Kothari for the Financial Creditor.

Learned Counsel Mr. Vishwas Shah for the Corporate Debtor.



ORDER

(Under Reference 60(3) of NCLT Rules, 2016)

[Per: Madan B. Gosavi, Member (Judicial)]

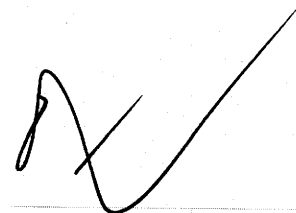
1. This reference under Section 419(5) of the Companies Act, 2013 and r.w Reference 60(3) of NCLT Rules, 2016 by Hon'ble President (Acting) NCLT (HQ) New Delhi sent to me either to subscribe view of the Hon'ble Member Judicial or view of Hon'ble Member Technical, then on the bench No.1, Ahmedabad Bench (NCLT), who have expressed divergent views on the point, **“whether application filed by Financial Creditor JM Financial Asset Reconstruction Company under Section 7 of IBC, 2016 against the Corporate Debtor M/s. Samay Electronics Private Ltd. is barred by limitation under Article 137 of Limitation Act, 1963?”**
2. Following facts are not in dispute.
3. Initially in the year 1998 State Bank of Saurashtra, Morbi Branch had granted and disbursed the loan of Rs.14 Crores to the Corporate Debtor. The terms of the repayment of the loan were extended from time to time. Since the Corporate Debtor committee default persistently, in the year 2010, bank has filed recovery proceedings in DRT-II Mumbai after serving notice under Section 13(2) of the SARFAESI Act, 2002. On 26.10.2010, the bank and Corporate Debtor had arrived at settlement. Accordingly, on 26.10.2010, award was passed in

that proceeding on the basis of consent term. Thereby, the Corporate Debtor agreed to pay Rs.31 Crore towards loan outstanding.

4. It is also not in dispute that later on the promoters of the Corporate Debtor filed an appeal against the consent decree in DRAT-Mumbai (M.A. 98 of 2011). That appeal is still pending.
5. It is further not in dispute that pending appeal, the bank assigned the debt to the Financial Creditor JM Financial Asset Reconstruction Company by deed of assignment dated 26.02.2014. The Financial Creditor / Assignee of the debt continued with the appeal in DRAT, Ahmedabad. On 28.05.2018, the Financial Creditor filed this application under Section 7 of IBC, 2016 against the Corporate Debtor to initiate CIRP of the Corporate Debtor on the ground that Corporate Debtor committed default in paying the financial debt of Rs.44,72,65,054/-.
6. The Corporate Debtor contested the claim. One of the defence of the Corporate Debtor is that claim is time barred under Article 137 of Limitation Act, 1963.
7. Record reveals that on 26.02.2020, NCLT, Ahmedabad Bench passed the order on admission. However, while doing so, both members on the bench wrote separate orders. Member Technical was of the view that the Corporate Debtor required

to be admitted CIRP whereas the Member Judicial express view stating the claim itself is time barred. Hence this reference to me.

8. It would be apt to note views express by both Hon'ble Members in verbatim. Member Technical held that “*continuous proceeding for the same debt would going on from 2010 and appeal are still pending in DRAT, Mumbai*” on this reason, Member Technical admitted the Corporate Debtor in CIRP whereas, Member Judicial held that “*further in my humble opinion, the time spent in proceeding before DRT and DRAT (under SARFAESI Act) is not permitted to be excluded for the purpose of Limitation to file present proceedings because such proceedings cannot be termed as wrong proceeding persuaded bonafidely before the Court having no jurisdiction*”.
9. Upon receipt of this reference, I called upon both Learned Counsels appearing for the parties to make submissions on the point of limitation on which both members have expressed divergent views. I heard Learned Senior Counsel Mr. Navin Pahwa for Financial Creditor and Learned Counsel Mr. Vishwas Shah for the Corporate Debtor at length. Both Learned Counsels relied on recent Hon'ble Supreme Court ruling on this point in case of **Sesh Nath Singh & Anr. Vs. Baidyabati Sheoraphuli Cooperative Bank Ltd. and Anr. (Civil Appeal No.9198 of 2019)**.



10. I have considered the controversy revolved on point of Limitation. There is no dispute to the fact that there is a debt more than Rs. 44 Crores due and payable by the Corporate Debtor to the Financial Creditor and Corporate Debtor has committed default in paying the same. The only issue is, since the default took place over the period of three years, i.e. In the year 2014, whether this application filed in 2018 under Section 7 of IBC, 2016 is maintainable as apparently barred by limitation under Section 137 of Limitation Act, 1963?
11. In fact, point in controversy as noted above is now not in res-integra. The Apex Court in the case of "*Sesh Nath Singh*" (**cited supra**) dealt with the same point extensively. The facts in proceedings before the Hon'ble Supreme Court were that Baidyabati Sheoraphuli Cooperative Bank Ltd. had given the Corporate Debtor loan of Rs.1 crore. In May, 2012, the Corporate Debtor committed default in paying the loan. On 18.01.2014, the bank initiated recovery proceeding against the Corporate Debtor in DRT Kolkata challenging the banks action. In the year 2017, the High Court restrained the bank from taking steps under SARFEASI Act, 2002 against the Corporate Debtor. That writ petition is still pending. Meantime the Financial Creditor / bank on 12.02.2018 initiated CIRP proceedings under Section 7 of IBC, 2016 against the Corporate Debtor. NCLT Kolkata Bench on 25.04.2019 admitted the Corporate Debtor in CIRP. The Suspended Management of the Corporate Debtor filed appeal against the order of NCLT. The Hon'ble NCLAT dismissed the

appeal holding that the Respondent / bank had bonafidely within limitation initiated proceeding against the Corporate Debtor under SARFEASI Act, 2002 and was thus entitled to exclusion of the time under Section 14(2) of the Limitation Act, 1963. The Suspended Management of the Corporate Debtor therein filed Second Appeal before the Hon'ble Apex Court. Considering that controversy relating to limitation viz.a.viz benefit to be accorded to party under Section 14(2) of the Limitation Act, 1963 to get certain period excluded from counting the time spent in other legal proceedings, the Hon'ble Supreme Court upheld the order of Hon'ble NCLAT.

12. In this case, the Corporate Debtor committed default in paying the debt in 2014. The Financial Creditor initiated CIRP against the Corporate Debtor in 2018. Meantime, DRT proceeding in between parties still going on. The Apex Court in *Sesh Nath Singh & Anr. Vs. Baidyabati Sheoraphuli Cooperative Bank Ltd. and Anr.* held that *"being aggrieved by the order dated 25th April 2019 passed by the Kolkata Bench of NCLT, the Corporate Debtor filed an appeal before the NCLAT under Section 61 of the IBC, contending that the application filed by the Financial Creditor should not have been entertained, the same being barred by limitation"*.
13. The Apex Court further held that *"in our view, since the proceedings in the High Court were still pending on the date of filing of the application under Section 7 of the IBC in the NCLT, the entire period after the initiation of proceedings under the*

SARFAESI Act, 2002 could be excluded. If the period from the date of institution of the proceedings under the SARFAESI Act, 2002 till the date of filing of the application under Section 7 of the IBC in the NCLT is excluded, the application in the NCLT is well within the limitation of three years. Even if the period between the date of the notice under Section 13(2) and date of the interim order of the High Court staying the proceedings under the SARFAESI Act, 2002 on the prima facie ground of want of jurisdiction is excluded, the proceedings under Section 7 of IBC are still within limitation of three years”.

14. Learned Counsel Mr. Vishwas Shah for the Corporate Debtor tried to differentiate the Apex Court ruling on the facts. He would submit that in the proceeding before Hon'ble Supreme Court, the facts were that cooperative bank, which could not have initiated proceedings under SARFAESI Act, 2002 before DRT, had initiated such proceedings. It was proceeding before wrong forum hence, benefit of provision of Section 14(2) of Limitation Act, 1963 accorded. According to him, the ruling is not applicable.
15. I am unable to accept the submissions of Learned Counsel for the Corporate Debtor. The point in controversy before the Hon'ble Supreme Court was not that the cooperative bank filed recovery proceeding under SARFEASI Act, 2002 before DRT and whether DRT has jurisdiction or not but the controversy before the Hon'ble Supreme Court was whether the benefit under Section 14(2) of Limitation Act, 1963 for

exclusion of period of limitation can be given to the creditor who had initiated recovery proceeding against the debtor under SARFEASI Act, 2002 in the DRT and while it was being continued, the creditor filed CIRP proceedings before NCLT under IBC, 2016? Apex Court in uncertain terms held that *“as observed above, Section 238A of the IBC makes the provisions of the Limitation Act, as far as may be, applicable to proceedings before the NCLT and the NCLAT. The IBC does not exclude the application of Section 6 or 14 or 18 or any other provision of the Limitation Act to proceedings under the IBC in the NCLT/NCLAT. All the provisions of the Limitation Act are applicable to proceedings in the NCLT/NCLAT, to the extent feasible”*.


16. In view of this, I hold that application under Section 7 of IBC, 2016 filed by the Financial Creditor against the Corporate Debtor in the year 2018 for the default that has taken place in the year 2014 is maintainable because the Financial Creditor herein gets benefit of exclusion of time spent in recovery proceeding against the Corporate Debtor before DRT. I endorse the view of Hon'ble Member Technical who has held that this proceeding is not barred by limitation. I admit the Corporate Debtor in CIRP by following order and return the reference with my opinion to Hon'ble Acting President, NCLT, New Delhi.
17. The Financial Creditor suggested the name of one Mr. Chandra Prakash Jain, having Registration No. IBBI/IPA/

001-IP-P00147/2017-2018/10311,Email:

cpjain@cacpjain.com & jain_cp@yahoo.com for appointment as Interim Resolution Professional against whom, no disciplinary proceeding is pending. The applications are defect free. Hence, I admit the Corporate Debtors in CIRP by following order:

ORDER

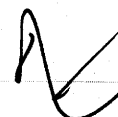
1. Corporate Debtor M/s Samay Electronics Private Limited is admitted in Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.
2. I appoint one Mr. Chandra Prakash Jain, having Registration No. IBBI/IPA-001-IP-P00147/2017-2018/10311,Email: cpjain@cacpjain.com & jain_cp@yahoo.com under Section 12(1)(c) of the IB Code as IRP.
3. That the Moratorium under Section 14 of the Code shall come to effect from 27.07.2021 till the completion of Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub- Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.



4. That the Bench hereby prohibits the institution of suits or continuation of pending suit 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(s), transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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 SARFAESI Act, 2002 the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
5. Further, litigation or any application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act, 2002 and RDB Act, prior to pronouncement of this order such proceedings are expected to be dealt with in accordance with law r.w. Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.
6. That the supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the Moratorium, period. The Corporate Debtor to provide effective

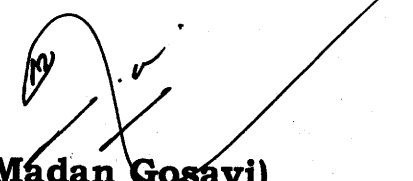
assistance to the IRP as and when he takes charge of the Corporate Debtor.

7. The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.
8. 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 extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
9. The IRP shall be under 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 Insolvency & Bankruptcy Code, 2016.

10. I direct the Financial Creditor / Applicant to pay the IRP a sum of Rs. 1,00,000/- (Rs. One Lakh) as fees & expenses till the COC decides about his fees / expenses.
11. The Registry is directed to communicate a copy of this order to the Petitioner-Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within three working days and upload the same on website immediately after pronouncement of the order.
12. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.
13. CP(IB) No. 249/7/NCLT/AHM/2018 is allowed and stands disposed of.


(Madan Gosavi)
Member (Judicial)

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 143
IA/568(AHM)2021 in CP(IB) 249 of 2018

Order under Section 60(5) IBC,2016

IN THE MATTER OF:

Pravinkumar Ukabhai Bhalodia

.....Applicant

V/s

J M Financial Asset Reconstruction Company Ltd & Anr

.....Respondent

Order delivered on 24.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

PRESENTS:

For the Applicant : Mr. Vishwas Shah

For the IRP/RP :

For the Respondent : Mr. Navin Pahwa, Sr. Adv. with Mr. Raju Kothari, Adv.

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Prakash

**IN THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

IA No. 568 of 2021 in CP (IB) 249/NCLT/AHM/2018

In the matter of:

[An application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 r.w Rule 16 of NCLT Rules, 2016]

In the matter between:

Pravinkumar Ukabhai Bhalodia

Suspended director of Corporate Debtor,
Visamo, New Adarsh Society,
Sanala Road,
Morbi-363641

.. Applicant

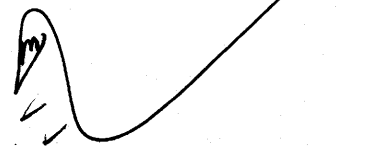
Versus

1. JM Financial Asset Reconstruction Company Limited
(Formerly known as JM Financial Asset Reconstruction
Company Private Limited)
7th Floor, Cnergy Appasaheb Marathe Marg,
Prabhadevi,
Mumbai-

.. Respondent
(org. Financial Creditor)

2. M/s Samay Electronics Private Limited
Through IRP
Chandra Prakash Jain,
D-501, Ganesh Meridien,
Opp: Gujarat High Court
Ahmedabad-380060

..Respondent
(Org. Corporate Debtor)



Order Reserved on 23.08.2021
Order Pronounced on 24.08.2021

Coram: MADAN B. GOSAVI, MEMBER (J)

Appearance:

Learned Counsel Mr. Vishwas K Shah appeared for the Applicant.
Learned Sr. Counsel Mr. Navin Pahwa a.w Learned Counsel Mr. Raju Kothari appeared for the Respondent.

ORDER

[Per: Madan B. Gosavi, Member (Judicial)]

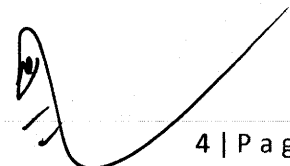
1. This application is filed under Section 60(5) of IBC, 2016 r.w Rule 11 of NCLT Rules, 2016 by one Mr. Pravinkumar Ukabhai Bhalodia, suspended director of the Corporate Debtor M/s. Samay Electronics Private Limited. The Corporate Debtor has been admitted in CIRP vide order dated 27.07.2021.
2. The order dated 27.07.2021 has been passed by Single Member [M.B. Gosavi, Member(J)] upon reference from the Hon'ble Acting President, NCLT, New Delhi under Section 419(5) of the Companies Act, 2013 r.w Reference 60(3) of NCLT Rules, 2016 because originally both Members of the Bench who had dealt the main CP(IB) 249 of 2018 under Section 7 of IBC, 2016 recorded the different findings relating to applicability of the limitation Act, 1963 viz.a.viz claim in dispute. Learned Member (J) has held that the claim is time barred whereas Learned Member (T) has held that the claim is within limitation. I, while disposing the reference by order

dated 27.07.2021, endorse the view of the Learned Member (T). I held that the claim / proceeding under Section 7 of IBC, 2016 is filed within period of limitation in view of Apex Court ruling in case of **Sesh Nath Singh & Anr. Vs. Baidyabati Sheoraphuli Cooperative Bank Ltd. and Anr. (Civil Appeal No.9198 of 2019)** and thereby admitted the Corporate Debtor in CIRP.

3. Thereafter, the suspended director of the Corporate Debtor filed Special Civil Application No.11031 of 2021 before the Hon'ble Gujarat High Court challenging the order of admission of the Corporate Debtor in CIRP on the ground that while disposing the main CP(IB) 249 of 2018, this Adjudicating Authority did not fix the date of pronouncement of its order, hence, Corporate Debtor lost the opportunity to request this Adjudicating Authority to stay the operation of the order.
4. The Hon'ble Gujarat High Court while disposing the Special Civil Application No.11031 of 2021 vide order dated 11.08.2021 directing this Adjudicating Authority *"the learned NCLT shall notify CP (IB) No. 249 of 2018 for the purpose of pronouncement on 23.08.2021 and whereas on such date it will be open for the applicant to submit a application for staying the judgment if he so desires which request may be considered by the learned NCLT independently on its own merits. It is made clear that neither the learned NCLT is required to pass an order afresh nor it is required to afford a hearing to any of the parties except for considering request for staying of the*

judgment concerned for the purpose of preferring the appeal. The order of learned NCLT upon the request of the petitioner, if any, shall be treated as a part of the judgment and order dated 27.7.2021.

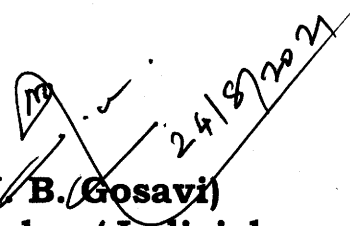
5. Accordingly, IA 568 of 2021 is filed by the suspended director of the Corporate Debtor.
6. I heard Learned Counsel Mr. Vishwas K Shah for the Applicant and Learned Sr. Counsel Mr. Navin Pahwa for Respondent (Financial Creditor) at length.
7. Learned Counsel for the suspended director of the Corporate Debtor submitted that NCLT Bench of Kolkatta interpreted the ruling of Hon'ble Supreme Court in case of **Sesh Nath Singh & Anr. Vs. Baidyabati Sheoraphuli Cooperative Bank Ltd. and Anr.** in different manner then what has been held by this Adjudicating Authority while considering the same ruling. He further submitted that he has good ground to maintain appeal against the admission of the Corporate Debtor in CIRP and it may take time to file appeal till then the effect of the order dated 27.07.2021 passed by this Court may please be stayed.
8. As against this, Learned Sr. Counsel Mr. Navin Pahwa for the Respondent opposing the prayer on the ground that this Adjudicating Authority has no jurisdiction to stay or revive its own order.



9. At this stage, I am not entering into the controversy whether my observation to the ratio laid down by Hon'ble Supreme Court in case of *Sesh Nath Singh & Anr. Vs. Baidyabati Sheoraphuli Cooperative Bank Ltd. and Anr. (Civil Appeal No.9198 of 2019)* is correct or the observation of the same made by Hon'ble member of NCLT Kolkatta Bench is correct. I accept that Applicant / Corporate Debtor may be having good ground to maintain the appeal. I am only concern with the fact that whether this Adjudicating Authority can stay its own order whereby Corporate Debtor is admitted in CIRP?
10. IBC, 2016 is complete Code. There is no provision in the Code unlike the provision of order 41 of, Rule 5(2) of Civil Procedure Code, 1908 which allows the Civil Court to stay its own order for certain period. This Adjudicating Authority even cannot invoke inherent jurisdiction under Rule 11 of NCLT Rules, 2016 because efficacious remedy by way of appeal under Section 61 of IBC, 2016 is provided under the law. Stay to the order of admission of the Corporate Debtor in CIRP cannot be granted under Section 60(5) of IBC, 2016 because stay to admission of the Corporate Debtor in CIRP is nothing to do with the resolution or liquidation of the Corporate Debtor. In short, for want of any provision of law available with me, I reject this application. Order dated 27.07.2021 admitting the Corporate Debtor in CIRP under Section 7 of IBC, 2016 stands as it is.



11. Accordingly, I.A. No. 568 of 2021 in CP (IB) 249 of 2018 stands disposed of by pronouncing the order in open Court in presence of the learned counsels appearing for both sides.
12. Urgent certified copy of this order, if applied for, to be issued to all concerned parties upon compliance with all requisite documents.


(M. B. Gosavi)
Member (Judicial)

Prakash