

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.301
C.P.(IB)/250(AHM)2025

Proceedings under Section 7 IBC

IN THE MATTER OF:

Gayatri Engimech Private Limited
V/s
Sisa Mosaic Private Limited

.....Applicant

.....Respondent

Order delivered on: 08/06/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This 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
THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

CP (IB) No. 250 of 2025

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

Gayatri Engimech Pvt. Ltd.
CIN: U29100GJ2013PTC073796
Having address at:
Kathal, Taluka Kathal, Kheda,
Ahmedabad -387635

... Applicant/
Financial Creditor

Versus

Sisa Mosaic Pvt. Ltd.
CIN: U26933GJ2011PTC066502
Having address at:
C-3-1001/1006, Anushruti Tower,
S.G. Highway, Ahmedabad,
Gujarat-380054

... Respondent/
Corporate Debtor

Order pronounced on 08.06.2026

CORAM:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**DR. V. G. VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

Sd/-

Sd/-

Present:

For the Applicant : Mr. Nipun Singhvi , Adv. and
Mr. Rahul Bhavsar, Adv.
For the Respondent : Mr. Aadit .R.Sanjanwala , Adv. and
Mr. Rudram.T. Trivedi, Adv.

JUDGEMENT

1. This Application has been filed under Section 7 of Insolvency and Bankruptcy Code, 2016 by Gayatri Engimech Pvt. Ltd (hereinafter referred to as “Financial Creditor”) seeking initiation of Corporate Insolvency Resolution Process against Sisa Mosaic Pvt. Ltd (hereinafter referred to as “Corporate Debtor”) for having committed a default of an amount of Rs. 3,58,32,954/-. The date of default is stated as 15.03.2023.
2. The Applicant states that, the Applicant had provided an unsecured loan of Rs. 2,85,00,000 to the Respondent for the period of 4 years at an interest of 6% per annum. A Memorandum of Understanding was entered on 15.04.2021 between the Applicant and Respondent. As per the MOU, the respondent was required to repay the whole amount to the Applicant under three instalments of Rs. 95,00,000/-

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starting from April 2022 at an interest of 6% per annum and was to be payable on a half-yearly basis.

3. The Applicant states that the respondent had acknowledged the payment of the abovementioned amount under a promissory note dated 15.04.2021. The Applicant had issued a letter dated 18.10.2022 to the Respondent wherein it is stated that the Applicant had not received any interest or principle amount which was due and payable since April, 2022. The respondent had replied to the letter of the Applicant vide letter dated 15.03.2023 wherein it is stated that due to reduced market demand, respondent have been unable to settle the loan amount and further assured the Applicant about settling the loan amount at the earliest possible. It is further stated that Applicant issued a letter dated 25.05.2024, but the respondent had not repaid the principle amount or any interest amount.
4. The Applicant states that the loan recall notice dated 26.12.2024 was issued to the Respondent. The final opportunity was granted to the respondent to settle the amount of Rs. 3,58,32,954/- of which Rs. 2,85,00,000 is

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the principle amount and Rs.73,32,954/- is the interest upto 30.11.2024.

5. The Applicant has proposed the name of Mr. Shah Sanjay Jitendralal having registration no. IBBI/IPA-001/IP-P-01915/2020-2021/13096 to act as the Interim Resolution Professional, who has also filed his written consent in Form 2.
6. The Respondent/ Corporate Debtor had filed its reply and states that as per MOU, the repayment was to commence with effect from April, 2022. The cause of action arose for the first time in April, 2022 and hence the present petition filed on 16.06.2025 is barred by limitation. Article 19 governs the period of limitation for money payable against money lent. Under Article 19, the time from which period begins to run is 3 years from when loan is made. The amounts were lent on 16.12.2020, 30.12.2020 and 22.01.2021 and 03.03.2021 and thus according to Article 19 of the Limitation Act, the period of limitation would begin from the date of disbursement. The petition is not in accordance with the provisions contained in Bankers Book Evidence Act, 1891. Under Section 2-A of the Act, a printout

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of an entry must be accompanied by a certificate stating it is a printout of such entry and certified by the person in charge of the computer system with a brief description of the computer system and other details. As per Section 4 of the Act, only a certified copy of an entry in the Bankers Book can be received as prima facie evidence of the existence of such entry. Further, as per Regulation 2A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016, the financial creditor must furnish certified copies of entries in the relevant account in the Banker's Book as evidence of default. The documents produced by the applicant do not conform with the aforesaid statutory requirements.

7. The Respondent states that there is non-compliance with the mandatory procedural requirements under the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. As per Rule 4(3) of the aforementioned Rule, the applicant is required to dispatch a copy of the application filed before the Adjudicating Authority to the registered office of the Corporate Debtor by

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Registered Post or Speed Post. From the documents served upon the Corporate Debtor, no proof has been produced to show payment of the application fee. Under the aforementioned Rules a copy of the petition in Form 1 is required to be served upon the Insolvency and Bankruptcy Board of India but there is no proof on record to show that such service has been effected. It is further stated that provisions of the IBC cannot be invoked as a mode of recovery. The Respondent had also produced its last audited financial statements, which demonstrates the financial position of the company and show the financial strength of the Corporate Debtor.

8. The Respondent states that in order to file a petition under Section 7 of IBC, the financial creditor must also qualify as a financial service provider under Section 2(17) who provides financial services as per Section 2(16). In the present case the business of the financial creditor does not qualify as a financial service provider. The Financial Creditor is not a money lender registered under the provisions of Gujarat Money Lenders Act, 2011 and therefore it is not legally permissible for the financial

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creditor to lend money, considering the prohibition under Section 5 of the Act. The MOU dated 20.04.2021 is void as per Section 24 of the Indian Contract Act, 1872 as the objective of the MOU was money lending which is impermissible without registration under Gujarat Money Lenders Act, 2011. It is further stated that stamp duty leviable on MOU, which can qualify as a loan agreement is not paid and hence it cannot be taken into evidence to establish financial debt.

9. The Applicant in its rejoinder states that the reply filed by the respondent is silent on material documentary evidence and does not rebut the admitted financial liability arising from the duly executed transaction documents. The Applicant states that the Corporate Debtor had acknowledged its liability in writing through letter dated 15.03.2023 and promissory note dated 15.04.2021 which constitutes a valid acknowledgment of debt under Section 18 of the Limitation Act, 1963. Through written communication dated 15.03.2023, the limitation time period stood extended and a fresh period of limitation commenced from 15.03.2023, the last date of limitation as per written

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communication would be 15.03.2026. It is stated that limitation period would further be extended from the acknowledgment of debt under which can be seen through balance sheet of Corporate Debtor as on 31.03.2023.

10. The Applicant states that the application filed under Section 7 of IBC is not based solely on entries in bankers book but is supported by other multiple cogent evidences on which the applicant has relied to substantiate its claim and all of this conclusively establish the existence of financial debt and occurrence of default. The Applicant has complied and intimated the IBBI with the copy of application on 20.06.2025. It is further stated that financial assistance extended to the Corporate Debtor clearly falls within the definition of financial debt under Section 5(8) of IBC. The present transaction is governed by the Companies Act, 2013 and the financial assistance extended by the Applicant was duly authorized by a board resolution passed under Section 185 and 186 of the Companies Act, 2013 and Companies Act being a central legislation would prevail over any inconsistent provisions of State Legislature.

11. The Applicant has relied upon following judgments :

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- a. *Civil Appeal No. 1650 of 2022 between Dena Bank Vs C Shivakumar Reddy & Anr passed by Hon'ble Apex Court.*
- b. *Civil Appeal No. 2085 of 2022 between Axis Bank Ltd Vs Naren Sheth & Anr. passed by Hon'ble Apex Court.*
- c. *Civil Appeal No. 8337 -8338 of 2017 between Innoventive Industries Ltd. Vs ICICI Bank & Anr passed by Hon'ble Apex Court.*
- d. *Company Appeal (AT) (Ins) No. 68 of 2019 between B. Prashanth Hegde Vs State Bank of India passed by Hon'ble NCLAT.*

12. Both the parties have filed their written submissions and also heard both the counsels.

13. The applicant has not submitted any document as to how he is admissible as a financial creditor under Sec 5(7) of IBC 2016.

14. The Applicant does not comply with Sec 186(2) of the Companies Act 2013 as no document and proof with balance sheet and financial statement is provided. The applicant has not complied with the relevant provisions to lend as he has not given any proof of share capital and reserves to lend. It is pertinent to mention that the MOU

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dated 15.04.2021 does not speak of any such resolution passed under Section 185 and Section 186 of the Companies Act, 2013.

15. The stated document before is a un registered Unstamped MOU executed on 15 April 2021 for Rs.2,85,00,000 and the terms and conditions are mutually agreed between the parties. This is not a valid document to proceed in the matter and no recourse is shown in case of non-payment of debt. Also the balance sheet submitted does not convincingly state figures to comply with the act provisions.
16. Further, as per the balance sheet filed of the CD, it is shown in the schedule of balance sheet that the applicant is a related party of Directors and their Associates in Specific Glass Mosaic Limited (same applicant) which is associated concern of Sisa Mosaic Limited (Corporate Debtor) and it is an indirect relationship, thereby we observe it may be a collusive petition. The promissory note signed is not stamped and is not a valid document to prove the debt.
17. The disbursements have been made from the Cash Credit Account (maintained with Abhyudaya Cooperative Bank) which is a loan account and this cannot be considered to be

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an investment as there is no document produced that the creditor has agreed to the lending by the applicant to the CD. If the loan is granted for specific purpose, this cannot be treated as an investment in CD as loan which is shown as disbursed through an MOU, which appears to be a fictitious document created for the purpose of filing this application.

18. The bank statement enclosed is of Abhyudaya Cooperative Bank which seems to be a cash credit facility out of which no loan could be disbursed to other party. Further in the application it also states that attachment of bank statement is not mandatory.
19. We observe that neither the applicant complies with the IBC as a financial creditor nor has the documents as per terms of the agreement satisfactory including maintainability to allow this application.
20. In view of the above we pass the following:

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ORDER

CP (IB) No. 250 of 2025 is rejected and disposed of.

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

DD-LRA

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)