

Date: 01<sup>st</sup> December 2018

**ASHISH ARJUNKUMAR RATHI**  
Resolution Professional for Sunil Hitech Engineers Limited  
Reg.No.: IBBI/IPA-001/IP-P00568/2017-2018/11010

To,

**NATIONAL STOCK EXCHANGE OF INDIA**

Exchange Plaza, Bandra Kurla Complex,  
Bandra (E), Mumbai - 400051,  
Maharashtra, India

Kind Attn: Officer in Charge

**Sub: Corporate Insolvency Resolution Process of Sunil Hitech Engineers Limited**

- Ref:**
1. Order delivered on September 10, 2018 by the Hon'ble National Company Law Tribunal, Mumbai Bench in the matter of American Express Banking Corp vs Sunil Hitech Engineers Limited [C.P. (IB) No- CP/(IB)/2295/(MB)/2018]; and
  2. Order dated November 27, 2018 made available on November 30, 2018 of the Hon'ble National Company Law Tribunal, Mumbai Bench in the matter of American Express Banking Corp vs Sunil Hitech Engineers Limited [C.P. (IB) No - CP/(IB)/2295/(MB)/2018].

Dear Sir/Madam,

1. This is to bring to your attention that American Express Banking Corp, in its capacity as the financial creditor of Sunil Hitech Engineers Limited ("Corporate Debtor") had filed an application C.P. (IB) No. CP/(IB)/2295/(MB)/2018 under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 before the Hon'ble National Company Law Tribunal, Mumbai ("Hon'ble NCLT, Mumbai") for initiation of Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor.
2. The Hon'ble NCLT, Mumbai *vide* its order delivered on September 10, 2018 ("First Order") commencing the CIRP of the Corporate Debtor with effect from September 10, 2018 and appointed Mr. Harshad Shamkant Deshpande (IBBI registration no. IBBI/IPA-001/IP-P00166/2017-18/10335) as the Interim Resolution Professional ("IRP") of the Corporate Debtor. A copy of the First Order is enclosed herewith and marked as "Annexure-A". The Hon'ble NCLT, Mumbai *vide* the First Order has also imposed a moratorium in accordance

**Sunil Hitech Engineers Limited**

Registered Office : 72, Floor - 7, Plot-15A, Sagar Tarang CHS, Khan Abdul Gaffar Khan Marg, Worli Seaface, Worli Colony, Mumbai - 400 030  
Corporate office : MET Educational Complex, 6th floor, "C" wing, A. K. Vaidya Marg, Bandra Reclamation, Bandra (West), Mumbai - 400 050.  
Phone:+91-22-61872400 ● Fax:+91-22-67996015/61872455 ● E-mail : wr@sunilhitech.com

Regional Office (Central): 97, East High Court Road, Ramdaspath, Nagpur - 440010, Tel.: 91-712-6685200/201 Fax : 91-2562088/91, Email : info@sunilhitech.com, sunilhitechngp@gmail.com  
CIN : L28920MH1998PLC115155 ● www.sunilhitech.com ● E-mail : investor@sunilhitech.com (only for investors)

ASHISH ARJUNKUMAR RATHI  
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2017-18/11010

*AR*

with Section 14 of the IBC on the following:

- (i) 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;
  - (ii) transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - (iii) 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, 2002;
  - (iv) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
3. Subsequently, the Hon'ble NCLT, Mumbai, *vide* its order dated November 27, 2018 ("Second Order") has appointed the undersigned, Mr. Ashish Arjunker Rathi (IBBI Regn. No IBBI/IPA-001/IP-P00568/2017-18/11010) as the Resolution Professional ("RP") of the Corporate Debtor, thereby replacing the IRP. A copy of the Second Order is enclosed herewith and marked as "Annexure-B".
4. The RP is now vested with the responsibility to manage the affairs of the Corporate Debtor and to further perform all such duties and acts as prescribed under Section 17 of the IBC, including the following:
- (a) the management of affairs of the Corporate Debtor vests in the IRP;
  - (b) the powers of the Board of Directors of the Corporate Debtor are suspended and shall be exercised by the IRP;
  - (c) the officers and managers of the Corporate Debtor shall report to the IRP and provide access to documents and records of the Corporate Debtor, as may be required by the IRP from time to time; and
  - (d) the financial institutions maintaining accounts of corporate debtor shall act on the instructions of the IRP and furnish all information available with them to the IRP.

In terms of Section 23 (2) of the IBC, the Resolution Professional (*upon being appointed*) shall exercise and perform duties as are vested or conferred on the interim resolution professional under the IBC.

5. Kindly treat this letter as an intimation of appointment of the RP of the Corporate Debtor and continuation of the moratorium under Section 14 of the IBC.

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## Sunil Hitech Engineers Limited

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6. In the event you require any clarifications or have any questions, please write at [rpsunilhitech@bdo.in](mailto:rpsunilhitech@bdo.in).
7. Request you to please acknowledge receipt hereof.

Thanking you.

Yours faithfully,

*ARAT* ASHISH ARJUNKUMAR RATHI  
IBBI/IPA-001/IP-P00568/  
2017-18/11010

Sd/-

**ASHISH ARJUNKUMAR RATHI**

**Resolution Professional of Sunil Hitech Engineers Limited**

IP registration no. IBBI/IPA-001/IP-P00568/2017-2018/11010

**Registered Address & Email ID with IBBI**

BDO India LLP,  
The Ruby- Level 9, NW Wing,  
Senapati Bapat Marg, Dadar- West,  
Mumbai, Maharashtra 400028  
INDIA  
[ashishrathi@bdo.in](mailto:ashishrathi@bdo.in)

**Enclosed as above:**

- Annexure A: Copy of order delivered on 10 September 2018 by the Hon'ble NCLT, Mumbai.  
Annexure B: Copy of order dated November 27, 2018 passed by the Hon'ble NCLT, Mumbai, as made available to the Resolution Professional on November 30, 2018.

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**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH  
C.P.(IB) 2295(MB)/2018**

**Under Section 7 of IBC, 2016**

In the matter of

American Express Banking Corp  
.... Petitioner/Financial Creditor

vs.

Sunil Hitech Engineers Limited .... Corporate Debtor.

Order delivered on 10.09.2018

Coram: Hon'ble Shri B.S.V. Prakash Kumar, Member (Judicial)  
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

For the Financial Creditor: Mr. Amir Arsiwala, Advocate

For the Corporate Debtor: Mr. Shraddhanand Bhutada, Mr. Mohitrao Jadhav

*Per B S V Prakash Kumar, Member*

**ORDER**

**Order pronounced on 07.09.2018**

It is a Company Petition filed by American Express Banking Corp u/s 7 of Insolvency and Bankruptcy Code, 2016 (IB Code) against the Corporate Debtor, namely, Sunil Hitech Engineers Limited stating that since the Corporate Debtor herein defaulted in making repayment of ₹42,58,54,084, the Petitioner/Financial Creditor filed this Company Petition for initiation of Insolvency Resolution Process against this Corporate Debtor.

**Historical facts of the case:**

2. The Petitioner submits that the Corporate Debtor incurred its debt under the terms of an American Express Corporate Purchase Account Agreement and various Forms dated 14.2.2017. The Corporate Debtor vide Additional Account for American Express Corporate Purchasing Card-Buyer Initiated Payments (BIP) Account Agreement and various Setup Forms applied to the Petitioner seeking issuance of "Corporate Purchasing Card" and Corporate Purchasing Card-BIP availed the credit facility. On the basis

of the representations made by the Corporate Debtor and in response to the above referred applications and further subject to the terms and conditions governing the said issuance of "Corporate Purchasing Card/CPC and "Corporate Purchasing Card-BIP", the Petitioner issued 15 American Express"CPC-BIP/CPC bearing Nos.376940012481001, 376940013481000, 376940014481009, 376940015481008, 376940016481007, 376940033531008, 376940115151006, 376940116151005, 376940167131005, 376940222501002, 376940011181008, 376940106151007, 376940010181009, 376940104171007 and 376940105171006.

3. The Petitioner submits that the Corporate Debtor was liable to make the payment of the charges pertaining to the user and retention of the "Corporate Purchasing Card"/CPC and "Corporate Purchasing Card-BIP" to the Petitioner.

4. The Petitioner further submits that the Corporate Debtor committed default in six out of the said 15 Corporate Cards and as per the statement of account maintained by the Petitioner in the regular course of its business the Respondent used the said six cards lastly on dates as mentioned as follows:

Sr. No	Card No.	Date of Last Transaction
1.	376940014481009	22.3.2018
2.	376940015481008	19.3.2018
3.	376940016481007	27.2.2018
4.	376940167131005	21.3.2018
5.	376940033531008	Unbilled
6.	376940116151005	Unbilled

5. The Petitioner further submits that the Corporate Debtor since the date of issuance of said Cards, are irregular in paying the outstanding amount to the Petitioner in respect of the credit facilities enjoyed on the said Corporate Purchasing Card/CPC and Corporate Purchasing Card-BIP

6. The Petitioner submits that the total outstanding amount payable by the Corporate Debtor to the Petitioner is ₹42,58,54,084 as on 11.6.2018.

7. The Petitioner has filed the copies of the Statement of accounts in respect of the above mentioned Cards and CRILC/CIBIL Report dated 8.6.2018 .

8. The Petitioner submits that the Corporate Debtor has agreed and acknowledged liability due and payable to the Petitioner and the same is reflected in the Statement of Accounts.

9. The petitioner has also enclosed a copy of the Certificate under Section 2(a) of the Bankers Books Evidence Act, 1981.

10. When the Bench raised the question as to whether these type of transactions will be covered under the definition "Financial Debt" as agreed under Section 5(8) of the Code, the Counsel appearing on behalf of the Financial Creditor submitted that the same is covered under Section 5(8) of the Code since it is a credit facility provided to the Corporate Debtor and the interest @ 3.5% per month has to be paid for the unpaid balance. Therefore, the credit facility offered by the Financial Creditor is covered in the aforesaid definition. The Bench has satisfied with the explanation given by the Counsel.

11. In addition to the material papers mentioned above, the Petitioner has also filed the consent letter of the Resolution professional agreeing to be appointed as IRP in the event of the admission of this Company Petition.

12. On perusal of the various documents filed by the Petitioner, we are of the view that this Corporate Debtor availed the credit facility thereafter, defaulted in making repayment to the Petitioner herein which is reflective of the debt and default in existence whereby this Company Petition is hereby admitted with the reliefs as follows:

- I (a) that 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, 2002 (SARFAESI Act);

- (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.
- (II) That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- (III) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (IV) That the order of moratorium shall have effect from 10.09.2018 till the completion of the 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.
- (V) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (VI) That this Bench hereby appoints Mr. Harshad Shamkant Deshpande, Flat No.403, Kumar Millenium, Jaibhavani Nagar, Paud Road, Near Rohan Corner, Kothrud, Pune 411038, Registration No. IBBI/IPA-001/IP-P00166/2017-18/10335 as Interim Resolution Professional to carry out the functions as mentioned under Insolvency & Bankruptcy Code.

13. Accordingly, this Petition is admitted.

14. The Registry is hereby directed to communicate this order to both the parties and IRP immediately and even by way of email.

**SDI-**

**RAVIKUMAR DURAISAMY**  
Member (Technical)

**SDI-**

**B. S. V. PRAKASH KUMAR**  
Member (Judicial)

THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH - I,  
MUMBAI

MA 1203/2018 IN CP (IB)-2295/MB/2018

CORAM : SHRI V.P. SINGH, MEMBER (J)  
SHRI RAVIKUMAR DURAISAMY, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **27.11.2018**

NAME OF THE PARTIES: **AMERICAN EXPRESS BANKING CORPN.**  
**v/s**  
**SUNIL HITECH ENGINEERS LTD.**

SECTION 7 OF INSOLVENCY & BANKRUPTCY CODE, 2016

ORDER

46. MA 1203/2018 IN CP (IB)-2295/MB/2018

MA 1203/2018 has been filed seeking replacement of IRP by appointing Mr Ashish Arjunkumar Rathi as Resolution Professional in respect of the Corporate Insolvency Resolution Process of the Corporate Debtor. This application has been filed under Section 22(3)(b) of the Insolvency and Bankruptcy Code, 2016 for appointment of Shri Ashish Arjunkumar Rathi as Resolution Professional on the basis that his name has been approved by CoC with vote share of 92.94% in its meeting held on 6.10.2018. The applicant has also annexed the minutes of the CoC dated 6.10.2018 which shows that the name of Mr Ashish Arjunkumar Rathi has been approved with vote share of 92.94% for appointment of Resolution Professional. Resolution has been passed that application may be moved by any member of the CoC. UCO Bank has filed this application as member of the CoC. Mr Ashish Arjunkumar Rathi has filed his declaration in Form AA dated 6.10.2018 which is Annexure 4. Since the name of the Resolution Professional has been approved with vote share of 92.94%, we hereby appoint Mr Ashish Arjunkumar Rathi as Resolution Professional.

It is pertinent to mention that the address of Mr Ashish Arjunkumar Rathi as stated in declaration form is given as "BDO India LLP" but CoC approved the appointment of Mr Ashish Arjunkumar Rathi as Resolution professional and not BDO India LLP. Therefore, the Resolution Professional fees will directly go to Mr Ashish Arjunkumar Rathi and not BDO India LLP.

Accordingly, MA 1203/2018 is disposed of.

Sd/-

RAVIKUMAR DURAISAMY  
Member (Technical)

Sd/-

V. P. SINGH  
Member (Judicial)