

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT- II)**

**Item No. 213**  
**IB-81/ND/2023**  
**IA-2607/2024**

**IN THE MATTER OF:**

**Assets Care & Reconstruction Enterprise Ltd. ... Applicant/Petitioner**

**Versus**

**Mr. Ashok Kumar Sirohi ... Respondent**

**Under Section: 95 of IBC, 2016**

**Order delivered on 08.07.2024**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ  
HON'BLE MEMBER (J)**

**SH. SUBRATA KUMAR DASH  
HON'BLE MEMBER (T)**

**PRESENT:**

**For the Applicant :  
For the RP : Adv. Parish Mishra**

**Hearing Through: VC and Physical (Hybrid) Mode**

**ORDER**

**IA-2607/2024:** The present application has been preferred by Mr. Anup Kumar, Resolution Professional, espousing therein that the Personal Guarantor namely, Mr. Ashok Kumar Sirohi has not offered any repayment plan. Para 11 and 12 of the application reads thus:

11. That the Resolution Professional has not received repayment plan from Mr. Ashok Kumar Sirohi Personal Guarantor of M/s Saha Infratech Pvt. Ltd. till the expiry of statutory period as prescribe under the provision of IBC 2016 therefore, the undersign had not called the meeting of committee of creditors in this regard.

12. In view of the above stated facts and circumstances no other option left except to file the status report under Section 106 of IBC 2016 with the recommendation the Hon'ble NCLT has pass an order in terms of proviso of Section 114 of IBC 2016.

2. As can be seen from proviso to Section 106(2) of IBC, 2016 where the Resolution Professional recommends that a meeting of the Creditor is not required to be summoned, reasons for the same should be provided. The proviso reads thus:

***“106. Report of resolution professional on repayment plan. –***

*(2) The report referred in sub-section (1) shall include that-*

*(a) ...*

*(b) ...*

*(c) ...*

*Provided that where the resolution professional recommends that a meeting of the creditors is not required to be summoned, reasons for the same shall be provided.”*

3. Further, in terms of the proviso to Section 114(1) of IBC, 2016, where a meeting of the Creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the Report prepared by the Resolution Professional under Section 106. Apparently, the meeting of the Creditors is required to be summoned, when there is some repayment plan offered by the Personal Guarantor. In such cases, where the Personal Guarantor does not respond to the queries/notices issued to him by the RP and no repayment plan is offered, the exercise to summon the meeting of creditors would just be an otiose formality. In terms of the provisions of Section 114(1), this Adjudicating Authority is required to pass an order either approving or rejecting the repayment plan on the basis of the report of the meeting of the creditors

submitted by the Resolution Professional under Section 112. The ramification of non-submission of repayment plan by the Personal Guarantor is as good as the repayment plan is rejected by the Creditors.

4. In the wake, **the application is disposed of** with the direction that the Creditors would initiate proceedings in terms of the provisions of Section 115(2) read with Section 121 of IBC, 2016. **No cost.**

**Sd/-**  
**(SUBRATA KUMAR DASH)**  
**MEMBER (T)**

**Sd/-**  
**(ASHOK KUMAR BHARDWAJ)**  
**MEMBER (J)**