

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH**  
**COURT-IV**

**IA. NO. 1526/ND/2022**  
**IN**  
**COMPANY PETITION NO. (IB)-726(ND)/2020**

**IN THE MATTER OF:**

**TATA CAPITAL FINANCIAL SERVICES LIMITED**

**...PETITIONER/FINANCIAL CREDITOR**

**VERSUS**

**RAKESH BHATNAGAR**

**...RESPONDENT/PERSONAL GUARANTOR**

**AND IN THE MATTER OF:**

**MR. RAJESH RAMNANI**  
**RESOLUTION PROFESSIONAL OF THE**  
**PERSONAL GUARANTOR VIZ. RAKESH BHATNAGAR**

**...APPLICANT**

**Order Delivered on: 17.05.2024**

**CORAM:**

**SHRI MANNI SANKARIAH SHANMUGA SUNDARAM, HON'BLE MEMBER**  
**(JUDICIAL)**  
**DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)**

**Appearances:**

For the Applicant : Mr. Sanidhya Sonthalia and Ms. Aastha Trivedi  
Advs.  
For the Respondent : Mr. Akshaya Agarwal, Legal Aid Counsel

**ORDER**

**PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)**

1. The instant application arose from the Insolvency Resolution Process of Mr. Rakesh Bhatnagar, Personal Guarantor of M/s Rave Scans Private Limited. The application has been filed by Mr. Rajesh Ramnani, the Resolution Professional of Mr. Rakesh Bhatnagar, Personal Guarantor to M/s Rave Scans Private Limited inter-alia seeking to pass an

appropriate order on the basis of the report prepared by the resolution professional under section 106 of the Insolvency and Bankruptcy Code, 2016.

2. Briefly stated the facts of the present case as averred by the applicant are that CIRP was initiated against the Corporate Debtor M/s Rave Scans Pvt. Ltd., under section 10 of the IBC, 2016 vide order dated 25.01.2017 for which the Personal Guarantor, Mr. Rakesh Bhatnagar personal guarantor/ Mr. Rakesh Bhatnagar has given personal guarantee for an amount of Rs. 8 crores and pursuant to approval of resolution plan of the corporate debtor the outstanding amount to the Financial Creditor is still due and payable i.e. 1,68,64,977/-.
3. Further, despite several opportunities to the Personal Guarantor waived his right by not appearing before this Adjudicating Authority and filing its reply to the main petition. Thereafter, vide order dated 18.03.2020 the Resolution Professional was appointed and this Adjudicating Authority directed the Resolution Professional to file the report under section 99 of the IBC.
4. It is pertinent to mention that taking into consideration of the report of the Resolution Professional, being IA No. 3173 of 2021 in CP (IB) No. 726/ND/2020, this Adjudicating Authority passed an admission order dated 04.02.2022 under Section 100 of the Insolvency and Bankruptcy Code, 2016 for Insolvency Resolution process against the Personal Guarantor. Further, the Resolution Professional had made public announcement intimating the commencement of the insolvency resolution process on 15.02.2022, inviting claims from creditors with the last date of submission of claims as 07.03.2022.
5. Pursuant to the Public Announcement, the applicant had received claim from one Financial Creditor with claim aggregating to Rs. 1,80,89,940/- only and after duly verifying the claim of the Financial Creditor, the RP admitted claim of Rs. 1,68,64,977/-.
6. Subsequently, the Resolution Professional contacted the Personal Guarantor viz. Mr. Rakesh Bhatnagar to give or prepare a repayment

plan containing a proposal to the creditors for restructuring of his debts. However, the Personal Guarantor declined to give a repayment plan and further stated that he has been left with no assets apart from the only asset owned by him is Flat no. 533 Mt. Kailash Tower 3, East of Kailash, New Delhi-65., which was mortgaged to the Consortium of Banks led by IOB bank, who have filed a recovery case before the Hon'ble Debt Recovery Tribunal, New Delhi and the said matter is pending adjudication before the said Tribunal. A copy of the email dated 22.03.2022 sent by the Personal Guarantor to the Resolution Professional is annexed.

7. The report of the RP under section 112 IBC is filed stating that the no repayment plan received from the Personal Guarantor.
8. We have heard the learned Resolution Professional and perused the documents annexed there on. As per section 105 of IBC, 2016 the debtor shall submit repayment plan, then the Resolution professional shall submit the repayment plan along with his report to the adjudicating Authority. After conducting the meeting of creditors on the repayment plan the Resolution professional shall prepare report of the meeting of creditors and submitted to the Adjudicating Authority. The Adjudicating Authority then pass an order either approving or rejecting the report. But in the case before us, in the absence of the any repayment plan filed by the personal guarantor the supra procedure could not be carried out. The non-filing of repayment plan causes similar effect of rejection of repayment plan under section 114 as provided under section 115(2) of IBC 2016.
9. In the given circumstances, since the Personal Guarantor has not filed repayment plan in spite of giving sufficient time, this Adjudicating Authority intend to pass a further order as provided under section 115(2) of IBC 2016.
10. In consequence of non-filing of repayment plan by the personal guarantor it is ordered that the debtor and creditors shall be entitled to an application for bankruptcy under Chapter IV. Thus, this

application **(I.A/1526/2022)** is **Allowed** and CP (IB) No. 726(ND)/2020 stands disposed of.

11. The Court Officer is hereby directed to forward the copy of this order to the IBBI as provided under section 115(3) of IBC 2016 and to send e-mail copies of the order to all the parties and their counsel for information and for taking necessary steps.

File be consigned to records.

**Sd/-**

**DR. SANJEEV RANJAN  
MEMBER (TECHNICAL)**

**Sd/-**

**MANNI SANKARIAH SHANMUGA SUNDARAM  
MEMBER (JUDICIAL)**