

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

CP IB NO. 259/ND/2024

An application under Section 95 of the Insolvency and Bankruptcy Code, 2016

IN THE MATTER OF:

IKSHAVAKU SOFTWARE VENTURES INDIA PRIVATE LIMITED

703 AND 704, MIDAS SAHAR PLAZA, BUILDING NO. 1,
M.V ROAD, NEAR KOHINOOR CONTINENTAL,
ANDHERI (EAST), MUMBAI-400059

...FINANCIAL CREDITOR

VERSUS

MR. RAHUL GAGERNA

H.NO. 14, BHARTI ARTIST COLONY,
PREET VIHAR, SHAKAR PUR,
BARAMAD, DELHI-110092

E-mail: rahul@bsbrands.co.in;
rgagerna@gmail.com

....RESPONDENT/PERSONAL GUARANTOR

Order Delivered on: 11.07.2024

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)

Appearances (through Video Conferencing/physical hearing)

For the Applicant : Adv. Vaibhav Gaggar, Adv. Ritika Nanda,
Adv. Shruti Gupta

For the Respondent :

ORDER

PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

1. The present Petition **CP (IB) No.259/ND/2024** is filed under section 95 of the Insolvency and Bankruptcy Code, 2016 (**'Code'**) read with rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution process for Personal Guarantors to Corporate Debtor) Rules, 2019 (**'Personal Guarantors Rules'**) and regulation 4(2) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (**'Personal Guarantors Regulations'**) filed by Ikshavaku Software Ventures India Private Limited, (Financial Creditor) of Boutique Spirit Brands Private Limited (Corporate Debtor) for initiating the Insolvency Resolution Process (**'IR Process'**) against Mr. Rahul Gagerna (Personal Guarantor/Respondent).
2. The Applicant has filed the present petition seeking insolvency resolution process against the Respondent (Personal Guarantor). The petitioners contended that a copy of the application has already been served to the Personal Guarantor and the Corporate Debtor (Principal Borrower) for whom the Guarantor is a Personal Guarantor as per Section 95(5) of The Insolvency and Bankruptcy Code, 2016 read with Rule 7(3) of the Personal Guarantors Rules.
3. The Applicant has filed the Guarantee Agreement which is annexed as the Annexure 1 with the present Petition.
4. The Applicant has proposed the name of Mr. Akhil Chadha, IBBI Registration No. IBBI/IPA-002/IP-N00917/2020-2021/13068, email: chadhakhil@gmail.com, to act as Resolution Professional. The applicant has filed Authorization for Assignment of the Resolution Professional. Authorization for Assignment is valid till 02.10.2024. The Applicant has also filed the copy of written consent of the proposed Resolution Professional along with the present Petition.

5. The Hon'ble Supreme Court of India in the matter of **Dilip B Jiwrajka Vs. Union of India & Ors.** in Writ Petition (Civil) No. 1281 of 2021 while considering the constitutional validity of Sections 95-100 of the Insolvency and Bankruptcy Code, 2016 in their judgment have concluded that no judicial adjudication is involved at the stages envisaged in Sections 95-99 of the IBC. The Hon'ble Supreme Court of India has further concluded that no hearing is required by the Adjudicating Authority at the stage when it appoints a Resolution Professional u/s 97(5) of IBC.
6. The Adjudicating Authority hereby appoints Mr. Akhil Chadha as the Resolution Professional in the matter.
7. The Resolution Professional is directed to file his report in terms of Section 99 of the Code and the relevant Regulations within the stipulated time period.
8. A copy of the Report by the resolution professional under Section 99 to be filed shall be forthwith provided to the Personal Guarantor, and Financial Creditors of the Respondent.
9. List the matter on 13.08.2024 for the perusal of the Report of the RP and further proceedings.
10. Let a copy of this order be served to the Resolution Professional and the IBBI.

Sd/-
(DR. SANJEEV RANJAN)
MEMBER (T)

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER (J)