

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

Item No. 218
IB-335/ND/2022
IA-4000/2022

IN THE MATTER OF:
Karur Vysya Bank

... **Applicant/Petitioner**

Versus

Pooja Malhotra.

... **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. Rajiv Malik, Adv. Pratiksha Singh, Adv.
Mansi Aggarwal, Adv. Mohit Kumar Gupta

For the PG

: Adv. Abhishek Anand, Adv. Karan Kohli, Adv.
Akshit Awasthi

Hearing Through: VC and Physical (Hybrid) Mode

ORDER

IA-4000/2022: Mr. Abhishek Anand, Ld. Counsel appearing for the PG submitted that neither the notice in terms of Rule 7(1) of IBBI (Adjudicating Authority for Insolvency Resolution Process) Rules, 2019 was served upon the PG nor the communications sent by the RP in terms of the provisions of Section 99(4) of IBC, 2016 could be received by him. In Dilip B Jiwrajka vs. Union of India & Ors., the Hon'ble Supreme Court could categorically rule that no concept of principal of natural justice is involved till appointment of RP in terms of the provisions of Section 97 of IBC, 2016 and the stand of the PG may be examined by this Tribunal while passing an order under Section 100 of IBC, 2016 after examining the report under Section 99 of IBC, 2016. What the RP need to satisfy himself about, before filing the report under Section 99(7) of IBC, 2016, is that

whether the PG is in a position to adduce the repayment of amount of debt, by producing any evidence of electronic transfer (RTGS, encashment of cheque) or any other acknowledgment. Here in the present proceedings, we asked Mr. Abhishek Anand, to adduce the evidence required in terms of the provisions of Section 99(2) of IBC, 2016 or any such law, which provides that the non-service of demand notice before filing the application under Section 95 of IBC, 2016 or the notices under Section 99(4) of IBC, 2016 would render the petition filed under Section 95 of IBC, 2016 and Section 99 of IBC, 2016 as liable to be rejected. Ld. Counsels for the parties are directed to remain present physically on the next date of hearing. As prayed by Mr. Abhishek Anand, the hearing is deferred to 18.09.2024.

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

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