

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, BENCH VI**

C.P (IB) No. 909/PB/2020

(An application under section 95(1) of the Insolvency and Bankruptcy Code, 2016)

In The Matter Of:

**DMI FINANCE PRIVATE LIMITED
[CIN : U65929DL2008PTC182749]
EXPRESS BUILDING,
3RD FLOOR, 9-10,
BAHADUR SHAH ZAFAR MARG,
NEW DELHI-110002**

... Financial Creditor/ Applicant

Versus

**Mr. RAM MEHAR GARG
r/o AKG FARM, DERA MANDI VILLAGE,
SULTANPUR, MEHRAULI
DELHI-110030**

... Personal Guarantor/ Respondent

CORAM:

**SHRI MAHENDER KHANDELWAL : MEMBER (JUDICIAL)
SHRI RAHUL BHATNAGAR : MEMBER (TECHNICAL)**

Appearances (through Video Conferencing/physical hearing)

***For the Applicant/ Financial Creditor* :Mr. Vipul Ganda, Ms. Avnika Mishra,
Mr. Ishan Upadhayay, Advocates.**

***For the Respondent* : Adv. Rohan Goel**

ORDER

PER: RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Date of pronouncement: 23.07.2024

1. The present Petition CP (IB) No. 909/PB/2020 is filed under section 95(1) of the Insolvency and Bankruptcy Code, 2016 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 DMI Finance Private Limited for initiating the Insolvency Resolution Process against Mr. RM Garg.

2. The Applicant has filed the present petition seeking insolvency resolution process against the Respondent (Personal Guarantor). On perusal of the records, it is observed that a copy of the application has already been served to the Personal Guarantor and the Corporate Debtor for whom the Guarantor is a Personal Guarantor in accordance with Rule 7(2) of the Personal Guarantors Rules.

3. The applicant has placed on record the following documents: -
 - (i) Guarantee Deeds of the Guarantor in favour of the creditor, dated 30.12.2024 and 27.04.2016 respectively.
 - (ii) Notices dated 03.01.2020 for invocation of guarantees under the two loan agreements.
 - (iii) Demand Notice dated 16.01.2020 u/s 95 of the IBC sent on behalf of the creditor to the guarantor. It is further contended that there has been no response to the said demand notice issued by the creditor calling upon the Personal Guarantor to pay the amount in default.

4. The applicant has proposed the name of Mr. Vijay Kumar Gupta, IBBI Registration No. IBBI/IPA-001/IP-P00262/2017-18/10500; email: vk Gupta2004@yahoo.co.in , to act as Resolution Professional. The applicant has filed Authorization for Assignment of the Resolution Professional. The Authorization for Assignment is valid till 25.10.2024.
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 judgement 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. This Adjudicating Authority hereby appoints Mr. Vijay Kumar Gupta as the Resolution Professional in the matter. The Resolution Professional has filed the Assignment Declaration along with his letter of consent.
7. The Resolution Professional is directed to file his report in terms of Section 99 the Code and the relevant Regulations within the stipulated time period. A copy of the Report by the resolution professional under Section 99 so filed shall be forthwith provided to the Personal Guarantor, Corporate Debtor and Financial Creditor of the Respondent.
8. The Registry is directed to send the copy of this order to the IBBI and also to the aforementioned RP regarding his appointment in this matter.
9. List the matter on 23.08.2024 for the perusal of the Report of the RP and further proceedings.

-SD/-

RAHUL BHATNAGAR
MEMBER (TECHNICAL)

-SD/-

MAHENDRA KHANDELWAL
MEMBER (JUDICIAL)