

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

**IA-94/2023
IN
CP (IB)-505/ND/2021**

[Under Section 112 read Section 114(1) and 115(2) of IBC, 2016]

IN THE MATTER OF:

Mr. Swatantra Kumar Singh Applicant/
Resolution Professional

VERSUS

Mr. Amul Gabrani
Personal Guarantor of M/s. Tecpro Infra Project Limited
... Respondent No.1

AND IN THE MATTER OF:

Bank of Baroda Financial Creditor
VERSUS

Mr. Amul Gabrani Personal Guarantor

CORAM:

SH. MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

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

Order Delivered on:07.05.2024

Present:

For the Applicant/RP : Mr. Rishi Dewan, Advocate
For Respondent : Mr. Harshit Kumar Rawat, Advocate.

ORDER
PER: DR.SANJEEV RANJAN, MEMBER (TECHNICAL)

1. The instant application arose from the Insolvency resolution process of Mr. Amul Garbani, Personal Guarantor of M/s. Tecpro Infra Project Limited, the Corporate Debtor. The application has been filed by Mr. Swatantra Kumar Singh, the Resolution Professional of Mr. Amul Garbani, Personal Guarantor to M/s. Tecpro Infra Projects Limited inter-alia seeking an order of this Adjudicating Authority to take on record the report of RP reporting that the Personal Guarantor failed to submit repayment plan, accordingly, the Insolvency Resolution Process of Mr. Amul Gabrani be concluded and Bankruptcy of the Personal Guarantor be initiated.
2. Briefly stated the facts of the preset case as averred by the applicant are that Mr. Swatantra Kumar Singh ('applicant') was appointed as the Resolution Professional of Mr. Amul Garbani, Personal Guarantor of M/s. Tecpro Infra Projects Limited vide this Adjudicating Authority order dated 21.09.2022 in C.P. No. (IB)/505/ND/2021. Further, a public announcement intimating the commencement of the insolvency resolution process against, Mr. Amul Gabrani was made on 23.09.2022, inviting claims from creditors with the last date of submission of claims as 14.10.2022. Pursuant to the Public Announcement, the applicant had received claims from 13 Financial Creditors and accordingly, the Committee of Creditors was constituted by the Applicant in compliance with Section 103 of the Code, 2016 and Regulation of the Insolvency Resolution Process for Personal Guarantor to Corporate Debtor.
3. Further, the Personal Guarantor had informed the Resolution Professional vide e-mail dated 10.10.2022 and other communications about his health and medical history.

4. The Resolution Professional had send numerous communications to the Personal Guarantor, pursuant to which Personal Guarantor vide e-mail dated 10.10.2022 had disclosed the details of assets which are in the name of Personal Guarantor, however, it was also informed that the immovable properties owned by the Personal Guarantor are already mortgaged with the Banks and the worth of 53,66,632 equity shares of Tecpro Systems Limited EQ-Equity Shares had become NiL since the Trading in the Script is Suspended as well as the Corporate Insolvency Resolution Process is initiated agasinst M/s. Tecpro Systems Limited.
5. The report of the RP under section 112 IBC is filed stating that the Personal Guarantor is unable to provide certain concrete assets which can be included in the Repayment Plan received from the Personal Guarantor, accordingly, the same stands as non-presentation of the Repayment Plan.
6. The Resolution Professional further submitted that the Personal Guarantor has not provided for the provision of Fee payment of Resolution Professional in the said matter. Further, since the Personal Guarantor is unable to present a Repayment Plan, the same stands as non-presentation of Repayment Plan, and the Resolution Professional is of the view that since the Personal Guarantor is unable to provide for Repayment Plan, the Insolvency Resolution Process of Mr. Amul Gabrani shall be concluded and the further course of action i.e. Bankruptcy of Personal Guarantor may be initiated.
7. 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 submit it to the Adjudicating Authority. The Adjudicating Authority may 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.

8. In the given circumstances, since the Personal Guarantor has not filed repayment plan in spite of giving sufficient time, **I.A/94/2023 stands allowed and** as provided under section 115(2) of IBC 2016, the debtor and creditors shall be entitled to an application for bankruptcy under Chapter IV. Thus, this application (**I.A/94/2023**) is Allowed and **CP (IB) No.505(ND)/2021** stands disposed of.
9. 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.

File be consigned to records.

Sd/-

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

Sd/-

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