

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

C.P.(I.B.) NO. 650/ND/2023

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

IN THE MATTER OF:

BANK OF MAHARASHTRA
ASSETS RECOVERY BRANCH
6-30/31, W.E.A KAROL BAGH
NEW DELHI-110005

... Applicant/Financial Creditor

VERSUS

MRS. NEELAMANI JAIN
R/O D-29, SECOND FLOOR, HAUZ KHAS,
NEW DELHI-110016

... Respondent/Personal Guarantor

Order Delivered on: 17.05.2024

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

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

Appearances (through Video Conferencing/physical hearing)

For the Applicant : Mr. Utkarsh Dwivedi, Adv.

For the Respondent :

ORDER

PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

1. The present Petition **CP (IB) No. 650/ND/2023** is filed under section 95(1) 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 Bank of Maharashtra, Financial Creditor of M/s Earth International Pvt. Ltd. (Corporate Debtor) through Resolution Professional for initiating the Insolvency Resolution Process (***IR Process***) against Mrs. Neelamani Jain (Personal Guarantor/Respondent).

2. The Applicant through Resolution Professional has filed the present petition seeking insolvency resolution process against the Respondent (Personal Guarantor). The petitioners contended that the 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 proposed the name of Mr. Santanu Kumar Samanta, Email – santanukumar@yahoo.com, Reg. No: IBBI/IPA001/IP-P-02324/2020-20121/13511, to act as the Resolution Professional in the matter. The Applicant has filed Authorization for Assignment of the Resolution Professional in compliance of order dated 16.01.2024. Authorization for Assignment is valid till 14.01.2025.
4. 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.

5. As proposed by the Applicant/Financial Creditor, this Adjudicating Authority, hereby appoints Mr. Santanu Kumar Samanta as the Resolution Professional in this matter.
6. 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.
7. 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.
8. A copy of this order shall be forwarded to Resolution Professional, Applicant, Corporate Debtors and the IBBI.
9. List the matter on 04.07.2024 for the perusal of the Report of the RP and further proceedings.

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

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)