

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

**Item No. 206**  
**IB-894/ND/2022**  
**IA- 1358/2024**

**IN THE MATTER OF:**

**State Bank of India**

... **Applicant/Petitioner**

**Versus**

**Sh. Surjeet Singh**

... **Respondent**

**Under Section: 95 of (IBC), 2016**

**Order delivered on 29.04.2024**

**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. Priyadharshini Dewan, Adv. Shankari Mishra

**Hearing Through: VC and Physical (Hybrid) Mode**

**ORDER**

**IA-1358/2024:** The present application is in the form of Report under Section 106 of IBC, 2016.

2. In Para 10 of the Application, the Applicant has made specific averment that the Personal Guarantor/Respondents could not submit any repayment plan till expiry of the statutory period as prescribed in IBC, 2016 i.e. 180 days. Para 2 to 11 of the application/status report reads thus:

2. That, the pursuance to the Public Announcement dated 18.01.2024 the creditors of the Personal Guarantor called upon to submit the proof of claim, the last date of submission of claims was **02<sup>nd</sup> February, 2024.**
3. That in the last date of proof of claim the **State Bank of India** (Financial Creditor) has filed his claim dated **02.02.2024** in **Form B** as per the provision of IBC 2016 upon the due verification his claim as per the provision of law of **Rs. 171,50,67,347.64/- (Rupees One Hundred Seventy one Crores Fifty Lacs Sixty Seven Thousand Three Hundred Forty Seven and Paise Sixty Four Only)** is admitted and the same is inform to the Financial Creditor vide email 19.02.2024.

4. That in compliance of Section 104 of IBC 2016, the Resolution Professional after verification of claim has prepared list of Creditor. The list of Creditor is attached herewith as “**Annexure-D**”.
5. As per the provision of the Committee of Creditor is constituted as per the Section 108 of IBC 2016. The State Bank of India is the sole Financial Creditor in the present matter.
6. The Resolution Professional has duly intimated to Personal Guarantor namely **Mr. Surjeet Singh** vide email dated **19.01.2024**, speed post dated **20.02.2024** and reminder through email dated **13.02.2024** which are duly served upon him but he had not inclined to put any repayment plan as per the provision of Section 105 of IBC 2016 till the date of filing of present application and not cooperating to the Resolution Professional in conduction to the Resolution Process.
7. That, the undersigned has not received any other claim except State Bank of India till the last date of submission of claims.
8. That, the undersigned Resolution Professional has duly verified the claim of the aforesaid Financial Creditors. As per the provisions of Section 103 & 104 of IBC 2016. The Resolution Professional has duly verified the claims and accordingly admitted as per the provision of IBC 2016.
9. That, in compliance of Section 104 of IBC 2016 read with Regulations of IBC 2019, the undersigned Resolution Professional certifies that the constitution of the Committee of Creditors which consists of the following:

**Committee of Creditor**

S. No.	NAME OF THE FINANCIAL CREDITOR	AMOUNT CLAIMED (RS.)	VOTING SHARE
1.	State Bank of India	171,50,67,347.64/-	100 %
	<b>Total</b>	<b>171,50,67,347.64/-</b>	<b>100 %</b>

The copy of committee of creditor is attached herewith as “**Annexure-E**”.

10. That the **Mr. Surjeet Singh** Personal Guarantor of **M/s JSSI Hydraulics Pvt. Ltd.** has not submitting the repayment plan till the expiry of statutory period as prescribe 2016 therefore the undersign had not called and meeting of committee of creditors in this regard.

11. Following steps to be taken for Insolvency Resolution Process of Personal Guarantor:

1. The Resolution Professional takes steps to finalization of Repayment Plan if any submitted by the debtors as per the Section 105 of IBC 2016.
2. That upon receiving of repayment plan if any the Resolution Professional call to COC meeting and conduct the meeting as per the Section 107, 108, 109, 110, 111, 112 & 113 of IBC 2016.
3. That the Resolution Professional shall move appropriate application to take orders under Section 114 of IBC 2016.
4. And other steps as per the instructions and guidelines of Hon'ble NCLT towards the conduct Insolvency Resolution Process.
5. Necessary records and register will be prepared.

**Summary of Proceedings:**

S. No.	Event	Date	Annexure
1.	Copy of Admission Order	04.01.2024	A
2.	The copy of intimations send to Creditors through email, Speed Post & Reminder Mail	19.01.2024, 20.01.2024 & 13.02.2024	B
3.	The Copy of Public Announcement	18.01.2024	C
4.	The Copy of List of Creditor	27.02.2024	D
5.	The copy of committee of creditor	28.02.2024	E

3. As can be seen from proviso to Section 114(1) of IBC, 2016 where a meeting of creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution profession under Section 106. The Section 114(1) of the Code along with proviso thereto reads thus:

***“114. Order of Adjudicating Authority on repayment plan. –***

*(1) The Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of the report of the meeting of the creditors submitted by the resolution professional under section 112:*

*Provided that where a meeting of creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under section 106.”*

4. Indubitably, the RP will summon the Meeting of Creditors, when the Personal Guarantor/Respondent submits some repayment plan. In such cases, where the Personal Guarantor fails to submit any repayment plan, there may be no logic or justification for RP to summon any meeting of the creditors. Though the proviso to Section 106(2) of IBC, stipulates that where the Resolution Professional recommends that a meeting of the Creditors is not required to be summoned, the reasons for the same should be provided, but if the proviso is read with proviso to Section 114(1) of IBC, 2016, the object and intent thereof is that in such cases where no repayment plan is offered by the Personal Guarantor, there may be no basis to summon the meeting of creditors and in such cases, the Adjudicating Authority may pass the order on the basis of the Report submitted under Section 106 of the Report. As can be seen from Section 106 (1), the Resolution Professional should submit the repayment plan under Section 105 along with his report on such plan to the Adjudicating Authority within period of 21 days from the last date of submission of claim under Section 102. The sub-section 106(2) of the Code along with the proviso reads thus:

***“106. Report of resolution professional on repayment plan. –***

*(1) The resolution professional shall submit the repayment plan under section 105 along with his report on such plan to the Adjudicating Authority within a period of twenty-one days from the last date of submission of claims under section 102.*

*(2) The report referred in sub-section (1) shall include that-*

*(a) the repayment plan is in compliance with the provisions of any law for the time being in force;*

*(b) the repayment plan has a reasonable prospect of being approved and implemented; and*

*(c) there is a necessity of summoning a meeting of the creditors, if required, to consider the repayment plan:*

*Provided that where the resolution professional recommends that a meeting of the creditors is not required to be summoned, reasons for the same shall be provided.”*

5. In such cases where no repayment plan is offered, the RP is left with no option, but not to summon the meeting of the Creditors and simply file a report that since no repayment plan was filed, there may be no justification of summoning the meeting of the creditors. In such backdrop, the order in terms of the proviso to Section 114(1) of IBC, 2016 would be warranted.

6. In the present case, since no repayment plan has been submitted by Personal Guarantor. **The present application is disposed of**, with the direction that the creditors would take steps in terms of the provisions of Section 115(2) read with Section 121 of IBC, 2016.

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

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