

**NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH**
(through web-based video conferencing platform)

Item No. 106
IA No. 157/JPR/2024
CP No. (IB)- 66/95(1)/JPR/2023
Under Section 95(1) of IBC, 2016

In the matter of:

Indian Bank

... Applicant/Creditor

Versus

Kamlesh Devi Aggarwal

... Guarantor/Respondent

**Coram: HON'BLE MR. DEEP CHANDRA JOSHI, JUDICIAL MEMBER
HON'BLE MR. RAJEEV MEHROTRA, TECHNICAL MEMBER**

Present Through Video Conferencing: -

For the Applicant : Amod K. Dalela, Adv.
For the Respondent : Vartika Mehra, Adv.
Stuti, Adv.

ORDER

1. Heard Mr. Amod K. Dalela, Adv. appearing on behalf of the Applicant. Ms. Vartika Mehra, Adv. along with Ms. Stuti, Adv. appearing on behalf of Mr. Sandeep Pathak, Adv. for the Personal Guarantor. IA No. 157/JPR/2024 has been filed by the Respondent seeking dismissal of the application under Section 95(1) filed by the Applicant against the Respondent. It is stated in the application that State Bank of India has already filed Section 95 application against Ms. Kamlesh Devi Aggarwal (PG to CD). Copy of the order dated 16.08.2024 and 10.01.2024 are attached with the application. It is stated by learned counsel for the Respondent that in view of the pending application under Section 95 of the

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IBC, 2016 filed by the SBI, interim moratorium commences and Applicant cannot file a fresh application against the same Personal Guarantor.

2. On the previous date of hearing Mr. Amod K. Dalela, Adv. appearing for the Applicant sought time to file response to the application, however, today he submits that since an application under Section 95 of the IBC, 2016 has been filed by the State Bank of India against the Respondent (PG to CD), appropriate order may be passed by this Adjudicating Authority.
3. Order sheet dated 10.01.2024 of the NCLT New Delhi, Principal Bench in the matter of State Bank of India Vs. Kamlesh Devi Aggarwal, C.P. (IB) 416(PB)/2021 has been attached in which SBI has filed an application under Section 95 of the IBC, 2016 against Kamlesh Devi Aggarwal (PG to CD).
4. Section 96 of the IBC, 2016 provides interim moratorium: -
 - (1) When an application is filed under Section 94 or Section 95: -
 - (a) an interim-moratorium shall commence on the date of the application in relation to all the debts and shall cease to have effect on the date of admission of such application; and
 - (b) during the interim-moratorium period: -
 - (i) any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and

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(ii) the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt.

5. Since, Section 95 application has already been filed by the SBI against the Respondent PG to CD, the Creditor of the Debtor could not initiate any legal action or proceeding in respect of any debt. Hence, this application under Section 95 of the IBC, 2016 is not maintainable. Objections filed by the Respondent in IA No. 157/JPR/2024 are allowed. **CP No. (IB)-66/95(1)/JPR/2023** is disposed with liberty to the Applicant to file fresh application subject to decision of C.P. (IB) 416(PB)/2021.

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(Rajeev Mehrotra)
Technical Member

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(Deep Chandra Joshi)
Judicial Member

July 10, 2024