

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**COURT - 2**

ITEM No.304

IA/283(AHM)2024 in C.P.(IB)/16(AHM)2024

**Order under Section Rule 11 of NCLT,Rule,2016**

**IN THE MATTER OF:**

Rathin Amishbhai Majmudar Resolution Professional of  
Personal Guarantor Prahlad Veljibhai Patel

.....Applicant

V/s

.....Respondent

Axis Bank Limited & Anr

**Order delivered on: 15/07/2024**

**Coram:**

**Mrs. Chitra Hankare, Hon'ble Member(J)**

**Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)**

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

-Sd-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-Sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY  
THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD (COURT - II)**

**IA/283/(AHM)2024**

**With**

**CP(IB) No. 16 / NCLT / AHM / 2024**

(IA filed under Section 99 of the Insolvency & Bankruptcy Code, 2016) and Application filed under section 95 of the Insolvency and Bankruptcy Code, 2016.

**In the Matter of:**

Mr. Rathin Amishbhai Majmudar  
RP of Mr. Prahlad Veljibhai Patel,  
604, Scarlet Gateway,  
Opp. Rivera Antilia, Corporate Road,  
Near Prahladnagar Garden,  
Ahmedabad-380015

...Applicant/Resolution Professional

**And in the matter of:**

Axis Bank Limited  
Having its Registered Office at  
Trishul, 3<sup>rd</sup> Floor, Opp. Samartheshwar,  
Temple, Near Law Garden, Ellisbridge,  
Ahmedabad-380006.

Having its Corporate Office at  
'Axis House', C-2, Wadia International,  
Centre, Pandurang Budhkar, Marg,  
Worli, Mumbai-400025.

Having its branch amongst other places at  
Axis Bank Limited, 2<sup>nd</sup> Floor, 3<sup>rd</sup> Eye One,  
Near Panchwati Cross Roads, C. G. Road,  
Ahmedabad-380009

...Financial Creditor

Versus

Mr. Prahlad Veljibhai Patel,  
54/2, Mohan Nagar Society,  
Part II, Near Navyug, School,  
Naroda, Ahmedabad, Gujarat-382330.

... Personal Guarantor

**Order pronounced on 15.07.2024**

**CORAM:**

**MRS. CHITRA HANKARE  
HON'BLE MEMBER (JUDICIAL)**

**DR. V. G. VENKATA CHALAPATHY  
HON'BLE MEMBER (TECHNICAL)**

**Present:**

For the Applicant/RP : Mr. Ravi Pahwa, Adv. For Thakkar and  
Pahwa

For the Axis Bank : Mr. Hem Buch, Adv. For Singhi and Co.

For the PG : Mr. Sandeep C. Bhatt, Adv.

**JUDGEMENT**

1. Axis Bank Limited (Financial Creditor) has filed this Application under section 95 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as IBC,2016) read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 to initiate Insolvency Resolution Process against Mr. Prahlad Veljibhai Patel, the Personal Guarantor of the Corporate Debtor namely

Ambition Mica Limited for default of an amount of Rs. 23,55,97,901/-.

2. On receipt of loan application from the Corporate Debtor, the financial creditor had sanctioned the various credit facilities from time to time. The limits sanctioned under the said credit facilities were renewed or enhanced from time to time by the financial creditor. At the request of corporate debtor sanction letters were issued by the financial Creditor on 28.03.2018, 30.03.2018, 14.10.2019, 18.09.2020, 31.03.2021 and last sanction letter was issued on 22.12.2021. The amount due to the Corporate Debtor was Rs. 23,55,97,901/- and date of default as mentioned in the application is 17.06.2022.
3. Applicant/bank had originally sanctioned the credit facility to the corporate debtor the tune of Rs. 20.41 crore and various security documents were executed by and between the bank and the corporate debtor, including the present personal guarantor, like Working Capital Loan Agreement, Term Loan Agreement, Deed of guarantee, Deed of Hypothecation etc. In pursuance to request made by the corporate debtor for renewal/review of its existing credit facilities, the applicant had

vide its Sanction Letter dated 14.10.2019 renewed/review the existing credit facilities for which various security documents were executed. As a security for the repayment of the said credit facilities with interest, cost, charges and other expenses payable in respect of credit facilities, respondent executed personal Deed of Guarantee in favour of the applicant for securing various credit facilities to the Corporate Debtor on 30.03.2018.

4. One of the Operational Creditor had filed an application under section 9 of the Insolvency and Bankruptcy Code, 2016 bearing CP(IB) No. 16 of 2013 before this Hon'ble Adjudicating Authority in the year of 2023 against the corporate debtor for initiation of Corporate Insolvency Resolution Process, which came to be admitted on 06.03.2024. The account of the Corporate Debtor was turned into Non Performing Assets on 29.05.2022.
5. The financial creditor invoked the personal guarantee and issued recall cum guarantee invocation notice upon the corporate debtor and the personal guarantor on 08.06.2022. Demand notice in form-B was issued to the Respondent/Personal Guarantor on 18.04.2023 under Rule

7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019. The applicant/bank had also issued demand notice under Section 13(2) of the SARFAESI Act upon the personal guarantor and corporate debtor on 04.10.2023

6. Vide order dated 17.01.2024 the Resolution Professional, as suggested by the Financial Creditors, Mr. Rathin Majmudar bearing registration No. IBBI/IPA-001/IP-P-02576/2021-2022/13928 appointed to carry out Insolvency Resolution Process of the Personal Guarantor as per section 97(3) of IBC, 2016.
7. The Resolution Professional has filed the report on 31.01.2024 recommending admission of the application filed under Section 95 of IBC, 2016. The Report of RP states that the RP had not received any evidence of repayment of the debt claimed in Sec.95 petition from Mr. Prahalad Veljibhai Patel. Further, RP vide letter dated 18.01.2024 and through E-Mail on 19.01.2024 intimated to Personal Guarantor about his appointment and requested Personal Guarantor to submit the proof of payment of

debt. Further, RP also requested financial creditor/bank on 19.01.2024 to provide certain detail to which financial creditor/bank provide the same. RP has also sent a reminder to personal guarantor on 25.01.2024, but no reply received from the personal guarantor.

8. Respondent/personal guarantor filed his reply stating that “ I being personal guarantor of Ambition Mica Limited submits that I do not have any objection if this Tribunal admit the petition filed by the petitioner in the interest of Justice and oblige”. On 28.06.2024 the Ld. Counsel for the personal guarantor appeared and has given no objection.
9. Heard Ld. Counsel for the applicant/bank, respondent/personal guarantor and Resolution Professional and perused the documents available on record.
10. As far as Limitation is concern, the present petition is well within the period of limitation as the date of notice for invocation of personal guarantee was issued on 08.06.2022 where as the Demand notice in form-B was issued to the Respondent/Personal Guarantor on 18.04.2023 under Rule 7(1) of the Insolvency and Bankruptcy (Application to

Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 and the present petition is E-filed on 22.12.2023.

11. It is observed from the record that the respondent had not brought on record any document denying or disputing the invocation of his personal guarantee. He has not even denied issuance of personal guarantee to Corporate Debtor in his reply. The liability of personal guarantor is co-extensive with the principal of borrower as per Section 128 of Contract Act. Specific reasons are also given by the RP in his report. Recall notice was issued by the Creditor Bank on 28.06.2022 demanding outstanding dues. The Creditor has also issued notice under Section 13(2) of the SARFAESI Act dated 04.10.2023. There is no any evidence by the respondent to show that he has paid the debt or his personal guarantee agreement is cancelled.
12. Accordingly, based on the report of Resolution Professional submitted under Section 99 that the applicant satisfies the provisions of Section 95 of IBC 2016 and after hearing of the submissions of the applicant and the respondent, we pass the



following order in terms of Section 100 of IBC, 2016.

**ORDER**

- (i) Application is allowed.
- (ii) The insolvency process is initiated against the respondent personal guarantor. The moratorium begun on the date of admission of the application shall cease to have effect at the end of the period of 180 days from the date of this order. During the moratorium period, the following provisions shall be in effect:
  - a. Any pending legal action or proceeding in respect of any debt be deemed to have been stayed; and
  - b. The creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt; and
  - c. The debtor shall not transfer, alienate, encumber, or dispose of any of his assets or his legal rights or beneficial interest therein;
  - d. The provisions of this Section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator
- (iii) The Resolution Professional viz., Mr. Rathin Majmudar, who has been appointed under Section 97 vide order dated 17.01.2024, is directed to cause a public notice to be published on behalf of the Adjudicating Authority within 7 days of uploading of this order on the website of NCLT, inviting claims from all Creditors

who shall register their claims as provided under Section 103 within 21 days of such issuance. The notice shall contain the necessary information as provided under section 102(2) of IBC. The publication of the notice shall be made in newspapers, one in English and the other in Vernacular which have wide circulation in the state where the debtor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry. One shall be placed by the Registry on our website and the other shall be affixed in the premises of this Authority.

- (iv) The Resolution Professional in exercise of the powers conferred under Section 104 shall prepare a list of creditors within 30 days from the date of the notice. The debtor shall prepare a repayment plan in consultation with the Resolution Professional as provided under section 105 which shall include the provisions for payment of fee to the Resolution Professional. The Resolution Professional shall submit the repayment plan along with his report on the plan to this Authority within a period of 21 days from the last date of submission of claims as provided under Section 106.
- (v) In case the Resolution Professional recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons thereof. If the resolution professional is of the opinion that the meeting of the creditors should be summoned, he shall specify the details as provided under Section 106(3). The date of meeting should not be less than 14 days or more

than 28 days from the date of submission of the report under sub-section (1) of Section 106, for which at least 14 days' notice to the creditors (as per the list prepared) shall be issued by all relevant/feasible modes. Such notice must contain the details as provided under the provisions of Section 107.

- (vi) The meeting of the creditors shall be conducted in accordance with section 108,109,110 & 111. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 and submit the same to this Authority, copies of which shall be provided to the debtor and the creditors. It is made clear that the resolution professional shall perform his function and duties in compliance with the code of Conduct provided under section 208 of the IBC,2016.
- (vii) The applicant is directed to deposit Rs.2 lakhs to the bank account of RP within one week, towards his fees. This shall be subjected to the Rules and Regulations under the provisions of IBC,2016.
- (viii) Accordingly, IA 283 of 2024 with CP(IB) 16 of 2024 is disposed off.

-Sd-

**DR.V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-Sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**

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