

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.306

IA/486(AHM)2024 in C.P. (IB)/186(AHM)2023

Order under Section 100 of IBC,2016

IN THE MATTER OF:

Kanhaiyalal Salawat RP in the Matter of PG Manishadevi
A.Baid
V/s
Manishadevi Ashokkumar Baid & Another

.....Applicant

.....Respondent

Order delivered on: 15/05/2024

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 the order.

The order is pronounced in the open court, vide separate sheet.

-sd-

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

-sd-

CHITRA HANKARE
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD (COURT - II)

IA NO. 486 of 2024

IN

CP(IB) No. 186/ NCLT / AHM / 2023

[Under Section 94 of the Insolvency and Bankruptcy Code, 2016 read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

IN THE MATTER OF:

Manishadevi Ashokkumar Baid

Applicant

Versus

State Bank of India & Anr.

...Respondents

Order pronounced on 15.05.2024

Coram:

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

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

MEMO OF PARTIES

Manishadevi Ashokkumar Baid,
A-602, Monalisa Park, City Light
Road, Opposite Dharam Row House,
Surat-395007

...Applicant

Versus

1. **State Bank of India**
Stressed Assets Management Branch,
2nd Floor, Paramsiddhi Complex,
Opp. V. S. Hospital, Ellisbridge,
Ahmedabad-380006.
2. **Meliora Asset Reconstruction Company**
Having its address at
503, May Fair Garden, Road No. 12,
Banjara Hills, Hyderabad - 500 034.
Telangana

...Respondents

Present:

For the Applicant : Mr. Sumit Parikh, Adv.

For the Respondent-2 : Ms. Aishwarya Reddy a/w Adv. Mr. Nisarg
Bhardwaj R-2

For the PG : Mr. Mohit Gupta, Adv.

JUDGEMENT

1. The Present Application is filed under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC, 2016") r/w Rule 6 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for IRP for Personal Guarantors to Corporate Debtor) Rules, 2019.
2. M/s. Baid Industries Pvt. Ltd. (hereinafter referred to as Corporate Debtor) has obtained secured loan from two financial creditors State Bank of India and Meliora Asset Reconstruction Company. The applicant is one of the guarantors in her personal and individual capacity for the credit facilities availed by the Corporate Debtor. The date of default of payment is 02.01.2017. State Bank of India has issued demand notice under section 13(2) of SARFAESI Act, 2002 to the Corporate Debtor as well as the guarantor/applicant on 02.01.2017.
3. On presentation of the application by the Applicant/ Personal Guarantor, this Authority vide order dated 11.12.2023 has appointed the Resolution Professional viz., Mr.Kanhaiyalal

Salawat having Registration No. IBBI/IPA-001/IP-P-02343/2021-2022/13529 & directed RP to file report under Section 99 of Insolvency and Bankruptcy Code, 2016, which has been filed by him on 12.03.2024 recommending the admission of the application filed under Section 94 IBC, 2016.

4. Respondent no.1 neither filed any reply nor present during the course of proceeding.
5. Respondent no.2 stated that it does not want to file reply during the course of proceeding.
6. We have heard the learned Counsel for applicant and respondent no.2 and perused the documents on record. We have also gone through the report dated 12.03.2024 filed by the RP.
7. Respondent no.1 i.e., State Bank of India has issued Demand Notice to the guarantor on 02.01.2017. Thereafter, they have not initiated any proceedings against the guarantor under IBC. When the Demand Notice was issued in the 02.01.2017, the application is e-filed on 17.07.2023 is barred by limitation.

8. There is no notice of invocation of guarantee by other financial creditor i.e., Respondent no.2. As there is no invocation of guarantee which is mandatory to prefer the application under Section 94 of IBC, the application is not maintainable against Respondents No.2.
9. Considering the date of default as well as date of demand notice by the respondent no.1, the application is filed after the limitation period. Hence, the application is barred by limitation.
10. In view of the above, we pass the following order:

ORDER

The CP(IB) 186 of 2023 along with IA 486 of 2024 is rejected.

-sd-
DR.V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-sd-
CHITRA HANKARE
MEMBER (JUDICIAL)