

**NATIONAL COMPANY LAW TRIBUNAL**  
**COURT ROOM NO. 1,**  
**MUMBAI BENCH**

**Item No. 48**

**C.P.(IB)/1215(MB)2022**

CORAM:

**SH. PRABHAT KUMAR**                      **SH. KULDIP KUMAR KAREER**  
**HON'BLE MEMBER (TECHNICAL)**    **HON'BLE MEMBER (JUDICIAL)**

**ORDER SHEET OF THE HEARING ON 30.11.2023**

**NAME OF THE PARTIES:    ENCORE    ASSET    RECONSTRUCTION  
COMPANY PRIVATE LIMITED V/s D S  
KULKARNI & COMPANY THROUGH ITS  
PARTNERS MR. DEEPAK S. KULKARNI  
AND MRS. HEMANTI D. KULKARN**

**Section 95(1), OF INSOLVENCY AND BANKRUPTCY CODE, 2016**

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**ORDER**

1. Mr. Atul Gupta, Ld. Counsel for the Petitioner present. None present for the Personal Guarantor.
2. This is a Company Petition filed by Encore Asset Reconstruction Company Private Limited, (“the Financial Creditor”), under Section 95 of the Insolvency & Bankruptcy Code, 2016 (IBC) 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 seeking to initiate Personal Insolvency Resolution Process (CIRP) against the D.S. Kulkarni & Company through its partners Mr. Deepak S. Kulkarni & Mr. Hemant D. Kulkarni (“the Personal Guarantor”).

3. Ld. Counsel for the Financial Creditor submits that the copy of Demand Notice dated 17.12.2021 was successfully delivered upon the Personal Guarantor to the Corporate Debtor and copy of Petition was also served on their last known correct address and the requirement u/s 95 of the Code is completed.
4. The Financial Creditor has also proposed the name of the RP; Mr. Asish Narayan, who is registered with IBBI as Insolvency Professional. His written consent is placed in the Petition.
5. This bench appoints Ms. Jovita Reema Mathias, Insolvency Resolution Professional having Registration No. IBBI/IPA-002/IP-N00337/2017-2018/10941; as the Resolution Professional (RP) in the matter. The fee payable to Resolution Professional (RP) shall be in accordance with the Insolvency and Bankruptcy Board of India (IBBI) Regulations/Circulars/ Directions issued in this regard.
6. The Resolution Professional shall examine the Application within 10 days from the date of his appointment and submit its report to the Adjudicating Authority recommending for approval or rejection of the Application as referred under section 99(1) of the Code. The RP is also directed to serve the copy of report on both the sides Financial Creditor as well as the Personal Guarantor and file proof of service of report.
7. This Bench also directs for an advance payment of Rs.2,00,000/- (Rupees two lakh only) to be paid by the Financial Creditor to the Resolution Professional (RP) immediately to initiate the process which shall be adjusted towards the fee and expenses payable to the Resolution Professional (RP).
8. The interim-moratorium under Section 96(1) (a) of the Insolvency and Bankruptcy Code, 2016 has commenced on the date of filing of this application by the Financial Creditor and will cease to have effect on the date of admission.

9. During such interim-moratorium period -

iii) any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and

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

10. List this matter for further consideration on **08.01.2024**

**Sd/-**

**PRABHAT KUMAR  
MEMBER (TECHNICAL)**

**Sd/-**

**KULDIP KUMAR KAREER  
MEMBER (JUDICIAL)**

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