

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

218. C.P.(IB)-654(MB)/2021

IN THE MATTER OF

Union Bank of India

... Petitioner

Vs

Rakesh kumar Kuldip singh Wadhawan

... Respondent

U/s 95(1) of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 05.07.2024

CORAM:

MS. REETA KOHLI,
MEMBER (J)

MS. MADHU SINHA,
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant:

For the Respondent: Adv. Krushika Udeshi (VC)

ORDER

1. The above Company Petition is filed by Union Bank of India, for initiation of Corporate Insolvency Resolution Process against Rakeshkumar Kuldipsingh Wadhawan, who is the Personal Guarantor of the Corporate Debtor.
2. Learned counsel appearing for the Petitioner has invited our attention to the Deed of Personal Guarantee dated 24.11.2011 and the Invocation/ Recall Notice dated 27.01.2015. The Ld. Counsel for the Petitioner has also invited the attention to the Demand Notice dated 07.10.2020 sent to the Respondent/Personal Guarantor.
3. The Hon'ble Supreme Court in *Dilip B Jiwrajka Vs. Union of India & Ors. Writ Petition (Civil) No. 1281 of 2021* decided on 09.11.2023 held as follows:

“i. No judicial adjudication is involved at the stages envisaged in Section 95 to Section 99 of the IBC;

ii. The Resolution Professional appointed under Section 97 serves a facilitative role of collating all the facts relevant to the examination of the application for the commencement of the insolvency resolution process which has been preferred under Section 94 or Section 95. The report to be submitted to the Adjudicating Authority is recommendatory in nature on whether to accept or reject the application.”

4. The petition for initiating insolvency resolution process against Personal Guarantor to the Corporate Debtor is complete in all respect.
5. Having considered the submissions and upon perusing the above documents, this Bench is of the considered view that the present Company Petition is complete in all aspects as required by law and thus hereby appoints **Ms. Mamta Binani**, having Insolvency Registration No. **IBBI/IPA-002/IP-N00086/2017-2018/10227**, Email Id: mamtabinani@gmail.com to act as the Resolution Professional.
6. 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.
7. This Bench also directs for an advance payment to the tune of Rs. 1,00,000/- to be paid by the Financial Creditor to the Resolution Professional immediately to initiate the process which shall be adjusted towards fee and expenses payable to the Resolution Professional.
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 –

- i. any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and**
- ii. the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt.**

10. The Resolution Professional is directed to examine the application as set out in Section 97(6) of IBC, 2016 who after examining, shall submit his report as provided under Section 99(1) of IBC, 2016 within 10 days.

11. Registry is directed to communicate this order immediately to the Resolution Professional, **Ms. Mamta Binani**, having Insolvency Registration No. **IBBI/IPA-002/IP-N00086/2017-2018/10227**, Email Id: mamtabinani@gmail.com.

Accordingly, stand over to **19.08.2024**, for submission of the report by the Resolution Professional.

Sd/-
MADHU SINHA
Member(Technical)

Sd/-
REETA KOHLI
Member(Judicial)

/Ziyaul/