

NATIONAL COMPANY LAW TRIBUNAL  
COURT-V, MUMBAI BENCH

215. C.P. (IB)/1103(MB)2023

**IN THE MATTER OF**

Anita Bhushan Patil

U/s 94(1) of the Insolvency and Bankruptcy Code, 2016

**Order Delivered on 12.07.2024**

CORAM:

MS. REETA KOHLI  
MEMBER (J)

MS. MADHU SINHA  
MEMBER (T)

**Appearance through VC/Physical/Hybrid Mode:**

For the Petitioner: Adv. Manoj Kumar Mishra (PH)

For the Respondent:

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**ORDER**

- 1) The present Company Petition has been filed by Anita Bhushan Patil, Personal Guarantor of the Corporate Debtor, **M/s Nirmangold Alloys Private Limited** under section 94 of the Insolvency and Bankruptcy Code, 2016 (“the Code”) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 (“IBBI Rules”) seeking to initiate Insolvency Resolution Process against himself being the Personal Guarantor of **M/s Nirmangold Alloys Private Limited**.

- 2) The Corporate Debtor was admitted into CIRP vide the Order dated 22.11.2021 of the Hon'ble NCLT, Mumbai Bench. The Account of the Corporate Debtor defaulted and was classified as NPA by Abhyudaya Co-operative Bank Ltd., after the Insolvency Commencement date. Therefore, since the Interim Resolution Professional/ Resolution Professional is handling the affairs of the Corporate Debtor w.e.f. 22.11.2021, the Petitioner, in her capacity as the Personal Guarantor, does not have any details about the date of default/ date of NPA.
- 3) Prior to commencement of CIRP, the Corporate Debtor had availed Cash Credit facility of Rs. 5,00,00,000/-, Term Loan of Rs. Rs. 6,80,00,000/- and another Term Loan of Rs. 55,00,000/- from the Cosmos Co-operative Bank.
- 4) Thereafter, the Corporate Debtor approached Abhyudaya Co-operative Bank Ltd., the Financial Creditor herein, for take over and renewal of the loan facilities granted by Cosmos Co- operative Bank. Abhyudaya Cooperative Bank Ltd. vide Sanction Letter dated 24.12.2013 was pleased to grant the take over and enhanced the said Credit Facility. The Financial Creditor herein also took the personal guarantee of the Petitioner.
- 5) The Financial Creditor further sanctioned certain Term Loans to the Corporate Debtor from time to time vide Sanction Letters dated 03.02.2015, 17.07.2015, 05.02.2016, 16.06.2016, 17.05.2017 and 28.05.2018.

- 6) During the time when the Corporate Debtor was undergoing financial distress, the Petitioner had received two Legal Notices dated 15.07.2021 where the Financial Creditor had invoked the Personal Guarantee given by the Petitioner.
- 7) In the meantime, one Operational Creditor namely GRV Steels Private Limited, preferred filing a Petition bearing CP 4309/2018 u/s 9 of the Insolvency and Bankruptcy Code, 2016 against the Corporate Debtor before the Hon'ble NCLT. The Hon'ble NCLT vide Order dated 22.11.2021 admitted the Corporate Debtor into Corporate Insolvency Resolution Process, by virtue of which one Mr. Prakash Naringrekar has been appointed as the Interim Resolution Professional and presently one Mr. Harish Kant Kaushik is contending as the Resolution Professional of the Corporate Debtor.
- 8) That the Petitioner has been informed that after the admission of the Corporate Debtor into CIRP, the Account defaulted and fell as NPA. Thereafter, the Financial Creditor has submitted its claim and has become a member of the Committee of Creditors of the Corporate Debtor.
- 9) The Financial Creditor, being a Multi- State Cooperative Society, has also filed an Arbitration. Petition bearing No. 2064/ 2022 against the Petitioner, claiming a total amount of Rs. 34,18,53,481.21/- (Rupees Thirty Four Crores Eighteen Lakhs Fifty Three Thousand Four Hundred Eighty-One and Paise Twenty One Only) as on 30.04.2022 along with future interest

w.e.f. 01.05.2022 to be liable to paid by the Petitioner. The Arbitration matter is presently sub judice.

- 10) Due to the inadvertent circumstances faced, the Petitioner Mrs. Anita Bhushan Patil, being the Personal Guarantor of the Corporate Debtor abovenamed, is willing to undergo Personal Insolvency to seek an opportunity to offer a repayment plan to her creditors subject to their approval to get away from all the issues of liability cum personal guarantee. Hence, this Petition.
- 11) The Company Petition for initiating Insolvency Resolution Process against Personal Guarantor of the Corporate Debtor is filed in the prescribed form as mandated under section 94(6) of the I&B Code.
- 12) Petitioner also submits that **Mr. Dinesh Mulji Ruparel** has given his written consent to act as Resolution Professional, in the matter of **Mrs. Anita Bhushan Patil**, the Personal Guarantor of the Corporate Debtor M/s Nirmangold Alloys Private Limited.
- 13) 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 **Mr. Dinesh Mulji Ruparel**, having Insolvency Registration No. **IBBI/IPA-001/IP-P-02477/2021-2022/13998**, to act as the Resolution Professional in the matter of **Mrs. Anita Bhushan Patil**, as the name of the Insolvency Professional has been suggested by the Petitioner herein.

14) This Bench also directs for an advance payment to the tune of **Rs. 2,00,000/-** to be paid by the Petitioner herein to the Resolution Professional immediately to initiate the process which shall be adjusted towards fee and expenses payable to the Resolution Professional.

15) The Resolution Professional shall examine the Application within 10 days from the date of receipt of this order 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.

16) 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.

17) 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.**

- 18) Registry is directed to communicate this order immediately to the Resolution Professional, **Mr. Dinesh Mulji Ruparel**, having address A 804, Fiesta, Vasant Oscar, L.B.S Road, Mulund West, Opp Frieds School And Green World, Mumbai City, Maharashtra, 400080.
- 19) Accordingly, stand over to **27.08.2024, for submission of the report by the Resolution Professional.**

Sd/-  
MADHU SINHA  
Member (Technical)

Sd/-  
REETA KOHLI  
Member (Judicial)

// Avdhesh K Patel //