

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING  
HELD ON **19.07.2024** THROUGH VIDEO CONFERENCING

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**PRESENT:** HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)  
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

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**IN THE MATTER OF** : Indian Bank  
Vs  
Ganga Prasad K

**MAIN PETITION NUMBER** : CP(IB)/81/CHE/2024

**(IA/MA) APPLICATION NUMBERS**

IA(IBC)/1434(CHE)/2024

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**ORDER**

Present: Ld. Counsel Shri. Vijay Vigneshwar for the Applicant.

None for the Respondent.

Vide separate order pronounced in open Court, the Petition is admitted  
and IRP process stands initiated against Ganga Prasad K.

IRP report is taken on record.

IA/1434 (CHE)/2024 is **disposed of**.

**Sd/-**

**(VENKATARAMAN SUBRAMANIAM)**  
MEMBER (TECHNICAL)

MG

**Sd/-**

**(SANJIV JAIN)**  
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – I, CHENNAI**

**CP(IB)/81(CHE)/2024**

*(under Section 100 of the Insolvency and Bankruptcy Code, 2016)*

**Indian Bank**

Stressed Asset Management Branch

No. 55, Ethiraj Salai, Chennai 600008

Rep by its Asst General Manager Mr. Keshari Lal Gupta

*....Financial Creditor/Applicant*

Versus

**K. Ganga Prasad**

S/o. K Surya Rao

O.No 18, New No 5 , First Main Road,

Dr. Muthulakshmi Street, Indira Nagar

Valasarawakkam, Chennai - 600087

*....Guarantor/Respondent*

*Along with*

**IA(IBC)/1434/CHE/2024**

**In**

**CP(IB)/81(CHE)/2024**

*(filed under section 99 of Insolvency and Bankruptcy Code, 2016)*

**S.R.Sriram Shekher**

11, Prayag Apartments,

15/8, Gandhi Nagar First Main,

Adyar, Chennai-600 020

*...Applicant/Interim Resolution Professional*

*Order pronounced on 19<sup>th</sup> July, 2024*

**CORAM :**

**SANJIV JAIN, MEMBER (JUDICIAL)**

**VENKATARAMAN SUBRAMANIAN, MEMBER (TECHNICAL)**

*For Applicant* : *T. Sundar Rajan, Advocate*  
*For Respondent* : *Sriram Venkatavaradan, Advocate*  
*For IRP* : *Vijay Vigneshwar, Advocate*

## **ORDER**

*(Hearing through hybrid mode)*

The present Application has been filed u/s. 95 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC, 2016") r/w. Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 by Indian Bank ("Financial Creditor") for initiating insolvency resolution process against Mr. K Ganga Prasad ("Personal Guarantor") in respect of Principal Amount of INR 21,42,32,767.70/- (Twenty one crore forty two lakh thirty two thousand seven hundred and sixty seven and paise seventy) together with interest. The Date of Default, as specified in Part-III of the present Application, is 30.04.2018. This Petition has been filed before this Tribunal on 01.09.2022.

2. Part – I of the application sets out the details of the Applicant / Financial Creditor. It has its registered office Stressed Assets

Management Branch, No.55, Ethiraj Salai, Chennai 600008. Part-II of the application sets out the details of the Personal Guarantor. The address of the Respondent is mentioned as K. Ganga Prasad, S/o. K Surya Rao, O.No 18, New No 5 , First Main Road, Dr. Muthulakshmi Street, Indira Nagar, Valasarawakkam, Chennai - 600087. The Respondent stood as a personal guarantor in respect of the loans availed by M/s. GVR Infra Projects Ltd., the Corporate Debtor. In part – III of the application, the applicant has given the debt amount of Rs. 21,42,32,767.70/-(Twenty One Crore Forty Two Lakh Thirty Two Thousand Seven Hundred And Sixty Seven And Paise Seventy). Part – IV of the Application sets out the details of the Resolution Professional. The Applicant has proposed Mr. S.R.Shriraam Shekher, (IBBI/IPA-003/IP-N00144/2017-2018/11598) as the Insolvency Resolution Professional in respect of the Respondent / Personal Guarantor.

3. It is stated that, the Allahabad Bank (Now merged with Indian Bank) had lent various loan facilities to the GVR Infra Projects Limited (hereinafter Corporate Debtor). Since the loan facilities of Corporate Debtor became NPA, the loan account migrated to the Stressed Assets Management (large) Branch of the Indian Bank in terms of the internal

policy of the bank who are now the authorised and competent person to file this Application.

4. It is stated that, the Corporate Debtor is engaged in various civil engineering and construction activities. The Corporate Debtor has availed various credit facilities from the Financial Creditor (Allahabad Bank, now merged with Indian Bank). The Corporate Debtor availed several loans from other banks and institutions namely State Bank of India, Punjab National Bank, Vijaya Bank, IDBI Bank, Axis Bank, State Bank of Mysore, etc.

5. It is stated that, the Corporate Debtor owing to the difficulty in repaying the loan facilities had requested for restructuring of loan in terms of the RBI Guidelines and the Corporate Debtor was referred to the Joint Lenders Forum to consider the proposal. It is stated that, the Corporate Debtor exposure which was Rs. 2154.59 crores as on 30.09.2016, was restructured.

6. It is stated that, the Financial Creditor issued the sanction letter dated 22.03.2017 in terms of the restructuring plan. The Corporate

Debtor and the Consortium of bankers entered into a master Reconstruction Agreement dated 27.03.2017, wherein the Respondent along with other guarantors executed the Deed of Guarantee dated 18.05.2017 and thereby stood as guarantors for the facilities availed by the Corporate Debtor.

7. It is stated that, the Financial Creditor classified the account of Corporate Debtor as NPA on 01.05.2018 and further filed an O.A.No. 350 of 2018 on 27.09.2018 on the file of the DRT-1, Chennai against the Corporate Debtor and the Guarantors for recovery of money.

8. It is stated that, the Reliance Capital Ltd had filed an Application (CP/941/IB/2018) under Section 7 of IBC, 2016 before this Tribunal to initiate the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. It is averred that this Tribunal by order dated 15.10.2018 appointed an interim resolution professional for conducting the CIRP of the corporate debtor. Pursuant to which, the Resolution Professional filed a Resolution Plan which was approved by this Tribunal appointed in MA/1433/2019 and subsequently the Revised

Resolution Plan was also approved by this Tribunal by order dated 09.04.2021 passed in IA/858/IB/2020.

9. It is stated that, in pursuance of the Resolution Plan, the part payments made by the Resolution Applicant was received and credited to the Account of the Corporate Debtor. It is further averred that the total liabilities of the Corporate Debtor to this Financial Creditor was 16.26 Crores, out of which a sum of Rs. 1,75,99,306.59 was received in total as per the Revised Resolution Plan. After giving credit to the received amount, adding the interest the sum of Rs. 21.42 crores is still due in respect of the loan accounts and the Financial Creditor is entitled to claim the said amounts from the Guarantors.

10. It is stated that, the Financial Creditor sent a demand notice dated 08.04.2022 to the Guarantor before filing this Application in terms of Rule 7(1) of the Insolvency and Bankruptcy Rules, 2019.

11. It is stated that, the present Application has been filed on 01.09.2022. The revised resolution plan was approved on 09.04.2021.

Further, the demand notice was sent on 08.04.2022. Hence, the current Application was filed within the limitation period of 3 years.

12. The RP in his Report, after due examination of the application, documents filed along with the application, and the Reply filed by the Respondent, in addition to the requirements as mandated under clauses (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10) of Section 99 of the IBC, 2016, has recommended for the admission of the present application by the Financial Creditor u/s. 95 of IBC, 2016.

13. It is seen from the record of proceedings dated 21.06.2024, and 02.07.2024, that the Respondent chose not to file his reply against the IRP recommendations and accept the IRP Report filed.

14. Heard the submissions made by the Learned Counsel for the parties and perused the report of the RP.

15. The RP in his report has observed that the Applicant satisfies the requirement as set out in Section 95 of IBC, 2016. He has accordingly recommended for admission of the present application.



16. Section 128 of the Indian Contract Act, 1872, provides that, when a default is committed, the Principal Borrower and Surety are jointly and severally liable to Creditor and the Creditor has the right to recover its dues from either of them or from both of them simultaneously. Section 128 of the Indian Contract Act, 1872 is reproduced hereunder:

*“The liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.”*

17. It is seen that, the Corporate Debtor had under gone Corporate Insolvency Resolution Process and the Resolution plan was approved by this Tribunal vide order dated 09.04.2021 in IA/858/IB/2020 in CP/941/IB/2018. In pursuance of the Resolution Plan, the Financial Creditor received a sum of Rs.1,75,99,306.59. After giving credit to the resolution fund still a sum of Rs. 21.42 crore is still pending. The Respondent is the Personal Guarantor of the Corporate Debtor which availed the Loan. The Corporate Debtor / Guarantor failed to repay the Loan after the issuance of Demand Notice dated 08.04.2022. The RP has also recommended for initiation of Insolvency Resolution Process

against the Respondent. The Resolution Plan was approved on 09.04.2021 and the present Application is filed on 01.09.2022. i.e. within the period of limitation of 3 years.

18. The date of default is 30.04.2018 and the present Application is filed on 01.09.2022. The Applicant is entitled to benefit of limitation from 15.03.2020 to 28.02.2022 as extended by *Hon'ble Supreme Court in Suo Moto W.P. (Civil) No. 3 of 2020*. Thus, considering the date of default and the date on which the Application is filed, this Application is within the period of limitation of 3 years.

19. In light of the afore-stated observations, the present Application i.e. CP(IB)/81(CHE)/2024 is admitted and the Insolvency Resolution Process stands initiated against Mr. K. Ganga Prasad viz. the Respondent herein. We hereby direct as follows;

- I. Initiate Insolvency Resolution Process against the Respondent/Personal Guarantor. The moratorium in relation to all the debts is declared, from today i.e. date of admission of the application, and shall cease to have effect at the end of the period of 180 days, or this Tribunal passes order on the repayment plan under Section 114

whichever is earlier as provided under Sec 101 of IBC, 2016. During the moratorium period,

- a. Any pending legal action or proceeding in respect of any debt shall 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.

II. The Resolution Professional viz. S.R.Shriraam Shekher, (IBBI/IPA-003/IP-N00144/2017-2018/11598), Insolvency Resolution Professional is directed to cause a public notice published on behalf of the Adjudicating Authority within 7 days of passing this Order on the website of the NCLT Chennai Bench, inviting claims from all Creditors, within 21 days of such issue The notice under Sub Section (1) of Section 102(2) shall include: -

- a. details of the order admitting the application;

- b. particulars of the resolution professional with whom the claims are to be registered; and
- c. the last date for submission of claims.

**III.** The publication of notice shall be made in two newspapers, one in English and other in Vernacular, which have wide circulation in the State where the Corporate Debtor and Personal Guarantor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry for the record.

**IV.** The Resolution Professional, in exercise of the powers conferred under Section 104, shall prepare a list of creditors on the basis of:

- a. the information disclosed in the application filed by the debtor under Sections 94 or 95 as the case may be, and
- b. claims received by the Resolution Professional under Section 102 within 30 days from the date of the notice. The debtor shall prepare a repayment plan under Section 105, in consultation with the Resolution Professional, containing a proposal to the Creditors for restructuring of his debts or affairs.

The repayment plan may authorize or require the Resolution Professional to:

- a. carry on the debtor, business or trade on his behalf or in his name: or
- b. realise the assets of the debtor; or c. administers or dispose of any funds of the debtor.

The repayment plan shall include the following, namely;

- a. justification for preparation of such repayment plan and reasons based on which the creditors may agree upon the plan;
- b. provision for payment of fee to the Resolution Professional; c. such other matters as may be specified.

V. 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.

VI. In case the Resolution Professional recommends that a meeting of the creditors is not required to be called, he shall record the reasons thereof. If the Resolution Professional is of the opinion that a meeting of the creditors should be summoned, he shall specify the details as provided under Section 106(3) of IBC, 2016. 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 subsection (1) of Section 106 of IBC, 2016, for which at least 14 days' notice to the creditors (as per the list prepared) shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107 of IBC, 2016.

- VII.** The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 & 111 of IBC, 2016. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 of IBC, 2016 and submit the same to this Tribunal, copies of which shall be provided to the Debtor and the Creditors. It is made clear that the Resolution Professional shall perform his functions and duties in compliance with the Code of Conduct provided under Section 208 of IBC, 2016.
- VIII.** The Resolution Professional shall submit his periodic reports before this Tribunal, every 30 days.
- IX.** The Applicant is directed to deposit INR 2,00,000/- (Indian Rupees Two lakhs) to the bank account of the Resolution Professional within one week, towards his expenses. This shall be subjected to the rules and regulations under the provisions of the Insolvency and Bankruptcy Code, 2016.

X. The Registry is directed to communicate a copy of order, report and application within seven working days and upload the same on the website immediately after the pronouncement of order.

20. Accordingly the report of the RP filed in **IA/IBC/1434/CHE/2024** is taken on record and delay of 24 days in filing the report is condoned. **CP/IB/81/CHE/2024** stands admitted.

**-Sd-**

**VENKATARAMAN SUBRAMANIAM**  
Member (Technical)

**-Sd-**

**SANJIV JAIN**  
Member (Judicial)

*Kishore P*