

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
19-07-2024 AT 10:30 AM**

CP (IB) No. 111/95/HDB/2022

AND

**IA(IBC) 137/2024 in IA No. 1782/2023, IA(IBC) 137/2024 in IA No.
1782/2023, IA(IBC) 695/2024 in IA(IBC) 588/2023, IA (IBC) 818 &
1267/2024 in CP (IB) No. 111/95/HDB/2022**

u/s. 95 of IBC, 2016

IN THE MATTER OF:

State Bank of India

...Petitioner

AND

Smt. T Padmavathi (Chadalavada Infratech Limited)

...Respondent

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

ORDER

**Common order in IA No. 138/2024 in IA No 1782/2023 and IA No. 137/2024
in IA No. 1782/2023 both in IA No. 588/2023**

1. IA No. 137/2024 in IA No. 1782/2023 is filed by the Personal Guarantor to reopen IA No. 1782/2023 in IA no. 588/2023.
2. IA No. 138/2024 in IA No. 1782/2023 in IA No. 588/2023 is filed by the Personal Guarantor to recall the order dated 20.11.2023
3. This Tribunal through order dated 20.11.2023 in IA No. 1782/2023 granted liberty to the Financial Creditor to file Bankruptcy Application under Section 121 of IBC against the Personal Guarantor on account of failure to implement the repayment plan.

4. The Ld. Counsel for the Applicant contended that the Resolution Professional has contravened with the prescribed procedure of Regulation 20 of IBBI (Insolvency Resolution Process for Personal Guarantors) Regulations, 2019. The said Regulation is produced herein: -

20. Breach of repayment plan by the guarantor.

(1) If in the opinion of the resolution professional, the guarantor has failed in implementation of the repayment plan, the resolution professional shall, within three days of knowledge of such failure, issue a notice to the guarantor identifying the failure and requiring him, within fifteen days of receipt of the notice, to- (a) address such failure if it can be addressed, or (b) provide an explanation for the failure.

(2) If the guarantor, within the period specified under sub-regulation (1),

- (a) addresses the failure in implementation of the repayment plan; or

(b) provides a satisfactory explanation for such failure, the resolution professional shall report the failure to creditors within seven days of the date of failure addressed or explanation provided for such failure.

(3) In cases not covered under sub-regulation (2), the resolution professional may apply to the Adjudicating Authority under sub-section (2) of section 116 for directions, if he is of the opinion that the failure will affect the implementation of the repayment plan.

5. We have perused the order dated 20.11.2023 in IA No. 1782/2023 in IA No. 588/2023, which is also reproduced below: -

Ld. Counsel Mr. Harsh Chowdhary present for RP. This Application has been filed by RP seeking time to initiate proceedings to declare the Personal Guarantor as bankrupt, on the ground that the Personal Guarantor failed to implement the repayment plan, which has been approved by the Committee of Creditors. The RP in his affidavit has stated that he had issued several notices, requesting the Personal Guarantor to implement the plan, but there is no response. Under the circumstances, it is prayed that leave be granted to the Financial Creditor to initiate the proceedings in terms of Section 121 of the act against the Personal Guarantor. Heard. Perused the records, satisfied with the reasons, this Application is allowed with liberty to the Financial Creditor to proceed in accordance with Section 121 of IB Code. With these directions, IA (IBC) 1782/2023 in IA No.588 of 2023 is allowed and disposed of.

6. On perusal of the above order, we find that the Personal Guarantor has admittedly failed in implementing the repayment plan and he was given sufficient opportunity to address such failure, but he did not take any corrective measures to address the failure in implementing the repayment plan.
7. In view of the above, we do not find any contravention of Regulation 20 and therefore, we also do not find any ground for recalling our order dated

20.11.2023 passed in IA No. 1782/2023 in IA No. 588/2023 or reopening IA 1782/2023.

8. In view of the above, these IAs are **dismissed and disposed of**.

IA 695/2024 in IA 588/2023

On perusal of the said IA, we find that the prayer in the said application is to direct the Respondent to receive Demand Draft for Rs. 47,50,00,000/-, towards repayment plan of the Applicant and other four personal guarantors. However, we do not find any such provision in IBC which confers any such jurisdiction on the Adjudicating Authority to directly accept the repayment plan and direct the respondents/ Financial Creditor / Resolution Professional to receive the amount.

In view of the above, this application is **dismissed and disposed of**.

IA 1267/2024

This IA is filed by the Financial Creditor to condone the delay of 46 days and to permit the Financial Creditor to initiate Bankruptcy Process against the Personal Guarantor. We are satisfied with the grounds stated in the application. We hereby allow the application and condone the delay of 46 days in filing the Bankruptcy Application. Accordingly, **this IA is allowed and disposed of**.

IA (IBC) 818/2024

This IA is filed by the Financial Creditor seeking initiation of Bankruptcy Process against the Personal Guarantor and appointing Sri Maligi Madhusudhan Reddy as Bankruptcy Trustee.

The Applicant/Financial Creditor is directed to issue notice to the Respondents within 3 days by speed post/Registered post and through e-mail and file proof of service.

Call on **09.08.2024** for filing proof of service and for filing counter by Respondents.

SD/-
MEMBER (T)

Binnu

SD/-
MEMBER (J)