

**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. 127/95/HDB/2022

AND

**IA (IBC) 1294/2024 in IA 05/2024 in IA 587/2023, IA (IBC) 1295/2024 in IA
1791/2023 in IA 587/2023, IA (IBC) 1296/2024 in IA 587/2023 & IA (IBC)
1332/2024 in CP (IB) No. 127/95/HDB/2022
u/s. 95 of IBC, 2016**

IN THE MATTER OF:

State Bank of India

...Petitioner

AND

Mr. T Devender (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. 1294/2024 in IA 05/2024 in IA No. 587/2023 & IA
No. 1295/2024 in IA No. 1791/2023 in IA No. 587/2023**

1. These IAs are filed by the Personal Guarantor to recall a common order dated 07.02.2024 in IA No. 05/2024 and IA No. 1791/2023 (both in IA no. 587/2023).
2. This Tribunal through this order 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.
3. 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.

4. We have perused the common order dated 07.02.2024 in IA No. 05/2024 in IA No. 587/2023 and IA No. 1791/2023 in IA No. 587/2023, which is also reproduced below: -

Learned Counsel Ms. Datla Divya Gayatri, for Financial Creditor and Mr. M. Madhusudhana Reddy, Resolution Professional present through Video Conference. Since the prayers are identical in both the applications, a common order is passed for both the applications. The report filed by resolution professional under section 118(2) of the insolvency and bankruptcy code 2016 is taken on record. We have perused the report of the Resolution Professional. According, to the report of the Resolution Professional the re-payment plan was approved by this Tribunal and communicated to the Personal Guarantor but the Personal Guarantor failed to implement the re-payment plan.

Resolution Professional once again reminded the Personal Guarantor on 25.10.2023, to implement the repayment plan but Personal Guarantor did not implement the re-payment plan. Record discloses that before filing the present application financial creditor has served notice to the personal guarantor. Therefore, under these circumstances we grant liberty to the Financial Creditor to file bankruptcy application for Personal Guarantor, these applications are allowed and proceedings are closed, giving liberty to the financial creditor to move an application if they so choose, under Section 121 of IBC.

Accordingly, IA (IBC) 1791/2023 in IA No. 587/2023 & IA(IBC) 05/2024 in IA No. 587/2023 are allowed and disposed of.

5. On perusal of the above order, and also our earlier orders dated 02.01.2024, 08.01.2024 and 07.02.2024, 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.

6. 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 common order dated 07.02.2024 passed in IA No. 05/2024 in IA No. 587/2023 & IA No. 1791/2023 in IA No. 587/2023.
7. In view of the above, **IA Nos. 1294/2024 in IA No. 05/2024 and IA No. 1295/2024 in IA No. 1791/2023 (both in IA No. 587/2023) are dismissed and disposed of.**

IA 1296/2024 in IA 587/2023

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 (IBC) 1332/2024

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)

SD/-
MEMBER (J)

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