

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI

COURT – IV

C.P. (IB) 512/ND/2023

[Under Section 94 of the Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

IN THE MATTER OF:

Rajpal Tyagi
(Personal Guarantor to Corporate Debtor)

Filed through
Mr. Devendra Umrao
(Resolution Professional) ... Applicant/ Resolution Professional

CORAM:

SH. MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

DR. SANJEEV RANJAN,
HON'BLE MEMBER (TECHNICAL)

Order Delivered on 19.04.2024

ORDER

PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

1. The present Petition CP (IB) No. 32/ND/2024 is filed under section 94(1) of the Insolvency and Bankruptcy Code, 2016 (**'Code'**) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution process for Personal Guarantors to

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Corporate Debtor) Rules, 2019 (***Personal Guarantors Rules***) and regulation 4(2) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (***Personal Guarantors Regulations***) filed by Mr. Rajpal Tyagi Through Mr. Devendra Umrao IRP Personal Guarantor of the various corporate debtor namely (i) Proview Infrastructure Pvt. Ltd. (ii) Nitya Realtech Private Limited (iii) RKS Buildcon [India] Pvt. Ltd. and (iv) Lotus Enterprise for initiating the Insolvency Resolution Process ('IR Process').

2. The Applicant has filed the present petition seeking insolvency resolution process against itself. On perusal of the records, it is observed that the copy of the application has already been served to the Financial Creditor.
3. The applicant has proposed the name of Mr. Devendra Umrao to act as RP. Accordingly, this Adjudicating Authority, hereby appoints Mr. Devendra Umrao Email ID – dev.umrao@gmail.com, Reg. No: IBBI/IPA-003/IP-N00223/2019-2020/12640, as the Resolution Professional in the matter. The Resolution Professional has valid Authorization for Assignment.
4. The Resolution Professional is directed to file his report in terms of Section 99 of the Code and the relevant Regulations within the period of 10 working days as under Section 99 of IBC, 2016
5. A copy of the Report by the Resolution Professional under Section 99 to be filed, shall be forthwith provided to the Personal Guarantor and Financial Creditors of the Petitioner.

6. The Applicant shall also make a copy of the application with all enclosures available to the principal borrower forthwith.
7. List the matter on **20.05.2024** for the perusal of the Report of the RP and further proceedings.

Sd/-

(DR. SANJEEV RANJAN)
MEMBER (T)

Sd/-

(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI

COURT – IV

Intervention Petition (IBC)/69(ND)2023

IN

C.P. (IB) 512/ND/2023

[Under Section 94 of the Code, 2016]

IN THE MATTER OF:

**Rajpal Tyagi
(Personal Guarantor to Corporate Debtor)**

... Personal Guarantor

**Filed through
Mr. Devendra Umrao
(Resolution Professional)**

AND IN THE MATTER OF :

Phoenix ARC Pvt. Ltd.

... Applicant

CORAM:

**SH. MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)**

**DR. SANJEEV RANJAN,
HON'BLE MEMBER (TECHNICAL)**

Order Delivered on 19.04.2024

ORDER

PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

INTERVENTION PETITION (IBC)/69(ND)2023

1. That the present application has been filed by Phoenix ARC under Section 60(5) of the Code read with Rule 11 of NCLT Rules, 2016, with the following prayer –
 - a) Allow the present application.
 - b) This Hon'ble Tribunal be pleased to implead/allow to intervene the present applicant as necessary party in the IB Petition No. 512 of 2023.
 - c) Pass any order as this Hon'ble Tribunal may deem fit and proper be granted in favour of the present applicant.

2. On perusal of the record, it has been found that the present application is at the stage of appointment of Resolution Professional. Further, in view of the judgment of the **Hon'ble Supreme Court in Dillip B Jiwjka**, it is now a settled position that question of adjudication of issues between the parties arises only at the stage of Section 100 and the RP has only role of facilitator. The RP has to submit a Report, after examining the Application under Section 94 and after giving opportunity to Personal Guarantor. Therefore, the present

application is premature at this stage and accordingly, **Intervention
Petition (IBC)/69(ND)2023 is dismissed.**

Sd/-

**(DR. SANJEEV RANJAN)
MEMBER (T)**

Sd/-

**(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (J)**