

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT-VI

Item No. 613
IB-838/ND/2022

IN THE MATTER OF:

Small Industries Development Bank of India

...PETITIONER

Vs.

Mr. Deepak Rastogi

...RESPONDENT

Section

U/s 95(1) of IB Code, 2016

Order delivered on 15.03.2023
(Virtual Hearing)

Coram:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)
SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner/Applicant

:Mr. Abhishek Devgan and Mr.
Vishal Hirawat, Advs.

For the Respondent

:

ORDER

This application has been filed seeking re-calling of the order dated 28.11.2022 passed by this Tribunal.

On 28.11.2022, this Tribunal passed the following orders:-

*“Heard the submissions made by Ld. counsel for SIDBI. It transpires that Rule 7 notice was affixed on the last available address of the Guarantor. The very purpose of issuing Rule 7 notice is to provide a period of 14 days to enable the Guarantor to discharge the repayment of the guaranteed amount. We are of the view that the purpose of Rule 7 notice is not achieved in the present facts and circumstances of this matter. Further the Hon’ble Supreme Court is seized of the Section 95 related matters as the same has been challenged before the Hon’ble Supreme Court, therefore let this matter be posted after a month. List this matter on **03.01.2023.**”*

In the said order, the Tribunal observed that the purpose of Rule 7 notice has not been achieved in the present facts and circumstances of the matter. The Ld. Counsel appearing for the Applicant submitted that the notices as per Rule 7 were affixed on the outer gate/conspicuous part of the house in which the addressee ordinarily resides. He has also filed an affidavit alongwith the photographs showing that the notices were affixed.

Having heard the submissions of Mr. Ahishek Devgan, Ld. Counsel for the Petitioner and perused the affidavit of photographs, we are satisfied that the notices were duly served on the Respondents. We therefore, modify the juorder dated 28.11.2022 accordingly.

Issue limited notice to the Personal Guarantor in view of the order passed by Hon'ble NCLAT in the matter of Mr. Ravi Ajit Kulkarni Vs State Bank of India, Company Appeal (AT) (Insolvency) No. 316 of 2021.

List on **17.04.2023**.

Sd/-
(Rahul Bhatnagar)
Member (T)

Sd/-
(Bachu Venkat Balaram Das)
Member (J)