

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT - II)

Item No. 209
(IB)-639/ND/2023

IN THE MATTER OF:
Bank of Maharashtra

... **Applicant/Petitioner**

Versus

Sudarshan

...

Respondent

Under Section: 95 of IBC, 2016

Order delivered on 18.04.2024

CORAM:

SH. ASHOK KUMAR BHARDWAJ
HON'BLE MEMBER (J)

SH. SUBRATA KUMAR DASH
HON'BLE MEMBER (T)

PRESENT:

For the Applicant :

Hearing Through: VC and Physical (Hybrid) Mode

ORDER

The Applicant herein viz Bank of Maharashtra, has moved the present application u/s 95 of IBC, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 against Personal Guarantor to Corporate Debtor with a prayer to initiate IR process and to pass consequent order qua the PG. According to the Ld. Counsel for the applicant, Demand Notice dated 23.07.2022 under clause (b) of sub-section 4 of Section 95 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantor to Corporate Debtors) Rules 2019 (ibid) demanding payment of amount of default (in Form-B) is enclosed with the application and is placed on record at page No. 43-58 of the application.

The Ld. Counsel could also draw our attention to the Proof of Service of a copy of the application referred to in sub-rule 1 of the afore-mentioned Rules, upon the Personal Guarantor as also upon the Corporate Debtor for whom the guarantor is a Personal Guarantor. We have also perused the Judgment of the Hon'ble Supreme Court of India delivered in a batch of 384 petitions including WP (Civil) No. 1281/2021 titled **Dilip B Jiwrajka vs. Union of India & Ors.** filed under Article 32 of the Constitution of India, on 09.11.2023

As per the provision of the law, on filing of this application, the interim moratorium as stipulated under Section 96(1)(a) of IBC, has already commenced qua all debts of the Personal Guarantor.

As proposed by the Applicant/Guarantor, this Bench appoints Mr. Anil Kumar (Email ID: anil2566@gmail.com) as Resolution Professional, whose details are given below:

IBBI Registration No. : IBBI/IPA-001/IP-P0014/2017-18/10308
E-mail Address : anil2566@gmail.com
Contact Number : 9999458899, 9873121883

The Resolution Professional so appointed shall perform all the functions as stipulated under Section 99 of IBC, 2016 read with Rules made thereunder. **He shall also examine the application and make recommendations with reasons in writing for acceptance or rejection of the present application within the time stipulated under Section 99 of IBC, 2016.**

The Resolution Professional shall give a copy of its Report to the Applicant as well as the Creditors of the Applicant as soon as the same is filed before this Authority.

The Applicant and his counsel are directed to make available a copy of this order along with a copy of the application and documents immediately to Mr. Anil Kumar Resolution Professional by all modes for information and necessary compliance.

The Petitioner shall also make a copy of the application with all enclosures available to the principal borrower forthwith.

The Court Officer is also directed to inform the RP by E-mail.

List on 07.05.2024.

Sd/-
(SUBRATA KUMAR DASH)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)