

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)
Company Petition No. (IB)-765(ND)2021

IN THE MATTER OF :

Mr. Ankit Gupta

Through Dharm Vir Gupta

Resolution Professional

...Applicant

Order Delivered on: 28.07.2022

Section: 94(1) of IBC 2016

Coram:

SH. DHARMINDER SINGH, HON'BLE MEMBER, (JUDICIAL)

SH. L. N. GUPTA, HON'BLE MEMBER, (TECHNICAL)

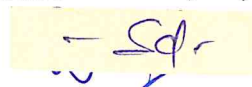
ORDER

PER: SHRI DHARMINDER SINGH, MEMBER- JUDICIAL

The instant application has been filed by Mr. Ankit Gupta through Mr. Dharm Vir Gupta (Resolution Professional) ('Applicant') under Section 94(1) 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 Debtor Rules, 2019) for initiating the Insolvency Resolution Process (the "IR Process") against Mr. Ankit Gupta.

2. The brief facts of the case leading to filing of this application as averred by the applicant are as follows:

- a) Shri Ankit Gupta executed a personal guarantee to secure the repayment of financial assistance availed by M/s Gee Ispat Pvt. Ltd. from State Bank of India. Pursuant to default in repayment of debt by the Corporate Debtor, M/s



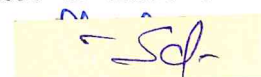
Shree Ram Lime Products Pvt. Ltd. an application was filed under Section 9 of the Code.

b) The Corporate Insolvency Resolution Process was initiated against M/s. Gee Ispat Private Limited ('Corporate Debtor') vide order dated 24.08.2017 in C.P.(IB) 250(ND)/2017 on an application filed by M/s. Shree Ram Lime Products Private Limited under Section 9 of the Code, 2016 and consequently liquidation order of the corporate debtor was passed on 05.10.2018 in C.A. 63(ND) of 2018.

c) Due to the personal incapacity of the personal guarantor to repay the debts of the Corporate Debtor in consonance with the transactions contemplating personal guarantee, the personal guarantor has filed the instant application for initiating the Insolvency Resolution Process (the "IR Process").

d) The Applicant has appointed Mr. Dharm Vir Gupta as the resolution professional, having registration number IBBI/IPA-001/IP-01492/2018-2019/12342.

3. We have heard Ld. Counsel for the applicant and perused the averments made in the application filed by the personal guarantor. The relevant documents annexed with the instant application have been examined. We observe that a Company Petition (IB) No.113 (ND)/2022 case titled State Bank of India through **Chanchal Dua vs. Ankit Kumar Gupta** was filed on 02.10.2021 under Section 95 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 Debtor Rules, 2019) for initiating the Insolvency Resolution Process against Mr. Ankit Kumar Gupta, guarantor of M/s. Gee Ispat Private Limited.
4. We further observe that the interim-moratorium as stipulated under Section 96 (1) (a) of the Code, 2016 has already commenced in relation to all the debts of the personal guarantor and shall cease to have effect on the



date of admission of the Application and during the interim- moratorium period the following are prohibited:

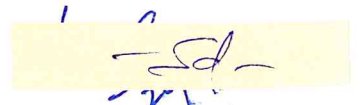
- a) Any legal action or proceeding pending in respect of any debt of the personal guarantor shall be deemed to have been stayed; and
- b) The Creditors of the personal guarantor shall not initiate any legal action or proceedings in respect of any debt.

The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

5. We further observe that the instant application is filed on 25.10.2021 and therefore, squarely cover under the ambit of interim moratorium stipulated under the provisions of Section 96 of the Code, 2016 and commenced on 02.10.2021 pursuant to the filing of Company Petition (IB) No.113(ND)/2022 under Section 95 of the Code, 2016.
6. It is also observed that this Tribunal had already appointed Mr. Chanchal Dua, having IBBI registration no. IBBI/IPA-003/IP-NOOOO83/2017-2018/10821 and email id chanchalduaco@gmail.com as Resolution Professional in (IB) No.113(ND)/2022 under section 97 of the Code, 2016 and directed the Resolution Professional to submit a report in exercise of powers conferred under Section 99 of the Code, 2016. The Company Petition (IB) No.113(ND)/2022 is directed to be listed on 08.08.2022 for further records.
7. Accordingly, in view of the above the instant application ((IB)-765(ND)2021 is not maintainable and hereby stands dismissed as to no orders to costs.



(L. N. Gupta)
Member (T)



(Dharminder Singh)
Member (J)