

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER

IA(IBC) No. 145/JPR/2024
In CP No. (IB)- 32/94(1)/JPR/2022

(Under Section 119 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 21 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Regulations, 2019

IN THE MATTER OF:

MR. AMAR BALDVA

...Applicant/Debtor

MEMO OF PARTIES

IA(IBC) No. 145/JPR/2024

MR. VISHNU UPADHYAY
DW A/G-104, Dwarka Apartment,
Mansarovar, Jaipur-302020

..... Resolution Professional

For the Applicant : Vishnu Upadhyay, RP
For the Bank : Vikas Jain, Adv.

Order Pronounced On: -03.05.2024


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ORDER

Per: Deep Chandra Joshi, Judicial Member

1. The Applicant, namely, *Mr. Vishnu Upadhyay* ('Resolution Professional'), has filed the present Application under Section 119 of the Insolvency and Bankruptcy Code, 2016 ('Code'/ 'IBC') seeking a discharge order in relation to the debts mentioned in the Repayment Plan of *Mr. Amar Baldva* ('Debtor').
2. The Debtor, the Personal Guarantor of the *M/s Baldva Textiles Private Limited* ('Corporate Debtor'), had filed an application bearing *CP No. (IB)-32/94(1)/JPR/2022* under Section 94(1) of the Code r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 ('Rules'), seeking initiation of Insolvency Resolution Process ('IRP') in relation to the credit facility extended by the Punjab National Bank ('Bank').
3. This Adjudicating Authority *vide* Order dated 30.05.2022 had appointed *Mr. Vishnu Upadhyay* ('Applicant') bearing Registration No. IBBI/IPA-003/IP-N000153/2018-19/11843 as the Resolution Professional under Section 94 of the Code. Thereafter, *vide* order dated 11.01.2023, this Adjudicating Authority initiated the IRP of the Debtor under Section 100 of IBC, 2016.

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4. Thereafter, the Debtor submitted multiple Repayment Plans to the Applicant and the Repayment Plan dated 04.09.2023 was agreed to in the meeting of Creditors with cent percent voting. The said Repayment Plan was approved by this Adjudicating Authority under Section 112 of the Code *vide* Order dated 30.11.2023 and the Applicant was directed to file a report under Section 119 of the Code for discharge upon completion of the Repayment Plan. The payments envisaged under the Repayment Plan as approved by the Creditors are as follows: -

(Amount in lakhs)

<i>S. No.</i>	<i>Particulars</i>	<i>Amount Approved</i>	<i>Timeline</i>
1	<i>IIRP Cost</i>	<i>2.00</i>	<i>30 days</i>
2	<i>Secured Financial Creditors</i>	<i>37.09</i>	<i>Already Paid</i>
3	<i>Unsecured Creditors</i>	<i>1.00</i>	<i>30 days</i>
	<i>Total</i>	<i>40.09</i>	

5. In pursuance of the Order dated 30.11.2023, the Applicant has filed the instant Application under Section 119 of the Code contending completion of the Repayment Plan as approved by the Creditors.
6. We have heard the learned Counsels for the parties and perused the Application along with the documents enclosed therewith.
7. For the adjudication of the instant Application, it will be germane to refer to Section 119 of the Code and Regulation 21 of the IBBI (Insolvency

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Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 ('Regulation'), which are reproduced hereunder:

Section 119: Discharge order

"119. (1) On the basis of the repayment plan, the resolution professional shall apply to the Adjudicating Authority for a discharge order in relation to the debts mentioned in the repayment plan and the Adjudicating Authority may pass such discharge order.

(2) The repayment plan may provide for—

(a) early discharge; or

(b) discharge on complete implementation of the repayment plan.

(3) The discharge order shall be forwarded to the Board, for the purpose of recording entries in the register referred to in section 196.

(4) The discharge order under sub-section (3) shall not discharge any other person from any liability in respect of his debt.

Regulation 21. Application for Discharge order

(1) The resolution professional shall, for the purpose of discharge order, file an application along with copies of the notice and report under section 117 to the Adjudicating Authority under Section 119

(2) On consideration of the notice and the report under sub-section (1) of section 117, the Adjudicating Authority may pass the discharge order."

8. Section 119 (1) of the IBC, 2016 provides that as per the Repayment Plan, the Resolution Professional shall apply to this Adjudicating Authority for a discharge order in relation to the debts mentioned in the Plan and the Adjudicating Authority may pass an order for discharging the Debtor. The

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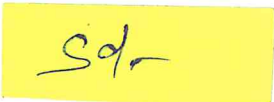
Repayment Plan may provide for a discharge on the completion of its implementation or for an early discharge which means discharge before the implementation.

9. In the present case, the Repayment Plan provides that the Debtor i.e., *Mr. Amar Baldva*, may be discharged after complete payment as per the terms of the Plan. The instant Application for discharge has been moved by the Applicant on the satisfaction of the Repayment Plan.
10. Further, the Applicant in pursuance of the directions given by this Adjudicating Authority *vide* Order dated 30.11.2023 has made the following compliances: -
 - 10.1 The implementation and supervision of the Repayment Plan was completed as per Section 116 of the Code.
 - 10.2 A notice under Section 117 was served to the stakeholders as per Section 115 of the Code as provided under Regulation 21 of the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.
 - 10.3 The Applicant has prepared a report upon completion of the Repayment Plan as prescribed under Section 117(1) of the Code R/w Regulation 21.
11. A perusal of the Application reveals that as per the final Repayment Plan approved by this Adjudicating Authority, a total sum of Rs. 37,09,000 (Rupees Thirty-Seven Lakh and Nine Thousand Only) has been paid to the

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Secured Financial Creditor i.e., *Punjab National Bank* and the IRP Cost of Rs. 2,00,000 (Rupees Two Lakh Only) has also been paid by the Debtor. Although, a provision was made in the Repayment Plan towards unsecured financial creditors, however, no claims have been received by the Applicant.

12. It is pertinent to note that the Counsel for the Bank has submitted before this Adjudicating Authority that the Bank does not have any objection in accepting the Application for discharge as it has already been paid in accordance with the Repayment Plan, and the same was duly recorded in the Order dated 30.04.2024.
13. In light of the facts and observations stated above, we hereby pass the following directions: -
 - 13.1 In view of compliance of the terms of the Repayment Plan, the Debtor, namely, *Mr. Amar Baldva*, is hereby discharged as per Section 119(2)(b) of the Code.
 - 13.2 It is directed that the Creditors as mentioned in the Repayment Plan shall not have any right to recover the debts specified in the Plan.
 - 13.3 This order shall not discharge any other person from any liability in respect of his debt as provided under Section 119(4) of the Code.
 - 13.4 The Registry is directed to forward a copy of the Order to IBBI for the purpose of recording entries in the register referred to in Section 196 of the Code within 15 days of passing of the present Order.



14. With the aforementioned directions, the instant *IA (IBC) No. 145/JPR/2024* stands allowed and disposed off accordingly.

In light of the Discharge Order the main *CP No. (IB) 32/94(1)/JPR/2022* stands disposed off. The Registry is hereby directed to provide a copy of the order to the concerned parties.



**(DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**



**(RAJEEV MEHROTRA,
TECHNICAL MEMBER**