

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

ORDER SHEET OF THE HEARING ON 12th APRIL, 2024, 10:30 A.M.

CP (IB)/29/GB/2022

**Present: 1. Hon'ble Member (Judicial), Shri H.V. Subba Rao
2. Hon'ble Member (Technical), Shri Satya Ranjan Prasad**

IN THE MATTER OF	Santosh Kumar Jaiswal Vs State Bank of India, 2. North Eastern Development Finance (NEDFI), 3. Assam Gramin Vikash Bank, 4. Ankita Gupta (OC).
UNDER SECTION	U/s 94 of IBC, 2016.

For Petitioner (s) : Mr. Mukesh Sharma, Adv.

For Respondent (s) : Mr. G. Das, Adv, R-2.

ORDER

Order Pronounced through VC *vide* separate sheets.

Sd/-

**Satya Ranjan Prasad
Member (Technical)**

Sd/-

**H.V. Subba Rao
Member (Judicial)**

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

CP IB No. 29/GB/2022

In the matter of:

Application under section 94 of the of the Insolvency and Bankruptcy Code, 2016 to initiate Insolvency Resolution Process in respect of Guarantor- Santosh Kumar Jaiswal

-And-

In the matter of:

Santosh Kumar Jaiswal, resident of Kunti Kunj, Krishna Nagar, Chatribari, Guwahati-781001; **... Guarantor/ Petitioner**

-Versus-

1. **State Bank of India**, Central office at Madam Cama Road, Mumbai-400021 with its local office at Dispur, Guwahati and branch office at Stressed Assets Management Branch (SAMB), Kolkata; **... Respondent No. 1**
2. **North Eastern Development Finance Corporation Limited (NEDFI)**, “NEDFi House”, G.S. Road, Dispur, Guwahati- 781007; **... Respondent No. 2**
3. **Assam Gramin Vikash Bank**, 1st & 2nd Floor, Adam’s Plaza, G.S. Road, Guwahati-781005; **... Respondent No. 3**
4. **Ankita Gupta (OC)**, resident of Kunti Kunj, Krishna Nagar, Chatribari, Guwahati-781001 **...Respondent No. 4**

Coram:

Shri H. V. Subba Rao : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conferencing):

For Petitioner (s) : Mr. Mukesh Sharma, Adv.

For Respondent (s) : Mr. G. Das. Adv. R-2

**Order reserved on: 20.03.2024
Order pronounced on: 12.04.2024**

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

CP IB No. 29/GB/2022

ORDER

1. Under consideration is an Application CP (IB) No.29/GB/2022 filed under Section 94 of the Insolvency and Bankruptcy 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 in respect of Petitioner/Guarantor- Mr. Santosh Kumar Jaiswal. The Petitioner herein has stood as a Guarantor in respect of the loans availed by the Principal Borrowers/Corporate Debtors namely:
 - i. Brahmaputra Galvochem Private Limited
 - ii. Brahmaputra Iron and Steel Company Private Limited
 - iii. Brahmaputra Rolling Mills Private Limited
 - iv. Brahmaputra TMT Bars Private Limited
 - v. Brahmaputra Tubulars Private Limited
2. The factual matrix of the case is that the 5 Corporate Debtors who are all private limited companies and sister concerns having its registered office at Room No. 19, 2nd Floor, Vrindavan Market, SJ Road, Athgaon Guwahati- 781001 in Assam state. The Petitioner is in the business of manufacturing, supply, import, export of all varieties of steel. All the afore-mentioned companies majorly service the North Eastern states of India and are into the business of manufacturing steel products and setting up of steel plants situated at Amingaon, North Guwahati.
3. The major financial creditors namely, State Bank of India (SBI), North Eastern Development Finance Corporation Ltd. (NEDFI) and Assam Gramin Vikash Bank (AGVB), from whom the Petitioner had taken loans from time to time and had executed various Deeds of Guarantee extending Personal Guarantee against the repayment of the loan facilities.
4. However, in the year 2013, all the Corporate Debtors defaulted in repayment of its dues to the financial creditors, the company (CD) suffered huge financial and operational losses across the group companies and which resulted in the proposed plan for merger

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

CP IB No. 29/GB/2022

of the five Brahmaputra group units into 3 units only, subjected to clearance from various lenders and stakeholders. But the proposal as well as restructuring was not accepted by the FCs which resulted in the complete closure of all operations of the Group Companies.

5. Thereafter, the Financial Creditors classified the Petitioner's credit facilities as Non-Performing Asset in 2014 and issued Sec. 13(2) notice under SARFAESI Act, 2002, despite several requests made by the Petitioner for restructuring existing dues considering the huge financial/operational losses and financial stress being faced by the Petitioner.
6. Finally, all fixed assets of the companies viz., land, buildings & civil work, furniture and fixture, plant & machinery as mentioned in the financial statements annexed with the petition, which are mortgaged/charged to bank have been sold out through a private treaty by State Bank of India to M/s Sagar Industrial Park under the provisions of SARFAESI Act, 2002 read with Security Interest (Enforcement) Rules, 2002.
7. The Petitioner submitted that notice along with the hard copy of the Petition were served upon the Respondents. However, despite giving numerous opportunities, there was no representation from the Respondent Nos. 1, 3, 4 and hence the Respondent Nos. 1, 3 and 4 set *ex parte*.
8. It is made known to everyone that on filing of this Application by the Petitioner/Guarantor, the interim-moratorium commences under section 96(1)(a) of IBC, 2016 in relation to all the debts of the personal guarantor and shall cease to have effect on the date of admission of this Application and during the interim-moratorium period the following is prohibited:
 - a) Any pending legal action or proceeding 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.

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

CP IB No. 29/GB/2022

- c) 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.
9. The Petitioner/Guarantor has proposed the name of **Mr. Ujwal Kumar Kalita** for appointment as Resolution Professional. Therefore, as proposed by the Petitioner/Guarantor, **Mr. Ujwal Kumar Kalita** [Email: ujwalkalita@gmail.com] having his address at House No. 15, Chandra Chowdhury Path, 1st By-lane, Bhetapara, Beltola, Guwahati-781028 having Reg. No. **IBBI/IPA-002/IP-N00952/2020-2021/13157**, is hereby appointed as Resolution Professional, in exercise of the powers conferred on this Adjudicating Authority under section 97 of the IBC, 2016 read with regulation 4(1) and (2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019. The resolution professional has filed the required declaration in Part IV of the Petition.
10. The Resolution Professional shall exercise all the powers as enumerated under section 99 of the IBC, 2016 r/w the Rules made thereunder. He is directed to make recommendations with reasons in writing for acceptance or rejection of this Application within stipulated time as envisaged under the provisions of section 99 of the IBC, 2016. The RP shall give a copy of the report under sub-section (7) of section 99 of IBC, 2016 to the Petitioner/Guarantor, as soon as the same is filed before this Adjudicating Authority.
11. The Petitioner and his Counsel are hereby directed to serve the copy of this Order along with copy of the Application and documents on the Resolution Professional by all modes for information and compliance.
12. For taking further course of action on the receipt of Resolution Professional report list the matter on 03.05.2024.

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

CP IB No. 29/GB/2022

13. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

14. Certified Copy of this order be issued, if applied for, upon compliance of all requisite formalities.

Sd/-

**Satya Ranjan Prasad
Member (Technical)**

Sd/-

**H.V. Subba Rao
Member (Judicial)**

Signed this on 12th day of April. 2024.