

NATIONAL COMPANY LAW TRIBUNAL
राष्ट्रीय कंपनी विधि अधिकरण
CUTTACK BENCH
कटक खंडपीठ

ORDER OF THE HEARING ON 15th APRIL, 2024, 10:30 A.M.

CP (IB) No. 10/CB/2024

Coram: 1. Hon'ble Member (Judicial), Shri P. Mohan Raj
2. Hon'ble Member (Technical), Shri Kaushalendra Kumar Singh

Name of the Company	Kotak Mahindra Bank Ltd. -Vs- Subash Agarwal
Under Section	95 (1) of IBC

Hearing through: VC and Physical (Hybrid) Mode

For Petitioner (s) Mr. Saradindu Jena, CS

For Respondent (s) Mr. Saswat K. Acharya, Adv.
Mr. Abhijeet Agarwal, Adv.
Mr. Subham Agarwal, Adv.
Mr. Jaish Joshi, Adv.

ORDER

This is an application filed by the Financial Creditor/Kotak Mahindra Bank Ltd. under Section 95 of the IBC, 2016 for initiation of the Insolvency Resolution Process against the personal guarantor/Mr. Subash Agarwal in the context of the debt taken by the Corporate Debtor/Principal Borrower "ARRS Infrastructure Projects Limited".

2. We have heard, Mr. Saradindu Jena, CS appearing for the applicant creditor i.e., Kotak Mahindra Bank Ltd. had filed an application under Section 7, IBC, 2016 against the ARSS Infrastructure Projects Ltd. being CP (IB) No. 266/KB/2019, which was dismissed *vide order* dated 6th December, 2021 as it had become infructuous for the reason that another similar application filed by the State Bank of India was admitted against the same corporate debtor *vide order* dated 30.11.2021 in CP (IB) No. 34/CB/2021. He submits that a statutory demand notice dated 06.01.2022 was issued to the personal guarantor. The same is replied by him as Annexed in Annexure-11 of the petition.

3. Having considered the submissions made by the learned counsel to initiate the Insolvency Resolution Process, we appoint the proposed Insolvency Resolution Professional, **Mr. Saradindu Jena**, having registration number **IBBI/IPA-002/IP-N00520/2017-18/11622**, and having office at - OU No. 510, 5th Floor, Esplanade One, 721, Rasulgarh, Bhubaneswar, Orissa, 751 010 having email: [ip. Jena2017@gmail.com](mailto:ip.Jena2017@gmail.com) as

Sd

Sd

the Resolution Professional under section 97 of the Insolvency & Bankruptcy Code ('Code') and direct him to examine the application and submit the report thereon as per Section 99 of the Code as to whether it would be as case for admission or rejection.

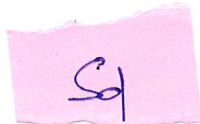
4. After filing this Application, the interim-moratorium commences under Section 96 of IBC, 2016, in relation to all debts of the personal guarantor and shall cease to have effect on the date of admission of this Application. During this interim-moratorium period any pending legal action or proceeding in respect of any debt of the personal guarantor shall be deemed to have been stayed and the creditors of the personal guarantor shall not initiate any legal action or proceedings.

6. The resolution professional shall exercise the powers as provided in Section 99 of IBC, 2016 and submit his reasoned report in writing for recommending the acceptance or rejection of the application within ten days into this Authority as provided under Section 99 of IBC, 2016. He is also directed to serve the copy of the report to the Applicant/Creditor as provided under Section 99 (10) of IBC, 2016. He also directed to serve copy of report to the respondent.

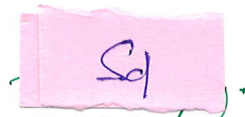
7. For taking further course of action on the receipt of Resolution professional's report list the matter on 18.06.2024.

8. The Registry is directed to send the copy of the order to the parties' concern forthwith and IBBI.

9. Certified copy of the order be issued on payment of fee if applied for, upon compliance of all requisite formalities.



Kaushalendra Kumar Singh
Member (Technical)



P. Mohan Raj
Member (Judicial)