

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**COURT - 2**

ITEM No.209  
**C.P. (IB)/114(AHM)2024**

**Proceedings under Section 95 IBC**

**IN THE MATTER OF:**

IDBI Bank Limited  
V/s  
Prashant Ruia

.....Applicant

.....Respondent

**Order delivered on: 16/04/2024**

**Coram:**

**Mrs. Chitra Hankare, Hon'ble Member(J)**  
**Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)**

**PRESENT:**

For the Applicant : Mr. Pundrikaksh Mitruka, Adv.  
For the Respondent : Mr. Saurabh Soparkar, Sr. Adv., Mr. Rashesh  
Sanjanwala, Sr. Adv., Mr. Keyur Gandhi, Adv. Mr.  
Raheel Patel, Adv. & Mr. Aalay Shah, Adv.

**ORDER**

This application was filed under Sec 95 of IBC 2016 against personal guarantor (respondent) on 16 Feb 2024, after scrutiny and clearance by the registry on 15 March 2024, was listed on 8 April 2024. The Ld. Counsel for applicant and Ld. Senior Counsel for respondent briefed on a proposal under consideration by top management of financial creditors and sought adjournment. They were directed to file a pursis stating the reasons, but was not filed. Today when the matter was listed, the Learned Sr Counsel for respondent filed a pursis and stated that since the matter of settlement of disputes is currently with the applicant bank, is still under consideration by the financial creditor/s, sought further adjournment and also prayed that no notices be issued at this stage or orders and sought adjournment any date in May 2024.

The Ld. Counsel for the applicant appeared on line was asked to argue the matter for admitting the petition. It was argued that the debt due from the corporate debtor was admitted in CIRP and a resolution plan was already approved and implemented. The Successful Resolution has already taken over the Corporate debtor. The applicant, one of the financial creditors they had filed this application against the two personal guarantors (Mr Prashant Ruia and Mr Ravikant Ruia) under Sec 95 of IBC 2016 through CP IB 114/2024 and CP IB 115/2024 on default amounting to be Rs.2192.87 crores and Rs.1397.08 crores respectively. The invocation of personal guarantee is stated to be 8 Feb 2018 and their claim before the RP of the

CORPORATE DEBTOR was admitted and settled as per the Plan. As per an assignment agreement dated 16.12.2019, the SRA was transferred the debt, while the personal guarantees stood excluded as per the plan. Hence they were liable to the applicant. The financial creditor also argued that this application was against the individual respondent/s invoking the guarantee executed by the respondents. Further from the documents and the arguments, it was stated that both the respondents in both the applications were situated in Mumbai as per the residential addresses in their record. Further one of the respondent they stated is abroad.

The Ld. Counsel also stated that one of the financial creditors had already moved the DRT Ahmedabad against these two personal guarantors for recovery under the Guarantee and on dismissal of same, they have approached the DRAT which is yet to pass further orders. It is also seen from the application that the applicant has sought intervention as a party in this matter in the case before the Tribunal.

After hearing the Ld. Counsel for applicant and the plea of the Ld. Sr Counsel respondent who has (who is still not admitted as a party in the matter by issue of notice), this tribunal was informed one of the financial creditors have proceeded against the same respondents (invocation of guarantee and recovery) before the DRT on 8 March 2019 and before DRAT on 9 April 2022. Both the respondents whose personal guarantees have been invoked and amount recalled are situated in Mumbai as per their residential address and the application preferred is both having an interest before the other recovery court and jurisdiction to admit this application has not been explained with proof. Also as admitted by both the applicant and respondent they are settling the matter amongst themselves. In view of the same it is observed that the applicant is trying to resort to alternate avenues after seeking intervention before DRAT, and is also in process of settlement offered by respondent. The pending recovery matter is stated to be pending adjudication in which the respondents are also a party including the applicant (intervened) with other financial creditors.

This application which is an action against the personal guarantor/s is not admitted for the above stated reasons without denying of the rights of the applicant or any financial creditor to proceed against the respondents who have executed a guarantee in their personal capacity, before appropriate forum and jurisdiction within the legal frame work for recovery for recovery of its dues on invocation of the guarantee.

The application is not admitted and disposed off.

-Sd-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-Sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**