

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.303
CP(IB) 319 of 2020

Order under Section 100 IBC

IN THE MATTER OF:

Bhushan Pankaj Valia
Personal Gaurantor to UIC Corporation Pvt Ltd & Ors

.....Applicant

.....Respondent

Order delivered on: 10/05/2024

Coram:

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

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

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

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CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

CP(IB) No. 319 / NCLT / AHM / 2020

[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 Debtors) Rules, 2019]

IN THE MATTER OF:

Mr. Bhushan Pankaj Valia

...Applicant

Versus

State Bank of India & Ors.

...Respondents

Order pronounced on 10.05.2024

Coram:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

MEMO OF PARTIES

Mr. Bhushan Pankaj Valia,

Residing at:

61-A, Varsha Coop Housing Soc. Ltd.
Gulmohar Cross Road JVPD Scheme
Vile Parle (West),
Mumbai – 400 049

...Applicant

1. **UIC Corporation Pvt. Ltd.**
Survey No. 285, Main Khanvel Kherdi Road
Village: Kherdi, Silvassa-396230
(U.T. Of Dadra & Nagar Haveli)
2. **VHCL Industries Ltd.**
Survey No. 285, Gala No. Ii
Main Khanvel Kherdi Road
Village: Kherdi, Silvasa - 396 230
U.T. Of Dadra & Nagar Haveli
3. **API Industries Pvt. Ltd.**
A/3, Rameshwar Complex
Ghogha Circle
Bhavnagar -364 002 (Gujarat)
4. **Hardik Industrial Corporation Pvt. Ltd.**
A/3, Rameshwar Complex
Ghogha Circle
Bhavnagar-364 002 (Gujarat)

...Corporate Debtors

Versus

1. **State Bank of India**
Sir P M Road Branch
Gresham House, Ground Floor
Sir P M Road, Fort
Mumbai-400001
2. **Union Bank of India**
Mumbai Samacher Marg Branch
65/80, Mumbai Samachar Marg
Mumbai-400023
3. **Central Bank of India**
Overseas Branch,
Ground Floor, Chandermukhi
Nariman Point
Mumbai-400021
4. **Bank of India**
Andheri Mid-Corporate Branch
Bank of India Building
1st Floor, 28, S.V. Road,
Andheri West
Mumbai-400058

...Financial Creditors

Present:

For the Applicant/ PG : None
For the SBI : Ms. M A Gogia, Adv.
Resolution Professional : Ms. Anjali Choksi

JUDGEMENT

1. The Present Application is filed under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC, 2016") r/w Rule 6 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for IRP for Personal Guarantors to Corporate Debtor) Rules, 2019.
2. In Part I of the application four Corporate Debtors are mentioned qua which the personal guarantee was given by the applicant. The applicant was a Director of the Corporate Debtors apart from being a guarantors in his personal and individual capacity for the credit facilities availed by the Corporate Debtors. In Part III four Financial Creditors are mentioned viz. 1. State Bank of India; 2. Union Bank of India; 3. Central Bank of India and 4. Bank of India. The date of default of payment is 2013-14.
3. On presentation of the application by the Applicant/ Personal Guarantor, this Authority vide order dated 15.11.2021 has appointed the Resolution Professional viz., Ms. Anjali Nirav Choksi having Registration No. IBBI/IPA-001/IP-P00820/2017-2018/11382 & directed RP to file report under

Section 99 of Insolvency and Bankruptcy Code, 2016, which has been filed by him on 10.12.2021 recommending the admission of the application filed u/s. 94 of IBC, 2016.

4. Respondent no.1 i.e., State Bank of India in his reply submitted that it is a secured creditor to the Corporate Debtors and initiated recovery proceedings under the SARFAESI Act, 2002 and secured assets are under their possession. It further submitted that it do not want to relinquish their security interest qua the secured assets and also do not want to liquidate the secured asset by the legal process either under the provisions of the IBC, 2016 and/or the SARFAESI Act, 2002.
5. Respondents no.2 to 4 neither filed any reply nor present during the course of proceeding.
6. We have heard the learned Counsel for applicant and respondent no.1 and perused the documents on record. We have also gone through the report dated 10.12.2021 filed by the RP.
7. Respondent no.1 i.e., State Bank of India has issued Demand Notice to the UIC Corporation Pvt. Ltd. as well as applicant/guarantor on 05.08.2014. The date of default is

shown as 28.07.2014. Thereafter, they have not initiated any proceedings against the guarantor under IBC. When the Demand Notice was issued in the 05.08.2014, the application is filed on 31.07.2020 is barred by limitation.

8. Respondent no.1 i.e., State Bank of India has issued Demand Notice to the VHCL Industries Ltd. as well as applicant/guarantor on 24.09.2014. The date of default is shown as 11.09.2014. Thereafter, they have not initiated any proceedings against the guarantor under IBC. When the Demand Notice was issued in the 11.09.2014, the application is filed on 31.07.2020 is barred by limitation.
9. Respondent no.1 i.e., State Bank of India has issued Demand Notice to the API Industries Pvt. Ltd.; Hardik Industrial Corporation Pvt. Ltd. as well as applicant/guarantor on 09.10.2014. The date of default is shown as 27.09.2014. Thereafter, they have not initiated any proceedings against the guarantor under IBC. When the Demand Notice was issued in the 09.10.2014, the application is filed on 31.07.2020 is barred by limitation.

10. Respondent no.2 i.e., Union Bank of India has issued Demand Notice to the UIC Corporation Pvt. Ltd. as well as applicant/guarantor on 17.10.2014. The date of default is shown as 30.09.2014. Thereafter, they have not initiated any proceedings against the guarantor under IBC. When the Demand Notice was issued in the 17.10.2014, the application is filed on 31.07.2020 is barred by limitation.
11. Respondent no.3 i.e., Central Bank of India has issued Demand Notice to the VHCL Industries Ltd. as well as applicant/guarantor on 10.07.2015. The date of default is shown as 30.04.2014. Thereafter, they have not initiated any proceedings against the guarantor under IBC. When the Demand Notice was issued in the 10.07.2015, the application is filed on 31.07.2020 is barred by limitation.
12. Respondent no.4 i.e., Bank of India has issued Demand Notice to the VHCL Industries Ltd. as well as applicant/guarantor on 23.02.2015. The date of default is shown as 01.12.2014. Thereafter, they have not initiated any proceedings against the guarantor under IBC. When the Demand Notice was issued in

the 23.02.2015, the application is filed on 31.07.2020 is barred by limitation.

13. Considering the date of default as well as date of demand notice by the respondent no.1 to 4, the application is filed after the limitation period. Hence, the application is barred by limitation.
14. In view of the above, we pass the following order:

ORDER

The CP(IB)319 of 2020 is rejected.

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

**CHITRA HANKARE
MEMBER (JUDICIAL)**