

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.214
C.P. (IB)/147(AHM)2024

Proceedings under Section 94 IBC

IN THE MATTER OF:

Deepti Panjak Chugh Through Resolution Professional CA**Applicant**
Nandish Sunilbhai Vin
V/s**Respondent**
The Punjab National Bank & Ors

Order delivered on: 01/05/2024

Coram:

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

PRESENT:

For the Applicant : Mr. Dhiren Dave, Adv.

ORDER

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. Respondent no. 2 i.e., State Bank of India has issued Demand Notice to the guarantor on 20.03.2017. The date of default is shown as 28.07.2016. Thereafter, they have not initiated any proceedings against the guarantor under IBC. While the Demand Notice was issued in the 20.03.2017, this application is filed on 19.03.2024, which is barred by limitation under Sec 238 A of IBC 2016. The applicant e-filed an additional affidavit on 29.04.2024 but failed to establish how the application is still within the period of limitation even though he has mentioned that he had initiated parallel proceedings before DRT on 6.5.2021 and has not enclosed any document as proof that the application is filed within the limitation period prescribed and hence no relief can be granted under Sec 14 of limitation Act. Even though the application is barred by limitation, the applicant who is the RP himself on behalf of personal guarantor has failed to establish the maintainability of this application.
3. Considering the date of default as well as date of demand notice by the applicant to respondents, the application is filed after the limitation period. Hence, the application is barred by limitation.
4. In view of the above CP(IB) 147 of 2024 is rejected.

-Sd-

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

-Sd-

CHITRA HANKARE
MEMBER (JUDICIAL)