

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
SPECIAL BENCH
COURT – 2

ITEM No.211
CP(IB)/273(AHM)2022

Proceedings under Section 95 IBC

IN THE MATTER OF:

State Bank of India

.....Applicant

V/s

Pusparajsinh Anopsinh Chudasma
(Personal Guarantor)

.....Respondent

Order delivered on: 05/02/2024

Coram:

Mr. Shammi Khan, Hon'ble'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble'ble Member(T)

PRESENT:

For the Applicant : Mr. Biju A Nair, Adv.

For the Respondent : Mr. Arjun Sheth, Adv.

ORDER

1. This application has been filed u/s 95 of IBC, 2016 by the creditor against the Personal Guarantor of Yogiraj Ginning and Oil Industries Private Limited.
2. From the records, it is seen that the Personal Guarantor has executed a deed of guarantee on 07.01.2012, 05.06.2014 and 24.03.2015. The amount of default is Rs. 24,41,53,898.12/- as on 30.09.2021 together with further interest at applicable rate, costs, dues, and expenses that may accrue after 30.09.2021.
3. An affidavit has been filed by the applicant that notice has been served on the personal guarantor.
4. The applicant issued demand notice under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for IRP for Personal Guarantor to Corporate Debtor) Rules, 2019 to the Personal Guarantor on 21.10.2021. The date of default is mentioned in the application is 24.12.2019.
5. All the defences raised by the creditor will be considered when the report is filed by the Resolution Professional and matter is taken up for admission / rejection u/s 100 of the IBC, 2016.

6. In this regard, the liquidation of the Corporate Debtor is allowed by this bench vide orders dated 6 June 2023 in IA no. 859/2022 (CP IB 130/2021). The IBBI has issued detailed instructions by press release dated 3 Feb 2024 modifying the procedure on appointment of RP in case of personal guarantors under IBBI (Insolvency Resolution Process for PG to Corporate Debtor) Regulations, 2019. Accordingly, we hereby appoint Ms. Vineeta Maheshwari having Registration No. IBBI/IPA-001/IP-P00185/2017-2018/10364, as the Resolution Professional in respect of Personal Guarantor (who is also the liquidator for the Corporate Debtor).
7. Resolution Professional is required to examine the application as set out in Section 97(6) of IBC, 2016 and file a report recommending for approval or rejection of the application within a period of 10 days in terms of Sec 99 of IBC 2016 by separate IA and serve a copy to the respondent.
8. Applicant to serve a copy of this application to the Resolution Professional for preparing report u/s 99 of IBC, 2016.
9. The application filed is admitted and disposed-off.

Sd/-

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

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)