

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

ITEM No.205
CP(IB)/162(AHM)2023

Proceedings under Section 94 IBC

IN THE MATTER OF:

Biharilal Jhabarmal Parsrampuriah
V/s
HDFC Bank Ltd.

.....Applicant

.....Respondent

Order delivered on: 05/02/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

PRESENT:

For the Applicant :Ms. Natasha Shah, Adv.

For HDFC Bank Ltd. :Ms. Hirva Dave, Adv.a.w.Mr. Jaimin Dave, Adv.

ORDER

Ld. Counsel for the applicant subsequently filed additional affidavit on 05.02.2024 being declaration in terms of Section 94(4) as well as Section 94(5) of the IBC. Further another purshis has been filed vide Inward Diary no. 909 being proof of delivery of the copy of the petition upon the Financial Creditor as well as Corporate Debtor.

Heard the Ld. Counsel for the applicant and counsel for the respondent-Financial Creditor.

1. It is observed from the application submitted that documents submitted initially on 04.10.2022. The affidavit is filed by the applicant on 17.07.2023. This application has been filed by the Personal Guarantor to the Corporate Debtor Suzuki Parsrampuriah Suitings Private Limited u/s 94 of IBC, 2016. An affidavit dated 04.02.2024 has been filed by applicant was to rectify and in compliance of Sec 94(4) and Sec 94(5) of IBC 2016 before any orders were passed. The date of default is mentioned in the application is 29.10.2017 and the amount of default is Rs.3,52,81,775.55/-. The stated Guarantee was recalled/invoked by the financial creditor (HDFC Bank) on 07.02.2018. It has been observed from the application that various actions under DRT, SARFESI Act and Criminal proceedings were initiated by the financial creditor. Vakalatnama was filed by the Ld. Counsel for Financial Creditor who also appeared.

2. It is observed from documents filed that the period from recall notice and date of filing this application before this Tribunal is barred by limitation under Sec 238A of the IBC and Limitation Act 1963(36 of 1963).
3. NCLAT Judgement in Amanjyot Singh vs. Navneet Kumar Jain, RP and Ors [Company Appeal (AT) (Insolvency) No. 961 of 2022 in IA-4356/2022 in (IB) 957(PB)/2020] [2023 SCC Online NCLAT 1621] squarely applies to the fact of present application.
4. It is observed that there have been various affidavits/rectifications made in the application pending clearance to meet compliance, if any, which is viewed seriously.
5. In view of the observations made this application is dismissed.

Sd/-

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

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)