

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.225
C.P. (IB)/134(AHM)2024

Proceedings under Section 95 IBC

IN THE MATTER OF:

Small Industries Development Bank of India
V/s
Surendra B.Jiwrajka

.....Applicant

.....Respondent

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. Ajay Kumar Pandey, Adv.

For the Respondent : Mr. Ankit Lohia, Adv. i/b Mr. Sandip Solanki, Adv.

ORDER

Heard the Ld. Counsel for the applicant and the Ld. Counsel respondent appeared and waive notice. He also filed a pursis objecting to the application. From the documents submitted, it is observed that the guarantor had executed a deed of guarantee on 29 January 2013 in favour of the applicant to secure a loan by M/s Alok Industries Limited who underwent CIRP process and is already resolved vide plan approved dated 8 March 2019. The applicant had invoked the Guarantee on 7 April 2016 and further issued a demand notice (Form B) on 26 September 2022 and filed this application on 13 March 2024.

From the submissions made by the respondent it is observed that certain DRT proceedings were initiated against the respondent personal guarantor by Omkar Assets Reconstructions and vide orders of DRT dated 14 September 2021, the DRT had appointed RP Mr Snehal A Kamdar and directed him to submit his report.

The applicant has failed to establish whether it has been filed within the period prescribed under limitation under Sec 238 A of IBC 2016 and from the facts submitted it does not fall under the period of limitation. Further the facts mentioned by the respondent have not been revealed by the applicant in his application.

In view of the above, the application filed is observed to be defective and default and has not revealed the whole facts of the matter while filing this application. The application filed is rejected for both reasons for not filed within the period prescribed under limitation (time barred) and has not presented the facts of the matter while filing this application.

-Sd-

-Sd-

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

CHITRA HANKARE
MEMBER (JUDICIAL)