

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 15

IVN.P 38/2024 In C.P. (IB)/306(MB)2022

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **03.06.2024**

NAME OF THE PARTIES: **KOMAL MANOJ BERIWAL**

Section 94(1) of the Insolvency & Bankruptcy Code, 2016

ORDER

IVN.P 38/2024 –

1. Ms. Prachi Wazalwar, Advocate appeared for the Intervenor.
2. Mr. Manoj Mishra, Advocate appeared for the Petitioner.
3. Learned Counsel for the Intervener place on record intervener application and seeks either to prosecute of the Intervention application or dismissal of Company Petition. However, this Bench feels that intervenor's objections can be considered by Resolution Professional and brought on record by appointing Resolution Professional for further consideration of this Bench before proceeding any further and interest of the Intervener shall be protected.
4. Resolution Professional so appointed in the Company Petition is directed to consider the objection of the Intervener.

5. Copy of the Intervener application shall be provided to the Personal Guarantor.

Company Petition –

1. Mr. Manoj Mishra, Advocate appeared for the Applicant.
2. The present Company Petition has been filed by **KOMAL MANOJ BERIWAL**, Personal Guarantor of the Corporate Debtor, **Shree Radhe Mataliks Pvt. Ltd.** under section 94 of the Insolvency and Bankruptcy Code, 2016 (“the Code”) read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 (“IBBI Rules”) seeking to initiate Insolvency Resolution Process against himself being the Personal Guarantor **Shree Radhe Mataliks Pvt. Ltd.**
3. It is submitted that **Shree Radhe Mataliks Pvt. Ltd.** (hereinafter referred to as the “Corporate Debtor”) is a company incorporated on 27.12.2010 registered under the provisions of the Companies Act, 1956 having its registered office at 512, Ashirwad Building, 64/E, Ahmedabad Street, Carnac Bunder, Masjid Bunder (East), Mumbai City MH 400 009. It is submitted that the Corporate Debtor is engaged in the business of wholesale product of stainless-steel items and steel products of various description.

4. It is submitted that the Applicant is the Personal guarantor and also the Director (since 01.04.2015) of Shree Radhe Metaliks Private Limited. It is further submitted that Personal Guarantee was given by the Applicant to the Malad Sahakari Bank Ltd. and Jana Seva Sahakari Bank (Borivali) Ltd. with respect to Shree Radhe Metalliks Pvt. Ltd.
5. The date and the amount of the default occurred by the Personal Guarantor is as follows-

Creditors Name	Date of Default	Debt Amount
The Malad Sahakari Bank Ltd.	31.12.2021	Rs. 2,30,93,244/-
Jana Seva Sahakari Bank Ltd.	31.12.2021	Rs. 76,29,443/-
DHFL	08.02.2016	Rs. 1,55,58,167/-
Manoj Beriwal	31.03.2020	Rs. 2,10,000/-
Har Shree Nath Multi Tade Pvt. Ltd.	30.09.2020	Rs. 31,35,200/-

6. It is submitted that the Company in which the Applicant has given Personal guarantee to Malad Sahakari Bank Ltd. and Jana Seva Sahakari Bank (Borivali) Ltd. has been admitted under CIRP through CP No. 292 of 2021 on 24.12.2021 in the matter of M/s. Ventura Metal and Alloys Vs. Shree Radhe Metaliks Private Limited. Therefore, Applicants position in the Company now is that of Suspended Director.
7. The Applicant is unable and incapable to pay any amount of debt, as such, left with no other remedy, the Applicant has approached this Bench.

8. The Company Petition for initiating Insolvency Resolution Process against Personal Guarantor of the Corporate Debtor is filed in the prescribed form as mandated under section 94(6) of the I & B Code.
9. Petitioner has given name of the Resolution Professional, hence we appoint Resolution Professional **Mr. Mukesh Kumar Jain** having registration number **IBBI/IPA-001/IP-P01236/2018-2019/11944**.
10. Having considered the submissions and upon perusing the above documents, this Bench is of the considered view that the present Company Petition is complete in all aspects as required by law and thus hereby appoints **Mr. Mukesh Kumar Jain** having registration number **IBBI/IPA-001/IP-P01236/2018-2019/11944**, to act as the Resolution Professional in the matter of **Mrs. Komal Manoj Beriwal**, as the name of the Insolvency Professional has been suggested by the Petitioner herein.
11. This Bench also directs for an advance payment to the tune of **Rs. 2,00,000/-** to be paid by the Petitioner herein to the Resolution Professional immediately to initiate the process which shall be adjusted towards fee and expenses payable to the Resolution Professional.
12. The Resolution Professional shall examine the Application within 10 days from the date of receipt of this order and submit its report to the Adjudicating Authority recommending for approval or rejection of the Application as referred under section 99(1) of the Code. The RP is also

directed to serve the copy of report on both the sides Financial Creditor as well as the Personal Guarantor and file proof of service of report.

13.The interim-moratorium under Section 96(1) (a) of the Insolvency and Bankruptcy Code, 2016 has commenced on the date of filing of this application by the Financial Creditor and will cease to have effect on the date of admission.

14.During such interim-moratorium period –

- i. any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and**
- ii. the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt.**

15.Registry is directed to communicate this order immediately to the Resolution Professional, **Mr. Mukesh Kumar Jain**, having address C-203, EDGE Commercial, Opposite Maruti Suzuki Arena, Vidhansabha Road, Mova Raipur – 492 007 and e-mail – Mkj2822@gmail.com.

16.Accordingly, stand over to **24.06.2024**, for submission of the report by **the Resolution Professional**.

Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-
JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)

Sapna