

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

Item No. 27

C.P. (IB)/201(MB)2024

CORAM:

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

ORDER SHEET OF THE HEARING ON 18.04.2024

NAME OF THE PARTIES: **ASHOK BHAGWANDAS JESWANI**

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

ORDER

1. Adv. S havez Mukri i/b A & G Legal Associates LLP appeared for the Applicant.
2. The present Company Petition has been filed by **ASHOK BHAGWANDAS JESWANI**, Personal Guarantor of the Corporate Debtor, **M/s. Pacific Infotech Private Limited** 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 of **M/s. Pacific Infotech Private Limited**.

3. It is submitted that M/s. Pacific Infotech Private Limited (hereinafter referred to as the “Corporate Debtor”) is a company incorporate on 30.07.1997 registered under the provisions of the Companies Act, 1956 having its registered officer at 1st floor, Plot no. 101, Usha Sadan, Bora Bazar Street, Mumbai 400 001. It is submitted that the Corporate Debtor is engaged in the business of trading in Computers and peripherals.
4. It is submitted that Corporate Debtor in the year 2014 availed a loan of Rs. 40 Crores from a consortium of Banks being State Bank of India, Standard Chartered Bank and Citi Bank. The Petitioner submits that a loan agreement / First Supplemental working Capital Consortium Agreement dated 15th February, 2013 was executed between State Bank of India, Standard Chartered Bank and Citi Bank (Consortium) and the Petitioner for the said amount. On 15th February, 2013, the Corporate Debtor furnished a joint deed of hypothecation for securing the loan of Rs. 40 Crores in favour of the consortium of banks comprising of State Bank of India, Standard Chartered Bank and Citi Bank.
5. On 6th March, 2013, M/s Pacific Infotech Private Limited of which the Petitioner was a promoter director furnished a corporate guarantee in favour of respondent no. 1 to 3. On 15th February, 2013, the Corporate Debtor furnished a first supplemental joint deed of hypothecation in favour of the consortium of banks comprising of Respondent no's 1,2 and 3. That, a First supplemental Working Capital Consortium Agreement dated 15th

February, 2013 was entered into by and between the Corporate Debtor and State Bank of India, Standard Chartered Bank, Citi Bank, for a total amount of fund based Rs. 40 Crores. On 9th December, 2012 and 21st January, 2014, a sanction letter was issued by State Bank of India. On 30th October, 2014, a sanction letter was issued by State Bank of India. On 28th April, 2015, a sanction letter was issued by State Bank of India. On March, 2013, the Petitioner herein furnished a personal guarantee in favour of the consortium of banks ranging from the respondents for the loans sanctioned. That, Standard Chartered Bank has transferred the Debt to the Asset Reconstruction Company (India) Ltd. by Assignment Agreement bearing effective date 13th December, 2019.

6. On 19th October, 2020 the State Bank of India issued an OTS letter to the Petitioner / Guarantor for settlement of the amount and meeting was held between SBI and the Petitioner due to certain difficulties in repayment of the and facilities granted by the respondents, the respondent also issued notices under section 13(2) of the SARFAESI Act and suitable actions have been initiated against the Corporate Debtor and the Petitioner. The Respondents have also invoked the Guarantee vide Notice of Invocation of Guarantee Dated 28.06.2017 against the Petitioner.
7. It is submitted that OTS letter dated 18.07.2023 was sent by the Corporate Debtor to the Consortium Bank and the same has been rejected by the bank

vide its Letter dated 21.07.2023. However, the repayments have not been made by the Petitioner till date.

8. Hence, Applicant is unable and incapable to pay any amount of debt, as such, left with no other remedy, the Applicant has approached this Bench.
9. 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.
10. Petitioner has given name of the Resolution Professional, hence we appoint Resolution Professional **Mr. Jeetendra Rajpal Daryani** having registration number **IBBI/IPA-001/IP-P00678/2017-2018/11146**.
11. 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. Jeetendra Rajpal Daryani** having registration number **IBBI/IPA-001/IP-P00678/2017-2018/11146**, to act as the Resolution Professional in the matter of **ASHOK BHAGWANDAS JESWANI**, as the name of the Insolvency Professional has been suggested by the Petitioner herein.
12. 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.

13. 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.

14. 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.

15. 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.**

16. Registry is directed to communicate this order immediately to the Resolution Professional, **Mr. Jeetendra Rajpal Daryani**, having address B-504, Atlantis, Hiranandani Gardens, Main Street, Powai, Mumbai, Maharashtra – 400 076 and e-mail – nikhil564@yahoo.com.

17. Accordingly, stand over to **15.05.2024**, for submission of the report by the Resolution Professional.

Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-
JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)

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