

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT III

1. C.P. (IB)-207(MB)/2024

CORAM: MS. LAKSHMI GURUNG, MEMBER (J)
SH. CHARANJEET SINGH GULATI, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **01.04.2024**

NAME OF THE PARTIES: Mr. Satish Krishnakant Mohole

Appearances:

For Petitioner : Adv. Manoj Mishra

SECTION 94(1) OF IBC, 2016

ORDER

Hearing Through: Virtually and Physical (Hybrid) Mode

1. This Petition has been filed by **Mr. Satish Krishnakant Mohole** (“**Petitioner/ Personal Guarantor**”) under section **94(1)** 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. Swastish Enterprises Limited for an amount of **Rs. 30,61,08,497.10**.
2. The Petitioner submits that M/s. Swastish Enterprises Limited was formerly a proprietorship by the name M/s. Swati Enterprises and subsequently, its constitution was changed to a private limited company and thereafter, into a limited company by the name M/s. Swastish

Enterprises Limited ("Corporate Debtor"). The Petitioner is a director of the Corporate Debtor.

3. The Corporate Debtor had approached Abhyudaya Co - operative Bank Limited ("Financial Creditor") for certain credit facilities. The Financial Creditor had sanctioned the following credit facilities vide Sanction Letter dated 04.07.2018 bearing Ref. No.: HO/CD/141/2018-19;
 - 1) Cash Credit Limit (New): Rs. 12,50,00,000/-
 - 2) Letter of Credit (Local) Interchangeable with Bank Guarantee Limit (New) Rs. 20,00,00,000/-
4. The Petitioner had given his personal guarantee vide Deed of Guarantee dated 20.07.2018 for the Cash Credit limit of Rs. 12.50 Crores and for the Letter of Credit interchangeable with Bank Guarantee limit of Rs. 20 Crores. Subsequently, the Petitioner also gave his guarantee for temporary overdraft facility of Rs. 50,00,000/- vide Deed of Guarantee dated 18.04.2019.
5. The Petitioner submits that Corporate Debtor's business ran in bad weather, in view of which the Account of the Corporate Debtor became irregular and was declared as Non-Performing Assets (NPA) on 29.09.2019 by the Financial Creditor.
6. The Financial Creditor served a Demand Notice dated 19.05.2020 u/s 13(2) of the SARFAESI Act, 2002 demanding a total outstanding amount of Rs. 23,43,72,036.57 and by virtual of the said Demand Notice, the Financial Creditor invoked the Personal Guarantee given by the Petitioner.
7. Subsequently, the Financial Creditor has issued a Legal Notice dated 17.07.2021 demanding Rs. 30,61,08,497.10.

8. The instant Petition for initiating Insolvency Resolution Process against Personal Guarantor is filed in the prescribed form and manner as mandated under section 94(6) of the I&B Code.
9. The Petition has the list of assets and liabilities to the petition.
10. In view of the above facts and considering the written consent given by proposed RP in Form A dated 19.03.2024, we appoint **Mr. Rajesh Ramesh Kamath** (iprrkamath@gmail.com), Registration No. **IBBI/IPA-001/IP-P-01606/2019-2020/12481** as the **Resolution Professional (RP)** in the matter. The fee payable to RP shall be in accordance with the Insolvency and Bankruptcy Board of India (IBBI) Regulations/ Circulars/ Directions issued in this regard.
11. The Petitioner is directed to serve copy of the Petition and the Order on the Resolution Professional forthwith.
12. The Registry is also directed to send a copy of this order to the Resolution Professional and IBBI for their information & record.
13. The Resolution Professional is directed to examine the application and submit its report in accordance with Section 99 of the Code **within 10 days** from uploading of this order.
14. List the matter for report of the Resolution Professional on **10.05.2024**.

Sd/-

CHARANJEET SINGH GULATI
Member (Technical)
---Rajeev---

Sd/-

LAKSHMI GURUNG
Member (Judicial)