

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

Item No. 27

C.P. (IB)/1194(MB)2023

CORAM:

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

ORDER SHEET OF THE HEARING ON **16.04.2024**

NAME OF THE PARTIES: **THE BANK OF MAHARASHTRA LIMITED**
 V/s ARVINDKUMAR POONAMCHAND
 AGARWAL

Section 95(1) of the Insolvency and Bankruptcy Code, 2016

ORDER

C.P. (IB)/1194(MB)2023

- 1) Mr. Paresh Chandiramani, Ld. Counsel for the Petitioner is present. None present for the Respondent/Personal Guarantor, when the matter is called out.
- 2) The above Company Petition is filed by **The Bank of Maharashtra Limited**, for initiation of Corporate Insolvency Resolution Process against **Arvindkumar Poonamchand Agarwal**, who is the Personal Guarantor of the Corporate Debtor, **PVN Fabrics Private Limited**.
- 3) Learned counsel appearing for the Petitioner invited the attention of this Bench to the **Guarantee for all facilities except Agricultural Facilities dt.**

06.04.2015, executed by the Respondent herein in favour of the Creditor.

- 4) Ld. Counsel for the Petitioner also invited the attention to the Demand Notice dt. 02.12.2022, sent to the Respondent for invoking Personal Guarantee, in respect of unpaid debt owed to PVN Fabrics Private Limited, against the Respondent/Personal Guarantor.**
- 5) Petitioner submits that M/s PVN Fabrics Private Limited and the Personal Guarantor had availed the loan of Rs. 79,87,00,000/- in form of various loan facilities in the year 2014. In accordance with the Guarantee for all services except Agricultural Facilities dt. 06.04.2015, the Personal Guarantor provided his Personal Guarantee wherein he undertook to repay the Applicant, on failure, of M/s PVN Fabrics Private Limited to do the same.**
- 6) It is further submitted that the loan account of the Corporate Debtor was declared NPA on 31.12.2016. It is also submitted that Rs. 75,67,12,788.17 as on 10.10.2023 is due from M/s PVN Fabrics Private Limited.**
- 7) Petitioner also submits that Mr. Gaurang Chhotalal Shah has given his written consent in Form A to act as Resolution Professional, in the matter of Arvindkumar Poonamchand Agarwal.**
- 8) 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. Gaurang Chhotalal Shah, having Insolvency Registration No. IBBI/IPA-**

002/IP-N00947/2019-2020/13002, to act as the Resolution Professional in the matter of **Arvindkumar Poonamchand Agarwal**, as the name of the Insolvency Professional has been suggested by the Petitioner herein.

- 9) This Bench also directs for an advance payment to the tune of **Rs. 2,00,000/-** to be paid by the Financial Creditor to the Resolution Professional immediately to initiate the process which shall be adjusted towards fee and expenses payable to the Resolution Professional.
- 10) The Resolution Professional shall examine the Application within 10 days from the date of his appointment 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.
- 11) 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.
- 12) 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.**

- 13) Registry is directed to communicate this order immediately to the Resolution Professional, **Mr. Gaurang Chhotalal Shah**, having address Flat 204, A Wing, Raj Vaibhav 1 CHS, Mahavir Nagar, Kandivali West, Mumbai – 400 067.
- 14) Accordingly, stand over to **17.05.2024, for submission of the report by the Resolution Professional.**

Sd/-

**PRABHAT KUMAR
MEMBER (TECHNICAL)**

Sd/-

**JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)**

Vedant Kedare