

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

CP (IBC)/29/KOB/2024

&

CP (IBC)/30/KOB/2024

(Under Section 95(1) of the IBC, 2016 read with Rule 7(2) of IBBI (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019)

In the matter of:

State Bank of India V/s Ms. Jinsa Nizam

MEMO OF PARTIES:

**STATE BANK OF INDIA, STRESSED ASSETS
MANAGEMENT BRANCH**

No.1112, Raja Plaza, First Floor, Avinashi Road,
Coimbatore – 641 037.

... Applicant/Creditor

-Vs-

JINSA NIZAM,

Thoppil Veedu, Tholikuzhy, Adayamon P.O,
Thiruvananthapuram - 6956 14

... Respondent/Personal Guarantor

In the matter of

State Bank of India V/s Mr. Renjith Joseph

MEMO OF PARTIES:

**STATE BANK OF INDIA, STRESSED ASSETS
MANAGEMENT BRANCH**

No.1112, Raja Plaza, First Floor, Avinashi Road,
Coimbatore – 641 037.

... Applicant/Creditor

-Vs-

MR. RENJITH JOSEPH,

Divya House, Puliyam, Tholikuzhy, Adayamon
P.O, Pazhayakunnumel, Thiruvananthapuram
695614

... Respondent/Personal Guarantor

Order delivered on: 08.07.2024

Coram:

Hon'ble Member (Judicial) : TMT. Justice (Retd.) T Krishna Valli

Hon'ble Member (Technical) : Shri. Ravichandran Ramasamy

Appearances:

For the Applicant : Mr. Vinod P V, Advocate

ORDER

Per Coram

1. These Company Petitions are filed by the Financial Creditor, State Bank of India, Stressed Assets Management Branch under Section 95 IBC read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, to initiate the insolvency resolution process in respect of Ms. Jinsa Nizam and Mr. Renjith Joseph, Personal Guarantors to M/s. Thoppil Contractors (India) Private Limited, the Corporate Debtor for default of a debt amounting to Rs. 34,21,01,762.26/- .
2. Applicant has produced following documents in support of the applications:

- i. **Annexure 4** - Loan Agreement with Corporate Debtor dated 03.10.2013.
 - ii. **Annexure 19, 21, 30, 34 & 37** - Deed of Guarantees.
3. The creditor served a demand notice on the guarantors in Form B as required under section 95(4)(b) of the Code read with Rule 7(1) of the Rules on 28.02.2024.
4. The applicant served a copy of the application to the personal guarantors as well as to the Corporate Debtor on 21.06.2024.
5. The amount of default is greater than the minimum threshold of Rs. 1000/-. The date of default is 14.02.2023 as stated in Part III of the Application. The application filed on 22.06.2024 falls within the prescribed limitation period.
6. The Applicant proposes Insolvency Professional, Mr. P.D. Vincent (IBBI/IPA-002/IP-N00521/2017-2018/11638), 1st Floor, 65/2364A, Ponoth Road, Kaloor ,Ernakulam, Kerala ,682017, [email-vincent@svjs.in](mailto:vincent@svjs.in) as the Resolution professional. The Insolvency Professional has submitted his authorisation for assignment and his certificate of registration from the Insolvency and Bankruptcy Board of India along with the application and declared his eligibility to act as the RP in Part IV of the application.
7. In view of the aforesaid, and the submissions of learned counsel for the applicant, there appears to be a prima facie debt and default under Part III of the Code, hence we hereby **allow** these applications with the following directions: -

- I. The interim moratorium under Section 96 of the Code stands commenced on the date of filing of the application by the Creditor in relation to all the debts and will cease to have an effect on the date of admission. During such an interim moratorium period-
 - a. any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and
 - b. the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt.
- II. **Mr. P.D. Vincent (IBBI/IPA-002/IP-N00521/2017-2018/11638), 1st Floor, 65/2364A, Ponoth Road, Kaloor, Ernakulam, Kerala, 682017, e-mail Id- vincent@svjs.in**, is appointed as the Resolution Professional under section 97 of the Code to carry out the insolvency resolution process of **Ms. Jinsa Nizam** and **Mr. Renjith Joseph**. The fee payable to the Resolution Professional shall be in accordance with the Insolvency and Bankruptcy Board of India Regulations/ Circulars/ Directions issued in this regard.
- III. This Tribunal also directs an advance payment of **Rs.3,00,000/- (Rupees Three Lakhs only)** to be paid by the applicant/Creditor to the Resolution Professional immediately to initiate the process which shall be adjusted towards the fee and expenses payable to the Resolution Professional.

- IV. The Resolution Professional shall examine the application filed under section 95 within 10 days of appointment and submit a report to this Tribunal recommending approval or rejection of the application along with reasons for the recommendation.
- V. The Resolution Professional shall exercise all the powers as enumerated under Section 99 of the Code read with Rules made thereunder. The resolution professional shall provide a copy of the report under sub-section 7 of section 99 to the Creditor as soon as the same is filed before this Adjudicating Authority.
- VI. The Resolution Professional for the purposes of examining an application may seek such further information or explanation in connection with the application under section 99(4) as may be required from the debtor or the creditor or any other person who, in the opinion of the resolution professional, may provide such information. The persons from whom information or explanation is sought shall furnish such information or explanation within seven days of receipt of the request.
- VII. The Registry is hereby directed to send e-mail copies of the order forthwith to the creditor, personal guarantors, corporate debtor and the Resolution Professional. The Registry shall place a compliance report of this direction in this file.

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8. List the company petitions along with the report of the RP u/s 99 IBC for further consideration on **24.07.2024**.

Sd/-

RAVICHANDRAN RAMASAMY
(MEMBER TECHNICAL)

Sd/-

T KRISHNA VALLI
(MEMBER JUDICIAL)

Signed on this the 08th day of July, 2024.

Rohit/LRA