

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **26.04.2024** THROUGH VIDEO CONFERENCE

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Application No : -
Petition No : CP(IB)/27(CHE)/2022
Name of Petitioner :
& M Shanmugam
Name of Respondent :
Section : Sec 94(1) of IBC, 2016

ORDER

Present: Mr. A.S.Sathish Kumar, Ld. PCS for Petitioner.

Vide separate order announced in open court, Mr. Madhu Desikan is appointed as IRP who is directed to examine the application and file his report..

List the petition for report / hearing on **10.06.2024**.

-sd-

**[VENKATARAMAN SUBRAMANIAM]
MEMBER (TECHNICAL)**

MS

-sd-

**[SANJIV JAIN]
MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

CP(IB)/27/(CHE)/2024

(Filed under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 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)

Mr. M Shanmugam

Flat No.108, B Block, ETA Verde,

No 6 Arcot Road, Porur.

Chennai, TN-600116

.....Applicant/Guarantor

Order pronounced on 26th April, 2024

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)

VENKATARAMAN SUBRAMANIAN, MEMBER (TECHNICAL)

Present: *For Petitioner: A S Sathish Kumar, PCS*

ORDER

(Hearing Conducted through Video Conferencing)

This Application has been filed under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 ('Code'/ 'IBC') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 ('Rules') by the Applicant/ Personal Guarantor **Mr. M Shanmugam**. The prayer made is to initiate the Insolvency Resolution Process in respect of **Mr. M Shanmugam**, being

the Personal Guarantor for **M/s. Ommeena Pharma Distributors Private Limited.**

2. As per the averments made in the application, **M/s. Ommeena Pharma Distributors Private Limited** had taken credit facilities from the **TamilNadu Mercantile Bank Limited/Financial Creditor.** The Applicant herein had given personal guarantee to the said loan. The Corporate Debtor failed to repay the debt and in pursuance of which the present application has been filed.

3. In Part-III of the application, the Applicant has given the particulars of debt as Rs.8,30,59,218/- (Rupees Eight Crore Thirty Lakhs Fifty Nine Thousand Two Hundred and Eighteen Only), amount of default as Rs.8,30,59,218/- (Rupees Eight Crore Thirty Lakhs Fifty Nine Thousand Two Hundred and Eighteen Only) and date of default as 30.12.2023. The Applicant has placed Copy of Demand Notice dated 12.01.2024 issued by Indian Bank U/s 13(2) of the SARFAESI Act, 2002. The document is placed at **Page 16-19.**

4. As per Rule 6(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019, the Guarantor

has served a copy of this application to every Financial Creditor and the Corporate Debtor for whom the guarantor is a personal guarantor. It is seen that the Guarantor has annexed proof of service to the creditors and Corporate Debtor. The same is placed at **Page 36** of this Application.

5. We have heard Learned Authorized Representative for the Applicant.

6. Section 94 of IBC provides that a debtor may apply either by himself, or jointly with Partners, or through a Resolution Professional to the Adjudicating Authority for initiating an Insolvency Resolution Process under the Section by submitting an application.

7. Considering the above facts and the case supra, we appoint the Resolution Professional who will collate all the facts relevant to the examination of the application for the commencement of the Insolvency Resolution Process in respect of the Personal Guarantor.

8. In the instant case, the Applicant has proposed the name of the Resolution Professional as **Mr. Madhu Desikan**. We therefore, upon verification of disciplinary status with the IBBI portal, appoint **Mr. Madhu Desikan** with *Reg. No. IBBI/IPA-001/IP-P00579/2017-*

2018/11021 (email id:- Desikan.madhu@gmail.com), (Mobile: 9600083355) as Interim Resolution Professional in respect of the Personal Guarantor.

9. The Resolution Professional is directed to examine the application as set out in Section 97(6) of IBC, 2016 who after examining, may recommend for the acceptance/rejection of the application as provided under Section 97(6) of IBC, 2016, **within a period of 10 days** as contemplated under Section 99(1) of IBC, 2016.

10. The Applicant is directed to serve copy of the application and the order on the Interim Resolution Professional.

11. List this application for report / hearing on **10.06.2024**

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

Kishore P