

**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)/129/CHE/2023
Name of Petitioner : P Rajamani
&
Name of Respondent : -Vs-
Indian Overseas Bank
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)/129/(CHE)/2023

*(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)*

Mrs. P Rajamani

9/6, Thillai Nagar, Near IOB

Erode 638 001

.....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 **Mrs. P Rajamani**. The prayer made is to initiate the Insolvency Resolution Process in respect of **Mrs. P Rajamani**, being the Personal Guarantor for **M/s. KMP Spinners Private Limited**.

2. As per the averments made in the application, **M/s. KMP Spinners Private Limited** had taken credit facilities from the **Indian Overseas Bank and Aditya Birla Finance Ltd (Financial Creditors)**.

The Applicant herein had given personal guarantee to the said loans. The Corporate Debtor failed to repay the debts 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 against Indian Overseas Bank as Rs. 24,31,81,344 (Rupees Twenty Four Crores Thirty One Lakhs Eighty One Thousand Three Hundred And Fourty Four), amount of default as Rs. 24,31,81,344 (Rupees Twenty Four Crores Thirty One Lakhs Eighty One Thousand Three Hundred And Fourty Four) and date of default as 30.06.2019. Further, particulars of debt against Aditya Birla Capital Limited as Rs.6,94,34,457/- (Rupees Six Crores Ninety Four Lakhs Thirty Four Thousand Four Hundred And Fifty Seven), amount of default as Rs.6,94,34,457/- (Rupees Six Crores Ninety Four Lakhs Thirty Four Thousand Four Hundred And Fifty Seven) and default as 28.08.2019). The Applicant has placed the following documents, i) Copy of Sale Notice dated 11.05.2023 issued by Indian Overseas bank U/s

13(2) of the SARFAESI Act, 2002. The document is placed at **Page 16-25**;

ii) Copy of Demand Notice dated 04.09.2019 issued by Aditya Birla Capital Limited u/s 13(2) of the SARFAESI Act, 2002. The Document is placed at **Pages 26-29**.

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 Creditors 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 47** 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