

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SPECIAL BENCH – II, CHENNAI**

CP (IB)/138/ 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. S. Kannaiah Reddy,

4-2198/1, Chennai-Bangalore Bye Pass Road,
Iruvaram Post, Opp. Police Training Centre,
VTC, Jangalapalle PO, Iruvaram (Dist.)
Chittoor, Andhra Pradesh - 517 128.

... *Petitioner & Guarantor*

Order Pronounced on 9th July 2024

CORAM

Shri SANJIV JAIN, MEMBER (JUDICIAL)

Shri VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Present:

For Petitioner: A. S. SathishKumar, PCS

ORDER

(Hearing Conducted through Video Conferencing)

1. This Petition has been filed under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as '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 (hereinafter referred to as 'Rules') by the Petitioner/ Personal Guarantor "**Mr. S. Kannaiah Reddy**".

2. The prayer has been made to initiate the Insolvency Resolution Process in respect of "Mr. S. Kannaiah Reddy", being the Personal Guarantor for **M/s. Shruthi Milk Products Private Limited. ('Corporate Debtor')**).

3. As per the averments made in the Petition, **M/s. Shruthi Milk Products Private Limited** had taken credit facilities from **State Bank of India, Stressed Assets Management Branch, Egmore, Chennai - 600 008**. The Petitioner herein had given personal guarantee to the said loan. In this matter, the Corporate Debtor to whom the Petitioner had given Personal Guarantee failed to repay the debt and in pursuance of which the present Petition has been filed.

4. The Petitioner has given the particulars of debt in Part-III of the Petition. It has given the particulars of debt including interest as Rs.30,41,67,277/- (Rupees Thirty Crores Forty One Lakhs Sixty Seven Thousand Two Hundred and Seventy Seven only) and amount of default as Rs.30,41,67,277/- (Rupees Thirty Crores Forty One Lakhs Sixty Seven Thousand Two Hundred and Seventy Seven only). The date of default is stated as 28.05.2023 as the loan amount (debt amount) was not paid.

5. The Petitioner has placed Copy of Demand Notice dated 12.06.2023 issued by State Bank of India, U/s 13(2) of the SARFAESI Act, 2002, and same is placed as **Annexure 1(i) at Page 19 to 27**. The Petitioner has also filed the statement of affairs as on 15.06.2024 as **Annexure 10 at Page 55**.

6. 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, it is stated that the Personal Guarantor has served a copy of this Petition to the Financial Creditor and the Corporate Debtor for whom the guarantor is a Personal Guarantor. The proof of service to the creditors and Corporate Debtor is annexed as **Annexure 14 at Page 62** of the Application Typeset.

7. We have heard Learned Authorized Representative for the Petitioner and perused the record.

8. 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/Petition.

9. In this matter, the Personal Guarantor has himself moved the Petition for initiation of Insolvency Resolution Process.

10. Considering the above facts, we are of the opinion that a Resolution Professional to be appointed who will collate all the facts related to the examination of the Petition for the commencement of Insolvency Process in respect of the Personal Guarantor/Petitioner.

11. In the instant case, the Petitioner has proposed the name of the Resolution Professional, *Mr.Madhu Desikan*. However, this Tribunal based on the latest list furnished by Insolvency and Bankruptcy Board of India applicable for the period between the months of July 2024 – December 2024 appoints *Mr. Manohar M* with *Reg. No: IBBI/IPA-001/IP-P-02402/2022-2023/14268*, (*Email Id: camanoharm@gmail.com*) as Resolution Professional in respect of the Personal Guarantor.

12. We have also verified the AFA status of the appointed Resolution Professional. Further there is no disciplinary action against him and the AFA Status with IBBI is also valid.

13. The Applicant is directed to pay a sum of **Rs.25,000/-** (*Rupees Twenty Five Thousand Only*) to the Interim Resolution Professional to meet out the expenses to perform the functions assigned to him.

14. The Resolution Professional is directed to examine the Petition as set out in Section 97(6) of IBC, 2016 and 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.

15. The Petitioner is directed to serve the copy of the Petition and the order on the appointed Resolution Professional.

16. List this Petition for report / hearing on **13.08.2024**.

-Sd/-
VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd/-
SANJIV JAIN
MEMBER (JUDICIAL)