

S.No.4

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
VC AND PHYSICAL (HYBRID) MODE  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
02-07-2024 AT 10:30 AM**

**CP (IB) No. 193/95/HDB/2023**

u/s. 95 of IBC, 2016

**IN THE MATTER OF:**

Bank of Baroda

...Petitioner

**AND**

Mr. P Venkateswara Rao and  
M/s. Kanakadhara Ventures Private Limited

...Respondent

**C O R A M:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)  
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

Learned Counsel Ms Aishwarya, for Financial Creditor present physically.  
Mr Zitendra Rao, Resolution Professional present physically.  
Learned Counsel Mr Abhinav Hansaraman, for Personal Guarantor present through Video Conference.  
Orders pronounced. In the result, the Company Petition vide CP (IB) No. 193/95/HDB/2023 filed under the provisions of Section 95 of Code, 2016 is hereby admitted in terms of Section 100 of the Code, 2016 against Shri. P.Venkateswara Rao, the Personal Guarantor.

**Sd/-**

**MEMBER (T)**

**Sd/-**

**MEMBER (J)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – I**

**CP (IB) No.193/95/HDB/2023**

*(Under Section 95 read with Section 60(2) of the Insolvency and Bankruptcy Code,  
2016 read with Insolvency and Bankruptcy (Application to the Adjudicating Authority  
for Insolvency Resolution Process for Personal Guarantors to the Corporate Debtors)  
Rules, 2019.*

**In the matter of Sri. P.Venkateswara Rao, (Personal Guarantor to the  
Corporate Debtor – M/s.Kanakadhara Ventures Private Limited)**

**Between:**

Bank of Baroda,  
# Baroda House, Mandvi, Vadodara – 390 006,  
Gujarat and A branch inter alia called  
Stressed Assets Management Branch at  
4<sup>th</sup> floor, JBAS Building, No.45, Moore Street,  
Chennai – 600 001,  
Represented by L.Ganesan, Asst. General Manager.

**... Applicant/Financial Creditor**

**A N D**

1. Sri. P.Venkateswara Rao  
Aged about 61 years, Flat No.402,  
6-2-10, Temple View Residency  
Lakdi Ka Paul, Hyderabad – 500 004,  
Telangana.

**... Respondent No.1/ Personal Guarantor**

2. M/s.Kanakadhara Ventures Private Limited (In Liquidation)  
CIN No. U70102TG2005PTC047611956,  
Office at H.No.8-3-1114/1, Keshav Nagar,  
Srinagar Colony, Hyderabad – 500073,  
Represented by its Liquidator.

**... Respondent No.2/ Corporate Debtor**

Date of Order: 02.07.2024

**DATE OF ORDER: 02.07.2024**

**CORAM:**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA,  
HON'BLE MEMBER (JUDICIAL)  
SHRI. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**Appearance: -**

For the Petitioner : Mr. VVSN Raju, Counsel.

For the Respondent No.1/PG : Mr.Abhinav Hansaraman, Counsel.

Resolution Professional : Mr.Dendukuri Zitendra Rao, RP

**PER: BENCH**

1. This instant petition is filed by the Financial Creditor/Bank of Baroda under Section 95 read with Section 60(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 (hereinafter referred to as "Personal Guarantors Insolvency Rules, 2019), seeking an order for initiation of the Insolvency Resolution Process ("IR Process") against Sri. P.Venkateswara Rao, who is the Personal Guarantor of M/s.Kanakadhara Ventures Private Limited (hereinafter referred to as "Corporate Debtor").

Date of Order: 02.07.2024

2. **The averments of the Petition in brief as follows:**

2.1 It is averred that the Financial Creditor herein i.e., Bank of Baroda on request of the Corporate Debtor, had sanctioned fund based and non-fund-based credit facilities amounting to INR 27,00,00,000/- (Rupees Twenty-Seven Crore Only) vide its sanction letter, SME: HYD:3/2009 dated 23.09.2009 subject to the terms and conditions contained therein under a consortium arrangement led by Punjab National Bank. A copy of the sanction letter is attached herewith as **Annexure-4**.

2.2 It is stated that, subsequent to the issue of said sanction letter, the Consortium of Bankers lead by Punjab National Bank including the Petitioner Bank herein had entered into Working Capital Consortium Agreement on 29.09.2009 for an amount of Rs.60,00,00,000/- with the Petitioner Bank's share of Rs.27,00,00,000/- (Rupees Twenty- Seven Crores Only). A Copy of the Working Capital Consortium Agreement dated 29.09.2009 is attached herewith as **Annexure-5**.

2.3 It is further stated that thereafter the limits were enhanced to Rs. 188,00,00,000/- (Rupees One Hundred and Eighty-Eight Crores Only) through a Board Resolution passed by the Management of the Corporate Debtor. A copy of the Board Resolution dated 27.07.2009 is attached herewith as **Annexure-6** with induction new consortium banks Andhra Bank and IDBI Bank with execution of a Working Capital Consortium Agreement dated 03.11.2011 with the Corporate Debtor for sanctioning of working capital credit facilities of which the financial

**Date of Order: 02.07.2024**

creditor herein had sanctioned Rs. 27,00,00,000/- (Rupees Twenty-Seven Crores Only). A copy of the Working Capital Consortium Agreement dated 03.12.2011 is attached herewith as **Annexure-7**. The CD also executed a Deed of Hypothecation dated 03.12.2011 in favor of the consortium bankers creating in their favor, first charge over all its current assets. A copy of the Deed of Hypothecation dated 03.11.2011 is attached herewith as **Annexure-8**.

2.4 It is averred that the Personal Guarantors for the Corporate Debtor including Respondent No.1 executed Deeds of Guarantee on 03.12.2011, 30.12.2014, 25.02.2015 under which he undertook that he was jointly and severally liable along with the Borrower and agreed with the Petitioner Bank to pay and discharge on demand of all amounts due and payable to the Petitioner Bank by the Corporate Debtor at any time and also of all bills, promissory notes or guarantees held by the Bank bearing the Principals signature in respect of the said facilities together with interest, banking and other charges that the Bank may in course of its business charge against the principal together with all relative cost and expenses provided nevertheless that our liability under this guarantee shall not exceed in the whole the sum of Rs. 188,00,00,000/- apart from and in addition to all interest, banking law and other charges, costs and expenses. A copy of the Deeds of Guarantee dated 03.12.2011, 30.12.2014 and 25.02.2015 are attached herewith as **Annexure-9, 10 and 11 respectively**.

2.5 It is submitted that thereafter the Corporate Debtor availed the said credit facilities but failed to comply with the terms and conditions of

Date of Order: 02.07.2024

the Loan documentation and defaulted in repayment of loan amount as per the said terms and conditions. As a result, the accounts of the Corporate Debtor were categorized as a non-performing asset (NPA) on 11.06.2014 as per the guidelines issued by the Reserve Bank of India from time to time.

2.6 It is further stated that after classification of the accounts as NPA the Tilak Nagar Branch and Zonal Stressed Assets Recovery Branch. Hyderabad transferred the loan accounts of the Corporate Debtor to the Stressed Assets Management Branch for focused efforts as per the policy of the Petitioner Bank's Branch and the accounts are being dealt with at the said branch. Therefore, the present application is being filed by the transferee branch. Copies of the statements of accounts certified as per the Bankers Books Evidence Act, loan documentation etc., are being filed along with the main application. A copy of the Certificate issued under the Bankers Book of Evidence Act is attached herewith as **Annexure-12.**

2.7 It is submitted that the lead Bank Punjab National Bank also filed an OA before the Hon'ble DRT for recovery of Rs 174,49,00,000/-, out of which the Petitioner Bank's claim amount is Rs.31,96,00,000/- that is due and payable from the Corporate Debtor and the Personal Guarantors including Respondent No. 1 and others. The proceedings of the OA filed are in progress before the Hon'ble DRT.

2.8 It is stated that one of the Consortium lenders banks namely IDBI further filed a Company Petition under Section 7 of the Insolvency and

**Date of Order: 02.07.2024**

Bankruptcy Code, 2016 before this Hon'ble Tribunal for initiation of Corporate Insolvency Resolution Process (CIRP) for the Corporate Debtor. This Tribunal, vide its order dated 22.11.2019 admitted the said application for initiating CIRP of the Corporate Debtor. A copy of the order of admission into CIRP is attached herewith as **Annexure-13**.

2.9 It is stated that, as no viable resolution plan was found, the Resolution Professional filed an application for Liquidation of the Corporate Debtor and the said application was allowed and Liquidation process of the Corporate Debtor was initiated vide order of this Hon'ble Tribunal dated 13.08.2021. Therefore, the instant Application for initiating Insolvency Resolution Process for the Respondent No.1 is filed before this Hon'ble Tribunal in terms of the provisions of Section 60(2) of the Code.

2.10 It is stated that an amount of Rs 67,74,67,840/- is due and payable by the Corporate Debtor to the Financial Creditor as on 23.11.2019 along with the interests and other charges at the applicable rates, the statement of Accounts in this regard are enclosed herewith. As the said Demand Notice dated 02.09.2020 is not honored the Petitioner Bank herein seeks to initiate the Insolvency Resolution Process against the Personal guarantor. A copy of the Demand Notice Sent to the Respondent No.1 is attached herewith as **Annexure-3**.

2.11 It is stated that the cause of action for this petition arose on 02.09.2020 and when the guarantee was invoked and the PG failed to make payment. As the Respondent herein failed to pay the amount the cause

Date of Order: 02.07.2024

of action is continuing. In view of the default committed by the Corporate Debtor, it is prayed that this Hon'ble Tribunal may be pleased to direct initiation of the Insolvency Resolution Process in respect of the Respondent No. 1 i.e., P. Venkateshwara Rao, by allowing the instant Company Petition.

**3. Report filed by the Resolution Professional on 08.01.2024 through IA.No.244/2024 under Section 99 of the Insolvency and Bankruptcy Code, 2016:**

- 3.1 It is stated that the Resolution Professional submits report with recommendations for acceptance of the application for initiating insolvency resolution process against Shri P.Venkateswara Rao, Personal Guarantor to the Corporate Debtor for recovery of unpaid dues aggregating Rs.67,74,67,840 (Rupees Sixty Seven Crores Seventy Four Lakhs Sixty Seven Thousand Eight Hundred and Forty Only) with interest as on 23.11.2019.
- 3.2 It is stated that Sri P.Venkateswara Rao, the Personal Guarantor has given his personal guarantee to the Financial Creditor vide Deed of Guarantee dated 3<sup>rd</sup> December, 2011 read with Deed of Guarantees dated 30<sup>th</sup> December, 2014 and 25<sup>th</sup> February, 2015; for the purpose of repayment of the loan in case of default by the Corporate Debtor.
- 3.3 It is stated that the Financial Creditor has sent demand notice in Form-B on 2<sup>nd</sup> September, 2020 to the Personal Guarantor, intimating the total amount of debt including interest or penalties due as on 23<sup>rd</sup> November,

**Date of Order: 02.07.2024**

2019 as Rs.67,74,67,840/-. The Personal Guarantor failed to repay the amount due towards the Financial Creditor.

4. Pursuant to framing of Personal Guarantors Insolvency Rules, 2019 which came into effect, permitting the Petitioner Bank to institute IR Process against the Personal Guarantor, the Petitioner Bank issued a demand notice dated 02.09.2020 to the Personal Guarantor, in Form B of the Code demanding payment of the amount in default along with acknowledgement receipt.
  
5. On presentation of this instant petition, this Adjudicating Authority on 15.12.2023 granted interim moratorium and has appointed Shri. Dendukuri Zitendra Rao, as Resolution Professional, directing him to file his report within ten days from the date of his appointment, in terms of the Section 99 of the Code, 2016 and directed the Petitioner to issue notice to the Personal Guarantor and notice was sent through registered post and the same was delivered. The Resolution Professional has filed his report, recommending the admission of the Petition under Section 95 of the Code, 2016. The Resolution Professional in his report stated that the Petitioner has sent the demand notice in Form-B dated 02.09.2020. Based on the facts the RP is recommending for approval of the Petition filed by financial creditor against the personal guarantor Shri P.Venkateswara Rao, to the corporate debtor M/s.Kanakadhara Ventures Private Limited.

Date of Order: 02.07.2024

6. **On 28.05.2024 this Tribunal passed order as follows:**

*“Learned Counsel Mr. Vikra Hegde and Mr. Abhinav Hansaramam, for Respondent present through Video Conference.*

*Objections on behalf of the Personal Guarantor not filed, despite availing sufficient opportunity. At request matter adjourned on costs of Rs.25,000/- payable by the Personal Guarantor to the Prime Minister Relief Fund and two weeks’ time granted for filing the objections. Matter adjourned to 11.06.2024.”*

***But on 11.06.2024 none appeared for the Personal Guarantor. Compliance of the Tribunal order dated 28.05.2024 not reported. Hence the Personal Guarantor opportunity stands closed.***

7. Thus, the opportunity to file objections by personal guarantor has been closed on 11.06.2024 and thereafter, Company Petition was posted for consideration/orders to 28.06.2024 and from 28.06.2024 it was listed to 02.07.2024. Even as on date there is no objections filed by the personal guarantor. This Tribunal have carefully examined the report filed by the RP and the same is found to be in accordance with Section 99 of IBC. Hence, the report is accepted and the CP is admitted.

8. In the light of the aforesaid factual matrix the point arises for our consideration is:

**Whether an Insolvency Resolution Process can be ordered against the Personal Guarantor under Section 100 of the Insolvency and Bankruptcy Code, 2016?**

**Date of Order: 02.07.2024**

9. We have heard the Learned Counsel Shri VVSN Raju, for the Petitioner and Learned Counsel Shri Abhinav Hansaraman for the Respondent No.1/Personal Guarantor and Learned Resolution Professional Shri Dendukuri Zitendra Rao and perused the record.
10. At the outset the IRP in his report has observed that creditor had sent demand notice in Form-B on 02.09.2020 to Respondent No.1 intimating the total amount of debt including interest or penalties due as on 23.11.2019 is Rs.67,74,67,840/-. But personal guarantor failed to repay the amount due towards the creditor within 14 days from the date of receipt of demand notice and recommended initiation of Insolvency Resolution Process against Respondent No.1 in terms of Section 99 (7) of IBC, 2016.
11. Therefore, in the light of un-deniable factors this Tribunal carefully examined the report of Resolution Professional. As per the report, it is clear that the personal guarantor has not offered any repayment plan. The objections filed by the personal guarantor to the report of the Resolution Professional are not maintainable. We therefore, find no reason to reject the report of Resolution Professional. Hence, we admit the petition.
12. Therefore, in the light of our discussions above, on perusal of the record and case laws, we consider it is a fit case to order insolvency resolution process against Respondent No.1/Personal Guarantor.

Date of Order: 02.07.2024

13. Hence, the instant Company Petition vide CP (IB) No. 193/95/HDB/2023 filed under the provisions of Section 95 of Code, 2016 is hereby admitted under the provisions of Section 100 of the Code, 2016 and Insolvency Resolution Process is initiated against Shri.P.Venkateswara Rao, the Personal Guarantor, and moratorium is declared in relation to all debts, which begins from the date of admission of the instant petition and shall cease to have effect at the end of the period of 180 days, as provided under Section 101 of the Code, 2016. During the moratorium period-
- a) Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed;
  - b) The Creditors shall not initiate any legal action or legal proceedings in respect of any debt; and
  - c) The debtor shall not transfer, alienate, encumber or dispose of any of her assets or her legal rights or beneficial interest therein;
  - d) The provisions of this Section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
  - e) **Shri. Dendukuri Zitendra Rao**, having IBBI Registration No. IBBI/IPA-003/00219/2019-2020/13014, email id: dzr[dot]irp[at]gmail[dot]com, Address: 304, Millennium Residency, H.No.2-2-18/48, DD Colony, Hyderabad - 500013, Mobile No.9347719544, insolvency Professional appointed to act as Resolution Professional.

**Date of Order: 02.07.2024**

- f) The Resolution Professional is directed to cause public notice published on behalf of the Adjudicating Authority within 7 days from the date of uploading of this order on the website of NCLT, Hyderabad, inviting the claims from all creditors, who shall register their claims as provided under Section 103 of the Code within 21 days of such issuance. The notice shall contain the necessary information as provided under Section 102(2) of the Code. The publication of notice shall be made in newspapers, one in English and other in vernacular (Telugu) which have wide circulation in the State where the Personal Guarantor and Corporate Debtor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry. One shall be placed on our website by the Registry and the other shall be affixed in the premises of this Adjudicating Authority.
- g) The Resolution Professional in exercise of the powers conferred under the Section 104 shall prepare a list of creditors within 30 days from the date of the notice. The Personal Guarantor shall prepare, in consultation with the Resolution professional, a repayment plan containing a proposal to the creditors for restructuring of her debts or affairs as provided under Section 105 which shall include the provisions for payment of fee to the Resolution Professional. The Resolution Professional shall submit the repayment plan along with his report on the plan to this Adjudicating Authority within a period of 21 days from the last date of submission of claims as provided under Section 106.

Date of Order: 02.07.2024

- h) In case the Resolution Professional recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons thereof. If the Resolution Professional is of the opinion that the meeting of creditors should be summoned, he shall specify the details as provided under Section 106(3). The date of meeting shall not be less than fourteen days or more than 28 days from the date of submission of the Report under Sub-section (1) of Section 106 of the Code, for which at least 14 days' notice to the creditors (as per the list prepared) shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107 of the Code.
- i) The meeting of the creditors shall be conducted in accordance with the provisions Sections 109, 110 and 111. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 and submit the same to the Authority, copies of which shall be provided to the guarantor and the creditors. It is made clear that the Resolution Professional shall perform his functions and duties in compliance with the Code of Conduct provided under Section 208 of the Code.
- j) The Petitioner is directed to communicate this order to the Resolution Professional appointed in the instant Company Petition immediately.

**Sd/-**  
Charan Singh  
Member Technical

*Sridher/Pavani*

**Sd/-**  
Dr. Venkata Ramakrishna Badarinath Nandula  
Member Judicial