



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT – II)**

**Item No. 218**  
**(IB)-128(PB)/2022**  
**IA-187/ND/2025**

**IN THE MATTER OF:**

**Orbis Trusteeship Services Pvt Ltd** ... **Applicant/Petitioner**

**Versus**

**Gurneet Singh Sikka** ... **Respondent**

**Under Section: 95(1) of IBC, 2016**

**Order delivered on 20.04.2026**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ**  
**HON'BLE MEMBER (J)**

**SH. ATUL CHATURVEDI**  
**HON'BLE MEMBER (T)**

**PRESENT:**

**For the Applicant** :

**For the Respondent** :

**For the RP** : Adv. Amar Vivek, Adv. Aditya GAuri, Adv. Damini Srestha, Adv. Anant Jain and Adv. Aryan Chhabra, Mr. Hemant Sethi (RP)

**Hearing Through: VC and Physical (Hybrid) Mode**

**ORAL ORDER**

**IA-187/ND/2025:** The RP preferred IA-187/2025 under Section 106 of IBC, 2016. The prayer made in the application reads:

- a. Allow the present Application.*
- b. Pass necessary Orders for the initiation of the Insolvency Resolution Process of the Respondent under Chapter IV of the Code.*
- c. Pass any such order(s) as this Hon'ble Tribunal may deem fit in the interest of justice."*

**2.** The RP preferred the report/application under Section 99 of IBC, 2016. The report/recommendation made by the RP for admission of the application preferred under Section 95(1) of IBC, 2016 was accepted in terms of the order dated 05.11.2024 and the application preferred under Section 95(1) of the Code was admitted. The relevant excerpt of the order dated 05.11.2024 reads thus:



**52.** Therefore, once this Tribunal is satisfied that the pre- requisites under Section 95(4) of the Code i.e., existence of debt and default in payment qua such debt are met, the application under Section 95 is bound to be admitted. As also mentioned in earlier part of this order, the RP has filed his report recommending the admission of the petition. It is not the contention raised on behalf of the Personal Guarantors that the requirement of Section 99(2) or Section 95(4) are not satisfied. The Ld. Counsel for the Respondents/PGs fairly submitted that he is not disputing the liability of the Respondents/PGs to repay the amount of debt and the fact that the amount has not been repaid.

**53.** In the wake, **the application filed by the Personal Guarantor is admitted.** As a sequel of admission of the present application, a moratorium shall commence in relation to all the debts of the Applicant. During the moratorium period – (a) any pending legal action or proceedings in respect of any debt qua the Applicant shall be deemed to have been stayed; (b) the creditors shall not initiate any legal action or legal proceedings in respect of any debt qua the Respondent; and (c) the debtors shall not transfer, alienate, encumber or dispose of any of the assets or his legal right or beneficiary interest therein. The moratorium shall cease to have effect at the end of period of 180 days.

**54.** A public notice shall be issued by the RP within seven days of passing of this order, inviting claim from all creditors within 21 days of such notice. The notice shall include details of the present order, particulars of the Resolution Professional with whom the claims have to be registered and the last date for the submission of the claims. The notice shall be – (a) published in English and one Vernacular Language newspaper which is in circulation in the State where the debtor resides; (b) affixed in the premises of this Adjudicating Authority; and (c) placed on the website of the Adjudicating Authority.

**55.** We are sanguine that the RP shall discharge all such duties as are incumbent upon him in terms of the provisions of Sections 104, 105, 106 , 107, 108, 112 and 113 of IBC, 2016, with the due deference of the procedure enshrined in Regulations 5, 7, 8, 9, 11, 12, 13, 14, 15 and 17 of IBBI (Insolvency Resolution Process for Personal Guarantor to Corporate Debtors) Regulations, 2019 and also in terms of the other extent provisions of the



aforementioned code/ regulations and/or any other provisions of law applicable to him, in discharge of his duties as RP. It goes without saying that while submitting the repayment plans, the Respondents/PGs would be entitled to take the benefit of amount of debt already being paid by Principal Borrower or others Guarantors. The RP would also conduct a negotiation in terms of the provision of Section 100(2) of IBC, 2016. The RP would conduct separate Insolvency Resolution Process qua each Personal Guarantors separately.

**56.** A copy of this order along with the copy of the application as also the report of Resolution Professional shall be provided to the Applicant (RP), Personal Guarantor and IBBI, by the Registry/Court Master within 7 days from today by email.

**57. IA-6465/ND/2023, IA-5604/ND/2022, IA-5602/ND/2022 and IA-5603/ND/2022 stands disposed of. To come up for consideration of Status Report to be filed by RP, within 8 weeks.** Irrespective of the progress in respect of the CIRP to be conducted by the RP, the moratorium shall culminate on the expiry of 180 days from the date of this order. The common RP would conduct the insolvency resolution process in respect of each Respondent separately. Accordingly, the applications stand disposed of.

**3.** The Applicant preferred IA-187/2025 espousing that the PG namely Mr. Gurneet Singh Sikka has not extended any co-operation to RP and did not respond to the missives sent by RP to him. The RP has taken the stand that no repayment plan has been received by him from the PG/debtor. The averments to the effect have been made in paras 8 to 16 of IA-187/2025. The paras read thus:

8. That in furtherance of the Order dated 05.11.2024 passed by this Hon'ble Tribunal, the Resolution Professional vide letter dated 20.12.2024 wrote to the Respondent herein in compliance and directions of the Hon'ble NCLT, intimating the Respondent about the initiation of the Insolvency Resolution Process against him and providing him an option to appear before the RP to carry the exercise in terms of provisions of Section 100(2) of the Insolvency & Bankruptcy Code, 2016 and requesting him to submit a repayment plan.

A copy of the letter dated 20.12.2024 sent by the Resolution Professional to the Respondent is annexed herewith and marked as **ANNEXURE-D.**



9. That in pursuance of the order dated 05.11.2024, the Resolution Professional made a Public Announcement on 17.11.2024 in accordance with the Section 102 of the Code inviting claims from the creditors, wherein the last date for submission of claims was 08.12.2024. The Public Announcement was published in Financial Express (Hindi), Jansatta, Times of India and Navbharat Times (Hindi) Newspapers, and submitted a letter to Hon'ble NCLT requesting to affix the public Announcement in the premises of the Adjudicating Authority; and to place it on their website.

Copy of the signed Public Announcement dated 17.11.2024 is annexed herewith and marked as **ANNEXURE-E.**

10. That in pursuance of the Public Announcement made by the Resolution Professional on 17.11.2024, Three (3) Claims were received by the Resolution Professional from the creditors, till the last date of submission of claims i.e. 08.12.2024, and the same is recorded by the Resolution Professional. The List of Creditors was prepared by the Resolution Professional based on the claims so received and the same was shared by the Resolution Professional with the Respondent on 24.12.2024 along with a request to submit the repayment plan.

Copy of the list of creditors as on 24.12.2024 is marked and annexed as **ANNEXURE - F.**

11. That the List of Creditors was shared by the Resolution Professional with the Respondent vide an email dated 24.12.2024 along with a request to submit the repayment plan within the specified time. —

A copy of email dated 24.12.2024 sent by Resolution Professional to the Respondent is annexed herewith and marked as **ANNEXURE-G.**

12. That the Resolution Professional vide email dated 23.12.2024, wrote to the Respondent requesting for documents/ information required for the purpose of preparation of statement of affairs of guarantor as per



Regulation 10 of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.

Copy of Email dated 23.12.2024 is annexed herewith and marked as **ANNEXURE-H.**

13. That it is pertinent to note that the Resolution professional vide several emails dated 23.12.2024 and 24.12.2024, and vide letter dated 20.12.2024 and 22.12.2024 sent vide speed post wrote to the respondent giving him the opportunity to submit the Repayment plan as per the provisions under Section 105 and Section 106 of the Code.

The copy of the emails dated 23.12.2024 and 24.12.2024, and letter dated 20.12.2024 and 22.12.2024 sent by Resolution Professional to the Respondent are annexed herewith and marked as **ANNEXURE-I (COLLY).**

14. That till date, the Respondent has neither provided the Resolution Professional with the details of the assets and liabilities of the Respondent for the preceding three financial years and the current financial year as well as the other financial information of the Respondent, nor submitted any Repayment Plan for the purposes of making a proposal to its creditors for the restructuring of its debts, for the reasons best known to them.

15. That it is pertinent to mention herein that the Respondent herein had preferred an Appeal bearing Company Appeal(AT)(Ins) - 8682/ND/2024 before the Hon'ble National Company Law Appellate Tribunal, New Delhi, against the Order dated 05.11.2024 passed by this Hon'ble Tribunal in the above-captioned company petition i.e. C.P. (IB) No. 128/ND/2022. That the said appeal was first listed on 12.12.2024 and is adjourned to 10.01.2025.

A copy of the Order dated 12.12.2024 passed in Company Appeal (AT)(Ins)-



8682/ND/2024 is annexed herewith  
and is marked as **ANNEXURE- J.**

16. That it is of pertinence to submit herein that in light of no response from the Respondent, the Resolution Professional seeks directions from this Hon'ble Tribunal against the Respondent under Regulation 22 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Regulations, 2019.

4. As can be seen from the provisions of proviso to Section 106(2) of IBC, 2016, for the recorded reason the RP may avoid calling the meeting of the creditors. The Section 106(2) of IBC, 2016 reads thus:

**“106. Report of resolution professional on repayment plan. –**

[...]

*(2) The report referred in sub-section (1) shall include that-*

*(a) the repayment plan is in compliance with the provisions of any law for the time being in force;*

*(b) the repayment plan has a reasonable prospect of being approved and implemented; and*

*(c) there is a necessity of summoning a meeting of the creditors, if required, to consider the repayment plan:*

*Provided that where the resolution professional recommends that a meeting of the creditors is not required to be summoned, reasons for the same shall be provided.”*

5. As per proviso of Section 114(1) of the Code, where a meeting of the creditors is not summoned, the Adjudicating Authority shall pass an order on basis of the report prepared by the Resolution Professional under Section 106 of the Code. The Section 114(1) of the Code reads thus:

**“114. Order of Adjudicating Authority on repayment plan. –**

*(1) The Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of the report of the meeting of the creditors submitted by the resolution professional under section 112:*

*Provided that where a meeting of creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under section 106.”*



6. The conjoint reading of provisos to Section 114(1) and Section 106(2) of the Code gives an impression that this tribunal may pass an order either on the basis of the report under Section 112 of IBC, 2016 or the report under Section 106(2) of the Code. However, an amendment was carried in IBBI (Insolvency Resolution Process for Personal Guarantor to Corporate Debtor), Regulations 2019 and in terms of the proviso of Regulations 17A of the Regulations, the meeting of creditors is required to be summoned even when no repayment plan is offered by the debtor. Nevertheless, such meeting is required only to notify non-availability of the repayment plan. Even otherwise also when any anomaly between the provisions of the Regulations framed by IBBI and the provisions of IBC, 2016, is there, we need to give credence to the provisions of IBC which is an act of the Parliament. As has been noted hereinabove, no repayment plan has been offered by the PG, thus the RP filed his report indicating the position to the effect. Apparently, the ramification of non-availability of the resolution plan would be same as that of rejection of the repayment plan by the creditors, thus the same consequences as are of rejection of repayment plan would follow.

7. In the aforesaid circumstances and in due deference to the proviso to the provisions of Section 114(1) of the Code, we direct the closure of the Insolvency Resolution Process. It would be for the creditor to take the call regarding initiation of the proceedings under of Section 114 & 115 (2) read with Section 121 & 123 of IBC, 2016. Subject to aforementioned order, **the present application is disposed of.**

Sd/-  
**(ATUL CHATURVEDI)**  
**MEMBER (T)**

Sd/-  
**(ASHOK KUMAR BHARDWAJ)**  
**MEMBER (J)**