

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)

I.A. No.397 of 2022 in
C.P. (IB)No.77/BB/2021
U/s 112 of the IBC, 2016
R/w Regulation 19 of IBBI (IRP for
Personal Guarantors to Corporate
Debtors) Regulations, 2019

In the matter of:

Shri Ravindra Beleyur
Resolution Professional of
Respondent/Personal Guarantor
Shreevathsa, No.428,
19B Cross, Jayanagar 03rd Block,
Bangalore - 560 011.

- Applicant

Order delivered on: 05.01.2023

CORAM: 1. Hon'ble Shri Kishore Vemulapalli, Member (Judicial)
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

Parties/Counsels Present:

For the Applicant/RP : Shri Ullasa B.C.

ORDER

Per: Manoj Kumar Dubey, Member (Technical)

1. The instant Application is filed by Shri Ravindra Beleyur, Resolution Professional of Respondent/Personal Guarantor ('Applicant') under Section 112 of the IBC, 2016 r/w Regulation 19 of IBBI (IRP for Personal Guarantors to Corporate Debtors) Regulations, 2019 *inter alia* seeking to take on record the report of the meeting of creditors submitted by the Resolution Professional and reject the repayment plan submitted by Guarantor under Section 114 of the IBC, 2016 based on the report of the meeting of creditors submitted by the Resolution Professional.

-sd-

2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

- i. It is stated that this Adjudicating Authority vide order dated 24th February 2022 admitted an application under Section 95(1) of the IBC, 2016 in respect of the Insolvency Resolution Process against Sri. S.R. Ramprasad (hereinafter called 'the Personal Guarantor') who is the personal guarantor for the credit facilities extended by the Applicant i.e., State Bank of India to the Corporate Debtor i.e., M/s, Sura Leathers Pvt. Ltd. and appointed Sri Hem Chandra as the Resolution Professional. Further, on Application filed by the SBI, the Adjudicating Authority vide order in I.A. No.217/2022 in C.P.(IB)No.77/BB/2021 dated 23rd June 2022 replace the RP by appointing the Applicant, namely, Shri Ravindra Beleyur as the RP(hereinafter referred as 'the Applicant')
- ii. The Applicant had received the following claim(s) from the stakeholders of Personal Guarantor:

Sl. No.	Name of the Claimant	Total claim (Amount in Rs.)	Total amount of claim admitted
1.	State Bank of India	75,31,60,335	75,31,60,335
	Total	75,31,60,335	75,31,60,335

- iii. Further, the Guarantor submitted the repayment plan as required under Section 105 of IBC, 2016 on 13th August 2022. The Applicant as the RP had submitted the copy of the repayment plan along with the report of the RP and statement of Affairs to this Adjudicating Authority vide Application No.354/22 on 24th August 2022.
- iv. It is stated that the Applicant convened the meeting of Creditors *inter alia* to consider the repayment plan submitted by the Guarantor on 8th September 2022. The Creditor was not satisfied with value offered in the said repayment plan and with a view to give an opportunity to the

- s d -

Guarantor to revise the offer and also to avoid initiating the Bankruptcy Process against the Guarantor, the meeting of the creditor was adjourned to 15th September 2022 and further rescheduled to 19th September 2022 pursuant to a request received by the Creditor. In this meeting of Creditor held on 19th September 2022, the repayment plan was disapproved as the Guarantor did not submit any revised offer. The following Resolution was passed on 19.09.2022:

Extract of the Resolution passed at the adjourned meeting of Creditors held on 19th September 2022:

"RESOLVED THAT the Sole Creditor of the Personal Guarantor – Sri S.R. Ramprasad ('the Guarantor') be and hereby take on record the Repayment Plan submitted by the Guarantor and highlights of the Repayment Plan recorded as follows:

<i>Description</i>	<i>Amount</i>
<i>Total admitted liability</i>	<i>76.38 crores</i>
<i>Total assets of the Guarantor per net worth certificate dated 10.08.2022</i>	<i>69.15 lakhs</i>
<i>Actual resalable value of Assets of Guarantor after eliminating the value of excluded assets (Actual Realisable value of Assets)</i>	<i>39.61 lakhs</i>
<i>Value offered towards the Creditor in the Repayment Plan</i>	<i>15.00 lakhs</i>

RESOLVED FURTHER THAT *the Sole Creditor of the Personal Guarantor Sri S.R. Ramprasad hereby reject the Repayment Plan for the reason given below:*

1. The value offered to the creditor in Repayment Plan is substantially less than the Actual realisable value of free Assets of the Guarantor and there is no improvement in the offer proposed by the Guarantor.

RESOLVED FURTHER THAT *the Sole Creditor of the Personal Guarantor Sri S.R. Ramprasad authorities the Resolution Professional – Sri Ravindra Beleyur to submit necessary Report/Application to the Adjudicating Authority seeking a direction to the Honourable Adjudicating Authority to pass an order under Section 114 of IBC, 2016 which would allow creditor to file an application for Bankruptcy under Chapter IV in line with Section 115(2) of IBC, 2016."*

-sd-

- v. It is further stated that the RP/ Applicant is required to submit a report of meeting of Creditors under Section 112 of IBC, 2016 r/w Regulation 19 of IRP for Personal Guarantors which was submitted along with minutes of the meeting of Creditors as Annexure-A5 of this Application. It is further submitted that as per Section 114 of the IBC, 2016 the Adjudicating Authority is required to pass order based on the report of the meeting of the creditors submitted by the RP.
- vi. The provisions of Section 114 of IBC, 2016 are as under:

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 creditor is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under Section 106.

(2) *The order of the Adjudicating Authority approving the repayment plan may also provide for directions for implementing the repayment plan.*

(3) *Where the Adjudicating Authority is of the opinion that the repayment plan requires modification, it may direct the resolution professional to reconvene a meeting of the creditors for reconsidering the repayment plan."*

3. Heard Shri Ullasa B.C., learned Counsel for the Applicant/Resolution Professional. We have carefully perused the pleadings of the party and extant provisions of the Code, and the Regulations made thereunder.
4. It is noticed from the Section 114(1) of the IBC, 2016 that the Adjudicating Authority shall approve or reject the Repayment Plan on the basis of the meeting of the Creditors submitted by the Resolution Professional under Section 112 of the IBC, 2016, r/w Regulation 19 of IBBI (IRP for Personal Guarantors to Corporate Debtors) Regulations, 2019. We have perused the report of the meeting of the Creditors on the Repayment Plan under Section 112 of the IBC, 2016 and the same is taken in record. The resolutions passed in the meeting dated 19.09.2022 has also been considered. According to this report and

the resolutions, the Sole Creditor has not approved the Repayment Plan submitted by the Personal Guarantor.

5. Accordingly, this Adjudicating Authority hereby rejects the Repayment Plan submitted by the Personal Guarantor under the provisions of Section 114(1) of the IBC, 2016. Therefore, I.A. No.397 of 2022 in C.P.(IB)No.77/BB/2021 is disposed of.

-sd-

(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

-sd-

(KISHORE VEMULAPALLI)
MEMBER (JUDICIAL)