

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – III**

C.P. No. 590 of 2024

Under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2019

In the matter of

Canara Bank

(Stressed Asset Management Branch)

Having Head Office at: 112, J. C. Road, Bangalore- 560 002,
Having Branch Office at Canara Bank Building, C-14, G-Block, Bandra- Kurla Complex, Bandra, Mumbai- 400 051

.....Petitioner/Financial Creditor

V/s.

Mr. Ravindra K Mogra

(Personal Guarantor of M/s. Elegant Forge & Equipments Private Limited)

Having Present address at: - Flat No. 701, 7th, A Wing, Meenaxi Appartment, Gokuldharm Krishna Vatika Marg, Opp. Gen. A K Vaidya Marg, Vill Dindoshi, Taluka Borivali Goregaon East, Mumbai- 400 063

.....Respondent/Personal Guarantor

Order pronounced on: **04.09.2024**

CORAM:

**SHRI CHARANJEET SINGH GULATI
HON'BLE MEMBER (T)**

**SMT LAKSHMI GURUNG
HON'BLE MEMBER (J)**

Appearances:

For the Petitioner : Adv. Anup Khaitan a/w. Adv. Harsh Gutka
i/b. Anup Khaitan & Co.

For the Personal Guarantor : None appeared

Per: - Smt Lakshmi Gurung, Member (J)

ORDER

1. The Present Company Petition has been filed under section 95 of Insolvency and Bankruptcy Code, 2016 (“IBC, 2016”) by **Canara Bank (Petitioner/Creditor)** for initiating Insolvency Resolution Process against **Mr. Ravindra K Mogra (“Respondent/Personal Guarantor”)**.
2. The Canara Bank, Applicant/Creditor sanctioned a Term Loan of Rs. 50,00,00,000/- to Elegant Forge & Equipments Private Limited on 05.10.2018. In terms of section, Mr. Ravindra K Mogra provided a deed of personal guarantee dated 02.03.2019.
3. Canara Bank MCB, BKC Branch Mumbai sanctioned a Term Loan of Rs. 50,00,00,000/- to the Corporate Debtor at their request vide sanction letter dated 05.10.2013.
4. Pursuant to the Sanction Letter, a Joint Term Agreement dated 02.03.2019 was entered into between the Corporate Debtor and Financial Creditor, in terms of which the parties crystalized the terms and conditions for the grant of the Facility to the Corporate Debtor.
5. In term of the Sanction Letter and Loan Agreement, the Facility was to be utilized by the Corporate Debtor to enable it to carry out their business activities i.e. manufacturing of forged components.
6. In terms of the Loan Agreement read with the Sanction Letter, the said Term Loan specifically obtained from Canara bank door to door tenure

of 7 years and 5 months and carried an interest rate of 1 year MCLR+5.30%+TP (0.85).

7. Pursuant to the terms of Sanction Letter and Loan Agreement, an amount of Rs. 50,00,00,000/- was disbursed to the Corporate Debtor by the Financial Creditor.
8. Subsequent to the disbursement, the Corporate Debtor failed to adhere to terms of the Loan Agreement and failed to pay interest/PEMI. Accordingly, the credit facilities availed by the Corporate Debtor was classified as none performing asset (NPA) as on 30.11.2021. The Corporate Debtor further failed to regularize the account or to repay the debt.
9. Mr. Ravindra K Mogra secured the Term Loan via mortgaging
 - a. Flat No. 701 admeasuring 836 Sq. ft. Carpet area of Wing ‘A’ on the Seventh Floor of the building known as “Meenaxi Apartments” of Meenaxi Condominium situated at Gokuldharm, Gen, A.K. Vaidya Marg, Goregaon (East), Mumbai – 400063, constructed on all that piece or parcel of land bearing Survey No. 34 & 35, Hissa No. 2, 1(Part) and CTS No. 156A-8 to 16, 156-D, 157-1,2,3,7 of Village Dindoshi, TalukaBorivali, District Mumbai within the Registration and Sub-Registration District of Mumbai belong to **Mrs. Meena R. Mogra and Mr. Ravindra K. Mogra**
 - b. Flat No. 804, 8 Floor, “B” Wing, “Jeerawali Residency”, Village Ghatkopar Kirol Derasar Lane, Opp. Jain Derasar, Pant Nagar Ghatkopar (East), Mumbai 400 007, Maharashtra, CTS No. 5229A, Survey No. 256B, admeasuring area 1372 Sq. Ft. (Carpet Area) Equivalent to 1646 Sq. Ft. (built up area), standing in the name of **Mr. Manilal H. Limbani & Mrs. Jayshree M. Limbani.**

- c. Flat No. 904, 9th Floor, “B” Wing, “Jeerawali Residency”, Village Ghatkopar Kirol Derasar Lane, Opp. Jain Derasar, Pant Nagar, Ghatkopar (East), Mumbai 400 077, Maharashtra, CTS No. 5229 A, Survey No. 256B, admeasuring area 1372 Sq. Ft. (Carpet Area) equivalent to 1646 Sq. Ft. (built up area), standing in the name of **Mr. Manilal H. Limbani & Mrs. Jayshree M. Limbani**.
10. The payment obligation arises out of a Deed of Guarantee dated 02.03.2019 executed by 1. Mrs. Meena R. Mogra, 2. Mr. Ravindra K. Mogra, both adults residing at 701/A, Meenakshi Apartments, Gokuldham, Goregaon (East), Mumbai-400 063, 3. Mrs. Jayshree Manilal Limbani, 4. Shri Manilal H. Limbani, both adults Indian Inhabitants and residing at SHIVKRUPA Flat No. 7, 2nd Floor Karani Lane Agra Road Ghatkopar Mumbai 400 086 and (5) M/s. Elegant Creation Pvt. Ltd. a company incorporated under the Companies Act, 1956, having its Registered Office at 701/A, Meenakshi Apartments, Gokuldham, Goregaon (East), Mumbai-400 063 in favor of the Financial Creditor ("Deed of Guarantee") to secure the Facility sanctioned to the Corporate Debtor Elegant Forge & Equipments Private Limited. The Deed of Guarantee secures *inter alia* the performance of payment obligations of the Corporate Debtor and any failure to discharge such obligations renders Jayshree M. Limbani liable to pay such amounts in terms of her obligations under the aforesaid Deed of Guarantee.
11. In view of the Corporate Debtor's default, a legal notice was issued on 13.04.2022 to the Corporate Debtor as well as to the Guarantor Mr. Ravindra K Mogra.
12. The Petitioner also issued a Demand Notice in Form B dated 17.11.2023 under rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules 2019 to the Respondent to pay

dues of the Corporate Debtor amounting to Rs. 71,42,72,499.22 within Fourteen days from the date of the receipt of demand notice. Despite the receipt of the demand notice, the Respondent has failed to pay the amount.

13. As per the terms of the Deed of Guarantee, the liability of Mr. Ravindra K Mogra is joint, several, irrevocable and coextensive with that of the Corporate Debtor. since the Corporate Debtor has defaulted upon its payment obligations, Mr. Ravindra K Mogra in its capacity as the Personal Guarantor is liable to pay the entire outstanding amount without any delay and demur to the Financial Creditor.
14. Tracking Report has been annexed to the petition evidencing the proof of service of the petition on the Personal Guarantor.
15. In view of the aforesaid, the present application has been filed for appointment of Resolution Professional under section 95 of IBC.
16. The Hon'ble Supreme Court in ***Dilip B Jiwarajka Vs. Union of India & Ors. Writ Petition (Civil) No. 1281 of 2021*** decided on 09.11.2023 held as follows:-

Quote

- i. *No judicial adjudication is involved at the stages envisaged in Section 95 to Section 99 of the IBC;*
- ii. *The Resolution Professional appointed under Section 97 serves a facilitative role of collating all the facts relevant to the examination of the application for the commencement of the insolvency resolution process which has been preferred under Section 94 or Section 95. The report to be submitted to the Adjudicating Authority is recommendatory in nature on whether to accept or reject the application.*

Unquote

17. The Petition for initiating insolvency resolution process against Personal Guarantor to the Corporate Debtor is complete in all respect. The Petitioner has proposed the name of the Insolvency Professional, Mr. Prashant Jain, having IBBI Registration No. IBBI/IPA-001/IP-P01368/2018-19/12131 for appointment as Resolution Professional who has given written consent dated 24.04.2024 to act as Resolution Professional. The AFA valid upto 24.09.2024 has been submitted.
18. Accordingly, we appoint **Mr. Prashant Jain**, having IBBI Registration No. IBBI/IPA-001/IP-P01368/2018-2019/12131 as Resolution Professional (**“RP”**).
19. The fee payable to Resolution Professional (RP) shall be in accordance with the Insolvency and Bankruptcy Board of India (IBBI) Regulations/Circulars/ Directions issued in this regard.
20. This Bench also directs for an advance payment of Rs.1,00,000/- (Rupees One Lakh only) to be paid by the Financial Creditor to the Resolution Professional (RP) immediately to initiate the process which shall be adjusted towards the fee and expenses payable to the Resolution Professional (RP).
21. The Resolution Professional is directed to examine the application as set out in Section 97(6) of IBC, 2016 who after examining, shall submit his report as provided under Section 99(1) of IBC, 2016, **within 10 days** of the receipt of this order.
22. Further, the Registry is hereby directed to communicate this order to both the parties and to RP immediately. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record. The Petitioner is also directed to forthwith communicate this order to the Resolution Professional.

23. List the matter for report of the RP as and when the Report is filed by RP by way of an I.A.

Sd/-

CHARANJEET SINGH GULATI
(MEMBER TECHNICAL)

---Rajeev, PS---

Sd/-

LAKSHMI GURUNG
(MEMBER JUDICIAL)