

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

CP(IB)/145(CHE)/2021

*(filed under Section 95(1) r/w Section 60(2) of the Insolvency and
Bankruptcy Code, 2016)*

*In the matter of **Mr.Paresh N Patel***

State Bank of India,
Represented by its,
Assistant General Manager,
Stressed Asset Management Branch,
Red Cross Building, Montieth Road,
Egmore Chennai – 600 008.

... Financial Creditor

Mr.Paresh N Patel
S/o.Mr.Nathu K Patel,
No.7, Lakshmipuram,
Tennur, Trichy – 620 017.

... Personal Guarantor

Order Pronounced on 15th July 2022

CORAM:

**JUSTICE (RETD) S.RAMATHILAGAM, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Applicant: Mr.M.L.Ganesh, Advocate
For Respondent: Mr.Kowshik Raghu Raja, Advocate*

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

This application has been filed under Section 95(1) of the
Insolvency and Bankruptcy Code, 2016 against the Personal
Guarantors of Prabhat Resources Limited, the Corporate Debtor
which is under Liquidation Process.

2. In so far as Prabhat Resources Limited is concerned an order was passed for Liquidation of the Corporate Debtor by this Tribunal on 23.02.2021 in IA/1124(CHE)/2020.

3. The present application is filed by the **State Bank of India**, Stressed Asset Management Branch, represented by Assistant General Manager, duly authorized by Letter of Authority dated 05.07.2021, against the personal guarantors of the Corporate Debtor under Liquidation.

4. The date of default as stated in the Application is 19.12.2016 and the date of invocation of Personal Guarantee in 23.09.2020. The Deed of Guarantee executed by the Personal Guarantor is also placed along with the typed set at page nos. 51 to 61.

5. The Demand Notice issued 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 Personal Guarantor on 23.09.2020 is also placed on record at Pg. Nos. 131 – 134.

6. Hence, on this term, the present Petition is filed to initiate a proceeding in terms of Section 95 (1) of the IBC, 2016, against the Personal Guarantor herein.

7. All the defences raised by the Respondent Personal Guarantor will be considered at the time when the RP files his

report under Section 99 of IBC, 2016 and when the matter is taken up for admission or rejection under Section 100 of IBC, 2016.

8. The Hon'ble NCLAT, Principal Bench, in the matter of **Mr.Ravi Ajit Kulkarni -Vs- State Bank of India** in *Company Appeal (AT) (Insolvency) No. 316 of 2021* has held in para 42 that once an Application under Section 95 of IBC, 2016 is filed, the Adjudicating Authority has to act on it, and following principles of natural justice, give limited notice to Personal Guarantor to appear referring to the Interim Moratorium that has commenced as per terms of Section 96 and subsequently proceed to the next stage of appointing Resolution Professional as per Section 97 read with attendant Rules and Regulations.

9. Accordingly, this application is fit to be admitted. The Financial Creditor has proposed the name of one **Mr.S.Kannan**, having Registration Number **[IBBI/IPA-001/IP-P00755/2017-2018/11287]**, (e-mail ID: **charitarthkannan@gmail.com**) as Interim Resolution Professional (IRP) and written communication in the format prescribed under Form-A of the IBBI Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulation 2019, has been filed by the proposed IRP who is appointed as the IRP to take forward the process of insolvency Resolution of this Personal Guarantor.

10. The Financial Creditor is also directed to serve a copy of this Application to the Interim Resolution Professional for preparing the Report under Section 99 of IBC, 2016.

11. The Resolution Professional is required to examine the Application as set out in Section 97(6) of IBC, 2016 and after examining the Application, as per Section 97(7) of IBC, 2016 the Resolution Professional may recommend for the acceptance or rejection of the Application in his report, within a period of 10 days as contemplated under Section 99(1) of IBC, 2016.

12. Post this matter on **08.08.2022** for filing of Report by the Interim Resolution Professional.

13. With the above said directions, this application stands **allowed.**

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SAMEER KAKAR
MEMBER (TECHNICAL)

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JUSTICE (RETD) S.RAMATHILAGAM
MEMBER (JUDICIAL)

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