

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**



ITEM No.302  
IA/219(AHM)2025  
in  
C.P.(IB)/202(AHM)2022

**Order under Section 112 r/w Sec, 60(5) IBCr/w Rule 11 NCLT**

**IN THE MATTER OF:**

Mr. Dharti K Shah in the Matter of RP Mr. Rameshbhai .....Applicant  
Bhoraniya PG to M/s Vrundavan Caremics Pvt. Ltd  
V/s .....Respondent  
Shri Rameshbhaii Talsibhai Bhoraniya PG to M.s Vrundavan  
Caremics Pvt. Ltd

**Order delivered on: 03/04/2025**

**Coram:**

Mr. Shammi Khan, Hon'ble Member(J)  
Mr. Sanjeev Kumar Sharma, Hon'ble Member(T)

**ORDER**  
**(Hybrid Mode)**

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-sd/-

**SANJEEV KUMAR SHARMA**  
**MEMBER (TECHNICAL)**

-sd/-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH, COURT-I, AHMEDABAD**

**IA/219/(AHM)2025  
In  
CP(IB)/202(AHM)2022**

*[An application filed under the Provisions of Section 106 read with Section 112 read with Section 60(5) of the IB Code, 2016 and read with Regulation 20 of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 also read with Rule 11 of the NCLT Rules, 2016 for the report to be filed for taking on record of non-receipt of repayment plan in case of personal guarantor Mr. Ramesh Tapubhai Bhorania of Corporate Debtor M/s Vrundavan Ceramics Private Limited]*

*In the matter of **Ramesh Tapubhai Bhorania***

**Mr. Dharit Shah**

Resolution Professional of  
Mr. Ramesh Tapubhai Bhorania  
(Personal Guarantor),  
Having Registered Address at:  
C/o. M/s. Bipin & Co, Chartered  
Accountants, 302, Centre Point,  
R C Dutt Road, Alkapuri, Vadodara,  
Gujarat – 390007

**.... Applicant/RP**

**VERSUS**

**Mr. Rameshbhai Tapubhai Bhoraniya**

(Personal Guarantor of M/s. Vrundavan  
Ceramics Private Limited)

Having Address at:  
Gopal Society, Mahendranagar Road,  
Morbi, Rajkot, Gujarat – 363642

**.... Respondent/Personal Guarantor**



**AND IN THE MATTER OF:**

**State Bank of India**

Stressed Asset Management Branch,  
2<sup>nd</sup> Floor, Paramsiddhi Complex,  
Opp. V. S. Hospital, Ellisbridge,  
Ashram Road, Ahmedabad - 380006

**... Financial Creditor**

**V/s**

**Mr. Rameshbhai Tapubhai Bhoraniya**

(Personal Guarantor of M/s. Vrundavan  
Ceramics Private Limited)

Having Address at:

Gopal Society, Mahendranagar Road,  
Morbi, Rajkot, Gujarat – 363642

**... Personal Guarantor**

**Order pronounced on 03.04.2025**

**CORAM:**

**Sh. Shammi Khan, Hon'ble Member (Judicial)**

**Sh. Sanjeev Kumar Sharma, Hon'ble Member (Technical)**

**APPEARANCE**

For the Applicant/RP : Mr. Atul Sharma, Adv.

For Respondent/PG : **Ex-parte**

For Financial Creditor : Mr. Saurabh Rachchh, Adv.

**ORDER**

**(Per: BENCH)**

**IA/219(AHM)2025**



1. The present application being **IA/219(AHM)2025** is filed on 26.02.2025 by the Applicant/Resolution Professional (hereinafter referred to as **“RP”**) of the Personal Guarantor – Mr. Rameshbhai Tapubhai Bhoraniya, under the provisions of Section 106 read with Section 112 read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as **“the Code”**) read with Regulation 20 of the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (**“PG Regulation”**) also read with Rule 11 of the NCLT Rules, 2016 seeking the following prayers: -

- A. *Your Lordships May Be Pleased To allow the present application;*
- B. *Your Lordships May Be Pleased To taken on record that ‘No Repayment Plan’ has been received by the RP from Debtor/Personal Guarantor (u/s. 106 of the Code);*
- C. *Your Lordships May Be Pleased To pass an appropriate order under Section 114 Code in absence of any repayment plan filed by the Personal Guarantor;*
- D. *Your Lordships May Be Pleased To allow the Debtor and/or Creditor to prefer an application for Bankruptcy under Chapter IV of IBC, 2016;*



- E. *Your Lordships May Be Pleased To discharge the Applicant/Resolution Professional from his duties under Chapter-III of IB Code, 2016;*
- F. *Your Lordships May Be Pleased To grant any other relief or reliefs as deemed fit in the interest of justice.*

2. It is stated that on an application filed by the Financial Creditor – State Bank of India under Section 95 of the Code, this Tribunal ordered initiation of Individual Insolvency Resolution Process against the Personal Guarantor – Mr. Rameshbhai Tapubhai Bhoraniya vide order dated 30.09.2024 and appointed the Applicant herein as RP.
3. The Applicant in compliance with the provisions of Section 102 of IB Code 2016, the RP had made public announcement on 07.10.2024 in two newspapers, namely, “**Economic Times**”, Ahmedabad (English) and “**Aajkaal**”, Saurashtra (Gujarati) and has subsequently collated all the claims received from the creditors of the Corporate Debtor which have been duly verified by the RP. Subsequently, the RP under the provisions of Regulation 9 of the PG Regulations, 2019 had prepared a list of creditors, which comprises on one(1) creditor, which was



duly placed on record before this Hon'ble Tribunal by way of IA/1808(AHM)2024, which was duly taken on record by this Hon'ble Tribunal vide order dated 03.12.2024. A copy of the list of creditors along with order dated 03.12.2024 in IA/1808(AHM)2024 is annexed hereto and marked as **Annexure-B.**

4. The Applicant submits that the RP vide letter communication dated 07.10.2024 had approached the Respondent/Personal Guarantor seeking relevant documents/records/details/information as required under the provisions of Regulation 10 of the PG Regulations, 2019 inter alia requested the Respondent/Personal Guarantor to provide a Repayment Plan for conducting the Insolvency Resolution Process of the Respondent Personal Guarantor. The details sought from the Respondent are as hereunder:

- i. *Required Holding Statement of securities Including sale purchases from 01.04.2019 to 30.09.2024;*
- ii. *Holding Statement of Life Insurance Policies and its Surrender value as on 30.09.2024*
- iii. *Records like survey no/census no of Land and buildings including residential as well as commercial properties*



- sold & purchased and held during 01.04.2014 to 30.09.2024 throughout India.*
- iv. All bank accounts whether continued or closed w.e.f 01.04.2019 to 30.09.2024;*
  - v. Assets in kind like Gold, Bond, Fixed Deposit, any membership or assets in cash.*
  - vi. Kindly share Director Identification number, Cibil Report, Date of Birth, Email ID, Contact number, Aadhar number etc. along with copy/proof.*
  - vii. details of the excluded assets and excluded debts*
  - viii. Income Tax Return with income statement/Computation of Income Copy, AIS, TIS of F.Y. 2018-19, 2019-20, 2020-21, 2021-22, 2022-23 & 2023-24. Also provide ID & Password creditor wise amount due, broken up into secured and unsecured debts for the preceding three financial years*
  - ix. details of debt owed by guarantor to his associates for the preceding three financial years*
  - x. guarantees given in relation to any of his debts, and whether any of the guarantors is an associate of the guarantor*
  - xi. details of the financial statements for the business owned by the guarantor, or of the firm in which he is a partner, as the case may be, for the preceding three financial years, if applicable*
  - xii. Details of Partnership, Directorship, Shareholding in private company or any other business during 01.04.2019 to 30.09.2024. Its current position, Share received/purchased, share sold so far.*

5. The Applicant further submits that the RP by way of an e-mail communication dated 07.10.2024 had re-approached the Applicant seeking the requisite



documents/records/details/information as mentioned in the foregoing paragraph inter alia, requested the Respondent to provide a Repayment Plan in compliance with Regulation 17 of the PG Regulations, 2019. Further, it has been submitted that the Applicant by way of several e-mail and letter communications had sought for the requisite documents, statement of affairs financial records, record of the assets and holdings, etc. However, the Respondent had chosen not to provide any document/record/details/information as sought for by the RP in its communications aforementioned.

6. The Applicant submits that the Respondent had for the reasons best known only to him, had chosen not to provide the RP with the requisite documents/records/details/information as sought for by the RP, despite several reminders and follow-ups. However, in the interregnum during the process of scrutiny of the available records the RP came to know of several assets including financial transaction as hereunder:



- *Required Income Tax Return Copy, AIS, TIS of F.Y. 2018-19, 2019-20, 2020-21, 2021-22, 2022-23 & 2023-24. Also provide ID & Password.*
- *Required Holding Statement of securities including sale purchase from 01.04.2019 to 30.09.2024.*
- *Required Holding Statement of Life Insurance Policies and its Surrender value as on 30.09.2024.*
- *Required the records like survey no/census no of Land and buildings including residential as well as commercial properties sold & purchased and held during 01.04.2014 to 30.09.2024 throughout India.*
- *Required all bank accounts whether continued or closed w.e.f 01.04.2019 to 30.09.2024.*
- *Assets in kind like gold, bond, FD, any membership or assets in cash*
- *Details of Partnership, Directorship, Shareholding in private company or any other*
- *business during 01.04.2019 to 30.09.2024. Its current position, Share received share revised so far.*
- *Kindly share Director Identification number, CIBIL report, Date of Birth,*
- *Email ID, Contact number, Aadhar number etc. Along with copy/proof. Out of Total debit in HDFC Bank A/c No 030710000009987 and in The RNSB account no 04500310002986, Rs.1181060 paid to Mr. Bipinbhai Narayanbhai Patel, Rs.40000 paid to Mr. Shantilal Nagar*



*Patel, Rs.4750000 paid to Mr. Mavjibhai Patel, Rs. 2053234 paid to Cholamandalam Investment & Finance Ltd. & Rs.500 Paid To others (information not available).*

7. The Applicant further submits that on receipt of the said information, the RP by way of its communications dated 06.12.2024, 12.11.2024 and 03.01.2024 had requested the Respondent/Personal Guarantor seeking the aforementioned documents and requisite details, inter alia, requested the Respondent/Personal Guarantor to provide the Applicant with the finalised repayment plan in terms with the provisions of Section 105 of the Code. However, the Respondent/Personal Guarantor has for the reasons best known only to him, has chosen not to submit the finalised repayment plan, despite numerous communications. A copy of the communications between the PG and the RP as annexed hereto and marked as

**Annexure-C.**

8. The Applicant submits that it is to the utter dismay of the RP that the Respondent, despite several communications and reminders of the RP qua submission of the Repayment Plan, the Respondent has for the reasons unknown to the Applicant



and best known only to the Respondent, has deliberately chosen not to provide the same to the RP as on the date.

9. Further, the Applicant has convened 3 meetings of the Creditors on 11.11.2024, 10.12.2024 & 20.01.2025, whereby, the issue of non-submission of the requisite documents as well as non-submission of any repayment plan was discussed in length. Copies of the minutes of the 1st, 2nd and 3rd Meeting of Creditors are annexed hereto and marked as **ANNEXURE-D ('COLLY')**.
10. It is further submits that in absence of the complete details of the assets of the Personal Guarantor and in absence of the repayment plan, the Resolution Professional fails to proceed with the subsequent proceedings as per Chapter-III of IBC Code and accordingly prepared a Report under Section 106 of the Code. A copy of the report of the Resolution Professional under the provisions of Section 106 of the Code is annexed hereto and marked as **ANNEXURE-E**.
11. The Applicant submits that non-submission of the Repayment Plan by the Personal Guarantor amounts to rejection of the



Repayment Plan under Section 114 as provided under Section 115(2) of the IBC, 2016. The relevant excerpt of the RP Report is extracted as hereunder for the sake of brevity:

*"As per Section 105 of the Code, the debtor shall submit as repayment plan and then the Resolution Professional shall submit the repayment plan along with his report to the Adjudicating Authority. After conducting the meeting of Creditors on the repayment plan the Resolution Professional shall prepare a report of the meeting of creditors and submit it to the Adjudicating Authority. The Adjudicating Authority then pass an order either approving or rejecting the plan. But in this case, in absence of any repayment plan filed by the Personal Guarantor, the supra procedure could not be carried out. The non-filing of the repayment plan causes a similar effect of rejection of the repayment plan under Section 114 as provided under Section 115(2) of the Code."*

- 12.** The Applicant submits that the Respondent/Personal Guarantor herein, had submitted a draft Repayment Plan to the Applicant/RP but no final Repayment Plan has been submitted as on the date.
  
- 13.** The Applicant submits that the Insolvency Process was commenced on 30.09.2024 and as per Regulation 19 of the PG Regulations, the RP is required to file the Report under Section



106 or 112 of the Code within a period of 120 days from the date of commencement of Insolvency, that ended on 28.01.2025.

- 14.** The Applicant submits that the instant application being filed by the Applicant for bona fide reasons and in good faith, in compliance of his duties as enshrined under the Code and regulation thereof. Further, the Applicant has not filed any other application concerning the same subject matter before any other Tribunal/Forum/Court including the Hon'ble Supreme Court of India.
- 15.** As per the NCLT order under Section 100, the RP was required to submit monthly reports. However, since the RP was proceeding with filing under Section 112, no separate resolution was passed to approve expenses for monthly reporting.
- 16.** The RP prepared and submitted a report under Section 112, outlining that no repayment plan had been received from the personal guarantor. The RP has formally requested the NCLT



to take the report on record and issue necessary orders. The prayer included taking note of the non-submission of the repayment plan and issuing further directions as deemed fit by the Hon'ble Tribunal.

- 17.** In view of the above, the Applicant/RP has filed this I.A. U/s 112 of the IBC, 2016 for suitable directions in terms of provisions of Section 114(1) of the Code read Section 115(2) of the Code for suitable orders.
- 18.** Notice to the Personal Guarantor and Financial Creditor was issued vide order dated 05.03.2025. After issuance of notice, a service report has been filed by the Applicant/RP on 26.03.2025 vide Inward No. D 2069 which reflects that the notice through Dasti was served upon the wife of the Respondent/PG annexed acknowledgment on 09.03.2025 as well as through registered post on 12.03.2025. However, despite due services neither anyone appeared for the Respondent/PG and nor any reply was filed. Therefore, right to file reply of Respondent/PG is hereby closed and he is proceeded **Ex-parte.**



19. Further, during course of hearing on 26.03.2025, learned counsel for the Financial Creditor/SBI states that there is no need to file any response to the IA filed by the Applicant/RP against the Respondent/PG.
20. We have heard the Ld. Counsel for the Applicant/RP and Ld. Counsel for the SBI/Financial Creditor, Ex-parte against the Respondent/Personal Guarantor and perused the material available on record.
21. It is seen that the Insolvency Resolution Process was commenced on 30.09.2024. The Tribunal also notes that despite due process being followed, no repayment plan has been submitted by the personal guarantor within the statutory timeline.
22. The reading of Section 106 of the Code is given as follows:-

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

*(1) The resolution professional shall submit the repayment plan under section 105 along with his report on such plan to the Adjudicating Authority within a*



*period of twenty-one days from the last date of submission of claims under section 102.*

*(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.*

*(3) The report referred to in sub-section (2) shall also specify the date on which, and the time and place at which, the meeting should be held if he is of the opinion that a meeting of the creditors should be summoned.*

*(4) For the purposes of sub-section (3) - (a ) the date on which the meeting is to be held shall be not less than fourteen days and not more than twenty-eight days from the date of submission of report under subsection( 1 ); (b )the resolution professional shall consider the convenience of creditors in fixing the date and venue of the meeting of the creditors. “*

**23.** As per section 106 of IBC 2016 the debtor shall submit repayment plan, then the Resolution professional shall submit



the repayment plan along with his report under Section 105 to the Adjudicating Authority. After conducting the meeting of creditors on the repayment plan the Resolution Professional (RP) shall prepare report of the meeting of creditors and submit it to the Adjudicating Authority. The Adjudicating Authority may then pass an order either approving or rejecting the report.

- 24.** In the present case, it is noted that the after several reminders, no Repayment Plan was submitted.
- 25.** In the case before us, in the absence of any Repayment Plan filed by the Personal Guarantor, the procedure on supra could not be carried out. In such cases where no Repayment Plan is offered, the RP is left with no option, but not to summon the meeting of the Creditors and simply file a report that since no Repayment Plan was filed, there may be no justification of summoning the meeting of the creditors. In such backdrop, the order in terms of the proviso to Section 114 of IBC, 2016 would be warranted.



**26.** As can be seen from the provisions of the Section 114 of IBC, 2016, 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: -

***“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.*

*(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 re-convene a meeting of the creditors for reconsidering the repayment plan. ”*



27. In terms of the provisions of Section 115 (2) of IBC, 2016 with the Adjudicating Authority rejecting the repayment plan under Section 114, the debtor and the creditors shall be entitled to file an application for bankruptcy under Chapter IV. The provisions of Section 115(2) of IBC, 2016 reads thus:

***“115. Effect of order of Adjudicating Authority on repayment plan—***

.....

*(2) Where the Adjudicating Authority rejects the repayment plan under section 114, the debtor and the creditors shall be entitled to file an application for bankruptcy under Chapter IV.”*

28. In the given circumstances, since the Personal Guarantor has not filed any Repayment Plan in spite of given sufficient time, this Tribunal is of the opinion that it is to be given a similar effect of rejection of repayment plan, as held by NCLT, Delhi Bench in the matter of ***Mr. Swatantra Kumar Singh vs Mr. Amul Gabrani, IA No. 94 of 2023 in CP IB 505 of 2021*** vide order dated 07.05.2024 that non-filing of repayment plan causes similar effect of rejection of repayment plan under section 114 as provided under section 115(2) of the Insolvency and Bankruptcy Code, 2016.



- 29.** As can be seen from the provisions of Chapter-IV of IBC, 2016, particularly Section 121 thereof, in the event of rejection of repayment plan or there being no repayment plan submitted by the debtor/PG, an application for bankruptcy of debtor will be made by creditor individually or jointly with other creditors or by debtor to the Adjudicating Authority in the circumstances mentioned in the section. One of such circumstances is passing of order under Section 115(2) of IBC, 2016.
- 30.** In view of above, liberty is given to the Creditor/s and the debtor/s to initiate the bankruptcy proceedings against the Personal Guarantor in terms of the provisions of Section 115(2) of IBC, 2016 read with Section 121 of the IBC, 2016 under Chapter IV.
- 31.** The moratorium commenced in terms of section 101 of the IBC 2016 in relation to all the debts and assets of the Personal Guarantor shall cease to have effect from the date of this order.



- 32.** The RP stands **discharged** and he is entitled to claim RP/IRP costs from the Stakeholders.
- 33.** Let a copy of this order be provided to IBBI for the purpose of recording an entry in the register referred to Section 196 of IBC, 2016. The RP shall also make copies of this order available to all the creditors and Personal Guarantor within one week from today.
- 34.** With the above directions, the present application i.e. **IA/219(AHM)2025**, is hereby disposed of.
- 35.** Further, certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

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**SANJEEV KUMAR SHARMA**  
**MEMBER (TECHNICAL)**

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**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

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