

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH, JAIPUR

Company Petition No. (IB)-80/94(1)/JPR/2021

CORAM: SH. DEEP CHANDRA JOSHI, MEMBER(JUDICIAL)
SH. RAGHU NAYYAR, MEMBER (TECHNICAL)

IN THE MATTER OF SECTION 94 of The Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019

In the matter of:

AKASH JINDAL
A-147, Kumud Vihar,
Bhilwara- 311001 (Rajasthan)

...Guarantor / Applicant

For the Applicant : Anurag Kalavatiya, Adv.

Order Pronounced On:09.11.2021

ORDER

Per: Shri Raghu Nayyar, Technical Member

1. The instant Application in CP No. (IB) 80/94(1)/JPR/2021 is filed under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 ('Code') read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantor to Corporate Debtor) Rules, 2019 ('Rules') by Applicant/ Debtor Mr. Akash Jindal. The prayer made is to initiate insolvency resolution

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process in respect of Mr. Akash Jindal, being the Personal Guarantor for M/s Adig Jemtex Private Limited ('Corporate Debtor').

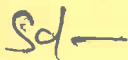
2. It is submitted that the Corporate Debtor is undergoing Corporate Insolvency Resolution Process ('CIRP'). It is also submitted that the Corporate Debtor failed in fulfilling its financial obligations to Bank of Baroda, SSI Bhilwara Branch. Consequently, the present Applicant received a notice dated 03.12.2019 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act') issued by Bank of Baroda seeking invocation of personal guarantee given by the Applicant to the aforementioned Corporate Debtor. Since, the Applicant also failed in fulfilling his obligations, he has filed this Application. The amount in default is stated to be Rs. 40,46,34,952/- and date of default is 01.02.2020 (date after expiry of 60 days from date of notice under Section 13(2) of SARFAESI Act).
3. The Application has been filed in respect of debts which are not excluded debts as enumerated under Section 79(15) of the Code. It is noted that no application under chapter III of Part II of the Code has been admitted before this Adjudicating Authority in respect of the Applicant/ Debtor during the period of twelve months preceding the date of submission of the instant Application. The Applicant has filed an affidavit stating that he is not barred in terms of Section 94(4) of the Code. The Application under consideration

is in Form-A and manner and accompanied with the required fees as prescribed and contains the required details. Thus, prima facie the requirements of Section 94 of the Code are fulfilled.

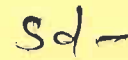
4. As stipulated under Section 96(1) of the Code interim moratorium commences from the date of filing of the Application under Section 94 or 95. Accordingly in the instant matter interim moratorium commences from 20.10.2021 i.e., from the date of filing of the instant Application, in relation to all the debts and interim moratorium shall cease to have effect on the date of admission of the Application. During the interim-moratorium period- (i) any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed; and (ii) the creditors of the Applicant/debtor shall not initiate any legal action or proceedings in respect of any debt. As per Section 96(3) of the Code, the provisions of sub-section 96(1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
5. The Applicant has proposed the name of Insolvency Professional ('IP'), Mr. Vishnu Upadhyay for appointment as Resolution Professional ('RP'). The written consent to act as resolution professional in Form-A provided under Regulation 4(2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulation, 2019 is annexed with the Application. The IP has submitted that he is eligible to be appointed as Resolution Professional and

no disciplinary proceedings are pending against him, and does not suffer from any disability to act as Resolution Professional. In view of the same, this Adjudicating Authority appoints Mr. Vishnu Upadhyay with Registration No. IBBI/IPA-003/IP-N00153/2018-19/11843 and email address ipvishnu.upadhyay@gmail.com as the RP in the matter.

6. In this matter, the Resolution Professional, Mr. Vishnu Upadhyay, shall exercise all the powers as enumerated under Section 99 of the Code read with Rules made thereunder. He is directed to make the recommendations with reasons in writing for acceptance or rejection of this Application within the stipulated time as envisaged under the provisions of Section 99 of the Code. The Resolution Professional shall provide a copy of the report under sub-section 7 of Section 99 to the Applicant/ Debtor as soon as the same is filed before this Adjudicating Authority. The Applicant shall provide a copy of application along with this order to IBBI for its records.
7. Copy of this order be supplied to the Applicant. The Applicant and his counsel are directed to serve the copy of this order along with copy of the Application and documents on the Resolution Professional by all modes for information.
8. List the matter for further proceedings in the case on 09.12.2021.



Raghu Nayyar,
Technical Member



Deep Chandra Joshi,
Judicial Member