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

CP(IB)/94/CHE/2021

*(filed under Section 95(1) of the Insolvency and Bankruptcy Code, 2016
r/w Rule 7 the Insolvency and Bankruptcy (Application to Adjudicating
Authority for Bankruptcy Process for Personal Guarantors to Corporate
Guarantors) Rules, 2019)*

In the matter of **Shri. A. BALAKUMAR**

State Bank of India,

Represented by its Assistant General Manager
Stressed Asset Management Branch,
Red Cross Building, Montieth Road,
Egmore, Chennai- 600 008.

... Applicant / Financial Creditor

-Vs-

Shri A. BALAKUMAR

S/o. Late D. Ayyalu Reddiar
No. 161/A, VGP Layout,
Palavakkam, Chennai – 600 041.

... Respondent / Personal Guarantor

Order Pronounced on 21st July, 2022

CORAM:

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

*For Applicant: Mr. R. Sugumaran, Advocate
For Respondent: Mr. S. Sathyanarayanan, Advocate*

ORDER

Per: SAMEER KAKAR, MEMBER (TECHINICAL)

This application has been filed under Section 95(1) of the
Insolvency and Bankruptcy Code, 2016 by State Bank of India,
Stressed Asset Management Branch, represented by its Assistant

General Manager, against the Respondent in their capacity as one of the Personal Guarantor(s) of the Corporate Debtor (M/s. Leo Primecomp Private Limited), to whom several certain credit facilities in were advanced from time to time.

2. In so far as the Corporate Debtor, it can be seen that the CIR Process had been initiated by this Tribunal vide order dated 24.07.2019 in IBA/578/2019 at the behest of the present Applicant/Financial Creditor.

3. The Guarantee Agreement dated 03.11.2005 executed is placed along with Application at page nos. 246 to 257. The date of default as stated in the Application is 21.12.2018 and the date of invocation of the Personal Guarantee in 01.07.2020 by way of issuing the Demand Notice in Form B which is placed along with the Application at page nos. 258 to 263.

4. Hence, on this term, the present Application is filed to initiate a proceeding in terms of Section 95 (1) of the Code against the Respondent herein.

5. 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.

6. Therefore, at this stage, this Application must be admitted in terms of the above observation of the Hon'ble NCLAT. The Applicant Financial Creditor has proposed the Insolvency Resolution Professional, namely **Mr. Vengarai Seshadri Sowrirajan**, having Reg. No.: **[IBBI/IPA-002/IP-N00268/2017-2018/10781]**, (**e-mail ID: vssowrirajan@gmail.com**) as the Interim Resolution Professional in respect of the Respondent Personal Guarantor. The proposed Insolvency Professional has duly placed his written consent in Form A to act as an IRP and holds a valid AFA, therefore we appoint the proposed Insolvency Professional to be the Resolution Professional in the relation to the Respondent Guarantor.

7. The Applicant 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.

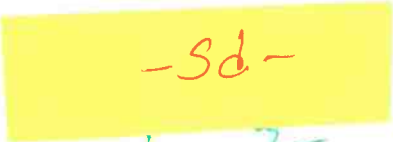
8. The Resolution Professional is required to examine the Application as set out in Section 97(6) of IBC, 2016 and after examining the Application, as per Section 97(7) of IBC, 2016 the

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.

9. All defenses 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.

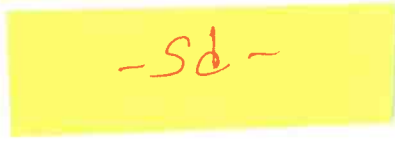
10. Post this matter on **16.08.2022** for filing of Report by the Interim Resolution Professional.

11. With the above said directions, this Application stands **Allowed.**



SAMEER KAKAR

MEMBER (TECHNICAL)



JUSTICE (RETD.) S. RAMATHILAGAM

MEMBER (JUDICIAL)

V.Shreekumar