

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
PRINCIPAL BENCH

IB-337 (PB)/2021

Section: Under Section 95 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 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:

STATE BANK OF INDIA

(Through its Resolution Professional, Mr. Vijender Sharma)

.... Applicant/Financial creditor

versus

Mr. RAMAN GUPTA

.... Respondent/Personal Guarantor

Order Pronounced on: 21.01.2022

CORAM:

CHIEF JUSTICE (RETD.) RAMALINGAM SUDHAKAR

HON'BLE PRESIDENT

SHRI. HEMANT KUMAR SARANGI

HON'BLE MEMBER (TECHNICAL)

PRESENT

For the Applicant : Mr.Ankur Mittal, Advocate

MEMO OF PARTIES

STATE BANK OF INDIA
HAVING ITS LOCAL HEAD OFFICE AT:
STRESSED ASSET MANAGEMENT BRANCH,
12TH FLOOR, JAWAHAR VYAPAR BHAWAN,
TOLSTOY MARG, NEW DELHI-110001

FILED THROUGH

RESOLUTION PROFESSIONAL
MR. VIJENDER SHARMA
INSOLVENCY PROFESSIONAL
HAVING IBBI REG. NO.
IBBI/IPA-003/IP-N00003/2016-2017/10022

.... APPLICANT

VERSUS

RAMAN GUPTA
F-73, Preet Vihar, Delhi-110092

.... RESPONDENT/ GUARANTOR

ORDER

Per: HEMANT KUMAR SARANGI, MEMBER (TECHNICAL)

1. This is an application filed by the Financial Creditor, M/s. State Bank of India, under Section 95 of the Insolvency and Bankruptcy Code, 2016, through Resolution Professional, Mr. Vijender, against Mr. Raman Gupta, Personal Guarantor to the Corporate Debtor (CD), 'M/s. Metenere Limited'. The Resolution Professional has been proposed by

the Financial Creditor, M/s. State Bank of India, to file the present Application, under Section 95 of the Code, seeking to initiate Insolvency Resolution Process against Personal Guarantor of CD, in respect of the Outstanding debt of Rs. 1169,37,87,061 (Rupees One Thousand One Hundred Sixty Nine Crore Thirty Seven Lakhs Eighty Seven Thousand Sixty One Only), as on 28.07.2017, due from the Corporate Debtor, under rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors), Rules, 2019.

2. The Ld. Counsel for the Applicant states that, the CD, M/s. Metenere Limited, in order to meet its financial requirements, had availed various loan facilities (working capital facilities and term loan facilities) from the applicant bank and its erstwhile subsidiaries namely, State Bank of Travancore (SBT), State Bank of Bikaner and Jaipur (SBBJ), State Bank of Patiala (SBP) & State Bank of Mysore (SBM), collectively the Associate Banks of SBI (Transferor

Bank), which have been merged into SBI (Transferee Bank) w.e.f 01.04.2017.

3. Mr. Raman Gupta, the Respondent herein, stood as personal guarantor to the working capital and term loan facilities availed by the CD and executed the following deeds of Personal Guarantee-

FOR WORKING CAPITAL FACILITIES

- a. Deed of Guarantee dated 29.07.2013
- b. Deed of Guarantee dated 05.12.2014
- c. Supplemental Deed of Guarantee dated 23.03.2015
- d. Third Supplemental Deed of Guarantee dated 20.07.2016

FOR TERM LOAN FACILITY

- a. Deed of Personal Guarantee dated 30.03.2012
 - b. Deed of Personal Guarantee dated 09.05.2014
4. That the Ld. Counsel for the Applicant states that the CD and the Respondent, despite regular follow-up by the Applicant, failed to maintain financial discipline and started committing default. The Applicant sent repeated reminders

but the CD defaulted in repayment of the dues of the bank and the account of CD was thereafter declared as NPA on 28.07.2017. That an application in respect of the Corporate Debtor, i.e., M/s. Metenere Limited, was admitted under Corporate Insolvency Resolution Process (CIRP), by NCLT, New Delhi, vide order dated 25.09.2020 in C.P. (IB) No. 639 (PB)/2018.

5. The Ld. Counsel for the applicant further submitted that a Demand Notice in Form B under rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtor) Rules, 2019, was issued on 01.02.2021, to the Personal Guarantor, in respect of the unpaid debt due from M/s. Metenere Limited (Corporate Debtor), under rule 7(1) of the IBC, Rules 2019.
6. It is pertinent to mention that as per part-III of Form-C, the total debt from the personal guarantor, by way of personal guarantee given to M/s. State Bank of India, including interest as on 17.05.2021, amounts to Rs. 1169,37,87,061

(Rupees One Thousand One Hundred Sixty Nine Crore Thirty Seven Lakhs Eighty Seven Thousand Sixty One Only).

7. It is made known to everyone that on the date of filing this Application by the Applicant/ Creditor, the interim-moratorium commences as stipulated under Section 96(1)(a), in relation to all the debts of the personal guarantor and shall cease to have effect on the date of admission of this Application and during the interim-moratorium period, the following are prohibited:

- a. Any pending legal action or proceeding in respect of any debt of the personal guarantor shall be deemed to have been stayed; and
- b. The Creditors of the personal guarantor shall not initiate any legal action or proceedings in respect of any debt.

This shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

8. The Applicant/ Creditor has proposed the name of Mr. Vijender Sharma, Insolvency Professional, having registration number IBBI/IPA-003/IP-N00003/2016-17/10022, email-vijender@vsa.net.in, Phone- 9810166877, for appointment as the Resolution Professional. No disciplinary proceedings are pending against him. Therefore, Mr. Vijender Sharma, is appointed as the Resolution Professional in exercise of powers conferred under Section 97 of the IBC, 2016 on this Authority subject to Regulations 4 (1) and (2) of the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.

9. In this matter, the Resolution Professional, shall exercise all the powers, as enumerated under Section 99 of the Code, read with Rules made there under. He is directed to make the recommendations, along 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 I & B Code, 2016. The Resolution Professional

shall provide a copy of the report under sub-section (7) of Section 99 to the Applicant/Creditor, as soon as the same is filed before this Authority.

10. The Applicant and the Registry are directed to serve the copy of this order along with copy of the Application and documents immediately on the Resolution Professional so appointed for information and compliance

11. List the matter for further proceedings in the case on 21.02.2022.


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[CHIEF JUSTICE (RETD.) RAMALINGAM SUDHAKAR]
(PRESIDENT)

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(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)