

Sr. No. 90/2021

1

THE NATIONAL COMPANY LAW TRIBUNAL
"JAIPUR BENCH, JAIPUR"
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing platform)

CP (IB) No. 36/95/JPR/2021

Under Section 95 of Insolvency and
Bankruptcy Code, 2016.

In the matter of:

Bank of Maharashtra
with its registered office at
SAM Branch, B-29, 2nd Floor,
Connaught Place,
New Delhi-110001

Vs.

...Applicant-Creditor

Gajendra Singh Singhvi
Managing Director,
Hindustan Fibres Ltd.,
with his present address at
E-48, Greater Kailash Part-I,
New Delhi-110048

...Respondent-Personal Guarantor

Order delivered on: 01.09.2021

Coram: Hon'ble Mr. Ajay Kumar Vatsavayi, Member (Judicial)
Hon'ble Mr. Raghu Nayyar, Member (Technical)

Present through Video Conferencing:-

For the Applicant-Creditor : Mr. Naresh Kumar Sejvani, Advocate

Per: Ajay Kumar Vatsavayi, Member (Judicial)

ORDER

The present application is filed by Bank of Maharashtra (for
brevity 'Creditor'/ 'Applicant') (Form-C) with a prayer to initiate Insolvency

CP (IB) No. 34/95/JPR/2021

FREE OF COST COPY
CERTIFIED TO BE TRUE COPY



[Signature]
Assistant Registrar
National Company Law Tribunal
Jaipur
02.09.2021

Sr. No. 90/2021

2

Resolution Process against Mr. Gajendra Singh Singhvi (hereinafter called as "Personal Guarantor/Respondent"), through Mr. Anil Kumar Mittal, Insolvency Resolution Professional, under Section 95 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC' / 'Code') read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors), Rules, 2019. The Respondent/ Personal Guarantor has stood as the Guarantor in respect of the loans availed by the Principal borrower viz. M/s Hindustan Fibres Limited (Corporate Debtor).

2. It is stated that various credit facilities were obtained by the Corporate Debtor from Bank of Maharashtra, but the Corporate Debtor was unable to abide by the financial discipline and thus neglected to regularize its credit facility by failing to make payment of the outstanding amount. It is contended that the proceedings under Section 7 of the Code are still pending against the Corporate Debtor being titled as Bank of Maharashtra Vs. Hindustan Fibres Ltd., bearing CP No. 190/7/JPR/2019.

3. It could be seen that a Demand Notice dated 15.01.2021 was issued by the Creditor to the Personal Guarantor in respect of the unpaid debt due from the Corporate Debtor under rule 7(1) of the of the IBC Rules, 2019. It is stated that the Demand Notice was sent by speed post to the respondent. Copy of the speed post receipts dated 18.01.2021 are attached at Page 38 of the application. It is stated that the respondent has replied to the above said demand notice on 15.02.2021 wherein the respondent did not deny or refuted the amount due as claimed in the demand notice. Copy of the demand notice along with the reply of the respondent are annexed as Annexure A-6 and A-7

CP (IB) No. 34/95/JPR/2021

FREE OF COST COPY
CERTIFIED TO BE TRUE COPY.




02.09.2021
Assistant Registrar
National Company Law Tribunal
Jaipur

of the application. The advance copy of this application is also stated to be served upon the respondent via e-mail dated 09.07.2021. Copy of the sent e-mail is attached at Page A2 of the application.

4. In Part III of Form C, the total debt from the Personal Guarantor by way of personal guarantee given to the corporate debtor is shown as Rs.20,06,65,102/-.

5. We have heard the learned counsel for the Applicant and perused the pleadings on record.

6. It is submitted that there is a default on the part of the personal guarantor by not fulfilling the debt owed by the corporate debtor as per the deeds of guarantee entered between the parties, which are a part of the present application and attached as Annexure-13 & 14.

7. Hence, the application by Mr. Anil Kumar Mittal, Insolvency Resolution Professional on behalf of **Bank of Maharashtra**, under Section 95 of the Code read with Rule 7 of the IBC Rules, 2019 against Mr. Gajendra Singh Singhvi, the personal guarantor of the corporate debtor.

8. It is clarified that from the date of filing this application i.e. 12.07.2021 by the Applicant, Interim Moratorium commences as stipulated under Section 96(1) of the Code in relation to all the debts of the Personal Guarantor. During the Interim Moratorium period: (i) any pending legal action or proceedings in respect of any debt shall be deemed to have been stayed; and (ii) the creditors of the 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

FREE OF COST COPY
CERTIFIED TO BE TRUE COPY -

CP (IB) No. 34/95/JPR/2021



[Signature] 02.08.2021
Assistant Registrar
National Company Law Tribunal
Jaipur

notified by the Central Government in consultation with any financial sector regulator.

9. It shall be noted that the appointment of the Resolution Professional under Section 97 of the Code is critical and essential for the Applicant but also to safeguard the assets of the personal guarantor in terms of the provisions of the Code. Since the present application has been filed through the Resolution Professional, Mr. Anil Kumar Mittal, bearing Registration No. IBBI/PA-002/IP-N00742/2018-19/12263, this Bench confirms the appointment of the Resolution Professional in the matter.

10. The Applicant is directed to serve the copy of this order along with copy of the Application and documents immediately on the Resolution Professional by all modes.

11. The Resolution Professional is directed to 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 Creditor as soon as the same is filed before this Authority.

12. List the matter for further proceedings in this case on 05.10.2021.

Sd/-

(Raghu Nayyar)
Member (Technical)

September 1st, 2021
YP



FREE OF COST COPY
CERTIFIED TO BE TRUE COPY.

CP (IB) No. 34/95/JPR/2021

Sd/-

(Ajay Kumar Vatsavayi)
Member (Judicial)

[Signature]
02.09.2021
Assistant Registrar
National Company Law Tribunal
Jaipur