

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**BENGALURU BENCH, BENGALURU**  
**(Exercising powers of Adjudicating Authority under**  
**the Insolvency and Bankruptcy Code, 2016)**

**I.A. No.593 of 2022 in**  
**C.P. (IB)No.76/BB/2021**  
**U/s112 of the IBC, 2016**  
**R/w Regulation 19 of IBBI (IRP for**  
**Personal Guarantors to Corporate**  
**Debtors)Regulations, 2019**

**In the matter of:**

**Shri RavindraBeleyur**

*Resolution Professional of  
Respondent/Personal Guarantor  
#Shreevathsa, No.428,  
19B Cross, Jayanagar 03<sup>rd</sup> Block,  
Bangalore – 560 011.*

- Applicant

**Order delivered on: 09<sup>th</sup> June, 2023**

**CORAM:** 1. Hon'ble Justice (Retd.) T Krishnavalli, Member (Judicial)  
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

**Parties/Counsels Present:**

For the Applicant/RP : Shri RavindraBeleyur

**O R D E R**

**Per: T Krishnavalli, Member (Judicial)**

1. The instant Application is filed on 15.12.2022 by Shri Ravindra Beleyur, Resolution Professional of Respondent/Personal Guarantor ('Applicant') under Section 112 of the IBC, 2016 r/w Regulation 19 of IBBI (IRP for Personal Guarantors to Corporate Debtors) Regulations, 2019 *inter alia* seeking to take on record the report of the meeting of creditors submitted by the Resolution Professional and reject the repayment plan based on the report of the meeting of creditors submitted by the Resolution Professional (RP).

2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

- i. It is stated that this Adjudicating Authority vide order dated 29.03.2022 admitted an application under Section 95(1) of the IBC, 2016 in respect of the Insolvency Resolution Process against Sri. M.S.Sriharsha (hereinafter called 'the Personal Guarantor') who is the Personal Guarantor for the credit facilities extended by the Applicant i.e., State Bank of India to the Corporate Debtor M/s, Sura Leathers Pvt. Ltd. and appointed Sri Hem Chandra as the Resolution Professional. Further, on application filed by the SBI, the Adjudicating Authority vide order in I.A. No.216/2022 in C.P.(IB)No.76/BB/2021 dated 23<sup>rd</sup> June 2022 replaced the RP by appointing the Applicant, namely, Shri Ravindra Beleyur as the RP.
- ii. It is stated that the Applicant had received the following claim(s) from the stakeholders of Personal Guarantor:

Sl. No.	Name of the Claimant	Total claim (Amount in Rs.)	Total amount of claim admitted
1.	Deutsche Bank	9,26,78,213	9,26,78,213
2.	State Bank of India	76,38,73,026	76,38,73,026
	<b>Total</b>	<b>85,65,51,239</b>	<b>85,65,51,239</b>

- iii. Further, the Applicant/RP submitted the report of the RP and statement of Affairs vide I.A No. 353 on 24<sup>th</sup> August 2022 before this Adjudicating Authority and it was taken on record on 30<sup>th</sup> September 2022.
- iv. It is stated that the first meeting of Creditors was convened on 8<sup>th</sup> September 2022 and subsequently convened 2 adjourned meetings on 19<sup>th</sup> September 2022 and 14<sup>th</sup> October 2022 to consider the revised repayment plan submitted by the Guarantor. Since no further developments happened after several rounds of meeting. At the 2<sup>nd</sup> adjourned meeting held on 14<sup>th</sup> October 2022 another

opportunity was given to the guarantor to submit his final 3<sup>rd</sup> revised repayment plan.

- v. It is submitted that the Guarantor had made a request vide email dated 28<sup>th</sup> November 2022 requesting for three weeks more time for submission of third revised resolution plan. The Applicant placed the request before the creditors, but it was not accepted by either of the creditors. Further, the meeting of Creditors was convened on 01<sup>st</sup> December 2022 to consider the report of RP regarding the revised repayment plan submitted by the Guarantor in which the Creditors unanimously rejected the revised repayment plan. The extract of the Resolution passed at the meeting held on 01.12.2022 is as under:

*“ **RESOLVED THAT** the Creditors of the Personal Guarantor – Sri M.S Sriharsha be and hereby take note that the repayment plan/revised repayment plans submitted by the Guarantor to the RP/Creditors are not maximising the value to all the creditors and decided to reject the repayment plan/revised repayment plan as per detailed deliberation on the repayment plan/ revised repayment plan.*

***RESOLVED FURTHER THAT** the Creditors of the Personal Guarantor Sri. M.S Sriharsha authorised the Resolution Professional Sri Ravindra Beleyur to submit necessary report/Application to the Adjudicating Authority seeking a direction to the Hon’ble Adjudicating Authority to pass an order under Section 114 of the IBC, 2016 which would allow creditors file an application for Bankruptcy under Chapter IV in line with Section 115 (2) of IBC, 2016.”*

- vi. It is further stated that the RP/Applicant is required to submit a report of meeting of Creditors under Section 112 of IBC, 2016 r/w Regulation 19 of IRP for Personal Guarantors which was submitted along with minutes of the meeting of Creditors as Annexure-A5 of this Application. It is further submitted that as per Section 114 of the IBC, 2016 the Adjudicating Authority is required to pass order based on the report of the meeting of the creditors submitted by the RP.

vii. The provisions of Section 114 of IBC, 2016 are as under:

**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 creditor 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 reconvene a meeting of the creditors for reconsidering the repayment plan.”*

3. Heard Shri Ravindra Beleyur, the Applicant/Resolution Professional. We have carefully perused the pleadings of the party and extant provisions of the Code, and the Regulations made thereunder.
4. It is noticed from the Section 114(1) of the IBC, 2016 that the Adjudicating Authority shall approve or reject the Repayment Plan on the basis of the meeting of the Creditors submitted by the Resolution Professional under Section 112 of the IBC, 2016, r/w Regulation 19 of IBBI (IRP for Personal Guarantors to Corporate Debtors) Regulations, 2019. We have perused the report of the meeting of the Creditors on the Repayment Plan under Section 112 of the IBC, 2016 and the same is taken in record. The resolution passed in the meeting dated 01.12.2022 has also been considered. According to this report and the resolution, the Creditors have not approved the Repayment Plan submitted by the Personal Guarantor.
5. Accordingly, this Adjudicating Authority hereby rejects the Repayment Plan submitted by the Personal Guarantor under the provisions of

Section 114(1) of the IBC, 2016 and the Creditors shall be entitled to file an application for Bankruptcy under Chapter IV. The RP stands discharged. Accordingly, **I.A. No. 593 of 2022** in **C.P.(IB)No.76/BB/2021** is disposed of.

**Sd/-**

**(MANOJ KUMAR DUBEY)**  
**MEMBER (TECHNICAL)**

**Sd/-**

**( T.KRISHNAVALLI)**  
**MEMBER (JUDICIAL)**