IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P.(IB)/282(KB)2021

Under section 95(1) of the Insolvency and Bankruptcy Code, 2016 read with rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019.

In the matter of:
Bank of Baroda

...Applicant

-Versus-

Mr. Rajnandan Singh

...Respondent

Order Reserved on: 31/01/2022
Order Pronounced on: 21/02/2022

Coram:

Shri Rohit Kapoor	**: Member (Judicial)**
Shri Harish Chander Suri	**: Member (Technical)**

Appearances (through video conferencing)

For Applicant : Mr. Avishek Guha, Advocate

O R D E R

Per: Harish Chander Suri, Member (Technical)

1. The Court convened via video conference.

2. Under consideration is an Application **C.P.(IB)/282/KB/2021** filed under section 95(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") read with rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 (hereinafter referred to as "**IB Rules, 2019**") and regulation 4(2) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (hereinafter referred to as "**IB Regulations, 2019")** for initiating the Insolvency Resolution Process (hereinafter referred to as "**IR Process**") against personal guarantor, viz., Mr. Rajnandan Singh, one of the directors of **Maa Tara Ferrotech Private Limited (CIN: U27205JH2012PTC000812)** (hereinafter referred to as **"MTFPL"**).

3. The factual matrix of the case is that the Applicant is a banking company incorporated under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. and **"MTFPL"** and guarantor had approached the applicant seeking grant of various financial facility. On the representations made by the **"MTFPL",** the Applicant extended various Credit facilities on 22/05/2013, and granted Cash Credit Facility. As per the Credit Facility, **"MTFPL"** was obliged to repay the principal sum of loan along with interest thereon in accordance with repayment schedule as set out in the agreement. The Deed of Guarantee was executed on 24/05/2013. The **"MTFPL"** and the guarantor had failed and/or neglected to make payment as per terms of the said Facility Agreement. Thereafter, the applicant had classified the account of the **"MTFPL"** (Corporate Debtor) as a non-performing asset (**"NPA"**) on 11/06/2015.

4. The Applicant Bank, thereafter, proceeded to issue statutory Demand Notice under Section 13(2) on 04/08/2016 and also statutory possession notice under Section 13(4) on 17/12/2016 to the Corporate Debtor as well as the guarantor in terms of the provisions of SARFAESI Act, 2002.

5. The applicant had filed an application under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 before the Debt Recovery Tribunal, Ranchi being OA No. 285 of 2018 on 26/03/2018. Recovery Certificate was issued by the Ld. Debts Recovery Tribunal, Ranchi on 19/08/2019. However, the applicant failed to realise its dues. Meanwhile, **"MTFPL"** (Corporate Debtor) was admitted under CIRP by the National Company Law Tribunal, Kolkata Bench vide order dated 13/03/2020 passed in **CP(IB)/836(KB)2018** and matter is now under liquidation vide order dated 22/01/2021**.**

6. The personal guarantor, viz., Mr. Rajnandan Singh has executed personal guarantee on 24/05/2013 in favour of the Applicant to secure the repayment of the principal amount of the Cash Credit Facilities together with all interest, additional interest, liquidated damages, premium on repayments, reimbursement of all costs, charges and expenses and all other obligations payable by **"MTFPL"** in respect of the Facility Agreement. The Applicant has issued a Demand Notice in **Form B** on 13/10/2020 under Rule 7(1) of the IB Rules, 2019 but no response.

7. In this factual conspectus, the applicant prays for initiation of insolvency resolution process, against the respondent/guarantor.

8. It is made known to everyone that on filing this Application by the Applicant/Creditor the interim-moratorium commences in terms of section 96(1)(a) of IBC, 2016.

9. The Applicant/Creditor has proposed name of Mr. Kailash Kumar Rathi, an Insolvency Professional for appointment as Resolution Professional. However, we are appointing Ms. Meena Sureka, having IBBI Registration No. **IBBI/IPA-001/IP-P01422/2018-2019/12163**, email: ipmeenasureka@gmail.com, as Resolution Professional in exercise of the power conferred under section 97 of the IBC, 2016 on this Authority. The Resolution Professional is directed to file declaration within seven days from the date of receiving this Order to the effect that he fulfils all the requirements for being appointed as Resolution Professional in the matter.

10. The Resolution Professional shall exercise all the powers as enumerated under section 99 of the IBC, 2016 read with the Rules made thereunder. He is directed to make the recommendations for acceptance or rejection of this Application within the stipulated time as envisaged under section 99(1) of the IBC, 2016. The RP shall give a copy of the report under sub-section (7) of section 99 of IBC, 2016 to the Applicant, as soon as the same is filed before this Authority.

11. The Counsel on record for the Applicant is hereby directed to serve the copy of this Order along with copy of the Application and documents on the Resolution Professional by all available modes for information and compliance. Proof of service shall be filed with this Bench for record.

12**.** List this matter on 18/04/2022 for further consideration.

13. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

14. Certified Copy of this order be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri
Member (Technical)

Rohit Kapoor
Member (Judicial)

Signed this, 21st day of February, 2022.

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