

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH, JAIPUR

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER**

CP No. (IB)- 15/94/JPR/2024

IN THE MATTER OF SECTION 94 of The Insolvency and Bankruptcy Code, 2016 read with Rule 6 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:

RATTAN LAL JAIN

...Applicant

VERSUS

HDFC BANK & ANR.

...Respondents

MEMO OF PARTIES

RATTAN LAL JAIN

Through RP Ms. Gunjan Mittal
 ZP-39, Pitampura, Delhi- 110034

...Applicant/ Personal Guarantor

VERSUS

1. HDFC BANK

2nd Floor, Indian Express Building,
 9-10 Bahadurshah Zafar Marg,
 ITO, New-Delhi-110002

2. INCOME TAX DEPARTMENT

Civil Centre, Mint Road, New
 Delhi- 110002

...Respondent

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FOR THE PETITIONER(S) : Kavish Dubey, Adv.
Ankit Sharma, Adv.

Order Pronounced On: 12.03.2024

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

1. The present application is filed under Section 94 of the Insolvency and Bankruptcy Code, 2016 ('Code'/'IBC') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 ('Rules') by the Applicant/ Personal Guarantor namely *Mr. Rattan Lal Jain*. The Applicant has prayed to initiate the Insolvency Resolution Process in respect of *Mr. Rattan Lal Jain*, being the Personal Guarantor for *M/s Namokar Strips Pvt. Ltd.* ('Corporate Debtor').
2. During the period of 2013-17, the Corporate Debtor incurred losses owing to massive business failures and continuous failure to repay the debts availed earlier. The Applicant along with the Directors of the Corporate Debtor, entered into various corporate transactions with multiple creditors for the purpose of managing the affairs of the Corporate Debtor; thereby, availing several inter-corporate loans and credit facilities from the *HDFC Bank* wherein the Personal Guarantor/Applicant stood as guarantor qua the said transactions of the Corporate Debtor.

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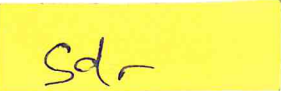
3. It is seen that a notice under Section 13(2) of SARFAESI Act, 2002 was issued by *HDFC Bank* dated 01.02.2016 against the Corporate Debtor and its Personal Guarantors, the Applicant herein being one, seeking repayment of Rs. 2,61,76,412.23/- (Rupees Two Crores Sixty-One Lakhs Seventy-Six Thousand Four Hundred Twelve and Twenty-Three Paise) as on 29.02.2016. Further, Income Tax Department had also issued a notice dated 14.02.2023 under Section 148A of Income Tax Act, 1961 to the Applicant asking him to show case the reason for non-issuance of Section 148 of Income Tax Act, 1961.
4. It is seen that the Applicant in Part III has mentioned the amount of default as Rs. 2,58,49,899/- (Rupees Two Crore Fifty-Eight Lakhs Forty-Nine Thousand Eight Hundred Ninety-Nine Only) against *HDFC Bank* as on 29.11.2015 and Rs. 84,00,000/- (Rupees Eighty-Four Lakhs Only) for the *Income Tax Department* for the Assessment Year 2016-17, thereby the total amount of default is Rs. 3,42,49,899/- (Rupees Three Crore Forty- Two Lakhs Forty-Nine Thousand Eight Hundred Ninety-Nine only) and the date of default against *HDFC Bank* is 29.11.2015.
5. The Application has been filed in respect of debts which are not excluded debts as enumerated under Section 79(15)(e) of the Code. It is noted that no application under Chapter III of Part III of the Code has been admitted before this Adjudicating Authority in respect of the Applicant/Debtor

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during twelve months preceding the date of submission of the instant Application. The Applicant has filed an affidavit stating that he is not barred in terms of Section 94(4) of the Code. The Application under consideration is in a Form-A format and accompanied with the required fees as prescribed and contains the required details. Thus, prima facie the requirements of Section 94 of the Code are fulfilled.

6. As stipulated under Section 96(1) of the Code interim moratorium commences from the date of filing of the Application under Section 94 or 95. Accordingly, in the instant matter interim moratorium commences from 18.12.2023 i.e., from the date of filing of the instant Application, concerning all the debts, and interim moratorium shall cease to have effect from the date of admission of the Application. During the interim-moratorium period- (i) any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed; and (ii) the creditors of the Applicant/debtor shall not initiate any legal action or proceedings in respect of any debt. As per Section 96(3) of the Code, provisions of sub-section 96(1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
7. As per Rule 6(2) of the Rules, the Guarantor has served a copy of this application to every Financial Creditor and the Corporate Debtor for whom the guarantor is a personal guarantor. It is seen that the Guarantor has

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annexed proof of service to the creditors and Corporate Debtor by way of email.

8. The Applicant has proposed the name of Resolution Professional; therefore, this Authority is hereby appointing *Gunjan Mittal* bearing Registration No. IBBI/IPA-003/IP-N00361/2021-2022/13756 with the e-mail address gunjanmittaladv.ip@gmail.com and phone number +91 9868476717 as the RP in the present matter.
9. In this matter, the Resolution Professional appointed herein, *Gunjan Mittal*, shall exercise all the powers as enumerated under Section 99 of the Code read with Rules made thereunder. The RP is directed to re-check availability of all information as per the relevant Rules & Forms. Further, the RP is also directed to make 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 Applicant / Debtor, all the Financial Creditors and related Corporate Debtors for whom the Applicant is a Personal Guarantor as soon as the same is filed before this Adjudicating Authority. The Applicant shall provide a copy of the Application, if not provided already, along with this order to IBBI for its records.
10. A Copy of this order be supplied to the Applicant. The Applicant and its

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counsels are directed to serve a copy of this order along with a copy of the Application and documents to the Resolution Professional by all modes for information.

11. The Registry is directed to immediately send a soft copy of the instant Application along with this order to the RP nominated herein on his e-mail id.
12. In the circumstances, prayer for appointment of RP is allowed.



**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**



**RAJEEV MEHROTRA,
TECHNICAL MEMBER**