

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH NEW DELHI
COURT- III

CP IB -793/2020 filed under Section 94 (1) r/w
sections 96, 97, 99 & 100 r/w Rule 6 (1) of the IB
(Application to Adjudicating Authority for IRP for
Personal Guarantors to CD) Rules, 2019.

In the matter of Narinder Singh Azad

Narinder Singh Azad

....Personal Guarantor/Debtor

Versus

Bank of Baroda

.....Financial Creditor

In the matter of IA - 4332 (ND)/2020 & IA-4207/2020

Mr. Ravinder Singh Kathuria

...Applicant/ RP

Order Delivered on 15th of February, 2021

Coram

CH. MOHD SHARIEF TARIQ, Member (Judicial)
Mr. NARENDRA KUMAR BHOLA, Member (Technical)

For Applicant/RP: Mr. Ajit Rajput (Advocate)

For Debtor: Mr. OmPal (Advocate)

ORDER

(Through Video Conferencing)

Per. CH. Mohd Sharief Tariq, Member (Judicial)

1. The Resolution Professional has filed two application out of which the application IA - 4207/2020 is the Written Consent to act as Resolution Professional (Form A) filed by the Resolution Professional viz., Mr. Ravinder Singh Kathuria (hereinafter referred as "Resolution Professional") who was appointed vide Order dated 28.9.2020. The Resolution Professional has declared that there are no

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disciplinary proceedings initiated by the Board or the Insolvency Professional Agency, he does not suffer from any disability and is eligible to be appointed as Resolution Professional of the Guarantor. Therefore, as prayed the application is taken on record.

2. It is recalled that on presentation of the application by the Personal Guarantor/Debtor the Resolution Professional was appointed to file report under Section 99 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC, 2016") which has been filed bearing number IA - 4332 (ND)/2020. The Resolution Professional has stated that at this juncture he is not in a position to recommend for treating the Application under Fresh Start under Chapter II. The Resolution Professional has prayed for admission of the application filed under section 94 of IBC, 2016 in order to make through Investigation.

3. The report provides that the Financial Creditor viz., Bank of Baroda (earlier Vijaya Bank) had instituted a recovery suit before Debt Recovery Tribunal, New Delhi in the year 2014 and the Judgement was passed in the year 2016 however, the executing proceedings are pending in the Debt Recovery Tribunal against the Personal Guarantor/Debtor. It is also stated that the Corporate Debtor viz., V Anlez Technologies Private Limited was dissolved vide Order dated 26.07.2019 passed by the Hon'ble High Court. Further, it is stated that the total debt including interest and penalties w.e.f. 03.01.2014 of Bank of Baroda (earlier Vijaya Bank) was Rs. 5,51,83,692 alongwith cost of Rs. 1,50,000/- on the suit amount till the realisation and as per the recovery certificate issued by the DRT, New Delhi. It is stated that the loan was secured with 3 (three) properties of the Personal Guarantor/Debtor and the loan amount was classified as NPA in the year 2012.

4. The Report further states that in reply the Personal Guarantor/Debtor has submitted that the total outstanding is to the tune of Rs. 3.52 Crores after realisation of the sale proceeds of the assets kept as Security.



5. However, from the report there does not appear any request of the Resolution Professional for issuance of the instructions for the purpose of conducting negotiations between the debtor and creditors for arriving at the repayment plan. Therefore, the application being completed under the provisions of Section 94 of IBC, 2016 and reasons recorded in the report of the Resolution Professional is hereby **admitted** under section 100 of the IBC, 2016 by initiating the Insolvency Resolution Process in CP IB -859/PB/2019 against the Applicant/Debtor and the moratorium is declared as provided under Sec 101 of IBC, 2016. During the moratorium period;

- a) Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed; and
- b) The creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt; and
- c) The debtor shall not transfer, alienate, encumber, or dispose off any of his assets or his legal rights or beneficial interest therein;
- d) The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

6. The Resolution Professional viz., *Mr. Ravinder Singh Kathuria*, who has been appointed under Section 97 vide Order dated 28.09.2020, is directed to cause a public notice on behalf of the Adjudicating Authority within 7 days of uploading of this Order on the website of the NCLT Delhi, inviting claims from all Creditors, who shall register their claims as provided under Section 103 within 21 days of such issuance. The notice shall contain the necessary information as provided under Section 102 (2) of IBC, 2016. The publication of notice shall be made in newspapers, one in English and other in Vernacular which has wide circulation in the State where the Debtor resides. The copy of the notice shall be affixed in the premises of this Authority and the Registry shall place a copy of the same on the website of this Authority.

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7. The Resolution Professional in exercise of the powers conferred under section 104 shall prepare a list of creditors within 30 days from the date of the notice. The debtor shall prepare a repayment plan in consultation with the Resolution Professional as provided under Section 105, which shall include the provisions for payment of fee to the Professional. The Resolution Professional shall submit the repayment plan with his report within a period of 21 days from the last date of submission of claims as provided under Section 106. The Resolution Professional will convene a meeting of the Creditors, if he is of the opinion that the meeting of the creditors should be summoned. The date of meeting should not be less than 14 days or more than 28 days from the date of submission of the Report under Sub-section (1) of Section 106, for which at least 14 days' notice to the creditors [as per the list prepared] shall be issued by all modes fulfilling the requirements as per the provisions of section 107.

8. The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 & 111. The Resolution Professional shall prepare a report for repayment of plan as provided under Section 112 and submit the same to this Authority by providing a copy to the debtor and the Creditors. It is made clear that the Resolution Professional shall perform his function and duties in compliance with the code as provided under section 208 of the IBC, 2016.

9. In terms of the above, the Insolvency Resolution Process stands initiated against the Debtor/Personal Guarantor.

- Sol -
NARENDRA KUMAR BHOLA
Member (Technical)

- Sol -
CH. MOHD SHARIEF TARIQ
Member (Judicial)



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[Signature]
12/2/2021
सहायक पंजीयक
ASSISTANT REGISTRAR
राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
C.G.O. COMPLEX, NEW DELHI-110003