

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – II, CHENNAI**

CP(IB)/216/(CHE)/2023

*(Filed under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 read with
Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority
for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors)
Rules, 2019)*

Mrs.S.Bhanumathi,
D Block, 1st Floor, M M Oasis,
Lakshmi Nagar, 1st Street,
Gerugambakkam,
Chennai - 600 122.
Tamil Nadu.

... Applicant & Guarantor

Order Pronounced on 23rd February 2024

CORAM:

**Shri. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)
Shri. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

Present:

For Petitioner : *A.S.SathishKumar, PCS*

ORDER

(Hearing Conducted through Video Conferencing)

This application has been filed under Section 94(1) 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 "**Mrs.S.Bhanumathi**".

2. The prayer has been made to initiate the Insolvency Resolution Process in respect of "**Mrs.S.Bhanumathi**", being the Personal Guarantor for **M/s. Srivisha Infra Private Limited. ('Corporate Debtor')**.

3. As per the averments made in the application, **M/s. Srivisha Infra Private Limited** had taken credit facilities from **Canara Bank, Egmore, Chennai**. The Applicant herein had given personal guarantee to the said loan. In this matter, the Corporate Debtor to whom the Applicant has given Personal Guarantee failed to repay the debt and in pursuance of which the present application has been filed.

4. The Applicant has given the particulars of debt in Part-III of the application, the Applicant has given the particulars of debt including interest as Rs.1,18,28,277/- (Rupees One crore Eighteen lakhs Twenty Eight Thousand Two Hundred and Seventy Seven only) and amount of default as Rs.1,18,28,277/- (Rupees one crore Eighteen lakhs Twenty Eight Thousand Two Hundred and Seventy Seven only). The date of default occurred as on 29.04.2022 as the loan amount (debt amount) was unpaid.

5. The Applicant has placed Copy of Demand Notice dated 30.04.2022 issued by Indian Bank, U/s 13(2) of the SARFAESI Act, 2002, and same is placed as Annexure 1(i)(a) (colly). The Applicant has also filed the statement of affairs as on 15.12.2023 as Annexure 10 at **Page 25**.

6. As per Rule 6(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019, 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 annexed proof of service to the creditors and Corporate Debtor. The same is annexed in Annexure 14 of the Application Typeset.

7. We have heard Learned Authorized Representative for the Applicant and perused the record.

8. Section 94 of IBC provides that a debtor may apply either by himself, or jointly with Partners, or through a Resolution Professional to the Adjudicating Authority for initiating an Insolvency Resolution Process under the Section by submitting an application.

9. In this matter, the Personal Guarantor has himself moved the application for initiation of Insolvency Resolution Process.

10. Considering the above facts, we are of a considered opinion that a Resolution Professional to +be appointed who will collate all the facts related to the examination of the application for the commencement of Insolvency Process in respect of the Personal Guarantor/Applicant.

11. In the instant case, the Applicant has proposed the name of the Resolution Professional, "**Mr.Madhu Desikan**", having Registration No. **IBBI/IPA-001/IP-P-00579/2017-2018/11021**(*Email Id: Desikan.madhu@gmail.com*) (*whose AFA is valid till 27.11.2024*) as Resolution Professional in respect of the Personal Guarantor.

12. We have gone through the verification about the AFA status of the Proposed Resolution Professional of "**Mr.Madhu Desikan**". No disciplinary action is going on against the Proposed Resolution Professional and the AFA Status with IBBI is valid. We are satisfied with the name of the Proposed Resolution Professional, "**Mr.Madhu Desikan**" and we hereby appoint "**Mr.Madhu Desikan**" as Resolution Professional in respect of the Applicant/Personal Guarantor.

13. The Resolution Professional is directed to examine the application as set out in Section 97(6) of IBC, 2016 and after examining, may recommend for the acceptance / rejection of the application as provided under Section 97(6) of IBC, 2016, **within a period of 10 days** as contemplated under Section 99(1) of IBC, 2016.

14. The Applicant is directed to serve copy of the application and the order on the Resolution Professional.

15. List this application for report / hearing on **20.03.2024**.

-SD-
RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-SD-
JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)