

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT – III, SPECIAL BENCH**

**C.P.(IB)-919(MB)/C-III/2022**

(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 Debtors) Rule 2019.)

*In the matter of*

**Central Bank of India**

Having Office at: 2<sup>nd</sup> Floor, NCL Building, Plot no. 6, E-Block, Bandra-Kurla Complex, Bandra (East), Mumbai-400051.

**.....Financial Creditor/Petitioner**

**Vs**

**Salil Anupendra Chaturvedi**

Residing at: 105-106, Provogue House, Off. New Link Road, Andheri (West), Mumbai- 400053.

**.....Personal Guarantor/Respondent**

**Order Pronounced on: 14.03.2024**

**CORAM:**

**SHRI CHARANJEET SINGH GULATI  
HON'BLE MEMBER (T)**

**SHRI KISHORE VEMULAPALLI  
HON'BLE MEMBER (J)**

***Appearances:***

For the Applicant : Adv. V.K. Nair

For the Personal Guarantor: Adv. Chandrika Prajapati

**ORDER**

1. The Present Company Petition is filed under section 95(1) of Insolvency and Bankruptcy Code, 2016 (“IBC, 2016”) by **Central Bank of India (“Financial Creditor/Petitioner”)** for initiating Insolvency Resolution Process against **Salil Anupendra Chaturvedi (“Personal Guarantor”)** being the Personal Guarantor of M/s. Provogue (India) Limited **(“Corporate Debtor/Principal Borrower”)**.
2. On the request of the Corporate Debtor, the Petitioner had sanctioned CC/PC/EBD/LC Facility to the limit of Rs. 31.50 Crore (Rupees Thirty-One Crore and Fifty Lakh only) and Non-Fund based working Capital Limit to the extent of Rs. 12 Crore (Rupees Twelve Crore only) to the Corporate Debtor vide Loan Sanction Letter bearing Ref. CFB-MUM:CR:PIL:2011-12:5325 dated 27.03.2012.
3. Further, as per the request of Corporate Debtor, the Petitioner had revised/enhanced the CC/PC/EBD/LC Facility to the limit of Rs. 34 Crore (Rupees Thirty-Four Crore only) and Non-Fund Based Working Capital Limit to the extent of Rs. 6 Crore (Rupees Six Crore only) to the Corporate Debtor vide Loan Sanction letter bearing Ref. CFB-CR:RK:2013-14;606 dated 31.05.2013.
4. As per the request of Corporate Debtor, the Petitioner had revised the aforesaid loan facility to same limit vide sanction letter bearing Ref. CFB-CR:RK:2014-15;1384 dated 29.09.2014.
5. The Respondent herein has in his personal capacity as a personal guarantor guaranteed due repayment of the aforementioned Facility availed by the Corporate Debtor, in the event of default.
6. The respondent had executed Deed of Guarantees dated 30.03.2012, 28.06.2013 and 24.07.2017 and guaranteed the repayment the credit Facilities availed by the Corporate Debtor from the Petitioner as well as

from Andhra Bank being Consortium Lead Bank and other consortium members including the Petitioner.

7. The Corporate Debtor committed gross default in repayment of the aforesaid credit facilities granted to them by the Petitioner in spite of repeated demands and hence the Petitioner had classified the Loan Account of the Corporate Debtor as NPA as per RBI Guideline on 28.12.2015.
8. The Principal Borrower/Corporate Debtor defaulted in repayment of the said credit facilities. The Corporate Debtor was admitted by this Tribunal into the Corporate Insolvency Resolution Process (CIRP) on 14.10.2019.
9. On 21.10.2020, the Financial Creditor issued a Demand Notice in Form B under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rule, 2019 to the Respondent and called up on him to pay a total sum of Rs. 55,53,34,236/- (Rupees Fifty-Five Crore Fifty-Three Lakh Thirty-Four Thousand Two Hundred Thirty-Six only).
10. The Respondent received the said notice but no payment has been made. Due to the failure to pay the outstanding amount, the Petitioner has filed the present petition and same has been served to the respondent.
11. The Personal Guarantor despite expiry of the period of 14 days from the date of service of Demand Notice failed to repay the debt.
12. The Hon'ble Supreme Court in ***Dilip B Jiwrajka Vs. Union of India & Ors. Writ Petition (Civil) No. 1281 of 2021*** decided on 09.11.2023 held as follows:-

Quote

- i. *No judicial adjudication is involved at the stages envisaged in Section 95 to Section 99 of the IBC;*

- ii. *The Resolution Professional appointed under Section 97 serves a facilitative role of collating all the facts relevant to the examination of the application for the commencement of the insolvency resolution process which has been preferred under Section 94 or Section 95. The report to be submitted to the Adjudicating Authority is recommendatory in nature on whether to accept or reject the application.*

Unquote

13. The Petition for initiating insolvency resolution process against Personal Guarantor to the Corporate Debtor is complete in all respect. We accordingly, appoint **Mr. Jagdish Ratanlal Ahuja**, *having Reg. No: **IBBI/TPA-002/IP-N00401/2017-2018/11175***, *Email: [pcsjrahuja@gmail.com](mailto:pcsjrahuja@gmail.com)* Phone no: 9323144390 as Resolution Professional (“RP”) in the matter.
14. The fee payable to Resolution Professional (RP) shall be in accordance with the Insolvency and Bankruptcy Board of India (IBBI) Regulations/Circulars/ Directions issued in this regard.
15. This Bench also directs for an advance payment of Rs.2,00,000/- (Rupees Two Lakhs only) to be paid by the Financial Creditor to the Resolution Professional (RP) immediately to initiate the process which shall be adjusted towards the fee and expenses payable to the Resolution Professional (RP).
16. The Resolution Professional is directed to examine the application as set out in Section 97(6) of IBC, 2016 who after examining, shall submit his report as provided under Section 99(1) of IBC, 2016, **within 10 days**.
17. The Applicant is directed to serve copy of the application and the order on the Resolution Professional.

18. List the matter for report of the RP on **25.04.2024**.

Sd/-

**CHARANJEET SINGH GULATI**  
**(MEMBER TECHNICAL)**

Sd/-

**KISHORE VEMULAPALLI**  
**(MEMBER JUDICIAL)**

Arpan, LRA