

**NATIONAL COMPANY LAW TRIBUNAL**  
**PRINCIPAL BENCH AT NEW DELHI**

**Company Petition No. (IB)435(PB)2021**

**IN THE MATTER OF :**

**Alchemist Asset Reconstruction Company Ltd.  
(Acting as trustee of Alchemist XXVIII Trust)  
A-270 1<sup>ST</sup> and 2<sup>nd</sup> Floor, Defence Colony  
New Delhi-110024**

**...Financial Creditor**

**Versus**

**Mrs. Nita Puri  
(Personal Guarantor of Moser Baer India Ltd.)  
A-187, New Friends Colony,  
New Delhi-110020**

**...Personal Guarantor**

**Order Delivered on: 01.11.2021**

**SECTION: 95(1) of IBC 2016**

**CORAM:**

**SH.BHASKARA PANTULA MOHAN, HON'BLE ACTING PRESIDENT**

**SH. HEMANT KUMAR SARANGI, HON'BLE MEMBER (T)**

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**PRESENT:**

**For the Applicant :** Mr. Nakul Mohta and Mr. Devansh  
Srivastava, Advs

**For the Respondent :** Ms. Varsha Banerjee, Adv

**ORDER**

**PER: BHASKARA PANTULA MOHAN, ACTING PRESIDENT**

Under consideration is the Application preferred by M/s Alchemist Asset Reconstruction Company. Ltd. **(the ‘Applicant/Financial Creditor’)**, under Section 95(1) r/w Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for IRP for Personal Guarantors to Corporate Debtor) Rules, 2019. The present Application is filed for initiating the Insolvency Resolution Process **(the “IR Process”)** against Ms. Nita Puri (hereinafter, referred as **Personal Guarantor/Debtor**), who is the Guarantor of M/s Moser Baer India Ltd. **(the ‘Corporate Debtor’)**.

2. The factual matrix of the case is that the Applicant/Creditor viz., Alchemist Asset Reconstruction Company Ltd. is (a Company incorporated under the erstwhile Companies Act, 1956,) an Asset Reconstruction Company.

3. It is stated by the Applicant that on 22.09.2009 and 18.02.2010 the State Bank of Hyderabad ( now State Bank of India), had disbursed various credit facilities to the Corporate Debtor .

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4 It is stated by the Applicant that the erstwhile State Bank of Hyderabad had executed a Deed of Assignment dated 30.03.2016 with it, pursuant to that, the account of the Corporate Debtor was assigned to the Applicant.

5. That the Applicant has described the transaction in Part III of its Application, pursuant to which it had claimed a total debt of Rs 3,45,33,52,893.39. The extracts of Part 3 of the Application is reproduced below-

**Part – III**

PARTICULARS OF DEBT																																			
1.	Total debt (including any interest or penalties):	<p>Total debt including interest is INR <b>3,45,33,52,893.39</b> as on 30.06.2021 (“<b>Outstanding Debt</b>”). Moser Baer India Limited (Corporate Debtor) approached the State Bank of Hyderabad (now merged with State Bank of India) (Original Lender) for sanction and disbursement of various credit facilities, which were sanctioned and disbursed in the following manner to the Corporate Debtor vide sanction letter(s) dated 22.09.2009 &amp; 18.02.2010 (Copy of said Sanction Letter dated 22.09.2009 &amp; 18.02.2010 Annexed herewith and Marked as <b>Annexure 7 &amp; Annexure 8, respectively</b>).</p> <table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th colspan="3">INR in Crores</th> </tr> <tr> <th>Particulars</th> <th>Date of Disbursement/ sanction</th> <th>Amount Disbursed</th> </tr> </thead> <tbody> <tr> <td>Corporate Loan</td> <td>25.09.2009</td> <td>50.00</td> </tr> <tr> <td>Working Capital</td> <td>31.05.2010 (availed in parts upto 2012)</td> <td>50.00</td> </tr> <tr> <td><b>Total</b></td> <td></td> <td><b>100.00</b></td> </tr> </tbody> </table> <p>Further, vide Master Restructuring Agreement dated 27.12.2012, the debt disbursed was restructured as under:</p> <table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th colspan="2">INR in Crores</th> </tr> <tr> <th>Particulars</th> <th>Amount Disbursed</th> </tr> </thead> <tbody> <tr> <td>Term Loan</td> <td>50.00</td> </tr> <tr> <td>Working Capital Facility</td> <td>36.00</td> </tr> <tr> <td>Non-Fund Base Working Capital Limits (NFWCL)</td> <td>18.00</td> </tr> <tr> <td>Funded-Interest Term Loan (FITL)</td> <td>6.88</td> </tr> <tr> <td>Working Capital Term Loan (WCTL)</td> <td>5.42</td> </tr> <tr> <td>Funded-Interest Working Capital Term Loan (FIWCTL)</td> <td>0.57</td> </tr> <tr> <td><del>New Term Loan</del></td> <td>2.60 (not)</td> </tr> </tbody> </table>	INR in Crores			Particulars	Date of Disbursement/ sanction	Amount Disbursed	Corporate Loan	25.09.2009	50.00	Working Capital	31.05.2010 (availed in parts upto 2012)	50.00	<b>Total</b>		<b>100.00</b>	INR in Crores		Particulars	Amount Disbursed	Term Loan	50.00	Working Capital Facility	36.00	Non-Fund Base Working Capital Limits (NFWCL)	18.00	Funded-Interest Term Loan (FITL)	6.88	Working Capital Term Loan (WCTL)	5.42	Funded-Interest Working Capital Term Loan (FIWCTL)	0.57	<del>New Term Loan</del>	2.60 (not)
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6. That the Applicant has placed on record the copy of the Guarantee Deed 12.02.2013, given by the Personal Guarantor herein, in favour of "CentBank Financial Services Limited" as Security Trustee and Central Bank of India ( Monitoring Institution/ Account Bank).

7. It is stated by the Applicant that it had invoked the Guarantee vide, its Loan recall notice dated 04.04.2017, which was issued to the Corporate Debtor, as well as to the Personal Guarantor herein.

8. It is stated by the Applicant that the CIR Process against the Corporate Debtor has already been initiated by the this Adjudicating Authority vide order 14.11.2017 in the matter of Alchemist Asset Reconstruction Co. Ltd Vs Moser Baer India Ltd. (CP. No. 378/PB/2017).

9. It is further submitted that the Liquidation proceedings were also initiated against the Corporate Debtor vide order dated 20.09.2018 passed by this bench.

10. It is averred by the Applicant that it had sent a Notice vide Speed Post dated 05.07.2021, in Form B under Rule 7(1) of Insolvency & Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019, to the Personal Guarantor, demanding payment of total

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outstanding amount of Rs. 3,45,33,52,893.39/-. Vide Speed Post and courier.

11. That the Applicant has placed on record the copy of the Reply dated 15.07.2021, issued by the Personal Guarantor, in response to the aforesaid Demand Notice, wherein it is stated by the Personal Guarantor that she has no asset of her own, and requested the Applicant not to initiate any action.

12. That the Applicant has also served the copy of this Application to the Personal Guarantor vide speed post, in compliance of Section 95(5) of IBC, 2016.

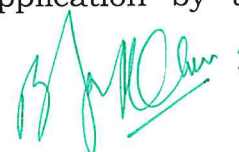
13. It is stated by the Applicant that Personal guarantor/Debtor has committed default in making repayment of the loan alongwith the interest to the Applicant.

14. That during the course of preliminary hearing on 16.08.2021, this bench has issued notice to the Personal Guarantor and pursuant to that the Ld. Counsel for the Personal Guarantor has appeared on 06.09.2021, Accordingly the matter was reserved in her presence.

15. In the light of the above circumstances, we would like to proceed further in the mater for appointing the Resolution Professional. Hence It is made known to everyone that on filing this Application by the

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Applicant/ Creditor, the interim-moratorium commences as stipulated under Section 96 (1) (a), in relation to all the debts of the personal guarantor and shall cease to have effect on the date of admission of this Application and during the interim- moratorium period, the following are prohibited:

- (a) Any pending legal action or proceeding in respect of any debt of the personal guarantor shall be deemed to have been stayed; and
- (b) The Creditors of the personal guarantor shall not initiate any legal action or proceedings in respect of any debt.

This shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

16. The Applicant/Creditor has proposed the name of Mr.Sapan Mohan Garg, Insolvency Professional, for appointment as Resolution Professional, who has accepted to be appointed and declared that he is eligible to be appointed and that no disciplinary proceedings are pending against him. Therefore, Mr. Sapan Mohan Garg is appointed as the Resolution Professional, in exercise of the powers conferred under Section 97 of the IBC, 2016 on this Authority, subject to the Regulation 4 (1) and (2) of the Insolvency and bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019. The details of the Resolution Professional are as under:

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**Name** : **Mr. Sapan Mohan Garg**  
**Registration No.** : **IBBI/IPA-002/IP-N00315/2017-18/10903**  
**Address** : **C-585 Basement # Z-94 Defence Colony  
Delhi-110024**  
**E-mail** : **sapan10@yahoo.com**  
**Mobile Number** : **9810502994**


17. The Resolution Professional shall exercise all the powers as enumerated under Section 99 of the IBC, 2016, r/w the Rules made thereunder. **He is directed to examine the Application and make recommendations along with the reasons in writing for acceptance or rejection of this Application, within the stipulated time as envisaged under the provisions of Section 99 of the IBC, 2016.** The RP shall give a copy of the report under Sub-Section (7) of Section 99 to the Applicant/Creditor, as soon as the same is filed before this Authority.

18. The Applicant or his Counsel and the Registrar/Court Officer are directed to serve the copy of this Order along with copy of the Application and documents immediately on the Resolution Professional so appointed by all modes for information and compliance.

19. List the matter on 22.11.2021

  
- sd -

**BHASKARA PANTULA MOHAN**  
**(ACTING PRESIDENT)**

  
**HEMANT KUMAR SARANGI**  
**(MEMBER TECHNICAL)**

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