

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-IV**

**IA-989/2022
IN
CP (IB)-74/ND/2022**

*[Under 96, 97, 99 & 100 of IBC, 2016 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:

Mr. Rishi Pal Ruhil Applicant/ Guarantor

AND IN THE MATTER OF

Mr. Vijay Kumar Narang Resolution Professional

CORAM:

SH. MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

DR.SANJEEV RANJAN,
HON'BLE MEMBER (TECHNICAL)

Order Delivered on:13.02.2024

Present:

For the Applicant/RP : Mr. Pulkit Deora & Mr. Harsh Gurbani,
Adv. with Mr. Vijay Kumar Narang, RP
For Objector Bank/ RBL Bank Limited: Ms. Shweta Saini, Adv.
For Respondent: Mr. Aditya Maheshwari, Advocate.

ORDER

PER: SH. MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)

1. Under consideration is an application filed under section 94 read with section 99 of the Insolvency and Bankruptcy Code, 2016 bearing IA-989/2022, which is a report filed by the Resolution Professional namely Mr. Vijay Kumar Narang, who was duly appointed by this Tribunal vide order dated 07.02.2022. The present report has been filed in accordance with Section 99 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as IBC, 2016 / Code). Originally, the Applicant, namely, Rishi Pal Ruhil, had filed a petition under Section 94 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 (hereinafter referred to as the Rules, 2019), who is the personal guarantor in relation to the credit facility availed by M/s. Balaji Digital Solution Private Limited (hereinafter referred to as Corporate Debtor) for a total outstanding amount of Rs. 1,04,89,82,902/- as on 17.11.2021.
2. On presentation of the Petition CP (IB) No. 74/ND)/2022, by the Applicant, this Adjudicating Authority vide order dated 07.02.2022, appointed the Resolution Professional viz., Mr. Vijay Kumar Narang, as proposed by the Applicant in the Part IV of Form A, having Registration No. IBBI/IPA-001/IP-P-02064/2020-21/13300, having Email Id: vijaynarang57@gmail.com and directed him to examine the application referred in Section 94 of IBC, 2016 and file a report under Section 99 of IBC, 2016. The interim moratorium was commenced from the date of filing the application i.e. 19.01.2022, as stipulated under 96(1) of the IBC, 2016. The Report under Section 99 of IBC, 2016 has been filed by

Mr. Vijay Narang, Resolution Professional through IA-989/2022 in CP(IB)74/ND/2022, recommending the admission of the application filed under section 94 of IBC, 2016 as per Section 99(7) of the Code. In terms of section 99(9), the reasons for admission of the application recorded in the Report are as follows: -

- a) Mr. Ruhil (Guarantor) has committed a default under Section 94(1) of the Code, 2016 in making payments to payments to 1) RBL Bank Ltd on 26.09.2019, 2) Standard Chartered Bank on 17.09.2019, 3) Tata Capital Financial Services Ltd on 25.05.2019, and 4) Incred Financial Services Pvt. Ltd on 04.01.2019. The total debt outstanding on 17.11.2021 is amounting to Rs. 1,04,89,82,902/- which includes interest amount Rs. 30,64,48,609/- as on 17.11.2021 for which Mr. Ruhil has given personal guarantee on behalf of M/s. Balaji Digital Solution Pvt. Ltd and the same were invoked by issuing recall notices on 19.09.2019, 17.07.2019, 25.03.2019 and 24.12.2018 by the respective banks.
- b) The Guarantor is not eligible for the fresh start process.
- c) Mr. Ruhil, guarantor has committed default in repayment of his debts, and therefore, first requirement as set out under section 94(1) of the Code is satisfied.
- d) All the debts mentioned in the Application are not excluded debts, and hence, requirement set out under section 94(3) of the Code is satisfied.
- e) Mr. Ruhil is not an un discharged bankrupt, not undergoing a fresh start process, not undergoing an insolvency resolution process or bankruptcy process, therefore satisfies requirement set out under section 94 (4) of the Code.

3. One of the Financial Creditors off the Applicant namely, M/s. RBL Bank Limited had filed its objections to the report of the Resolution Professional submitted under Section 99 of the Code, 2016 in the matter of Insolvency Resolution Process of Mr. Rishi Pal Ruhil wherein the following concern was raised:-

a) The Resolution Professional has mentioned that the outstanding amount qua the present objector i.e. RBL Bank Ltd. stood as Rs. 18,16,72,503/- (Rupees eighteen crores sixteen lakhs seventy two thousand five hundred and three only), whereas as on date outstanding payable by the Personal Guarantor to the RBL Bank Ltd is Rs. 19,46,15,626 (Rupees Nineteen Crores Forty Six Lacs Fifteen Thousand Six hundred Twenty Six only).

4. We have heard the learned counsel for the parties and perused the report and the documents placed on record.

5. On perusal of the report, we observed that Mr. Rishi Pal Ruhil, stood as Personal Guarantor of M/s. Balaji Digital Solution Private Limited ('Corporate Debtor') in respect of whom Corporate Insolvency Resolution Process was initiated by This Adjudicating Authority vide order dated 06.07.2021. The Credit facilities extended to the Corporate Debtor in respect of which Mr. Rishi Pal Ruhil, stood as Personal Guarantor and had defaulted in repayment are as follows:-

Sl. No.	Name of Financial Creditor	Amount (Rs.)
1	RBL Bank Ltd.	18,16,72,503/-
2	Standard Chartered Bank.	15,78,36,430/-
3	Tata Capital Financial Services Ltd.	58,52,34,397/-
4	Incred Financial Services Pvt. Ltd. (Previously named as (Visu Leasing & Finance Pvt. Ltd.)	12,42,39,572/-
	Total	1,04,89,82,902/-

6. So far as concern of the objector is concerned, this Adjudicating Authority is of the view that the scope of the report filed by the Resolution Professional under Section 99 of the Code, 2016, is limited to recommending either acceptance or rejection of the application. Accordingly, the objection raised by the objector regarding the determination of the amount of claim cannot be sustained.
7. 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 a repayment plan.
8. Based on the above and the reasons recorded in the report submitted by the Resolution Professional, and after going through all the documents on record, this Adjudicating Authority hereby **allow IA (IBC)No. 989/2022 filed under Section 99** of the Code, 2016 and consequently the Petition i.e., IB -74/ND/2022, filed under the provisions of Section 94 of IBC, 2016 is hereby **admitted** under section 100 of the IBC, 2016. The Resolution Professional Mr. Vijay Kumar Narang, who has been proposed by Applicant was appointed under Section 94 vide Order dated 07.02.2022, The Applicant i.e., Mr. Rishi Pal Ruhil is directed to deposit Rs. 2,00,000/- (Rupees Two Lakh Only) to the bank account of the Resolution Professional within one week, this fee shall be subject to the rules and regulations made under the provisions of the Code.
9. The Insolvency Resolution Process is initiated against the Personal Guarantor namely Mr. Rishi Pal Ruhil and moratorium is declared, which commenced from the date of admission of the Petition i.e. date of

this Order and shall cease to have effect at the end of the period of 180 days, 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 of 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.

10. The Resolution Professional is directed to cause a public notice published 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 have wide circulation in the State where the Personal Guarantor resides.

11. The Resolution Professional in exercise of the powers conferred under Section 104 of IBC, 2016, 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

Resolution Professional. The Resolution Professional shall submit the Repayment Plan along with his report on the plan to this Adjudicating Authority within a period of 21 days from the last date of submission of claims, as provided under Section 106 of IBC, 2016.

12. In case the Resolution Professional recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons thereof. If the Resolution Professional *is of the* opinion that the meeting of the creditors should be summoned, he shall specify the details as provided under Section 106(3). 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 of the IBC, 2016, for which at least 14 days' notice to the creditors [as per the list prepared] shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107 of the IBC, 2016

13. The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 & 111 of the IBC, 2016. The Resolution Professional shall prepare a report of the meeting of the creditors on the Repayment Plan with all details as provided under Section 112 of the IBC, 2016 and submit the same to this Adjudicating Authority, copies of which shall be provided to the debtor and the creditors. It is made clear that the Resolution Professional shall perform his functions and duties in compliance with the Code of Conduct provided under Section 208 of the IBC, 2016.

14. In terms of the above, **IA (IBC)No.989/2022 stands allowed and CP(IB)-74/ND/2022**, filed under Section 94 (1) of the IBC, 2016 is **admitted** and the Insolvency Resolution Process stands initiated against the Personal Guarantor i.e., Mr. Rishi Pal Ruhil.

Sd/-

**SANJEEV RANJAN
(MEMBER TECHNICAL)**

Sd/-

**MANNI SANKARIAH SHANMUGA SUNDARAM
(MEMBER JUDICIAL)**