IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER
SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER

CP No. (IB)- 08/94/JPR/2024

IN THE MATTER OF SECTION 94 of The Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019

IN THE MATTER OF:

SUNITA JAIN

...Applicant

VERSUS

HDFC BANK & ANR.

...Respondent

MEMO OF PARTIES

SUNITA JAIN
Through Ms. Gunjan Mittal, RP
CP 171 Maurya Enclave, Pitampura,
Delhi- 110034

...Applicant

VERSUS

HDFC BANK & ANR.
2nd Floor, Express Building 9-110,
Bahadur Shah Zafar Marg, ITO New
Delhi- 110002

...Respondent No. 1

FOR THE APPLICANT(S) : Kavish Dubey, Adv.
Ankit Sharma, Adv.

FOR THE RESPONDENT(S) : Vikas Jain, Adv.

Order Pronounced On:05.04.2024

Sd/- Sd/-

ORDER

Per: Shri Rajeev Mehrotra, Technical Member

1. The present application is filed under Section 94 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 namely *Mrs. Sunita Jain* through *Ms. Gunjan Mittal, Resolution Professional ('RP')*. The Applicant has prayed to initiate the Insolvency Resolution Process in respect of *Mrs. Sunita Jain*, being the Personal Guarantor for *M/s Namokar Strips Pvt. Ltd.* ('Corporate Debtor').

2. During the period of 2013-17, the Corporate Debtor went into losses owing to massive business failures and continuous default in repayment of the debts of the Company. The Applicant along with the Directors of the Corporate Debtor, entered into various corporate transactions with multiple creditors for the purpose of managing the affairs of the Corporate Debtor; thereby, availing several inter-corporate loans and credit facilities from the *HDFC Bank* wherein he stood as guarantor qua the said transactions of the Corporate Debtor. It is seen that a letter Invoking Guarantee was issued against the Personal Guarantor by the PNB on 01.02.2016 and a notice under Section 13(2) of SARFAESI Act, 2002 was also issued by *HDFC*

Sd/- Sd/-

Bank dated 18.03.2016 against the Corporate Debtor and its Personal Guarantors.

3. It is seen that the Applicant in Part III has mentioned the amount of default as Rs. 2,58,49,899/- (Rupees Two Crore Fifty-Eight Lakhs Forty-Nine Thousand Eight Hundred Ninety-Nine Only) against *HDFC Bank* as on 29.11.2015 and Rs. 84,00,000/- (Rupees Eighty-Four Lakhs Only) for the Income Tax Department for the Assessment Year 2016-17, so the total amount of default is Rs. 3,42,49,899/- (Rupees Three Crore Forty- Two Lakhs Forty-Nine Thousand Eight Hundred Ninety-Nine only) and the date of default against *HDFC Bank* is 29.11.2015.

4. The Application has been filed in respect of debts which are not excluded debts as enumerated under Section 79(15)(e) of the Code. It is noted that no application under Chapter III of Part III of the Code has been admitted before this Adjudicating Authority in respect of the Applicant/Debtor during twelve months preceding the date of submission of the instant Application. The Applicant has filed an affidavit stating that he is not barred in terms of Section 94(4) of the Code. The Application under consideration is in a Form-A format and accompanied with the required fees as prescribed and contains the required details. Thus, prima facie the requirements of Section 94 of the Code are fulfilled.

5. As stipulated under Section 96(1) of the Code interim moratorium commences from the date of filing of the Application under Section 94 or

Sd/- Sd/-

95. Accordingly, in the instant matter, interim moratorium commences from 18.12.2023 i.e., from the date of filing of the instant Application, concerning all the debts, and interim moratorium shall cease to have effect from the date of admission of the Application. During the interim-moratorium period- (i) any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed; and (ii) the creditors of the Applicant/debtor shall not initiate any legal action or proceedings in respect of any debt. As per Section 96(3) of the Code, provisions of sub-section 96(1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

6. As per Rule 6(2) of the Rules, 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 by way of email.

7. The Applicant has proposed the name of Resolution Professional; therefore, this Authority is hereby appointing *Ms. Gunjan Mittal* bearing Registration No. IBBI/IPA-003/IP-N00361/2021-2022/13756 with the e-mail address gunjanmittaladv.ip@gmail.com and phone number +91 9868476717 as the RP in the present matter.

8. In this matter, the Resolution Professional appointed herein, Ms. *Gunjan Mittal*, shall exercise all the powers as enumerated under Section 99 of the

Sd/- Sd/-

Code read with Rules made thereunder. The RP is directed to re-check availability of all information as per the relevant Rules & Forms. Further, the RP is also directed to make recommendations with reasons in writing for acceptance or rejection of this Application within the stipulated time as envisaged under the provisions of Section 99 of the Code. The Resolution Professional shall provide a copy of the report under sub-section 7 of Section 99 to the Applicant / Debtor, all the Financial Creditors and related Corporate Debtors for whom the Applicant is a Personal Guarantor as soon as the same is filed before this Adjudicating Authority. The Applicant shall provide a copy of the Application, if not provided already, along with this order to IBBI for its records.

9. A Copy of this order be supplied to the Applicant. The Applicant and its counsels are directed to serve a copy of this order along with a copy of the Application and documents to the Resolution Professional by all modes for information. The Registry is directed to immediately send a soft copy of the instant Application along with this order to the RP nominated herein on his e-mail id.

10. In the circumstances, prayer for appointment of RP is allowed.

Sd/-

DEEP CHANDRA JOSHI,
JUDICIAL MEMBER

Sd/-

RAJEEV MEHROTRA,
TECHNICAL MEMBER