

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

**PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 25.01.2023 AT 10.30 AM**

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP(IB)No.93/95/AMR/2022		95 of IBC	Central Bank of India Vs. Mrs. Chavva Naga Lakshmi & M/s Sri Ananda Lakshmi Narasimha Industries Private Limited

ORDER

Mr.V.V.S.N.Raju, Counsel for the FC present.

Orders pronounced. CP(IB)/93/95/AMR/2022 is admitted, vide separate orders.

Sd/-
**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

RSN

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI**

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CP (IB)/93/95/AMR/2022

Under Section 60(2) and 95 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 7 (2) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Process for Personal Guarantors to Corporate Debtors) Rules, 2019

AND

In the matter of Mrs. CHAVVA NAGA LAKSHMI

BETWEEN:

Central Bank of India,
Represented by its authorised signatory
Mr.Syed Kamal Mohiuddin,
Central Office at Chandermukhi,
Nariman Point, Mumbai – 400021
Branch at Corporate Finance Branch at Bank Street,
Koti, Hyderabad-500095.

...Petitioner/ Financial Creditor

AND

1. Mrs. Chavva Naga Lakshmi,
W/o Late Mr. Pandu Ranga Rao, D.No. 4-3-20,
Samisragudem Village, Nididavole Mandal,
West Godavari District,
Andhra Pradesh - 534302.

... Respondent No.1/Personal Guarantor

2. Sri Ananda Lakshmi Narasimha Industries India Private Limited,
R/o. 930/3A. Velivenu Road,
Samisragudem Village, Nidadavole Mandal,
West Godavari, Andhra Pradesh - 534302.

... Respondent No.2/Corporate Debtor

Date of pronouncement of orders: 25.01.2023

CORAM:

Justice Telaprolu Rajani, Member Judicial.

Appearance:

For Financial Creditor : Mr. V.V.S.N. Raju, Advocate.

For the Personal Guarantor : None

ORDER

1. This Company Petition is filed by the Financial Creditor (FC) i.e., Central Bank of India Under Section 60(2) and 95 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 7 (2) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Process for Personal Guarantors to Corporate Debtors) Rules, 2019 seeking to initiate Insolvency Resolution Process against the Personal Guarantor of the Corporate Debtor (CD).
2. The facts as stated in the Synopsis are as follows:
 - a. The CD has availed various credit facilities from the FC and Respondent No.1 stood as guarantor for the said credit facilities from time to time. Rs.33,18,09,761.02/- was disbursed by the CD in form of various credit facilities through several sanction letters. In furtherance of the loan transaction, the CD also created securities in favour of the FC by way of mortgages, hypothecation and guarantees. Respondent No.1 guaranteed the repayment obligations vide 'Form of Guarantee for Advances and Credits

Generally' on various dates i.e., 13.03.2013, 29.03.2014, 31.09.2016 & 01.11.2016. Respondent No.2, after fully availing the said credit facilities, failed to adhere to the repayment terms of the sanctioned credit facilities, resulting in the Loan accounts becoming irregular.

- b. The FC vide recall letter dated 17.03.2020 requested the CD to clear the entire dues amounting to Rs.32,34,97,219.64/- within 7 days. However, the CD failed to repay the debts. Hence, the FC was constrained to approach the Debt Recovery Tribunal (DRT) vide O.A.NO.261/2020 dated 05.08.2020 and the same was disposed of by the DRT vide order dated 04.04.2022 directing the CD to pay a sum of Rs.33,93,23,650.15/- as on 03.08.2020 at applicable contractual rates of interest. In view of the decree passed by the DRT, a fresh cause of action against the CD has arisen again and thereby leasing a fresh period of limitation from the date of the decree i.e., 04.04.2022.
- c. The FC relied upon the Supreme Court Judgement in the matter of *Dena Bank vs. C.Shivkumar Reddy and Another* dated 04.08.2021 wherein the court held that “ *Moreover, a judgment and/or decree for money in favour of the Financial Creditor, passed by the DRT, or any other Tribunal or Court, or the issuance of a Certificate of Recovery in favour of the Financial Creditor, would give rise to a fresh cause of action for the Financial Creditor, to initiate proceedings under Section 7 of the*

IBC for initiation of the Corporate Insolvency Resolution Process, within three years from the date of the judgment and/or decree or within three years from the date of issuance of the Certificate of Recovery, if the dues of the Corporate Debtor to the Financial Debtor, under the judgment and/or decree and/or in terms of the Certificate of Recovery, or any part thereof remained unpaid.”

- d. Due to the negligence, misrepresentations and defaults committed by the CD, the FC is on the verge of losing huge amounts of public money amounting to Rs.33,93,23,650.15/- which is due and recoverable from the CD at contractual rates of interest with effect from 04.08.2020. Further, FC issued a Form - B demand notice demanding Respondent No.1 to clear the outstanding dues. However, Respondent No.1 has considerably failed to discharge its obligations. Hence this Company Petition.
- e. Though, at the stage of appointing the RP, there is no right of audience to the Respondent, the counsel was heard. Thereafter none appeared for the personal guarantor. Even the vakalatnama is not filed for the personal guarantor. RP was appointed by virtue of the order dated 10.10.2022 and the RP submitted his report, stating that the Guarantor has committed default in payment of her dues in respect of the guarantees extended to the CD.

3. Heard the arguments of the Financial Creditor. Since none appeared for the Personal Guarantor, it can be understood that the Personal Guarantor does not have anything to submit in opposition to the contentions made by the Financial Creditor. Hence, I am of the considered view that it is a fit case to admit and to order initiation of Corporate Insolvency Resolution Process (CIRP) against the Personal Guarantor.

ORDER

The Company Petition is admitted. The Corporate Insolvency Resolution Process of the Corporate Debtor shall commence from this date and shall be completed within 180 days hence.

Therefore, by exercising powers under Section 100 of the Code, I pass the following orders:

- i. The Company Petition i.e., **CP (IB)/93/95 /AMR/2022** filed under the provisions of Section 95 of IBC, 2016 is hereby **admitted.**
- ii. Consequently, the Insolvency Resolution Process is hereby initiated against the Personal Guarantor **Mrs. Chavva Naga Lakshmi** and the moratorium is declared, which begins with effect from the date of admission of the petition and shall cease to have effect at the end of the period of 180 days, as provided under Section 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;
 - (b) The creditors shall not initiate any legal action or legal proceedings in respect of any debt; and
 - (c) the debtor shall not transfer, alienate, encumber or dispose of any of her assets or her 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.
- iii. The Resolution Professional i.e. Mr. Madasa Kumar, (Registration No. IBBI/IPA-001/IP-P-01590/2019-2020/12465), having office at 11-5-39/4/A, Road No.8, Venkateshwara Colony, Saroomagar, Hyderabad-500035; e-mail: **kumarmadas@gmail.com**; Mobile: **+91 9866512519**, who was appointed vide order dated 10.10.2022 is directed to cause public notice published on behalf of the Adjudicating Authority within 7 days of uploading of this order on the website of NCLT, Amaravati, inviting claims from all creditors, who shall register their claims as provided under Section 103 of the Code 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 (Telugu) which have wide circulation in the State where the Debtor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry. One shall be placed on our website by the Registry and the other shall be affixed in the premises of this Adjudicating Authority.

- iv. The Resolution Professional, in exercise of the powers conferred under 104 shall prepare a list of creditors within 30 days from the date of the notice. The debtor shall prepare, in consultation with the resolution professional, a repayment plan containing a proposal to the creditors for restructuring of her debts or affairs 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.
- v. 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 creditors should be summoned, he shall specify the details as provided under Section 106 (3). The date of meeting shall not be less than fourteen days or more than

28 days from the date of submission of the Report under Sub-Section (1) of Section 106, 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.

- vi. The meeting of the creditors shall be conducted in accordance with the provisions 109, 110 and 111. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 and submit the same to the Authority, copies of which shall be provided to the guarantor 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 IBC, 2016.

Sd/- dated 25.01.2023

**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

Swamy Naidu