



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, BENCH VI

C.P (IB) No. 518/ND/2022

An application under section 95(1) of the Insolvency and Bankruptcy Code, 2016

In the matter of:

ICICI BANK

...Financial Creditor/ Applicant

Versus

Chander Mohan Sethi

...Personal Guarantor

Date of pronouncement: 04.10.2022

Coram:

Shri P.S.N Prasad

: Member (Judicial)

Shri Rahul Bhatnagar

: Member (Technical)

Appearances (through Video Conferencing/physical hearing)

For the Applicant :

For the Personal Guarantor :

ORDER

Per Shri Rahul Bhatnagar, Member Technical

1. The present Petition CP (IB) No. 518/ND/2022 under consideration is a Petition filed under section 95(1) of the Insolvency and Bankruptcy Code, 2016 ('Code') read with rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution process for Personal Guarantors to Corporate Debtor) Rules, 2019 ('*Personal Guarantors Rules*') and regulation 4(2) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 ('*Personal Guarantors Regulations*') filed by ICICI Bank through Mr. Amit Anand, relationship manager of ICICI Bank duly authorised vide Power of Attorney dated 18.04.2013 for initiating the Insolvency Resolution Process ('*IR Process*').

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2. The Personal Guarantor, to the Corporate Debtor, Shri Chander Mohan Sethi the respondent herein, was duly served by the Petitioner, a statutory notice of demand dated 17.03.2022 in terms of Section 95(4)(b) vide Form B, rule 7(2) under the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019; requesting him to make the requisite payment for the amount of default i.e. Rs. 57,23,312,603 for which the guarantee has been invoked by the Petitioner. Despite, receipt of the notice of Demand dated 17.03.2022 the Respondent has not made any payment to the same. Resultantly, the Petitioner has filed the present petition seeking insolvency resolution process against the Respondent.
3. The Applicant has served copy of petition to the Respondent. The Applicant has also filed affidavit of service dated 09.07.2022. The matter was reserved on 20.07.2022 for confirmation of appointment of RP in the matter. Subsequently the Respondent/ Personal Guarantor has filed an application i.e. IA 3672/2022 for recalling ex parte order dated 20.07.2022. It was stated in the application that no notice has been issued in the matter. This Tribunal had dismissed this application on the basis that the proof of service as well as affidavit of service was placed on record by the applicant. Hence, the Respondent stands duly served.
4. The interim moratorium in terms of sec 96(1)(a) of IBC,2016 shall commence from the date of application.
5. The applicant has proposed the name of Shri Anurag Nirbhaya, IBBI Registration No. IBBI/IPA-001/IP-P00870/2017-2018/11468, Email: anurag@canibhaya.com, to act as Resolution Professional, this Adjudicating Authority hereby appoints the same as the Resolution Professional in the matter. The RP is to file the Assignment Declaration within 7 (seven) days from today with the Registry.
6. The Resolution Professional is directed to file his report in terms of Section 99 of the Code and the relevant Regulations.
7. A copy of the Report by the resolution professional under Section 99 to be filed, shall be forthwith provided to the petitioner and to the personal guarantor to the corporate debtor.

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8. Liberty to file reply, if any, within two weeks.
9. List the matter on 18.10.2022 for the perusal of the Report of the RP and further proceedings.

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Rahul Bhatnagar
Member (Technical)

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P.S.N Prasad
Member (Judicial)