

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

CP (IBC)/40/KOB/2023

&

CP (IBC)/41/KOB/2023

(under Section 123 of IBC, 2016 read with rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtor) Rules, 2016)

In the matter of

The Kerala State Cooperative Bank Ltd. vs. Mr. Babu George

MEMO OF PARTIES:

THE KERALA STATE COOPERATIVE BANK LTD.,
CCM & R Department, Head Office, Co-Bank Towers, Palayam, Thiruvananthapuram.

... Applicant/Creditor

-Vs-

BABU GEORGE,
Thekkedathu Balavukayathil, Kalanjoor P O,
Pathanamthitta 689694

**... Respondent/
Personal Guarantor**

In the matter of

The Kerala State Cooperative Bank Ltd. vs. Mr. K Sivas

MEMO OF PARTIES:

THE KERALA STATE COOPERATIVE BANK LTD.,

CCM & R Department, Head Office, Co-Bank
Towers, Palayam, Thiruvananthapuram.

... Applicant/Creditor

-Vs-

K SIVADAS.,

Jeeva Bhavan, Kalayanadu, Plachery P.O, Kollam

**... Respondent/
Personal Guarantor**

Order delivered on: 14.12.2023

Coram:

Hon'ble Member (Judicial) : TMT. Justice (Retd.) T Krishna Valli

Hon'ble Member (Technical) : Shri. Shyam Babu Gautam

Appearances:

For the Applicant : Vinod P V, Advocate

For the Respondents : None

ORDER

Per Coram

1. This application has been filed by Kerala State Cooperative Bank Ltd., Financial creditor against the personal Guarantors of Lake View Ayurvedic Resorts and Research Centre Pvt Ltd, corporate debtor under Section 123 of IBC, 2016. The application CP(IBC)/35/KOB/2021 and CP(IBC)/36/KOB/2021 was filed by the applicant on 27.09.2021 under section 95(1) of IBC 2016 to initiate resolution process against the respondent Mr. Babu George and Mr. K Sivasdas for default amount of Rs.65,06,79,601/. On

02.12.2021 this Adjudicating Authority passed pre-admission order appointing Ms. Celine P Thomas as resolution professional for the respondent/personal guarantor and directed to file report under section 99 of IBC 2016. The resolution professional filed a report recommending for approval of the Application. After perusing the report and hearing the respondent this Adjudicating Authority passed an order on 08.03.2021 admitting the application. The respondent during the insolvency resolution failed to submit a repayment plan and the report of RP on same was taken on record in consequence this Adjudicating Authority passed an order on 23.06.2023 under section 115(2) permitting the debtor and creditor to file petition for Bankruptcy. In pursuance of the said order the applicant/creditor filed this application on 20.09.2023 to pass Bankruptcy order against the respondents. It is stated that the default of Rs. 89,91,94,275/- as on 31.08.2023 is committed by the respondents.

2. Applicant vide affidavit dated 05.12.2023 filed proof of service of application to the respondent personal guarantors on 22.09.2023 and to the corporate debtor on 20.09.2023.
3. None appeared on behalf of personal guarantor and on perusal of the records, no valid defence persist against the application. It is noted that the CD is also in liquidation.
4. This present application is filed to pass an order of Bankruptcy against the respondents/personal guarantors, the applicant filed this application in time and complied all pre-requisite

requirements as provided under the regulation and there is no valid reason attributed on the respondent side hence the plea of the applicant is accepted and this application is **ADMITTED**.

5. In the result, **Mr. BABU GEORGE.**, Thekkedathu Balavukayathil, Kalanjoor P O, Pathanamthitta 689694 and **Mr. K SIVADAS.**, Jeeva Bhavan, Kalayanadu, Plachery P.O, Kollam, **Personal Guarantor(s)**, is **ordered to be Bankrupt**. The applicant proposed Resolution Professional **Mr. Mujahid Y.**, having IBBI Registration No. IBBI/IPA-001/IP-P-02737/2022-2023/14215 to appoint as Bankruptcy Trustee, the resolution professional has given a declaration in part IV of the application hence, Mr. Mujahid Y is appointed as Bankruptcy Trustee under section 125 of IBC, 2016.
6. The Registry is directed to provide the copy of this Bankruptcy order and copy of the Bankruptcy application to the creditors and Bankruptcy trustee within a week as provided under section 126 (2) of IBC, 2016.
7. This order of Bankruptcy shall continue to have the effect till the debtor is discharged under section 138 of IBC, 2016
8. The bankrupt shall submit his statement of financial position to the bankruptcy trustee in the prescribed Form within seven days from the date of the order
9. The estate of the bankrupt excluding the assets mentioned in Section 155(2) of Code R/W Rule 5 of Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for

Personal Guarantors to Corporate Debtor) Rules, 2019 vest with the bankrupt trustee in pursuance of this order, the Bankruptcy trustee is directed to forthwith take into his custody all the assets, Properties, and actionable claims of the Bankrupt and take necessary steps to ensure preservation, protection security and maintenance of those properties as provided under section 128 and 154 of IBC, 2016.

10. The Bankruptcy trustee is directed to adhere to Section 128, 129 (4), 132 133, 134, 136 and 137 of IBC, 2016 and discharge his powers and duties as specified and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
11. The Bankrupt trustee for the Adjudicating Authority shall send notices as provided under section 130(a) of IBC, 2016 within ten days from the date of this order to the creditors mentioned in statement of affairs submitted by the Bankrupt under section 129 of IBC, 2016.
12. The Public Notice inviting claims from the creditors as contemplated under section 130 (2) of the Code shall be issued in one morning, English daily and in one morning vernacular regional language newspapers having wide circulation where the bankrupt resides.
13. On passing of the Bankruptcy order but subject to sub-section (2) of 128 of the Code, shall not initiate any action against the property of the bankrupt in respect of debt and no suit or other legal

proceeding shall be initiated against the bankrupt, save and except with the leave of the Adjudicating Authority as provided in section 128 (ii) of the Code.

14. The Bankrupt Trustee shall conduct the administration of distribution of estate of bankrupt under chapter V as provided in section 136 of the code.
15. The Bankrupt shall from the date of the order be subject to such disqualifications and restrictions as prescribed under section 140 and 141 of the code.
16. The Bankruptcy Trustee may seek such further information or explanation in connection with bankruptcy process as may be required from the debtor or the creditor or any other person who in the opinion of the Bankruptcy Trustee, may provide such information. The persons from whom information or explanation is sought shall furnish such information or explanation within seven days of receipt of the request.
17. The Bankruptcy Trustee shall exercise all the powers as enumerated under the Code read with Rules and Regulations made thereunder.
18. The Bankruptcy Trustee shall submit to this Adjudicating Authority and committee a preliminary report within in ninety days from this date of Bankruptcy order after serving copy of the report on bankrupt as provided in Regulation 8 of Insolvency and

Bankruptcy Board of India (Bankruptcy Process for personal Guarantors to corporate debtors) Regulation, 2019.

19. The Bankruptcy Trustee shall submit to this Authority periodical progress report within fifteen days after the end of every quarter after serving copy of the report on the bankrupt provided under Regulation 10 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for personal Guarantors to corporate debtors) Regulation, 2019.
20. The fee of Bankruptcy trustee to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for personal Guarantors to corporate debtors) Regulation, 2019.
21. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps, The Registry shall place a compliance report of this direction in this file.
22. A certified copy of the order is to be issued upon compliance with requisite formalities.

**SHYAM BABU
GAUTAM**

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SHYAM BABU GAUTAM
Date: 2023.12.14
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**SHYAM BABU GAUTAM
(MEMBER TECHNICAL)**

**T.KRISHNAV
ALLI**

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Date: 2023.12.14 15:32:39 +05'30'

**T KRISHNA VALLI
(MEMBER JUDICIAL)**

Signed on this the 14th day of December, 2023.

Rohit/LRA