

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

C.P.(IB)/76(KB)2022

*Under section 95(1) of the Insolvency and Bankruptcy Code, 2016
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.*

In the matter of:
State Bank of India

...Applicant

-Versus-

Sri Pratyush Kumar Sureka

...Respondent

Order Reserved on: 15/06/2022

Order Pronounced on: 01/07/2022

Coram:

Shri Rohit Kapoor

: Member (Judicial)

Shri Harish Chander Suri

: Member (Technical)

Appearances (through video conferencing)

For Financial Creditor : Mr. Debasish Chakrabarti, Adv.

For the Corporate Debtor : Ms. Urmila Chakraborty, Adv.

Mr. Amit Agarwalla, Adv.
Mr. Anirudha Agarwalla, Adv.
Ms. Debarshri Mukherjee, Adv.

O R D E R

Per: Harish Chander Suri, Member (Technical)

1. The Court convened via video conference.
2. Under consideration is an Application **C.P.(IB)/76(KB)2022** filed by the Applicant under section 95(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**IBC, 2016**”) 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 (hereinafter referred to as “**IB Rules, 2019**”) and regulation 4(2) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (hereinafter referred to as “**IB Regulations, 2019**”) for initiating the Insolvency Resolution Process (hereinafter referred to as “**IR Process**”) against **Mr. Pratyush Kumar Sureka**, Personal Guarantor for **M/s. Alex Green Energy Private Limited. (CIN: U74999WB2012PTC173609)** (hereinafter referred to as “**AGEPL**”) demanding total debt of Rs. 25,05,78,059.60/-.
3. The factual matrix of the case is that the Applicant is a body corporate constituted under the provisions of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, having its Corporate Centre at Mumbai and one of its Local Head Office at Samriddhi Bhavan, 1, Strand Road, Kolkata- 700 001 and carrying on business inter alia, at its branch office, Stressed Assets Management Branch, at Nagaland House, 8th floor, 11 & 13, Shakespeare Sarani, Kolkata- 700071.

4. The Principal Borrower “AGEPL” and guarantor had approached the applicant seeking grant of various Credit Facilities. On the representations made by the “AGEPL”, the Applicant had extended various Credit facilities from time to time for its business purpose. As per the Credit Facilities, “AGEPL” was obliged to repay the principal sum of Credit along with interest thereon in accordance with repayment schedule as set out in the agreements. For the aforesaid Credit facilities, Deed of Guarantee was executed by the respondent – personal guarantor towards security for due repayment of the loans and advances granted to principal debtor with interest, cost and expenses from time to time. The “AGEPL” and the respondent/personal guarantor had failed and/or neglected to make payment as per terms of the said Agreements. That due to failure of the Corporate Debtor to comply the terms and conditions of the loan accounts, the said loan accounts have been classified as NPA as per the guidelines of RBI.

5. The applicant had filed an original application in the year 2018 being **O.A. No. 445 of 2018** against the “AGEPL” (Corporate Debtor) and the guarantors before the Debts Recovery Tribunal-I, Kolkata. Notice dated 13.03.2018 was principal borrower as well as the guarantors including Mr. **Pratyush Kumar Sureka**. Meanwhile, “AGEPL” (Corporate Debtor) was admitted under CIRP by the National Company Law Tribunal, Kolkata Bench *vide* order dated 18.02.2019 passed in **CP(IB)/1439(KB)2018 (Hemant Khaitan Vs. M/s. Alex Green Energy Pvt. Ltd.** and finally *vide* order dated 25/11/2019 Resolution Plan was approved.

6. The personal guarantor, viz., Mr. Pratyush Kumar Sureka, had executed several personal guarantees lastly on 22.10.2013 in favour of the Applicant to secure the repayment of the principal amount of the Credit Facilities together with all interest, additional interest, liquidated damages, premium on repayments, reimbursement of all costs, charges and expenses and all other obligations payable by

“AGEPL” in respect of the Facility Agreements. The Applicant on 15.07.2021 has issued a Demand Notice in **Form B** under Rule 7(1) of the IB Rules, 2019 demanding Rs.25,05,78,059.60/- along with unapplied interest, other charges and costs till repayment in full.

7. In this factual conspectus, the applicant prays for initiation of insolvency resolution process, against the respondent/personal guarantor.

8. It is made known to everyone that on filing this Application by the Applicant/Creditor the interim-moratorium commences in terms of section 96(1)(a) of IBC, 2016.

9. The Applicant/Creditor has proposed name of **Mr. Manish Jain**, an Insolvency Professional, having Registration No. **IBBI/IPA-001/IP-P00582/2017-18/11023**, of 2B Grant Lane, 3rd Floor, Room No. 303, Near Lal Bazar Bata shop, Bajrang Kunj, Kolkata-700012, West Bengal, **e-mail address:** manishmahavir@gmail.com Mobile No. 09830248684/8582806221 for appointment as Resolution Professional. **Mr. Manish Jain** has given his written consent in **Form A**. Therefore, we are appointing **Mr. Manish Jain** as Resolution Professional in exercise of the power conferred under section 97 of the IBC, 2016 on this Authority subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019. The Resolution Professional is directed to file declaration within seven days from the date of receiving this Order to the effect that he fulfils all the requirements for being appointed as Resolution Professional in the matter.

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10. The Resolution Professional shall exercise all the powers as enumerated under section 99 of the IBC, 2016 read with the Rules made thereunder. He is directed to make the recommendations for acceptance or rejection of this Application within the stipulated time as envisaged under section 99(1) of the IBC, 2016. The RP shall give a copy of the report under sub-section (7) of section 99 of IBC, 2016 to the Applicant, as soon as the same is filed before this Adjudicating Authority.
11. The Counsel on record for the Applicant is hereby directed to serve the copy of this Order along with copy of the Application and documents on the Resolution Professional by all available modes for information and compliance. Proof of service shall be filed with this Bench for record.
12. List this matter on **16.08.2022**.
13. The Registry is hereby 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.
14. Certified Copy of this order be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri
Member (Technical)

Rohit Kapoor
Member (Judicial)

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