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**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH - II, CHENNAI**

IBA/810/2020 &

IA(IBC)/284(CHE)/2022 in IBA/810/2020

*(filed under Section 95 & 60(5)(a) of the Insolvency and Bankruptcy Code, 2016
and Rule 7(2) of the Insolvency and Bankruptcy [Application to Adjudicating
Authority for Insolvency Resolution Process for
Personal Guarantors to Corporate Debtor], Rules, 2019 and Rule 11 & 155 of
NCLT Rules, 2016)*

In the matter of **SHARMILA ANAND**

M/s. MuthootFincorp Limited

Represented by its Associate Vice President
& Authorised Signatory Mr. W.F. Moses,
5th Floor, Muthoot Centre,
Punnen Road,
Thiruvananthapuram-39

... Financial Creditor

-Vs-

Ms. Sharmila Anand

No. T 17B, 6th Avenue,
Besant Nagar, Chennai - 90

...Personal Guarantor

Order Pronounced on 20th June, 2022

CORAM:

**Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)**

For Financial Creditor : T. Saikrishnan

R. Saravanan, Advocates

For Personal Guarantor : Siddharth Tanton, Advocate

ORDER

Per: Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)

Under Consideration is an Application filed under Section 95
(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter
referred to as IBC, 2016) against the personal guarantor **Ms.
Sharmila Anand** of **M/s. Santosh Hospitals Private Limited,**

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the Corporate Debtor which is under Liquidation. In so far *M/s. Santosh Hospitals Private Limited* is concerned, an order admitting the Corporate Debtor into CIRP was passed upon an application under section 10 of IBC, 2016 by this Adjudicating Authority on 04.04.2019 in IBA/434/2019. Subsequently, an Order for Liquidation was passed in MA/1189/2019 in IBA/434/2019. Further which an appeal before the Hon'ble NCLAT, New Delhi was preferred against the order of Liquidation and the same was dismissed vide order dated 14.02.2022.

2. The present application is filed by the Financial Creditor Associate Vice President & Authorised Signatory, MuthootFincorp, Muthoot Centre, Thiruvananthapuram.

3. The date of default as stated in the Application is 01.08.2017. The Agreement of Guarantee executed by the Personal Guarantor is placed between Pg. Nos. 57-62 the typed set filed along with the application.

4. The Demand Notice issued under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 to the Personal Guarantor dated 06.01.2020 is placed between Pg. No. 109-111 of the typed set filed along with the application. Hence, on this term, the present Petition is filed to

initiate proceeding in terms of Section 95 (1) of the IBC, 2016, against the Respondent herein.

5. The Hon'ble NCLAT, Principal Bench, in the matter of **Mr. Ravi Ajit Kulkarni –Vs- State Bank of India** in *Company Appeal (AT) (Insolvency) No. 316 of 2021* in para 42 has held as follows,

"that once an Application under Section 95 of IBC, 2016 is filed, the Adjudicating Authority has to act on it, and following principles of natural justice, give limited notice to Personal Guarantor to appear referring to the Interim Moratorium that has commenced as per terms of Section 96 and subsequently proceed to the next stage of appointing Resolution Professional as per Section 97 read with attendant Rules and Regulations."

6. Upon perusal of Part IV of the Application it is seen that the instant application is filed by the Financial Creditor through its Authorized Representative, However, a written consent given by Mr. Arumugam Arumugam, Insolvency Resolution Professional to act as bankruptcy trustee is placed as Annexure -A to the application. The Financial Creditor herein had filed an interim Application in IA(IBC)/282/(CHE)/2022 in IBA/804/2020 seeking strikeout of the Consent Affidavit, Annexure-A as it was filed inadvertently. Accordingly, this Adjudicating Authority from the panel of IP's list for the period between January 1, 2022 to June 30, 2022 and upon verification of disciplinary status with the IBBI user portal appoints **Ms. Jayashree S Iyer** having registration number: **IBBI/IPA-002/IP-N00741/2018-**

2019/12211 (email:- jayashree2505@gmail.com) as the Interim Resolution Professional in respect of the Personal Guarantor.

7. The Financial Creditor is also directed to serve a copy of this Application to the Interim Resolution Professional for preparing the Report under Section 99 of IBC, 2016.

8. The Interim Resolution Professional is required to examine the Application as set out in Section 99(6) of IBC, 2016 and after examining the Application, as per Section 99(7) of IBC, 2016 the Interim Resolution Professional may recommend for the acceptance or rejection of the Application in his report, within a period of 10 days as contemplated under Section 99(1) of IBC, 2016.

9. Accordingly, **IA(IBC)/284/(CHE)/2022** in IBA/810/2020 stands **Closed**. **IBA/810/2020** is to be posted on **18th July, 2022** for filing of Report by the Interim Resolution Professional.


ANIL KUMAR B
MEMBER (TECHNICAL)


JUSTICE (RETD.) S. RAMATHILAGAM
MEMBER (JUDICIAL)

Mohana Priya