

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH, JAIPUR

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER

CP No. (IB)- 48/94/JPR/2024

IN THE MATTER OF SECTION 94(1) of The Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019

IN THE MATTER OF:

SANDHYA KANWAR SHEKHAWAT

...Applicant/ Debtor

VERSUS

ORIENTAL BANK OF COMMERCE
(NOW PUNJAB NATIONAL BANK)

...Respondent/ Creditor

MEMO OF PARTIES

SANDHYA KANWAR SHEKHAWAT

Personal Guarantor to M/s Super Shiv Shakti Chemicals Pvt. Ltd.

C-112, Shastri Nagar, Near

Shyam Mandir, Bhilwara-

311001, (Rajasthan)

...Applicant

VERSUS

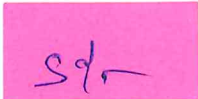
ORIENTAL BANK OF COMMERCE
(NOW PUNJAB NATIONAL BANK)

Plot No. 43, First Floor, 10th E-Road,


Sardarpura, Jodhpur- 342003

(Rajasthan)

...Respondent









FOR THE PETITIONER(S) : Akarsh Mathur, Adv.
FOR THE RESPONDENT(S) : Shashank Jain, Adv.

ORDER

1. The present application is filed under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 ('Code'/ 'IBC') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 ('Rules') by the Applicant/ Personal Guarantor namely *Ms. Sandhya Kanwar Shekhawat*. The Applicant is prayed to initiate the Insolvency Resolution Process in respect of *Ms. Sandhya Kanwar Shekhawat*, being the Personal Guarantor for *M/s Super Shiv Shakti Chemicals Pvt. Ltd.* ('Corporate Debtor'/ 'Company').
2. It is submitted that the Corporate Debtor availed various credit facilities from the Punjab National Bank ('PNB') since 2013. The Corporate Debtor availed working capital facilities in the form of Cash Credit amounting to Rs. 5 Crores vide Loan cum Hypothecation Agreement dated 14.01.2013. Thereafter, the Corporate Debtor availed an Additional Financial Facility in the form of Adhoc SLC amounting to Rs. 9 Crores vide Supplemental Loan cum Hypothecation Agreement which was executed on 23.10.2013.
3. Owing to its rapid growth in business, the Corporate Debtor requested to renew the existing credit facilities from Rs. 9 Crores to 11.25 Crores. Further, the Corporate Debtor subsequently renewed the existing credit



Sd/-

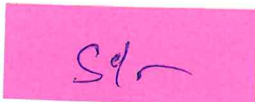


Sd/-



facility from Rs. 11.25 Crores to Rs. 13.50 Crores. On the request of the Corporate Debtor, the said outstanding credit facility was renewed and accordingly, the loan account of the company was restructured vide sanction letter dated 28.03.2016.


4. The Corporate Debtor further availed an additional facility from PNB of Rs. 3.64 Crores vide sanction letter dated 23.10.2013 and Rs. 10 Crores vide sanction letter dated 18.02.2015.
5. Further, it is contended that due to unavailability of funds with the Corporate Debtor, the account of the Corporate Debtor was classified as Non-Performing Asset ('NPA') by PNB on 30.03.2017. The recovery proceedings were initiated by PNB due to non- payment of debt and accordingly, notices under Section 13(2) of SARFAESI Act, 2002 to the Corporate Debtor dated 05.02.2019 were issued directing to repay the debt within 60 days from the receipt of such notice.
6. It is submitted that the Personal Guarantor/Applicant has not been able to make payment as demanded by lender, as a result of which the Personal Guarantor/Applicant is a debtor in default and is accordingly eligible to file the instant application.
7. It is seen that the Applicant in Part III has mentioned that the amount of default of *M/s Super Shiv Shakti Chemicals Pvt. Ltd.* as on 28.02.2023 is Rs. 30,16,69,673.22/- (Rupees Thirty Crores Sixteen Lakhs Sixty- Nine





Thousand Six Hundred Seventy- Three and Twenty- Two Paise Only) and the date of when the debt became due and default occurred is 30.03.2017.

8. The Application has been filed pursuant to the criterion envisaged under Section 94(5) of the Code, 2016 as no application under Chapter III of Part III of the Code has been admitted before this Adjudicating Authority in respect of the Applicant/Debtor during twelve months preceding the date of submission of the instant Application. The Applicant has filed an affidavit stating that he does not fall under the prohibiting criteria mentioned under the provisions of Section 94(4) of the Code. The Applicant is not an undischarged bankrupt; not undergoing a fresh start process; not undergoing insolvency resolution process; or not undergoing bankruptcy process.
9. As stipulated under Section 96(1) of the Code interim moratorium commences from the date of filing of the Application under Section 94 or 95. Accordingly, in the instant matter interim moratorium commences from 02.07.2024 i.e., from the date of filing of the instant Application, concerning all the debts, and interim moratorium shall cease to have effect from the date of admission of the Application. During the interim-moratorium period- (i) any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed; and (ii) the creditors of the Applicant/debtor shall not initiate any legal action or proceedings in respect of any debt. As per Section 96(3) of the Code, provisions of sub-section



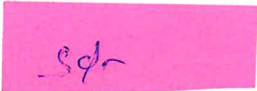
96(1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

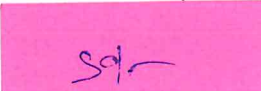
10. As per Rule 6(2) of the Rules, the Guarantor has served a copy of this application to every Financial Creditor and the Corporate Debtor for whom the guarantor is a personal guarantor. It is seen that the Guarantor has annexed proof of service to the creditors and Corporate Debtor.
11. The Applicant has proposed the name of Resolution Professional ('RP'); therefore, this Authority is hereby appointing *Mr. Shyam Sundar Maheshwari* bearing Registration No. IBBI/IPA-001/IP-P-02115/2020-2021/13321 with the e-mail address mhswr.shyam@gmail.com and phone number +91 9783368645 as the RP in the present matter. The Written Consent of the said RP is duly annexed with the Application.
12. In this matter, the Resolution Professional appointed herein, *Mr. Shyam Sundar Maheshwari*, shall exercise all the powers as enumerated under Section 99 of the Code read with Rules made thereunder. The RP is directed to re-check availability of all information as per the relevant Rules & Forms. The RP is also directed to make recommendations with reasons in writing for acceptance or rejection of this Application within the stipulated time as envisaged under the provisions of Section 99 of the Code. The Resolution Professional shall provide a copy of the report under sub-section 7 of Section 99 to the Applicant / Debtor, all the Financial Creditors and related Corporate Debtors for whom the Applicant is a Personal Guarantor



as soon as the same is filed before this Adjudicating Authority. The Applicant shall provide a copy of the Application, if not provided already, along with this order to IBBI for its records.

13. A Copy of this order be supplied to the Applicant. The Applicant and his counsel are directed to serve a copy of this order along with a copy of the Application and documents on the Resolution Professional by all modes for information.
14. Further, the Applicant is directed to deposit Rs. 1,00,000/- (Rupees One Lakh Only) to the bank account of the Resolution Professional within one week, towards his fees. This shall be subject to the rules and regulations under the provisions of the Insolvency and Bankruptcy Code, 2016.
15. The Registry is directed to immediately send a soft copy of the instant Application along with this order to the RP nominated herein on his e-mail id.
16. In the circumstances, prayer for appointment of RP is allowed.


DEEP CHANDRA JOSHI,
JUDICIAL MEMBER


RAJEEV MEHROTRA,
TECHNICAL MEMBER

July 22, 2024