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

CP(IB)/187/CHE/2021

(filed under Section 95 of the Insolvency and Bankruptcy Code, 2016)

In the matter of

BANK OF BARODA

Stressed Assets Management Branch,
No. 45, Moore Street,
JBAS Buliding, 4th Floor, Chennai – 01

... Financial Creditor

-Vs-

MR. KANNAN KALIAPPA NADAR

No. 508, Gnanagiri Road,
Sivakasi – 89,
Tamil Nadu

...Personal Guarantor

Order Pronounced on 20th June, 2022

CORAM

**JUSTICE (RETD.) S. RAMATHILAGAM, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)**

*For Financial Creditor : K. Ravindranath
K.K. Vijay Vigneshwar, Advocates
Jayanth Viswanathan, PCS*

For Personal Guarantor : Ex-Parte

For IRP : A.G. Sathyanarayana, Advocate

ORDER

Per: JUSTICE (RETD.) S. RAMATHILAGAM, MEMBER (JUDICIAL)

Under Consideration is an Application filed by the Financial Creditor, Bank of Baroda, Stressed Assets Management Branch, Chennai under Section 95 (1) read with the Report of the Resolution Professional under section 99 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") against the personal guarantor **Mr. Kannan Kaliappa Nadar** of **M/s. Supreme Coated Board Mills Private Limited**, the

Corporate Debtor which was ordered for CIRP vide order dated 30.0.9.2019.

2. APPOINTMENT OF RESOLUTION PROFESSIONAL

The Applicant herein had filed the instant application under section 95 of the Code on 02.08.2021 seeking initiation of Insolvency Resolution Process for Personal Guarantors to Corporate Debtors. During the course of the said hearing, despite several notices having been served there was no representation for the respondent/personal guarantor. Accordingly, the respondent was set ex-parte vide order dated 23.11.2021. Upon consideration, this Adjudicating Authority vide Order dated 08.03.2022 had passed an interim order appointing **Mr. S MUTHURAJU** having registration number: **IBBI/IPA-002/IP-N00009/201-17/10013** as the Resolution Professional placing reliance upon the order of the Hon'ble NCLAT, Principal Bench, in the matter of **Mr. Ravi Ajit Kulkarni -Vs- State Bank of India** and had accordingly directed the Resolution Professional appointed to file a report in accordance with section 99 of the Code and the same was taken up on 30.05.2022 for further consideration.

3. REPORT BY RESOLUTION PROFESSIONAL

The Resolution Professional Mr. S Muthuraju who was appointed vide order dated 08.03.2022 had submitted his report before this Adjudicating Authority on 24.03.2022. Upon perusal of

the report it is observed that the report is filed in compliance with section 99 of the Code. It is evident from the report that the Applicant herein has come up against the Respondent (Personal Guarantor) for the failure in repayment of dues availed by the Corporate Debtor. The relevant observations in the report as extracted hereunder:

"4. It is submitted that, as provided in Section 99(6)(b) of IBC 2016, the applicant has provided information and given explanation sought by me u/s 99(4) except the record of default from Information Utility NESL but they have provided a Certificate dated 17.03.2022 As per section 2(A)(b) of the Bankers Books of Evidence Act, 1891 for the balance outstanding of Rs 24,18,00,814.28 as on 30.07.2021 and no repayment received from the Mr. Kannan Kaliappa Nadar, Personal Guarantors after issue of Demand Notice. in Form - B Annexure - 3"

"5. It is submitted that, I have also sent a letter to the Personal Guarantor Mr. Kannan Kaliappa Nadar S/o Kaliappa Nadar on 09.03.2022 requesting to provide the proof for repayment of dues as provided u/s 99(2) of IBC 2016 and no reply received as on date of the report. The Copy of the Letter attached herewith as Annexure - 8"

"6. It is submitted that, in view of the reasons recorded in para 3,4 & 5 of this report, I hereby recommend for the acceptance of the application No. CP(IB)187/CHE/2022 filed w/s 95(1) of the IBC 2016 by the Creditor Bank of Baroda to initiate Insolvency Resolution Process against Personal Guarantor Mr. Kannan Kaliappa Nadar of the Corporate Debtor M/s Supreme Coated Board Mills Private Limited and the Adjudicating Authority may appropriate order u/s 100 of IBC, 2016 for admission of the application."

4. In the light of the report filed and the observations extracted above, the instant Application stands **Admitted** as against the Respondent (Personal Guarantor) for initiation of Insolvency Resolution Process for Personal Guarantors to Corporate Debtors. As a consequence of the instant Application being admitted in terms of Section 100 of the Code, moratorium as envisaged under

Section 101 of the Code as extracted hereunder shall follow in relation to the Personal Guarantor:

101-Moratorium-

(1) When the application is admitted under section 100, a moratorium shall commence in relation to all the debts and shall cease to have effect at the end of the period of 180 days beginning with the date of admission of the application or on the date the Adjudicating Authority passes an order on the repayment plan under section 114, whichever is earlier.

(2) During the moratorium period-

- a) any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed;*
- b) the creditors shall not initiate any legal action or legal Proceeding in respect of any debt; and*
- c) the debtor shall nor transfer, alienate encumber/or dispose of any of his assets or his legal rights or beneficial interest therein;*

(3)

(4) The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

5. The Code further insists upon publication of this Admission Order for invitation of Claims from all other Creditors in terms of Section 102 of the Code as extracted hereunder:

102-Public notice and claims from creditors-

1) The Adjudicating Authority shall issue a public notice within seven days of passing the order under section 100 inviting claims from all creditors within twenty-one days of such issue.

2) The notice under sub-section (1) shall include-

- a) Details of the order admitting the application;*
- b) particulars of the resolution professional with whom the claims are to be registered; and*
- c) the last date for submission of claims.*

3) The notice shall be-

- a) published in at least one English and one vernacular newspaper which is in circulation in the state where the debtor resides;*
- b) affixed in the premises of the Adjudicating Authority; and*
- c) placed on the website of the Adjudicating Authority.*

6. In compliance of the above mentioned provision the Registry is directed to publish this Admission Order in the NCLT, website



and display the same in the premises of this Adjudicating Authority. Accordingly, the Applicant/Resolution Professional herein is directed to take notice for Publication of this Order mentioning the details as stipulated in section 102(2) of the code in one '**Business Standard**' (English-Tamil Nadu Edition) and one in '**Makkal Kural**' (Tamil-Tamil Nadu edition) within 7 days from the date of this Order.

7. The creditors shall register claims with the resolution professional by sending details of their claims by way of electronic communications or through courier, speed post or registered letter. In addition, the creditor shall provide to the resolution professional, personal information and such particulars as may be prescribed.

8. The resolution professional shall prepare a list of creditors on the basis of the information disclosed in the application filed by the debtor under section 94 or 95, as the case may be, claims received by the resolution professional under section 102. The same shall be prepared within thirty days (30) from the date of the notice in terms of Section 104 of the Code.

9. A Repayment Plan shall be prepared by the debtor in consultation with the Resolution Professional, in accordance with section 105 of the code.



10. This Adjudicating Authority, do further order that the resolution professional shall perform his functions and duties in accordance with Part-III, Chapter -III of the Code.

11. Based on the above terms, the Application stands **Admitted** in terms of Section 100 of the Code and the Moratorium shall come into effect as of this date. A copy of the order shall be communicated to the Applicant as well as to the Respondent above named by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Further, the Resolution Professional is directed to serve a copy of the Order along with the RP Report to the creditors within 7 days from the date of this Order.

12. Accordingly, the Resolution Professional is directed to file an Interim Application under section 106 of the code on or before 17.08.2022. The application in **CP(IB)/187(CHE)/2021** is to be posted on **17.08.2022** along with the Interim Application if any.


ANIL KUMAR B
MEMBER (TECHNICAL)


JUSTICE (RETD.) RAMATHILAGAM,
MEMBER (JUDICIAL)

Mohanapriya