

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
PRINCIPAL BENCH

IB- 216 (PB)/2021

Section: *Under Section 95 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 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:

BANK OF INDIA

(Through its Resolution Professional, Mr. Anil Kohli)

...Applicant/ Financial creditor

versus

Mr. PRAVEEN GUPTA

...Respondent/ Personal Guarantor

Order Pronounced on: 30.09.2021

CORAM:

SHRI. BHASKARA PANTULA MOHAN

HON'BLE ACTG. PRESIDENT

SHRI. HEMANT KUMAR SARANGI

HON'BLE MEMBER (TECHNICAL)

PRESENT

For the Applicant : Mr. Abhishek Anand, Advocate



ORDER

Per: HEMANT KUMAR SARANGI, MEMBER (TECHNICAL)

1. This is an application filed by the Financial Creditor, M/s. Bank of India, under Section 95 of the Insolvency and Bankruptcy Code, 2016, through Resolution Professional, Mr. Anil Kohli, against Mr. Praveen Gupta, Personal Guarantor to the Corporate Debtor (CD), 'M/s. Shree Raj Mahal Jewellers Private Limited'. The Resolution Professional has been appointed by the Financial Creditor, M/s. Bank of India, to file the present Application, under Section 95 of the Code, seeking to initiate Insolvency Resolution Process against personal Guarantor of CD (M/s. Shree Raj Mahal Jewellers Private Limited), Mr. Praveen Gupta, in respect of the Outstanding debt of Rs. 113.83 crores (Rupees One Hundred Thirteen Crores and Eighty Three Lakhs), as on 31.01.2021, due from the Corporate Debtor, under rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors), Rules, 2019.



2. The Ld. Counsel for the Applicant states that the CD, M/s. Shree Raj Mahal Jewellers Private Limited, availed loan from a consortium of lenders, including Bank of India (the Creditor herein), Federal Bank, Central Bank of India and Corporation Bank, in terms of the Working Capital Consortium Agreement, for its business purposes and operations. To secure the due repayment of the balances from time to time, due in respect of the aforesaid credit facilities, together with all the interest, cost, charges and expenses, the CD through its directors/ guarantors, executed in favour of and delivered to the Creditor Bank, various necessary security documents.
3. While availing the aforesaid loan/ credit facilities, the CD did not maintain financial discipline and miserably failed to adhere to the terms and conditions laid out in the Working Capital Consortium Agreement. As a result, the account of CD was declared as NPA on 30.06.20215.
4. It is further stated that, a section 7 application under the I & B Code, 2016, bearing C.P. No. (IB)-818 (PB)/ 2018 was



filed against the CD, for initiation of CIRP proceedings, which was admitted by the Hon'ble Tribunal on 24.04.2019. Since no Resolution Plan was approved by the CoC, the RP filed an application under section 33(1)(a) for Liquidation of the CD. The same was allowed, vide order dated 08.09.2020 and Mr. Nishant Gaurav Gupta, was appointed as the Liquidator of the CD.

5. The Ld. Counsel for the applicant further submitted that a Demand Notice in Form B, under rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtor) Rules, 2019, was issued by the Financial Creditor, i.e., Bank of India on 17.02.2021, to the Personal Guarantor, in respect of the unpaid debt due from M/s. Shree Raj Mahal Jewellers Private Limited (Corporate Debtor), under rule 7(1) of the IBC, 2016.
6. It is pertinent to mention that as per part-III of Form-C, the total debt from the personal guarantor, by way of personal guarantee given to M/s. Bank of India, including interest as on 31.01.2021, amounts to Rs. 113,83,35,138.07/- (Rupees



One Hundred Thirteen Crores Eighty Three Lakhs Thirty Five Thousand One Hundred Thirty Eight and Seven Paise Only).

7. It is made known to everyone that on the date of filing this Application by the Applicant/ Creditor, the interim-moratorium commences, as stipulated under Section 96(1)(a), in relation to all the debts of the personal guarantor and shall cease to have effect on the date of admission of this Application and during the interim-moratorium period, the following are prohibited:

- a. Any pending legal action or proceeding in respect of any debt of the personal guarantor shall be deemed to have been stayed; and
- b. The Creditors of the personal guarantor shall not initiate any legal action or proceedings in respect of any debt.

This shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.



8. The Applicant/ Creditor has proposed the name of Mr. Anil Kohli, Insolvency Professional, having registration number IBBI/IPA-001/IP-P00112/2017-18/10219, email-insolvency@arck.in, Phone- 9810071182, for appointment as the Resolution Professional. No disciplinary proceedings are stated to be pending against him. Therefore, Mr. Anil Kohli, is appointed as the Resolution Professional, in exercise of powers conferred under Section 97 of the IBC, 2016 on this Authority, subject to Regulations 4 (1) and (2) of the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.

9. In this matter, the Resolution Professional, shall exercise all the powers, as enumerated under Section 99 of the Code, read with Rules made there under. He is directed to make the recommendations, along 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 I & B Code, 2016. The Resolution Professional shall provide a copy of the report under sub-section (7) of



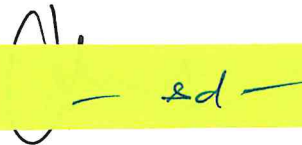
Section 99 to the Applicant/Creditor, as soon as the same is filed before this Authority.

10. The Applicant and the Registry are directed to serve the copy of this order, along with copy of the Application and documents immediately on the Resolution Professional so appointed for information and compliance

11. List the matter for further proceedings in the case on **17.11.2021.**



**(BHASKARA PANTULA MOHAN)
ACTG. PRESIDENT**



**(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)**

30.09.2021