



SL. No.1

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH  
COURT HALL NO: II**

**(PHYSICAL HEARING)**

**CORAM: JUSTICE TELAPROLU RAJANI – HON’BLE MEMBER (J)  
CORAM: SHRI.CHARAN SINGH - HON’BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
HYDERABAD BENCH, HELD ON 12.06.2023 AT 02:30 PM**

<b>TRANSFER PETITION NO.</b>	
<b>COMPANY PETITION/APPLICATION NO.</b>	<b>Company Petition IB/300/2022</b>
<b>NAME OF THE COMPANY</b>	<b>V. Narayana Reddy</b>
<b>NAME OF THE PETITIONER(S)</b>	<b>Bank of Baroda</b>
<b>NAME OF THE RESPONDENT(S)</b>	<b>V. Narayana Reddy</b>
<b>UNDER SECTION</b>	<b>95 of IBC</b>

**ORDER**

This application is allowed, vide separate orders.

**Sd/-**  
**MEMBER (T)**

**Sd/-**  
**MEMBER (J)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**HYDERABAD BENCH - II**

**CP(IB) No.300/95/HDB/2022**  
**U/s. 95 of IB Code, 2016**

**In the matter of:**

M/s. Bank of Baroda,  
Head Office at Baroda House, Mandvi,  
Vadodara – 390 006, Gujarat  
Branch Inter alia Stressed assets Management  
Branch at 4<sup>th</sup> Floor, JBAS Building No.45,  
Moor Street, Chennai – 600 001.

.... Petitioner/  
Financial Creditor

Vs

1. Mr. V. Narayana Reddy,  
R/o H.No.8-2-293/82/4/60/C,  
MLA Colony Road No.12,  
Banjara Hills,  
Hyderabad – 500 034.

.... Respondent No.1/  
Personal Guarantor

2. M/s. VNR Infrastructure Limited,  
#8-2-310/17, Road No.14,  
Banjara Hills,  
Hyderabad.

.... Respondent No.2/  
Corporate Debtor

**Date of order: 12.06.2023**

**CORAM:**

Hon'ble Justice Smt. Telaprolu Rajani, Member (Judicial)

Hon'ble Sri Charan Singh, Member (Technical)



**Counsels present:**

For the Financial Creditor : Mr. V.V.S.N. Raju, Advocate  
Mr. Srikant Rathi, Advocate

For the Personal Guarantor : None

Heard on : 08.06.2023

**[PER: BENCH]**

1. This application is filed by the Petitioner Bank of Baroda, Financial Creditor (FC) against Respondents No.1 & 2 who are the Personal Guarantor (PG) & the Corporate Debtor (CD) respectively, seeking to initiate Insolvency Resolution Process (IR Process) against Respondent No.1. Though Respondent No.2 is shown as the party, the relief sought is only against Respondent No.1.
2. The facts of the case briefly as per the synopsis filed along with the application are as follows:
  - a. The FC has sanctioned a loan in favour of Respondent No.2 for which, Respondent No.1 stood as a Guarantor for Rs.75.0 Crores vide Sanction Letter dated 18.03.2013. Out of the said limits, the Working Capital facility of Rs.56.0 Crores was sanctioned



under a Consortium Agreement with the SBI as leader of the Consortium and two term loans aggregating to Rs.19.0 Crores were sanctioned under Multiple Banking Arrangement.

- b. Subsequent to the issuance of sanction letter, the Consortium of Bankers lead by State Bank of India, including the FC herein, had entered into a Working Capital Consortium Agreement dated 30.01.2014 for sanctioning of working capital credit facilities of Rs.720.0 Crores. The Company also executed a Deed of Hypothecation dated 30.01.2014 in favour of the consortium bankers.
- c. Respondent No.1 executed a Deed of Personal Guarantee on 30.01.2014 in favour of the Consortium Bankers, including the FC herein, guaranteeing payment of Rs.720.0 Crores under which they undertook to pay on demand, to the lenders, all the amounts due, in case of default on the part of the CD.
- d. The CD failed to comply with the terms and conditions of the Loan documentation. As a result, the account of the CD was classified as Non Performing Asset (NPA) on 29.07.2015 as per the guidelines issued by the Reserve Bank of India from time to time in this regard.



- e. As Respondent No.2's capital substantially eroded, a reference was made to the BIFR under Section 15(1) of the Sick Industrial Companies (Special Provisions) Act, 1985. The said proceedings were pending, BIFR was dissolved with effect from 01.12.2016 after notifying the IBC, 2016.
  
- f. After the account was classified as NPA, the FC filed recovery proceedings before the DRT, Hyderabad against the CD. The DRT decreed the same. Recovery Certificate was issued on 22.01.2020.
  
- g. The CD filed a Company Petition under Section 10 and the CD was admitted into CIRP by order dated 10.02.2017. The liability of a Guarantor is coextensive with that of the borrower. Hence, this application, seeking for the Insolvency Resolution Process (IR Process) against the PG.
  
- h. A Demand Notice was issued to PG on 29.09.2020 by the FC before filing of this application, but no reply was received. A second Demand Notice was also issued for which also, there was no reply.



3. We appointed the Resolution Professional by virtue of the order dated 31.03.2023. The RP submitted his report recommending for the CIRP of the PG and also stating that the Personal Guarantor has given Guarantee indemnifying the CD. The PG remained *ex-parte*.
  
4. Heard the arguments of the Counsel for the Petitioner. It is evident from the facts mentioned in the application that Respondent No.1 has stood as Guarantor for the loan sanctioned infavour of the CD by the FC and that the CD failed to discharge the said loan and was taken into CIRP by order dated 10.02.2017 of this Tribunal. It is also evident that the Account of the CD was declared as NPA and later, the FC filed an application before the DRT and obtained a Decree. The Recovery Certificate was also issued on 22.01.2020.
  
5. As regards limitation, the Petitioner relied upon by the judgement of the Hon'ble Supreme Court in Miscellaneous Application No.21/2022 in MA 665/2021 in SMW(C) No.3/2020 wherein directed that:

*“the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings”.*



6. In view of the above mentioned facts, we hereby allow this application.

### **ORDER**

7. The Company Petition is admitted. The initiation of Individual Insolvency Resolution Process shall commence from this date and shall be completed within 180 days hence.
8. Therefore, by exercising powers under Section 100 of the Code, we pass the following orders:
  - i. The petition i.e. **CP (IB) No. 300/95/HDB/2022 filed under the provisions of Section 95 of IBC, 2016 is hereby admitted.**
  - ii. Consequently, the Insolvency Resolution Process is hereby initiated against the Personal Guarantor, Mr. V. Narayana Reddy and the moratorium is declared, which begins with effect from the date of admission of the petition and shall cease to have effect at the end of the period of 180 days, as provided under Section 101 of IBC, 2016. During the moratorium period;
  - iii. Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed;



- iv. The creditors shall not initiate any legal action or legal proceedings in respect of any debt; and
- v. the debtor shall not transfer, alienate, encumber or dispose of any of his assets or his legal rights or beneficial interest therein;
- vi. 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.
- vii. The Resolution Professional i.e. Mr. Amirsetty Raja Mogili, having Registration No. IP-IBBI/IPA-002/IP-N00878/2019-2020/12772, R/o. 207, Pavani Anasuya Estates, Above Sudarshan Reddy Sweets, Tarnaka, Secunderabad - 500 017, Mobile No. 9912312193, E-mail : [dr.arm1957@gmail.com](mailto:dr.arm1957@gmail.com) who was appointed vide order dated 31.03.2023 is directed to cause public notice published on behalf of the Adjudicating Authority within 7 days of uploading of this Order on the website of NCLT, Hyderabad, inviting claims from all creditors, who shall register their claims as provided under Section 103 of the Code within 21 days of such issuance. The notice shall contain the necessary information as provided under Section 102 (2) of IBC, 2016. The publication of notice shall be made in newspapers, one in English and other in vernacular (Telugu) which have wide circulation in the State where



the Debtor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry. One shall be placed on our website by the Registry and the other shall be affixed in the premises of this Adjudicating Authority.

viii. The Resolution Professional in exercise of the powers conferred under Section 104 shall prepare a list of creditors within 30 days from the date of the notice. The debtor shall prepare, in consultation with the resolution professional, a repayment plan containing a proposal to the creditors for restructuring of his debts or affairs as provided under Section 105 which shall include the provisions for payment of fee to the Resolution Professional. The Resolution Professional shall submit the repayment plan along with his report on the plan to this Adjudicating Authority within a period of 21 days from the last date of submission of claims as provided under Section 106.

ix. In case the Resolution Professional recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons thereof. If the Resolution Professional is of the opinion that the meeting of creditors should be summoned, he shall specify the details as provided under Section 106 (3). The date of meeting shall not be less than fourteen days or more than 28 days



from the date of submission of the Report under Sub-Section (1) of Section 106, for which at least 14 days' notice to the creditors (as per the list prepared) shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107.

- x. The meeting of the creditors shall be conducted in accordance with the provisions of sections 109, 110 and 111. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 and submit the same to the Authority, copies of which shall be provided to the guarantor and the creditors. It is made clear that the Resolution Professional shall perform his functions and duties in compliance with the Code of Conduct provided under Section 208 of IBC, 2016.

**Sd/-**

**(CHARAN SINGH)  
MEMBER (TECHNICAL)**

**Sd/-**

**(JUSTICE TELAPROLU RAJANI)  
MEMBER (JUDICIAL)**

**VL**