

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI**

(APPELLATE JURISDICTION)

Comp. App. (AT) (CH) (Ins.) No. 293 of 2022

(Under Section 61 of the Insolvency and Bankruptcy Code, 2016)

**(Arising out of the 'Impugned Order' dated 07.06.2022 in
CP (IB) 33/CHE/2022, passed by the 'Adjudicating Authority',
National Company Law Tribunal, Division Bench – I, Chennai)**

In the matter of:

**Union Bank of India
(Erstwhile Andhra Bank)**
Stressed Assets Management Branch
38/99, Whites Road,
Royapettah, Chennai – 600 014.

(through its Counsel)

N. Somasundar & N. Geetha, Advocates
B-4, First Floor,
Shaw Wallace Building,
336, Thambu Chetty Street,
Chennai – 600 001.
Email: somuvakil@gmail.com

..... Appellant

v.

Mr. P.K. Balasubramanian
S/o Mr. P.S. Krishnan
6th Floor, Coromondal Towers,
816-816, Poonamallee High Road,
Kilpauk, Chennai – 600010.

..... Respondent

Present:

For Appellant	:	Mr. N. Somasundar, Advocate
For Respondent No.1	:	Mr. Kaushik N. Sharma, Advocate
For Respondent No.2	:	Mr. K. Chandrasekaran, Advocate

J U D G M E N T
(Virtual Mode)

[Per: Ms. Shreesha Merla, Member (Technical)]:

1. Aggrieved by the 'Order' dated 07.06.2022, passed by the 'Adjudicating Authority', ('National Company Law Tribunal', Division Bench – I, Chennai) in C.P. (IB) 33/CHE/2022, the 'Financial Creditor'/'M/s. Union Bank of India' (erstwhile 'Andhra Bank'), preferred this 'Appeal'. While dismissing the 'Application', under Section 95 of the Insolvency and Bankruptcy Code, 2016 (hereinafter, referred to as 'The Code'), the 'Adjudicating Authority', has observed as follows:

“1. It is an Application filed under Section 95 of IBC, 2016 seeking Initiation of Insolvency Resolution Process as against Mr. P.K. Balasubramanian. An Application as already been filed against the personal guarantor in CP/5/CHE/2022 and this Tribunal vide its order dated 07.06.2022 has already appointed an IRP under Section 97 of IBC, 2016.

2. As per Section 96, IBC, 2016 on filing of an Application under Section 95 of the Code, Interim Moratorium will commence and hence no Application against the same Respondent can be filed before any forum.

3. In view of the same, the present CP/IB/33/CHE/2022 stands dismissed with liberty in accordance with law.”

2. It is the main case of the 'Appellant'/'Union Bank of India' that an 'Application' was filed against the 'Personal Guarantor' of the 'Corporate Debtor' / 'M/s. Tebma Shipyard Limited', under Section 95 of the Code

read with Rule 7(2) of the 'Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019'. On 31.12.2021, while the 'second Respondent' / 'State Bank of India' ('SBI'), filed a similar Section 95 Application, against the same 'Personal Guarantor' Mr. P.K. Balasubramanian, which was registered on 12.01.2022 as CP 5/CHE/2022, overlooking that the 'Appellant'/'Union Bank of India', had filed a similar 'Application', against the same Respondent, on an earlier date i.e., 31.12.2021. The Appellant's 'Application' filed on 31.12.2021, was assigned a Registration No. by the Registry, belatedly on 09.02.2022 and was posted before the 'Adjudicating Authority' (NCLT, Bench – I, Chennai) on 04.03.2022, 01.05.2022, 02.05.2022 and finally on 07.06.2022. In the virtual hearing held on 07.06.2022, it is submitted by the Learned Counsel for the 'Appellant' that the 'Adjudicating Authority', had observed that an 'Insolvency Resolution Process' ('IRP'), would be appointed and the 'Report', would be called for to decide the admissibility or otherwise of the 'Application'. It is submitted that the Appellant learnt about the 'dismissal Order' only on 16.06.2022, after receiving the certified true free copies of the said 'Order'. The Learned Counsel for the 'Appellant' submitted that the 'Adjudicating Authority', proceeded with an appointment of an 'IRP', in CP 5/CHE/2022, based on the ground that was an earlier 'Application', ignoring that the Section 95

Application preferred by this 'Appellant', was filed prior in point of time i.e., three days before CP 5/CHE/2022, was filed by State Bank of India.

3. It is submitted that there is no reasonable justification for registering the earlier 'Application' of the 'Appellant' belatedly on 09.02.2022 and that it was an omission on the part of the Registry which has caused the Bench to believe that the 'Application' of the 'Appellant' was a later one. The 'second Respondent'/'SBI', had admitted in para 2 of its 'Counter Affidavit' that the Section 95 Application was filed on 03.01.2022. The Learned Counsel relied on the following Judgments '**Vidyawati Gupta and Ors.**' Vs. '**Bhakti Hari Nayak**'¹ and a three Judge Bench Judgement of this 'Tribunal', rendered in the case of '**Krishan Kumar Basia**' Vs. '**State Bank of India**'² in support of his submission that 'expression filing' and 'date of Application', could be construed to mean the date of filing of an 'Application', manually and electronically and allotting of number electronically and not the date of numbering by the Registry finding it to be defect free. The relevant portion of the Judgement relied upon by the Learned Counsel for the 'Appellant' is extracted below:

“24. The above judgement of the Hon'ble Supreme Court also clearly laid down the principle that even if there is any defect in the Application, which is subsequently cured, the date

¹ 2006 AIR SCW 813

² (2022) ibclaw.in 500 NCLAT

of presentation of the Application shall remain the same and shall not be dependent on the date when defects are cured. We, thus, are of the considered opinion that the Adjudicating Authority after due consideration has taken correct view of the matter in holding that filing of the Application under Section 95 by the State Bank of India is on a date when Application was filed and allotted number electronically and the submission of the Appellant that date of filing of the Application shall be the date when Application is numbered has rightly been rejected.”

4. The Learned Counsel appearing for the ‘Respondent’/‘State Bank of India’, submitted that on 07.06.2022, when the matter had come up virtually ‘for Hearing’, the ‘Adjudicating Authority’ passed an ‘Order’ appointing a ‘Resolution Professional’ (‘RP’), and directed it to examine the ‘Application’, as set out under Section 95(6) of the Code and as per Section 97 of the I & B Code, 2016. It was observed in para 8 of the ‘Order’ that all defences, raised by the ‘Personal Guarantor’, will be considered at the time when the ‘Resolution Professional’, filed its ‘Report’, under Section 99 of the I & B Code, 2016, and when the matter is taken up for admission or rejection under Section 100 of the Code. The ‘Resolution Professional’, as directed by the ‘Adjudicating Authority’, submitted the ‘Report’, dated 02.07.2022, recommending for initiation of CIRP. While so, the ‘first Respondent’, filed an ‘Appeal’ challenging the ‘Order’ dated 07.06.2022, before this ‘Tribunal’ vide *Company Appeal*

(AT) (CH) (Ins.) No.284/2022 in '*Chandresh Jajoo*' Vs. '*Seimens Financial Services Ltd. & Anr.*'.

5. It is submitted by the Learned Counsel for the State Bank of India that the 'Appellant'/'Union Bank of India', did not challenge the 'Order' dated 07.06.2022, passed by the 'Adjudicating Authority' in CP 5/CHE/2022, which was in favor of the 'Respondent'. The 'Resolution Professional', has already filed its 'Report', and the 'Adjudicating Authority', will pass an 'Order' in due course, either 'admitting' or 'rejecting', the 'Application', filed by the 'first Respondent'. The definition of 'date of Application', is not available in the 'Code', and the 'date of Application', would imply that, such an 'Application', should be free of defects and eligible to be taken on record by the 'Tribunal'. In the present case, though the 'Application' of the 'Appellant'/'Union Bank of India', was filed on 31.12.2021, it appears to be defective and was pending for compliance of the defects, before the Registry of the 'Adjudicating Authority'. Hence, it cannot be said that 'Interim Moratorium', ought to have commenced from the 'date of filing' of the 'defective Application', as it would amount to violation of natural justice.

Assessment:

6. As seen from the Cause List dated 07.06.2022, both CP (IB) 35/CHE/2022 and CP (IB) 33/CHE/2022 were listed. The 'Application' under Section 95 of the I & B Code, 2016, preferred by the 'Appellant' /

`Union Bank of India', was dismissed on the ground that CP 5/CHE/2022, filed by the State Bank of India, against the same `Personal Guarantor', vide Order dated 07.06.2022, an `IRP' was appointed under Section 97 of the Code. Even in the `Order', dated 07.06.2022, passed in CP 5/CHE/2022, it is pertinent to mention that the `Report', by the `RP', was called for, to recommend for the `acceptance' or `rejection' of the `Application'. It is seen from the `Record' that the `Adjudicating Authority', has not yet admitted or rejected the `Application', filed by the State Bank of India, under Section 95. Sections 96, 97, 99 & 100 of the `Code', reads as follows:

“96. Interim moratorium.—

(1) When an application is filed under section 94 or section 95—

(a) an interim-moratorium shall commence on the date of the application in relation to all the debts and shall cease to have effect on the date of admission of such application; and

(b) during the interim-moratorium period—

(i) any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and

(ii) the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt.

(2) Where the application has been made in relation to a firm, the interim-moratorium under sub-section (1) shall operate against all the

partners of the firm as on the date of the application.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

“97. Appointment of resolution professional.—

(1) If the application under section 94 or 95 is filed through a resolution professional, the Adjudicating Authority shall direct the Board within seven days of the date of the application to confirm that there are no disciplinary proceedings pending against resolution professional.

(2) The Board shall within seven days of receipt of directions under sub-section (1) communicate to the Adjudicating Authority in writing either—

(a) confirming the appointment of the resolution professional; or (b) rejecting the appointment of the resolution professional and nominating another resolution professional for the insolvency resolution process.

(3) Where an application under section 94 or 95 is filed by the debtor or the creditor himself, as the case may be, and not through the resolution professional, the Adjudicating Authority shall direct the Board, within seven days of the filing of such application, to nominate a resolution professional for the insolvency resolution process.

(4) The Board shall nominate a resolution professional within ten days of receiving the direction issued by the Adjudicating Authority under sub-section (3).

(5) The Adjudicating Authority shall by order appoint the resolution professional recommended

under sub-section (2) or as nominated by the Board under sub-section (4).

(6) *A resolution professional appointed by the Adjudicating Authority under sub-section (5) shall be provided a copy of the application for insolvency resolution process.”*

“99. Submission of report by resolution professional.—

(1) *The resolution professional shall examine the application referred to in section 94 or section 95, as the case may be, within ten days of his appointment, and submit a report to the Adjudicating Authority recommending for approval or rejection of the application.*

(2) *Where the application has been filed under section 95, the resolution professional may require the debtor to prove repayment of the debt claimed as unpaid by the creditor by furnishing—*

(a) *evidence of electronic transfer of the unpaid amount from the bank account of the debtor;*

(b) *evidence of encashment of a cheque issued by the debtor; or*

(c) *a signed acknowledgment by the creditor accepting receipt of dues.*

(3) *Where the debt for which an application has been filed by a creditor is registered with the information utility, the debtor shall not be entitled to dispute the validity of such debt.*

(4) *For the purposes of examining an application, the resolution professional may seek such further information or explanation in connection with the application as may be required from the debtor or the creditor or any other person who, in the*

opinion of the resolution professional, may provide such information.

(5) The person from whom information or explanation is sought under sub-section (4) shall furnish such information or explanation within seven days of receipt of the request.

(6) The resolution professional shall examine the application and ascertain that— (a) the application satisfies the requirements set out in section 94 or 95; (b) the applicant has provided information and given explanation sought by the resolution professional under sub-section (4).

(7) After examination of the application under sub-section (6), he may recommend acceptance or rejection of the application in his report.

(8) Where the resolution professional finds that the debtor is eligible for a fresh start under Chapter II, the resolution professional shall submit a report recommending that the application by the debtor under section 94 be treated as an application under section 81 by the Adjudicating Authority.

(9) The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report under sub-section (7).

(10) The resolution professional shall give a copy of the report under sub-section (7) to the debtor or the creditor, as the case may be.”

“100. Admission or rejection of application.—

(1) The Adjudicating Authority shall, within fourteen days from the date of submission of the report under section 99 pass an order either admitting or rejecting the application referred to in section 94 or 95, as the case may be.

(2) Where the Adjudicating Authority admits an application under sub-section (1), it may, on the request of the resolution professional, issue instructions for the purpose of conducting negotiations between the debtor and creditors and for arriving at a repayment plan.

(3) The Adjudicating Authority shall provide a copy of the order passed under sub-section (1) along with the report of the resolution professional and the application referred to in section 94 or 95, as the case may be, to the creditors within seven days from the date of the said order.

(4) If the application referred to in section 94 or 95, as the case may be, is rejected by the Adjudicating Authority on the basis of report submitted by the resolution professional that the application was made with the intention to defraud his creditors or the resolution professional, the order under sub-section (1) shall record that the creditor is entitled to file for a bankruptcy order under Chapter IV.”

(Emphasis Supplied)

7. It is the main case of the ‘Appellant’ that the Section 95 Application was filed by them three days prior to the date when the State Bank of India, had filed their ‘Application’ and therefore their ‘Application’, ought to have been admitted first.

8. It is seen from the record that the Section 95 Application has not been admitted against the said ‘Personal Guarantor’. Liberty has also been given in accordance with law to the ‘Appellant’/‘Union Bank of India’ in the ‘Impugned Order’ dated 07.06.2022 in the event that the Section 95

Application filed by SBI is admitted, the 'Adjudicating Authority' under Section 102 of the Code would issue a 'Public Notice' within 7 days of passing of the Order inviting 'Claims' from all the 'Creditors'. The 'Appellant' in the instant case namely Union Bank of India, can also file their 'Claim' under Section 103 of the Code with the 'RP'. Hence, no prejudice would be caused to the 'Appellant' herein. Further, it is seen from the 'Impugned Order' that though both the Counsels were present, it was not brought to the notice of the Bench that the 'Application', filed by the 'Appellant'/'Union Bank of India', was three days prior to the 'Application', filed by the SBI.

9. A three Judge Bench of this 'Tribunal' in '**Dinesh Kumar Basia**' Vs. '**State Bank of India & Anr.**'³, has observed as follows:

"23. In this reference, we may notice one judgment of the Hon'ble Supreme Court in (2006) 2 SCC 777 – Vidyawati Gupta and Ors. vs. Bhakti Hari Nayak and Ors. The Hon'ble Supreme Court in the above case had occasion to consider the question as to when a plaint is treated to be filed. The High Court had occasion to consider the rules, provisions of CPC as well as Calcutta High Court (Original Side) Rules. In the above case, a suit was filed before the Original Side of the Calcutta High Court on 26.07.2002. An interim injunction was also granted on 02.04.2004 by the learned Single Judge. An Appeal was filed before the Division Bench, where a submission was made that the plaint was not filed in accordance with the provisions of Order 6 as amended from 01-07-2002, hence the plaint could not have been

³ Comp. App. (AT) (Ins.) No.724/2022

entertained and interim injunction granted by Single Judge is without jurisdiction. The said contention was accepted by the Division Bench and Division Bench allowed the Appeal holding that plaint was not presented as per the amended provisions of Order 6. It was pointed out before the Division Bench that plaint was not accompanied by an affidavit. In paragraph 22, the Hon'ble Supreme Court has noticed the relevant submissions, which was made before the Division Bench of the High Court, it is useful to notice the said submissions in paragraph 22, which is as follows:

“22. Before the Division Bench, it was submitted on behalf of the appellants that prior to 1-7-2002, Section 26 of the Code merely indicated that every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed. The manner in which such plaint was to be prepared and presented has been provided for in detail in Orders 6 and 7 of the Code. It was submitted on behalf of the appellants that with effect from 1-7-2002 certain amendments were effected to the aforesaid provisions of the Code by Act 46 of 1999 which made it mandatory that in every plaint, facts would have to be proved by an affidavit. It was submitted that sub-section (2) was added to Section 26 by way of amendment incorporating the said provision. Correspondingly, amendments were also introduced in Order 6 Rule 15 relating to verification of pleadings and sub-rule (4) was inserted mandating that the person verifying the pleading was also required to furnish an affidavit in support of its pleadings. In addition to the above, Order 4 of the Code, which deals with the institution of suits, was also amended and sub-rule (3) was added to Rule 1 and it was specifically stipulated that the plaint to be filed in

compliance with the provisions of Orders 6 and 7 would not be deemed to have been duly instituted unless it complied with the requirements specified in sub-rules (1) and (2). It was the further case of the appellants that having regard to the provisions of Chapter 7 Rule 1 of the Original Side Rules, the reference made in sub-rule (3) of Rule 1 Order 4 of the Code would also include the amendments brought about in the said orders with effect from 1-7-2002. Consequently, it was urged that since the amended requirements of sub-rule (4) of Rule 15 Order 6 had come into operation with effect from 1-7-2002 and since the suit had been instituted thereafter on 26-7-2002, the same could not be said to have been duly instituted within the meaning of sub-rule (3) of Rule 1 Order 4 of the Code. It was urged that the entire proceedings from the filing of the plaint and the entertaining of the interlocutory applications by the learned Single Judge was without jurisdiction and was liable to be declared as such.

The findings of the Division Bench of the Calcutta High Court has been noted in paragraph 26:

“26. After considering the various provisions of the Code along with the relevant amendments introduced in the Code with effect from 1-7-2002 and the relevant provisions of the letters patent and after considering various decisions cited at the Bar, in particular the decision of this Court in State of M.P. v. M.V. Narasimhan [(1975) 2 SCC 377 : 1975 SCC (Cri) 589 : AIR 1975 SC 1835] the appeal court came to the conclusion that the instant case stood on a different footing from the various decisions cited in view of the express provisions of Order 4 Rule 1(3) of the Code, as amended. Relying on the interpretation of the

expression “duly” used in Order 4 Rule 1(3) in a decision of this Court in LIC of India v. D.J. Bahadur [(1981) 1 SCC 315 : 1981 SCC (L&S) 111] and the decision of the House of Lords in East End Dwellings Co. Ltd. v. Finsbury Borough Council [(1951) 2 All ER 587 (HL)] the Division Bench was of the view that unless the plaint complied with the requirements of the amended provisions, there would be no due institution of the plaint. The Division Bench held that if a plaint is filed without compliance with the requirement of the amended provisions, in the eye of the law no plaint can be said to have been filed and the same is non est. However, having regard to the various decisions cited, including the decision of this Court in Salem Advocate Bar Assn. [(2003) 1 SCC 49] it was also held by the Division Bench that from the moment the error is rectified, the plaint will be deemed to have been properly instituted but the rectification could not relate back to a period when in view of the deeming clause there was no due institution of the plaint. On the aforesaid reasoning, the Division Bench held that the suit could not be dismissed nor could the plaint be rejected because of non-compliance with the amended provisions since the omission had been remedied by the filing of an affidavit by the respondent-plaintiff. It was held that after the defect was removed the suit must be deemed to have been duly instituted with effect from 28-7-2004 and not before that date and consequently the interlocutory order that had been passed by the learned Single Judge at a point of time when the suit had not been duly instituted could not survive.

The judgment of the Division Bench of the Calcutta High Court was questioned before the Hon’ble Supreme Court and submission was

made that the defect, if any, in the plaint is a mere irregularity and can be cured by the amendment and consequently when the verification in the plaint is amended, the plaint must be taken to be presented not on the date of the amendment, but on the date when it was first presented. It was submitted that Division Bench of the Calcutta High Court erred in holding that having regard to the provisions of sub-rule (3) of Rule 1 Order 4 of the Code, the suit will be deemed to have been instituted on the date on which the defects stood cured and not from the date of initial presentation of the plaint.

The Hon'ble Supreme Court allowed the Appeal and set-aside the Division Bench judgment of the High Court holding that any omission in respect of the plaint shall not render the plaint invalid and that such defect or omission was curable and plaint shall also date back to the presentation of the plaint. In paragraph 50, the Hon'ble Supreme Court also held that amendments were procedural in nature and non-compliance therewith would not automatically render the plaint as non-est. In paragraph 50 and 55 following has been laid down:

“50. The intention of the legislature in bringing about the various amendments in the Code with effect from 1-7- 2002 were aimed at eliminating the procedural delays in the disposal of civil matters. The amendments effected to Section 26, Order 4 and Order 6 Rule 15, are also geared to achieve such object, but being procedural in nature, they are directory in nature and non-compliance therewith would not automatically render the plaint non est, as has been held by the Division Bench of the Calcutta High Court.

55. The appeal is accordingly allowed and the impugned order under challenge is set

aside. Consequent upon the views expressed by us, the plaint as filed on behalf of the appellants herein must be deemed to have been presented on 26-7-2002 and not on 28-4-2004 and the interim order passed by the learned Single Judge on 2-4-2004, stands revived. The Division Bench of the Calcutta High Court is directed to reconsider and hear the appeal filed by the respondents herein on merits as expeditiously as possible.”

24. The above judgment of the Hon'ble Supreme Court also clearly laid down the principal that even if there is any defect in the Application, which is subsequently cured, the date of presentation of the Application shall remain the same and shall not be dependent on the date when defects are cured. We, thus, are of the considered opinion that Adjudicating Authority after due consideration has taken correct view of the matter in holding that filing of the Application under Section 95 by the State Bank of India is on a date when Application was filed and allotted number electronically and the submission of the Appellant that date of filing of the Application shall be the date when Application is numbered has rightly been rejected.

25. We, thus, do not find any error in judgment of Adjudicating Authority rejecting the objection of the Appellant and appointing Resolution Professional for submitting a report. There is no merit in any of the Appeal(s), the same are dismissed. No order as to costs.”

10. Keeping in view the aforementioned ratio, this `Tribunal', is of the considered view that indeed, the `Date of Filing' of the `Application', under Section 95 is, what is to be taken into account and not the date

when the Application is numbered. There is no appreciable evidence on record to state that the said 'Application' was 'defective'.

11. However, in the present case, though the Section 95 Application was filed on 31.12.2021 and was assigned a Registration No. and SBI had filed an 'Application' on 03.01.2022, the 'Registry', had registered the Section 95 Application of SBI, on 12.01.2022 and that of Union Bank of India on 09.02.2022. Though the Appellants' Section 95 Application came up 'for Hearing' on 04.03.2022, 01.04.2022, 02.05.2022 and on 07.06.2022, a perusal of the Order copies establishes that the 'Appellant'/'Union Bank of India', had never brought to the notice of the Bench that another 'Application', was also filed by SBI. The case of the 'Appellant' that they had 'no opportunity', to bring to the notice of the Bench that the Appellant's Section 95 Application was filed in prior point of time i.e., three days prior to the SBI's 'Application', is untenable, keeping in view the fact that the Order copies do not reflect any such submission by the 'Appellant', despite the fact that admittedly the matter was posted on 04.03.2022, 01.04.2022, 02.05.2022 and ultimately on 07.06.2022 to contend that the Bench had indicated that an 'RP', would be appointed in the Application, preferred by the 'Appellant'/'Union Bank of India', but had subsequently dismissed the Application is unsustainable as the 'Order' clearly specifies that an 'IRP', was already appointed under Section 97 of the Code on the same date i.e., 07.06.2022.

12. Section 96(1)(a) provides that an interim-moratorium, shall commence on the date of the `Application`, in relation **to all the debts**. Section 96(1)(b) of the `Code`, also specifies that during the `Moratorium` period **(i)** any legal action or proceeding pending in respect of any `debt` shall be deemed to have been stayed; and **(ii)** the `Creditors of the Debtor`, shall not initiate any legal action or proceedings in respect of any `debt`. The use of expression `Creditors of the Debtor`, means that all other `Creditors of the Debtor`, apart from the `Creditor`, on whose `Application`, `interim Moratorium`, has commenced. Once `Application` under Section 100 is admitted, `Moratorium`, commences with respect to all `Debts`, under Section 101 and thereafter `Public Notice`, is issued and `Claims` from `Creditors`, are invited under Section 102. Section 103 provides for registering of `Claims` by Creditors. Section 104 provides for preparation of list of Creditors and thereafter repayment Plan is contemplated under Section 105. Thus, **when an `Insolvency Resolution Process`, commences against the `Personal Guarantor`, all `Creditors` of the `Personal Guarantor`, are taken care of in the proceedings under Chapter-III**. The Code does not contemplate multiplicity of `Applications`, against the same `Personal Guarantor`. This `Tribunal`, is of the earnest view that when the `Insolvency Resolution Process`, commences against a `Personal Guarantor`, `Claims`

of all `Creditors`, are taken care of under the scheme of the I & B Code, 2016.

13. Keeping in view that the `Order of Admission`, has not yet been passed by the `Adjudicating Authority`, and also that no prejudice would be caused to the `Appellant` herein, as they can file their `Claim`, with the `Resolution Professional`, and also having regard to the fact that they were given `Liberty`, in accordance with `Law` by the `Adjudicating Authority`, this `Tribunal`, is not inclined to set the clock back on this ground. For all the aforementioned reasons, *Comp. App. (AT) (CH) (Ins.) No.293/2022* is accordingly `dismissed`. No costs.

[Justice M. Venugopal]
Member (Judicial)

[Ms. Shreesha Merla]
Member (Technical)

29/03/2023

HIMANSHU / TM