

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

6. C.P.(IB)-235(MB)/2022

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **01.03.2022**

NAME OF THE PARTIES: BEACON TRUSTEESHIP LIMITED
Vs.
SANJAY RAJKUMAR CHHABRIA

SECTION 95(1) OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. MP Bharucha along with Mr. Amogh Joshi, counsel appearing for the
Petitioner and Mr. Anmol Bartaria, counsel appearing for the
Respondent/Personal Guarantor are present through virtual hearing.

Heard the counsel appearing for the Petitioner and the above Company
Petition is allowed. Detail order would follow:

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V. SUBBA RAO
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

C.P.(IB)-235/MB/2022

Under Section 95 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudication Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019

In the matter of

Beacon Trusteeship Limited

A Company incorporated under the Companies Act, 2013, having its registered office at 4C & D Siddhivinayak Chambers, Gandhi Nagar Opp. MIG Cricket Club, Bandra (East), Mumbai - 400051

.....Applicant/Creditor

Versus

Mr. Sanjay Rajkumar Chhabria

Personal Guarantor to the Applicant,

Having its Present Address at:

Indian Inhabitant, Residing at 13/14,

Solitaire, Central Avenue Road,

Opp. Rose Manor School,

Santacruz West, Mumbai - 400054

....Respondent/Personal Guarantor

Order Dated: 01.03.2022

Coram:

Hon'ble Shri H.V Subba Rao, Member (Judicial)

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

For the Applicant: Mr. MP Bharucha, Advocate a/w Mr. Amogh Joshi, Advocate

For the Respondent: Mr. Anmol Bartaria, Advocate

ORDER

1. This is a Company Petition filed by **Beacon Trusteeship Limited**, (“the Applicant”), under section 95 of the Insolvency & Bankruptcy Code, 2016 (**IBC**) 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 seeking to initiate Individual Insolvency Resolution Process (IRP) against **Mr. Sanjay Rajkumar Chhabria** (“the Personal Guarantor”).
2. This Company Petition is filed by the Applicant claiming total outstanding of Rs. 96,93,56,440/- (Rupees Ninety Six Crores Ninety Three Lakhs fifty Six Thousand Four Hundred Forty Only).
3. In an application filed under Section 7 of the Code by Beacon Trusteeship Limited (Financial Creditor) the C.P. No. 1390/IBC/NCLT/MB/MAH/2020 was admitted against Radius Estates and Developers Private Limited (“Corporate Debtor”) on 30.04.2021. In the Committee of Creditors constituted thereafter the debt given by the Beacon Trusteeship Limited to the Corporate Debtor was admitted as financial debt. Further in the credit extended to the Corporate Debtor by the Beacon Trusteeship Limited, Mr. Sanjay Rajkumar Chhabria stood as Personal Guarantor as per Deed of Guarantee. The Liquidation of the Corporate Debtor is pending completion.

4. The Learned Counsel for the Applicant submits that a Deed of Personal Guarantee was executed by Mr. Sanjay Rajkumar Chhabria, Personal Guarantor on 12.11.2018.
5. Demand Notice dated 16.12.2021 under Rule 7 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution of Personal Guarantor to Corporate Debtors) Rules, 2019 was issued to the Personal Guarantor claiming total outstanding of Rs. 96,93,56,440/- (Rupees Ninety Six Crores Ninety Three Lakhs fifty Six Thousand Four Hundred Forty Only) as on 30.04.2021.
6. The Said Demand Notice was served upon the Personal Guarantor via Registered Post on the date of 29.01.2022 However, the Personal Guarantor has not replied to the said Demand Notice.
7. The Bench notes that a Demand Notice was issued by the Petitioner, to the Personal Guarantor, Mr. Sanjay Rajkumar Chhabria in respect of the unpaid debt due from Radius Estates and Developers Private Limited (Corporate Debtor) under rule 7(1) of the IBC, 2016 on 16.12.2021. The Applicant has produced proof of service that the said notice was delivered to the Personal Guarantor along with computation of the amount of default and other particulars. The Applicant mentions that there has been no response from the Respondent side to the demand notice or any payments from the Personal Guarantor, within the period of 14 days stipulated in the Demand Notice.
8. Based on the submissions made by the counsel for the Petitioner and the documents produced and placed on record before this Bench, the Bench has no doubt in its mind that there is a 'default' on the part of the Personal Guarantor by not

fulfilling the debt owed to the Corporate Debtor, i.e., Radius Estates and Developers Private Limited as per the Deed of Guarantee entered between the parties through the Deed of Guarantee dated 12.11.2018.

9. This Bench “Allows” the petition filed by Beacon Trusteeship Limited the Applicant, under Section 95 of the Insolvency & Bankruptcy Code, 2016 read with Rule 7(2) of the IBC Rules 2019 against Mr. Sanjay Rajkumar Chhabria, the Personal Guarantor of the Corporate Debtor, Radius Estates and Developers Private Limited C.P. No. 1390/IBC/NCLT/MB/MAH/2020. The Interim Moratorium as per Section 96(1) of the Code has commenced from the date of filing of Application.
10. That this bench appoints **Mr. Prakul Thadi**, having Registration No. IBBI/IPA-002/IP-N01149/2021-2022/13806 and having office at: Flat No. 1405, J Block, Rainbow Vistas, Green Hills Road, Moosapet, Hyderabad, Telangana - 500018 as the Resolution Professional (RP) in the matter under Section 97(5) of the Code. The fee payable to Resolution Professional (RP) shall be in accordance with the Insolvency and Bankruptcy Board of India (IBBI) Regulations/Circulars/Directions issued in this regard.
11. In this matter, the Resolution Professional, **Mr. Prakul Thadi**, shall exercise all powers as enumerated under Section 99 of the Code read with Rules made thereunder. He is directed to make the 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 Creditor as soon as the same is filed before this Authority.

12. That this Bench also directs for an advance payment of Rs. 5,00,000/- (Rupees Five Lakh only) to be paid by the Petitioner to the Resolution Professional (RP) immediately to initiate the process which shall be adjusted towards the fee and expenses payable to the Resolution Professional (RP).
13. The interim-moratorium under Section 96(1) (a) of the Insolvency and Bankruptcy Code, 2016 has commenced on the date of filing of this application by the Financial Creditor and will cease to have effect on the date of admission.
14. During such 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
15. List this matter on 21.03.2022. The IRP is directed to file a Report by way of an Application in the matter for further proceedings.
16. The registry is directed to immediately communicate this order to the Financial Creditor, Personal Guarantor, Corporate Debtor and Resolution Professional even by way of email.

Sd/-

Chandra Bhan Singh
MEMBER (TECHNICAL)

Sd/-

H.V Subba Rao
MEMBER (JUDICIAL)