

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

IBA/614/2020

(filed under Section 95 of the Insolvency and Bankruptcy Code, 2016 and Rule 7(2) of the Insolvency and Bankruptcy [Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor], Rules, 2019)

In the matter of **S ASHOK**

STATE BANK OF INDIA

Represented by its Assistant General Manager
Stressed Assets Management Branch,
Red Cross Buildings, Egmore, Chennai – 600 008

... *Creditor*

-Vs-

Mr. S. ASHOK

F1, Abul Regency,
1st Floor, No.6, South Maa Street,
Srinagar Colony, Saidapet,
Chennai - 600 015

...*Personal Guarantor*

Order Pronounced on 18th February 2022

CORAM:

Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Financial Creditor : M. L. Ganesh, Advocate

For Personal Guarantor : None Appeared

ORDER

Per: Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)

Under Consideration is an Application filed under Section 95 (1) of the Insolvency and Bankruptcy Code, 2016 against the personal guarantor **Mr. S. Ashok** of **M/s. MPL Cars Private Limited**, the Corporate Debtor which is under Liquidation. In so far M/s. MPL Cars Private Limited is concerned, an order was passed for Liquidation of the company by this Adjudicating Authority on 27.01.2021 in IA/264/IB/2020.

2. The present application is filed by the Financial Creditor Assistant General Manager, State Bank of India, Stressed Assets Management Branch, Chennai

3. The date of default as stated in the Application is 05.12.2012. The Agreements of Guarantee executed by the Personal Guarantor are placed in the typed set filed along with the application.

4. The Demand Notice issued under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 to the Personal Guarantor dated 10.03.2020 is placed in the typed set filed along with the application. Hence, on this term, the present Petition is filed to initiate proceeding in terms of Section 95 (1) of the IBC, 2016, against the Respondent herein.

5. The Hon'ble NCLAT, Principal Bench, in the matter of **Mr. Ravi Ajit Kulkarni -Vs- State Bank of India** in *Company Appeal (AT) (Insolvency) No. 316 of 2021* in para 42 has held that once an Application under Section 95 of IBC, 2016 is filed, the Adjudicating Authority has to act on it, and following principles of natural justice, give limited notice to Personal Guarantor to appear referring to the Interim Moratorium that has commenced as per terms of Section 96 and subsequently proceed to the next stage of

appointing Resolution Professional as per Section 97 read with attendant Rules and Regulations

6. Accordingly, we hereby appoint **MR. V. SADHASIVAM** having registration number: **IBBI/IPA-001/IP-P00958/2017-2018/11579 (email:- sadhasivamv14@gmail.com)** as the Interim Resolution Professional in respect of the Personal Guarantor as mentioned in part IV of the application, whose consent is also annexed.

7. The Financial Creditor is also directed to serve a copy of this Application to the Interim Resolution Professional for preparing the Report under Section 99 of IBC, 2016.

8. The Interim Resolution Professional is required to examine the Application as set out in Section 97(6) of IBC, 2016 and after examining the Application, as per Section 97(7) of IBC, 2016 the Interim Resolution Professional may recommend for the acceptance or rejection of the Application in his report, within a period of 10 days as contemplated under Section 99(1) of IBC, 2016.

9. Post this matter on **21st March, 2022** for filing of Report by the Interim Resolution Professional.

-Sd-
B. ANIL KUMAR
MEMBER (TECHNICAL)

Mohana Priya

-Sd-
Justice (Retd.) S. RAMATHILAGAM
MEMBER (JUDICIAL)