

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

CP(IB)/119/(CHE)/2023

*(Filed under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 read with
Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority
for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors)
Rules, 2019)*

Mr. M.Thalaimuthu Nadar,
3/12,Canara Bank Street,
Dhalavaipuram, Rajapalayam,
Tamil Nadu – 626 188

.....Applicant

Versus

Indian Bank,
Door Nos.474, 476 7 477
Opp. to Chitra Hospitals,
Thenkasi Road,
Rajapalayam,
Tamil Nadu – 626 177

....Respondent

Order pronounced on 25th January, 2024

CORAM:

**SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAN, MEMBER (TECHNICAL)**

Present:

For Petitioner

: A.S.Sathish Kumar, PCS

ORDER

(Hearing Conducted through Video Conferencing)

This application has been filed under Section 94(1) of the
Insolvency and Bankruptcy Code, 2016 ('Code'/ 'IBC') read with Rule 6

of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 ('Rules') by the Applicant/ Personal Guarantor Mr.M.Thalaimuthu. The prayer made is to initiate the Insolvency Resolution Process in respect of Mr.M.Thalaimuthu, being the Personal Guarantor for M/s. Sunaichandran Mills Private Limited. ('Corporate Debtor").

2. As per the averments made in the application, M/s. Sunaichandran Mills Private Limited had taken credit facilities from the Respondent/ Indian Bank. The Applicant herein had given personal guarantee to the said loan. The Corporate Debtor failed to repay the debt and in pursuance of which the present application has been filed.

3. In Part-III of the application, the Applicant has given the particulars of debt as Rs.3,74,64,783/- (Rupees Three Crores Seventy Four Lakhs Sixty Four Thousand Seven Hundred and Eighty Three only), amount of default as Rs.3,74,64,783/- (Rupees Three Crores Seventy Four Lakhs Sixty Four Thousand Seven Hundred and Eighty Three only) and date of default as 30.09.2018. The Applicant has placed

Copy of Demand Notice dated 01.10.2018 issued by Canara Bank U/s 13(2) of the SARFAESI Act, 2002, copy of Auction Sale Notice dated 05.05.2023 issued by Indian Bank. The documents are placed at **Page 14-21**. The Applicant has also filed the statement of affairs as on 25.05.2023 at **Page 32**.

4. As per Rule 6(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019, the Guarantor has served a copy of this application to every Financial Creditor and the Corporate Debtor for whom the guarantor is a personal guarantor. It is seen that the Guarantor has annexed proof of service to the creditors and Corporate Debtor. The same is annexed in Annexure 14 of the Application Typeset.

5. We have heard Learned Authorized Representative for the Applicant.

6. Section 94 of IBC provides that a debtor may apply either by himself, or jointly with Partners, or through a Resolution Professional to

the Adjudicating Authority for initiating an Insolvency Resolution Process under the Section by submitting an application.

7. Considering the above facts and the case supra, we appoint the Resolution Professional who will collate all the facts relevant to the examination of the application for the commencement of the Insolvency Resolution Process in respect of the Personal Guarantor.

8. In the instant case, the Applicant has proposed the name of the Resolution Professional, Mr.Madhu Desikan. However, this Tribunal based on the latest list furnished by Insolvency and Bankruptcy Board of India applicable for the period between January 2024 – June 2024 appoints **Mr. Selvarajan Chockan** with **Reg No: IBBI/IPA-002/IP-N00918/2019-2020/12971** (*Email Id: selvarajan.cgmail@com*)(whose AFA is valid till 18.12.2024) as Interim Resolution Professional in respect of the Personal Guarantor.

9. The Applicant is directed to pay a sum of **Rs.25,000/-** (*Rupees Twenty Five Thousand Only*) to the Interim Resolution Professional to meet out the expenses to perform the functions assigned to him.

10. The Resolution Professional is directed to examine the application as set out in Section 97(6) of IBC, 2016 who after examining, may recommend for the acceptance / rejection of the application as provided under Section 97(6) of IBC, 2016, **within a period of 10 days** as contemplated under Section 99(1) of IBC, 2016.

11. The Applicant is directed to serve copy of the application and the order on the Interim Resolution Professional.

12. List this application for report / hearing on **01.03.2024**.

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)