



DIVISION BENCH ITEM NO.4

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

CP (IB) No.26/ALD/2024

In the matter of:

An application by Creditor to initiate Insolvency Resolution Process (Under Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019).

In the matter of:

CANARA BANK,
Kamla Nagar Branch, Kamla Nagar,
Agra, U.P.
cb1469@canarabank.com

...Applicant/ Financial Creditor

Versus

AYUSH AGARWAL

S/o Pramod Kumar Agarwal,
R/o Plot No.8A/L-12 Lawyers Colony
(Khasra No.742, Mauza Mau,
Mustkil) Hari Parwat Ward, Agra,

Also at :

33/7/2C, Basant Market,
Balkeshwar, Agra, U.P.

Guarantor(s): M/s Shree Basant Oils Ltd.

(Under Liquidation v.o.d. 14.12.2021

passed in CP (IB) No.504/ALD/2019)

...Respondent/ Guarantor

Coram:

Shri Praveen Gupta : Member (Judicial)

Shri Ashish Verma : Member (Technical)

Order dated: 4th June, 2024



Appearances (through physical/ virtual hearing):

Sh. Ankur Gupta, Adv. : For the Carana Bank/ FC

Sh. Nilotpal Shyam, Adv. : For the Personal Guarantors

ORDER

- 1.** Ld. Counsel representing the Financial Creditor is present physically.
- 2.** Under consideration is an Application CP (IB) No.26/ALD/2024 filed under section 95 of the Insolvency and Bankruptcy Code, 2016 (*hereinafter referred to as "IBC, 2016"*) r/w rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 (*hereinafter referred to as "IB Rules, 2019"*) and regulation 4(2) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (*hereinafter referred to as "IB Regulations, 2019"*) for initiating the Insolvency Resolution Process (*hereinafter referred to as "IR Process"*) against personal guarantor, *viz.*, Ayush Agarwal, one of the promoter of M/s Shree



Basant Oils Ltd.

- 3.** The factual matrix of the case is that the guarantor had executed deeds of guarantees in respect of the facilities entered into between Canara Bank and the Corporate Debtor i.e. M/s Shree Basant Oils Ltd. and the total maximum debt sanctioned under the working capital facilities was Rs.90 Crore. In terms of the facility agreement the default occurred upon non-payment by the personal guarantor on 25.11.2019. The “M/s Shree Basant Oils Ltd.” and the guarantor had failed and/or neglected to make payment as per terms of the said Facility Agreements.
- 4.** The Applicant Bank, thereafter, proceeded to issue statutory Demand Notice dated 23.01.2024 under Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantor to Corporate Persons) Rules, 2019.
- 5.** The personal guarantor viz. Ayush Agarwal has executed personal guarantee on 12.09.2016 in favour



of the Applicant to secure the repayment of the principal amount of the Facilities alongwith interest payable by “M/s Shree Basant Oils Ltd.” in respect of the Facility Agreement. The Applicant has issued a Demand Notice in Form B on 23.01.2024 under Rule 7(1) of the IB Rules, 2019 but no response has been received.

- 6.** Ld. Counsel representing the Financial Creditor states that there is a default persisting against the Personal Guarantors of M/s Shree Basant Oils Ltd. being the Corporate Debtor.
- 7.** The Ld. Counsel representing the Personal Guarantors in all these cases states that the Personal Guarantors have already settled their outstanding dues with respect to the Union Bank of India as well as the Punjab National Bank, and have also proposed an OTS to the present Financial Creditor namely the Canara Bank as well.
- 8.** The Ld. Counsel representing the Financial Creditor/ Canara Bank however states that the OTS proposed as of now, is not viable in view of the amount of default.
- 9.** Without expressing anything about the merits of the OTS,



since there is a default alleged as per the petition filed by the Financial Creditor, let the IRP be appointed.

ORDER

- I.** It is made known to everyone that on filing this Application by the Applicant/Creditor the interim-moratorium commences in terms of section 96(1)(a) of IBC, 2016.

- II.** The Applicant/Creditor has not proposed the name of Insolvency Professional in the present application. Hence, this Adjudicating Authority appoints Mr. Deepak Kumar Garg, IBBI Registration No.IBBI/IPA-002/IP-N00796/2019-2020/12560, R/o I-702A, Ajnara Integrity, Rajnagar Extension, Ghaziabad, Uttar Pradesh, 201017, email: deepakgarg07@rediffmail.com, as Resolution Professional in exercise of the power conferred under section 97(5) of the IBC, 2016 on this Authority. The verification of the said IRP has been carried out by Law Research Associate of this Tribunal, Sarim Husain, and it is found that



there is no proceeding pending against the IRP. Upon verification from the website of IBBI, it is found that IRP holds valid authorization till 30.08.2024. The IRP is directed to file declaration within seven days from the date of receiving of this Order to the effect that he fulfils all the requirements for being appointed as Resolution Professional in the matter.

III. The Resolution Professional shall exercise all the powers as enumerated under section 99 of the IBC, 2016 read with the Rules made there under. He is directed to make the recommendations for acceptance or rejection of this Application within a period of ten days as stipulated and envisaged under section 99(1) of the IBC, 2016. The RP shall give a copy of the report under sub-section (7) of section 99 of IBC, 2016 to the Applicant, as soon as the same is filed before this Authority.

IV. The Counsel on record for the Applicant is hereby directed to serve the copy of this Order along with



copy of the Application and documents on the Resolution Professional by all available modes for information and compliance. Proof of service shall be filed with this Bench for record.

- V.** Let the matter be adjourned for further hearing on 12th July, 2024.
- VI.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsels for information and for taking necessary steps.
- VII.** Certified Copy of this order be issued, if applied for, upon compliance of all requisite formalities.

-Sd-

(Ashish Verma)
Member (Technical)

4th June, 2024

Kavya Prakash Srivastava
(Stenographer)

-Sd-

(Praveen Gupta)
Member (Judicial)