



**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK**

C.P(IB) No.21/CB/2023

In the matter of

Under Section 95 of Insolvency and Bankruptcy Code 2016 r/w Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Process for Personal Guarantors to Corporate Debtors) Rules,2019;

-And-

In the matters of:

Bank of Maharashtra, Jabalpur Zone Mangley Building, Opp. BSNL Telephone Exchange, Wright Town, Jabalpur - 482002

...Financial Creditor/Petitioner

-Versus-

In the matter of:

Mr. Abhay Kumar Singh, B-2/ 402, 4th Floor, VIP Karishma Apartment II, Shankar Nagar, Raipur-492001

...Personal Guarantor/Respondent

-Versus-

Order reserved on:19.6.2023

Order Pronouncedon:10.7.2023

Coram:

Shri P. Mohan Raj : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

Appearance:

For the Petitioner : Mukesh Panda Adv

For the Respondent :

ORDER

1. This Petition has been filed under section 95(1) of the Insolvency and Bankruptcy Code, 2016(hereinafter referred to as IBC,2016) read with Rule 7(2)of the Insolvency and Bankruptcy (Application to



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Adjudicating Authority for Insolvency Resolution Process for personal Guarantors to Corporate Debtor) rules 2019 Through Resolution Professional by **Bank of Maharashtra (here in after called as “creditor)** to initiate insolvency resolution process against the Respondent /Personal Guarantor, herein who stood as a Guarantor in respect of the loans availed by the Principal Borrower /Corporate debtor viz M/s Hetauda Industries Pvt. Ltd .

2. M/s Hetauda Industries Pvt Ltd, (Corporate debtor/ “Principal Borrower”) availed financial facility and term loan from Bank of Maharashtra of INR 4.75 Crores since March of 2015. A guarantee agreement was executed by Mr. Abhay Kumar Singh director of Corporate Debtor /Respondent in his individual capacity on 29th April of 2015.It was submitted that the principal Borrower has committed default in repayment of the dues and as a result thereof, declared Non-Performing Asset (NPA)by the creditor on 20.12.2017.
3. The Creditor Bank of Maharashtra has issued a Legal Notice u/s 13(2) of SARFAESI recalling the loan facilities sanctioned and invoking the guarantee of the guarantor on 03.01.2018 and demand notice issued on dated 23.08.2022 as provided under Section 95(4)(b) of IBC 2016 R/W Rule 7(1) of the Insolvency and Bankruptcy Resolution Process for personal Guarantor to pay an amount of Rs. 5,79,48,461crore/-
4. The amount of default Rs.5,79,48,461/- crore is greater than the minimum threshold amount for an application under part III of the code. The Petitioner also submitted that the debt is not barred by limitation, since payments were made by the Corporate Debtor subsequent to NPA and also due to the exemption granted by Apex Court from 15.3.2020 to 28.2.2022 due to Corona/Covid 19. The copy of Petition was served on the Respondent/personal Guarantor



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and the Corporate debtor for whom the respondent is a personal guarantor as provided under Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules 2019.

5. Thus, in all respect, this Petition filed under section 95 of IBC 2016 is complete. The copy of Petition was served on the petitioner/personal Guarantor and the Corporate debtor for whom the guarantor is a personal guarantor as provided under Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for personal Guarantors to Corporate Debtor) Rules 2019.
6. After filing this Petition, the interim-moratorium commences under section 96 of IBC 2016, in relation to all debts of the personal guarantor and shall cease to have effect on the date of admission of this Petition. During this interim-moratorium period any pending legal action or proceeding in respect of any debt of the personal guarantor shall be deemed to have been stayed and the creditors of the personal guarantor shall not initiate any legal action or proceedings in respect of any debt.
7. The Applicant/Creditor has proposed the name of Mangesh Vitthal Kekre for appointment as Resolution Professional. Therefore, as proposed by the Financial Creditor, Mr Mangesh Vitthal Kekre having his address at 607, Chetak Centre, RNT Marg, Near Hotel Shreemaya, Indore, Madhya Pradesh- 452001, having Reg. No- IBBI/IPA-001/IP-P00539/2017-18/10964 is here by appointed as Resolution Professional, in exercise of the powers conferred on this Adjudicating Authority under section 97 of the IBC ,2016 read with regulation 4(1) and (2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to



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Corporate Debtors) Regulations, 2019. The resolution professional has filed the required declaration in Part IV of the Petition.

8. The Resolution Professional shall exercise all the powers as provided in section 99 of IBC 2016 and submit his reasoned report in writing for recommending the acceptance or rejection of the application within ten days into this Tribunal as provided under section 99 of IBC 2016. He is also directed to serve the copy of the report to the Applicant/Creditor as provided under section 99(10) of IBC 2016 and also the Respondent/Personal guarantor.
9. The Applicant/Creditor and its Counsel are hereby directed to serve the copy of this Order along with copy of the Application and documents on the Resolution Professional by all modes for information and compliance.
10. The Registry is directed to send the copy of the order to the parties' concern forthwith.
11. Certified copy of the order be issued on payment of fee if applied for, upon compliance of all requisite formalities.

SATYARANJAN PRASAD Digitally signed by SATYARANJAN PRASAD
Date: 2023.07.10 16:49:38 +05'30'

Satya Ranjan Prasad
Member (Technical)

PANDIAN MOHAN RAJ Digitally signed by PANDIAN MOHAN
RAJ
Date: 2023.07.10 16:57:19 +05'30'

P. Mohan Raj
Member (Judicial)

Signed on this 10th day of July, 2023.

Bijaylaxmi (LRA)