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

IBA/631/2020

(filed under Section 95 of the Insolvency & Bankruptcy Code, 2016)

In the matter of ***Mrs. Neeta Jain***

State Bank of India,
Stressed Assets Management Branch,
Red Cross Buildings,
Egmore, Chennai – 600 008.

... Financial Creditor

-vs-

Mrs. Neeta Jain,
Flat No.F, 6th Floor,
Block No.II, 'The ART',
Kothari Road,
Nungambakkam, Chennai – 600 034.

... Personal Guarantor

Order pronounced on 15th February, 2022

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

For Financial Creditor : M.L.Ganesh, Advocate
For Personal Guarantor : None appeared

ORDER

Per: **R. SUCHARITHA, MEMBER (JUDICIAL)**

These applications have been filed under Section 95 (1) of the Insolvency and Bankruptcy Code, 2016 against the personal guarantors of Kanishk Gold Private Limited, the Corporate Debtor which is under CIRP.

2. In so far Kanishk Gold Private Limited is concerned, an order was passed initiating Corporate Insolvency Resolution Process against the Corporate Debtor by this Tribunal on 22.01.2020.

3. The present application is filed by the Financial Creditor viz. State Bank of India through the Insolvency Professional Mr. Amier Hamsa Ali Abbas Rawther having Registration No.: IBBI/IPA-001/IP-P01727/2019-2020/12620 against the personal guarantors of the Corporate Debtor.

4. It is stated in Part – III of the Application that demand was made on the personal guarantor on 12.09.2017. It is also seen from Part – III at Sl. No. 13 of the Application that the Personal Guarantor has executed the Deed of Guarantee on 25.10.2008, 05.07.2010, 11.05.2011, 03.10.2011, 27.02.2012, 26.06.2012, 08.02.2013, 28.01.2015, 29.01.2015, 24.08.2015, 24.11.2015, 31.03.2016 and 09.01.2017. All these Deed of guarantees are enclosed along with the typed set filed along with the Application.

5. The Demand Notice which was 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 on 30.06.2020 is also placed on record at Pg. Nos. 2074 to 2079 at Annexure A1(161).

6. The Financial Creditor has also placed on file the Record of Default dated 29.07.2020 at Page Nos. 2116 to 2156 at Annexure A1(166). 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.

7. 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* has held in para 42 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

8. Accordingly, we hereby appoint **Mr. Amier Hamsa Ali Abbas Rawther** having Registration No.: IBBI/IPA-001/IP-P01727/2019-2020/12620 as the Interim Resolution Professional in respect of the Personal Guarantor.

9. 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.

10. The 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 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.

11. Post this matter on **21.03.2022** for filing of Report by the Interim Resolution Professional.

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
R. SUCHARITHA
MEMBER (JUDICIAL)

Raymond