

S.No.4

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
07-07-2023 AT 10:30 AM**

**CP(IB) No. 367/95/HDB/2022**  
u/s. 95 of IBC, 2016

**IN THE MATTER OF:**

Bank of Maharashtra

**...Petitioner**

**VS**

Smt. Rayapudi Rama Devi (Bakeys Foods Private Limited)

**...Respondent**

**C O R A M:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)  
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

Order in CP No. 367/95/HDB/2022 pronounced. Recorded vide separate sheets. In the result, this petition is admitted. Insolvency Resolution Process is initiated against Smt Rayapudi Rama Devi, the Personal Guarantor, and moratorium is declared in relation to all debts, which begins from the date of admission of the instant petition and shall cease to have effect at the end of the period of 180 days, as provided under Section 101 of the Code, 2016.

**Sd/-**

**MEMBER (T)**

**Sd-**

**MEMBER (J)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1**

**CP (IB) No. 367/95/HDB/2022**

*(Under Section 95 read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 7(2) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019.*

**In the matter of:**

Bank Of Maharashtra  
#4-3-448 to 460&465, 1<sup>st</sup> Floor,  
Vinoothna Pittie's Majesty, Gopalbagh,  
Near Bank Street, Koti,  
Hyderabad- 500 001.

**... Petitioner/Financial Creditor**

**Versus**

1. Smt Rayapudi Rama Devi,  
Flat. No. 202, Jeevan Mitra Sadan,  
Salim Nagar Colony,  
Malakpet,  
Hyderabad -500 036.

**... Respondent No.1/Personal Guarantor**

2. Bakeys Foods Private Limited  
H.No. 1-7-12, Flat No. 416,  
Shatariram, Chippendale,  
Golkonda Cross Roads, Musheerabad,  
Hyderabad-500 020.

**... Respondent No.2/Corporate Debtor**

**Date of order: 07.07.2023**

**CORAM:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA,  
HON'BLE MEMBER (JUDICIAL)  
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**Appearance:-**

For the Petitioner : - Mr. Varun Ambati &  
Ms. Aishwarya Chevuturi, Advocates,  
RP :- Mr. Murali Mohan Chevuturi.

**PER: BENCH**

1. This instant petition is filed by the Financial Creditor under Section 95 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) read with 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 “Personal Guarantors Insolvency Rules, 2019), seeking an order for initiation of the Insolvency Resolution Process (“IR Process”) against Smt Rayapudi Rama Devi, who is the Personal Guarantor of M/s. Bakeys Foods Private Limited (hereinafter referred to as “Corporate Debtor”).
2. It is to be noted that the Petitioner Bank vide its Sanction letter dated 15.02.2013 bearing reference no. AT37/BAKEYS/SANCTION/ 2012-13 has sanctioned working capital facility consisting of Cash Credit facility with a limit of Rs.2.00 Crores, The total repayments of the corporate debtor is Rs.7,36,91,231.73/- , including a principal amount of Rs. 1,96,21,170.00/- along with a total interest amount of Rs. 5,40,70,061.73/- calculated until 23.08.2022.
3. It is averred that corporate debtor had failed to honor its obligations towards the Financial Creditor. Accordingly, the Loan account of Respondent No.2 was declared as NPA as on 28.01.2014.

4. It is averred that Respondent No.1, Personal Guarantor executed a Deed of Guarantee on 16.02.2013 to secure the financial assistance granted by the financial creditor to Respondent No.2. Under the said agreement, the personal guarantor undertook to pay the financial creditor upon demand forthwith, without demur or protest all the amounts payable by the corporate debtor.
5. It is averred that the Guarantee Deed also provides that a Certificate in writing signed by an official of the Financial Creditor shall be conclusive evidence against the Personal Guarantor for the amount due to the Financial Creditor and the Guarantee Deed executed by Respondent No.1 is irrevocable, independent, coextensive and continuing Guarantee. The Hon'ble DRT vide its Recovery Certificate dated 29.12.2017, had certified that the Financial Creditor is entitled of the amounts due against the Loan Facilities.
6. It is averred that Respondent no.1 being the personal guarantor, failed to pay the outstanding amount, financial creditor herein while invoking the provisions of the I&B Code, 2016 had vide Form B demand notice dated 15.06.2022 issued to the personal guarantor, Smt Rayapudi Rama Devi i.e Respondent No.1 requesting him to honor the terms of the agreement which was issued through Speed Post and the receipt of the same is annexed along with Form C Application. Thus the present application is filed for initiation of insolvency resolution process with respect to personal guarantor.

7. The Petitioner Bank attached the following documents to prove the existence of debt and amount in default: -

7.1 Sanction letter for Cash Credit limit dated 15.02.2013.

7.2 Deed of Guarantee executed by the Personal Guarantor dated 16.02.2013.

8. On presentation of this instant petition, this Adjudicating Authority on 20.02.2023 granted interim-moratorium and has appointed Shri. Murali Mohan Chevuturi, as Resolution Professional, directing him to file his report within ten days from the date of his appointment, in terms of the Section 99 of the Code, 2016 and further directed the Petitioner to issue notice to the Personal Guarantor, which was sent through registered post and the same was delivered. The Resolution Professional has filed his report, recommending the admission of the Petition under Section 95 of the Code, 2016. The Resolution Professional in his report stated that he has sent the demand notice dated 15.06.2022, which did not evoke any response from the Personal Guarantor. Based on the facts the Resolution Professional is recommending for admission of the Petition filed by financial creditor against the personal guarantor Smt Rayapudi Rama Devi, to the Corporate Debtor M/S. Bakeys Foods Private Limited.

9. In the light of the aforesaid factual matrix the point arises for our consideration is:

**Whether an Insolvency Resolution Process can be ordered against the Personal Guarantor under Section 100 of the Insolvency and Bankruptcy Code, 2016?**

10. We have heard the Learned Counsel Ms. Aishwarya Chevuturi, for the Petitioner Bank and Learned Resolution Professional Shri. Murali Mohan Chevuturi, and perused the record.
11. At the outset it may be stated that the Petitioner Bank has initiated Corporate Insolvency Resolution Process against the Corporate Debtor i.e., M/s. Bakeys Foods Private Limited and the instant petition is initiated against the Personal Guarantor of the Corporate Debtor. Despite service of notice and opportunity afforded, respondent no.1 did not choose to contest the matter. Thus, the claim of the applicant as against respondent no.1 stands unrebutted.
12. Therefore, in the light of un-deniable factors this Tribunal carefully examined the report of RP. As per the report it is clear that the personal guarantor has not offered any repayment plan. Personal guarantor has not filed any objections to the report of the RP. We therefore, find no reason to reject the report of RP. Hence we admit the petition.
13. Therefore, in the light of our discussions above, on perusal of the written submissions filed by Financial Creditor, record and case laws, we consider it is a fit case to order insolvency resolution process against Respondent No.1/Personal Guarantor.
14. Hence, the instant Company Petition vide CP (IB) No. 367/95/HDB/2022 filed under the provisions of Section 95 of Code, 2016 is hereby admitted under the provisions of Section 100 of the Code, 2016 and Insolvency Resolution Process is initiated against Smt Rayapudi Rama Devi, the Personal Guarantor, and moratorium is declared in relation to all debts, which begins from the date of admission of the instant petition and shall cease to have effect at the end

of the period of 180 days, as provided under Section 101 of the Code, 2016. During the moratorium period-

- a) Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed;
- b) The Creditors shall not initiate any legal action or legal proceedings in respect of any debt; and
- c) The debtor shall not transfer, alienate, encumber or dispose of any of her assets or her legal rights or beneficial interest therein;
- d) The provisions of this Section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- e) The Petitioner Bank herein, has proposed the name of Shri. Murali Mohan Chevuturi, IBBI/IPA-003/00307/2020-2021/13464 insolvency Professional to act as Resolution Professional, who has given his consent dated 20.02.2023 in Form-A. Hence, this Tribunal appoints: Shri. Murali Mohan Chevuturi, IBBI/IPA-003/00307/2020-2021/13464, email id: mohan.chevuturi@ gmail.com Address: 1-2-59719, Flat No.601, Dream Home Vasista Aapts, Plot no.9, Baraf Bagh Colony, Lower Tankbund, Hyderabad, Telangana- 500 029.
- f) The Resolution Professional is directed to cause public notice published on behalf of the Adjudicating Authority within 7 days from the date of uploading of this order on the website of NCLT, Hyderabad, inviting the claims from all creditors, who shall register their claims as provided under Section 103 of the Code within 21 days of such issuance. The notice shall contain the necessary information as provided under Section 102(2) of the Code. The publication of

notice shall be made in newspapers, one in English and other in vernacular (Telugu) which have wide circulation in the State where the Personal Guarantor and Corporate Debtor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry. One shall be placed on our website by the Registry and the other shall be affixed in the premises of this Adjudicating Authority.

- g) The Resolution Professional in exercise of the powers conferred under the Section 104 shall prepare a list of creditors within 30 days from the date of the notice. The Personal Guarantor shall prepare, in consultation with the Resolution professional, a repayment plan containing a proposal to the creditors for restructuring of her debts or affairs as provided under Section 105 which shall include the provisions for payment of fee to the Resolution Professional. The Resolution Professional shall submit the repayment plan along with his report on the plan to this Adjudicating Authority within a period of 21 days from the last date of submission of claims as provided under Section 106.
- h) In case the Resolution Professional recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons thereof. If the Resolution Professional is of the opinion that the meeting of creditors should be summoned, he shall specify the details as provided under Section 106(3). The date of meeting shall not be less than fourteen days or more than 28 days from the date of submission of the Report under Sub-section (1) of Section 106 of the Code, for which at least 14 days' notice to the creditors (as per the list

prepared) shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107 of the Code.

- i) The meeting of the creditors shall be conducted in accordance with the provisions Sections 109, 110 and 111. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 and submit the same to the Authority, copies of which shall be provided to the guarantor and the creditors. It is made clear that the Resolution Professional shall perform his functions and duties in compliance with the Code of Conduct provided under Section 208 of the Code.
- j) The Petitioner is directed to communicate this order to the Resolution Professional appointed in the instant Company Petition immediately.

Sd/-

Charan Singh  
Member Technical

Sd/-

Dr. Venkata Ramakrishna Badarinath Nandula  
Member Judicial

*Swapna*