

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
PRINCIPAL BENCH

IB- 456 (PB)/2021

Section: Under Section 95 of the Insolvency and Bankruptcy Code, 2016 read with 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:

CFM Asset Reconstruction Private Limited

... Applicant/ Financial creditor

versus

Mr. ANKUR JAIN

... Respondent/ Personal Guarantor

Order Pronounced on: 18.02.2022

CORAM:

CHIEF JUSTICE (RETD.) RAMALINGAM SUDHAKAR

HON'BLE PRESIDENT

SHRI. HEMANT KUMAR SARANGI

HON'BLE MEMBER (TECHNICAL)

PRESENT

For the Applicant : Ms. Ruchi Kohli, Ms. Srishti Mishra and
Ms. Devangana Shah Advocates, CFMARC.



ORDER

Per: HEMANT KUMAR SARANGI, MEMBER (TECHNICAL)

1. This is an application filed by the Financial Creditor, M/s.CFM Asset Reconstruction Private Limited, under Section 95 of the Insolvency and Bankruptcy Code, 2016, read with Rule 7(2) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process to Personal Guarantors to Corporate Debtors) Rules, 2019, against Mr. Ankur Jain, Personal Guarantor to the Corporate Debtor (CD), 'M/s. Noida Software Technology Park Limited'. The present Application is filed under Section 95 of the Code, seeking to initiate Insolvency Resolution Process against personal Guarantor of the CD, in respect of the Outstanding debt of Rs.45,48,23,552.53 (RupeesForty-five Cores Forty-Eight Lakhs Twenty-Three Thousand Five Hundred Fifty-Two and Fifty-Three Paisa), as on 15.03.2021, due from the Corporate Debtor.
2. The Ld. Counsel for the Applicant states that the CD, was granted a Term Loan of Rs. 25,00,00,000.00 (Rupees Twenty-Five Crore Only) as on 04.03.2013, which was later

re-structured on, as per the request of the Corporate Debtor to Rs. 22,45,00,000.00 (Rupees Twenty-Two Crore Forty-Five Lakhs Only vide sanction letter dated 28.03.2015 for the purpose of purchase of Plant and Machinery for augmenting its business activities.

3. Thereafter, at a later stage an Assignment Deed, dated 16.04.2018, was executed between Indian Bank and the Applicant herein (registered on 17.04.2018), whereby the Indian Bank assigned the present Loan Account of the Corporate Debtor together with its rights, title and interest and any underlying Security Interests, Pledges and/or guarantees to the Applicant herein.
4. In pursuance of the Agreement of Guarantee, Mr. Ankur Jain has tendered his Personal Guarantee on dated 04.03.2013. The Assets and Liabilities are attached with the Agreement of guarantee which divulge the details of immovable and movable properties in the name of Mr. Ankur Jain.
5. While availing the aforesaid loan/ credit facilities, the CD did not maintain financial discipline and failed to adhere to the terms and conditions laid out in the Loan Agreement. As

a result, the account of CD was declared as NPA on 31.03.2016.

6. It is further stated that, a Section 7 application under the I & B Code, 2016, was filed by M/s Dena Bank against the CD, for initiation of CIRP proceedings, which was admitted by the Hon'ble Tribunal on 08.02.2019. Eventually, this Tribunal, vide its Liquidation Order dated 04.09.2020, was pleased to send the CD into Liquidation Process in terms of Section 33(1) of the Code.
7. The Ld. Counsel for the applicant further submitted that a Demand Notice under rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtor) Rules, 2019, was issued by the Financial Creditor, i.e., CFM Asset Reconstruction Private Limited on 15.07.2020, to the Personal Guarantor, in respect of the unpaid debt due from M/s. Noida Software Technology Park Limited (Corporate Debtor), under rule 7(1) of the IBC Rules 2019.
8. It is pertinent to mention that as per part-III of Form-C, the total claim amount is due from the Personal Guarantor by

way of Personal Guarantee given to M/s. CFM Assets Reconstructions Private Limited including interest, amounts to Rs. 45,48,23,552.53 (Rupees Forty-five Cores Forty-Eight Lakhs Twenty-Three Thousand Five Hundred Fifty-Two and Fifty-Three Paise) as on 15.03.2021.

9. It is made known to everyone that on the date of filing this Application by the Applicant/ Creditor, the interim-moratorium commences, as stipulated under Section 96(1)(a), in relation to all the debts of the personal guarantor and shall cease to have effect on the date of admission of this Application and during the interim-moratorium period, the following are prohibited:

- a. Any pending legal action or proceeding in respect of any debt of the personal guarantor shall be deemed to have been stayed; and
- b. The Creditors of the personal guarantor shall not initiate any legal action or proceedings in respect of any debt.

This shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.



10. The Applicant/ Creditor has proposed the name of Ms. Jaya Bharuka, Insolvency Professional, having registration number IBBI/IPA-002/IP-N00781/2018-19/12432, email-jayabharuka@gmail.com, Phone- 9891943345, for appointment as the Resolution Professional. No disciplinary proceedings are stated to be pending against her. Therefore, Ms. Jaya Bharuka, is appointed as the Resolution Professional, in exercise of powers conferred under Section 97 of the IBC, 2016 on this Authority, subject to Regulations 4 (1) and (2) of the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.

11. In this matter, the Resolution Professional, shall exercise all the powers, as enumerated under Section 99 of the Code, read with Rules made there under. She is directed to make the recommendations, along with reasons in writing, for acceptance or rejection of this Application, within the stipulated time, as envisaged under the provisions of Section 99 of the I & B Code, 2016. The Resolution Professional shall provide a copy of the report under sub-section (7) of Section



99 to the Applicant/Creditor, as soon as the same is filed before this Authority.

12. The Applicant and the Registry are directed to serve copy of this order, along with copy of the Application and documents, immediately on the Resolution Professional so appointed for information and compliance

13. List the matter for further proceedings in the case on **17.03.2022**

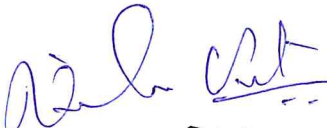
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[RAMALINGAM SUDHAKAR]
(PRESIDENT)

- sd -

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

Pronounced today under Rule 151 of NCLT Rules, 2016, as the Hon'ble Member (T) Sh. Hemant Kumar Sarangi is not holding the Court today.


Court Officer
18.02.2022