

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

C.P.(IB)/180(KB)2021

*Under section 95(1) 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 Debtor) Rules, 2019.*

In the matter of:
ICICI Bank Limited

...Applicant

-Versus-

Mr. Vijay Bothra

...Respondent

Order Reserved on: 01/11/2021

Order Pronounced on: 28/01/2022

Coram:

Shri Rohit Kapoor

: Member (Judicial)

Shri Harish Chander Suri

: Member (Technical)

Appearances (through video conferencing)

For Applicant

:

Mr. Soorjya Ganguli, Advocate
Ms. Pooja Chakrabarti, Advocate
Ms. Kiran Sharma, Advocate

For RP : Ms. Neelina Chatterjee, Advocate
Mr. Suvodeep Chakraborty, Advocate
Mr. Sudipto Ghosh, RP in person

For Respondent : Ms. Debaleena Ganguly, Advocate

ORDER

Per: Harish Chander Suri, Member (Technical)

1. The Court convened via video conference.
2. Under consideration is an Application being CP(IB)/180(KB)2021 filed under section 95(1) read with sections 96, 97, 99 and 100 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 Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 (hereinafter referred to as “**IB Rules, 2019**”). The prayer made is to initiate the Insolvency Resolution Process (hereinafter referred to as “**IR Process**”) against **Mr. Vijay Bothra**, one of the directors of **Kohinoor Paper and Newsprint Private Limited (CIN: U70101WB2006PTC108307)** (hereinafter referred to as “**KPNPL**”), who is the Personal Guarantor of **ICICI Bank Limited** (hereinafter referred to as “**the Bank**”) in relation to the credit facilities extended by the Bank in favour of “**KPNPL**”.
3. On presentation of the application by the applicant Bank, the Adjudicating Authority *vide* order dated **16/09/2021** has appointed the Resolution Professional, viz., Mr. Sudipta Ghosh, **IBBI Registration No. IBBI/IPA-001/IP-P00484/2017-18/10872**, of 8, N.N.Mukherjee 3rd Lane, Uttarpara,

Hooghly 712258, e-mail id: sudipta_ghosh08@yahoo.com; telephone no. 9230823033/7008433289 to file report u/s. 99 of IBC, 2016, which has been filed by him recommending the admission of the application filed u/s. 95 of the IBC, 2016. The ground for admission of the application recorded in the Report are as follows :

- (a) In accordance with the provision laid down u/s. 99(2) of IBC 2016, the undersigned has requested Mr. Vijay Bothra to prove repayment of debt of ICICI Bank Limited. However, Mr. Vijay Bothra could not produce any information/documents/evidence in support of either repayment of the said loan or extinguishment of the said liability;*
- (b) In accordance with the provisions laid down u/s 99(6) of IBC, 2016, the undersigned has examined the application filed by the ICICI Bank Limited and ascertained that the said application satisfies the requirements set in section 95 of IBC, 2016; and*
- (c) In terms of provisions u/s 99(9) of IBC, 2016, the undersigned submits that the debtor is not eligible for a fresh start under Chapter II owing to overall level of debt due to be recovered being on higher side.*

- 4. However, respondent-guarantor is to be given an opportunity to file his reply affidavit in the matter.
- 5. Therefore, RP is directed to serve a copy of his report on the respondent-guarantor. Let a notice be issued to the respondent-guarantor to file reply affidavit, if so desired, before the next date of hearing. Copies of the reply affidavit shall be served on the Ld. Counsel-on-Record for the Financial Creditor and the RP.
- 6. List this matter on 21/02/2022.

7. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
8. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri
Member (Technical)

Rohit Kapoor
Member (Judicial)

Signed this, 28th day of January, 2022.

hb.