



IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU
[Through Physical hearing/VC Mode (Hybrid)]

ITEM No.38
I.A No.251/2024 in
C.P (IB) No.183/BB/2022

IN THE MATTER OF:

| | | |
|-------------------------------------|-----|-------------|
| Mr. Srinivas Dande | ... | Petitioner |
| Vs | | |
| M/s. HDB Financial Services Limited | ... | Respondents |

Order under Section 94 (1) of I & B Code 2016

Order delivered on: 29.04.2025

CORAM:

SHRI. SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI. RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the RP : Shri. T.N Chandrekar
Shri Dhanshyam Patel

ORDER

I.A. No.251/2024

1. Heard the Ld. Counsel for the RP.
2. I.A is allowed and disposed of by separate order. File be placed on 17.06.2025 for progress of repayment plan.

-Sd-

RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-

SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)**

I.A.No.251/2024 &C.P. (IB)No.183/BB/2022
U/s. 106 and 119 of IBC, 2016 r/w Regulation 19 of IBBI (IRP for
Personal Guarantors to Corporate Debtors) Regulations, 2019

IN THE MATTER OF:

Shri Dhanshyam Kantilal Patel
Resolution Professional of Personal Guarantor
322, Zest Business Space,
Ghatkopar (E)
Mumbai_ 400077,

- Applicant

In the decided matter of:

Srinivas Dande

..... Petitioner/Personal Guarantor

Vs

HDB Financial Services Limited

..... Financial Creditor

AND

Coursecube Private Limited

.....Corporate Debtor

Order delivered on: 29.04.2025

CORAM: 1. Hon'ble Shri Sunil Kumar Aggarwal, Member (Judicial)
2. Hon'ble Shri Radhakrishna Sreepada, Member (Technical)

Last Date of hearing:19.03.2025

Parties/Counsels Present:

For the Petitioner : Shri T.N.Chandrasekar

ORDER

1) The present Application has been filed on 24.01.2024 by Shri Dhanshyam Kantilal Patel, Resolution Professional of Petitioner/ Personal Guarantor ("Applicant"), under Section 106 and 119 of the



IBC, 2016 r/w Regulation 19 of IBBI (IRP for Personal Guarantors to Corporate Debtors) Regulations, 2019 inter alia for seeking approval of this Tribunal for the repayment plan submitted by Guarantor under Section 105 of the IBC, 2016 and also seeking the following reliefs:-

- I. *The Secured Creditor Bank of Baroda, may be permitted to realize their dues of Rs. 1,74,46,454/-, (as on 31/03/2024) by sale of Residential Flats in Bengaluru (Nos. 205 and 305) possessed under SARFAESI Act 2002. On Sale of the Flats and upon recovery of its dues, Bank of Baroda will not have ,my recourse to recover any deficit amount from the Guarantor Debtor, Srinivas Dande.*
- II. *LIC may be permitted to adjust their dues of Rs. 13,37,401/- (as on 31/03/2024) upon maturity or otherwise of the Policies of Rs.13,00,000/- assigned to them. On adjustment of the Loan against the LIC Policies, LIC will not have any recourse to recover any deficit amount from the Guarantor , Srinivas Dande.*
- III. *The Insolvency Resolution Cost of Rs.2,75,000/- to be paid within a period of three months.*
- IV. *All the other Unsecured Creditors as per **ANNEXURE - "K"**- Page 154, not claimed pursuant to the Public Notice dated 31/07/2023 as well as not admitted by the Resolution Professional viz., Interest bearing Unsecured Debts amounting to Rs.1,46,00,000, Non-interest bearing Unsecured Debts amounting to Rs. 2,82,340 and other Unsecured Debts amounting to Rs. 36,92,108 will not be eligible to claim their dues from the Guarantor Debtor Srinivas Dande, under any law and/or Court Jurisdiction in India.*
- V. *Personal guarantee liabilities of the Guarantor Debtor will cease in respect of Loans availed by the Corporate Debtor, Coursceube Private Limited from HDB Financial Services Ltd for an amount of Rs. 26,73,584, ICICI Bank Limited for an amount of Rs. 26,48,624 and Neo-growth Credit Private Limited for an amount of Rs. 15,00,000 and the aforesaid Lenders will not be eligible to claim their dues from the Guarantor Debtor Srinivas Dande under any law and/or Court Jurisdiction in India*
- VI. *That the Adjudicating Authority may be pleased to permit the Applicant to file Discharge Application in terms of section 119 of the Code upon implementation.*
- VII. *This Hon'ble Tribunal may be pleased to pass any other order as may deem fit, proper and necessary in the interest of justice and equity*

2) Relevant brief facts of the case, are as follows:

- a) This Adjudicating Authority vide order dated 14.11.2022, under Section 97 of the Code, had appointed Mr. Dhanshyam Kantilal Patel as the Resolution Professional ("RP") in respect of the Insolvency Resolution Process against **Mr. Srinivas Dande** (hereinafter called 'the Personal Guarantor') who is the



personal guarantor for the credit facilities extended by the Financial Creditors to the Corporate Debtor i.e., M/s. **Coursceube Private Limited**. Further, this Tribunal directed the RP to make a recommendation with reasons in writing for admission or rejection of this Application and submit a Report to the creditors and the Adjudicating Authority as mandated under section 99 of the Code.

- b) On 20.07.2023, this adjudicating authority admitted the application made by the RP under Section 100 of the IBC, 2016 to initiate the Insolvency Resolution Process against the Personal Guarantor and directed the RP to prepare the list of Creditors, convene and take approval of Repayment plan from the Committee of Creditors and submit the repayment plan along with his report to this Tribunal the Personal Guarantor, within a period of 21 days from the last date of submission of claims, as provided under Section 106 of IBC, 2016.
- c) In compliance of order dated 20.07.2023, the Resolution Professional inviting claims from the Creditors of Srinivas Dande in Financial Express (English) and Hosa Digantha (Vernacular Language) and received the following claim(s) from the stakeholders of the Personal Guarantor:-

| S.No | Name of the Financial Creditor | Amount of Claim Submitted (in Rs.) | Amount of Claim Admitted (in Rs.) |
|-------------|---------------------------------------|---|--|
| 1. | Bank of Baroda | 1,74,46,454 | 1,74,46,454 |
| S.No | Name of Stakeholder | Loan Outstanding | Policy amount |
| 1. | Life Insurance Corporation of India | Rs. 13,37,401 | Rs. 13,00,000 |

- d) The Applicant submits that there was no necessity of convening a meeting of creditors as there are no claims from unsecured creditors and secured creditors did not relinquish their interest. Further, the loan amount due to Life Insurance



Corporation of India i.e. Rs. 13,37,401 will be adjusted by Life Insurance Corporation of India from the policy value amounting to Rs. 13,00,000 and pending premium upon maturity of the Policy and there are no likely surplus.

- e) The Applicant submits that though the Resolution Professional is required to submit the repayment plan along with his report on the plan to this tribunal within a period of 21 days from the last date of submission of claims i.e. 11.09.2023 as provided under Section 106 of IBC, 2016 but the same could not be done within the time frame because the Guarantor had to provide the data relating to the Statement of Affairs for the last 3 years to the Resolution Professional which the guarantor could not provide as the guarantor's personal computer had crashed, and he had lost all the data for the past 4 years. The Guarantor had to appoint an Accountant to recreate the whole accounts, which led to a lot of time and efforts. Moreover the guarantor had fallen sick and was suffering from Dengue which contributed to the delay in submission of the Repayment Plan by the Guarantor.
- f) On 08.01.2024, the Personal Guarantor- Mr. Srinivas Dande submitted the Repayment Plan to the Resolution Professional as provided U/s.105 of the Code and the distribution of payment under the repayment plan is as under:-

| Particulars | Amount Admitted | Amount Proposed | Remarks |
|--|------------------------|------------------------|---|
| Payment to the Secured Financial Creditor-Bank Of Baroda | 1,74,46,454 | 1,74,46,454 | Bank has taken possession of Flat No 205 & Flat No 305 of Sri Sai Sannidhi Apartments which were mortgaged by the Personal Guarantor against the home loan from Bank of Baroda has not relinquished their rights on flats under SARFAESI Act,2002. It is proposed that Bank of Baroda sell these assets as full and final |



| | | | |
|-------------------------------------|--------------------|--------------------|--|
| | | | settlement of their claims |
| Payment to LIC | 13,00,000 | 13,00,000 | The LIC Policies of Mr. Srinivas Dande have been assigned in Favor of LIC and the maturity value of the LIC Policies would be fully utilised to pay the outstanding loan |
| Insolvency Resolution Process Costs | 2,75,000 | 2,75,000 | The Guarantor proposes to pay these costs from the earnings during the year and the balance amount as unsecured loans from friends and relatives |
| Total Amount | 1,91,21,454 | 1,91,21,454 | |

g) This Tribunal vide order dated 22.05.2024 directed the Resolution Professional to file a separate Affidavit along with the date and details justifying the delay in submitting the repayment plan by Personal Guarantor and in compliance of the order dated 22.05.2024, the Resolution filed an Affidavit and vide order dated 02.08.2024 condoned the delay of 120 days from 11.09.2023 to 08.01.2024 in submitting the Repayment Plan by the Personal Guarantor Mr. Srinivas Dande under Section 105 of the Code.

3) Heard the Learned Counsel appearing for the Resolution Professional and pursued the entire case records/documents and have gone through the Repayment Plan dated 08.01.2024 filed by the Resolution Professional.

4) The provisions of Section 114 of IBC, 2016 are as under:

114. Order of Adjudicating Authority on repayment plan.

(1) *"The Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of the report of the meeting of the creditors submitted by the resolution professional under Section 112:*

Provided that where a meeting of creditor is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under Section 106.

(2) *The order of the Adjudicating Authority approving the repayment plan may also provide for directions for implementing the repayment plan.*

(3) *Where the Adjudicating Authority is of the opinion that the repayment plan requires modification, it may direct the resolution professional to reconvene a meeting of the creditors for reconsidering the repayment plan."*



- 5) It is noticed from the Section 114(1) of the IBC, 2016 that the Adjudicating Authority shall approve or reject the Repayment Plan on the basis of the meeting of the Creditors submitted by the Resolution Professional under Section 112 of the IBC, 2016 and if meeting of the Creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under Section 106.
- 6) We have perused the Repayment Plan and Report prepared by the resolution professional under Section 106 of the IBC, 2016 and the same is taken in record. According to Section 114 of the IBC, 2016, this Adjudicating Authority can approve or reject the Repayment Plan on the basis of the report of the meeting of the creditors submitted by the resolution professional under Section 112 of the IBC, 2016. However, the proviso to Section 114 of the Code states where a meeting of creditor is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under Section 106. In this case there was no meeting of the Creditors conducted because the sole-secured Creditor has exercised its right to enforce security interest and thus has forfeited its right to enforce the security during the period of the repayment plan in accordance with the terms of the repayment plan. Thereafter, the Resolution Professional in his report has recommended the acceptance of Repayment Plan submitted by the Personal Guarantor.
- 7) Thus, keeping in view the provision contained in section 114 (1), this Tribunal is passing an order on the basis of the report prepared by RP under section 106 of the Code which confirms that the repayment plan is in compliance with Section 112 of IBC, 2016.
- 8) Accordingly, this Tribunal hereby approves the repayment plan of the Personal Guarantor and the report of the RP on the repayment



plan with effect from the date of this order, with the following directions:-

- a) The Resolution Professional shall supervise the implementation of the Repayment Plan as per the terms and conditions mentioned therein and file his final report soon after the implementation of the plan or upon completion of the timelines mentioned in the plan, whichever is earlier.
- b) Upon completion of the Repayment Plan, the Resolution Professional shall comply with the provisions stated in Section 117 of the Code.
- c) The creditor shall withdraw all the legal proceedings before various fora against the debtor within one month of the fulfilment of repayment obligations by the debtor in accordance with the terms of the repayment plan.
- d) In the event of a maximum 30 days' delay for any unforeseen circumstances, granting a grace period shall be within the jurisdiction of the implementation committee to waive without declaring default. On full implementation of the Repayment Plan, the Personal Guarantee given by the Personal Guarantor shall be released by the Financial Creditor.
- e) The Secured Creditor, Bank of Baroda, is permitted to realize their dues of Rs. 1,74,46,454/-, (as on 31.03.2024) by sale of Residential Flats in Bengaluru (Nos. 205 and 305) possessed under SARFAESI Act 2002. On Sale of the Flats and upon recovery of its dues, Bank of Baroda will not have any recourse to recover any deficit amount from the Guarantor Debtor, Srinivas Dande.
- f) LIC is permitted to adjust their dues of Rs. 13,37,401/- (as on 31.03.2024) upon maturity or otherwise of the Policies of Rs.13,00,000/- assigned to them. On adjustment of the Loan



against the LIC Policies, LIC will not have any recourse to recover any deficit amount from the Guarantor, Srinivas Dande.

- g) The Insolvency Resolution Cost of Rs.2,75,000/- to be paid within a period of three months of passing of this order.
- h) All the other Unsecured Creditors as per **ANNEXURE-K** of the Petition who have not claimed pursuant to the Public Notice dated 31/07/2023 as well as not admitted by the Resolution Professional viz., Interest bearing Unsecured Debts amounting to Rs.1,46,00,000, Non-interest bearing Unsecured Debts amounting to Rs. 2,82,340 and other Unsecured Debts amounting to Rs. 36,92,108 will not be eligible to claim their dues from the Guarantor Debtor Srinivas Dande, under any law and/or Court Jurisdiction in India.
- i) The Personal guarantee liabilities of the Guarantor Debtor will cease in respect of Loans availed by the Corporate Debtor, Course Cube Private Limited from HDB Financial Services Ltd for an amount of Rs. 26,73,584, ICICI Bank Limited for an amount of Rs. 26,48,624 and Neo-growth Credit Private Limited for an amount of Rs. 15,00,000 and the aforesaid Lenders will not be eligible to claim their dues from the Guarantor Debtor Srinivas Dande under any law and/or Court Jurisdiction in India
- j) That this Adjudicating Authority permits the Applicant to file Discharge Application in terms of section 119 of the Code upon implementation of the Repayment Plan submitted by the Personal Guarantor.
- k) The Personal Guarantor and the Resolution Professional are permitted to share a certified copy of this repayment plan and



order of this Tribunal approving this repayment plan with third parties including Statutory/Government Authorities. wherever needed.

l) The approval of the Repayment Plan shall not be construed as waiver of excluded debts as defined U/s 79(14) of the Code if any.

m)The Resolution Professional, the Applicant herein shall forward all the records pertaining to the Insolvency Resolution Process against the Personal Guarantor to IBBI.

9) Hence, based on the reasons recorded in the report submitted by the Resolution Professional under Section 106 of the Code and in accordance with Section 112 of the Code, this instant **I.A.No.251/2022 is allowed.**

-Sd/-

**(RADHAKRISHNA SREEPADA)
MEMBER (TECHNICAL)**

-Sd/-

**(SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)**