

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

Company Petition No. (IB)-955(ND)2020

IN THE MATTER OF :

Mr. Manmohan Singh Gulati
8004, DLF Phase-IV
Gurgaon

...Applicant

Versus

1 Mr. Arun Chadha
Resolution Professional of Corporate Debtors
Gulati Retails India Limited
727 Brahampuri, Meerut
Uttar Pradesh-250002

...Respondent No. 1

2 Punjab and Sind Bank
Gurudwara Road
Gurgaon

...Respondent No. 2

3 ICICI Bank Ltd.
Qutub Plaza Market
DLF Phase-1
Gurgaon

...Respondent No. 3

Order Delivered on: 23.10.2020

SECTION : 94(1) of IBC 2016

CORAM:

CH. MOHD. SHARIEF TARIQ, MEMBER (J)

SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Mr. Rajesh Bohra, Advocate



ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

Under consideration is an Application filed by Mr. Manmohan Singh Gulati (hereinafter referred as 'Applicant/Debtor'), filed under Section 94 (1) r/w sections 96, 97, 99 & 100 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC, 2016") r/w Rule 6 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for IRP for Personal Guarantors to Corporate Debtor) Rules, 2019. The prayer made is to initiate the Insolvency Resolution Process (hereinafter referred as "IR Process") against the Applicant/ Debtor, who is the Personal Guarantor of Punjab and Sind Bank and ICICI Bank (hereinafter referred as 'Banks') for an amount of Rs.329.08 Lakhs in relation to the default made against the credit facility extended by the Banks in favour of M/s. Gulati Retail India Ltd. (hereinafter referred as "the Company").

2. The Credit Facilities were sanctioned by the ICICI Bank since the financial year 2006-07 and Punjab and Sind Bank since the financial year 2011-12 to the Company. The Applicant/Debtor stood as a Guarantor to secure due repayment of the Credit Facilities disbursed by the Banks to the Company. The Company could not maintain financial discipline with the Bank as a result of which the loan accounts were classified as Non-Performing Assets on 30.09.2013 by Punjab and Sind Bank. In the year 2019, the Company had filed an Application bearing Company Petition No. IB-1154/ND/2019, under Section 10 of IBC 2016



for initiating Corporate Insolvency Resolution Process against it. The aforesaid Application was admitted by this Adjudicating Authority on 30.07.2019. Further, the Company was sent to the Liquidation process by virtue of Order dated 31.08.2020.

3. The Applicant/Debtor has clearly brought it out in his Application that he has committed default in making payments to the Banks for the amount for which he has given the personal guarantee on behalf of the Company, therefore, it will be in the interest of the Creditors of the Applicant/Debtor to initiate the IR Process under Chapter III of Part III of the IBC, 2016.

4. The Applicant/Debtor has filed the Application in respect of debts, which are not excluded debts as enumerated under Sub-Section (4) of Section 94 of IBC, 2016. It is noted that no application under this Chapter has been admitted in respect of the Applicant/Debtor during the period of 12 months preceding the date of submission of the Application. The Application under consideration is in Form and manner and accompanied with the fee as prescribed and contains the required details. Thus, *prima facie* the requirements of Sub-section (6) of Section 94 are fulfilled.

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



- a) Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed; and
- b) The creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt.
- c) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

6. The Applicant/Debtor has not proposed the name of Insolvency Professional for appointment as Resolution Professional. Therefore, Mr. Navneet Kumar Jain is appointed as Resolution Professional in exercise of the powers conferred under Section 97 of the IBC, 2016 upon this Authority subject to the Regulation 4 (1) and (2) of the Insolvency and bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019. The details of the Resolution Professional are as under :

Name : Mr. Navneet Kumar Jain
Registration No. : IBBI/IPA-003/IP-N00004/2016-17/10023
E-mail : navneetic@yahoo.com

7. The Resolution Professional shall exercise all the powers as enumerated under Section 99 of the IBC, 2016 r/w the Rules made thereunder. He is directed to initiate the IR Process and make specific recommendations along with the reasons in writing for acceptance or rejection of this Application within stipulated time as envisaged under the provisions of Section 99 of the IBC, 2016. The RP shall give a copy of the report under Sub-Section (7) of Section 99 to the Applicant/Debtor, as soon as the same is filed before this Authority.

8. The Applicant/Debtor and his Counsel are directed to serve the copy of this Order along with a copy of the Application and documents on the Resolution Professional by all modes for information and compliance.

9. List the matter on 20th November, 2020.

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(L. N. Gupta)
Member (T)

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(Ch. Mohd. Sharief Tariq)
Member (J)