



S.No.3

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
14-06-2023 AT 10:30 AM

CP(IB) No. 369/95/HDB/2022
u/s. 95 of IBC, 2016

IN THE MATTER OF:

Bank of Maharashtra

...Petitioner

VS

Shri. P Srinivas
(Versatile Mobile Distributors 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

Orders in CP.No.369/2022 pronounced. Recorded vide separate sheets. In the result, the above CP 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 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. Mr. Murali Mohan Chevuturi is appointed as Resolution Professional.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)



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

CP (IB) No. 369/95/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, 1st Floor,
Vinoothna Pittie's Majesty, Gopalbagh,
Near Bank Street, Koti,
Hyderabad- 500 001.

... Petitioner/Financial Creditor

Versus

1. Shri P. Srinivas,
Plot No.4, Tahir Ville,
Yousufguda,
Hyderabad-500 045.

... Respondent No.1/Personal Guarantor

2. Versatile Mobile Distributors Private Limited
H No.8-2-268/1/B, Aurora Colony,
Road No.3, Banjara Hills,
Hyderabad-500 034.

... Respondent No.2/Corporate Debtor

Date of order: 14.06.2023

CORAM:-

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



Appearance:-

For the Petitioner : - Mr. Varun Ambati, Counsel,
RP :- Mr. Murali Mohan Chevuturi,
Learned Counsel for RP :- Mr. Varun Ambati, Counsel.

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 Shri P. Srinivas, who is the Personal Guarantor of M/s. Versatile Mobile Distributors Private Limited (hereinafter referred to as “Corporate Debtor”).
2. It is to be noted that the Petitioner Bank vide its Sanction letter dated 17.08.2015 bearing reference no. AR-02/ADV/Versatile/2015-16 has sanctioned working capital facility consisting of Cash Credit facility with a limit of Rs.885 Lakhs along with Bank Guarantee Limit of Rs. 550 Lakhs. The total repayments of the corporate debtor is Rs.23,07,51,863.71/- , including a principal amount of Rs.



9,40,43,475.84/- along with a total interest amount of Rs. 13,67,08,387.87/- 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 31.12.2016.
4. It is averred that Respondent No.1, Personal Guarantor executed a Deed of Guarantee on 20.08.2015 to secure the financial assistance granted by the financial creditor to Respondent No.2, except agriculture along with a Deed of Guarantee on 20.08.2015 towards the Bank Guarantee. 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 10.01.2020, 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 08.06.2022 issued to the personal guarantor , Shri P. Srinivas i.e



Respondent No.1 requesting him to honor the terms of the agreement. Despite receipt of the demand notice, was issued through Speed Post and, the receipt of the same is annexed along with Form C Application. Thus the present application 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 and Bank Guarantee Limit dated 17.08.2015.

7.2 Deed of Guarantee executed by the Personal Guarantor dated 20.08.2015.

7.3 Copy of the Recovery Certificate dated 02.06.2021.

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 directed the Petitioner to issue notice to the Personal Guarantor and notice was send 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 08.06.2022, was returned undelivered with postal remarks “Addressee Left without instructions”. Which is



treated as no reply from the Guarantor in response to the RP's letter. Based on the facts the RP is recommending for approval of the Petition filed by financial creditor against the personal guarantor Shri P. Srinivas, to the Corporate Debtor M/S. Versatile Mobile Distributors 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 Mr. Varun Ambati, 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. Versatile Mobile Distributors Private Limited and the instant petition is initiated against the Personal Guarantor of the Corporate Debtor. However, Respondent No.1 has raised certain objections stating that OTS and resolution plan are under consideration and thus prayed to hold the instant Application. IRP in his report has observed that creditor has send demand notice in Form-B on 08.06.2022 to Respondent No.1 intimating the total amount of debt including interest or penalties due as on 23.08.2022 is Rs.21,08,59,608.71/-. But personal guarantor failed to repay the amount due towards the creditor within 14



days from the date of receipt of demand notice and recommended initiation of Insolvency Resolution Process against R-1 in terms of Section 99 (7) of IBC, 2016.

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. 369/95/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 Shri P. Srinivas, 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 Apts, 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 that 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