

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH - II, CHENNAI**

CP(IB)/337(CHE)/2021

(filed under Section 95 of the Insolvency and Bankruptcy Code, 2016 and 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 **Mr.Azam Khan Abdul Razak.**

State Bank of India,
Represented by,
Assistant General Manager,
Stressed Asset Management Branch,
Red Cross Building,
Montieth Road,
Chennai – 600 008.

... Applicant

Vs.

Mr.Azam Khan Abdul Razak,
Plot No.97, Old No.2, New No.3,
First Loop Street, Kottur Gardens,
Kotturpuram,
Chennai – 600 085.

... Respondent

Order Pronounced on 20th June 2022

CORAM:

**Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)**

*For Applicant : Mr.,R.Sugumaran, Advocate
For Respondent: No Representation*

ORDER

Per: Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)

Under Consideration is an Application filed under Section 95
(1) of the Insolvency and Bankruptcy Code, 2016 against the
personal guarantors **Mr.Azam Khan Abdul Razak** of **Select**

Galva India Private Limited, the Corporate Debtor, against which an application to initiate CIRP is pending before this Adjudicating Authority.

2. The present application is filed by the Financial Creditor, State Bank of India against the personal guarantors of the Corporate Debtor.

3. The date of default as stated in the Application is 30.07.2021. The Agreements of Guarantee executed by the Personal Guarantor are placed in the typed set filed along with the application.

4. The Demand Notice issued under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 to the Personal Guarantor dated 29.08.2020 is placed in the typed set filed along with the application. Hence, on this term, the present Petition is filed to initiate proceeding in terms of Section 95 (1) of the IBC, 2016, against the Respondent herein.

5. In the matter of **State Bank of India Vs. Mahendra Kumar Jajodia** the Hon'ble NCLAT held as follows

"11. ...

The Application having been filed under Section 95(1) and the Adjudicating Authority for application under Section 95(1) as referred in Section 60(1) being the NCLT, the Application filed by the Appellant was fully maintainable and could not have been rejected only on the ground that no CIRP or Liquidation Proceeding of the Corporate Debtor are pending before the NCLT.

..."

6. Further, the Hon'ble NCLAT, Principal Bench, in the matter of **Mr.Ravi Ajit Kulkarni -Vs- State Bank of India** in Company Appeal (AT) (Insolvency) No. 316 of 2021 in para 42 has held that

"once an Application under Section 95 of IBC, 2016 is filed, the Adjudicating Authority has to act on it, and following principles of natural justice, give limited notice to Personal Guarantor to appear referring to the Interim Moratorium that has commenced as per terms of Section 96 and subsequently proceed to the next stage of appointing Resolution Professional as per Section 97 read with attendant Rules and Regulations."

7. Accordingly, upon verification of disciplinary status with the IBBI user portal we hereby appoint **Mr.K.Sivalingam** having registration number: **IBBI/IPA-001/IP-P-01597/2018-2019/12430** (e-mail:**siva.k220353@gmail.com**) as the Interim Resolution Professional in respect of the Personal Guarantor whose particulars and declaration is in part IV of the application, from which it is evident that the said IRP is the applicant herein.

8. The Financial Creditor is also directed to serve a copy of this Application to the Interim Resolution Professional for preparing the Report under Section 99 of IBC, 2016.

9. The Interim Resolution Professional is required to examine the Application as set out in Section 97(6) of IBC, 2016 and after examining the Application, as per Section 97(7) of IBC, 2016 the Interim Resolution Professional may recommend for the acceptance or rejection of the Application in his report, within a period of 10 days as contemplated under Section 99(1) of IBC, 2016.

10. Post this matter on **11th July, 2022** for filing of Report by the Interim Resolution Professional.

-SD-

ANIL KUMAR B

MEMBER (TECHNICAL)

-SD-

JUSTICE (RETD.) S. RAMATHILAGAM

MEMBER (JUDICIAL)

Gopishankar D