

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH-I**

C.P.(IB) 345 /MB/2022

Under Section 95 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudication Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019

In the matter of

Siemens Financial Services Private Limited

Plot No.2, Sector No.2, Kharghar Node,

Navi Mumbai-410210.

...Petitioner

Versus

Mr. Harshvardhan P. Chedda

601, K.N. Building 360, Bhandarkar Road,

Matunga (CR), Mumbai – 400019.

...Respondent/ Guarantor

Order Delivered on 24.02.2023

Coram:

Hon'ble Member (Judicial) : Mr. H.V. Subba Rao

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Applicant : Ms. Udit Singh, Advocate

For the Respondent : None Present

ORDER

Per: Shyam Babu Gautam, Member (Technical)

1. This is a Company Petition filed by **Siemens Financial Services Private Limited**, (“the Petitioner”), under section 95 of the Insolvency & Bankruptcy Code, 2016 (**IBC**) read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 seeking to initiate Insolvency Resolution Process against **Mr. Harshvardhan P. Chedda** (“the Personal Guarantor”).
2. This Company Petition is filed by the Petitioner claiming total outstanding of Rs. 3,11,80,722/- (Rupees Three Crore Eleven Lakh Eighty Thousand Seven Hundred and Twenty-Two Only).
3. The Financial Creditor sanctioned loan facility vide sanction Letters dated 28.09.2015, 24.02.2017, 28.08.2017 to the borrower. Subsequent to which Finance Agreements dated 28.10.2015, 07.12.2015 and guarantee agreements dated 28.10.2015 and 07.12.2015 were entered into. Thereafter, Finance Agreements dated 09.03.2017, 30.03.2017, 26.09.2017 along with the clause of guarantee contained therein was entered into with the Applicant as the lender and Prince SWR Systems Private Limited as the borrower.
4. Since, the borrower and the Personal Guarantor failed to adhere to the financial terms and failed to repay the said

loan on its due dates. The loan account was declared as NPA on 31.12.2019.

5. The Applicant sent a Demand Notice under Section 13(2) of SARFAESI Act, 2002 on 07.01.2020 for the total outstanding amount of Rs.2,58,29,852/- due as on 31.12.2019.
6. Thereafter, the Applicant on 02.11.2020 sent a demand notice under Section 95(4) of the Code read with rule 7(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors), Regulations, 2019 to repay the total outstanding amount of Rs.3,11,80,722/- (Rupees Three Crore Eleven Lakh Eighty Thousand Seven Hundred and Twenty-Two Only) due as on 28.09.2020. The Petitioner has annexed tracking report evidencing proof of service of Demand Notice.
7. It is submitted that no reply has been filed by the Respondent to the said Demand Notice.
8. It is pertinent to be noted that the Corporate Debtor Prince SWR Systems Private Limited was admitted into CIRP vide Order of this Tribunal dated 16.04.2021. The Petitioner has filed its claim form before the RP so appointed in the CIRP of the Corporate Debtor.
9. The Captioned Petition was served on the Respondent vide email dated 15.02.2022. Thereafter, the Petitioner vide letters dated 19.05.2022, 02.07.2022, 12.09.2022, 20.10.2022 and 22.11.2022 intimated the date of next

hearing to the Respondent. Despite multiple opportunities being accorded to the Respondent, he has chosen not to appear before this bench nor has he replied to the Statutory Demand Notice.

10. In the aforesaid backdrop, we have heard the submission of the Petitioner and perused the documents on record.
11. This Bench allows the Petition filed by **Siemens Financial Services Private Limited, the Petitioner, under Section 95 of the Code read with Rule 7(2)** of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors), Regulations, 2019 against Mr. Harshvardhan Chedda, Personal Guarantor of the Corporate Debtor, Prince SWR Systems Private Limited. The Interim Moratorium as per Section 96(1) of the Code has commenced from the date of filing of the Application.
12. That this bench appoints Mr. Rajeev Mannadiar, having Registration No. IBBI/IPA-001/IP-P00212/2017-2018/10412 and having office at: 401, Darshan CHS, R Dadaji Street, Fort, Mumbai 400001, as the Resolution Professional (RP) in the matter under Section 97(5) of the Code. The fee payable to Resolution Professional (RP) shall be in accordance with the Insolvency and Bankruptcy Board of India (IBBI) Regulations/Circulars/Directions issued in this regard.
13. In this matter, the Resolution Professional, Mr. Rajeev Mannadiar, shall exercise all powers as enumerated under Section 99 of the Code read with Rules made thereunder.

He is directed to make the recommendations with reasons in writing for acceptance or rejection of this Application within the stipulated time as envisaged under the provisions of Section 99 of the Code. The Resolution Professional shall provide a copy of the report under sub-section 7 of Section 99 to the Creditor as soon as the same is filed before this Authority.

14. That this Bench also directs for an advance payment of Rs. 3,00,000/- (Rupees Three Lakh only) to be paid by the Petitioner to the Resolution Professional (RP) immediately to initiate the process which shall be adjusted towards the fee and expenses payable to the Resolution Professional (RP).
15. The interim-moratorium under Section 96(1) (a) of the Insolvency and Bankruptcy Code, 2016 has commenced on the date of filing of this application by the Financial Creditor and will cease to have effect on the date of admission.
16. During such interim-moratorium period:
 - i. any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and
 - ii. the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt
17. List this matter on 13.03.2023. The IRP is directed to file a Report by way of an Application in the matter for further proceedings.

18. The registry is directed to immediately communicate this order to the Financial Creditor, Personal Guarantor, Corporate Debtor and Resolution Professional by way of Registered post or even by way of email.

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)
24.02.2023
Priyal

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)