IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – III

C.P. No. 220 of 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) Rule 2019

In the matter of

Union Bank of India
Having its address at: Stressed Assets Management Branch, 104, Ground Floor, Bharat House, M S Marg, Fort, Mumbai- 400 001

.........Petitioner/Financial Creditor

V/s.

Rohit Ashok Jindal
Having its present address at: Flat No. 706 & 707, Lavender Wing, B, Raheja Gardens, Wanworie, Pune- 411 040
And Having its business address at: L-9 Addl, MIDC Satara, Satara, MH- 415 004

.......Respondent/Personal Guarantor

Order Pronounced on: 01.08.2024

CORAM:

SHRI CHARANJEET SINGH GULATI
HON'BLE MEMBER (T)

SMT LAKSHMI GURUNG
HON'BLE MEMBER (J)

Appearances:
For the Applicant : Adv. Oshma Jain i/b M.V. Kini Law Firm
For the Personal Guarantor : None appeared

Per: - SHRI CHARANJEET SINGH GULATI MEMBER (T)

ORDER

1. The Present Company Petition is filed under section 95(1) of Insolvency and Bankruptcy Code, 2016 ("IBC, 2016") by **Union Bank of India** for initiating Insolvency Resolution Process against **Mr. Rohit Ashok Jindal ("Personal Guarantor")**.

2. The Union Bank of India extended financial assistance to M/s. Shree Siddhi Vinayak Ispat Pvt. Ltd in the form of various credit facilities. Mr. Rohit Ashok Jindal being the Director of the Corporate Debtor i.e. M/s. Shree Siddhi-Vinayak Ispat Pvt. Ltd, offered his personal guarantee in favour of the Financial Creditor towards the repayment of financial assistance extended to the Corporate Debtor.

3. A Deed of Guarantee dated 28.06.2014 was executed by Shri Ashok Kumar Jindal, Smt. Jyoti Ashok Jindal and **Shri. Rohit Ashok Jindal** in favour of Andhra Bank (Now, Union Bank of India), Bank of Baroda and State Bank of India towards repayment of financial assistance extended by the Financial Creditors to the M/s. Shree Siddhi-Vinayak Ispat Pvt. Ltd, Corporate Debtor. By consent of all the parties, Andhra Bank is designated and recognized as the Lead Bank of the Andhra bank Consortium.

4. First Supplemental Working Capital Consortium Agreement dated 28.06.2014 was executed between M/s. Shree Siddhi-Vinayak Ispat Pvt. Ltd, Andhra Bank, Bank of Baroda and State Bank of India (collectively referred to as Andhra Bank Consortium).

5. Subsequently, due to the failure on part of the Corporate Debtor in meeting its repayment obligations, it was decided by the Financial Creditor to recall the advances extended to the Corporate Debtor and to invoke the personal guarantee given by Mr. Rohit Ashok Jindal. Accordingly, the Financial Creditor issued Notice under section 13(2) on 24.11.2016, to both the Corporate Borrower as well as the Personal Guarantor to clear the entire outstanding dues held in the name of the Corporate Debtor.

6. Despite extending all kinds of support and opportunity to regularize the accounts, the Corporate Debtor as well as Personal Guarantor have failed in all respects to repay the outstanding dues including interest.

7. Therefore, this Tribunal vide its order dated 14.10.2019 admitted the application filed for initiating Insolvency Resolution Process against the Corporate Debtor.

8. Later, the Financial Creditor decided to initiate insolvency proceedings against the Personal Guarantor under IBC. Accordingly, on 21.08.2021 a Demand Notice was issued to the Personal Guarantor asking him to pay an amount of INR 79,21,30,992/- outstanding balance in the loan accounts of the Corporate Debtor as at 31.12.2020.

9. In view of the aforesaid, it is submitted that the Respondent has defaulted in repaying the total outstanding amount & is unable to pay the debts within the meaning of the provisions of the Insolvency and Bankruptcy Code, 2016.

10. The Hon'ble Supreme Court in ***Dilip B Jiwrajka Vs. Union of India & Ors. Writ Petition (Civil) No. 1281 of 2021*** decided on 09.11.2023 held as follows:-

Quote

i. *No judicial adjudication is involved at the stages envisaged in Section 95 to Section 99 of the IBC;*

ii. *The Resolution Professional appointed under Section 97 serves a facilitative role of collating all the facts relevant to the examination of the application for the commencement of the insolvency resolution process which has been preferred under Section 94 or Section 95. The report to be submitted to the Adjudicating Authority is recommendatory in nature on whether to accept or reject the application.*

Unquote

11. The Petition for initiating insolvency resolution process against Personal Guarantor to the Corporate Debtor is complete in all respect. The Petitioner has proposed the name of the Insolvency Professional, **Mr. Vijay Pitambar Lulla** along with his consent to act as resolution professional. Though, AFA submitted by the petitioner is valid upto 23.12.2022 to 22.12.2022, upon checking the IBBI website the AFA of Mr. Vijay Pitambar Lulla is found to be valid upto 18.12.2024.

12. Accordingly, we appoint **Mr. Vijay Pitambar Lulla** with registration no. **IBBI/IPA-001/IP-P00323/2017-18/10593**, as Resolution Professional ("RP").

13. 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.

14. This Bench also directs for an advance payment of Rs.1,00,000/- (Rupees One Lakh only) to be paid by the Financial Creditor 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 Resolution Professional is directed to examine the application as set out in Section 97(6) of IBC, 2016 who after examining, shall submit his report as provided under Section 99(1) of IBC, 2016, **within 10 days** from uploading of this order.

16. Further, the Registry is hereby directed to communicate this order to both the parties and to RP immediately. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record. The Petitioner is also directed to forthwith communicate this order to the Resolution Professional.

17. List the matter for report of the RP as and when the report of RP is filed.

Sd/-	**Sd/-**
CHARANJEET SINGH GULATI **(MEMBER TECHNICAL)**	**LAKSHMI GURUNG** **(MEMBER JUDICIAL)**

---Rajeev. PS---