



S.No.3

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
27-04-2023 AT 10:30 AM

CP (IB) No. 257/95/HDB/2022
u/s. 95 of IBC, 2016

IN THE MATTER OF:

Indian Overseas Bank

...Petitioner

VS

Shri. TG Prashanth & M/s Blossom Oils & Fats Limited

...Respondent

C O R A M:-

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

ORDER

Order pronounced. Recorded vide separate sheets. In the result, CP is admitted and Insolvency Resolution Process is ordered against Personal Guarantor. Ms. Vazra Laxmi is appointed as Resolution Professional and moratorium is declared against Personal Guarantor subject to the conditions mentioned in the order.

SD/-

MEMBER (T)

SD/-

MEMBER (J)



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

CP (IB) No. 257/95/HDB/2022

(Under Section 95 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.

BETWEEN

INDIAN OVERSEAS BANK

Asset Recovery Management Branch,
#1-8-522/27/2.3.4.3rd Floor, IOB Platinum Plaza,
Opp. Chandana Bros., Chikkadpally, Hyderabad – 500020

Regd. Office

6th Floor, Annex Building, 763, Anna Salai,
Chennai – 600002, Tamil Nadu, India.

Rep. by its Chief Manager Sri. Raushan Kumar

...Financial Creditor

AND

1. Shri. T.G.PRASHANTH,
the personal guarantor of
M/s. Blossom Oils & Fats Limited (In Liquidation),
#208, Kamalapuri Colony, Srinagar Colony, Hyderabad,
Telangana – 500073
Also at – 6-3-609/147/A, Anandnagar Colony,
Khairatabad, Hyderabad, Telangana

...Personal Guarantor

2. **M/s Blossom Oils & Fats Limited (In Liquidation),**
A Company incorporated under the companies Act, 1956 and having its
registered office at 6-3-609/147/A, Anand Nagar Colony, Khairatabad
Hyderabad – 500004
Telangana.

...Corporate Debtor



Date of order: 26.04.2023

CORAM:-

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

Appearance:-

For the Petitioner: Shri. Dishit Bhattacharjee, Advocate.
For the Respondent No.1: Shri S.V. Rama Krishna, Advocate.
For the RP: Smt.Mummaneni Vazra Laxmi,
Resolution Professional

PER: BENCH

1. This instant petition is filed by 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. T.G.Prashanth, who is the Personal Guarantor of M/s. Blossom Oils and Fats Limited (hereinafter referred to as “Corporate Debtor”) alleging non-payment of Rs.531,84,50,653.00/- as on 30.09.2021 including interest is said to be due and payable by personal guarantor to Financial Creditor.



2. It is averred that corporate debtor had availed credit facilities such as Cash Credits, Working Capital Term Loan, letter of credit, Letter of Guarantee and funded interest term loan under different loan documents. In order to secure the repayment of the financial assistance Shri R. Jaganmohan Rai, Smt. T.G.Saroja, Shri. T.G.S. Narayana and Shri. T.G.Prashanth, stood as guarantor and had executed guarantee agreements dated 05.10.2013. Thus the financial creditor exercised its rights and remedies available and issued notices to the corporate debtor and guarantors for recalling the outstanding amounts.
3. It is averred that the corporate debtor slipped into Non performing Asset (NPA) on 31.03.2015 and the Corporate Debtor went under liquidation as per order dated 10.10.2017 by the Hon'ble NCLT, Hyderabad in C.A.No. 168/2017 in CP(IB) No. 23/10/HBD/2017 and Shri TSN Raja was appointed as an official Liquidator.
4. It is averred that neither corporate debtor nor personal guarantor paid the outstanding amount, and thus the financial creditor and its Associated Banks filed the Original Applications(O.A) before the Hon'ble Debt Recovery Tribunal, Hyderabad.
5. It is averred that DRT has passed decree and issued recovery certificate by directing the corporate debtor and guarantors to pay the amount, which has been defaulted.



6. It is submitted that pursuant to the Central Government framing of I&B (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantor to Corporate Debtor) Rules, 2019 which has come into force from 01.12.2019. Thus financial creditor issued demand notice on 25.07.2022 to personal guarantor, despite of receipt of demand notice, personal guarantor has not come forward to pay the outstanding amounts. Thus the financial creditor has filed the present Application to initiate Insolvency Resolution Process against the personal guarantor.
7. Further submitted that personal guarantor has not made payments thus the financial creditor has filed the present Application for initiation of Insolvency Resolution process against the personal guarantor.
8. It is to be further noted that the outstanding debt as on 30.09.2021 is Rs. 531,84,50,653.00/- (Rupees Five Thirty One Crore Eighty Four Lakh Six Hundred Fifty Three only). The Petitioner Bank attached the following documents to prove the existence of debt and amount in default: -
 - Credit Agreement letter.
 - Master facility agreement.
 - Deed of Hypothecation.
 - Power of attorney
 - Memorandum of Deposit of the title deeds.
 - Personal Guarantee Agreement.
 - Acknowledgement of Debt



- Suit Decreed ordered by DRT-I, Hyderabad in OA No- 242/2016 on 16.08.2019 (order copy attached)
- Order dated 10.10.2017 by the Hon'ble NCLT, Hyderabad in C.A No.168/2017 in CP(IB) No. 23/10/HBD/2017CRILC report.
- Statement of account of Corporate Debtor

9. Counter filed by the Respondent:

- 9.1 The Respondent No.1/Personal Guarantor was one of the Directors of the Respondent No.2 Company/Corporate Debtor namely M/s Blossom Oils & Fats Ltd., (under liquidation) incorporated as a Limited Company on 20.08.1998 whereas the company suffered losses as a result the account became NPA long back on 31.03.2015 i.e., 7 years back and promptly the Financial Creditor initiated recovery proceedings under RDDB Act, 1993 and SARFAESI Act, 2002.
- 9.2 The Financial Creditor filed O.A.No. 242/2016 before DRT, Hyderabad which passed orders on 16.08.2019 and allowed recovery of money therein the three years period for 'recovery' expired on 15.08.2022. Further Respondent No.2 filed CP No.08/10/HDB/2017 before this Tribunal and this Tribunal ordered liquidation in IA No 682/2019 vide orders dated 23.10.2019 and ordered the liquidator to hand over the Unit of the Company to the Indian Overseas Bank/Financial Creditor.
- 9.3 Further it is averred that the Financial Creditor Bank has obtained orders from DRT on 16.08.2019 which was defended by the



Liquidator and the Financial Creditor has already sold almost all the securities provided by the guarantors along with the primary securities of the main Corporate Debtor Company under SARFAESI Act, 2002 and it is admitted.

- 9.4 It is averred that time barred debts are being enforced through the present Petition that too after exhausting the recoveries under RDDDB Act, 1993 and SARFAESI Act, 2002 which is a double jeopardy and unconstitutional in nature. The Corporate Debtor became an NPA way back on 31.03.2015 the reliance on the DRT Orders dated 16.08.2019 does not extend limitation but only for recovery and not for Resolution as envisaged under IBC, 2016 and it is more than seven years old claim and the same is hit by limitation.
- 9.5 It is averred that in the present case, the date of default was more than 7 years and the account of the Corporate Debtor was categorized as NPA on 31.03.2015 and such claim is barred by limitation. As far as Sec. 238A of IBC, 2016 is concerned, the intention of Legislature is for claims to be made before Resolution Professional or Liquidator and not for initiating CIRP.
- 9.6 It is averred that the report dated 04.10.2022 filed U/s 99 of IBC, 2016 by the Resolution Professional, that the Resolution Professional shall examined the application and submit report to the Adjudicating Authority for approval or rejection of the Application. None of the documents were referred therein were examined by the RP. The said Report of RP cannot be considered to be in order and the same is liable for rejection.



10. On presentation of this instant petition, this Adjudicating Authority on 29.08.2022 granted interim-moratorium and has appointed Ms.Mummaneni Vazra Lakshmi, as Resolution Professional, directing him to file his report within 10 days from the date of his appointment, in terms of the Section 99 of the Code, 2016. The Resolution Professional has filed his report on 04.10.2022, recommending the admission of the Petition under Section 95 of the Code, 2016. The Resolution Professional in his report stated that the he has examined the Application filed under Section 95 of the IBC, 2016 by the financial creditor and its clear that the grounds for admission of this instant Petition are that the Personal Guarantor stood as a guarantor to the loans availed by the Corporate Debtor and Corporate Debtor failed to repay the same and since the Personal Guarantor has admitted the debt and non-existence of dispute.
11. Written Submissions had been filed by the financial creditor by reiterating the facts mentioned in the petition and has cited the case laws.
12. Written submissions filed by the Respondent No.1 has reiterated the facts mentioned in his counter and placed reliance on the Hon'ble Supreme Court of India in re " DENA Bank Vs C.Shiva Kumar Reddy(2021)10 SCC 330:2021 and stated that the present case is barred by limitation and thus prayed to dismiss the present petition with exemplary costs.



13. 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?

14. We have heard the Learned Counsel Shri.Dishit Bhattacharjee, for the Petitioner, Learned Counsel Shri S.V. Rama Krishna, for respondent/personal guarantor and Learned Resolution Professional Smt.Mummaneni Vazra Laxmi, and perused the record.

15. At the outset it may be stated that the Petitioner has initiated Corporate Insolvency Resolution Process against the Corporate Debtor i.e., M/s. Blossom Oils and Fats Limited vide CP (IB) No.23/10/HDB/2022 under Section 7 of the Code, 2016 which was admitted by this Adjudicating Authority vide order dated 10.10.2017 and the instant petition is initiated against the Personal Guarantor of the Corporate Debtor.

16. The Resolution Professional has filed his report on 13.10.2022, recommending the admission of the Petition under Section 95 of the Code, 2016. The Resolution Professional in his report its clear that the grounds for admission of this instant Petition are that the Personal Guarantor stood as a guarantor to the loans availed by the Corporate



Debtor and Corporate Debtor failed to repay the same and since the Personal Guarantor has admitted the debt and non-existence of dispute.

17. Hence, the instant Company Petition vide CP (IB) No. 257/95/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. T.G.S. Narayana, 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.
18. The Petitioner herein, has proposed the name of Ms. Mummaneni Vazra laxmi, (IBBI/IPA-001/IP-P00664/2017-2018/11141) Insolvency Professional to act as Resolution Professional, who has given his consent



dated 23.03.2022 in Form-A. Hence, this Adjudicating Authority appoints:

Ms. Mummaneni Vazra laxmi

Registration No. IBBI/IPA-001/IP-P00919/2017-2018/11526,

email id: emailtolak@gmail.com

19. 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.

20. 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.

21. 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 than 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.

22. 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.



23. The Petitioner is directed to communicate this order to the Resolution Professional appointed in the instant Company Petition immediately.
24. The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.

Sd/-

Charan Singh
Member Technical

Sd/-

Dr. Venkata Ramakrishna Badarinath Nandula
Member Judicial

Swapna/pavani