

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

C.P. (IB)/506(MB)2024

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **02.12.2024**

NAME OF THE PARTIES: **Indian Bank V/s Mr. Zuber Abdul Karim Jaka**
Section 95(1) of the Insolvency and Bankruptcy Code, 2016

ORDER

C.P. (IB)/506(MB)2024

1. None present for the Applicant/Petitioner. Mr. Ayush Rajani, Ld. Counsel for the Respondent are present.
2. The present petition is filed *u/s.* 95 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC, 2016") *r/w* Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 by **Indian Bank, erstwhile Allahabad Bank** ("hereinafter referred to as Applicant/Financial Creditor") for the purpose of initiating insolvency process against **Mr. Zuber Abdul Karim Jaka** ("hereinafter referred to as Personal Guarantor/Respondent") for recovery of Rs. 42,82,91,841.00/- (Rupees Forty Two Crores Eighty Two Lakhs Ninety One thousand Eight Hundred and Forty One Rupees only) as on the date of issuance of SARFAESI notice dated 29.09.2015. The Date of Default, as specified in Part-III of the present petition is 28.11.2015 (upon completion of 60 days of SARFAESI Notice).
3. The Applicant was incorporated on 05.03.1907 bearing CIN **U65110KL192996C00441** having its permanent address at Corporate Office at PB No. 5555, 254-260, Avvai Shanmugam Salai, Royapettah, Chennai – 600014 and business address at SAM Large Branch, Mittal Chambers, Office no.73, 7th Floor Nariman Point, Mumbai - 400021.



4. The Personal Guarantor, viz. **Mr. Zuber Abdul Karim Jaka** having his address at B-3003, Klassic Towers, B- Wing, Dr. A R Nair Road, Near Agripada Police Station, Mumbai Central, **Mumbai**, Maharashtra - 400011 is the Personal Guarantor for I. B. Commercial Private Limited (hereinafter referred to as the “Corporate Debtor”) who stood as Personal Guarantor for the credit facilities extended to the Corporate Debtor.
5. The Corporate Debtor bearing **CIN U70101MH2007PTC167888** was incorporated on 15.02.2007 and has its registered office at Office No.1, 2nd Floor, Malhotra House House, Opp. GPO, Mumbai, Maharashtra - 400001. It has authorized capital of Rs. 10,00,00,000/- and paid up share capital of Rs.1,65,13,000/-.
6. The Corporate Debtor approached the Petitioner requesting the Petitioner to grant a Loan. The Petitioner sanctioned WCDL facilities Amounting to Rs.62.04 Crores and it was sanctioned vide Sanction Letter dated 06.03.2014 on the terms and conditions mentioned in the said Sanction Letter.
7. The said loans were secured by mortgage of immovable properties
 - a. Flat No 3103, 31st floor, Wing B, Klassic Tower, Dr. Anandrao Nair Road, Agripada, Mumbai Central, Mumbai -400011.
 - b. Land & Building known as Hussain Building, Mohammed Umer Rajjab Road, Off. Moulana Azad Road, Madanpura, Mumbai Central, Mumbai-400011.
 - c. Land & Building known as Rasool Manzil, Junction of Moulana Shoukat Ali Road & Huzaria Road, Near J.J. Hospital Byculla East, Mumbai – 400007.
8. The said loans were also secured by personal guarantors viz. Sajid Jaka, Salim Jaka, Abdul Karim Jaka, Zuber Abdul Karim Jaka, and Nasima Abdul Karim Jaka vide Guarantee Agreement dated 14.04.2014.
9. The Borrower i.e. the Corporate Debtor failed to repay the loan by regular



instalments, hence on 28.09.2015, the account of the Corporate Debtor slipped to Non-Performing Asset (NPA).

10. Since the debt still stands due, the Financial Creditor has filed the present petition u/s 95 of the Code r/w rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019.
11. Company Petition was filed by the Financial Creditor on 30.12.2023. Date of default is 15.11.2023 as per Part III. Invocation date as mentioned in FORM B is 15.11.2023.
12. Date on which default is stated to be 28.11.2015 in FORM B i.e. 60 days after the issuance of Notice under Section 13(2) dated 29.09.2015. Consent Terms were filed by the Respondent on 04.01.2016 and other Guarantors and Principal Borrower.
13. Recovery Certificate dated 16.11.2019 was issued by Ld. Debts Recovery Tribunal - II as consent Terms failed. Fresh Cause of action would hence start from 16.11.2019. Accordingly, Limitation would come to an end on 15.11.2022. However, vide Judgement dated 23.03.2020 Hon'ble Supreme Court granted extension of period of limitation and for that excluded the period of computation of limitation from 15.03.2020 till 28.02.2022. The Counsel for Personal Guarantor contested the present petition on ground of limitation. However, the Hon'ble Supreme Court in the case of Dilip B. Jiwrajka's case has held that "*No judicial adjudication is involved at the stages envisaged in Section 95 to Section 99 IBC.*" Accordingly, we consider it appropriate not to deal with the Limitation aspect and leave it to the Resolution professional to give his findings in the matter for further adjudication on the issue.
14. Having considered the submissions and upon perusing the above documents, this Bench is of the considered view that the present Company Petition is complete in all aspects as required by law and thus hereby appoints **Mr. Pramod Kumar Dokania**, having Insolvency Registration No. IBBI/IPA-



001/IP-P-01994/2020-2021/13062, to act as the Resolution Professional in the matter of **Mr. Zuber Abdul Karim Jaka**, as the name of the Insolvency Professional has not been suggested by the Petitioner herein.

15. This Bench also directs for an advance payment to the tune of Rs. 2,00,000/- to be paid by the Financial Creditor to the Resolution Professional immediately to initiate the process which shall be adjusted towards fee and expenses payable to the Resolution Professional.
16. The Resolution Professional shall examine the Application within 10 days from the date of his appointment and submit its report to the Adjudicating Authority recommending for approval or rejection of the Application as referred under section 99(1) of the Code. The RP is also directed to serve the copy of report on both the sides Financial Creditor as well as the Personal Guarantor and file proof of service of report.
17. 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.
18. During such interim-moratorium period –
 - a. any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and
 - b. the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt.
19. Registry is directed to communicate this order immediately to the Resolution Professional, **Mr. Pramod Kumar Dokania**, having address T54-1101, Sector R-11 Flat No 1101, Tower 54, Future Towers Amanora Park Town, Sade Satra Nali Hadapsar, Pune, Maharashtra, 411028, having E-mail Address **Pramoddokania123@gmail.com**, having Mobile No. 9970922574.
20. Accordingly, stand over to 10.01.2025, for submission of the report by the



Resolution Professional.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)
MK

Sd/-

JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)