

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

CP/IB/20/CHE/2022

filed under Section 95 of the Insolvency & Bankruptcy Code, 2016

*In the matter of **Mr. R.C.K.Vallal***

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

... Financial Creditor

-vs-

Mr.R.C.K.Vallal,
No.153, Santhome High Road,
R.A.Puram, Chennai – 600 028

... Personal Guarantor

*Order pronounced on **24th March 2022***

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

For Financial Creditor : M.L. Ganesh, Advocate
For Personal Guarantor : None appeared

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

This application has been filed under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 against the Personal Guarantors of Winwind Power Energy Pvt Ltd, the Corporate Debtor which is under Liquidation.

2. In so far Winwind Power Energy Pvt Ltd is concerned, an order was passed initiating Corporate Insolvency Resolution Process against the Corporate Debtor by this Tribunal on 28.09.2018 and liquidation was ordered on 07.08.2019.
3. The present application is filed by the **State Bank of India**, Stressed Asset Management Branch, represented by Assistant General Manager Mr.N.Santhanagopalan, duly authorized by letter of Authority dated 31.05.2021 against the Personal Guarantors of the Corporate Debtor Company which is under liquidation.
4. It is seen from Part – III at Sl. No. 15 of the Application that the Personal Guarantor has executed the Deed of Guarantee on 17.12.2013 and the said Deed of guarantee is enclosed along with the typed set filed along with the Application.
5. The Demand Notice which was 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 on 05.03.2021 is also placed on record at Pg. Nos. 66 to 68 at Annexure I(6).
6. The date of default as mentioned in the application is 28.04.2015 and the Financial Creditor has also placed on file the



Record of Default dated 15.03.2021 at Page Nos. 69 to 138 at Annexure I (7). 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.

7. 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* has held in para 42 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

8. Accordingly, we hereby appoint **Mr. P. Mylsamy** having Registration No.: IBBI/IPA-001/IP-P01336/2018-2019/12060 as the Interim Resolution Professional in respect of the Personal Guarantor.

9. 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.

10. The 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 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.

11. Post this matter on **26.04.2022** for filing of Report by the Interim Resolution Professional.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

R. SUCHARITHA
MEMBER (JUDICIAL)

Sriram Ananth. V