

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Through web-based video conferencing platform)

ITEM No.19
CP (IB) No. 183/BB/2022

IN THE MATTER OF:

Mr. Srinivas Dande	...	Applicant
Vs.		
1. M/s. HDB Financial Services Ltd	...	Financial Creditor
2. M/s. Coursecube Private Limited	...	Corporate Debtor
<i>Through RP- Manishkumar Patel</i>	...	

Order under Section 94(1) of Insolvency and Bankruptcy Code, 2016

Order delivered on 14.11.2022

CORAM:

SH. KISHORE VEMULAPALLI
HON'BLE MEMBER (JUDICIAL)

SH. MANOJ KUMAR DUBEY
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner : Sh. Pranav Khatkul

ORDER

1. This is a Company Petition filed by **Mr. Srinivas Dande** ("Applicant") U/s. 94(1) of the I&B Code, 2016 U/r. 6 of the I&B (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, seeking to initiate Insolvency Resolution Process in respect of Mr. Srinivas Dande ("the Personal Guarantor/Applicant"), who has given personal guarantee to certain loans availed by the Corporate Debtor ("M/s. Coursecube Private Limited").
2. It is stated that the total amount of debt and default committed by the Corporate Debtor is Rs.2,72,40,715/- (Rupees Two Crores Seventy Two Lakhs Forty Thousand Seven Hundred and Fifteen only) for which the applicant is a Guarantor.

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3. It is stated that the HDB Financial Services issued Loan Recall and Invocation under Loan Agreement dated 21.07.2022 and the Vijaya Bank (now Bank of Baroda) has issued notices dated 09.04.2021 U/s. 13 of the SARFAESI Act, 2002 and M/s. Surabhi Chits Limited has issued Reminder Letter dated 08.07.2021 and Intimation Letter dated 16.05.2022.
4. It is stated that Sushma Ramanna (Operational Creditor) filed CP (IB) No. 66/BB/2021 U/s. 9 of the IBC, 2016 seeking to initiate CIRP process against M/s. Coursecube Private Limited before this Tribunal and this Adjudicating Authority vide order dated 01.02.2022 admitted the C.P and imposed moratorium and Mr. Manishkumar was appointed as IRP.
5. Heard Mr. Pranav Khatkul, learned Counsel appearing for the Petitioner.
6. It is clarified that from the date of filing this Application i.e., 19.09.2022 by the Applicant/Guarantor, Interim Moratorium commences as stipulated under Section 96(1) of the Code in relation to the debt of the Personal Guarantor. During the Interim Moratorium period: (i) any legal action or proceedings 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. As per Section 96(3) of the Code, the provisions of Sub-section 96(1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
7. It shall be noted that the appointment of the Resolution Professional under Section 97 of the Code is critical and essential for the Applicant but also to safeguard the assets of the Personal Guarantor in terms of the provision of the Code. In part IV of Form No. A, Mr. Dhanshyam Kantilal Patel bearing Registration No. IBBI/IPA-001/IP-P01373/2018-19/12155 has been proposed as Interim Resolution Professional (IRP). This Bench confirms the appointment of the Resolution Professional in the matter.
8. The Applicant/Guarantor is directed to serve the copy of this order along with copy of the Application and documents immediately on the Resolution Professional by all modes.

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9. The Resolution Professional is directed to exercise all the powers as enumerated under Section 99 of the Code, R/w Rules made thereunder. He is directed to make the recommendations with reasons in writing for acceptance or rejection of this Application within the stipulation 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 Creditors as well as to the Corporate Debtor as soon as the same is filed before this Authority.

10. List the matter for further proceedings in this case on **11.01.2023**

— Sd —

(**MANOJ KUMAR DUBEY**)
MEMBER (TECHNICAL)

— Sd —

(**KISHORE VEMULAPALLI**)
MEMBER (JUDICIAL)