

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, BENCH VI**

C.P (IB) No.366/ND/2023

An application under section 94(1) of the Insolvency and Bankruptcy Code, 2016

IN THE MATTER OF:

**Sumit Khaneja
R/o D-7, Ansal Vilas Satbari,
Chhatarpur, Delhi - 110074**

.... Applicant/Personal Guarantor

Date of pronouncement: 12.02.2024

Coram:

Shri Mahendra Khandelwal : **Member (Judicial)**

Shri Rahul Bhatnagar : **Member (Technical)**

Appearances (through Video Conferencing/physical hearing)

For the Petitioner/Applicant: Mr. P. Nagesh, Mr. Satendra K.Rai, Mr.Sanjeet

Adv. in IA/4764/2023. Mr. Satish Rai along with Mr. Abhay
Gupta and Mr. Divyansh Rai, Advocates

ORDER

Per: Mahendra Khandelwal, Member (Judicial)

1. The present Petition **CP (IB) No. 366/ND/2023** is filed under section 94(1) of the Insolvency and Bankruptcy Code, 2016 (**'Code'**) read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution process for Personal Guarantors to Corporate Debtor) Rules, 2019 (**'Personal Guarantors Rules'**) and regulation 4(2) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (**'Personal Guarantors Regulations'**) by Mr. Sumit Khaneja, Personal Guarantor for initiating the Insolvency Resolution Process in subject matter of

the following guarantees undertaken by the applicant (personal guarantor) in regard to the following Corporate Debtors:-

- A. M/s MNT Infratech Private Limited being the Principal Debtor in sanction by IL&FS Financial Services Private Limited.
 - B. Collage Estate Private Limited (Corporate Debtor) in sanction by Punjab National Bank.
 - C. GRS Realcon Private Limited (Corporate Debtor) in sanction by the Union Bank of India.
 - D. Collage Estate Private Limited (Corporate Debtor) in sanction by the United Bank of India.
2. The Applicant has filed the present petition seeking insolvency resolution process against itself. The petitioner contended that a copy of the application has already been served to the Financial Creditor and the Corporate Debtor (Principal Borrower) for whom the Guarantor is a Personal Guarantor in accordance with Rule 6(2) of the Personal Guarantors Rules.
 3. The applicant contends that during the period of 2015-18, there have been various defaults in repayments of the said loans and facilities availed by the Principal Borrower i.e. Corporate Debtor owing to which the accounts became NPA and guarantees were invoked by the Financial Institutions. It is further submitted that despite repaying a substantial amount, due to incremental penal interest and charges levied by the banks, it has resulted in perpetual debt due to which the applicant has preferred the present petition before this Tribunal.
 4. The Hon'ble Supreme Court of India in the matter of Dilip B Jiwrarka vs Union of India & Ors. In Writ Petition (Civil) No. 1281 of 2021 while considering the constitutional validity of Sections 95-100 of The Insolvency and Bankruptcy Code, 2016 in their judgement have concluded that no judicial adjudication is involved at the stages envisaged in Sections 95-99 of The IBC. The

Hon'ble Supreme Court of India has further concluded that no hearing is required by the Adjudicating Authority at the stage when it appoints a Resolution Professional u/s 97(5) of IBC.

5. The applicant has proposed the name of Ms. Gunjan Mittal, Resolution professional to act as Resolution Professional. Accordingly, we appoint Shri. Gunjan Mittal as Resolution Professional [IBBI/IPA-003/IP-N00361/2021-2022/13756]. The contact details of the RP are ip.gunjanmittal@gmail.com and Mobile No. 9868476717. The RP has valid AFA upto 02/08/2024.
6. The Registry is directed to intimate the above-mentioned Insolvency Resolution Professional regarding their appointment immediately after pronouncement of this order. IRP is directed to file declaration disclosure statement within 2 days thereafter.
7. This Adjudicating Authority hereby appoints Shri. Gunjan Mittal as the Resolution Professional in the matter. The Resolution Professional is to file the Assignment Declaration` within 7 (seven) days from today with the Registry.
8. The Resolution Professional is directed to file his report in terms of Section 99 the Code and the relevant Regulations within the stipulated time period. A copy of the Report by the resolution professional under Section 99 so filed shall be forthwith provided to the Personal Guarantor and Financial Creditors of the Petitioner.
9. List the matter on 20/03/2024 for the perusal of the Report of the RP and further proceedings.

-SD/-

Mahendra Khandelwal
Member (Judicial)

-SD/-

Rahul Bhatnagar
Member (Technical)