

SL No.115

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Video Conference

**CORAM: HON'BLE BHASKARA PANTULA MOHAN-MEMBER JUDICIAL
HON'BLE DR. BINOD KUMAR SINHA- MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 04.02.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Petition IB/183/2021
NAME OF THE COMPANY	Basani Vijaya Bhasker Reddy & Indu Projects Ltd
NAME OF THE PETITIONER(S)	State Bank of India
NAME OF THE RESPONDENT(S)	Basani Vijaya Bhasker Reddy & Indu Projects Ltd
UNDER SECTION	95

ORDER

Orders pronounced vide separate order. This Company Petition IB/183/2021 is admitted.


MEMBER (T)

Nilesch


MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.183/2021
Under Section 95 of the IB Code, 2016.

In the matter of
Mr. Basani Vijaya Bhaskar Reddy

Between:

M/s. State Bank of India,
Branch Office: Stressed Assets –
Management Branch, Secunderabad,
5th Floor, rear block, HMWSSB Compound,
Khairthabad, Hyderabad-500 004.
Reg. Office: State Bank Bhavan,
14th Floor, Madame Cama Road,
Nariman Point, Mumbai-Maharashtra-400021.

...Petitioner/
Financial Creditor

And

Mr. Basani Vijaya Bhaskar Reddy
Villa No. 234, Indu Fortune Fields,
Orchids Villas, KPHB Colony,
Hyderabad – 500 072, Telangana.

...Personal Guarantor/Respondent No.1

M/s Indu Projects Limited

...Corporate Debtor/Respondent No.2

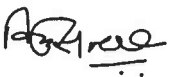
Date of Order: 04.02.2022

**Coram: Shri Bhaskara Pantula Mohan, Member Judicial
Dr. Binod Kumar Sinha, Member Technical**

Parties/Counsels present:

For the Petitioner : Mr. G.P. Yash Vardhan, Advocate

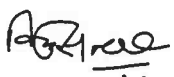
For the Corporate Guarantor : Mr. G. Arun, Advocate



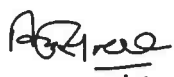
Per: Bench

ORDER

1. Under consideration is an Application filed by the Financial Creditor under Section 95 (1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 7(2) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process against the Personal Guarantors to Corporate Debtor) Rules, 2019 to initiate Insolvency Resolution Process against Mr. Basani Vijaya Bhaskar Reddy, Personal Guarantor of Corporate Debtor namely M/s. Indu Projects Limited.
2. Brief facts of the instant Petition are as under:-
 - a. That the Corporate Debtor namely M/s. Indu Projects Limited is *inter-alia* engaged in the business of Infrastructure Construction Services. That the Corporate Debtor has availed financial Assistance from the Financial Creditor and its associate banks from time to time and in order to secure the repayment of the said Financial Assistance, Personal Guarantor has executed Guarantee Agreement securing repayment of the financial assistance availed by the Corporate Debtor. That for various reasons the operation of the Corporate Debtor has come under stress and it was unable to meet the debt service obligations to the Financial Creditor and other lenders, and has sought for restructuring of its business. Accordingly the Corporate Debtor was referred to Corporate Debt Restructuring ("CDR") Cell which is a non-statutory voluntary mechanism set up under the aegis of the Reserve Bank of India guidelines. Pursuant thereto, the CDR Empowered Group, has approved the restructuring package in terms of which the existing financial assistance has been restructured and additional financial assistance was agreed to be provided. Subsequently, to give effect to the said CDR, the Corporate Debtor, Financial Creditor, its associate banks and other lenders have entered into a Master Restructuring Agreement ("MRA") on 28.09.2012.

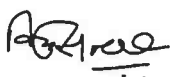


- b. That particulars of the documents executed prior to the MRA has been mentioned at Schedule II of the MRA. That the Corporate Debtor at Article II of the MRA has acknowledged the amount of the existing loans of the Financial Creditor and its associate banks as set out in Schedule II of the MRA.
- c. That the Corporate Debtor in order to avail the financial assistance has executed various loans documents and the Personal Guarantor of the Corporate Debtor in order to secure the repayment of the financial assistance availed by the Corporate Debtor has executed Guarantee Agreement in favour of the Financial Creditor.
- d. That the Corporate Debtor after availing loan facilities violated the terms of Sanction Letters, Master Restructuring Agreement and other loan documents and committed defaults in repaying the loan amounts.
- e. Further, the account of the Corporate Debtor was classified as NPA by Financial Creditor on 15.09.2014 in accordance with RBI guidelines as the Corporate Debt Restructuring of the Corporate Debtor has failed.
- f. That as the Corporate Debtor which obtained sizeable amounts by way of financial assistance from the Financial Creditor and its associate banks, has failed to pay the outstanding loan amounts, the Financial Creditor has initiated measures available to it at that point in time against the Corporate Debtor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 ("SARFAESI ACT"). Associate Bank of Financial Creditor i.e., erstwhile State Bank of Patiala has filed O.A. 1332 of 2016 before Debt Recovery Tribunal Hyderabad ("DRT"), for recovery of outstanding amounts of Rs.208,99,61,156.09/- against the Corporate Debtor and Personal Guarantors and same was Decreed on 13.09.2019 against the Personal Guarantors of the Corporate Debtor and other defendants making them jointly and severally liable to pay amounts to the Financial Creditor. The



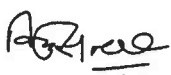
Personal Guarantor has committed default in paying the amount as Ordered by DRT.

- g. That the Financial Creditor has also filed O.A. 470 of 2017 before Debt Recovery Tribunal Hyderabad ("DRT"), for recovery of outstanding amounts of Rs.149,30,64,613.50/- against the Corporate Debtor and Personal Guarantors and other defendants and the same is pending adjudication.
- h. That the Bank of India has filed a Company Petition under Section 7 of the Insolvency and Bankruptcy Code 2016 ("IBC") to initiate Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor vide CP(IB) No.372/7/HDB/2018 before the Adjudicating Authority. The Adjudicating Authority on 25.02.2019 was pleased to admit to application and thereby ordered commencement of the Corporate Insolvency Resolution Process. The Committee of Creditors of the Corporate Debtor has approved the Resolution Plan submitted by M/s. Earthin Projects Ltd and an Application No.861 of 2020 has been filed before the Adjudicating Authority for approval of Resolution Plan. Under the Resolution Plan the Financial Creditor would be receiving an amount of Rs.116.91 Crores against admitted claim of Rs.981.42 Crs. As on date of filing, the captioned Application no amount under the Resolution Plan has been received by the Financial Creditor.
- i. That pursuant to Central Government framing (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 which came into force from 01.12.2019, inter-alia permitting a Financial Creditor to institute Insolvency Resolution Process against Personal Guarantors of Corporate Debtors, the Financial Creditor has issued demand notice through registered post on 30.06.2021 and the same was served on 05.07.2021 to the Personal Guarantor demanding payment of the amount of default. Despite receipt of the Demand Notice the Personal Guarantor has not come forward to pay the

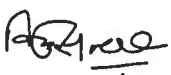


outstanding amounts. As the Personal guarantor has failed to pay the amount of default, the Financial Creditor has filed the captioned Case.

3. That the Resolution Plan filed vide IA No. 861 of 2020 in CP(IB) No. 372/7/HDB/2018, has been approved by this Adjudicating Authority on 01.10.2021.
4. That the instant matter came up for hearing on 04.08.2021, wherein the interim moratorium order as contemplated U/s. 96 of the Code, 2016 came to be passed. This Adjudicating Authority further appointed Mr. Kasi Srinivas as RP in the instant matter in compliance with the section 97 of the Code, 2016 and the RP was directed to file his Report within 10 days as contemplated U/s 99 of the Code, 2016.
5. In compliance with the same, the Resolution Professional filed his report dated 20.08.2021 filed on 24.08.2021, inter-alia, recommending for the acceptance of the Petition CP(IB) No. 183/2021 filed by Financial Creditor against the Personal Guarantor Shri Basani Vijaya Bhaskar Reddy to the Corporate Debtor M/s Indu Projects Limited.
6. The Learned Counsel for the respondent No.1 /personal guarantor filed a memo on 30.09.2021 stating that the Respondent No.1 has no objection for initiation of insolvency resolution process.
7. Heard. Perused the record.
8. It is the case of the Financial Creditor that it has provided various loan facilities to the Corporate Debtor namely M/s. Indu Projects Limited and the Respondent herein stood as a Personal Guarantor to such loan facilities. Upon default by the said Corporate Debtor, an Application under Section 7 of the Code, 2016 came to be filed and the same was admitted for CIRP on 25.02.2019. Subsequently, the Resolution Plan was approved on 01.10.2021. While the matter stood thus, the Financial Creditor herein has filed instant Application under Section 95 of the Code, 2016 against the Respondent No.1/ Personal Guarantor namely Mr. Basani Vijaya Bhaskar Reddy.



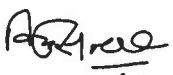
9. The said Application came up for hearing on 04.08.2021, wherein the orders of interim moratorium as contemplated U/s. 96 of the Code, 2016 and for appointing the RP as contemplated U/s. 97 of the Code, 2016 came to be passed and Mr. Kasi Srinivas holding IBBI Registration No. IBBI/IPA-003/IPA-ICAI-N-00237/2019-2020/12840 was appointed as RP. The RP was directed to file his Report within 10 days.
10. The RP has filed his report dated 24.08.2021 as contemplated U/s. 99 of the Code, 2016, inter-alia, recommending for acceptance of the instant Application.
11. It is also pertinent to note that the Personal Guarantor did not contest the matter and instead has accorded his consent to proceed further in this matter.
12. In view of the above facts and circumstances and upon perusal of the record, we are of the view that in the instant case, there is a financial debt and there has been a default in repayment of the same by the Corporate Debtor for which the Respondent herein stood as Personal Guarantor. Further the Financial Creditor has fulfilled all the stipulations as required under the provisions of the IB Code, 2016 for the purpose of initiating Insolvency Resolution Process against the Personal Guarantor. In these circumstances, having satisfied with the submissions made by the Petitioner/Financial Creditor, this Adjudicating Authority is inclined to admit the instant Application.
13. Accordingly, the instant Application is hereby admitted in terms of Section 100 of the IB Code, 2016 for Insolvency Resolution Process against the Personal Guarantor namely Mr. Basani Vijaya Bhaskar Reddy.
14. The moratorium is hereby declared which shall commence in relation to all the debts and shall cease to have effect at the end of the period of one hundred and eighty days beginning with the date of admission of the application or on the date this Adjudicating Authority passes an order on the repayment plan under section 114, whichever is earlier. For the purposes referred to in section 101 of the IB Code, 2016, hereby the



following prohibitions in respect of the personal guarantor being the debtor are ordered :

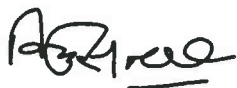
- a. any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed;*
- b. the creditors shall not initiate any legal action or legal proceedings in respect of any debt; and*
- c. the debtor shall not transfer, alienate, encumber or dispose of any of the assets or his legal right or beneficial interest therein.*

15. The Resolution Professional viz., Mr. Kasi Srinivas, who has been appointed under Section 97 vide Order dated 04.08.2021, is directed to cause a public notice published on behalf of the Adjudicating Authority within 7 days of uploading of this Order on the website of the NCLT Hyderabad, inviting claims from all Creditors, who shall register their claims as provided under Section 103 of IBC, 2016 within 21 days of such issuance. The notice shall contain the necessary information as provided under Section 102 (2) of IBC, 2016. The publication of notice shall be made in newspapers, one in English and other in Vernacular which have wide circulation in the State where the Debtor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry, one shall be placed by Registry on our website and the other shall be affixed in the premises of this Authority.
16. The Resolution Professional in exercise of the powers conferred under Section 104 of IBC, 2016 shall prepare a list of creditors within 30 days from the date of the notice. The debtor shall prepare a repayment plan in consultation with the Resolution Professional as provided under Section 105 of IBC, 2016 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 Authority within a period of 21 days from the last date of submission of claims, as provided under Section 106 of IBC, 2016.
17. In case the Resolution Professional recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons



therefor. If the Resolution Professional is of the opinion that the meeting of the creditors should be summoned, he shall specify the details as provided under Section 106(3) of IBC, 2016. The date of meeting should not be less than 14 days or more than 28 days from the date of submission of the Report under Sub-section (1) of Section 106, 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 IBC, 2016.

18. The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 & 111 of IBC, 2016. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 of IBC, 2016 and submit the same to this Authority, copies of which shall be provided to the debtor 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 IBC, 2016.
19. In terms of the above, the instant application bearing CP/IB/183/2021 filed under Section 95 of the Code, 2016 is admitted and the Insolvency Resolution Process stands initiated against Mr. Basani Vijaya Bhaskar, Respondent/Personal Guarantor.



Dr. Binod Kumar Sinha
Member Technical

Santi/SKRathi



Bhaskara Pantula Mohan
Member Judicial