

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV (Special Bench)

CP(IB)-417/MB/2022

Under Section 94(1) of Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) of the IB (Application for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019;

Petition moved by:

Shreepakash Nandkishore Gupta

.. Petitioner/Personal
Guarantor to the Corporate Debtor

In the matter of

Kotak Mahindra Bank Limited

... Petitioner

v/s

Gupta Synthetics Limited

.. Corporate Debtor

Order Pronounced on: 01.02.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kuldip Kumar Kareer
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner

: PCS Kunjal Dalal, Authorised
Representative

ORDER

Per: Prabhat Kumar, Member (Technical)

1. PCS Kunjal Dalal, Ld. Authorised Representative for the Petitioner/ Personal Guarantor to the Corporate Debtor present.
2. This is a Company Petition filed on 05.03.2022 by **Shriprakash Nandkishore Gupta** (“the Petitioner / Personal Guarantor”), under Section 94(1) of the Insolvency & Bankruptcy Code, 2016 (**IBC**) read with Rule 6(1) of the Insolvency and Bankruptcy (Application for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 seeking to initiate Insolvency Resolution Process against himself being the Personal Guarantor to the Corporate Debtor.
3. The Petitioner has given a guarantee to secure loan taken by the Corporate Debtor viz. Gupta Synthetic Limited [CIN: L17110MH1984PLC091906] having registered office at 326, Sardar Gruh Bldg., 3rd Floor, 198 Lok Manya Tilak Road, Near Crawford Market, Mumbai – 400 002. The Corporate Debtor has defaulted and was admitted into CIRP on 17.09.2019 and thereafter was put in the process of liquidation vide order 14.07.2020. The Petitioner has defaulted in making payment for an amount of Rs.45,94,42,004/- (Rupees Forty-five crore Ninety-four lakh Forty-two thousand and four only) in pursuance of recovery certificate obtained by the Financial Creditor against the Corporate Debtor and the Guarantor.
6. The Personal Guarantor has proposed the name of the RP; Mr. Gautam Deswal (Reg. No.: IBBI/IPA-001/IP-P02111/2020-21/13395) who is registered with IBBI as Insolvency Professional. The proposed RP has duly signed part-IV of form-A and his consent is annexed to the Petition.

7. The Petition for initiating Insolvency Resolution Process against Personal Guarantor of the Corporate Debtor is complete in all respect. Therefore, this Bench is of the opinion that Resolution Professional is to be appointed in this case and accordingly;
8. This Bench appoints Mr. Gautam Deswal, Insolvency Resolution Professional having Registration IBBI/IPA-001/IP-P02111/2020-21/13395); as the Resolution Professional (RP) in the matter. The fee payable to Resolution Professional (RP) shall be in accordance with the Insolvency and Bankruptcy Board of India (IBBI) Regulations/Circulars/ Directions issued in this regard.
9. 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.
10. This Bench also directs for an advance payment of Rs.2,00,000/- (Rupees two lakh only) to be paid by the Financial Creditor to the Resolution Professional (RP) immediately to initiate the process which shall be adjusted towards the fee and expenses payable to the Resolution Professional (RP).
11. 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.

12. During such interim-moratorium period -
- i) any legal action or proceeding 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.
13. List this matter for further consideration on **10.03.2023**.

Sd/-

Prabhat Kumar
Member (Technical)

01.02.2023/pvs

Sd/-

Kuldip Kumar Kareer
Member (Judicial)