

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

**C.P.(IB)/358(KB)2021**

*Under section 95(1) of the Insolvency and Bankruptcy Code, 2016  
read with rule 7(2) of the Insolvency and Bankruptcy (Application to  
Adjudicating Authority for Insolvency Resolution Process for  
Personal Guarantors to Corporate Debtor) Rules, 2019.*

*In the matter of:*

State Bank of India

*...Applicant*

-Versus-

Mr. Manish Mittal

*...Respondent*

**Order Reserved on: 03/03/2022**

**Order Pronounced on: 24/03/2022**

***Coram:***

**Shri Rohit Kapoor**

**: Member (Judicial)**

**Shri Harish Chander Suri**

**: Member (Technical)**

*Appearances (through video conferencing)*

For Financial Creditor

: Mr. Arjun Asthana, Adv.

For Respondent-Guarantor

: Mr. Joy Saha, Sr. Adv.  
Mr. Tanish Ganeriwala, Adv.

**ORDER**

***Per: Harish Chander Suri, Member (Technical)***

1. The Court convened via video conference.

2. Under consideration is an Application **C.P.(IB)/358/KB/2021** filed under section 95(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**IBC, 2016**”) read with rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 (hereinafter referred to as “**IB Rules, 2019**”) and regulation 4(2) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (hereinafter referred to as “**IB Regulations, 2019**”) for initiating the Insolvency Resolution Process (hereinafter referred to as “**IR Process**”) against personal guarantor, viz., Mr. Manish Mittal, Personal Guarantor for **Dimension Steel & Alloys Private Limited (CIN: U27109WB2005PTC100957)** (hereinafter referred to as “**DS&APL**”).

3. The factual matrix of the case is that the Applicant is a banking company constituted under the State Bank of India Act, 1955. The Principal Borrower “**DS&APL**” and guarantor had approached the applicant seeking grant of various Credit Facilities. On the representations made by the “**DS&APL**”, the Applicant extended various Credit facilities on 02/08/2011, which was enhanced and/or renewed from time to time on 16/03/2013, 03/05/2014, 24/02/2017 and 27/02/2018 respectively. As per the Credit Facility, “**DS&APL**” was obliged to repay the principal sum of loan along with interest thereon in accordance with repayment schedule as set out in the agreement. The Deed of Guarantee/Supplemental Deed of Guarantee were executed by the respondent-personal guarantor on 27/09/2011 and 26/03/2013 respectively. The respondent-personal guarantor has also executed a guarantee letter, undertaking and revival letter on 24/07/2014 and 20/06/2017 duly admitting and acknowledging continuance of the guarantee agreement duly executed. The “**DS&APL**” and the respondent/guarantor had failed and/or neglected to make payment as per terms of the said Facility Agreement.

4. The Applicant Bank, thereafter, proceeded to issue statutory Demand Notice under Section 13(2) on 04/05/2018 to the principal borrow as well as to the guarantor in terms of the provisions of SARFAESI Act, 2002.

5. The applicant had filed an application on 15/06/2020 under the Recovery of Debts and Bankruptcy Act, 1993 before the Debt Recovery Tribunal-I, Kolkata being OA No. 97 of 2020 and the said proceedings are pending before the DRT-I. However, “**DS&APL**” (Corporate Debtor) was admitted under CIRP by the National Company Law Tribunal, Kolkata Bench *vide* order dated 18/10/2019 passed in **CP(IB)/832(KB)2019 (M/s. Carbon Resources Private Limited -vs- M/s. Dimension Steel & Alloys Private Limited)** in which resolution plan has been duly approved *vide* order dated 08/10/2021.

6. The personal guarantor, viz., Manish Mittal has executed personal guarantee on 27/09/2011 in favour of the Applicant to secure the repayment of the principal amount of the Credit Facilities together with all interest, additional interest, liquidated damages, premium on repayments, reimbursement of all costs, charges and expenses and all other obligations payable by “**DS&APL**” in respect of the Facility Agreement. The Applicant has issued a Demand Notice in **Form B** on 02/08/2021 under Rule 7(1) of the IB Rules, 2019, but no response.

7. In this factual conspectus, the applicant prays for initiation of insolvency resolution process, against the respondent/guarantor.

8. It is made known to everyone that on filing this Application by the Applicant/Creditor the interim-moratorium commences in terms of section 96(1)(a) of IBC, 2016.

9. The Applicant/Creditor has proposed name of Mr. Aditya Kumar Tibrewal, an Insolvency Professional for appointment as Resolution Professional. However, we are appointing Mr. Sagar Jain, having IBBI Registration No. **IBBI/IPA-001/IP-**

**P02074/2020-2021/13209**, email: [ip.sagarjain@jainsaraogi.com](mailto:ip.sagarjain@jainsaraogi.com), out of the list approved by the IBBI, and circulated to this Bench for appointment of IRPs/RPs, as Resolution Professional in exercise of the power conferred under section 97 of the IBC, 2016 on this Authority. The Resolution Professional is directed to file declaration within seven days from the date of receiving this Order to the effect that he fulfils all the requirements for being appointed as Resolution Professional in the matter.

10. The Resolution Professional shall exercise all the powers as enumerated under section 99 of the IBC, 2016 read with the Rules made thereunder. He is directed to make the recommendations for acceptance or rejection of this Application within the stipulated time as envisaged under section 99(1) of the IBC, 2016. The RP shall give a copy of the report under sub-section (7) of section 99 of IBC, 2016 to the Applicant, as soon as the same is filed before this Adjudicating Authority.

11. The Counsel on record for the Applicant is hereby directed to serve the copy of this Order along with copy of the Application and documents on the Resolution Professional by all available modes for information and compliance. Proof of service shall be filed with this Bench for record.

12. List this matter on 10/05/2022.

13. The Registry is hereby directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

14. Certified Copy of this order be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri  
Member (Technical)

Rohit Kapoor  
Member (Judicial)

Signed this, 24th day of March, 2022.

hb.