IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT III

C.P. No. (IB) 416/MB/C-III/2022

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

In the matter of

Shyamsunder Nandkishore Gupta

Having registered office at:

08, Sanjay Co-Op Housing Society, Somnath Mahadev Road, Athwalines, Surat – 395007

... Personal Guarantor/Petitioner

Order pronounced on: 8th January 2024

Coram:

Hon'ble Ms. Lakshmi Gurung, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati (Technical)

Appearances:

For the Personal Guarantor: Mr. Kunjal Dalal, Company Secretary

***Per:* Ms. Lakshmi Gurung, Member (*Judicial*)**

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1. This Petition has been filed by Shri Shyamsunder Nandkishore Gupta ("**Petitioner/ Personal Guarantor"**) under section **94** of the Insolvency and Bankruptcy Code, 2016 (**"the Code"**) read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors

to Corporate Debtors) Rules, 2019 (**"IBBI Rules"**) seeking to initiate Insolvency Resolution Process against himself being the Personal Guarantor of Kotak Mahindra Bank ("**Bank**") for an amount of **Rs. 45.94 Crores** in relation to credit facilities extended by the Bank in favour of Gupta Synthetic Limited ("**Corporate Debtor**").

2. The Petitioner/ Personal Guarantor had given a guarantee on 27.03.2008 in favour of the Corporate Debtor, Gupta Synthetic Limited in order to secure repayment of the said credit facilities given by the Bank. The Corporate Debtor defaulted in repayment of dues and subsequently was admitted into CIRP on 17.09.2019 and thereafter, Order dated 14.07.2020 was passed for initiation of liquidation of the Corporate Debtor, Gupta Synthetic Limited.

3. Kotak Mahindra Bank had obtained Recovery Certificate No. 40 of 2021 dated 27.11.2020 from the Debt Recovery Tribunal (**DRT**) and thereby invoked the personal guarantee provided by the Petitioner for payment of an amount of Rs. 45,94,42,004.42 plus interest @ 15% per annum as stated in the said Recovery Certificate. However, the Personal Guarantor defaulted in making the payment and hence, the present petition is filed by the Personal Guarantor.

4. The Petition for initiating Insolvency Resolution Process against Personal Guarantor to the Corporate Debtor is filed in the prescribed form as mandated under section 94(6) of the I&B Code.

5. It is stated in the Petition that the debt in respect of which Petition is submitted does not constitute excluded debts as mandated under section 94(3) of the I&B Code.

6. We appoint **Mr. Umang Subhashchandra Khandelwal** (umang.khandelwal@gmail.com), Registration No. **IBBI/IPA-001/IP-P00669/2017-2018/11142** as the **Resolution Professional (RP)** in

the matter. The fee payable to RP shall be in accordance with the Insolvency and Bankruptcy Board of India (IBBI) Regulations/ Circulars/ Directions issued in this regard.

7. This Bench also directs for an advance payment of Rs. 2,00,000/- (Rupees Two Lakhs Only) to be paid by the Petitioner to the Resolution Professional (RP) which shall be adjusted towards the fee and expenses payable to the RP.

8. The Petitioner is directed to serve copy of the Petition and the Order on the Resolution Professional forthwith.

9. The Registry is also directed to send a copy of this order to the Resolution Professional for their record.

10. The Resolution Professional is directed to examine the application and submit its report in accordance with Section 99 of the Code **within 10 days**.

11. List the matter for report of the Resolution Professional on **08.02.2024**.

Sd/-
Charanjeet Singh Gulati
Member (Technical)

Sd/-
Lakshmi Gurung
Member (Judicial)

Uma, LRA