

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT NO. III

(IB)-303(ND)2021

In the matter of
State Bank of India

.Financial Creditor

Versus

Sri Surapaneni Ramesh

..... Personal Guarantor

Abir Infrastructure Private limited.

....Corporate Debtor

Order pronounced on: 24.05.2022

Coram:

Sh. Bachu Venkat Balaram Das : Member (Judicial)

Sh. Virendra Kumar Gupta : Member (Technical)

Appearances (via videoconferencing):

For Applicant : Mr. Mithun Shashank, Advocate

ORDER

Per : Sh. Virendra Kumar Gupta, Member (Technical)

ORDER

1. Ld. Counsel for the Financial Creditor present.
2. Under consideration is an Application (IB)NO. 303/ND/2021 filed under section 95(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “IBC, 2016”) r/w 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. Surapaneni Ramesh.
3. The factual matrix of the case is that the guarantor had executed deeds of guarantee on 17.09.2013 in respect of the credit facilities entered into between SBI and the Corporate

Debtor i.e. Abir Infrastructure Pvt. Ltd. and the total maximum debt is of Rs107,17,64,543.15 due and payable by corporate debtor to financial creditor on 09.11.2017. In terms of the facility agreement the default occurred upon non-payment by the personal guarantor on 10.11.2017. The corporate debtor and the guarantor had failed and/or neglected to make payment as per terms of the said Facility Agreements.

4. The Applicant Bank, thereafter, proceeded to issue statutory Demand Notice dated 28.10.2020 under Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantor to Corporate Persons) Rules, 2019 amounting to Rs. 23,37,11,482.86/-.
5. The “**Abir Infrastructure Private Limited**” (Corporate Debtor) was admitted the under CIRP by the National Company Law Tribunal, New Delhi Bench vide order dated 30.01.2019 passed in **(IB) No. 893/ND/2018** matter is now pending.
6. The personal guarantor viz Mr. Surapaneni Ramesh has executed personal guarantee on 17.09.2013 in favour of the Applicant to secure the repayment of the amount of the Credit Facilities of the corporate debtor. The Applicant has issued a Demand Notice in Form B on 28.10.2020 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 Insolvency Professional for appointment as Resolution Professional. Therefore, **Mr. Rajesh Chillale**, IBBI Registration No. **IBBI/IPA-001/IP-P00699/2017-2018/11226**, is hereby appointed 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 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 the matter on 20.07.2022 for reporting progress.
13. The Registry is 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.

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Bachu Venkat Balaram Das
Member (Judicial)

Sd-

Virendra Kumar Gupta
Member (Technical)