IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P.(IB)/184(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:
Central Bank of India

...Applicant

-Versus-

Mr. Jai Kumar Goyel

...Respondent

Order Reserved on: 24/03/2022

Order Pronounced on: 21/04/2022

Coram:

Shri Rohit Kapoor : Member (Judicial)

Shri Harish Chander Suri : Member (Technical)

Appearances (through video conferencing)

For Financial Creditor : Mr. Sudhir Kumar Senapati, Adv.

For RP : Mr. Rajesh Keshri, RP in person

O R D E R

Per: Harish Chander Suri, Member (Technical)

1. The Court convened via video conference.

2. Under consideration is an Application being CP(IB)/184(KB)2021 filed under section 95(1) read with sections 96, 97, 99 and 100 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**"). The prayer made is to initiate the Insolvency Resolution Process (hereinafter referred to as "**IR Process**") against ***Mr. Jai Kumar Goyal***, one of the Directors of M/s. BRG Iron & Steel Co. Pvt. Ltd., (hereinafter referred to as **"BRG"**) having **CIN: L27101WB2002PTC095499**, who is the Personal Guarantor of **Central Bank of India** (hereinafter referred to as **"the Bank")** in relation to the credit facilities extended by the Bank in favour of "BRG"**.**

3. On presentation of the application by the applicant Bank, the Adjudicating Authority *vide* order dated **16/09/2021** has appointed the Resolution Professional, viz., **Mr. Rajesh Keshri**, **IBBI Registration No. IBBI/IPA-001/IP-P00490/2017-18/10878, OF p-48, Pragati Pally, Lake Town, Kolkata 700089,** e-mail id: keshri.co@gmail.com;

telephone no. (033) 2522 4621 / Mobile No. 94330 80179 to file report u/s. 99 of IBC, 2016, which has been filed by him recommending the admission of the application filed u/s. 95 of the IBC, 2016. The ground for admission of the application recorded in the Report are as follows: -

(a) That the RP has gone through the contents of the main application and it confirms that the default has been made by the debtor who is a personal guarantor to the Corporate Debtor;

(b) That the debtor who is personal guarantor of Corporate Debtor has confirmed the Non-payment of the claim amount of creditor. (Vide letter dated 03/11/2021 of Debtor in response to letter dated 29/10/2021 of RP). The said letters are attached and marked as Annexure -D to the report.

4. From the report, there does not appear to be any ***request*** of the Resolution Professional for issuance of the instructions for the purpose of conducting negotiations between the debtor and creditors for arriving at the repayment plan. Therefore, based on the reasons recorded in the report submitted by the Resolution Professional, the application, i.e., C.P.(IB)/184(KB)2021 filed under the provisions of section 95 of the IBC, 2016 is hereby ***admitted*** under section 100 of the IBC, 2016. The Insolvency Resolution Process is initiated against the respondent and the moratorium is declared, which begins with the date of admission of the application and shall cease to have effect at the end of the period of 180 days, as provided u/s. 101 of IBC, 2016 or until this Adjudicating Authority approves the repayment plan under sub-section (1) of section 114 of the Code. During the moratorium period: -

(a) Any pending legal action or proceeding in respect of any debt of the personal guarantor shall be deemed to have been stayed; and

(b) The creditors of the personal guarantor shall not initiate any legal action or proceedings in respect of any debt; and

(c) The personal guarantor shall not transfer, alienate, encumber, or dispose of any of his assets or his legal rights or beneficial interest therein;

(d) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

5. The Resolution Professional, viz., **Mr. Rajesh Keshri**, who has been appointed u/s. 97 *vide* order dated 16/09/2021, is directed to cause a public notice published on behalf of the Adjudicating Authority within ***seven days*** of uploading of this Order on the website of the NCLT, Delhi, inviting claims from all Creditors, who shall register their claims as provided u/s. 103 of the IBC, 2016 within ***twenty one days*** of such issuance. The notice shall contain the necessary information as provided u/s. 102(2) of IBC, 2016. The publication of notice shall be made in two newspapers, once in English Daily and once in Vernacular Daily, which have wide circulation in the State where the Personal Guarantor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry, Kolkata Bench. One shall be placed by the Registry on our Website and the other shall be affixed in the premises of this Adjudicating Authority.

6. The Resolution Professional in exercise of the powers conferred u/s. 104 of the IBC, 2016 shall prepare a list of creditors within ***thirty days*** from the date of the notice. The personal guarantor shall prepare a repayment plan in consultation with the Resolution Professional as provided u/s. 105 of the 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 Adjudicating Authority within a period of ***twenty one days*** from the last date of submission of claims, as provided u/s. 106 of the IBC, 2016.

7. 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 u/s. 106(3) of the 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 of the IBC, 2016, 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 the IBC, 2016.

8. The meeting of the creditors shall be conducted in accordance with sections 108, 109, 110 and 111 of the 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 the IBC, 2016 and submit the same to this Adjudicating Authority, copies of which shall be provided to the personal Guarantor and the Creditors as

per section 113 of the IBC, 2016. It is made clear that the Resolution Professional shall perform his functions and duties in compliance with the Code of Conduct provided u/s. 208 of the IBC, 2016.

9. In terms of the above, CP(IB)/184(KB/2021 filed u/s. 95 of the IBC, 2016 is admitted and the Insolvency Resolution Process stands initiated against the debtor/Personal Guarantor.

10. List **CP(IB)/184(KB)2021** for filing periodical report on 06/06/2022.

11. 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.

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

Harish Chander Suri
Member (Technical)

Rohit Kapoor
Member (Judicial)

Signed this, 21st day of April, 2022.

hb.