

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

C.P.(IB)/642(KB)2020

*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:

Punjab National Bank

...Applicant

-Versus-

Mr. Prashant Bothra

...Respondent

Order Reserved on: 30/03/2022

Order Pronounced on: 26/04/2022

Coram:

Shri Rohit Kapoor

: Member (Judicial)

Shri Harish Chander Suri

: Member (Technical)

Appearances (through video conferencing)

For Financial Creditor

:

Mr. Ramesh Chandra Prusti, Adv.

For Respondent-Personal Guarantor

:

Ms. Debaleena Ganguly, Adv.

For RP in CP(IB)181(KB)2021 : Ms. Neelina Chatterjee, Adv.
Mr. Suvodeep Chakraborty, Adv.
Mr. Sudipto Ghosh, RP in person

For RP in CP(IB)642(KB)2020 : Mr. Sajjan Kumar Dokania, RP in
person

ORDER

Per: Rohit Kapoor, Member (Judicial)

1. The Court convened via video conference.
2. Under consideration is an Application being CP(IB)/642(KB)2020 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. Prashant Bothra*, one of the directors of **Kohinoor Steel Pvt. Ltd. (CIN: U27109WB2005PTC101723)** (hereinafter referred to as “**KSPL**”), who is the Personal Guarantor of **Punjab National Bank** (hereinafter referred to as “**the Bank**”) in relation to the credit facilities extended by the Bank in favour of “**KSPL**”.
3. In this matter, vide order dated 20/09/2021 Mr. Sajjan Kumar Dokania, Insolvency Professional has been appointed as Resolution Professional in exercise of the power conferred under section 97 of the IBC 2016, who has filed his report on 28/10/2021 recommending to accept the application as filed by the financial creditor, i.e., Punjab National Bank under section 95 of the

IBC, 2016 to initiate insolvency resolution process against Mr. Prashant Bothra.

4. However, *vide* order dated **24/03/2022**, this Adjudicating Authority has passed order in **CP(IB)/181(KB)2021 (ICICI Bank Limited -vs- Prashant Bothra)** admitting the petition u/s. 100 of the IBC, 2016 against the same Respondent-Personal Guarantor, Mr. Prashant Bothra, who was one of the directors of Kohinoor Paper and Newsprint Private Limited. In the said CP(IB)/181(KB)2021, Mr. Sudipta Ghosh, **IBBI Registration No. IBBI/IPA-001/IP-P00484/2017-18/10872**, of 8, N.N.Mukherjee 3rd Lane, Uttarpara, Hooghly 712258, e-mail id: sudipta_ghosh08@yahoo.com; telephone no. 9230823033/7008433289 has been appointed as RP of the personal guarantor, Mr. Prashant Bothra.
5. During the Insolvency Resolution Process (“IRP”) period, the assets of the Personal Guarantor shall vest in the RP and that public announcement shall be made immediately by the RP inviting claims from all creditors, as specified u/s. 102 of the Code.
6. As per section 101 of the Code, (1) *When the application is admitted u/s.100 of the Code, a moratorium shall commence in relation to all the debts and shall cease to have effect at the end of the period of one hundred and eighty days beginning with the date of admission of the application or on the date the Adjudicating Authority passes an order on the repayment plan under section 114, whichever is earlier* and (2) *During the moratorium period –*
 - (a) *any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed;*
 - (b) *the creditors shall not initiate any legal action or legal proceedings in respect of any debt; and*

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

7. In view of the above position, against the same personal guarantor another RP cannot be appointed as RP of the personal guarantor, Mr. Prashant Bothra. The Financial Creditor is directed to submit their claims with the RP appointed in **CP(IB)/181(KB)2021**.
8. CP(IB)/642(KB)2020 shall stand disposed of accordingly.
9. 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.
10. 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, 26th day of April, 2022.

hb.