



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – III**

C.P. No. 626/MB/C-III/2023

Under Section 95(1) of the Insolvency and
Bankruptcy Code, 2016 read with Rule 7(2) of
the Insolvency and Bankruptcy (Application to
Adjudication Authority) Rule 2019

IN THE MATTER OF

Bank of Maharashtra

Stressed Asset Management Bank
2nd Floor, Agarkar School Building,
Near Apollo Cinema, Somwarpeth,
Pune – 411011. **...Applicant/Creditor**

Versus

Shri. Satish Govind Dharne

Bungalow No. 17, Vrundavan Society,
Sahakar Nagar, Pune – 411009.
....Respondent/Guarantor

Order pronounced on: 30.10.2024

Coram:

**SHRI CHARANJEET SINGH GULATI
HON'BLE MEMBER (T)**

**SMT LAKSHMI GURUNG
HON'BLE MEMBER (J)**



Appearances:

For the Applicant: Adv. Siddharth Idnani, Adv. Manisha Shah, Adv.
Chittaranjan Shah i/b Kay Legal

Per: - SMT LAKSHMI GURUNG, MEMBER (J)

ORDER

1. The Present Company Petition has been filed under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 (“**IBC**”) by **Bank of Maharashtra (Applicant/Financial Creditor)** for initiating Insolvency Resolution Process against **Mr. Satish Govind Dharne (“Respondent/Personal Guarantor”)**.
2. The Applicant sanctioned two facilities to M/s Vishnu Gayatri Bio Coal & Agro Products Pvt. Ltd. (Corporate Debtor) vide Sanction Letter No. AW13/Adv/2012-13 dated 19.01.2013. The following credit facilities were sanctioned by the bank: -

Facility 1	Facility 2
Cash Credit	Term Loan
Rs.2,00,00,000	Rs.7,80,00,000

3. A Bond of Guarantee dated 24.01.2013 was executed by Mr. Satish Govind Dharane (**Personal Guarantor**) in favour of Bank of Maharashtra to secure the said credit facilities for Rs. 9,80,00,000/- granted to the Corporate Debtor.
4. The Corporate debtor defaulted in the repayment of the loan which resulted in their account being declared as Non-Performing Asset on 23.04.2014.



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5. The Applicant issued a SARFAESI Notice under section 13(2) on 08.07.2014 to the Corporate Debtor and the personal guarantors for repayment of the dues in respect of the credit facilities granted to the Corporate Debtor.
6. The Applicant had filed an Original Application No. 338/2015 before DRT, Pune on 21.04.2015 for total outstanding amount of Rs.15,30,19,846/- as on 27.04.2023.
7. The Applicant issued a Demand Notice dated 04.11.2022 in Form B under Rule (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution process of Personal Guarantors to Corporate Debtors) Rules, 2019.
8. In view of the aforesaid, the present application has been filed against the Respondent/Personal Guarantor under Section 95 of IBC.
9. After perusing the petition, we observe that the copy of the petition has been served on the Personal Guarantor on 11.05.2023 via e-mail address sarangadeo@gmail.com.
10. The Hon'ble Supreme Court in **Dilip B Jiwarajka Vs. Union of India & Ors. Writ Petition (Civil) No. 1281 of 2021** decided on 09.11.2023 held as follows: -
 - i. *No judicial adjudication is involved at the stages envisaged in Section 95 to Section 99 of the IBC;*
 - ii. *The Resolution Professional appointed under Section 97 serves a facilitative role of collating all the facts relevant to the examination of the application for the commencement of the insolvency resolution process which has been preferred under Section 94 or Section 95. The report to be*



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*submitted to the Adjudicating Authority is
recommendatory in nature on whether to accept or reject
the application.*

11. Therefore, at this stage no adjudication is required. The petition for initiating insolvency resolution process against Personal Guarantor to the Corporate Debtor is, prima facie, complete in all respect.
12. We also note that the Applicant has proposed the name of Ms. Megha Agrawal, having valid AFA upto 31.12.2025, to be appointed as Resolution Professional. Therefore, we deem fit to appoint **Ms. Megha Agrawal** bearing IBBI Registration No. IBBI/IPA-001/IP-P-01456/2018-2019/12272 as Resolution Professional of the Personal Guarantor.
13. The fee payable to Resolution Professional (RP) shall be in accordance with the Insolvency and Bankruptcy Board of India (IBBI) Regulations/Circulars/Directions issued in this regard.
14. The Bench directs for immediate adhoc payment of Rs. Rs.2,00,000/- by the Financial Creditor to the Resolution Professional to initiate the process which shall be adjusted towards the fee and expenses payable to the Resolution Professional.
15. The Resolution Professional is directed to examine the application as per the provisions laid down in Section 97(6) of IBC, 2016 including but not limited to **issue relating to limitation and invocation of Bank Guarantee** of the Respondent by the Petitioner and shall submit his report as provided under Section 99(1) of IBC,2016, **within 10 days** of the receipt of this order.
16. Further, the Registry is hereby directed to communicate this order to both the parties and to RP immediately. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of



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India for their record. The Petitioner is also directed to forthwith communicate this order to the Resolution Professional.

17. List the matter for report of the RP as and when the Report is filed by RP by way of an I.A.

Sd/-

CHARANJEET SINGH GULATI
(MEMBER TECHNICAL)

Vaishnavi, LRA

Sd/-

LAKSHMI GURUNG
(MEMBER JUDICIAL)