



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

C.P. No. 766/MB/C-III/2021

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

Central Bank of India

Having its branch office at: Central Bank of India, SAMB-I, Chandermukhi, Ground Floor, Nariman Point, Mumbai-400 021

.....Petitioner/Financial Creditor

V/s.

Mr. Manoj Uttam Khushalani

(Personal Guarantor of M/s. Worldstar Fabrics LLP)

Having Present address at: - 602, Manik Apartment Opp. Central Bank of India, Santacruz West, Mumbai- 400 054

.....Respondent/Personal Guarantor

Order pronounced on: **29.10.2024**

CORAM:

SHRI CHARANJEET SINGH GULATI
HON'BLE MEMBER (T)

SMT LAKSHMI GURUNG
HON'BLE MEMBER (J)

Appearances:

For the Petitioner : Adv. Rohit Giri a/w. Adv. Raina Birla
For the Personal Guarantor : Adv. Agam H Maloo



Per: - SMT LAKSHMI GURUNG, MEMBER (J)

ORDER

1. The Present Company Petition has been filed under section 95 of Insolvency and Bankruptcy Code, 2016 (“IBC, 2016”) by **Central Bank of India (Petitioner/Financial Creditor)** for initiating Insolvency Resolution Process against **Mr. Manoj Uttam Khushalani (“Respondent/Personal Guarantor”)**.
2. Vide sanction letter No. CFB/NP/CREDIT/2016-2017/S87 dated 13.10.2016 bearing letter, Central Bank of India had sanctioned Cash Credit Facilities & Working Capital Limit to the Tune of Rs. 25.00 Crores to M/s. Worldstar Fabrics LLP (**Corporate Debtor**). Thereafter, by way of modification letter dated 02.01.2017, the Central Bank of India has reduced the existing Cash Credit limit to Rs. 18.00 Crores.
3. In terms of the aforesaid Cash Credit Facilities & Working Capital Limit availed by the Corporate Debtor, **Deed of Guarantee** dated **20.01.2017**, was executed in favour of Central Bank of India by **Mr. Manoj Uttam Khushalani** and Mr. Urvil Akshaya Jani, to secure the repayment of loan to the Corporate Debtor.
4. On 28.08.2018, CIRP against M/s. Worldstar Fabrics LLP was initiated.
5. The Petitioner sent a Demand Notice in Form B dated 09.12.2020 under rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules 2019 addressed the Personal Guarantors to pay the unpaid debt in default by the Corporate Debtor amounting to Rs. 26,56,72,470/- within Fourteen days from the date of the receipt of



demand notice. The Petitioner argued that this demand notice amounts to invocation of bank guarantee.

6. In view of the aforesaid, the Present application has been filed for appointment of Resolution Professional under section 95 of IBC.
7. 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:-

Quote

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

Unquote

8. Therefore, at this stage no adjudication is required. The Petition for initiating insolvency resolution process against Personal Guarantor to the Corporate Debtor is in prescribed form as mandated under section 95(6) of the IBC, and a copy of this present petition was served on the Personal Guarantor on 29.07.2021.
9. The petitioner has not suggested the name of Resolution Professional (**RP**). We appoint, **Mr. Debi Prasanna Sarangi** Registration No. IBBI/IPA-002/IP-N00158/2017-18/10405 as Resolution Professional ("**RP**") from the list provided by IBBI.



10. 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.
11. This Bench also directs for an advance payment of Rs. 2,00,000/- to be paid by the Financial Creditor to the Resolution Professional (RP) immediately to initiate the process which shall be adjusted towards the fee and expenses payable to the Resolution Professional (RP).
12. The Resolution Professional is directed to examine the application as set out 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.
13. 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 India for their record. The Petitioner is also directed to forthwith communicate this order to the Resolution Professional.
14. List the matter as and when the Report is filed by RP by way of an I.A.

Sd/-

CHARANJEET SINGH GULATI
(MEMBER TECHNICAL)

---Rajeev, PS---

Sd/-

LAKSHMI GURUNG
(MEMBER JUDICIAL)