

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



**C.P. No. (IB) 1212/MB/C-III/2022**

Under Section 121(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtor) Rules, 2019

*In the matter of*

**State Bank of India**

Having office at:  
Stressed Assets Recovery Branch – II,  
Mumbai, Raheja Chambers, Ground  
Floor, Wing – B, Free Press Journal  
Marg, Nariman Point, Mumbai-  
400021

***... Financial Creditor/Petitioner***

Vs.

**Smt. Neelvarna Rupnar**

Residing at:  
Plot No. 80, National Housing Society,  
Aundh, Pune - 411007

***... Personal Guarantor/Respondent***

**Order pronounced on: 29.10.2024**

**Coram:**

Hon'ble Ms. Lakshmi Gurung, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati (Technical)



**Appearances:**

For the Petitioner

: Adv. Sanjay Dubey

***Per: Ms. Lakshmi Gurung, Member (Judicial)***

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1. This Petition has been filed by State Bank of India (“**Petitioner/ Financial Creditor**”) under section **121** of the Insolvency and Bankruptcy Code, 2016 (“**the Code**”) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019 (“**Rules**”) seeking to initiate Bankruptcy Process against Smt. Neelvarna Rupnar being the Personal Guarantor of Fabtech Projects and Engineers Ltd. (“**Corporate Debtor**”).

**2. Facts in brief:**

- 2.1 State Bank of India (**Petitioner/ Financial Creditor**) sanctioned a term loan to Fabtech Projects and Engineers Ltd. (**Corporate Debtor**) vide sanction letter dated 06.12.2020 which was renewed on 04.04.2012 and 16.01.2018.
- 2.2 To secure the said loan, Smt. Neelvarna Rupnar (**Personal Guarantor**) has given a personal guarantee in favour of the Petitioner.
- 2.3 The Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor was initiated vide order dated 24.09.2019 passed in Company Petition 1222 of 2019 filed by Bank of Maharashtra under section 7 of the Insolvency and Bankruptcy Code, 2016 (**Code**).



- 2.4 Thereafter, the Petitioner/Financial Creditor issued demand notice on 24.06.2020 calling upon the Personal Guarantor to pay Rs. 306,93,94,623.79. On default by the Personal Guarantor in repaying the amount, the Financial Creditor filed Company Petition No. 1734 of 2020 under Section 95 of the Code seeking initiation of Insolvency Resolution Process against the Personal Guarantor. Vide order dated 22.02.2021, Mr. Manoj Kuma Mishra was appointed as the Resolution Professional (**RP**).
- 2.5 The Personal Guarantor had submitted a Repayment Plan on 23.11.2021 which was however disapproved by the Committee of Creditors (**CoC**) of Personal Guarantor by 97.99% voting. Thereafter, the RP submitted his report by way of Interlocutory Application No. 200/2022 filed under section 112 of the Code.
- 2.6 Since, the CoC of the Personal Guarantor disapproved the Repayment Plan, this Adjudicating Authority vide order dated 04.05.2022 closed the insolvency resolution process of the Personal Guarantor in following terms:

*“5. ... Through this Order, it is hereby declared that the Personal Insolvency Resolution Process of the Personal Guarantor is hereby closed.*

*6. Further, the Bankruptcy proceeding can be initiated against the Personal Guarantor under section 121 of the Code (Chapter IV of the Code as mentioned in Section 115(2) of the Code) within a period of 3 months of the date of the order passed by this Bench.”*



2.7 In view of the aforesaid facts and circumstances, the present application has been filed by the Financial Creditor under section 121 read with section 123 of the Code seeking initiation of Bankruptcy process in respect of the Personal Guarantor.

3. This Tribunal, vide order dated 04.05.2022, had declared that the bankruptcy proceedings can be initiated against the Personal Guarantor under section 121 of the Code within a period of 3 (three) months. Accordingly, this petition has been filed.

4. On perusal of the material placed on record, we note that the present petition has been filed in the prescribed form accompanied by the relevant documents and we are satisfied that the Petition complies with all the requirements as prescribed in section 123 of the Code. Therefore, we consider it proper to admit this Petition and pass following orders:

- i. Smt. Neetvarna Rupnar, the Personal Guarantor herein, is declared as **Bankrupt**.
- ii. The Financial Creditor has proposed the name of Mr. Manoj Kumar Mishra having IBBI Registration No. *IBBI/ IPA-001/IP- P01152/2018-19/11902* to act as the Bankruptcy Trustee. The proposed insolvency professional has submitted Written Consent dated 04.08.2022 under Regulation 3(3) of the Insolvency and Bankruptcy (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019. The Written Consent is accompanied by Authorisation for Assignment (AFA) dated 18.01.2022. Upon verification, we note that the AFA of the proposed bankruptcy trustee is valid upto 07.12.2024.



Accordingly, we appoint **Mr. Manoj Kumar Mishra** ([ipmanojkumarmishra@gmail.com](mailto:ipmanojkumarmishra@gmail.com)), having office at 18, Dholakwala building, 3<sup>rd</sup> Floor, Janmabhoomi Marg, Fort, *Mumbai – 400001*, as the **Bankruptcy Trustee**.

iii. The Registry is directed to provide the copy of this Bankruptcy order and the copy of the Bankruptcy petition to:

- a) Bankrupt,
- b) Creditors, and
- c) Bankruptcy Trustee

within 7 (seven) days as provided under Section 126 (2) of the Code.

iv. The estate of the bankrupt as provided under section 155 of the Code read with Rule 5 of Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtor) Rules, 2019 shall:

- a) Vest in the Bankruptcy Trustee as provided under section 128 and 154 of the Code;
- b) The estate of the bankrupt shall be divided among her creditors;
- c) Subject to provisions of sub-section (2), a creditor of the bankrupt indebted in respect of any debt claimed as a bankruptcy debt shall not –
  - i) Initiate any action against the property of the bankrupt in respect of such debt; or
  - ii) Commence any suit or other legal proceedings except with the leave of the Adjudicating

Authority and on such terms as the  
Adjudicating Authority may impose.



- v. The Bankruptcy trustee shall discharge his powers and duties as specified in the Code and shall adhere to the applicable provisions of the Code and the Rules and Regulations issued by the IBBI in this regard from time to time.
- vi. The Bankrupt shall submit her statement of financial position to the bankruptcy trustee in the prescribed form within 7 (seven) days from the date of this order i.e. Bankruptcy commencement date as provided in section 129 of the Code.
- vii. The Bankruptcy trustee shall send notices within 10 (ten days) from the bankruptcy commencement date to the creditors specified in as provided under section 130(a) of the Code.
- viii. The Bankruptcy Trustee shall issue Public Notice inviting claims from the creditors as contemplated under section 130 (2) of the Code in leading newspapers, one in English and another in vernacular having sufficient circulation where the bankrupt resides.
- ix. The Bankruptcy Trustee shall conduct the administration of distribution of estate of bankrupt in accordance with the provisions of Chapter V of the Code.



- x. The Bankrupt shall from the date of the order be subject to such disqualifications and restrictions as specified under sections 140 and 141 of the Code.
- xi. The Bankruptcy Trustee may seek such further information or explanation in connection with bankruptcy process as may be required from the debtor or the creditor or any other person who in the opinion of the Bankruptcy Trustee, may provide such information. The persons from whom information or explanation is sought shall furnish such information or explanation within seven days of receipt of the request.
- xii. The Bankruptcy Trustee shall submit to this Adjudicating Authority and committee a preliminary report within 90 (ninety) days of the bankruptcy commencement date and a copy of the report shall also be served on the bankrupt as provided in Regulation 8 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for personal Guarantors to corporate debtors) Regulation, 2019.
- xiii. The Bankruptcy Trustee shall submit progress reports to the Adjudicating Authority within 15 (fifteen) days after the end of every quarter and a copy of the report shall also be served upon the bankrupt as provided under Regulation 10 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for personal Guarantors to corporate debtors) Regulation, 2019.
- xiv. The fee of Bankruptcy trustee is stated in the letter dated 02.08.2022 issued by the Petitioner/Financial Creditor as

Rs. 70,000/- + GST per month read together with the terms more particularly stated therein.



- xv. 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.
  - xvi. A certified copy of the order is to be issued upon compliance with requisite formalities.
  - xvii. This order of Bankruptcy shall continue to have the effect till the debtor is discharged under section 138 of the Code.
5. Accordingly, the Company Petition No. 1212/MB/2022 is **allowed.**

**Sd/-**

**Charanjeet Singh Gulati**  
**Member (Technical)**

Uma, LRA

**Sd/-**

**Lakshmi Gurung**  
**Member (Judicial)**