



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

C.P. No. 1037/MB/C-III/2022

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

Indian Bank

(Through RP Mr. Anil Kashi Drolia)

Having its branch office at: Stressed Assets Management Branch, Mittal Chamber, Office No. 73, 7th Floor, Nariman Point, Mumbai 400032.

.....Petitioner/ Financial Creditor

V/s.

Mr. Amit Amarchand Narang

Having Present address at: - Flat No. 301, 3rd Floor, Narang Manor, Plot No. 96/B, 15th Road, Near Agarwal Nursing Home, TPS III, Bandra West, Mumbai- 400050

.....Respondent/ Personal Guarantor

Order delivered on: 21.10.2024

CORAM:

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

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

Appearances:

For the RP : Adv. Deepali Jaiswar a/w. Adv. Raina Birla
For the Personal Guarantor : Adv. Ahmed Chunwala



Per: - Shri Charanjeet Singh Gulati Member (T)

ORDER

1. The Present Company Petition has been filed under section 95 of Insolvency and Bankruptcy Code, 2016 ("IBC, 2016") by **Indian Bank (Petitioner/Financial Creditor)** for initiating Insolvency Resolution Process against **Mr. Amit Amarchand Narang ("Respondent/Personal Guarantor")**.
2. The Applicant Indian Bank has filed the present Company Petition through Resolution Professional Shri Anil Kashi Drolia seeking initiation of Personal Insolvency proceedings under Section 95 and 97 of the Insolvency and Bankruptcy Code, 2016 ("IBC") against Mr. Amit Amarchand Narang, being a Personal Guarantor ("**Personal Guarantor**") to the debts owed by Narang Developers Private Limited ("**Corporate Debtor**").
3. The Corporate Debtor had approached the Financial Creditor for providing Term Loan facilities. The Creditor vide Sanction Letter bearing Ref No. IRB/121/2016-17 dated 09.03.2017, sanctioned a Term Loan to the tune of Rs. 7.85 Crores (Rupees seven Crores and eighty-five lakhs only).
4. The aforesaid loans were secured by way of personal guarantee of the guarantor vide Guarantee Agreement dated 30.03.2017.
5. Upon violation of terms and sanction and occurrence of events of default, the account was classified as Non-Performing Assets ("NPA") on 18.09.2018.
6. In view of the Corporate Debtor's default, the Petitioner issued Notice dated 03.10.2018 under section 13(2) of Securitization & Reconstruction of Financial Assets and Enforcement of Security Act 2002 to the



Borrower & Mortgagor and Guarantors demanding repayment of Term Loan of Rs. 785 lakhs.

7. A legal notice was also issued on 15.06.2020 to the Corporate Debtor as well as to the Guarantors.
8. The Applicant Bank sent a Demand Notice in Form B dated 23.05.2022 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 to the Respondent to pay dues of the Corporate Debtor amounting to Rs. 12,87,85,997.73 within Fourteen days from the date of the receipt of demand notice. Despite the receipt of the demand notice, the Respondent has failed to pay the amount. The applicant has argued that this demand notice amounts to invocation of bank guarantee.
9. Despite extending all kinds of support and opportunity to regularize the accounts, the Corporate Debtor as well as Personal Guarantor have failed in all respects to repay the outstanding dues including interest.
10. Accordingly, on 23.06.2020 the Applicant has filed OA with Ld. DRT 1, Mumbai.
11. From the tracking report it can be seen that the copy of the petition has been served on the Personal Guarantor.
12. In view of the aforesaid, the present application has been filed for appointment of Resolution Professional under section 95 of IBC.
13. The Hon'ble Supreme Court in ***Dilip B Jiwrajka 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

Therefore, at this stage no adjudication is required.

14. The Petition for initiating insolvency resolution process against Personal Guarantor to the Corporate Debtor is, prima facie, complete in all respect. The Petitioner has proposed the name of the Insolvency Professional, Mr. Anil Kashi Drolia an insolvency professional enrolled with Insolvency and Bankruptcy Board of India having registration number IBBI/IPA-001/IP-P02327/2020-2021/13482 for appointment as Resolution Professional, who has given written consent dated 23.06.2022 to act as Resolution Professional. The AFA valid upto 30.06.2025.
15. Accordingly, we appoint **Mr. Anil Kashi Drolia**, Registration No. IBBI/IPA-001/IP-P02327/2020-2021/13482 as Resolution Professional (**“RP”**) of the Personal Guarantor.
16. 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.



17. This Bench also directs for an advance payment of Rs.1,00,000/- (Rupees One Lakh only) 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”)
18. The Resolution Professional is directed to examine the application as set out in Section 97(6) of IBC, 2016 who after examining, shall submit his report as provided under Section 99(1) of IBC, 2016, **within 10 days** of receipt of this orders.
19. 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.
20. List the matter for report of the RP as and when the report of RP is filed.

Sd/-

CHARANJEET SINGH GULATI
(MEMBER TECHNICAL)

---Rajeev, PS---

Sd/-

LAKSHMI GURUNG
(MEMBER JUDICIAL)