

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT – II)**

**Item No. 304**  
**IB-985/ND/2020**  
**New IA-4353/2024**

**IN THE MATTER OF:**

**Hulas Rahul Gupta**

... **Applicant/Petitioner**

**Versus**

**Union Bank of India & Ors.**

... **Respondent**

**Under Section: 95(1) of IBC, 2016**

**Order delivered on 09.09.2024**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ**  
**HON'BLE MEMBER (J)**

**SH. SUBRATA KUMAR DASH**  
**HON'BLE MEMBER (T)**

**PRESENT:**

**For the Applicant :**

**For the Respondent :**

**Hearing Through: VC and Physical (Hybrid) Mode**

**ORDER**

**IA-4353/2024:** The present application has been preferred by the Debtor/Personal Guarantor in terms of the provisions of Section 122 of IBC, 2016 for commencement of bankruptcy qua the Applicant.

Though, the Panel of IPs made available to this Tribunal by Insolvency and Bankruptcy Board of India (IBBI) provides that the panel would for appointment of IPs as Interim Resolution Professional in a Corporate Insolvency Process (CIRP) under Section 16(4), the Liquidator in liquidation process under Section 34(6), Resolution Professional (RP) individual Insolvency Resolution Process under Section 97(4) or 98 (3) and Bankruptcy Trustee under Section 125(4), 146(3) of 174(3) of Insolvency and Bankruptcy Code, 2016, but in the present case, the Applicant has suggested the name of **Vikram Vishal Minhas, Registration No. IBBI/IPA-001/IP-P01534/2018-2019/12398**, who acted as RP qua Insolvency Resolution Process as Bankruptcy Trustee. When Section 16(2) of IBC, clearly provides that the Resolution Professional proposed in the application under Section 7 or 10

shall be appointed as IRP if no disciplinary proceedings are pending against him, the Section 125 of the Code has different spirit.

In terms of the provisions of Section 125 of the Code if an Insolvency Professional is proposed as the Bankruptcy Trustee in the application for Bankruptcy under Section 22 or Section 123 the Adjudicating Authority shall direct the Board within 7 days of receiving the applications for bankruptcy to confirm that there are no disciplinary proceeding pending against such professional, then the Board shall within 10 days of the receipt of the direction under sub-section 1, either confirm the appointment of the proposed IP as BS for Bankruptcy Process or reject the appointment of IP and the Bankruptcy of Trustee and nominate another Bankruptcy Trustee for the Bankruptcy process. Section 125 of the Code reads thus:

***125. Appointment of insolvency professional as bankruptcy trustee. –***

*(1) If an insolvency professional is proposed as the bankruptcy trustee in the application for bankruptcy under section 122 or section 123, the Adjudicating Authority shall direct the Board within seven days of receiving the application for bankruptcy to confirm that there are no disciplinary proceedings against such professional.*

*(2) The Board shall within ten days of the receipt of the direction under sub-section (1) in writing either –*

*(a) confirm the appointment of the proposed insolvency professional as the bankruptcy trustee for the bankruptcy process; or*

*(b) reject the appointment of the proposed insolvency professional as the bankruptcy trustee and nominate another bankruptcy trustee for the bankruptcy process.*

*(3) Where a bankruptcy trustee is not proposed by the debtor or creditor under section 122 or 123, the Adjudicating Authority shall direct the Board within seven days of receiving the application to nominate a bankruptcy trustee for the bankruptcy process.*

*(4) The Board shall nominate a bankruptcy trustee within ten days of receiving the direction of the Adjudicating Authority under sub-section (3).*

*(5) The bankruptcy trustee confirmed or nominated under this section shall be appointed as the bankruptcy trustee by the Adjudicating Authority in the bankruptcy order under section 126."*

Let the notice be issued to IBBI for necessary steps in terms of the provisions of Section 125 of the Code (ibid).

The compliance of the aforementioned provisions be reported within 10 days from the date of receipt of the notice. The applicant is directed to serve notice upon the IBBI forthwith. **The Court officer will also send a copy of this order to IBBI.**

List on **26.09.2024**.

**Sd/-**  
**(SUBRATA KUMAR DASH)**  
**MEMBER (T)**

**Sd/-**  
**(ASHOK KUMAR BHARDWAJ)**  
**MEMBER (J)**