



NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, BENCH (COURT-II)

I.A. NO. 1919(ND)/2025

IN

CP(IB)-926(ND)/2022

IN THE MATTER:

(Under Section 95 of IBC, 2016)

J.C. Flowers Asset Reconstruction Pvt. Ltd.

**... Applicant/
Financial Creditor**

Versus

Mr. Devendra Gupta

... Respondent/Personal Guarantor

AND IN THE MATTER OF I.A. NO. 1919 OF 2025:

(Under Section 121 of IBC, 2016)

J.C. Flowers Asset Reconstruction Pvt. Ltd.

(Through Authorised Signatory Mr. Amandeep Singh Bajaj)

Unit No. 203-206, 2nd Floor, Wing-A

Inspire BKC, Bandra Kurla Complex

Bandra (East), Mumbai – 400051

... Applicant/FC

Versus

Mr. Devendra Gupta

Link Road, Village Samlakha,

New Delhi- 110037

... Respondent/PG

Order Delivered on: 29.08.2025

CORAM:

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

MS. REENA SINHA PURI, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Adv. Karan Kohli

For the FC : Adv. Arnav Vidyarthi



ORDER

PER: SHRI ASHOK KUMAR BHARDWAJ, MEMBER (J)

Stating succinctly, the C.P.(IB)-926(PB)2022 was preferred under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 by Yes Bank Limited which was later substituted by J.C. Flower Asset Reconstruction Private Limited (hereinafter referred to as the “**Financial Creditor/FC**”) with prayer to initiate the personal insolvency resolution process qua **Mr. Devendra Gupta** (hereinafter referred to as the “**Personal Guarantor/ PG**”).

2. As stated in the captioned petition, Mr. Devendra Gupta stood as Personal Guarantor qua the financial facility availed by Mothers Pride Education Personna Private Limited, (hereinafter referred to as “**Corporate Debtor**”) and the total defaulted amount as on 31.03.2025 was calculated as Rs. 371,459,029.04/-.

3. In terms of order dated 28.02.2023, this tribunal could appoint Mr. Saurabh Chawla as Resolution Professional qua PG. The relevant excerpt of the order reads thus:-

As proposed by the Applicant/Guarantor, this Bench appoints Mr. Saurabh Chawla (Email ID: saurabh445@gmail.com) as Resolution Professional, whose details are given below:

IBBI Registration No.	:	IBBI/IPA-003/ICAI-N-00368/2021-2022/13834
E-mail Address	:	saurabh445@gmail.com
Contact Number	:	8929106031, 011-45101111

The Resolution Professional so appointed shall exercise all the powers as stipulated under Section 99 of IBC, 2016 read with Rules made



thereunder. He is directed to examine the application and make recommendations with reasons in writing for acceptance or rejection of the present application within the time stipulated under Section 99 of IBC, 2016.

4. In terms of the aforementioned order of this Tribunal, the RP could file his report under Section 99 of the Code vide IA-1496/2023, stating that the application filed by the Financial Creditor satisfied all the requirements under Section 95 of the Code and recommended initiation of PIRP qua the PG.

5. On 22.03.2024, this Tribunal passed order under Section 100(1) of IBC, 2016 admitting CP(IB)-926/ND/2022, which resulted in commencement of the Personal Insolvency Resolution Process qua Mr. Devendra Gupta i.e. the Personal Guarantor. Thus, the moratorium as envisaged under Section 101 of the Code came into operation. Relevant excerpt of the order dated 22.03.2024 reads thus:-

“25. In the sequel to the aforesaid circumstances, the Creditor has been able to establish the ‘debt’ and ‘default’ beyond doubt in respect of the Guarantee given by the Respondent/Personal Guarantor. Hence, we have no reason to disagree with the recommendation given by the RP for admitting the Application. Thus, we accept the report of the RP given by him in terms of the provisions of Section 99 of the IBC, 2016, and admit the CP (IB)-926/ND/2022 filed by the Creditor. Ergo, we order the initiation of the IR process in respect of Mr. Devendra Gupta, Respondent/Personal Guarantor with immediate effect.

26. It goes without saying that during the IRP, (Insolvency Resolution Process) the RP shall give an opportunity to personal guarantor to submit her repayment plan. Nevertheless, before that the RP shall also carry the exercise in terms of the provisions of Section 100(2) of IBC 2016. For such purpose it would be open to the Respondents to appear before RP within 1 week from today.



27. There is no request by the RP for the purpose of conducting negotiation between the debtor and the creditors. As a sequel of admission of the present application, a moratorium shall commence in relation to all the debts of the Respondent. During the moratorium period – (a) any pending legal action or proceedings in respect of any debt qua the Respondent shall be deemed to have been stayed; (b) the creditors shall not initiate any legal action or legal proceedings in respect of any debt qua the Respondent; and (c) the debtors shall not transfer, alienate, encumber or dispose of any of the assets or his legal right or beneficiary interest therein. The moratorium shall cease to have effect at the end of period of 180 days.”

6. As can be seen from the record, the Resolution Professional (RP) issued a Public Announcement dated 29.03.2024 in accordance with Section 102 of the Code (ibid). The said announcement was published in the newspapers Business Standard and Rashtriya Sahara inviting claims from all creditors of the Personal Guarantor.

7. It is noted that the PG did not respond to e-mails dated 01.04.2024, 04.04.2024, 10.04.2024 and letter dated 11.04.2024 sent to him by the RP seeking certain documents and information to prepare a statement of affairs. The position was brought before the creditors in their first meeting, apprising them about such non co-operation from the PG.

8. The list of creditors qua PG as prepared by the RP in terms of Section 104 of the Code reads thus:-



List of Creditors under Sec 104 of IBC 2016, read with Regulation 9 of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors), Regulations 2019				
Sr. No.	Name of Creditor	Voting Share	Details of Claims	
			Amount Claimed (in INR)	Amount Admitted (in INR)
1	J.C. Flowers Asset Reconstructi on Pvt Ltd. (acting in its capacity as trustee of JCF Yes Trust 2022-23/18)	35.0%	1,201,450,795	1,201,450,795
2	HDFC Bank Ltd.	32.0%	1,141,093,380	1,115,867,305
3	Aditya Birla	33.0%	1,121,115,713	1,121,115,713
	Total	100%	3,463,659,888	3,438,433,813

9. As the PG did not submit any repayment plan, the RP filed a status report on 20.05.2024 vide I.A. No. 2757 of 2024 which was taken on record by this Adjudicating Authority in terms of order dated 03.06.2024. Thereafter, the PG failed to provide the necessary information and the Resolution Professional filed I.A. No. 3584 of 2024 under Regulation 22 of PG Regulations seeking cooperation of the Personal Guarantor in preparation of repayment plan which was allowed vide order dated 30.08.2024.

10. Vide email dated 05.09.2024, the PG shared an excel file pertaining to his assets and liabilities as on 31.03.2024. Further, the Resolution Professional sought complete details for preparation of statement of affairs as well as requested for the basis of valuation of the assets mentioned in the excel sheet and share the copy of valuation report, if any. The RP vide email dated 16.09.2024 apprised the PG that the classification of creditors as on 10.05.2024 as unsecured creditor is correct as per the provisions of the Code & the underlying Regulations.



11. Since the RP did not receive any other information from the PG and the PG failed to submit Repayment Plan, the RP filed its Report under Section 112 of the Code vide I.A. 5445 of 2024 seeking appropriate directions under Section 114 r/w 115 of the Code. In terms of the order dated 08.01.2025 passed by this Tribunal in I.A. No. 5445 of 2024, the PIRP was closed and the creditors were granted liberty to institute appropriate proceedings, in terms of the provisions of Section 115(2) read with section 121 of IBC, 2016.

12. In view of the aforementioned order, the Applicant/FC has filed the captioned I.A. No. 1919(ND)/2025 with the following prayer: -

“Allow the present Application and direct the initiation of bankruptcy proceedings against the Personal Guarantor/Respondent in the captioned matter.”

13. As per sub-sections (1) and (2) of Section 121 of the Code, an application for bankruptcy of PG needs to be filed by the creditor within a period of three months from the date of order passed by the Adjudicating Authority under Section 100(4) or Section 115(2) or Section 118(3) of IBC, 2016. The provision reads thus: -

“121. Application for bankruptcy. — (1) *An application for bankruptcy of a debtor may be made, by a creditor individually or jointly with other creditors or by a debtor, to the Adjudicating Authority in the following circumstances, namely; —*

- (a) where an order has been passed by an Adjudicating Authority under sub-section 4 of section 100; or*
- (b) where an order has been passed by an Adjudicating Authority under sub-section 2 of section 115; or*
- (c) where an order has been passed by an Adjudicating Authority under sub-section 3 of section 118.*



(2) An application for bankruptcy shall be filed within a period of three months of the date of the order passed by the Adjudicating Authority under the sections referred to in sub-section (1).

(3) Where the debtor is a firm, the application under sub-section (1) may be filed by any of its partners.”

14. As has been noted hereinabove in terms of order 08.01.2025 this Tribunal viewed that the creditor may initiate bankruptcy proceedings qua the PG. In compliance of said direction, the creditor preferred the captioned I.A. on 08.04.2025 i.e. within three months from the date of order passed under Section 115(2) of the Code.

15. In terms of the provisions of Section 123 of the Code, an application for bankruptcy by the creditor shall be accompanied by record of the insolvency resolution process under Chapter III of the Code as also the order passed by the Adjudicating Authority permitting the creditor to apply for bankruptcy proceeding qua the Personal Guarantor. Further, the aforesaid provision also provides for the creditor to propose an insolvency professional as the Bankruptcy Trustee. The Section 123 of the Code reads thus:-

“123. Application by creditor.—*(1) The application for bankruptcy by the creditor shall be accompanied by—*

- (a) the records of insolvency resolution process undertaken under Chapter III;*
- (b) a copy of the order passed by the Adjudicating Authority under Chapter III permitting the creditor to apply for bankruptcy;*
- (c) details of the debts owed by the debtor to the creditor as on the date of the application for bankruptcy; and*
- (d) such other information as may be prescribed.*



(2) An application under sub-section (1) made in respect of a debt which is secured, shall be accompanied with—

- (a) a statement by the creditor having the right to enforce the security that he shall, in the event of a bankruptcy order being made, give up his security for the benefit of all the creditors of the bankrupt; or*
- (b) a statement by the creditor stating—*
 - (i) that the application for bankruptcy is only in respect of the unsecured part of the debt; and*
 - (ii) an estimated value of the unsecured part of the debt.*

(3) If a secured creditor makes an application for bankruptcy and submits a statement under clause (b) of sub-section (2), the secured and unsecured parts of the debt shall be treated as separate debts.

(4) The creditor may propose an insolvency professional as the bankruptcy trustee in the application for bankruptcy.

(5) An application for bankruptcy under sub-section (1), in case of a deceased debtor, may be filed against his legal representatives.

(6) The application for bankruptcy shall be in such form and manner and accompanied by such fee as may be prescribed.

(7) An application for bankruptcy by the creditor shall not be withdrawn without the permission of the Adjudicating Authority.”

16. In consonance with clauses (a) and (b) of Section 123(1) of the Code (ibid), the Creditor has enclosed with the instant I.A., the records pertaining to the IR process qua Respondent/Personal Guarantor, as also a copy of the order dated 08.01.2025, whereby this Tribunal permitted the Creditor to initiate bankruptcy proceedings qua Personal Guarantor. Further, the details of the debt as required under Section 123(1)(c) of the Code, has been provided in Part III of the application.



17. As can be seen from clause 16 of the above referred Part III of the application, the creditor has also given a statement under Section 123(2) of the Code, asserting therein that the captioned application is only in respect of unsecured debt.

18. In Part IV of the application, the Applicant viz., J.C. Flowers Asset Reconstruction Pvt. Ltd. has also proposed the name of Insolvency Professional viz. Mr. Saurabh Chawla having IBBI registration no.- IBBI/IPA-003/ICAI-N-00368/2021-2022/ 13834, to act as the Bankruptcy Trustee, in the present bankruptcy proceedings. As per sub-section (5) of Section 125 of the Code, the Bankruptcy Trustee confirmed or nominated under the section shall be appointed as the bankruptcy trustee by the Adjudicating Authority in the bankruptcy order under section 126. The 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 pending 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 subsection (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.”

19. Mr. Saurabh Chawla has accorded his written consent in Form A to act as Bankruptcy Trustee in terms of Regulation 3(3) of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019. The relevant excerpt of the consent reads thus:-

3. I declare and affirm as under: -

(a) I am registered with the Board as an insolvency professional.

(b) I am not subject to any disciplinary proceedings initiated by the Board or the Insolvency Professional Agency.

(c) I do not suffer from any disability to act as a bankruptcy trustee.

(d) I am eligible to be appointed as bankruptcy trustee of the bankrupt under regulation 3 of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 and other applicable provisions of the Code and regulations.

(e) I shall make the disclosures in accordance with the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;

20. In the wake, we **declare the Personal Guarantor viz. Mr. Devendra Gupta as Bankrupt.** As proposed by the Applicant, **this Bench appoints Mr. Saurabh Chawla, IP as Bankruptcy Trustee having IBBI registration no.- IBBI/IPA-003/ICAI-N-00368/2021-2022/13834 and e-mail saurabh445@gmail.com and mobile no. 9818426272.**



21. As mandated under Section 127 of the Code, this order of Bankruptcy shall continue to have the effect till the debtor is discharged under section 138 of IBC, 2016.

22. The bankrupt shall submit his statement of financial position to the bankruptcy trustee in the prescribed Form within seven days from the date of the order, as required under Section 129 of IBC, 2016.

23. By operation of the provisions of Section 128 and 154 of the IBC, 2016, the estate of the bankrupt excluding the assets mentioned in Section 155(2) of Code r/w Rule 5 of Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtor) Rules, 2019 would vest with the Bankruptcy Trustee. The Bankruptcy Trustee is directed to take into his custody all the assets, properties, and actionable claims of the Bankrupt and take necessary steps to ensure preservation, protection, security and maintenance of those properties as provided under section 128 and 154 of IBC, 2016 forthwith.

24. The Bankruptcy Trustee is directed to adhere to provisions of Section 128, 129(4), 132, 133, 134, 135, 136 and 137 of IBC, 2016 and discharge his powers and duties as specified meticulously and to adhere to the Rules and Regulations issued by IBBI in this regard from time to time. Besides, the Bankruptcy Trustee would perform his duty and function as provided in Section 149, 150, 157, 159, 164, 165, 166 and 167 of the Code.

25. The Bankruptcy Trustee would be entitled to exercise the right and general power as provided in Section 151 and 152 of the Code. The Bankrupt,



his banker or agent or any other person having possession of his property, books, papers, or other records which the Bankruptcy Trustee is required to take possession for the purpose of the Bankruptcy process shall deliver the said property and documents to the Bankruptcy Trustee as per provisions of Section 157 of IBC, 2016.

26. The Bankruptcy Trustee would also ensure the compliance of all the provisions of IBC, particularly those contained in Chapter IV and V thereof.

27. The Bankruptcy Trustee shall send public notices as provided under Section 130(a) of IBC, 2016 within ten days from the date of this order to the creditors mentioned in statement of affairs submitted by the Bankrupt under section 129 of IBC, 2016 as also to the creditors mentioned in the captioned application. The Public Notice inviting claims from the creditors as contemplated under section 130(2) of the Code shall be issued in two leading newspapers, one in English and one in vernacular newspaper having wide circulation where the bankrupt resides.

28. In the wake of the present order and subject to the provisions of sub-section (2) of 128 of the Code, no action shall be initiated against the property of the bankrupt in respect of debt and no suit or other legal proceeding shall be initiated against the bankrupt, save and except with the leave of this Adjudicating Authority as provided in Section 128(1)(c) of the Code and on such terms as this Adjudicating Authority may impose.



29. The Bankruptcy Trustee shall conduct the administration of distribution of estates of bankrupt under Chapter V as provided in Section 136 of the Code.

30. In the wake of the present order the bankrupt would incur such disqualifications and restrictions as are provided under Sections 140 and 141 of the Code.

31. The Bankruptcy Trustee may seek such further information or explanation in connection with the 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. The Bankruptcy Trustee would exercise all the powers as enumerated under the Code read with Rules and Regulations made thereunder.

32. The Bankruptcy Trustee shall submit to this Adjudicating Authority and committee a preliminary report within ninety days from the date of this Bankruptcy Order after serving copy of the report on bankrupt as provided in Regulation 8 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulation, 2019.

33. The Bankruptcy Trustee shall submit to this Authority periodical progress report within fifteen days after the end of every quarter after serving copy of the report on the bankrupt provided under Regulation 10 of Insolvency



and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulation, 2019.

34. The fee of Bankruptcy Trustee would be determined as per Regulation 4 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019. The Bankruptcy Trustee would also show due deference to the provisions of Section 169 of IBC, 2016.

35. The Registry is directed to send copies of the order forthwith to Bankrupt, Creditors and Bankruptcy Trustee within seven days for taking necessary steps through e-mail. A certified copy of the order is to be issued upon compliance with requisite formalities.

36. In terms of the aforesaid directions, the I.A. No. 1919(ND)/2025 stands disposed of.

**Sd/-
(REENA SINHA PURI)
MEMBER (T)**

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