

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH



ITEM No. 216
(IB)-948(PB)/2020

IN THE MATTER OF:

State Bank of India

.... Petitioner

Vs

Sameer Ahmad Khan

.... Respondent

Order under Section 95(1) of Insolvency and Bankruptcy Code, 2016.

Order delivered on 21.05.2025

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SHRI RAVINDRA CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

HYBRID HEARING (PHYSICAL & VC)

PRESENT:

For the ROC

: Ms. Niti Khanna, Ms. Mehak Khandelwal

For the Applicant

: Mr. Siddhant Sahgal, Ms. Richa Mishra,
Ms. Mushkan Mangla, Anugya Gupta Advs.
for SBI

ORDER

I.A.-1419/2025

1. This is an application filed by the State Bank of India (**Applicant**) seeking an order of Bankruptcy against the Respondent/Personal Guarantor (**PG**) of the Corporate Debtor (**M/s Multiwal Pulp and Board Mills Pvt. Ltd**) under the provisions of Section 123 of the Insolvency and Bankruptcy Code, 2016 (**IBC/ Code**) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtor) Rules, 2019 (the Bankruptcy Rules, 2019). The Prayer made in the application reads as follows:

“THAT, in view of the above, the applicant-State Bank of India, most respectfully, prays that Your Lordships may be kindly pleased to:



- (i) *Allow this Application filed under Section 121 r/w Sections 115 (2) & 123 of the IBC, 2016 and pass a Bankruptcy Order under Section 126 of the IBC, 2016 against the respondent/personal guarantor-Sameer Ahmad Khan; and*
- (ii) *Pass such other or further order(s) or direction(s) as this Hon. Tribunal may deem fit to issue/pass in the interest of justice in the facts and circumstances of the present case.”*

2. This application was filed subsequent to the order passed by this Adjudicating Authority ('AA') on 13.12.2024, whereby the report of the Resolution Professional i.e. I.A. 4337/2024 filed under Section 112 of the Code was taken on the record, and liberty was given to debtor and creditors to proceed in accordance with law.
3. Before delving into the issue, it is relevant to note brief facts of the case, resulting into filing of the present application. It is stated that Corporation Bank (one of the Financial Creditors) sanctioned various credit facilities to the Corporate Debtor. Since the Corporate Debtor was irregular in making payments, Corporation Bank filed a Section 7 petition seeking initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor which got admitted by the AA, vide order dated 21.05.2019 passed in **CP No. (IB) 343(PB)/2019** titled as **“Corporation Bank vs. M/s Multiwal Pulp and Board Mills Pvt. Ltd.”**.
4. It is in this background that, State Bank of India (another financial creditor) invoked the personal guarantee of Mr. Sameer Ahmad Khan, and served a legal demand notice dated 28.06.2020 upon him under Rule 7(1) of the Insolvency & Bankruptcy (Application to Adjudication Authority for Insolvency Resolution
- IA-1419/2025 in CP (IB)-948(PB)/2020**



Process of Personal Guarantors to Corporate Debtors) Rules, 2019. It is stated that since, no payment was made by the personal guarantor within the statutory period of 14 days, the State Bank of India filed a petition under Section 95 of the Code, i.e. **CP (IB)-948 (PB)/2020** titled as **State Bank of India v. Sameer Ahmad Khan**, and this AA while examining the report of the Resolution Professional filed under Section 99 of the Code, admitted the PG into insolvency vide order dated 06.04.2022. In view thereof, RP performed its responsibilities and since there was no repayment plan by the Personal Guarantor, the RP filed a report under Section 112 of the Code which was examined and taken on record vide order dated 13.12.2024. The relevant portion of the order dated 13.12.2024 is as follows:

IA-4337/2024

“Today, when the matter is taken up, the Respondent PG has not appeared nor filed reply. Accordingly, he is set ex-parte.

Ld. Counsel Mr. Abhishek Anand assisted by Mr. Karan Kohli for the RP appeared and made their submissions for appropriate orders. We have perused the documents and heard the submissions made by the Ld. Counsel and we deem it a fit case for orders to be passed under Section 114 of the Code rejecting the repayment plan and consequently entitling the Creditors to file an 3 (IB)-948(PB)/2020 application for bankruptcy as per the provisions of Section 115 of the Code.

In view of the above, the IA-4337/2024 is allowed and stands disposed of.”



5. Thereafter, State Bank of India (Applicant), has filed this present application i.e. **I.A. 1419 OF 2025** seeking an order of Bankruptcy. In the application filed by him, the Applicant has made a statement in terms of the provisions of Section 123(2) of the Code. The same is provided at Serial No. 16, Page 27 of the present application.
6. The present applicant in compliance of the Code has already served advance notice of the application upon the respondents on 10.03.2025 and the proof of service has also been attached.
7. This AA issued notice on 27.03.2025, and in compliance of order dated 27.03.2025 fresh notices were issued to the respondent. A copy of the order dated 27.03.2025 is extracted below for ready reference:

IA-1419/2025

Notice of this application be issued to Respondent(s)/Non-applicants by all modes, returnable by 30.04.2025. Affidavit of service to be filed before the next date of hearing. At request, list the matter on 30.04.2025.

8. Further notice was issued through email on 11.04.2025, through DTDC Courier on 14.04.2025, and through speed post on 19.04.2025 for all of which Affidavit of Service dated 21.04.2025 has already been filed. Despite the same, reply has not been filed by the respondents. On 30.04.2025 the following order was passed:

IA-1419/2025

This application is filed under Section 121(1) of the Code.

Ld. Counsel for the petitioner appeared.



There is no representation on behalf of the Respondent. In the interests of justice, a last opportunity is granted to the Respondent to appear.

List the matter again on 21.05.2025.

- 9.** The Respondent has not appeared on several dates, including today, despite advance service and further notice. It appears that the Respondent is not serious in opposing the application. No purpose will be served to grant respondent further time. The IBC process needs to be concluded as per code and regulation. Hence, we find that this is a fit case to pass order of bankruptcy against respondent.
- 10.** In view thereof, we are inclined to admit and pass the order of Bankruptcy under Section 126 of the Code and we declare **Mr. Sameer Ahmad Khan**, Personal Guarantor to Corporate Debtor (M/s Multiwal Pulp and Board Mills Pvt. Ltd) as bankrupt.
- 11.** The Applicant has proposed the name of **Mr. Anil Kohli** for being appointed as bankruptcy trustee. The details of the Insolvency Professional are as follows:

Name: Mr. Anil Kohli

Registration Number: IBBI/IPA-001/IP-P00112/2017-2018/10219

Address: Flat No. 409, 4th Floor, Ansal Bhawan, 16 Kasturba Gandhi Marg, Connaught Place, New Delhi, National Capital Territory of Delhi, 110001

Email: insolvency@arck.in



Written consent per Regulation 3(3) of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019) is given by the IP to act as a bankruptcy trustee, wherein he has also given the declaration that there is no disciplinary proceeding pending against him. The same has been annexed at Page 683, Volume 3 of the Application. A copy of the same is extracted below:

FORM A
WRITTEN CONSENT TO ACT AS BANKRUPTCY TRUSTEE
(Under regulation 3(3) of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019)
05.03.2025

To
The Adjudicating Authority
Principal Bench, New Delhi
Block No. 3, Ground Floor, 6th, 7th & 8th Floor, CGO Complex,
Lodhi Road, New Delhi-110003

From
Anil Kohli
IBBI/TPA-001/IP-P00112/2017-2018/10219
409, Ansal Bhawan, 16 K.G. Marg (Connaught Place), New Delhi – 110001

Subject: Written consent to act as bankruptcy trustee.

1. I, Anil Kohli, an insolvency professional enrolled with Indian Institute of Insolvency Professionals of ICAI and registered with the Board, note that I have been proposed to be appointed as bankruptcy trustee for the bankruptcy process of **Sameer Ahmad Khan**.
2. In accordance with regulation 3(3) of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019, I hereby give consent to the proposed appointment.
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;
 - (f) I have the following processes in hand:

Sl. No.	Role as	No. of processes on the date of consent
1	Interim Resolution Professional	-
2	Resolution Professional of: a. Corporate debtors b. Personal guarantors or individuals or partnership firms	a. 4 (in 3 out of 4 matters, the application for approval of resolution plan has been filed before Hon'ble AA) b. Personal guarantors of 3 Corporate Debtors
3	Liquidator of: a. Liquidation Process b. Voluntary Liquidation Process	a. 4 b. -
4	Bankruptcy Trustee	1 CD (3 Bankrupts)
5	Authorised Representative	-
6	Any other (please state)	-

Date: 05.03.2025

Place: New Delhi


(Signature of Insolvency Professional)

Registration No.... IBBI/TPA-001/IP-P00112/2017-2018/10219



Accordingly, in terms of the provision of Section 125 of the Code, we appoint Mr. Anil Kohli as the Bankruptcy Trustee.

- 12.** The fees of Bankruptcy Trustee to be determined as provided under Regulation 4 of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors To Corporate Debtors) Regulations, 2019.
- 13.** This order of Bankruptcy shall continue to have effect till the Personal Guarantor is discharged under Section 138 of the Code.
- 14.** In terms of Section 129 of the Code, 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.
- 15.** 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 shall vest with the bankrupt trustee. In pursuance of this order, the Bankruptcy trustee is directed to forthwith take into his custody all the assets, properties, and actionable claims of the Bankrupt and take necessary steps to ensure the preservation, protection security and maintenance of those properties as provided under section 128 and 154 of the code.
- 16.** The Bankruptcy trustee is directed to adhere to Sections 128, 129 (4), 132 133, 134, 136 and 137 of the code and discharge his powers and duties as specified and shall adhere to the Rules and Regulations issued by IBBI in this regard from time to time.



- 17.** The Bankruptcy trustee is directed to send notices to the creditors as contemplated in Section 130(1)(a) within ten days from the date of this order and also issue a public notice on our behalf inviting claims from creditors as provided under section 130(1)(b) of the code.
- 18.** The Public Notice inviting claims from the creditors as contemplated under section 130 (2) of the Code shall be issued in English daily and in one vernacular regional language newspapers having wide circulation where the bankrupt resides.
- 19.** On the filing of this Application, an interim moratorium had commenced as per the provision of Section 124 of the Code. The interim moratorium as envisaged under Section 124 of the Code shall cease to have effect and a fresh moratorium as per the provision of Section 128(1)(c) shall commence with respect to the debt of the Respondent.
- 20.** The Bankrupt Trustee shall conduct the administration and distribution of the estate of the bankrupt under Chapter V as provided in Section 136 of the code.
- 21.** The Bankrupt shall, from the date of the order, be subject to such disqualifications and restrictions as prescribed under sections 140 and 141 of the code.
- 22.** The Bankruptcy Trustee is directed to proceed with due diligence in the bankruptcy process.



- 23.** The Bankruptcy Trustee shall exercise all the powers as enumerated under the Code read with Rules and Regulations made thereunder.
- 24.** The applicant is directed for an advance payment to the tune of Rs. 1,00,000/- (Indian Rupees One Lakh only) to the Bankruptcy trustee to initiate the process, which shall be adjusted towards fees and expenses payable to the Bankruptcy Trustee.
- 25.** The Bankruptcy Trustee shall submit to this AA and committee a preliminary report within ninety days from the date of the Bankruptcy order after serving a copy of the report on the bankrupt as provided in Regulation 8 of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for personal Guarantors to corporate debtors) Regulations, 2019.
- 26.** The Bankruptcy Trustee shall in addition to the above submit to this Authority periodical progress reports within fifteen days after the end of every quarter and should send a copy of the report to the bankrupt as provided under Regulation 10 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulation, 2019.
- 27.** **IA-1419/2025** is **allowed** and **stands disposed** of in the above terms.
- 28.** The Registry is directed to provide a copy of this Bankruptcy order and a copy of the Bankruptcy petition to the bankrupt, the creditors and the bankruptcy trustee within a week as provided under Section 126(2) of the code.



29. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsels for information and for taking necessary steps.

30. A certified copy of the order shall be issued upon compliance with the requisite formalities.

-Sd/-
(RAMALINGAM SUDHAKAR)
PRESIDENT

-Sd/-
(RAVINDRA CHATURVEDI)
(TECHNICAL)

21.05.2025-Poonam