



IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 35
(IB)-951(PB)/2020

IN THE MATTER OF:

State Bank of India

.... Petitioner

v.

Waseem Ahmad Khan

.... Respondent

Order under Section 95(1) of Insolvency & Bankruptcy Code

Order delivered on 02.12.2024

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. AVINASH KUMAR SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)

HYBRID HEARING (PHYSICAL AND VC)

PRESENT:-

For the Petitioner/SBI

Mr. Siddharth Sangal, Ms. Harshita Agrawal,
Ms. Richa Mishra & Mr. Chirag Sharma, Advs.

ORDER

IA-4984/2024

1. This is an application filed by the Applicant seeking an order of Bankruptcy against the respondent/Personal Guarantor (PG) of the Corporate Debtor (M/s Multiwal Pulp and Boards Mills Pvt Ltd.) under the provisions of Section 121(1) and 123 of the 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 (henceforth the Bankruptcy Rules, 2019). The prayer in the application is extracted below:

“(i) Allow this application filed under Section 121 r/w Section 115(2) & 123 of IBC, 2016 and pass a Bankruptcy Order under Section 126 of the IBC, 2016 against the respondent/personal guarantor- Waseem Ahmed Khan; And

(ii) Pass such other or further other(s) or direction(s) as this Hon'ble Tribunal may be deem fit to issue/pass in the interest of justice in the facts and circumstance of the present case”

2. The application was filed on 02.09.2024 subsequent to the order passed by this Adjudicating Authority on 05.06.2024, closing the Insolvency Resolution Process of the Respondent/PG by which the repayment plan submitted by the Personal Guarantor was rejected and parties were given the liberty to proceed in accordance with the provision of the Code.



- 3.** Notice was issued upon the Personal Guarantor on 09.10.2024, returnable on 21.10.2024. Thereafter, fresh notice was issued upon the Personal Guarantors on 21.10.2024 by all modes, returnable by 02.12.2024.
- 4.** Ld. Counsel Mr. Siddharth Sangal for the Petitioner/SBI appeared physically and stated that the Insolvency proceedings in respect of the Personal Guarantor has attained finality on account of non-acceptance of the repayment plan which was offered by the PG and accordingly the Repayment Plan was rejected by this Adjudicating Authority vide order dated 05.06.2024. None appeared for the Personal Guarantor.
- 5.** To recapitulate the matter, Ms. Wasim Ahmed Khan has stood as Personal Guarantor to Corporate Debtor (M/s Multiwal Pulp and Boards Mills Pvt Ltd) which was admitted into CIRP on the application filed by Corporation Bank on 21.05.2019 and later the resolution plan was approved by this Adjudicating Authority on 04.01.2021.
- 6.** On 28.06.2020, the FC/State Bank of India issued a demand notice under Rule 7(1) of the PG Rules, 2019 calling upon the



PG for its reply to the said notice within 14 days. No reply was received by the bank, thereafter the FC filed an application under Section 95 of the Code seeking initiation of the Insolvency Resolution Process of the Respondent/Personal Guarantor, which was commenced through an order dated 06.04.2022 of this Adjudicating Authority.

- 7.** The respondent/PG submitted a repayment plan during the said process, which was rejected by the creditors. Accordingly, vide order dated 05.06.2024, this Adjudicating Authority closed the Insolvency Resolution Process against the Respondent/Personal Guarantor and granted liberty to the parties to Proceed as per provisions of law.
- 8.** We have heard the Ld. Counsels for the parties and carefully perused the petition. We are satisfied that since the repayment plan submitted by the PG was rejected by the creditors and later by this Adjudicating Authority, we find it proper to admit this petition and declare the Personal Guarantor herein as Bankrupt.



ORDER

9. In the result, we pass the order of Bankruptcy under Section 126 of the Code and declare Mr. Waseem Ahmed Khan, Personal Guarantor to Corporate Debtor (M/s Multiwal Pulp and Boards Mills Pvt. Ltd) as bankrupt.
10. The applicant has proposed the name of Mr. Anil Kohli, an Insolvency Professional as a Bankruptcy Trustee. The details of the Insolvency Professional are given at Page 601-605 of the application where he submits that no disciplinary proceedings are pending against him. Further, his AFA is valid till 30.06.2025.

Accordingly, in terms of the provision of Section 125 of the Code, we appoint **Mr. Anil Kohli** registration number IBBI/IPA-001/IP-P00112/2017-2018/10219, Mobile No: 9810071182 as the Bankruptcy Trustee, under Section 125 of the Code.

11. This order of Bankruptcy shall continue to have effect till the Personal Guarantor is discharged under Section 138 of the code.



- 12.** 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.
- 13.** 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.
- 14.** 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.



- 15.** 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 and for this purpose he will be paid a consolidated amount of Rs. 5,00,000/- by the Financial Creditor as IB- 947(PB)/2020, IB-950 (PB)/2020 and IB-951 (PB)/2020 are the applications, which arise out of the same financial facility/transaction, as all the respondents / Personal Guarantors are qua the same Principal Borrower.
- 16.** 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.
- 17.** 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.

- 18.** 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.
- 19.** 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.
- 20.** The Bankruptcy Trustee shall exercise all the powers as enumerated under the Code read with Rules and Regulations made thereunder.
- 21.** The Bankruptcy Trustee shall submit to this Adjudicating Authority 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.
- 22.** The Bankruptcy Trustee shall 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.

23. IA-4984/2024 is allowed and stands disposed of in the above terms.

24. 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.

25. 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.

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

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(RAMALINGAM SUDHAKAR)
PRESIDENT

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(AVINASH KUMAR SRIVASTAVA)
MEMBER (TECHNICAL)