



**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH**

CP (IB)-715(PB)/2021

&

IA-4989/2024

IN THE MATTER OF:

State Bank of India

.... Petitioner/Applicant

Vs.

Mr. Atul Mahindru

.... Respondent

Order under Section 126 of the Insolvency & Bankruptcy Code, 2016.

Order delivered on 28.04.2025

CORAM:

JUSTICE RAMALINGAM SUDHAKAR

HON'BLE PRESIDENT

SH. RAVINDRA CHATURVEDI

HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant: Ms. Shweta Saini, Advocate

For the Respondent: None

IA-4989/2024 In CP(IB)-715(PB)/2021



ORDER

I.A.-4989/2024

1. This is an application filed by the State Bank of India (*hereinafter referred to as "Applicant"*) seeking an order of Bankruptcy against the Respondent/Personal Guarantor (PG) of the Corporate Debtor (M/S Advance Surfactants India Ltd.) under the provisions of Section 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 (the Bankruptcy Rules, 2019). The Prayer made in the application reads as follows:

PRAYER

In view of the aforesaid facts, this Hon'ble Tribunal may be pleased to admit the present application of the Applicant and initiate the Bankruptcy proceedings against the Respondent.

2. This application was filed on 04.09.2024 subsequent to the order passed by this Adjudicating Authority on 05.06.2024, whereby the report of the Resolution Professional i.e. I.A. 2224/2024 filed under Section 106 of the Code was taken on the record and the applicant sought liberty to proceed in accordance with law. The application has been filed as per Rule 7 of the Bankruptcy Rules, 2019 in the prescribed Form-B within the period of 3 months as per the provision of Section 121(2) of the Code.
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 applicant bank sanctioned various credit facilities to the Corporate Debtor i.e. Advance Surfactant India Limited against which Mr. Ashok Mahindru, Mr. Atul



Mahindru, Mr. Ashutosh Mahindru and Mr. Ashish Mahindru, stood as personal guarantors. It is stated that since the Corporate Debtor was irregular in making payments, therefore a legal demand notice was sent dated 01.02.2017 and accordingly the applicant bank initiated proceedings before DRT vide O.A. No 275 of 2017 titled as “SBI vs. M/s Advance Surfactant India Ltd and Ors.”

4. In the meantime it is also stated that the Applicant Bank filed a Section 7 petition seeking initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor which got admitted by the Principal Bench, vide order dated 28.05.2019 passed in **CP No. (IB) 922 (PB)/2018 titled as “State Bank of India vs. Advance Surfactant India Limited”** and thereafter a liquidation order was also passed on 14.01.2020.
5. It is in this background that, the applicant bank invoked the personal guarantee and served a legal demand notice dated 30.06.2021 under Section 95(4)(b) of the Code upon the Personal Guarantors. It is stated that since, no payment was made by the personal guarantor within the statutory period of 14 days, the Applicant Bank filed a petition under Section 95 of the Code, and this adjudicating authority while examining the report of the Resolution Professional filed under Section 99 of the Code, admitted the PG into insolvency vide order dated 05.02.2024. 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 106 of the Code which was examined and taken on record vide order dated 05.06.2024. Further the RP sought liberty to proceed in accordance with law. The relevant portion of the order dated 05.06.2024 is as follows:



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The report filed by the RP is taken on record. Ld. Counsel Mr. Abhishek Anand appeared on behalf of the RP and stated that he would take further steps to file appropriate application in accordance with law.

At request and with consent of the parties, list the matter for a physical on 29.07.2024.

6. Thereafter the, RP has filed the present application i.e. **I.A. 4989 OF 2024**. Notice in the present application was issued on 09.10.2024. It is observed that the counsel appearing on behalf of the Personal Guarantor on 22.10.2024 sought time to file the reply to the application. The order dated 22.10.2024 has been extracted below:

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As prayed by Ld. Counsel appearing for the Personal Guarantor/Respondent, one week time is granted for filing the reply to the application.

*Let the matter be listed on **16.12.2024**.*

7. Further on 16.12.2024, it was recorded as follows:

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Ld. Counsel Mr. Himanshu Lilani appeared through VC on behalf of the SBI.

Ld. Counsel appeared on behalf of the Respondent and sought liberty to file a reply to the application. Time sought for is granted.



*At request and with consent of the parties, list the matter for a physical hearing on **04.02.2025**.*

8. On 04.02.2025, Ld. Counsel for the respondent was again directed to file the reply within 3 days. The order dated 04.02.2025 reads as follows:

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None appears on behalf of the Respondent/PG

Ld. Counsel Ms. Sweta Saini for the Applicant/State Bank of India appeared through VC.

The Respondent/PG is directed to file a reply to the same within 3 days with a copy in advance to the other side and also upload the same on the DMS/E portal.

At the request and with the consent of both sides, list the matter on 18.03.2025.

9. It is observed that, the applicant bank has already attached the Proof of Service, and the Respondent has been appearing through its counsel on various dates. Despite the same the reply has not been filed. It appears that the Respondent is not serious in opposing the application. There is no repayment plan received from the Respondent/PG despite opportunity. 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. Hence in terms of Section 126 of the Code, the application is allowed. Bankruptcy order is issued against respondent Personal Guarantor **Mr. Atul Mahindru**.



ORDER

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. Atul Mahindru**, Personal Guarantor to Corporate Debtor (M/S Advance Surfactants India Ltd.) as bankrupt.
11. The applicant has proposed the name of **Mr. Gian Chand Narang** an Insolvency Resolution Professional as the Bankruptcy Trustee. The details of the Insolvency Professional are given at Part-IV Page 65-69 of the application. Further, his AFA is valid till 31.12.2025. Accordingly, in terms of the provision of Section 125 of the Code, we appoint **Mr. Gian Chand Narang** having registration no. as **IBBI/IPA-002/IP-N00362/2017-2018/11031**, **Address- B-32, Friends Tower, Sector-9, Rohini, New Delhi, National Capital Territory of Delhi- 110085**, email - narangcg58@gmail.com and **Mobile No.- 8860040302** as the Bankruptcy Trustee. The Resolution Professional has also attached its written consent in Form-A as per Regulation 3(3) of the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019) and the same is available at Page 836-839 of the application.
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. 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.
17. 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.
18. 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.



19. 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.
20. 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.
21. The Bankruptcy Trustee is directed to proceed with due diligence in the bankruptcy process.
22. The Bankruptcy Trustee shall exercise all the powers as enumerated under the Code read with Rules and Regulations made thereunder.
23. The applicant is directed for an advance payment to the tune of Rs. 1,00,000/- to the Bankruptcy trustee to initiate the process, which shall be adjusted towards fees and expenses payable to the Bankruptcy Trustee.
24. 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.
25. 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.



26. **IA-4989/2024** is **allowed** and **stands disposed** of in the above terms.
27. 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.
28. 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.
29. A certified copy of the order shall be issued upon compliance with the requisite formalities.

Sd/-
(RAMALINGAM SUDHAKAR)
PRESIDENT

Sd/-
(RAVINDRA CHATURVEDI)
MEMBER(TECHNICAL)