



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

I.A. NO. 4923/ND/2024
IN
C.P. (IB) No. 96/ND/2024

IN THE MATTER OF:

Central Bank of India

**... Applicant/Financial
Creditor**

Versus

Mrs. Ritu Garg

... Respondent No. 1

Mr. Sudhir Kumar Agarwal

... Respondent No. 2

Order delivered on: 11.08.2025

CORAM:

**SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI,
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Applicant : Mr. Brijesh Kumar Tamber and Mr. Prateek
Kushwaha, Advocates

For the RP : Adv. Rachit Ranjan



ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)

1. This is an application filed by Central Bank of India (hereinafter referred to as Applicant) under section 98(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules seeking following reliefs: -
 - a. Allow the present application and appoint Mr. Manindra Kumar Tiwari (Resolution Professional) bearing Registration No. IBBIIPA-001/IP-P02612/2021-2022/14015 as the Resolution Professional for the Personal Insolvency of Mrs. Ritu Garg (Debtor herein) in place of Mr. Sudhir Kumar Agarwal (Resolution Professional);
 - b. Direct Mr. Sudhir Kumar Agarwal to handover all records pertaining to the ongoing Insolvency Resolution Process of Mrs. Ritu Garg to Mr. Manindra Kumar Tiwari upon her appointment as the Resolution Process under necessary cooperation for conduct of the Insolvency Resolution Process; and
 - c. Pass such other order as this Hon'ble Tribunal may be deemed necessary in the facts and circumstances of the present case.
2. Based stated facts of the present case as averred by the Applicant are that:-
 - i. This Adjudicating Authority vide order dated 26.07.2024 appointed Sh. Sudhir Kumar Agarwal as the Resolution Professional under Section 97(5) of the Code and directed to submit his report under section 99 of the Code.
 - ii. Even without submitting the report as mandated by Section 99(1) within the statutory timeline of 10 days, Sh. Sudhir Kumar Agarwal proceeded to raise an exorbitant invoice on the applicant bank as resolution fees due and payable to him and asked for the same to be cleared upfront before any further steps are taken by him.
 - iii. After the expiry of these statutory time lines of 10 days, the said Resolution Professional Sh. Sudhir Kumar Agarwal in the guise of seeking information (which was otherwise already available on record) started intimidating the



officials of the financial creditor alleging non-cooperation. For the sake of reference, it is submitted that the non-cooperation alleged was in respect of information which was not relevant for the adjudication of the present application or examination thereof.

- iv. It is submitted that the primary role of a Resolution Professional in a personal insolvency is to facilitate the negotiation of a repayment plan between the debtor and the Financial Creditor. In the facts and circumstances narrated above, the Financial Creditor does not have confidence in the current resolution professional Sh. Sudhir Kumar Agarwal to be able to undertake the said assignment successfully.
 - v. Even otherwise the fee claimed by the said Resolution Professional who was appointed by this Adjudicating Authority from its panel is exorbitant, uncalled for and beyond the mandate conferred on him by this Tribunal.
 - vi. In view of the above, the financial creditor has sought the consent of Sh. Manindra Kumar Tiwari, Resolution Professional, for taking the process forward.
3. In response to the same, the Resolution Professional has raised several averments against the present application which are mentioned hereinbelow:-
- i. It is submitted that after the initiation of insolvency proceeding, the Resolution Professional as per section 99(4) of the Code, requested for list of documents from the financial creditor/Applicant almost every day via emails and letters. However, the applicant failed to provide the requisite documents. It is pertinent here to mention that the financial creditor in violation of Section 99(1) of the Code, had not provided the section 95 petition till 14 days of the order for insolvency. The respondent even requested for clear copy/hard copy of the application, however, the same was not provided to the Respondent. The respondent has also written about the non-cooperation to the financial creditor vide emails.



- ii. Due to non-cooperation from the financial creditor, the Resolution Professional visited all the locations of the 4 guarantor and has sent various letters to both the Financial Creditor and personal guarantor and accordingly raised a reasonable demand of Rs. 2,00,000/- per case in entirety and 50% to be paid advance. The said demand is logical and reasonable. However, the same was never provided to the Resolution Professional. The Resolution Professional never said that "the invoice amount to be paid in full before any steps are taken by him". The said invoice amount is for the hard work done by the Resolution Professional and was in line with the previous orders of the NCLT in all other cases of Personal Guarantors.
- iii. It is submitted that without prejudice to the above averments made by the Resolution Professional, Resolution Professional submits that, the Resolution Professional has already submitted its report under Section 99 of the Code, and there are other financial creditors with much higher outstanding and voting share involved in the present insolvency proceeding. Thus, the replacement of the Resolution Professional can be taken up as per Section 98(4) of the code which reproduce as follows:

98(4) Without prejudice to the provisions contained in sub-section (1), the creditors may apply to the Adjudicating Authority for replacement of the resolution professional where it has been decided in the meeting of the creditors, to replace the resolution professional with a new resolution professional for implementation of the repayment plan.

- 4. We heard the Counsels for the parties and perused the record. The main application was filed by the Financial Creditor under section 95 of the Code and Mr. Sudhir Kumar Agarwal was appointed as the RP vide order dated 26.07.2024 against the Personal Guarantor, Mrs. Ritu Garg.



5. Pursuant to the order dated 26.07.2024, this Adjudicating Authority directed the RP to submit the report as per section 99 of the Code within 10 days from the date of his appointment. However, it has been brought to the attention of this Adjudicating Authority that the RP has failed to submit the said report with the statutory period.
6. It has been contented by the Financial Creditor that the RP demanded an upfront payment of Rs. 2 Lakhs as professional fees and refused to perform his duties unless the same was paid, thereby delaying the statutory process. It is further submitted that the RP made repetitive and unnecessary demands for documents that were already filed with the application.
7. The RP, in his reply, has contended that the documents submitted with the application were illegible or insufficient, and that the Financial Creditor failed to extend cooperation.
8. Upon careful consideration of the record and submissions, this Adjudicating Authority is of the view that the RP has failed to discharge his duties, especially in failing to file the report under section 99 within time and raised an exorbitant invoice before the adjudication of the Section 99 report. In view of the aforesaid, any directions pertaining to the fees and expenses of the Resolution Professional at this juncture, prior to adjudication of the Section 99 report, would be premature and contrary to the scheme envisaged under the Code. The explanation given by the RP does not adequately justify the delay or the procedural lapses.
9. Section 97(1) of the Code expressly mandate as under:-



(1) Where the debtor or the creditor is of the opinion that the resolution professional appointed under section 97 is required to be replaced, he may apply to the Adjudicating Authority for the replacement of such resolution professional.

10. In view of the fact that the RP has failed to discharge his statutory obligation within time, the financial creditor filing the present application for replacement of the Resolution Professional, and after consideration of the submissions made on behalf of the parties, this Adjudicating Authority is inclined to allow the present application i.e., I.A. 4923 of 2024. Consequently, and have no option but to order of replacement of Mr. Sudhir Kumar Agarwal, RP with Sh. Manindra Kumar Tiwari bearing IBBI Registration No. IBBI/IPA-001/IP-P02612/2021-2022/14015, email id: ip.camkt@gmail.com for taking the process forward.
11. Mr. Sudhir Kumar Agarwal, RP shall share all information with the new RP in respect of the IRP and shall cooperate with the new RP in all respects. The newly appointed Resolution Professional would discharge his duty in due deference to the extent provisions of IBC, 2016 and IBBI (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019. The newly appointed RP is directed to file valid AFA within three days from the receipt of this order.
12. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India ("IBBI") for their record and further action on this Order.



13. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

14. Accordingly, **I.A. 4923 of 2024 stands allowed and disposed of.**

Sd/-

**(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

Sd/-

**(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (JUDICIAL)**