

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH NEW DELHI
COURT- III**

CP IB -589(PB)/2019 filed under Section 94 (1) r/w sections 96, 97, 99 & 100 r/w Rule 6 (1) of the IB (Application to Adjudicating Authority for IRP for Personal Guarantors to CD) Rules, 2019.

In the matter of Anil Syal

Mr. Anil Syal

....Applicant/Debtor

Coram

CH. MOHD SHARIEF TARIQ
Member (Judicial)
Shri NARENDRA KUMAR BHOLA
Member (Technical)

For Applicant: Ms. Kajal Bhatia (Advocate)

Resolution Professional: Mr. Avneesh Srivastava (RP)

Order delivered on 28th of October, 2020.

ORDER
(Through Video Conferencing)

Per: CH. Mohd Sharief Tariq, Member (Judicial).

1. Under consideration is an Application No. IB-589/(PB)/2020 filed under Section 94 (1) r/w sections 96, 97, 99 & 100 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC, 2016") r/w Rule 6 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for IRP for Personal Guarantors to Corporate Debtor) Rules, 2019. The prayer made is to initiate the Insolvency Resolution Process (hereinafter referred as "IR Process") against the Applicant/Debtor who is the Personal Guarantor of Union Bank of India

(hereinafter referred as the “the Bank”) for an amount of Rs. 40 Crores in relation to the credit facility extended by the Bank in favour of FLPL Logistics Pvt. Ltd (formerly Known as Flywheel Logistics Pvt Ltd.) (hereinafter referred as the “the Company”).

2. On presentation of the application by the Applicant/Debtor, this Authority vide order dated **18th September 2020** has appointed the Resolution Professional viz., **Mr. Avneesh Srivastava, Registration No. IBBI/IPA-001/IP/P-01845/2019-20/12869, with address: 310, 3rd Floor, Kalpana Plaza, Birhana Road, Kanpur, U.P.-208001, Phone No.: 9984169645, (512) 2304026, E-mail: caavneesh11@gmail.com**, to file report under Section 99 of Insolvency and Bankruptcy Code, 2016, which has been filed by him through IA-4154/2020 filed in CP IB -589/PB/2019 recommending the admission of the application filed under section 94 of IBC, 2016. The grounds for admission of the application recorded in the Report are as follows: -

- The Applicant/Debtor has committed default in repayment of his debts; therefore, first requirement as set out under Section 94 (1) is satisfied.
- That all the debts mentioned in the application are not excluded debts; hence requirement set out under Section 94 (3) is satisfied.
- That the Applicant/Debtor is not an undischarged bankrupt, not undergoing a fresh start process, not undergoing an insolvency resolution process or bankruptcy process, therefore satisfies requirement set out under Section 94 (4).
- That no application under Chapter III of IBC, 2016 has been admitted in respect of the Applicant/Debtor during the period of twelve months preceding the date of

submission of this application under Section 94, therefore, satisfies the requirement set out under Section 94 (5).

- That the Application has been duly filed in the prescribed "Form A" along with requisite fee of Rs. 2,00 /- satisfies the requirement under Section 94 (6).
 - That the Applicant/Debtor is not eligible under Section 80 for a fresh start process provided under Chapter II of IBC, 2016.
3. Besides the default in making payment of Rs. 40 cores to the Union Bank of India, the Applicant/Debtor defaulted in making payments for the following debts:
- Sudharshan Syal/Unsecured Loan Rs. 34.00 lakhs (as on 15.02.2020)
 - Sumit Syal/Unsecured Loan Rs. 128.00 Lakhs (as on 18.02.2020).
 - Luv Bharadwaj/Unsecured Loan Rs. 46.60 Lakhs.
 - Rangoli International Pvt Ltd/Unsecured Loan Rs. 275 Lakhs (as on 15.02.2020).
 - Arvind Jain/Unsecured Loan Rs. 57 Lakhs (as on 15.02.2020).
 - HDFC Bank/Car Loan Rs. 1.07 Lakhs (as on Feb 2020).
 - Union Bank of India/Credit Card.
 - Axis Bank/Credit Card Rs. 2.09 Lakhs (as on 17.02.2020).
 - SBI Bank/Credit Card Rs. 1.33 Lakhs (as on 17.02.2020).

The Applicant/Debtor is also entitled to receive an amount of Rs. 37.46 Lakhs extended as unsecured Loan to Flywheel Logistics Solution Pvt Ltd.

4. From the report there does not appear any request of the Resolution Professional for issuance of the instructions for the purpose of conducting negotiations between the debtor and creditors for arriving at the repayment plan. Therefore, based on the reasons recorded in the report submitted by the Resolution Professional, the application i.e., CP IB -859/PB/2019 filed under the

provisions of Section 94 of IBC, 2016 is hereby **admitted** under section 100 of the IBC, 2016. The Insolvency Resolution Process is initiated against the Applicant/Debtor and the moratorium is declared, which begins with the date of admission of the application and shall cease to have effect at the end of the period of 180 days, as provided under Sec 101 of IBC, 2016. During the moratorium period;

- a) Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed; and
 - b) The creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt; and
 - c) The debtor shall not transfer, alienate, encumber, or dispose of any of his assets or his legal rights or beneficial interest therein;
 - d) The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
5. The Resolution Professional viz., *Mr. Avneesh Srivastava*, who has been appointed under Section 97 vide Order dated 18.09.2020, is directed to cause a public notice published on behalf of the Adjudicating Authority within 7 days of uploading of this Order on the website of the NCLT Delhi, inviting claims from all Creditors, who shall register their claims as provided under Section 103 within 21 days of such issuance. The notice shall contain the necessary information as provided under Section 102 (2) of IBC, 2016. The publication of notice shall be made in newspapers, one in English and other in Vernacular which have wide circulation in the State where the Debtor resides. The Resolution Professional

shall furnish two spare copies of the notice to the Registry. One shall be placed by the Registry on our website and the other shall be affixed in the premises of this Authority.

6. The Resolution Professional in exercise of the powers conferred under Section 104 shall prepare a list of creditors within 30 days from the date of the notice. The debtor shall prepare a repayment plan in consultation with the Resolution Professional as provided under Section 105 which shall include the provisions for payment of fee to the Resolution Professional. The Resolution Professional shall submit the repayment plan along with his report on the plan to this Authority within a period of 21 days from the last date of submission of claims, as provided under Section 106.
7. In case the Resolution Professional recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons therefor. If the Resolution Professional *is of the opinion* that the meeting of the creditors should be summoned, he shall specify the details as provided under Section 106(3). The date of meeting should not be less than 14 days or more than 28 days from the date of submission of the Report under Sub-section (1) of Section 106, for which at least 14 days' notice to the creditors [as per the list prepared] shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107.
8. The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 & 111. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under

Section 112 and submit the same to this Authority, copies of which shall be provided to the debtor and the Creditors. It is made clear that the Resolution Professional shall perform his functions and duties in compliance with the code of Conduct provided under Section 208 of the IBC, 2016.

9. In terms of the above, **CP IB -589(PB)/2019** filed under Section 94 (1) of the IBC, 2016 is **admitted** and the Insolvency Resolution Process stands initiated against the Debtor/Personal Guarantor.

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NARENDRA KUMAR BHOLA

Member (Technical)

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CH. MOHD SHARIEF/TARIQ

Member (Judicial)