

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 230 of 2022**

**IN THE MATTER OF:**

**Ramesh Chander Agarwala**

**...Appellant**

**Versus**

**State Bank of India & Anr.**

**...Respondents**

**Present:**

**For Appellant:** Mr. Saurabh Jain and Mr. Devashish Bharuka, Mr. Kaushik Poddar, Advocates

**For Respondent:** Mr. Mohit Sethi and Mr. Om Narayan Rai, Advocates for R-1.

**With**

**Company Appeal (AT) (Insolvency) No. 231 of 2022**

**IN THE MATTER OF:**

**Pankaj Lohariwal**

**...Appellant**

**Versus**

**State Bank of India & Anr.**

**...Respondents**

**Present:**

**For Appellant:** Mr. Saurabh Jain and Mr. Devashish Bharuka, Mr. Kaushik Poddar, Advocates

**For Respondent:** Mr. Mohit Sethi and Mr. Om Narayan Rai, Advocates for R-1.

**ORDER**  
**(Virtual Mode)**

**22.04.2022:** These two Company Appeals have been filed by two Personal Guarantors of the same Corporate Debtor challenging the Order dated 08<sup>th</sup>

December, 2021 passed by the Adjudicating Authority in the separate Applications filed by the State Bank of India under Section 95 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code'). The Advance Copy of the Applications filed under Section 95 of the Code was served on the Appellant however Appellant was not given the limited notice and the Adjudicating Authority by the Impugned Order appointed the Resolution Professional and asked the Resolution Professional to submit a Report. Aggrieved by the said Order, these two Appeals have been filed.

2. Mr. Devashish Bharuka, Advocate appearing for the Appellant in both these Appeals contends that limited notice was not issued to the Appellant by the Adjudicating Authority and the Report was already submitted by the Resolution Professional subsequent to passing of the Order dated 08<sup>th</sup> December, 2021 he has placed reliance on a Judgment of this Tribunal in Company Appeal (AT) Ins. No. 316 of 2021 in the matter of '**Ravi Ajit Kulkarni Vs. State Bank of India through the Resolution Professional**'.

3. Learned Counsel for the Respondent refuting the submissions of the Learned Counsel for the Appellant submits that submission of the Report by the Resolution Professional does not cause any prejudice. It is submitted that the Adjudicating Authority has not recorded any finding of default as was the case in Ravi Ajit Kulkarni's Case. It is submitted that Appellant has already appeared before the Adjudicating Authority and the Adjudicating Authority has granted time to the Personal Guarantors to submit an Objection vide Order dated 16<sup>th</sup> March, 2022. Learned Counsel for the Respondent has also placed reliance on a

Judgment of this Tribunal in Company Appeal (AT) Ins. No. 284 of 2022 decided on 22<sup>nd</sup> March, 2022 in the matter of '**Chandresh Jajoo Vs Siemens Financial Services Private Limited & Anr**'.

4. We have heard Learned Counsel for the parties and perused the record.

5. It is true that in Ravi Ajit Kulkarni's case this Tribunal has in paragraph 44 of the Judgment has laid down that limited notice by the Adjudicating Authority also be given to the Personal Guarantors. In the preset case, although no limited notice as contemplated in Ravi Ajit Kulkarni's Case was given but the fact of the matter is that Personal Guarantors have appeared before the Adjudicating Authority and have been granted time to file Objections. The Grievance of the Appellant which has been canvassed before us is that Report has already been submitted by the Resolution Professional without obtaining any information from the Appellant. The Letter was issued by the IRP on 20<sup>th</sup> December, 2021 asking the Appellant to submit the report but since the Appellant has filed this Appeal in this Tribunal, details were not submitted to the IRP. IRP subsequently has submitted a report which report has been taken on record by the Adjudicating Authority and Adjudicating Authority has granted time to file Objections to the Report.

6. In view of the facts of the present case, in the interest of justice, we give an opportunity to the Appellant to submit a representation to RP along with relevant materials which the Appellant want to communicate to the RP which he may do so within two weeks from today. The IRP after considering the submissions may submit an 'Additional Report' in continuation of his first Report  
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and the Adjudicating Authority before taking a decision for admission or rejection of the Application as contemplated under Section 100 may consider both the reports. After submission of the 'Additional Report', it shall be open for the parties to request the Adjudicating Authority for granting time to file Objection, if any.

We dispose of these two Appeals with the aforesaid directions.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Dr. Alok Srivastava]**  
**Member (Technical)**

**[Ms. Shreesha Merla]**  
**Member (Technical)**