

THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

**CORAM: MS. REETA KOHLI,
HON'BLE JUDICIAL MEMBER**

**MS. KAVITA BHATNAGAR
HON'BLE TECHNICAL MEMBER**

IA (IBC) No. 398/JPR/2024
In CP No. (IB)- 33/95/JPR/2024

IN THE MATTER OF:

TATA CAPITAL LIMITED

...Financial Creditor

VERSUS

MR. GANESH KUMAR AGARWAL

...Personal Guarantor

AND IN THE MATTER OF:

IA (IBC) No. 398/JPR/2024

MEMO OF PARTIES

**Manish Kumar Bhagat,
B-1204, Shilp Corporate Park,
Rajpath Rangoli Road, Next to
Aaron Spectra, Bodakdev,
Ahmedabad-380054**

...Applicant/ Resolution Professional

For the Financial Creditor
For the Resolution Professional
For the Personal Guarantor

: Carina Arora, Adv.
: Vartika Mehra, Adv.
: Tej Pratap Singh, Adv.

Order Pronounced On: 24.04.2026

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ORDER

Per: Ms. Reeta Kohli, Judicial Member

1. This Application bearing *IA(IBC) No. 398/JPR/2024* has been filed by *Mr. Manish Kumar Bhagat*, the Resolution Professional, under Section 99 of the Insolvency and Bankruptcy Code, 2016 ('Code' / 'IBC') recommending the admission of the Application filed by *Tata Capital Ltd.* ('Creditor' / 'Applicant') under Section 95 of the Code wherein it has sought commencement of the Insolvency Resolution Process ('IRP') against the Personal Guarantor, namely *Mr. Ganesh Kumar Agarwal* ('Personal Guarantor' / 'Debtor'), of *M/s Vinayak Metasteel Pvt. Ltd.* ('Corporate Debtor'). The relevant prayer clause of the Application is reproduced hereunder: -

“That in light of the abovementioned facts and circumstances, it is most humbly and respectfully prayed that the Hon’ble Tribunal may very graciously be pleased to take on record the Report filed by IRP under Section 99 of the Insolvency and Bankruptcy Code, 2016.”

2. The Creditor had filed the main petition bearing *CP No. (IB)-33/95/JPR/2024* under Section 95 of the Code read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate

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Debtor) Rules, 2019 ('Rules'), seeking initiation of Insolvency Resolution Process against the Personal Guarantor of the Corporate Debtor namely *M/s Vinayak Metasteel Pvt. Ltd.* for an amount of Rs. 9,33,05,362/- (Rupees Nine Crores Thirty- Three Lakhs Five Thousand Three Hundred and Sixty-Two Only). This Adjudicating Authority *vide* Order dated 30.04.2024 had appointed *Mr. Manish Kumar Bhagat* as the Resolution Professional and directed him to file a report under Section 99 of IBC, 2016 and the same has been filed through the instant Interlocutory Application i.e., *IA(IBC)No. 398/JPR/2024*.

3. Before examining the sanctity of the report filed by the Resolution Professional in the instant case, it is relevant to highlight the importance of Resolution Professionals role in individual resolution process. A bare Perusal of section 99 of the Code reveals that the Resolution Professional is duty bound to examine the Application filed under Section 94/95 before making its recommendation under section 99 of the Code. The conscious use of the term "*examine*" in Section 99(1) underscores the importance of an independent and careful assessment by the Resolution Professional while making such recommendation. Hence, it transpires that filing of the report under section 99 is not a mechanical exercise rather it requires due application of the mind.

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4. Further, while submitting the report under Section 99 of the Code the Resolution Professional acts as an officer of the court. Therefore, he is duty bound to file a report in strict adherence to the provision of the Code.
5. In the instant case, the report of the Resolution Professional is contained in Page 4 to Page 16 of the Application. However, to the utter shock to this Adjudicating Authority the Resolution Professional has merely reproduced the Part 3 of the petition filed by the Creditor from page 4 to page 12 with slight changes. The RP in his report has failed to showcase the mandatory compliances with the relevant sub sections of the Section 99 of the Code. The instant report does not reflect due application of mind and compliance with the relevant provision of the Code by the RP.
6. This Adjudicating Authority such mechanical filing of the report by the RP without due application of mind, without highlighting any compliances with the provisions of the Code. Such a cursory report is not in consonance with the Scheme of the Code. Under the code the Resolution Professional is bestowed upon an onerous responsibility of ensuring that the Petition filed under Section 95 of the Code is proper in terms of law. It is only after due appropriation duly filed the RP is to filed report under section 99 of the Code.
7. At this juncture, it is pertinent to refer to Section 99 (1) of the Code which provides that the Resolution Professional shall file the report under Section

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99 within ten days of his appointment. It is pertinent to mention that the Resolution Professional was appointed vide Order dated 30.04.2024, however, the Report was filed on 05.06.2024 i.e., after the expiry of the prescribed timeline. Further, in the instant Application, the Resolution Professional has neither sought condonation of the delay nor has she tried to justify the reasons for the said delay in filing of the Application.

8. Thus, in view of the aforementioned observations, we hereby dismiss the captioned Application bearing *IA (IBC) No. 398/JPR/2024*. Further, the Resolution Professional shall be at liberty to file a proper report under Section 99 of the code outlining the compliances to all the relevant sub-sections within a period of one week from the date of passing of the instant Order.
9. The Resolution Professional has filed the instant Application in a highly casual manner. We express our displeasure in the manner in which the RP has conducted his professional duties. RP has circumvented the statutory timeline and neglected his statutory duties as prescribed under the Code. This unprofessional conduct on the part of the RP has led to uncalled for delay in the disposal of the present application which is bound to cause prejudice to the interest of the financial creditors.
10. It is further clarified that the instant Order is not an adjudication of the rival contentions of the parties and the same shall be adjudicated at the time of

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filing of proper report under Section 99 of the Code. Thus, the instant *IA (IBC) No. 398/JPR/2024* is not allowed.

11. The Registry is directed to mail a copy of the instant Order to the Creditor, the Debtor, and the Resolution Professional.


**REETA KOHLI,
JUDICIAL MEMBER**


**KAVITA BHATNAGAR,
TECHNICAL MEMBER**