S.No.5

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
07-09-2026 After Court-II

IA(IBC) 722/2026 in
CP (IB) No. 105/95/HDB/2025
u/s. 95 of IBC

IN THE MATTER OF:

SREI Equipment Finance Ltd., Rep., by its Authorized Officer
Mr. Chandra Shekar Rao Madhyannapu **…Petitioner/s**

Vs

Mr. Indrasena Chowdhary (Personal Guarantor),
M/s. Tapaswi Infra Projects India Ltd., **…Respondent/s**

C O R A M:-
SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)
SHRI. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

O R D E R

IA (IBC) 722/2026
Orders pronounced. Recorded vide separate sheets.

In the result, IA (IBC) 722/2026 is dismissed.

Sd/- **Sd/-**

MEMBER (T) **MEMBER (J)**

Apoorva

IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH, COURT-I

I.A No. 722 of 2026

IN

C.P (IB) No.105/95/HDB/2025

[Under Section 60(5) and Section 98 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 11 of the National Company Law Tribunal Rules, 2016]

Between:

Mr. M. Indrasena Chowdary,
R/o House No. 2-170, Ankampalli, Beluguppa,
Anantapur – 515741, Andhra Pradesh.

...Applicant/Personal Guarantor

AND

1. **Mr. Murali Mohan Chevuturi,**
   Resolution Professional

2. **SREI Equipment Finance Limited,**
   Having its registered office located at 'Vishwakarma', 86C,
   Topsia Road (South), Kolkata-700046, West Bengal.
   Zonal Office: OM Chambers, 3rd Floor, D.No. 1-10-74/A/TF,
   Ward Block-1, Dwarakadas Colony, Begumpet.
   Secunderabad-500016, Telangana
   Represented by its Authorised officer
   Mr. Chandra Sekhar Rao Madhyannapu

3. **Tapaswi Infra Projects India Pvt Ltd**
   Flat No.102, Kamala Residency, 8-2-293/K/45,
   Plot No.45, Phase-III, Kamalapuri Colony, Hyderabad,
   Telangana-500073

...Respondents

Date of Order: 07.09.2026

Coram:

Hon'ble Shri Rajeev Bhardwaj, Member (Judicial)

Hon'ble Shri Sanjay Puri, Member (Technical)

Counsels Present

For Applicant: Ms. Sravya, Ld. Counsel

For Respondent: Ms. Sanjana, Ld. Counsel

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, COURT-I

I.A No. 722 of 2026 in
C.P (IB) No.105/95/HDB/2025
Date of Order: 07.09.2026

1. The present Application has been filed by Mr. M. Indrasena Chowdary, (Applicant/ Personal Guarantor), under Section 60(5) and Section 98 of the Insolvency and Bankruptcy Code, 2016 (IBC/Code), read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking recall of the order dated 08.07.2025 passed in CP (IB) No. 105/95/HDB/2025, insofar as it relates to the appointment of the Resolution Professional, and consequently setting aside the appointment of Mr. Murali Mohan Chevuturi as the Resolution Professional.

2. **Application**

i) The Applicant submits that Respondent No. 2, SREI Equipment Finance Limited, had filed the aforesaid Company Petition under Section 95 of the Code, seeking initiation of insolvency resolution process against the Applicant in respect of an alleged principal amount of Rs. 23,27,48,611/- relating to the claims against Respondent No. 3, Tapaswi Infra Projects India Pvt. Ltd. The Applicant has stated that the claim forming the subject matter of the Company Petition is time-barred and that the Company Petition is consequently not maintainable.

ii) The Applicant states that the Loan Agreement between Respondent Nos. 2 and 3 and the Personal Guarantee executed by the Applicant were both dated 15.05.2018. According to the Applicant, the loan was repayable after a moratorium of 180 days through equated monthly instalments from 05.01.2019 to 05.06.2021, and Respondent No. 3 failed to make even the first instalment. It is, therefore, contended that the breach occurred in 2019 itself, whereas the Company Petition proceeds on 08.10.2024 as the due date and 16.10.2024 as the date of default against the Applicant.

iii) The principal grievance raised in the present Application, however, concerns the appointment of the Resolution Professional. The Applicant contends that since the Section 95 application was filed by

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the Financial Creditor itself and not through a Resolution Professional, the procedure under Section 97(3) to (6) of the Code was required to be followed. According to the Applicant, this Authority was required to direct the Insolvency and Bankruptcy Board of India (IBBI/Board) to nominate a Resolution Professional under Section 97(3), following which the Board was required to make the nomination under Section 97(4).

iv) It is contended that, contrary to the aforesaid procedure, this Authority, by order dated 08.07.2025, appointed Mr. Murali Mohan Chevuturi, being the person suggested by Respondent No. 2 in Part IV of the Form-C Application. The Applicant submits that Part IV of Form-C has no application where the Section 95 application is filed by the Financial Creditor itself and not through a Resolution Professional, and that the Financial Creditor had no right to suggest or nominate a Resolution Professional in such circumstances. The Applicant further contends that the procedure prescribed under Section 97 is mandatory and that independent nomination by the Board is intended to avoid any possibility of bias on the part of the Resolution Professional.

v) The Applicant also submits that the Apex Court has upheld the requirement of directing the Board to nominate a Resolution Professional where an application is filed by the debtor or creditor himself and not through a Resolution Professional. On these grounds, the Applicant seeks recall of the order dated 08.07.2025 and setting aside of the appointment of Mr. Murali Mohan Chevuturi as the Resolution Professional.

3. On 18.08.2026, the Counsel for the Respondent had stated that she does not wish to file a counter to the present Application. Accordingly, the Application is being considered on the basis of the material available on record and on its merits.

4. We have considered the averments made in the Application and perused the material available on record. The principal issue which arises for consideration is whether the appointment of Mr. Murali Mohan Chevuturi as Resolution Professional pursuant to the order dated 08.07.2025 is liable to be recalled on the ground that his name was proposed by the Financial Creditor while filing the application under Section 95 of the Code.

5. It is not in dispute that the application under Section 95 of the Code was filed by Respondent No. 2, SREI Equipment Finance Limited, itself and not through a Resolution Professional. Section 95(1) permits a creditor to make an application either by himself, jointly with other creditors, or through a Resolution Professional for initiating an insolvency resolution process. Section 97 provides for appointment of the Resolution Professional. Where an application under Section 94 or Section 95 is filed by the debtor or the creditor himself and not through a Resolution Professional, Section 97(3) requires the Adjudicating Authority to direct the Board to nominate a Resolution Professional; Section 97(4) provides for such nomination by the Board, and Section 97(5) provides for appointment of the Resolution Professional by the Adjudicating Authority.

6. The Applicant's contention is that, since the application under Section 95 in the present case was filed by the Creditor itself, and not through a Resolution Professional, the procedure contemplated under Section 97(3) and (4) was mandatory and the Creditor could not have proposed the name of an Insolvency Professional for appointment. It is further contended that Part IV of Form-C has no application where the application is filed by the creditor itself.

7. The statutory provisions, however, cannot be read in isolation from the Rules and the regulatory framework governing the appointment of Resolution Professionals in proceedings relating to Personal Guarantors.

Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 (IRP PGCD Rules) requires an application under Section 95(1) to be made in Form-C. Rule 8, inter alia, contemplates the sharing by the Board of the database of Insolvency Professionals and, for the purposes of Section 97(4), a panel of Insolvency Professionals who may be appointed as Resolution Professionals.

8. The manner in which the particulars of an Insolvency Professional are to be furnished where a creditor itself files an application under Section 95 came to be clarified by the IBBI by Circular No. IBBI/II/62/2023 dated 21.12.2023, issued in exercise of its powers under Section 196 of the Code. The Circular clarified that, in certain cases, the creditor may file the application itself recommending the name of an insolvency professional to be appointed as the Resolution Professional. In such cases, the insolvency professional proposed to be appointed as the Resolution Professional shall provide the particulars and declaration in Part IV of Form C of the IRP PGCD Rules to the creditor for consideration of the Adjudicating Authority.

9. The aforesaid position came to be considered by the Hon'ble National Company Law Appellate Tribunal in ***Anita Goyal v. Vistra ITCL (India) Ltd. and Anr., (2025) ibclaw.in 62 NCLAT***. The Personal Guarantors in that case had challenged the appointment of the Resolution Professional on the ground that, since the application under Section 95 had been filed by the Financial Creditor itself, the Adjudicating Authority ought to have directed the IBBI to nominate the Resolution Professional in terms of Section 97(3), instead of relying upon the name proposed in the application. The Hon'ble Appellate Tribunal considered Section 97 as well as Rule 8 of the IRP PGCD Rules and rejected the challenge to the appointment. It held that the appointment made by the Adjudicating Authority could not be said to be violative of Section 97(3) and observed:

"7. The submission of the Appellant is that the Adjudicating Authority ought to have directed the IBBI to nominate the RP for the insolvency resolution process, which was not done and the Adjudicating Authority relied on a Circular issued by the IBBI. The learned Counsel for the Respondent in support of his submission contends that appointment of RP was in accordance with law and has relied on the judgment in Rahul Arunprasad Patel vs. State Bank of India – (2022) SCC OnLine NCLAT 4604, where challenge to appointment of RP on the ground of violation of Section 97, sub-section (3) was repelled.

8. Rules have been framed in exercise of power conferred by under Section 239 read with clause (e) Section (2) and sub-section (2) and Section 79 of the Insolvency and Bankruptcy Code namely – the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019. We may refer to Rule 8, which provides as follows:

"8. Confirmation or nomination of insolvency professional.— (1) For the purposes of sub-section (2) of section 97 and sub-section (5) of section 98, the Board may share the database of the insolvency professionals, including information about disciplinary proceedings against them, with the Adjudicating Authority from time to time.

(2) For the purposes of sub-section (4) of section 97 and sub-section (3) of section 98, the Board may share a panel of insolvency professionals, who may be appointed as resolution professionals, with the Adjudicating Authority."

9. When we look into Rule 8, it provides a mechanism of nomination by the IBBI. Rule 8 specifically caters Section 97, sub-section (3). The Adjudicating Authority has appointed the RP, relying on Form-C submitted by IRP, where RP has conveyed his consent and certified that there are no disciplinary proceedings are pending against him. The appointment of RP by order dated 29.04.2024, cannot be said to be violative of provision Section 97, sub-section (3). We, thus, do not find any substance in the submission of the Appellant that appointment of RP was not in accordance with Section 97, sub-section (3) of the IBC."

The aforesaid decision is directly relevant to the objection raised in the present Application.

10. The validity of the IBBI Circular dated 21.12.2023 was also considered by the Hon'ble Madras High Court in ***Ashwani Kumar Bhatia v. Union of India and Ors., (2025) ibclaw.in 620 HC***[1]. The challenge therein was founded, inter alia, on the contention that, where an application under Section 95 is filed by the creditor itself, Section 97(3) requires the Adjudicating Authority to direct the IBBI to nominate the Resolution Professional and that the Circular could not permit the creditor to recommend a name.

11. The Hon'ble Court observed that the IBBI scrutinises and empanels the Resolution Professionals and that, once empanelled, the nomination is ultimately made from the panel maintained by the IBBI. It held that the Circular operates as a practice direction and pragmatic tool for fulfilling the purposes of the Code, thereby saving time and increasing efficiency. The Court further observed that the Personal Guarantor is entitled to bring to the notice of the Adjudicating Authority any adverse circumstance, including potential conflict of interest or other valid ground which may disqualify a person from acting as a facilitator, and that the Adjudicating Authority retains the final power under Section 97(5). On this basis, the Hon'ble Court held that the Circular dated 21.12.2023 is neither ultra vires nor violative of the provisions of the Code.

12. The Hon'ble Court also considered the apprehension of bias arising from the creditor recommending the name of the Resolution Professional. Referring to the judgment of the Hon'ble Supreme Court in *Dilip B. Jiwrajka vs. Union of India and Ors. in W.P.(Civil) No.1281 of 2021*, the Court noted that the Resolution Professional performs a facilitative role

[1] Ashwani Kumar Bhatia v. Union of India and Ors., (2025) ibclaw.in 620 HC, Paras 17 to 25.

in collating the facts relevant to the application and that the report submitted by him is recommendatory in nature. It was observed that the mere fact that the creditor recommends a person from the IBBI panel does not, by itself, prejudice the Personal Guarantor, and that any disqualification, conflict of interest or personal bias may be brought to the notice of the Adjudicating Authority for consideration.

13. Thus, the position emerging from the aforesaid decisions is that the fact that an Insolvency Professional is proposed by the Financial Creditor in a creditor-filed application under Section 95 does not, by itself, render the subsequent appointment contrary to Section 97. The recommendation is not the appointment. The proposed Insolvency Professional is required to furnish his particulars, declaration and consent for consideration, and the power to make the appointment remains with the Adjudicating Authority under Section 97(5).

14. The record in the present case is consistent with the aforesaid position. The application under Section 95 was filed by the Financial Creditor itself. While Part IV of Form-C records that the application was not being filed through an Insolvency Professional, it also records the proposal of Mr. Murali Mohan Chevuturi as the Resolution Professional and contains his requisite particulars, declarations and consent to accept the appointment if so appointed by the Adjudicating Authority. His written consent in Form-A dated 12.06.2025 was also furnished along with the application.

15. Thereafter, by order dated 08.07.2025, this Authority appointed Mr. Murali Mohan Chevuturi as the Resolution Professional. The proposal of his name by the Financial Creditor cannot, therefore, be equated with his appointment, which was made by the Adjudicating Authority. The course adopted is in accordance with the mechanism contemplated under the IBBI Circular dated 21.12.2023 and the position laid down in

Anita Goyal (Supra) and *Ashwani Kumar Bhatia (Supra)*. The mere fact that the name of the Resolution Professional was proposed by the Financial Creditor does not, therefore, render his appointment contrary to Section 97 of the Code. The objection raised by the Applicant is, accordingly, not sustainable.

16. The Applicant has also expressed an apprehension that appointment of a person proposed by the Financial Creditor may give rise to bias. No specific circumstance, however, has been brought on record to demonstrate any conflict of interest, disqualification, pending disciplinary proceeding or other circumstance affecting the eligibility of Mr. Chevuturi. The challenge in this regard proceeds only on the basis that his name was proposed by the Financial Creditor. Such apprehensions cannot by itself invalidate the appointment.

17. The reference to Section 98 of the Code by the Applicant does not alter the position. The said provision deals with replacement of a Resolution Professional appointed under Section 97, whereas the grievance raised in the present Application is against the very appointment made by this Authority on 08.07.2025. In the absence of any infirmity having been established in the said appointment, no relief can be granted on the ground urged by the Applicant.

18. In view of the foregoing, we find no merit in the Applicant's challenge to the appointment of Mr. Murali Mohan Chevuturi as Resolution Professional. The Applicant has failed to establish any violation of Section 97 warranting recall of the order dated 08.07.2025 or setting aside of the appointment made thereunder.

19. Accordingly, IA No. 722 of 2026 is dismissed.

Sd/-

SANJAY PURI
MEMBER (TECHNICAL)

Sd/-

RAJEEV BHARDWAJ
MEMBER (JUDICIAL)