

IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Through Hybrid Mode)

Item No.3
IA (IBC)/420/2025 in
CP (IB)/5/95/AMR/2025

IN THE MATTER OF:

Canara Bank ... Petitioner/Creditor

Versus

Smt.Thota Venkata Ramana, PG of M/s Sri Krishna Stockist & Traders Pvt Ltd
... Respondents

Under Section: 95, 60(5) of IBC, 2016
Rule: 11 of NCLT Rules, 2016

Order delivered on 09.01.2026

CORAM:

SHRI UMESH KUMAR SHUKLA
HON'BLE MEMBER (TECHNICAL)

SHRI KISHORE VEMULAPALLI
HON'BLE MEMBER (JUDICIAL)

PRESENT:

For Financial Creditor	:	Mr. Dishit Bhattacharjee, Adv.
For Personal Guarantor	:	
For Resolution Professional	:	Mr. M. Ramarao, Adv.

ORDER

Orders pronounced and recorded *vide* separate sheets. **IA (IBC)/420/2025 is allowed and disposed of. CP (IB)/5/95/AMR/2025 is admitted.**

Sd/-
(UMESH KUMAR SHUKLA)
MEMBER (TECHNICAL)

Sd/-
(KISHORE VEMULAPALLI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL

AMARAVATI BENCH AT MANGALAGIRI

*(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)*

IA (IBC)/420/2025 in CP (IB)/5/95/AMR/2025

And

CP (IB)/5/95/AMR/2025

Application under Section 95 and Section 60(5) of Insolvency and Bankruptcy Code, 2016 read with the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019

In CP (IB)/5/95/AMR/2025 & IA (IBC)/420/2025:

Canara Bank

Head Office situated at 112,
Jayachamarajendra Road, Bangalore -560002
Having its branches amongst other places
at Stressed Assets Management Branch,
1-7-1, T.S.R. Complex, 2nd Floor, S.P. Road,
Secunderabad-500003.

Represented by its Chief Manager
Koka Sivanadh, S/o. Sri Suryanarayana Rao

..... **Financial Creditor**

AND

1. Smt.Thota Venkata Ramana

W/o Thota Kanna Rao
The Personal Guarantor of M/s Sri Krishna Stockist and Traders Pvt. Ltd.,
Plot No. 101, Venkata Ramana Residency,
Near Kandukuri Veereshalingam Asthika kalasha,
Y Junction, Rajahmundry,
District East Godavari-533103, Andhra Pradesh.

..... **Personal Guarantor**

2. M/s. Sri Krishna Stockist & Traders Pvt. Ltd.

having its Registered Office situated at
1-8-5 Kovvur Mandal, I Pangidi village,
West Godavari-534342, Andhra Pradesh.

..... **Corporate Debtor**

Coram: HON'BLE SHRI KISHORE VEMULAPALLI, MEMBER (JUDICIAL)
HON'BLE SHRI UMESH KUMAR SHUKLA, MEMBER (TECHNICAL)

Parties/Counsels Appearance:

For Financial Creditor : Mr. Dishit Bhattacharjee, Adv.
For Personal Guarantor :
For Resolution Professional : Mr. M. Ramarao, Adv.

ORDER
PER: BENCH

The present Company Petition bearing No. CP (IB)/5/95/AMR/2025 (hereinafter referred to as the "**Petition**") has been e-filed on 30.12.2024 and physically filed on 20.12.2024 vide Diary No. 1805, by the Canara Bank (hereinafter referred to as the "**Financial Creditor**") through its Chief Manager, Shri Koka Sivanadh, under Section 95 read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "**IBC**" or "**Code**") read with the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 (hereinafter referred to as the "**Personal Guarantors Rules**") seeking to initiate Personal Insolvency Resolution Process (hereinafter referred to as the "**PIRP**") against Smt. Thota Venkata Ramana (hereinafter referred to as the "**Personal Guarantor**"), who is the Personal Guarantor of the loan accounts of M/s Sri Krishna Stockist & Traders Pvt. Ltd (hereinafter referred to as the "**Corporate Debtor**" or the "**Principal Borrower**") and who has extended the Personal Guarantee to the Financial Creditor.

2. The registered office of the Corporate Debtor is at Door No. 1-8-5, Kovvur Mandal, I Pangidi Village, District West Godavari-534342 Andhra Pradesh. Therefore, the subject matter of this Petition is under the territorial jurisdiction of this Adjudicating Authority.

FACTS OF THE CASE:

3. The facts of the case, as stated by the Financial Creditor in its Petition are as follows:

- (i) The Corporate Debtor is engaged in trading business and also involved in wholesale on a fee or contract basis, includes commission agents, commodity brokers and auctioneers and all other wholesalers, who trade on behalf and on the account of others and has availed cash credit facilities from the Financial Creditor. The loan facility was sanctioned to the Corporate Debtor against the hypothecation of exclusive first charge on land and building, stocks and book debts.
- (ii) To secure the repayment of financial assistance, the Personal Guarantor executed a Guarantee Agreement dated 13.02.2014 securing the repayment of financial assistance availed by the Corporate Debtor. The summary of cash credit availed by the Corporate Debtor from the Financial Creditor is given below:

Sl. no	Loan/credit facility	Account no.	Amount of limit/loan	Outstanding as on 02.04.2024
1	Cash credit	0642261 005193	Rs.30.00 crore	Rs.104,26,33,753.79
2	Cash credit	2423261 005114	Rs.120.0 crore	Rs.390,03,21,098.95
	Total		Rs.150.0 crore	Rs.494,29,54,852.74

- (iii) The Corporate Debtor eventually failed to maintain the account as per the terms on which the loan was sanctioned by the Financial Creditor and hence, the account of the Corporate Debtor was classified as Non-Performing Asset (hereinafter referred to as the “NPA”) on 31.08.2017 as per the directives of the Reserve Bank of India.

- (iv) To recover the dues, the Financial Creditor initiated proceedings under The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the “**SARFAESI**”) and issued Demand Notice dated 08.11.2017 under Section 13(2) of SARFAESI addressed to the Corporate Debtor and Personal Guarantor, demanding payment of the due debts amounting to Rs.161,41,73,722/- plus interest being calculated from 01.11.2017.
- (v) When the Corporate Debtor failed to repay the due debts as per the Demand Notice dated 08.11.2017, the Financial Creditor filed OA No.340/2018 before the Hon’ble Debts Recovery Tribunal, Hyderabad (hereinafter referred to as the “**DRT**”). Consequently, RC No.45 of 2018 was duly issued by the Hon’ble DRT.
- (vi) The Corporate Debtor gave an OTS offer on 29.02.2020 of Rs.18 crores, which the Financial Creditor rejected, and subsequently the Corporate Debtor gave another OTS offer on 29.02.2020 of Rs.18.5 crores on 30.11.2020, which was also rejected. Hence, the Corporate Debtor duly acknowledged and promised to pay the outstanding debt due to the Financial Creditor.
- (vii) The Financial Creditor issued a Form B Demand Notice dated 02.05.2024 to the Personal Guarantors through registered post, according to which, the Corporate Debtor and the Personal Guarantors are liable to pay the debt of Rs. 494,29,54,852.74.
- (viii) Despite receipt of Demand Notice, the Personal Guarantor has not come forward to pay the outstanding amounts. Therefore, it remains an undisputed fact that as on date, the Personal Guarantor has not made

payments to the Financial Creditor towards satisfaction of the unpaid financial debt.

4. This Adjudicating Authority vide its Order dated 05.02.2025 appointed Mr. Immaneni Eswar Rao, as the Resolution Professional (hereinafter referred to as the “RP”) with the direction to submit the report under Section 99 of the IBC.

REPORT FILED BY THE RP:

5. In compliance of this Adjudicating Authority Order dated 05.02.2025, the RP filed IA(IBC)/61/2025 on e-portal on 22.02.2025 and physically on 27.02.2025 vide Diary No. 318 to place on record the RP Report under Section 99 of the Code, which was taken on record by this Adjudicating Authority vide its Order dated 04.03.2025. The contents of the RP Report has been summarised as under:

(i) The Petition is well within the period of limitation under the Code and not barred by the period of limitation prescribed/ laid down under the Code. A table with sequence of events evidencing the compliance of limitation period from the date of Corporate Debtor being declared as NPA is as below:

S#	Date	Particulars of the Events
1.	30.07.2017	Date of NPA
2.	08.11.2017	FC initiated proceedings under the SARFAESI Act, 2002, and issued a demand notice
3.	06.01.2020	Debts Recovery Tribunal (DRT), Hyderabad issued a recovery certificate - RC No. 45/2020
4.	30.11.2020	Revised OTS offer made by CD
5.	30.11.2020 to 28.02.2022	Exclusion Period from 15.03.2020 to 28.02.2022 for the purposes of limitation as per the Hon'ble Supreme Court Order in the MA 21 of 2022 in MA 665 of 2021 in the Suo Motu Writ Petition (Civil) No. 3 of 2020 dated 10.01.2022
6.	28.02.2025	Limitation period ends
7.	02.05.2024	FC issued a Form B Demand Notice U/rule 7(1) of I&B (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019
8.	17.12.2024	FC filed Company Petition

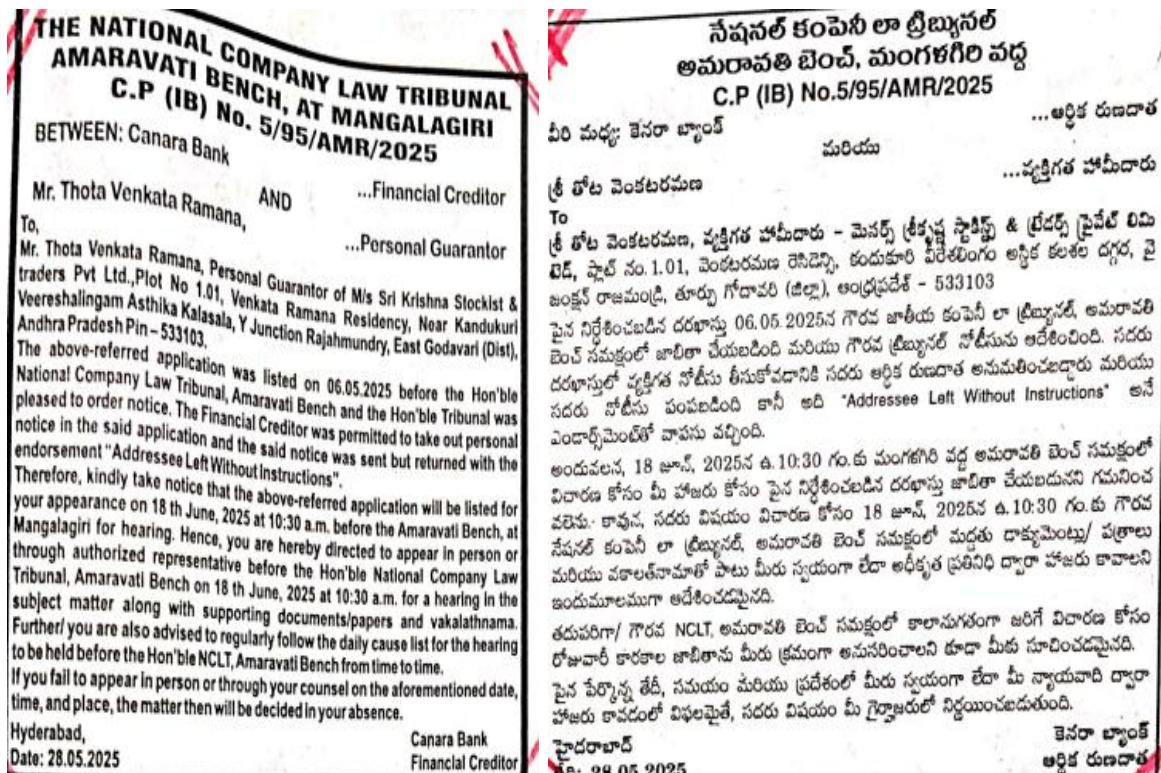
(ii) The compliance of Section 95 of the IBC is as under:

S#	Section #	Section	Observation
A.	95(1)	A creditor may apply either by himself, or jointly with other creditors, or through a resolution professional to the Adjudicating Authority for initiating an insolvency resolution process under this section by submitting an application.	Application has been filed by the Financial Creditor, Canara Bank. RP's observations have been explained in Para 4 above.
B.	95(2)	A creditor may apply under sub-section (1) in relation to any partnership debt owed to him for initiating an insolvency resolution process against— (a) any one or more partners of the firm; or (b) the firm.	Not Applicable
C.	95(3)	Where an application has been made against one partner in a firm, any other application against another partner in the same firm shall be presented in or transferred to the Adjudicating Authority in which the first mentioned application is pending for adjudication and such Adjudicating Authority may give such directions for consolidating the proceedings under the applications as it thinks just.	Not Applicable
D.	95(4)	An application under sub-section (1) shall be accompanied with details and documents relating to:	
	a. 95(4)(a)	the debts owed by the debtor to the creditor or creditors submitting the application for insolvency resolution process as on the date of application;	The application contains guarantee agreement dated 13.02.2014 executed by the Personal Guarantor, providing a continuing guarantee to repay all sums taken by the CD along with the agreed interest.
	b. 95(4)(b)	Failure by the debtor to pay the debt within a period of fourteen days of the service of the notice of demand; and	Demand notice in Form B dated 02.05.2024 was served to the Personal Guarantor.
	c. 95(4)(c)	Relevant evidence of such default or non-repayment of debt	The demand notice was received by personal guarantor on 09.05.2024. However, no repayment was made by the personal guarantor. The Resolution Professional after his appointment sent email and a letter requesting the personal guarantor to provide the details of repayment, if any, as per the provisions of Sec.99(2) of I&B Code, 2016. However, no response was received from the PG. <u>(Email and Letter sent by the RP to the PG is annexed herewith and marked as Annexure A02)</u>

d.	95(5)	The creditor shall also provide a copy of the application made under sub-section (1) to the debtor.	The applicant counsel had served the copy of application to the personal guarantor on 17.12.2024 <i>(@Page 175 of the CP)</i>
e.	95(6)	The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed.	Application against the PG has been filed by the Creditor in Form C i.e., Application by Creditor to initiate Insolvency Resolution Process, duly filled and accompanied with supporting documents.
f.	95(7)	The details and documents required to be submitted under sub section 4 shall be such as may be specified.	Documents provided in the Application: 1. Agreement of Guarantee. <i>(@Page 63 to 76 of the CP)</i> 2. Demand Notice in Form-B under rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019. <i>(@Pg 150-157 of the CP)</i> 3. Statement of the account maintained by the Creditor in respect of the debt of the CD. <i>(@Page 158 to 169 of the CP)</i> 4. Record of Financial Information – Form C with NeSL. <i>(@Page 170 to 174 of the CP)</i>

6. This Adjudicating Authority vide its Order dated 07.04.2025 directed the Financial Creditor to take out personal notice and serve the same upon the Personal Guarantor through Registered Post with Acknowledgment Due and file proof of service thereto. In compliance of the above Order, the Financial Creditor filed a Compliance Memo on e-portal on 28.04.2025 and physically on 29.04.2025 vide Diary No.812 stating that the notice was sent to the Personal Guarantor under Registered Post with Acknowledgement Due and the same was returned unserved with an endorsement of “*Addressee left without instructions*”. Therefore, this Adjudicating Authority vide its Order dated 06.05.2025, granted the permission to the Financial Creditor to issue a notice by way of substituted service to the Personal Guarantor through paper publication in two daily newspapers, namely, ‘Andhra Jyothi’ (Telugu Daily) and ‘Business Standard’ (English Daily) and file a memo of compliance within two weeks.

7. In compliance of the above Order dated 06.05.2025, the Financial Creditor filed a memo on the e-portal on 09.06.2025 and physically on 16.06.2025 vide Diary No.1153 stating that he has published the notice to the Personal Guarantor through paper publication in Business Standard (English Daily) and 'Andhra Jyothi' (Telugu Daily) on 28.05.2025. The above notice is reproduced below;



8. However, in spite of the service of notice through substituted service to the Personal Guarantor, there was no representation on behalf of the Personal Guarantor either through Counsel or in person in the hearing held on 18.06.2025. Therefore, this Adjudicating Authority vide its Order dated 18.06.2025 set the Personal Guarantor as *ex parte*.

9. During the hearing held on 22.08.2025, the Proxy Counsel for the Financial Creditor sought one week's time to get instructions from the Financial Creditor whether notice of invocation has been served on the Personal Guarantor as per the address mentioned in the Guarantee Agreement dated 13.02.2014. During the hearing held on

18.11.2025, the Financial Creditor sought time to submit the proof of service of notice served on the Personal Guarantor at the address mentioned in the Guarantee Agreement dated 13.02.2014.

10. Thereafter, the Financial Creditor filed the Interlocutory Application bearing No. IA(IBC)/420/2025 (hereinafter referred to as the "**IA 420/2025**") under Section 60(5) of the IBC read with Rule 11 of the NCLT Rules, 2016 (e-filed on 04.12.2025 and physically on 04.12.2025 vide Diary No. 2433) seeking to take on record the additional documents stating that:

- (i) The Personal Guarantor deposited a document dated 26.07.2016 (hereinafter referred to as the "**Address Change Letter**") with the address "*Flat No.103, Sowmya Royal Apartments, Near Ladies Club, Prakash Nagar, Rajahmundry, East Godavari District, Andhra Pradesh.*" (hereinafter referred to as the "**Updated Address-1**").
- (ii) Accordingly, the Financial Creditor issued the Recall Notice dated 05.10.2017 to above Updated Address-1, which was duly served upon the Personal Guarantor as evidenced by the Acknowledgement Card (annexed as "Annexure 2" in the IA 420/2025).
- (iii) Subsequently, the Financial Creditor invoked the personal guarantee by issuance of Section 13(2) Notice dated 08.11.2017, which is addressed to both the Corporate Debtor and the Personal Guarantor.
- (iv) A Clause of the Guarantee Agreement dated 13.02.2014 executed by the Personal Guarantor in favour of the Financial Creditor explicitly provides that all notices shall be deemed served, if sent to the last known address of

the Personal Guarantor. At the time of issuance of the Section 13(2) notice, the last known address of the Personal Guarantor was Updated Address-1.

(v) The Hon'ble NCLAT, New Delhi in the matter of ***Paresh Rastogi v. Omkara Assets Reconstruction Pvt. Ltd. and Anr., (2025) ibclaw.in 194 NCLAT***, held that the Guarantee Deed unequivocally provides that all communications, including Notices of Demand, sent to the address provided in the Guarantee Deed or the last known address shall be deemed valid service. The Hon'ble NCLAT further clarified that the Personal Guarantor's failure to update the address or respond to notices served at the last known address does not vitiate the service's validity. Similarly, the Hon'ble NCLAT, New Delhi in ***Mahdoom Bava Bahrudeen Noorul Ameen v. State Bank of India and Anr., (2025) ibclaw.in 108 NCLAT***, observed that non-service of the Rule 7 Demand Notice does not absolve the Personal Guarantor from liability under the Deed of Guarantee, especially when the Personal Guarantor has not denied execution of the guarantee or service of other notices under SARFAESI. The Hon'ble NCLAT emphasized the Personal Guarantor's duty to notify the bank of any change in address and held that sufficient time was available to the Personal Guarantor to respond or make payment.

(vi) The Personal Guarantor also issued a letter dated 04.07.2019 (annexed as "Annexure 3" in the IA), which bore the address as "Flat No.101, Venkataramana Residency, Near Kandukuri Veerashalingam Ashthika Kalasala, Y Junction, Rajahmundry, EG. District, A.P." (hereinafter referred to as the "**Updated Address-2**").

(vii) In view of the above, the Financial Creditor also issued the Possession Notice dated 31.10.2019 under Section 13(4) of the SARFAESI to the Updated Address-2, which was duly served and acknowledged by the Personal Guarantor on 04.11.2019, as evidenced by the delivery report (annexed as Annexure 4 in the IA). Subsequently, the Financial Creditor issued the Form B Notice dated 02.05.2024 to the same updated address, which was duly served on the Personal Guarantor on 09.05.2024, as substantiated by the delivery report.

11. After careful consideration of the documents, we are of the considered view that in the interest of justice, the additional documents placed by the Financial Creditor in the IA 420/2025 are the necessary documents, and therefore needs to be taken on record for the proper adjudication of the matter. In view of the above, the additional documents annexed by the Financial Creditor in IA 420/2025 are taken on record. Accordingly, the **IA (IBC)/420/2025 is hereby allowed and disposed of.**

ANALYSIS AND FINDINGS:

12. We have heard the submissions of Counsels for the Financial Creditor and RP also perused the RP Report and other records carefully.

13. The first issue for consideration before us is "***Whether the notice dated 05.10.2017 invoking the personal guarantee has been duly served upon the Personal Guarantor***"

(i) As per the Guarantee Agreement dated 13.02.2014 (Page 72 of the Petition), the notice to the Guarantor may be served personally or by prepaid post to the registered or last known address and a notice so sent

shall be deemed served on the third day after posting. The relevant extract of the Guarantee Agreement is reproduced below:

Any notice may be served on the Guarantor personally or by sending the same in a prepaid cover to the address registered with the Bank and when no such address is registered, to the last known place of address of the person to be served and a notice so sent shall be deemed to be served on the third day following that on which it is posted.

(ii) The address of Personal Guarantor as mentioned in the Guarantee Agreement dated 13.02.2014 (Page 70 of the Petition) is reproduced below:

2) Mrs. Thota Venkata Ramana W/o Mr. Thota Kanna Rao, H No. 76, YERNAGUDEM, OC AREA DEVARAPALLI MANDAL, WEST GODAVARI DIST, A.P. 534313 herein after termed the 'Guarantor'

(iii) However, the Personal Guarantor mentioned the Updated Address-1 in a document submitted to the Financial Creditor, the relevant extract of which is reproduced below:

PARTICULARS OF THE GUARANTOR / CO-OBLIGANT

From: Sri Krishna Stockist & Traders (P) Ltd.
I. Parigidi, Kooru Mandal,
West Godavari District.

To: The Manager / Senior Manager
 CANARA BANK
 IF BRANCH

Banking Facilities Extending / to be extended by you to M/s. Sri Krishna Stockist & Traders (P) Ltd.

I offer to stand as a guarantor / Co-obligant for the banking facilities extended / to be extended by you to M/s. and furnish the particulars herebelow:

1. Full Name:	<u>T. Venkata Ramana</u>	5. Whether related to the Borrower/other co-obligant/guarantor Yes, <u>partner of the firm Gopalakar</u>
2. Father's / Husband's Name:	<u>T. Kamra Rao</u>	6. Whether related to any of the Employees of our Bank : No (if yes, indicate details)
3. Age (in years) :	<u>52</u> years	7. SB / CA No. _____ Opened on _____
4. Address:	Residential Office / Business	8. Net Annual Income: Rs. <u>20</u> Lakhs.
Flat No. 103, Sowmya I. Parigidi, Kooru Royal APT, TTD Kalyana Mandapam Road, Palkalai Nager, Vijayamundry.		9. Net Worth: Rs. <u>72.44.15</u> Lakhs.
		10. Liabilities, if any NIL.

Particulars of Assets owned by Co-obligant / Guarantor

I declare that I am the true owner of the assets and I am in possession of documents conferring rights on me. I further declare that the particulars furnished by me herein above are true to the best of my knowledge and belief.

— T. Ventilator Resuscitation

(iv) The Financial Creditor issued Recall Notice dated 05.10.2017 to the Personal Guarantor through Registered Post at the Updated Address-1.

The relevant extracts of Recall Notice dated 05.10.2017 along with the postal acknowledgments are reproduced below:

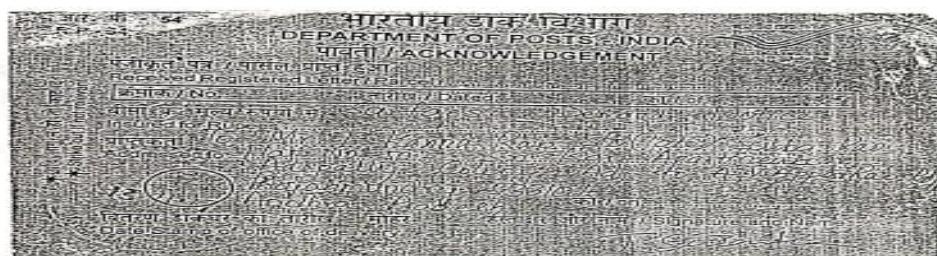
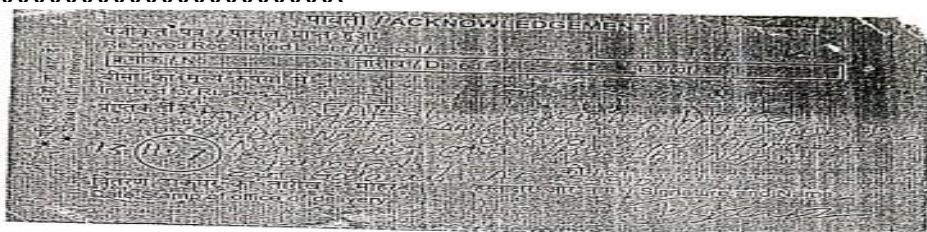


REF: IF/HYD/CR-33/352/2017/VNS
DATE: 05.10.2017

BY REGD POST WITH ACK

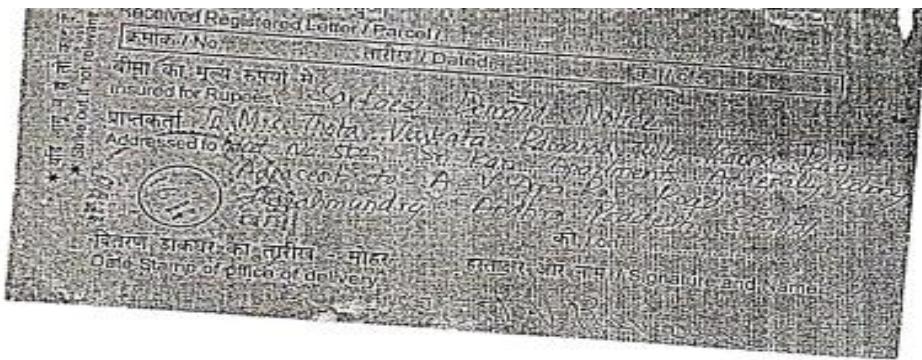
TO

3. Mrs. Thota Venkata Ramana
W/o KANNA RAO
FLAT NO. 103, SOWMYA ROYAL APARTMENTS
NEAR LADIES CLUB, PRAKASH NAGAR
RAJAHMUNDRY
EAST GODAVARI DISTRICT, AP



The Signature is the
True Copy of the Original document

For CANARA BA
BBB
STATUE / MANAJ
LE GO HYDRA



(v) In view of the above, we are of the considered view that the notice invoking the personal guarantee has been duly served on the Personal Guarantor.

14. The next issue for consideration before us is "***Whether the Petition is filed within the period of limitation?***"

- (i) In the present case, the loan account of the Corporate Debtor was classified as NPA on 31.08.2017.
- (ii) The Financial Creditor issued Recall Notice through Registered Post dated 05.10.2017, requesting the Personal Guarantor to pay the amount due in not later than 7 days from the date of notice. The relevant extracts of Recall Notice dated 05.10.2017 are reproduced below:

**SUB: WORKING CAPITAL AVAILED BY YOU
RECALLING THE ADVANCE**

At your request, the competent authority has sanctioned Working Capital Limits by way of Open Cash Credit / ODBC limit to the tune of Rs. 152.00 crores and the sanction terms and conditions were conveyed to you vide our various sanction letters.

You have executed the documentation including creation of EMT and personal guarantee of the directors, Property owners on various dates, latest of which was 06.01.2016.

As you have failed in meeting the commitments / clearing the overdues, the accounts were showing overdues and the accounts have slipped to NPA status. As per our records the liability in all the accounts has become overdue and details are as below:



Name of the Borrower: M/s Sri Krishna Stockist & Traders Pvt Ltd

SI.No.	Nature of Facility	Loan A/c No.	(Rs in crores)
			Outstanding as on 04.10.2017
1	OCC	2423261005114	127,16.25,163.00
2	OCC	0642261005193	32,19.52,383.00
TOTAL DUES			159,35,77,546.00

We have requested you several times by way of letters, e-mails and personal contacts for regularizing the accounts and despite of continuous / repeated reminders, you have failed to regularize the A/cs.

We hereby call upon you to pay the entire liability, details as mentioned above along with upto date interest @ 12.50% p.a. w.e.f. 05.10.2017 compounded monthly rests including penal interest of 2.00% p.a. from the date of debit, within 7 days from the date of this Notice, failing which please note that the bank is left with no alternative but to adopt appropriate legal proceedings including action under SARFAESI act against all of you to recover the dues including interest, costs and charges.

Further, please be informed that any delay in payment of dues/interest on your part, shall be reported to credit information Companies, as the same is mandatory. Any adverse remarks/non-payment of above said amount could adversely impact your credit rating, which will affect your ability to raise loans on beneficial terms in future.

Yours faithfully,
एन.एस. नागराजू / For CANARA BANK

एन.एस. नागराजू / N.S. NAGARAJU
सहायक अधिकारी/Asstt. Gen. Manager
S.P. No. 36967

ASST. GENERAL MANAGER

(iii) Therefore, the cause of action arises on 12.10.2017 i.e. 7 days from the date of notice dated 05.10.2017 and the three years limitation period to file an application before the Adjudicating Authority would expire on 11.10.2020.

(iv) However, subsequently, due to continued non-payment, the Financial Creditor initiated recovery proceedings and issued a Notice dated

08.11.2017 under Section 13(2) of the SARFAESI and subsequently filed the OA No. 340/2018 before DRT, wherein the DRT passed the order on 23.09.2019 to issue the recovery certificate. The Recovery Certificate was issued on 06.01.2020 vide RC No.45 of 2020. The issue of Recovery Certificate before expiry of the limitation period would amount to fresh start of the limitation period from the date of Recovery Certificate resulting in extending the limitation period to 05.01.2023.

(v) Further, the Corporate Debtor gave an OTS offers to the Financial Creditor on 29.02.2020 and 30.11.2020. The relevant extract of OTS offer letter dated 30.11.2020 are reproduced below:

Dt.30-11-2020

From
SRI KRISHNA STOCKS AND TRADERS PVT.LTD.,
 Reptd. by its Proprietor Mr.Thota Kanna Rao
 G-227, Opposite ITC Main Gate
 I Pangidi Village, Kovvur Mandal
 West Godavari District
 Andhra Pradesh

To,
The Assistant General Manager
Canara Bank, Industrial Financial Branch,
3-5-874/19/1 to 3, Beside Old MLA Quarters
Hyderabad,
Hyderabad - 500 029

Sir, ,

Sub:-	i) Honourable Debts Recovery Tribunal, Visakhapatnam Orders dt.18-11-2020 passed in I.A.No.1609/2020 in S.A.130/2020 for OTS proposal; ii) Enhanced OTS proposal for Amount of Rs.18,50,00,000/- (Rupees Eighteen Crores Fifty Lakhs Only) of Loan Accounts viz., a) OCC Loan A/c No.2423261005114 b) OCC Loan A/c No.0642261005193
Ref	i) Our OTS Letter dt.29-2-2020 ii) Your Letter dt.11-3-2020

1. I am the Managing Director of M/s. Sri Krishna Stockist & Trades Private Limited and on behalf of Company as well as individually I am submitting this letter for settlement with Canara Bank only.
2. You are aware that I am having accounts with your Canara Bank since 2013-2014 and my accounts are running good with your branches till 2017. Originally I am having credit facilities of Rs.30Crores from IDBI Bank & Rs.35 Crores from Indian Bank. By seeing my track record in line of business activities done by me in IDBI Bank & Indian Bank, your bank take over loan of Rs.35 Crores from Indian Bank and also granted additional loan of Rs.117crores totaling to Rs.152Crores to me.
3. Due to demonetization declared by the Central Government in November 2016, my entire business fell sick, which connects from one factor to other factors and as such, subject account is declared as NPA at your end on respective dates within a span of one

year from the date of demonetization. Further new policies declared by the Government also made my entire business collapsed. Even in such loss, I paid interest to your bank and also paid certain amounts to my supply farmers, by mortgaging other properties belonging to me with private financiers on high rate of interest. At present, I am not having any other properties in my name or in company name except the properties mortgaged to your bank. The other properties which are not mortgaged to your bank are already charged with 3rd parties.

4. All the members of the consortiums have given excellent report and appreciated the efforts in successive consortium meetings dt.30-4-2016 for the timely servicing of interest and satisfactory conduct of the accounts. The Consortium Meeting dt.30-4-2016 vide Ref.HYD IFB22 CR Lr 178 2019 KR is enclosed for your reference.

5. Finally your bank sold prime security worth of Rs.10Crores and recovered approximately an amount of Rs.6,00,00,000/- (Rupees Six crores only) by sale of prime security under SARFAESI Act 2002 and the same is also adjusted also into respective loan accounts.

6. Earlier on 29-2-2020 considering the value of collateral securities mortgaged to your Canara Bank, I submitted OTS proposal on 29-2-2020 to your bank for an amount of Rs.18,00,00,000/- (Rupees Eighteen Crores). But the said proposal is rejected by your bank on 11-3-2020 stating that the same is not considered by your competent authority.

7. In Income Tax Returns for the Annual Year 2017-18, I declared total loss for Rs.198,18,67,940/- (Rupees One Ninety Eight Crores Eighteen Lakhs Sixty Seven Thousand Nine Hundred and Fourty Only) and accordingly Assessment Scrutiny Order No.ITBA/AST/S/143 (3)/2018-19/1015611324(1) dt.31-3-2019 is passed by the Income Tax Department. Further for the Annual Year 2018-19, I declared loss for an amount of Rs.63,23,07,204/- (Rupees Sixty Three Crores Twenty Three Lakhs Seven Thousand Two Hundred and Four Only) and accordingly Assessment Order is passed by the Income Tax Department. These Assessments for the Annual years 2017-2018 & 2018-2019 clearly reveals the loss sustained by my Company. For your kind reference, I am enclosing the Assessment Orders.

8. The reasons best known to you and as my entire business ruined into loss, I am submitting this enhanced OTS proposal for an amount of Rs.18,50,00,000/- (Rupees Eighteen Crores Fifty Lakhs) and on your acceptance immediately within 15days I will pay 10% of OTS amount as upfront and will pay the remaining OTS amount within 180 days from the date of payment of 10% of upfront amount.

Therefore I request your goodself to kindly accept our OTS proposal for total amount of Rs.18,50,00,000/- (Rupees Eighteen Crores Fifty Lakhs) and allow me to pay 10% of OTS amount to your bank within 15days from date of your acceptance.

Thanking You,

Yours Faithfully

T *Koushik Reddy*

M/S. SRI KRISHNA STOCKIST & TRADERS PVT LTD.,

Encl :

- 1) Orders dt.18-11-2020 in 1609/2020 in SA.130/2020 passed by the DRT, Visakhapatnam;
- 2) Minutes of Consortium Meeting dt.30-4-2016
- 3) Assessment Order for the year 2017-2018
- 4) Assessment Order for the year 2018-2019

(vi) The above OTS offer would amount to acknowledgement of Debt by the Corporate Debtor, thereby extending the period of limitation to 29.11.2023 .

(vii) Additionally, the period from 15.03.2020 to 28.02.2022 stands excluded for the purpose of computation of limitation in view of the Hon'ble Supreme Court Order in *Suo Motu Writ Petition (C) No.3 of 2020*, in which it was *inter alia* directed as under:

"The period from March 15, 2020 till February 28, 2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or social laws in respect of all judicial or quasi-judicial proceedings.

In cases where the limitation would have expired during the period between March 15, 2020 till February 28, 2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from March 01, 2022."

(viii) In light of the above, 715 days (1 year, 11 months, and 13 days) are to be added to 29.11.2023 for the purpose of computing the limitation period. Accordingly, the limitation period expires on 13.11.2025.

(ix) Since the present Petition was filed on 30.12.2024, we are of the considered view that the present Petition has been filed well within the limitation period.

15. The next issue for consideration before us is "***Whether the Personal Guarantor is liable to pay the dues by virtue of the Guarantee Agreement executed by her?***"

(i) The common clauses of the Guarantee Agreement dated 13.02.2014 executed by the Personal Guarantor are as follows:

(a) As per the Guarantee Agreement dated 13.02.2014 (Page 70 of the Application), the Personal Guarantor agreed unconditionally and irrevocably to guarantee repayment of all existing and future loans and liabilities, the Financial Creditor advances or guarantees. The relevant extract of the Guarantee Agreement is reproduced below:

Whereas the Guarantor has requested the Bank to grant financial assistance to the Borrower by way of facilities, including guarantees subject to the specific condition that the Guarantor shall unconditionally and irrevocably guarantee the repayment of all amounts advanced and all liabilities guaranteed by the Bank as also all amounts which may be advanced and all guarantees which may be issued by the Bank from this day.

(b) As per the Guarantee Agreement dated 13.02.2014 (Page 70 of the Application), the Financial Creditor, at the guarantor's request, agreed not to demand immediate repayment of existing dues from the borrower, and may continue to advance or renew financial facilities at its discretion without notifying the Personal Guarantor. In consideration of this, the Personal Guarantor undertook to guarantee payment of all amounts that may become due from the borrower to the Financial Creditor, subject to the terms and conditions set out in the agreement. The relevant extract of the Guarantee Agreement is reproduced below:

And whereas in consideration of the Bank's agreeing to do so and in consideration of the Bank's agreeing at the request of the Guarantor not to require immediate payment of any amount now due from the Borrower to the Bank and in consideration of any sums which may hereafter be advanced by the Bank to the Borrower, and in consideration also of the Bank's hereafter granting financial accommodation to the Borrower by way of renewal of facilities from time to time at the discretion of the Bank without previous intimation to the Guarantor of such renewal the guarantor has agreed to guarantee payments of all amounts due by the Borrower to the Bank subject to the terms and conditions hereinafter set forth, and whereas the Bank has agreed thereto.

(c) As per the Guarantee Agreement dated 13.02.2014 (Page 71 of the Application), the guarantee will remain a continuing guarantee for the repayment of whatever final amount the borrower owes to the

Financial Creditor, and the Guarantors are jointly and severally liable.

The relevant extract of the Guarantee Agreement is reproduced below:

NOTWITHSTANDING the Borrower's account or accounts with the Bank may be brought to credit or the credit given to the Borrower fully exhausted or exceeded howsoever the said financial accommodation be varied or changed or renewed from time to time notwithstanding any payments from time to time or any settlement of Accounts or payments in settlement of the balance that may be due from time to time, this guarantee shall to the extent aforesaid, be a continuing guarantee for payment of the ultimate balance to become due to the Bank by the Borrower. The liabilities of the Guarantors under these presents shall be construed as joint and several. This guarantee shall be a continuing guarantee notwithstanding the death of any one or more of the Guarantors and shall be binding on the representatives and the estates of the deceased Guarantors.

(d) As per the Guarantee Agreement dated 13.02.2014 (Page 71 & 72 of the Application), the Guarantor remains liable for the guaranteed debt notwithstanding any variation in terms of the Financial Creditor's contract with the Borrower, any extension of time, release, composition, or omission by the Financial Creditor, or the Financial Creditor's parting with any security and the Guarantor be treated as a principal debtor jointly with the Principal Borrower. The relevant extract of the Guarantee Agreement is reproduced below:

The Guarantor hereby consents to the bank's making any variance that the Bank may think fit in the terms of the Bank's contract with the Borrower, to the Bank's determining, enlarging or varying any credit to the Borrower to the Bank's making any composition with the Borrower or promising to give the Borrower time or not to sue him and to the Bank's parting with any security the Bank may hold for the guaranteed debt. The guarantor also agrees that the Guarantor shall not be discharged from his liability by the Bank's releasing the Borrower or by any act or omission of the Bank

legal consequence of which may be to discharge Borrower or by any act of the bank which would but for this present provision, be inconsistent with the Guarantor's right as surety or by the Bank's omission to do any act which, but for this present provision, the Bank's duty to the Guarantor would have required the Bank to do. Though as between the Borrower and the Guarantor, the Guarantor is surety only, the guarantor agrees that as between the Bank and the Guarantor, the Guarantor is the principal debtor, jointly with the Borrower. Accordingly, the Guarantor waives all of the rights conferred on him by Section 130, 133, 134, 135, 139 and 141 or any other relevant provision of the Contract Act.

(e) As per the Guarantee Agreement dated 13.02.2014 (Page 72 &73 of the Application), the Guarantor authorizes the Principal Borrower to acknowledge liability on her behalf for the general balance due under this Agreement and agrees to be bound by every such acknowledgement. The relevant extract of Guarantee Agreement is reproduced below:

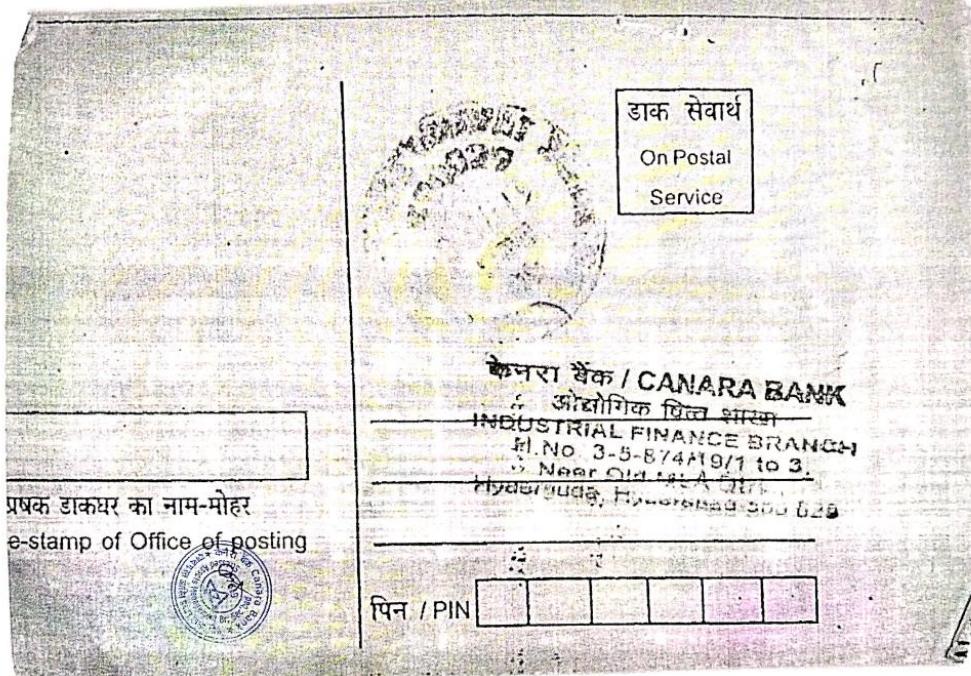
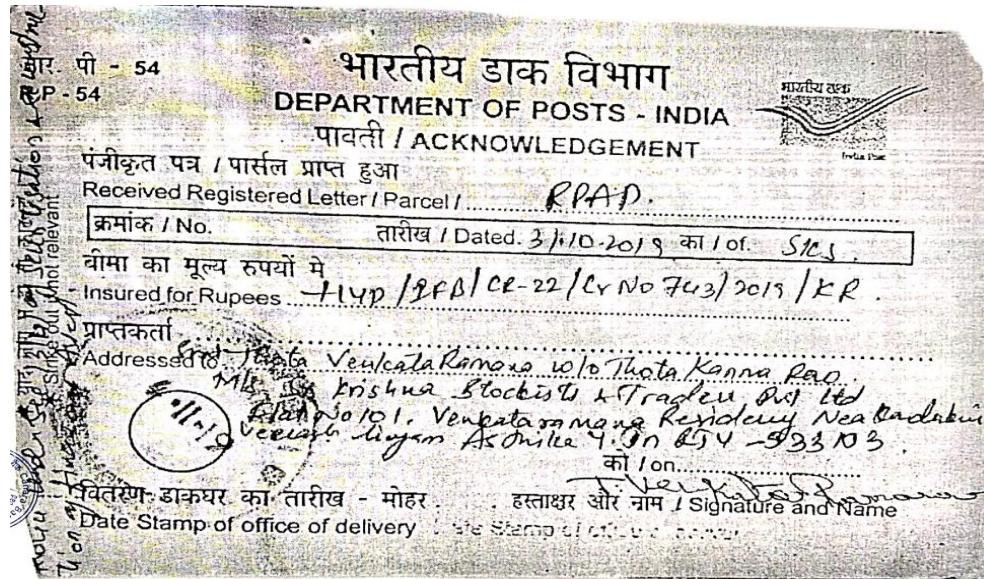
The guarantor hereby authorizes the borrower herein to act as his agent to give acknowledgement of liability in respect of the "General balance" due under this agreement from time to time. The Guarantor hereby declares that he is at all times bound by such acknowledgements of liability given by the Borrower from time to time.

(ii) In view of the clauses of the Guarantee Agreement discussed above, we are of the considered view that the Personal Guarantor is liable by virtue of the Guarantee Agreement executed by her.

16. The next issue for consideration is "***Whether the Demand Notice was duly served upon the Personal Guarantor demanding the outstanding amount beyond the threshold of Rs. One Crore due and payable under the Guarantee Agreement?***"

(i) It is noted that the sale notice dated 31.10.2019 was issued by the Financial Creditor to the Personal Guarantor at the address "*Plot No. 101, Venkata*

Ramana Residency, Near Kandukuri Veereshalingam Asthika Kalasala, Y Junction, Rajahmundry, District East Godavari-533103", which was duly received by her. The relevant extract of the above RPAD is reproduced below:



(ii) The Financial Creditor issued a Demand Notice dated 02.05.2024 for outstanding debt of Rs.494,29,54,852.74 in Form B at the above aforesaid address to the Personal Guarantor. The relevant extracts of the Demand Notice and postal Track Assignment are reproduced below:

FORM B
[See rule 7(1)]
DEMAND NOTICE

150

[Under rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019]

To:

1. SMT THOTA VENKATA RAMANA W/O THOTA KANNA RAO
Address: Plot No 101, Venkata Ramana Residency, Near Kandukuri Veereshalingam, Asthika Kalasala, Y Junction, Rajahmundry, East Godavari (Dist), Andhra Pradesh Pin - 533103.

From:

Assistant General Manager
Canara Bank
Address: H.NO.3-5-87491 TO 3, HYDERGUDA, HIMAYATNAGAR PO, - 500029

Date: 02.05.2024

Subject: Demand notice in respect of unpaid debt in default due from Sri Krishna Stockist & Traders Pvt. Ltd under the Insolvency and Bankruptcy Code 2016

Madam/Sir,

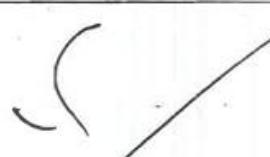
1. This letter is a demand notice of unpaid debt in default due from Sri Krishna Stockist & Traders Pvt. Ltd
2. Please find particulars of the unpaid debt in default below:

PARTICULARS OF DEBT		
1	Total Outstanding debt (including any interest or penalties)	Rs. 494,29,54,852.74 as on 02.04.2024
2	Amount of debt in default	Rs. 494,29,54,852.74 as on 02.04.2024
3	Date when the debt was due	31.08.2017

XXXXXXXXXXXXXXXXXXXX

4. The undersigned request you to unconditionally pay the unpaid debt in default in full within fourteen days from the receipt of this letter failing which insolvency resolution process, under the Code, shall be initiated against you.

Yours sincerely,


Name of BRANCH HEAD: RAJIV SHAH


Position with or in relation to creditor: ASSISTANT GENERAL MANAGER

Address of person signing
MCB Hyderabad
CANARA BANK
H.NO.3-5-87491 TO 3, HYDERGUDA,
HIMAYATNAGAR PO, - 500029



G20

Azadi Ka
Amrit Mahotsav

You are here: Home >> Track Consignment

Quick help

Track Consignment

* Indicates a required field.

* Consignment Number

RN105012312IN

Track More

Booked At	Booked On	Destination Pincode	Tariff	Article Type	Delivery Location	Delivery Confirmed On
Hyderabad G.P.O.	04/05/2024 15:11:12	533104	265.50	Registered Letter	Danavipeta S.O	09/05/2024 14:14:05

Event Details For : RN105012312IN

Current Status : Item Delivered(Addressee)

Date	Time	Office	Event
09/05/2024	14:14:05	Aryapuram S.O	Item Delivered(Addressee)
09/05/2024	10:21:55	Aryapuram S.O (Beat Number:5)	Item Delivered [To: T k rao (Addressee)]
09/05/2024	03:46:35	Aryapuram S.O	Out for Delivery
09/05/2024	09:16:06	Aryapuram S.O	Item Received
09/05/2024	04:48:06	Rajahmundry TMO	Item Dispatched
09/05/2024	04:24:20	Rajahmundry TMO	Item Received
09/05/2024	04:07:38	Rajahmundry RMS L2R	Item Dispatched
09/05/2024	03:45:38	Rajahmundry RMS L2R	Item Bagged
09/05/2024	19:39:06	Rajahmundry RMS L2R	Item Received
09/05/2024	15:11:52	Danavipeta S.O	Item Dispatched
09/05/2024	15:10:22	Danavipeta S.O	Item Bagged
07/05/2024	10:21:26	Danavipeta S.O	Item Redirected to Aryapuram S.O Insufficient Address
07/05/2024	09:01:47	Danavipeta S.O	Item Received
07/05/2024	04:14:23	Rajahmundry TMO	Item Dispatched
07/05/2024	03:58:55	Rajahmundry TMO	Item Received
07/05/2024	03:41:03	Rajahmundry RMS L2R	Item Dispatched
07/05/2024	02:38:40	Rajahmundry RMS L2R	Item Bagged
06/05/2024	19:07:47	Rajahmundry RMS L2R	Item Received
06/05/2024	07:39:47	visakhapatnam TMO	Item Dispatched
06/05/2024	07:31:35	visakhapatnam TMO	Item Received
06/05/2024	03:41:27	Visakhapatnam RMS L1R	Item Dispatched
06/05/2024	00:41:14	Visakhapatnam RMS L1R	Item Bagged
05/05/2024	23:33:57	visakhapatnam TMO	Item Dispatched
06/05/2024	23:30:46	visakhapatnam TMO	Item Received
05/05/2024	04:31:45	Hyderabad TMO	Item Dispatched
05/05/2024	03:27:32	Hyderabad TMO	Item Received
05/05/2024	01:31:58	Hyderabad CRC L1R	Item Dispatched
04/05/2024	23:05:16	Hyderabad CRC L1R	Item Bagged
04/05/2024	18:51:35	Hyderabad CRC L1R	Item Received
04/05/2024	17:47:43	Hyderabad G.P.O.	Item Dispatched
04/05/2024	17:25:39	Hyderabad G.P.O.	Item Bagged
04/05/2024	15:11:12	Hyderabad G.P.O.	Item Booked



(iii) In view of the above, we are of the considered view that the Demand Notice dated 02.05.2024 in Form B has been duly served upon the Personal Guarantor demanding the outstanding amount which is beyond the threshold of Rs. One Crore due and payable under the Guarantee Agreement.

17. While considering the Petition under Section 99(7) of IBC, we need to refer to the report/ recommendation of the RP. In the present case, the RP in his report filed under Section 99 of IBC has stated that the Petition filed by the Financial Creditor, Canara Bank is in compliance with section 95 of the Code and has recommended for acceptance of the present Petition for initiating PIRP against the Personal Guarantor.

18. In terms of the provisions of Section 100 of IBC, 2016, while considering the admission of Petition filed under Section 95(1) of IBC, 2016, this Adjudicating Authority needs to satisfy itself regarding the acceptability of the report filed under Section 99 of IBC, 2016. In view of the above, we are of the considered view that this Petition needs to be admitted. Therefore, **CP (IB)/5/95/AMR/2025 is admitted.**

19. As a sequel of admission of the present Petition, the interim moratorium, which had kicked in as per Section 96 of the IBC shall cease and a fresh moratorium will begin in terms of Section 101 of the IBC in relation to all the debts of the Personal Guarantor. During the moratorium period – (a) any pending legal action or proceedings in respect of any debt qua the Personal Guarantor shall be deemed to have been stayed; (b) the Creditors shall not initiate any legal action or legal proceedings in respect of any debt qua the Personal Guarantor; and (c) the Personal Guarantor shall not transfer, alienate, encumber or dispose of any of the assets or his legal right or

beneficiary interest therein. The moratorium shall cease to have effect at the end of a period of 180 days.

20. The public notice as envisaged under Section 102 of the IBC shall be issued by the RP, on behalf of the Adjudicating Authority, within seven days of passing of this Order, inviting claim from all creditors within 21 days of such notice. The notice shall include details of the present Order, particulars of the RP with whom the claims have to be registered and the last date for the submission of the claims. The notice shall be – (a) published in English and one Vernacular Language newspaper, which are in circulation in the State, where the Personal Guarantor resides as well as where the registered office of the Corporate Debtor is situated; (b) affixed in the premises of this Adjudicating Authority; and (c) placed on the website of the Adjudicating Authority.

21. The RP in exercise of the powers conferred under Section 104 shall prepare a list of creditors within 30 days from the date of the notice as provided under Section 105, the debtor shall, in consultation with the RP, prepare a repayment plan containing a proposal to the creditors for restructuring of his debts or affairs, which besides other things, shall also include the provisions for payment of fee to the RP. The RP shall submit the repayment plan along with his report on the plan to this Adjudicating Authority within a period of 21 days from the last date of submission of claims, as provided under Section 106 of the IBC.

22. In case the RP recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons thereof. If the RP 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 list prepared) shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107 of the IBC.

23. The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 and 111 of IBC, 2016. The RP 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 Adjudicating Authority, copies of which shall be provided to the Debtor and all the Creditors. It is made clear that the RP shall perform his functions and duties in compliance with the code of conduct provided under Section 208 of the IBC, 2016.

24. A copy of this Order along with a copy of the Petition and RP Report shall be provided to the Financial Creditor, Personal Guarantor and IBBI by the Registry/ Court Master within 7 days from today by email.

25. It goes without saying that whatever amount is paid to the Financial Creditor by the Principal Borrower (Corporate Debtor) and other guarantors, the same would be deducted from the liability of the Personal Guarantor to repay.

26. To come up for consideration of Status Report to be filed by RP, within eight weeks.

Sd/-
(Umesh Kumar Shukla)
Member (Technical)

Sd/-
(Kishore Vemulapalli)
Member (Judicial)

Anusha