



**NATIONAL COMPANY LAW TRIBUNAL**  
**INDORE BENCH**  
**COURT NO. 1**

ITEM No.202  
CP(IB)/60(MP)2021

**Order under Section 95 IBC**

**IN THE MATTER OF:**

Encore Asset Reconstruction Company Pvt Ltd  
V/s  
Keshav Kumar Nachani (Personal Guarantor)

.....Applicant

.....Respondent

**Coram:**

Hon'ble Shri Brajendra Mani Tripathi, Member (J)  
Hon'ble Shri Man Mohan Gupta Member (T)

**PRONOUNCEMENT OF ORDER**  
**Delivered on 17/04/2026**

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

**MAN MOHAN GUPTA**  
**MEMBER (TECHNICAL)**

Tomar

Sd/-

**BRAJENDRA MANI TRIPATHI**  
**MEMBER (JUDICIAL)**



**THE NATIONAL COMPANY LAW TRIBUNAL  
INDORE BENCH  
CP(IB) 60 OF 2021**

*(Under Section 95 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules 2019)*

**IN THE MATTER OF:**

**Encore Asset Reconstruction Company Private Limited,**

having its Registered Office at:

Caddie Commercial Tower,

Regus Business Centre, 5th Floor,

Aerocity (Dial), New Delhi-110037

Corporate Office at 5th Floor, Plot 137,

Sector 44, Gurgaon, Haryana -122002

**..... Applicant**

**Versus**

Shri Keshav Kumar Nachani,

R/o 614, Usha Nagar Extension, Indore-452009

**.....Respondent**

**CORAM:**

**Shri. Brajendra Mani Tripathi, HON'BLE MEMBER (J)**

**Shri. Man Mohan Gupta, HON'BLE MEMBER (T)**

**APPEARANCE:**

**For the Applicant:** Mr. Aditya V. Jha, Adv.

**For the Respondent:** Mr. B.M. Maheshwari, Adv.




## JUDGEMENT

1. The present application has been filed under Section 95 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**Code**”) read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 by the applicant for the purpose of initiating insolvency resolution process against Shri Keshav Kumar Nachani, (hereinafter referred to as “**Respondent/Personal Guarantor**”), Personal Guarantor of **M/s Gnext Telecom Private Ltd.** (hereinafter referred to as “**Corporate Debtor**”) having Corporate Identification Number (CIN): U51103MP2006PTC018874 for default of an amount of **Rs. 14,52,64, 596/-**.
2. The account of the Corporate Debtor was classified as Non-Performing Asset (NPA) on 26.07.2016. It is further submitted that a demand notice dated 28.07.2016 under Section 13(2) of the SARFAESI Act was issued to the Borrower and the Personal Guarantor, granting a period of 60 days to discharge the liability, and upon failure to make payment within the said period, the Applicant has stated the date of default as 27.09.2016.

**Submissions by the Applicant/Financial Creditor:**

3. The averments made by the Financial Creditor in its Application and argued by the learned counsel for the Applicant are summarized hereunder:
4. The Financial Creditor submitted that the erstwhile Allahabad Bank had sanctioned credit facilities to the Borrower Company vide sanction letter dated 31.03.2015 annexed as **Annexure-5**. Pursuant thereto, the Borrower executed necessary loan and security documents including the Term Loan Agreement, General Letter of Hypothecation and Demand Promissory Note on 31.03.2015. It is submitted that the Personal Guarantor executed a Deed of Guarantee dated 31.03.2015 in favour of the Financial Creditor guaranteeing repayment of the said facilities. It is further submitted that the erstwhile Allahabad Bank has since been amalgamated with Indian Bank pursuant to the Scheme of Amalgamation dated 04.03.2020 with effect from 01.04.2020 and that the debt in question had been assigned in favour of the present Applicant i.e. Encore Asset Reconstruction Company Private Limited vide Assignment Agreement dated 27.12.2018 in accordance with the provisions of the SARFAESI Act, 2002.
5. It is submitted that the Personal Guarantor, by way of the said Deed of Guarantee dated 31.03.2015 (**Annexure-8**), provided an irrevocable and continuing guarantee for repayment of the dues of the Borrower including



interest, charges, costs and expenses and agreed to discharge the liability on demand.

6. It is submitted that the Borrower committed default in repayment of the loan facilities and the account was classified as Non-Performing Asset on **26.07.2016**.
7. It is further submitted that a demand notice **dated 28.07.2016** under Section 13(2) of the SARFAESI Act, 2002 (**Annexure-9 Colly**) was issued to the Borrower and the Personal Guarantor calling upon them to repay an amount of Rs.7,47,52,122/- (Rupees Seven Crores Forty-Seven Lakhs Fifty-Two Thousand One Hundred and Twenty-Two Only) along with interest, charges and other expenses within 60 days.
8. It is submitted that despite issuance of the said notice, the Personal Guarantor failed to make payment within the stipulated period. Consequently, measures under Section 13(4) of the SARFAESI Act, 2002 were taken and possession of the secured asset was taken by the Authorised Officer on 03.10.2016.
9. The Financial Creditor submitted that the Personal Guarantor acknowledged the liability vide consent and acknowledgment letter dated 29.05.2017(**Annexure-11**) It is further submitted that the liability has also been acknowledged from time to time in the balance sheets for the financial year 2014-2015,2015-2016,2016-2017,2017-2018,2018-2019,2019-2020



and financial statements of the Borrower Company annexed as **Annexure-13(Colly)**.

10. It is further submitted that the erstwhile lender initiated recovery proceedings under the Recovery of Debts and Bankruptcy Act, 1993 by filing Original Application being O.A. No. 861/2017 before the Debts Recovery Tribunal, Jabalpur, which is stated to be pending adjudication.
11. It is submitted that the Financial Creditor issued a demand notice dated **June 15, 2021** in Form B under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 to the Personal Guarantor for an amount of **Rs.14,52,64,596/-** (Rupees Fourteen Crores Fifty-Two Lakhs Sixty Four Thousand Five Hundred Ninety Six only) along-with interests, charges and other expenses that was calculated as on March 31, 2021. calling upon him to repay the outstanding dues. It is submitted that despite receipt of the said notice, the Personal Guarantor failed to make payment within the prescribed period.
12. It is further submitted that the credit facilities were secured by way of hypothecation of current assets including stock, book debts and receivables of the Borrower Company and further secured by way of equitable mortgage of immovable property belonging to the Personal Guarantor.




13. The Financial Creditor submitted that it has placed on record relevant documents including loan documents, Deed of Guarantee, notices issued under the SARFAESI Act, possession notice, statement of accounts along with certificate under the Bankers' Books Evidence Act, record of default obtained from National e-Governance Services Limited, acknowledgment letter and balance sheets of the Borrower Company.
14. It is submitted that the present Application is within limitation in view of the acknowledgments of debt and the orders passed by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020 extending the period of limitation.

**Submissions in Resolution Professional's Report:**


15. This tribunal vide order dated 24th December 2021 appointed Mr. Bishwa Ranjan Chatterjee Registration No. IBBI/IPA-002/IP/N00877/2019-2020/12806 as resolution professional under sub-section (5) of the section 97 of the code. The Resolution Professional, in compliance of the directions issued by this Adjudicating Authority has filed his report on 31<sup>st</sup> December 2021 in respect of the application filed under Section 95 of the Insolvency and Bankruptcy Code, 2016. The submissions made in the report are summarized as under:


- i. The Resolution Professional submitted that the present application has been filed by the Financial Creditor, Encore Asset



Reconstruction Company Private Limited, for initiation of insolvency resolution process against the Personal Guarantor, Mr. Keshav Kumar Nachani, in respect of the Corporate Debtor G-next Telecom Private Limited.

- ii. It is submitted that the Financial Creditor has provided details of the debt owed as on 31.03.2021 along with relevant certificates, and that the debt is registered with the Information Utility, the certificate whereof has been annexed with the application.
- iii. It is further submitted that the Financial Creditor issued a demand notice dated 15.06.2021 to the Personal Guarantor in respect of the unpaid debt, however, the Personal Guarantor failed to make payment within 14 days from the service of the said notice.
- iv. It is submitted that the Personal Guarantor, through his counsel, replied to the demand notice vide letter dated 08.07.2021 contending that the debt is time barred, and a copy of the said reply is annexed with the application.
- v. The Resolution Professional submitted that the balance sheets of the Corporate Debtor for the financial years 2014–2015, 2015–2016, 2016–2017, 2017–2018, 2018–2019 and 2019–2020 have been placed on record, which reflect that the debt has not been repaid to the Financial Creditor.

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- vi. The Resolution Professional further submitted that he has written to the Personal Guarantor through email as well as speed post seeking information regarding the debt, however, no reply has been received till the date of submission of the report.
- vii. It is submitted that the application filed by the Financial Creditor satisfies the requirements of Section 95 of the Insolvency and Bankruptcy Code, 2016. The Resolution Professional, upon examination of the application and the documents annexed thereto, has recommended that the application for initiation of insolvency resolution process against the Personal Guarantor be admitted, inter alia, on the following grounds:
- a) The debt is stated to be due from 26.07.2016 and a notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 28.07.2016, however, the Corporate Debtor and the Personal Guarantor have not discharged the outstanding dues till date.
  - b) The Personal Guarantor has not approached the erstwhile lender or its assignee for settlement of dues during the intervening period of 5 years.

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- c) The mortgaged assets of the Personal Guarantor are stated to be adequate to satisfy the outstanding debt and would enable liquidation of dues.

**Reply by Respondent:**

16. It is submitted that as per the Petitioner's own case, the alleged date of default is 26.07.2016 and the personal guarantee was invoked on 28.07.2016 and the limitation period of three years expired on 27.07.2019, whereas the present Petition has been filed in the year 2021, and is therefore ex facie barred by limitation under Article 137 of the Limitation Act, read with Section 238A of the Insolvency and Bankruptcy Code, 2016.
17. It is submitted that the issuance of any subsequent or second notice does not give rise to a fresh cause of action and cannot extend the period of limitation and the reliance, if any, on suo motu extension orders of the Hon'ble Supreme Court is misplaced, as the limitation period had already expired prior to the commencement of such extension.
18. It is further submitted that any alleged acknowledgment of debt is denied. In particular, the alleged letter dated 29.05.2017 does not constitute an acknowledgment of debt in the personal capacity of the Respondent.
19. The Petitioner is attempting to revive a time-barred claim, which is impermissible in law. Accordingly, the present Petition is liable to be dismissed as being hopelessly barred by limitation.



20. It is submitted that on similar facts, the Hon'ble **NCLT Ahmedabad Bench in J.C. Flower Asset Reconstruction Pvt. Ltd. vs. Mr. Sandeep Vedant** *has held that the limitation period will start from the date when personal guarantee was invoked and not from the date when 2nd notice was issued for no reason. A copy of the said order is annexed as Annexure R/1.*
21. Further, the Hon'ble **NCLT Mumbai Bench in Bank of Maharashtra vs. Ms. Sheetal Thakur** *has held that the default in the case of Respondents/PGs to CD would arise when guarantees are invoked making them liable to pay the debt. Generally, the default date of the principal borrower is the date of default for the guarantor. However, it is not always necessary that the date of default should be the same, rather it depends on the nature and contents of the Deed of Guarantee executed by the guarantor. A copy of the said order is annexed as Annexure R/2.*
22. It is submitted that the Petitioner has already initiated multiple proceedings in respect of the same alleged debt, including proceedings before the Hon'ble DRT, Jabalpur (O.A. No. 861/2017).
23. The Petitioner has also initiated arbitration proceedings under the Arbitration and Conciliation Act, 1996, as well as proceedings under Section 138 of the Negotiable Instruments Act, 1881.



24. The initiation of multiple proceedings clearly establishes that the Petitioner is indulging in forum shopping and has not approached this Hon'ble Tribunal with clean hands.
25. It is submitted that the present proceedings against the Respondent, being a personal guarantor, are in the nature of recovery proceedings.
26. As per Section 60(2) and Section 60(5) of the Insolvency and Bankruptcy Code, 2016, the jurisdiction of this Hon'ble Tribunal is confined to matters arising out of or in relation to insolvency resolution or liquidation proceedings of the corporate debtor.
27. In the present case, the proceedings do not relate to any insolvency resolution or liquidation proceedings of the corporate debtor, and are therefore not maintainable before this Hon'ble Tribunal.
28. It is submitted that in **Tata Capital Financial Services Ltd. vs. Mr. Anuj Agarwal, the Hon'ble NCLT Kolkata Bench** *has held that proceedings against a personal guarantor, in the absence of CIRP, are in the nature of recovery and not maintainable before the NCLT.*
29. The respondent submits that the alleged date of default is a matter of record; however, it is denied that the account is live. It is further denied that any acknowledgment of debt has been made by the Respondent in his personal capacity. The alleged letter dated 29.05.2017 is denied to be an acknowledgment of debt. Accordingly, no continuing liability arises.



**Rejoinder by Applicant:**

30. It is submitted that the Respondent appeared before this Hon'ble Tribunal on 31.03.2022 and sought time to file reply on 21.07.2022 and 03.05.2024. However, this Hon'ble Tribunal vide order dated 30.07.2024 closed the right of the Respondent to file reply.
31. That, in the said Reply, the Respondent has raised preliminary objections, inter alia, on limitation, multiple proceedings and jurisdiction, which are wholly untenable for the reasons stated herein.
32. That, the Respondent has acknowledged the debt and default vide letter dated 26.05.2017, wherein the Respondent admitted the loan facilities availed by the Corporate Debtor from Allahabad Bank and admitted inability to repay the outstanding dues, thereby constituting a clear acknowledgment of debt and default.
33. That, the said acknowledgment constitutes acknowledgment under Section 18 of the Limitation Act, 1963, thereby extending the limitation period for a further period of three years from the date of such acknowledgment.
34. It is pertinent to submit that Section 95 of the Insolvency and Bankruptcy Code, 2016 came into force on 01.12.2019, and therefore, initiation of proceedings against personal guarantors could not have been undertaken prior thereto.



35. It is submitted that, in accordance with the above, the Applicant issued a Demand Notice dated 15.06.2021 invoking the personal guarantee, which was duly served upon the Respondent, to which the Respondent replied vide letter dated 08.07.2021. The Demand Notice along with reply dated 08.07.2021 is annexed as Annexure A/1 (Colly)
36. It is submitted that, the **Hon'ble NCLT, Mumbai Bench in Bank of Maharashtra Stressed Asset Management Branch vs. Mrs. Kavita Ninad Mestry (CP (IB) No. 1009/MB/2023)** has observed that liability of a personal guarantor arises upon issuance of demand notice by the financial creditor. It is further submitted that the **Hon'ble Supreme Court in Re: Cognizance for Extension of Limitation (2022) 3 SCC 17 excluded the limitation period w.e.f. 15.03.2020.**
37. It is stated that, the Respondent executed Deed of Personal Guarantee dated 31.03.2015 in favour of Allahabad Bank and also executed acknowledgment of debt dated 31.03.2015. Further, the Respondent executed equitable mortgage of the secured asset. it is further stated that, the Respondent vide letter dated 29.05.2017 addressed to the District Magistrate acknowledged the debt and consented to possession and sale of the mortgaged asset, thereby evidencing acknowledgment of debt. Section 18 of the Limitation Act provides that acknowledgment of liability in writing before expiry of limitation extends the limitation period.



38. It is stated that, the Corporate Debtor has also acknowledged the liability in its balance sheets and financial statements for the financial years 2014–2015, 2015–2016, 2016–2017, 2017–2018, 2018–2019 and 2019–2020. The Hon’ble Supreme Court in Asset Reconstruction Company (India) Ltd. vs. Bishal Jaiswal (2021) 6 SCC 366 has held that entries in balance sheets amount to acknowledgment of debt under Section 18 of the Limitation Act.
39. That, the Assignor of the Applicant had also filed O.A. No. 861/2017 before the Hon’ble DRT, Jabalpur, which is pending at the stage of final arguments.
40. That, the proceedings before the Hon’ble DRT and the present proceedings under the IBC are distinct and operate in different legal frameworks and causes of action and Section 238 of the Insolvency and Bankruptcy Code provides overriding effect over other laws including SARFAESI Act, DRT Act and other proceedings and the pendency of proceedings under SARFAESI or DRT does not bar filing of application under the IBC. the objection of forum shopping is liable to be rejected.
41. That, the Respondent’s contention that this Hon’ble Tribunal lacks jurisdiction in absence of CIRP is incorrect and contrary to settled law in That, the Hon’ble NCLAT in SBI vs. Mahendra Kumar Jajodia (2022) 233 Comp Cas 36 has held that it is not a prerequisite to initiate CIRP against the Corporate Debtor before initiating proceedings against the Personal



Guarantor and the said position has been upheld by the Hon'ble NCLAT, New Delhi in Anita Goyal vs. Vistra ITCL (India) Ltd. (2025).

42. The claim amount has been duly substantiated by documents on record and is within limitation and the Applicant being an Asset Reconstruction Company under Section 5 of the SARFAESI Act has valid rights to enforce the debt.
43. It is submitted that the Applicant has provided adequate documentation to substantiate the secured debt and the Respondent's liability continues to subsist.

**Analysis & observation:**

44. We have heard the submissions made by the Learned Counsel for the Applicant and the Respondent and have perused the material available on record, including the Application filed under Section 95 of the Insolvency and Bankruptcy Code, 2016, the report submitted by the Resolution Professional under Section 99 of the Code, the reply filed by the Respondent and the rejoinder filed by the Applicant. The following issues arise for consideration in the present matter.

**Issue no:1 Maintainability and jurisdiction:**

- i. The Respondent has raised an objection as to the maintainability of the present application, contending that the proceedings are in the nature of recovery proceedings and are



not maintainable in the absence of any insolvency resolution or liquidation proceedings against the Corporate Debtor.

- ii. The Respondent has relied upon judicial precedents to contend otherwise. However, in view of the settled legal position regarding independent maintainability of proceedings against personal guarantors, including the judgment of the Hon'ble NCLAT in SBI vs. Mahendra Kumar Jajodia (2022) 233 Comp Cas 36, it is well established that it is not a prerequisite to initiate CIRP against the Corporate Debtor before initiating proceedings against the Personal Guarantor. Accordingly, the said contention does not merit acceptance.
- iii. In this regard, it is pertinent to note that the present application has been filed under Section 95 of the Insolvency and Bankruptcy Code, 2016 for initiation of insolvency resolution process against the Personal Guarantor to a Corporate Debtor.
- iv. The contention of the Respondent that proceedings against a Personal Guarantor cannot be initiated in the absence of CIRP of the Corporate Debtor is misconceived. The law is now well settled that proceedings against a Personal Guarantor are



maintainable independently and it is not a prerequisite that CIRP must be pending against the Corporate Debtor.

- v. Further, Section 60 of the Code provides for jurisdiction of the Adjudicating Authority in respect of insolvency resolution and liquidation of corporate persons, including personal guarantors. The scope of jurisdiction cannot be restricted in the manner suggested by the Respondent.
- vi. Accordingly, the objection as to maintainability and jurisdiction does not merit acceptance.

**Issue No: 2 Existence of debt and default**

- i. From the material placed on record, it is evident that credit facilities were sanctioned by the erstwhile Allahabad Bank to the Corporate Debtor and necessary loan and security documents were executed, including the Deed of Personal Guarantee dated 31.03.2015 executed by the Respondent.
- ii. It is also pertinent to note that the existence of debt and execution of guarantee are admitted facts.
- iii. The account of the Corporate Debtor was classified as Non-Performing Asset on 26.07.2016 and a demand notice under Section 13(2) of the SARFAESI Act was issued on



28.07.2016. Despite issuance of demand notice and subsequent measures, the dues have not been repaid.

- iv. The Financial Creditor has also placed on record the statement of accounts, certificate under the Bankers' Books Evidence Act, record of default from the Information Utility and other relevant documents including balance sheets for the financial year 2014-2015,2015-2016,2016-2017,2017-2018,2018-2019,2019-2020.
- v. Further, the Resolution Professional, in his report filed under Section 99 of the Code, has examined the application and recommended admission of the same, noting that the debt and default are established.
- vi. In view of the above material, we are satisfied that the existence of debt and default stands duly established.

**Issue no: 3 Limitation:**

- i. The primary objection of the Respondent is that the present application is barred by limitation, contending that the date of default is 26.07.2016 and the limitation period expired in July 2019.



- ii. It is noted that the Personal Guarantor executed the Deed of Guarantee dated 31.03.2015 and the account of the Corporate Debtor was classified as NPA on 26.07.2016.
- iii. It is further noted that a demand notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 28.07.2016 granting a period of 60 days to discharge the liability. The material on record reflects that the said liability was not discharged within the stipulated period. Accordingly, the cause of action against the Personal Guarantor arose upon expiry of the said period, i.e., on 27.09.2016.
- iv. However, the material on record reflects that the Respondent, vide letter dated 29.05.2017, addressed to the District Magistrate, acknowledged the debt and consented to the measures taken in respect of the secured asset. The said communication, read in its entirety, constitutes an acknowledgment of liability in writing. Such acknowledgment, having been made within the period of limitation, attracts the provisions of Section 18 of the Limitation Act, 1963 and extends the limitation period.
- v. Further, the balance sheets of the Corporate Debtor for the financial years, 2014-2015, 2015-2016, 2016-2017, 2017-




2018,2018-2019,2019-2020 placed on record also reflect acknowledgment of the debt.

- vi. In addition, the period of limitation stands excluded in view of the orders passed by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020.
- vii. The judgments relied upon by the Respondent to contend that limitation is to be reckoned from the date of invocation of guarantee are distinguishable on facts, inasmuch as the present case involves acknowledgment of liability within the prescribed period.
- viii. In view of the above, we are of the considered view that the present application cannot be said to be barred by limitation.

**Issue no: 4 Multiple proceedings:**

- i. The Respondent has contended that the Applicant has initiated multiple proceedings before different forums including DRT, arbitration and proceedings under the Negotiable Instruments Act.
- ii. It is well settled that proceedings under the Insolvency and Bankruptcy Code are not recovery proceedings but are proceedings in rem for resolution of insolvency. The pendency of proceedings under SARFAESI Act or before the DRT does not bar initiation of



proceedings under the Code. Section 238 of the Code provides overriding effect over other laws.

- iii. Accordingly, the objection of forum shopping and multiplicity of proceedings does not merit acceptance.

**Issue no:5 Acknowledgement of debt**

- i. The contention of the Respondent that the acknowledgment is not in personal capacity is not tenable, as the acknowledgment pertains to the liability secured by the personal guarantee and cannot be segregated from the obligation undertaken by the Respondent.
- ii. However, from the documents placed on record, including the letter dated 29.05.2017 and other material including balance sheets for the financial years 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020, it is evident that the Respondent has acknowledged the liability arising out of the loan facilities extended to the Corporate Debtor and secured by the personal guarantee.
- iii. The said acknowledgment cannot be brushed aside merely on the ground that the Respondent seeks to dispute the same at this stage.




45. It is further noted that the Resolution Professional has submitted his report within the stipulated time in compliance with Section 99 of the Insolvency and Bankruptcy Code, 2016 which has also been taken into consideration by this Adjudicating Authority.
46. Upon consideration of the entire material on record, including the documents placed by the Financial Creditor, the report of the Resolution Professional, and the submissions of the parties, this Adjudicating Authority is satisfied that the debt exists, default has occurred, the application is within limitation, and the Application is complete and in compliance with the provisions of Section 95 of the Code.

### **ORDER**

47. In view of the above, the petition deserves admission, and we pass the following order:
- I. The present Application CP/IB/60/2021 is hereby **ADMITTED** under Section 100 of the Code and the Insolvency Resolution Process stands initiated against the **Personal Guarantor i.e. Mr. Keshav Kumar Nachani**
  - II. The moratorium begun on the date of admission of the application shall cease to have effect at the end of the period of 180 days from the date of this order. During the moratorium period, the following provisions shall be in effect:



- III. Any pending legal action or proceeding in respect of any debt be deemed to have been stayed; and
- IV. The creditors of the Personal Guarantor shall not initiate any legal action or proceedings in respect of any debt; and
- V. The Personal Guarantor shall not transfer, alienate, encumber, or dispose of any of his assets or his legal rights or beneficial interest therein;
- VI. 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.
- VII. The Resolution Professional Mr. Bishwa Ranjan Chatterjee, Insolvency Professional having Registration No. IBBI/IPA-002/IP/N00877/2019-2020/12806 who was appointed as the Resolution Professional vide order dated **24.12.2021**, is hereby appointed as Resolution Professional for conducting the Insolvency Resolution Process of the Personal Guarantor.
- VIII. The Resolution Professional 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, 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 Personal Guarantor 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.

- IX. The Resolution Professional shall prepare a list of creditors under Section 104 of the Code on the basis of:
- a. information disclosed in the Application filed under Section 95, and
  - b. claims received under Section 102, within 30 days from the date of publication of notice.
- X. The Personal Guarantor shall prepare a Repayment Plan under Section 105, in consultation with the Resolution Professional, containing a proposal for restructuring of his debts.
- XI. The Repayment Plan may authorize or require the Resolution Professional to:
- a. carry on the debtor's business or trade on his behalf or in his name; or
  - b. realize the assets of the debtor; or

- c. administer or dispose of any funds of the debtor.


**The Plan shall include:**

- a. justification for preparation of such plan;
- b. payment of fee to the Resolution Professional;
- c. any other matter as may be specified.

XII. The Resolution Professional shall submit the Repayment Plan to this Authority along with his report within 21 days from the last date of submission of claims, in terms of Section 106 of the Code.

XIII. In case the Resolution Professional recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons thereof. If the resolution professional is of the opinion that the meeting of the creditors should be summoned, she 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 relevant/feasible modes. Such notice must contain the details as provided under the provisions of Section 107.

XIV. 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 Personal Guarantor and the creditors. It is made clear that the resolution professional shall perform his function and duties in compliance with the code of Conduct provided under section 208 of the Code.

XV. The Applicant/financial creditor is directed to deposit Rs. 50,000/- (Rupees Fifty Thousand Only) to the bank account of Resolution Professional within one week, from the date of this order towards his fees. This shall be subjected to the Rules and Regulations under the provisions of IBC, 2016, including maintaining independence, confidentiality, and impartiality in all actions.

XVI. The Resolution Professional is directed to strictly abide by the provisions of IBC 2016 and complete the process of insolvency in a time bound manner after constitution of the committee of creditors.

48. Accordingly, **CP(IB)/60(MP)/2021** filed under section 95 of IBC, 2016 is **admitted** and the Insolvency Resolution process stands initiated against the Respondent/Personal Guarantor.

Sd/-

**MAN MOHAN GUPTA**  
**(MEMBER TECHNICAL)**

Deepti-LRA

Sd/-

**BRAJENDRA MANI TRIPATHI**  
**(MEMBER JUDICIAL)**