



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, (COURT NO.-II)
KOLKATA

I.A (IB) No. 1769/KB/2024

In

C.P (IB) No. 238/KB/2024

An application under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 read with rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019.

IN THE MATTER OF:

PUNJAB NATIONAL BANK

.....**Financial Creditor**

Versus

MRS. ANINDITA MUKHERJEE, Personal Guarantor of M/s Purulia Metal Casting Pvt. Ltd.

.....**Personal Guarantor**

AND

An Application under Section 99 of the Insolvency and Bankruptcy Code, 2016.

IN THE MATTER OF:

MR. RAJNANDAN KUMAR, Resolution Professional, in the matter of Punjab National Bank Vs. Anindita Mukherjee, residing at Shibani Complex, 47C, Pottery Road, Kolkata- 700015.

....**Resolution Professional / Applicant**

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Date of Pronouncement: 13.01.2026

Coram:

Shri. Labh Singh, Member (Judicial)

Ms. Rekha Kantilal Shah, Member (Technical)

Appearances: (via Physical / Hybrid Mode):

Mr. Snehasish Chakraborty, Adv.] For financial creditor

Ms. Tanvi Luhariwala, Adv.] For RP

Mr. Rajnandan Kumar, RP]

O R D E R

Per: **Ms. Rekha Kantilal Shah, Member (Technical)**

1. The Court convened through physical mode.
2. Both the petition and application are being considered together through this common order.

I.A (IB) No. 1769/KB/2024

3. This application IA(IBC) No. 1769/KB/2024 has been filed by the Resolution Professional ('RP') seeking following reliefs, *inter alia*:

I. To allow the present application under section 99 of the Insolvency and Bankruptcy Code, 2016 for taking

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on record Report filed by the Resolution
Professional;

II. To pass any such further order/orders as this Hon'ble Bench deem fit and proper in the interest of justice;

4. Background of the case:

4.1 The Applicant has been appointed as the RP in the Insolvency Resolution Process of the Personal Guarantor, Mr. Anindita Mukherjee, by an order dated 19.07.2024¹ passed by this Adjudicating Authority in C.P (IB) No. 238/KB/2024.

4.2 The Applicant seeks to bring on record the Report² of RP under Section 99(7) of the Insolvency and Bankruptcy Code, 2016 (“IBC”) prepared by the Applicant on 12.08.2024 in respect of the Insolvency Resolution Process of the Personal Guarantor.

5. Order

5.1 We are inclined to take on record the Report under Section 99(7) of IBC, 2016 filed by the RP in the Insolvency Resolution Process of the Personal Guarantor, Mrs. Anindita Mukherjee.

6. Accordingly, IA (IB) No. 1769/KB/2024 is allowed and disposed of.

¹ Annexure- A

² Annexure- B

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1. This C.P.(IB)/238/KB/2024 has been preferred by the Punjab National Bank to seek initiation of Insolvency Regulation Process against Mrs. Anindita, Personal Guarantor to Corporate Debtor under Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantor to Corporate Debtor) Rules, 2019.
2. Mrs. Anindita Mukherjee, Personal Guarantor on various occasion executed Deed of Guarantee dated 20.03.09³, 18.05.2011⁴, 14.06.2012⁵, 25.10.2014⁶, 21.08.2015⁷, 28.11.2017⁸, 27.03.2019⁹, 30.11.2019¹⁰, 02.05.2020¹¹, 18.02.2021¹² and 10.09.2021¹³ to avail credit line facilities for M/s Purulia Metal Casting Private Limited (“Corporate Debtor”).
3. The amount in debt is Rs. 75,32,16,880.52¹⁴ (Rupees Seventy-Five Crores Thirty-Two Lakhs Sixteen Thousand Eight Hundred and Eighty and paise Five-Two) inclusive of all interest calculated as on 31.01.2024.

³ Annexure- 1-D

⁴ Annexure- 1-L

⁵ Annexure- 1-N

⁶ Annexure- 1-S

⁷ Annexure- 1-V

⁸ Annexure- 2-D

⁹ Annexure- 2-H

¹⁰ Annexure- 2-M

¹¹ Annexure- 2-P

¹² Annexure- 2-R

¹³ Annexure- 2-S

¹⁴ Annexure- 1-A

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4. It is to be noted that Hon'ble Supreme Court in the judgment of Dilip B. Jiwrajka Vs. Union of India & Ors¹⁵. has upheld the Constitutional Validity of the Sections 94 to 100 and the propositions that can be culled out from the Judgments inter-alia are as follows:

- “i. No judicial adjudication is involved at the stages envisaged in Sections 95 to Section 99 of the IBC;*
- ii. The Resolution Professional appointed under Section 97 serves a facilitative role of collating all the facts relevant to the examination of the application for the commencement of the insolvency resolution process which has been preferred under Section 94 or Section 95. The report to be submitted to the adjudicatory authority is recommendatory in nature on whether to accept or reject the application;*
- iii. No adjudicatory function of Adjudicating Authority is contemplated at the admission stage. To read in such a requirement at that stage would be to rewrite the statute which is impermissible in the exercise of judicial review;*
- iv. The resolution professional may exercise the powers vested under Section 99(4) of the IBC for the purpose of examining the application for insolvency resolution and*

¹⁵ WP (Civil) No. 1281 of 2021 dated 09.11.2023

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CP/IB/337/AHM/2020 12 of 17 to seek information on
matters relevant to the application in order to
facilitate the submission of the report recommending the
acceptance or rejection of the application;

v. There is no violation of natural justice under
Section 95 to Section 100 of the IBC as the debtor is
not deprived of an opportunity to participate in the
process of the examination of the application by the
resolution professional;

vi. No judicial determination takes place until the
adjudicating authority decides under Section 100 whether
to accept or reject the application. The report of the
resolution professional is only recommendatory in nature
and hence does not bind the adjudicatory authority when
it exercises its jurisdiction under Section 100;

vii. The adjudicatory authority must observe the
principles of natural justice when it exercises
jurisdiction under Section 100 to determine whether to
accept or reject the application.

viii. The purpose of the interim moratorium under
Section 96 is to protect the debtor from further legal
proceedings; and



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ix. *The provisions of Section 95 to Section 100 of the IBC are not unconstitutional as they do not violate Article 14 and A.”*

5. The Financial Creditor has proposed the name of Insolvency Professional for appointment as RP. This Adjudicating Authority vide order dated 19.07.2024 appointed Mr. Rajnandan Kumar, IBBI Registration No. IBBI/IPA-001/IP-P-02721/2022-2023/14161, Email Id- rnk_sa2004@yahoo.co.in; subject to his possessing a valid AFA, in exercise of the power conferred under Section 97 of the IBC, 2016 on this Authority and to file his report in terms of Section 97 in two weeks.

6. The Resolution Professional had filed an application I.A(IB) No. 1769/KB/2024 on 21.08.2024 to take on record the Report under Section 99(7) of IBC, 2016 and which is taken on record through this common order.

7. The Resolution Professional Mr. Rajnandan Kumar has vide his report dated 12.08.2024 which is attached as Annexure-B in I.A(IB) No. 1769/KB/2024. The procedures performed are extracted hereunder:

Sl. No	Activity	Remarks
1.	Examination / Review of Section 95 Application filed. by	Copy of the Application (as provided by the counsel of the applicant) filed by the

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	Creditor to initiate the insolvency resolution process of the Debtor who is Personal Guarantor of Corporate Debtor.	creditor before the Hon'ble National Company Law Tribunal has been examined by the RP to reach a conclusion for giving necessary recommendations to the Hon'ble NCLT.
2.	Information/documents and clarification from the creditor and/or Debtor.	Communication was sent by the RP to the Debtor and the Creditor to seek information/clarifications.
3.	Review of the information and documents provided by the creditor and debtor	The Debtor has not replied to the communication sent by the RP till the time of signing of this Report. Response of the Creditor has been incorporated in the report.
4.	Conclusion and recommendation by the RP.	Based on the above steps, the report is concluded and an opinion is formed by the Resolution Professional to recommend acceptance/rejection of the application in this report.

8. The RP had issued a letter through speed post and email to Mrs. Anindita Mukherjee on 26.07.2024 and requested to provide information but no reply was received as on date of

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the report and thus she has failed to prove the repayment of debt (Page 55 to 57 of RP's Report).

9. The RP Mr. Rajnandan Kumar has vide his report dated 12.08.2024 has recommended admission of the personal guarantor in to the Insolvency resolution process. The relevant portion of his report is reproduced herein below for the sake of convenience (Page 39 to 46 of Rp's Report).

SL. No	Report under Section 99 of IBC	Remarks
1	Recommendations (Admit/Reject).	<p>It is submitted that as per Sec 99(10) the requirement of providing a copy of this report on the debtor/guarantor has been complied. Copy has also been sent to the Corporate Debtor and Applicant.</p> <p>Given the above, I, the undersigned Resolution Professional, appointed by the Hon'ble Adjudicating for Insolvency Authority Resolution Process of the Debtor/Personal Guarantor of the Corporate Debtor, hereby confirm that I have perused/examined the Insolvency Application filed</p>

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	<p>by the Creditor te Punjab National Bank under Section 95 of the Code, 2016 along with all the underlying documents and annexures and have formed the opinion to recommend the same for its admission under sub section(7) of Section 99 of the IBC.</p> <p>My recommendation for admission of the application before the Hon'ble Adjudicating Authority is based on the following grounds:</p> <p>1) The overdue debts owed by M/s Purulia Metal Casting Pvt Ltd were guaranteed by Anindita Mukherjee. The Applicant, Punjab National Bank through its Counsel on record have duly served a copy of the application in Form C, to Anindita Mukherjee and M/s. Purulia Metal Casting Pvt Ltd.</p> <p>2) The application presented in Form C with relevant documents along with the stipulated fee as prescribed under Rule 7(2) of the Insolvency and Bankruptcy</p>
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	<p>(Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules 2019 is complete.</p> <p>3) Demand notice in Form B dated 02.02.2024 was duly issued 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.</p> <p>No repayment has been made within fourteen days of receipt of notice satisfying the requirement of Section 95(4)(b)</p> <p>In fact, no subsequent payment has been received till date either from M/s Purulia Metal Casting Pvt Ltd. or from Anindita Mukherjee.</p> <p>4) It is submitted that, an email and speed post the Personal Guarantor, Anindita Mukherjee, was sent on 29.07.2024 requesting to provide the proof for</p>
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	<p>repayment of dues, if any, as provided u/s 99(2) of IBC 2016.</p> <p>The copy of the letter was not received and returned back. However, the email was duly received. But no reply has been received as on the date of the report and thus she has failed to prove repayment of the debt. The Copy of the letter and track report is attached herewith.</p> <p>5) The Debtor/Personal Guarantor, is not eligible for the fresh start process under Chapter II of Part III of the Code.</p> <p>Considering the above, the Hon'ble NCLT may pass appropriate order u/s 100 of IBC, 2016 for admission of the application No. C.P (IB)/238 (KB)/2024 filed u/s 95(1) of the IBC 2016 by the Applicant, Punjab National Bank to initiate Insolvency Resolution Process against Personal Guarantor, Anindita Mukherjee of the Corporate Debtor, M/s Purulia Metal Casting Pvt Ltd.</p>
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10. This Adjudicating Authority notes that vide daily order dated 03.07.2025 Ld. Counsel appearing for the Personal Guarantor requested for an adjournment for filing of reply affidavit and last opportunity was granted for filing of reply affidavit within a period of fifteen days. Thereafter, no reply affidavit was filed by the Ld. Counsel for the Personal Guarantor and this Adjudicating Authority vide daily order dated 19.08.2025 passed the following order:

“No reply affidavit has been filed. Last opportunity was granted for filing reply affidavit within a period of 15 days vide order dated 3rd July 2025. Therefore, the stage for filing reply affidavit is closed. List the matter for hearing on 13/10/2025.”

11. We observe that owing to the continuing defaults made by the Principal Borrower, the applicant on 05.04.2023¹⁶ issued letter of invocation in respect of the Personal Guarantee's pertaining to the Guarantee Agreement invoked the Personal Guarantor of Anindita Mukherjee and demanded to pay jointly and severally with other Borrower and other guarantors an aggregate outstanding amount of Rs. 75,16,58,814.64.

¹⁶ Annexure- 2-W

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12. Regarding limitation period we find that the applicant issued a demand notice dated 02.02.2024¹⁷ upon the Guarantor in their address being “Krishna Kutir” Huchuk Para, Krishna Kuthir, Purulia, West Bengal- 723101 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, wherein requesting the Guarantor to pay the unpaid debt in default being a sum of Rs. 75,16,58,814.64. The present Company petition being no- 238/KB/2024 was filed on 19.07.2024 so it's well within the prescribed period of limitation.

13. Further the aforesaid demand notice was returned undelivered from the post office with remarks as “*addressee absent*” from the post office. It is well settled by a catena of judgments of the Hon’ble Supreme Court that where a notice is dispatched by registered post to the correct and last known address of the addressee and is returned with endorsements such as “*refused*,” “*not available in house*,” “*house Locked*,” “*shop closed*,” “*addressee not in station*,” or “*unclaimed*,” the same constitutes deemed service. Reliance is placed upon judgment of Hon’ble

¹⁷ Annexure- 3-A

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Supreme Court of India in Jagish Singh Vs Natthu Singh¹⁸

and Shalini Singh Vs Avanish Kumar Singh¹⁹ and followed by
the Hon'ble High Court at Calcutta in matter of RPNN Ltd Vs
Tangail Construction²⁰.

14. The present application is complete as required under Section 95 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019.

15. We have considered the report and perused the details of claim indicated therein.

16. We are satisfied with the recommendation of the RP to admit the application.

17. In absence of any dispute or controversion by the Personal Guarantor, this application is admitted with the following directions.

18. Hence, we pass the following order:

I. This application is admitted under Section 100;

II. In terms of Section 101:

A moratorium shall commence in relation to all the debts and shall cease to have effect at the end of the period of one hundred and eighty days beginning

¹⁸ (1992) 1 SCC 647

¹⁹ TP (Civil) No- 1843 of 2023

²⁰ CO No- 1412 of 2012

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with the date of admission of the application or on the date this Adjudicating Authority passes an order on the repayment plan under section 114, whichever is earlier.

III. During the moratorium period-

- a) any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed;
- b) the creditors shall not initiate any legal action or legal proceedings in respect of any debt; and
- c) the debtor shall not transfer, alienate, encumber or dispose of any of his assets or his legal rights or beneficial interest therein;

4) In relation to a firm, the moratorium under sub-section (1) shall operate against all the partners of the firm.

5) 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.

6) In absence of any prayers from any quarters against the nominated Resolution Professional, the IRP i.e., Mr Rajnandan Kumar will act as the Resolution Professional.



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7) The said RP shall act in terms of Section 102, 103, 104 of the Code, to cause public notice, invite claims from creditors, prepare list of creditors, and hold regular meeting as directed hereunder:

IV. In terms of Section 102:

The Resolution Professional shall cause a public notice within seven days of passing the order under section 100 inviting claims from all creditors within twenty-one days of such issue.

2) The notice under sub-section (1) shall include—

- a) details of the order admitting the application;
- b) particulars of the resolution professional with whom the claims are to be registered; and
- c) the last date for submission of claims.

3) The notice shall be—

- a) published in at least one English and one vernacular newspaper which is in circulation in the state where the debtor resides;
- b) placed on the website of the Adjudicating Authority.

V. In terms of Section 103:

- a) The creditors shall register claims with the resolution professional by sending details of the



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claims by way of electronic communications or through
courier, speed post or registered letter.

b) In addition to the claims referred to in sub-section (1), the creditor shall provide to the resolution professional, personal information and such particulars as may be prescribed.

VI. In terms of Section 104:

The resolution professional shall, within 30 days from the date of notice prepare a list of creditors on the basis of—

- a) the information disclosed in the application filed by the debtor under section 94 or 95, as the case may be; and;
- b) claims received by the resolution professional under section 102.

VII. In terms of Section 105:

The Resolution Professional shall assist the debtor in preparing repayment plan containing a proposal to the creditors for restricting of his debts or affairs.

VIII. In terms of Section 106:

The Resolution Professional shall submit the repayment plan under Section 105 along with his



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report, within 21 days from the last date of submission of claims under Section 102 specifying.

- a) That the repayment plan is in compliance with the provisions of any law for the time being in force;
- b) That the repayment plan has a reasonable prospect of being approved and implemented; and
- c) Whether there is a necessity of summoning a meeting of the creditors, if required, to consider the repayment plan:

Meeting of creditors shall be held if necessary, specifying the-

- a) Date, Time and Place of meeting after consulting the creditors;
- b) Within 14 to 28 days from submission of its report;
- c) After issuance notice for meeting at least 14 days in advance, to all the creditors mentioned in the list of creditors.

IX. The Resolution Professional shall prepare a report of the meeting in accordance with Section 112 and furnish a report to this Adjudicating Authority.

19. Thus, we accept the application filed under Section 95(1) of the IBC, 2016 for commencement of Insolvency Resolution Process against the Personal Guarantor.

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20.CP (IB) No. 238/KB/2024 stands admitted.

21. Next date for consideration would be **24.02.2026**.

22. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

23. Certified copy of the order may be issued, if applied for, upon compliance of all requisite formalities.

(Rekha Kantilal Shah)
Member (Technical)

(Labh Singh)
Member (Judicial)

Order signed on the 13th day of January 2026

S.T. LRA