# IN THE NATIONAL COMPANY LAW TRIBUNAL
# AHMEDABAD
# SPECIAL BENCH
# COURT - 2

ITEM No.301

**C.P.(IB)/104(AHM)2025**

**Orders under Section 121 of IBC,2016**

**IN THE MATTER OF:**

State Bank of India ........**Applicant**

V/s

Smt.Sejal Himanshu Varia ........**Respondent**

**Order delivered on: 11/03/2025**

**Coram:**

**Mr. Shammi Khan, Hon'ble Member(J)**

**Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)**

## ORDER

The case is fixed for pronouncement of order.

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

-sd-

**DR. V. G. VENKATA CHALAPATHY**
**MEMBER (TECHNICAL)**

-sd-

**SHAMMI KHAN**
**MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY**
**NATIONAL COMPANY LAW TRIBUNAL**
**DIVISION BENCH, COURT-II, AHMEDABAD**

**CP (IB) No.104/NCLT/AHM/2025**

*(Under Section 121 of Insolvency and Bankruptcy Code, 2016, read with Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy process for Personal Guarantors to Corporate Debtors) Rules, 2019)*

**STATE BANK OF INDIA**
Stressed Assets Management Branch,
4th Floor, Old LHO SBI Building,
Ganesh Vasudev Mavalankar Road,
Old City, Lal Darwaja,
Bhadra-380001.

**....Applicant/Financial Creditor**

**VERSUS**

**SMT SEJAL HIMANSHU VARIA,**
C-10001 Ashavari Towers,
Ramdev Nagar Road,
Near Gulmohar Park,
b/h Devarc Mall,
Ahmedabad-380015

**....Respondent/Personal Guarantor**

**Order pronounced on 11.03.2025**

**CORAM:**

**SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)**
**SH. VELAMUR G VENKATA CHALAPATHY, HON'BLE MEMBER (TECHNICAL)**

**APPEARANCE:**

For the FC/SBI : Aishwarya Reddy, Advocate

**ORDER**
**(PER: BENCH)**

1. The Petitioner/Financial Creditor has filed this Petition under Section 121 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as **"the Code"**) read with Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019 to initiate Bankruptcy Process against **Smt. Sejal Himanshu Varia** - Personal Guarantor of Corporate Debtor.

2. Perusal of the Form-B, Part-I of the application reveals that the Financial Creditor is State Bank of India, Stressed Assets Management Branch, having its address at 4th Floor, Old LHO Building, Ganesh Vasudev Mavalankar Road, Old City, Lal Darwaja, Ahmedabad-380001 (Gujarat).

3. Perusal of Part-II reveals that Personal Guarantor is Smt. Sejal Himanshu Varia having permanent address at C-10001 Ashavari Towers, Ramdev Nagar Road, Near Gulmohar Park, B/h Devarc Mall, Ahmedabad-380015.

4. As per Part-II, the guarantee was given for Corporate Debtor – M/s. Varia Engineering Works Pvt. Ltd.

5. Part-III of the application reveals that the financial debt was in the nature of Cash Credit, Term Loans, WCTL, and FITL facility allowed by the Bank to the Corporate Debtor, which was secured by the Personal Guarantor. The total amount in default is **Rs.434,95,53,330.17/-.**

6. Perusal of Part-IV reveals that no Resolution Professional has been proposed by SBI in connection with the proposed bankruptcy resolution process of Smt Sejal Himanshu Varia.

7. In support of the application for bankruptcy, the Petitioner has relied upon the following documents:-

   1. *Deed of Guarantee for overall limit 26.03.2013 annexed as Annexure "A".*

2. Order dated 13.12.2018 by Ld. DRT-I Ahmedabad in O.A. No. 184 of 2017 annexed herewith as Annexure "B".
3. A copy of demand notice dated 22.09.2021 is annexed herewith at Annexure "C".
4. A copy of the Main s. 95, IBC Application filed against the Personal Guarantor bearing CP(IB) No. 251 of 2021 is annexed herewith at Annexure "D".
5. A copy of the Order dt. 20.12.2021 declaring interim moratorium u/s. 96, IBC by the Ld. NCLT in CP(IB) No. 251 of 2021 is annexed herewith at Annexure "E".
6. A copy of the RP Report u/s. 99, IBC is annexed herewith at Annexure "F".
7. A copy of the Order dt. 06.03.2024 admitting the Main Application u/s. 95, IBC by the Ld. NCLT in CP(IB) No. 251 of 2021 is annexed herewith at Annexure "G".
8. A copy of the report u/s. 106, IBC by the Resolution professional on Repayment Plan is annexed herewith at Annexure "H".
9. A copy of the report u/s. 112, IBC by the Resolution professional on the meeting of creditors on Repayment Plan is annexed herewith at Annexure "I"
10. A copy of Ld. NCLT Ahmedabad Order dated 05.12.2024 permitting the Creditors to file the bankruptcy application annexed herewith as Annexure "J".
11. Statement of Account from 22.03.2017 along with interest calculation up 11.02.2025 annexed herewith as Annexure "K".
12. A copy of the statement of Assets and Liabilities as on 31.03.2014 is annexed herewith at Annexure "L".
13. A copy of the Declaration made by the Personal Guarantor listing down the details of the Assets and bank account details is annexed herewith at Annexure "M".

14. *A copy Certificate of Sale of Immovable Property (RC No. 694/2018) dt. 28.11.2019 is annexed herewith at Annexure "N"*
15. *A Copy of the income tax returns Acknowledgements of the Personal guarantor for the past three years is annexed herewith at Annexure "O" (Colly.).*
16. *A copy of the Record of Default registered with the Information Utility is annexed herewith and marked as "Annexure "P".*

**8.** The averments, in brief of the petition are that;

I. The State Bank of India- Financial Creditor/ Applicant Bank herein is constituted under the State bank of India Act, 1955, having its Corporate Centre at Madam Cama Road, Mumbai and amongst others a Stressed Assets Management Branch, 4th Floor, Old LHO SBI Building, Ganesh Vasudev Mavalankar Road, Old City, Lal Darwaja, Bhadra, Ahmedabad -380 001 (Gujarat).

II. Smt. Sejal Himanshu Varia is a Personal Guarantor to Corporate Debtor M/s. Varia Engineering Works Pvt. Ltd./Corporate Debtor.

III. The Corporate Debtor M/s. Varia Engineering Works Pvt. Ltd., applied for a loan for its operations from the Applicant which was approved vide letter dated 15.12.2009. The Respondent No. 1 was a director and the personal guarantor of the Corporate Debtor and executed the applicant bank's standard loan documents. The total amount due is Rs. 434,95,53,330.17 which includes unapplied interest. The debt was due as on 13.12.2018, and the default occurred on 13.12.2018. The Applicant issued a demand notice on 22.09.2021 under rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019. However, no reply was received for the same. Consequently, the Applicant Financial Creditor filed an Application u/s. 95, IBC against the Respondent Personal Guarantor bearing CP(IB) No. 251 of 2021.

IV. This Tribunal vide Order dt. 20.12.2021 declared interim moratorium as per Sec. 96, IBC and appointed an Interim Resolution Professional. The Resolution Professional submitted his report u/s. 99, IBC on 06.01.2022 whereby the RP recommended the admission of the Application of insolvency of the Respondent. This Tribunal vide its order dated 06.03.2024 admitted the Application u/s. 95 of the IBC, 2016 in respect of Insolvency Resolution Process against Mrs. Sejal Himanshu Varia (Personal Guarantor) and appointed a Resolution Professional.

V. In pursuance to the admission of Respondent to the Personal Insolvency Process, the Personal Guarantor submitted a Repayment Plan to the RP u/s. 105, IBC on 22.05.2024 which was deliberated upon by the Creditors. That the RP filed a report on the Repayment Plan u/s. 106, IBC vide IA No. 1010 of 2024 before this Tribunal. In the meanwhile, the Repayment Plan was rejected by the Creditors by a vote percentage of 81.33% through e-voting held from 23.07.2024 to 22.08.2024. The RP then filed a report on the meeting of creditors on the Repayment Plan u/s. 112, IBC vide IA No. 1466 of 2024 before this Tribunal.

VI. That this Tribunal took the Report of the RP on record and vide common Order dt. 05.12.2024 u/s. 114, IBC disposed of IA Nos. 1010 of 2024 and 1466 of 2024 thereby rejecting the Repayment Plan of the Personal Guarantor and allowing the Creditors to initiate bankruptcy proceedings against the Respondent Personal Guarantor in terms of provisions u/s. 115(2), IBC read with Section 121, IBC.

VII. Hence, this petition is filed before this Tribunal seeking initiation of the Bankruptcy Process for Personal Guarantors to Corporate Debtor in accordance with the Code and Rules and Regulations made thereunder.

**9.** We have heard the Ld. Counsel for Applicant/SBI and perused the documents on record.

**10.** We have carefully perused the petition and found that Personal Guarantor had not been able to provide any repayment plan and vide order dated 05.12.2024 liberty was granted to initiate the bankruptcy proceeding against the Personal Guarantor.

**11.** Section 115 of the IBC, 2016 provides that:-

*115. Effect of order of Adjudicating Authority on repayment plan. –*

*(1) Where the Adjudicating Authority has approved the repayment plan under section 114, such repayment plan shall –*

*(a) take effect as if proposed by the debtor in the meeting; and*

*(b) be binding on creditors mentioned in the repayment plan and the debtor.*

*(2)* ***Where the Adjudicating Authority rejects the repayment plan under section 114, the debtor and the creditors shall be entitled to file an application for bankruptcy under Chapter IV.***

*(3) A copy of the order passed by the Adjudicating Authority under sub-section (2) shall be provided to the Board, for the purpose of recording an entry in the register referred to in section 196.*

**12.** Section 121 of the IBC, 2016 of Chapter IV provides that:-

*121. Application for bankruptcy. -*

*(1) An application for bankruptcy of a debtor may be made, by a creditor individually or jointly with other* ***creditors*** *or by a*

***debtor***, *to the Adjudicating Authority in the following circumstances, namely; –*

*(a) where an order has been passed by an Adjudicating Authority under sub-section 4 of section 100; or*

***(b) where an order has been passed by an Adjudicating Authority under sub-section 2 of section 115; or***

*(c) where an order has been passed by an Adjudicating Authority under sub-section 3 of section 118.*

*(2) An application for bankruptcy shall be filed within a period of* ***three months*** *of the date of the order passed by the Adjudicating Authority under the sections referred to in sub section (1).*

*(3) Where the debtor is a firm, the application under sub-section (1) may be filed by any of its partners.*

**13.** Section 122 of the IBC, 2016 of Chapter IV provides that:-

*122. Application by debtor. –*

*(1) The application for bankruptcy by the debtor shall be accompanied by –*

*(a) the records of insolvency resolution process undertaken under Chapter III of Part III;*

*(b) the statement of affairs of the debtor in such form and manner as may be prescribed, on the date of the application for bankruptcy; and*

*(c) a copy of the order passed by the Adjudicating Authority under Chapter III of Part III permitting the debtor to apply for bankruptcy.*

*(2) The debtor may propose an insolvency professional as the bankruptcy trustee in the application for bankruptcy.*

*(3) The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed.*

*(4) An application for bankruptcy by the debtor shall not be withdrawn without the leave of the Adjudicating Authority.*

**14.** Section 123 of the IBC, 2016 of Chapter IV provides that:-

*123. Application by creditor. –*

*(1) The application for bankruptcy by the creditor shall be accompanied by-*

*(a) the records of insolvency resolution process undertaken under Chapter III;*

*(b) a copy of the order passed by the Adjudicating Authority under Chapter III permitting the creditor to apply for bankruptcy;*

*(c) details of the debts owed by the debtor to the creditor as on the date of the application for bankruptcy; and (d) such other information as may be prescribed.*

*(2) An application under sub-section (1) made in respect of a debt which is secured, shall be accompanied with –*

*(a) a statement by the creditor having the right to enforce the security that he shall, in the event of a bankruptcy order being made, give up his security for the benefit of all the creditors of the bankrupt; or*

*(b) a statement by the creditor stating–*

*(i) that the application for bankruptcy is only in respect of the unsecured part of the debt; and*

*(ii) an estimated value of the unsecured part of the debt.*

> (3) *If a secured creditor makes an application for bankruptcy and submits a statement under clause (b) of sub-section (2), the secured and unsecured parts of the debt shall be treated as separate debts.*
>
> (4) *The creditor may propose an insolvency professional as the bankruptcy trustee in the application for bankruptcy.*
>
> (5) *An application for bankruptcy under sub-section (1), in case of a deceased debtor, may be filed against his legal representatives.*
>
> (6) *The application for bankruptcy shall be in such form and manner and accompanied by such fee as may be prescribed.*
>
> (7) *An application for bankruptcy by the creditor shall not be withdrawn without the permission of the Adjudicating Authority.*

**15.** In the present case Section 115(2) of the IBC, 2016 provides that:-

> *"Where the Adjudicating Authority rejects the repayment plan under section 114, the debtor and the creditors shall be entitled to file an application for bankruptcy under Chapter IV"*

**16.** Accordingly, the present Petition has been filed by the Applicant/Creditor under Chapter IV of Section 121 of the IBC, 2016 r.w. Rule 7(1) of the Insolvency and

Bankruptcy (Application to Adjudicating Authority for Bankruptcy process for Personal Guarantors to Corporate Debtors) Rules, 2019.

**17.** Therefore, we find it proper to admit this petition and declare the Personal Guarantor herein, as Bankrupt with the following directions:-

I. In the result, **Smt. Sejal Himanshu Varia** having permanent address at C-10001 Ashavari Towers, Ramdev Nagar Road, Near Gulmohar Park, B/h Devarc Mall, Ahmedabad-380015, Personal Guarantor is hereby ordered to be bankrupt.

II. Since, the Applicant has not proposed the name of Insolvency Professional, we hereby appoint Keshav Khaneja having Registration No. IBBI/IPA-002/IP-N01131/2021-2022/13759, Email id khanejakes[at]gmail[dot]com to act as **Bankruptcy Trustee**.

III. The Registry is directed to provide the copy of this Bankruptcy order and copy of the Bankruptcy petition to the creditors and bankruptcy trustee within a week as provided under Section 126 (2) of IBC, 2016.

IV. This order of Bankruptcy shall continue to have the effect till the debtor is discharged under section 138 of IBC, 2016.

V. The bankrupt shall submit his statement of financial position to the bankruptcy trustee in the prescribed Form within seven days from the date of the order.

VI. The estate of the bankrupt excluding the assets mentioned in Section 155(2) of Code R/W Rule 5 of Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtor) Rules, 2019 vest with the bankrupt trustee in pursuance of this order, the Bankruptcy trustee is directed to forthwith take into his custody all the assets, Properties, and actionable claims of the Bankrupt and take necessary steps to ensure preservation, protection security and maintenance of those properties as provided under section 128 and 154 of IBC, 2016.

VII. The Bankruptcy Trustee is also directed forthwith to hire Reputed Assets Tracking Company/Private Detective Agency to trace the other assets of the Personal Guarantor which are not forming part of the assets disclosed by the Financial Creditor or Personal Guarantor and take control of other assets, if found/traced by the said Assets Tracking Company/Detective Agency.

VIII. The Bankruptcy trustee is directed to adhere to Section 128, 129 (4), 132, 133, 134, 136 and 137 of IBC, 2016 and discharge his powers and duties as specified and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.

IX. The Bankrupt trustee for the Adjudicating Authority shall send notices as provided under section 130(a) of IBC, 2016 within ten days from the date of this order to the creditors mentioned in statement of affairs submitted by the Bankrupt under section 129 of IBC, 2016.

X. The Public Notice inviting claims from the creditors as contemplated under section 130 (2) of the Code shall be issued in one morning, English daily and in one morning vernacular regional language newspapers having wide circulation where the bankrupt resides.

XI. On passing of the Bankruptcy order but subject to sub-section (2) of 128 of the Code, shall not initiate any action against the property of the bankrupt in respect of debt and no suit or other legal proceeding shall be initiated against the bankrupt, save and except with the leave of the Adjudicating

Authority as provided in section 128 (ii) of the Code.

XII. The Bankrupt Trustee shall conduct the administration of distribution of estate of bankrupt under chapter V as provided in section 136 of the code.

XIII. The Bankrupt shall from the date of the order be subject to such disqualifications and restrictions as prescribed under section 140 and 141 of the code.

XIV. The Bankruptcy Trustee may seek such further information or explanation in connection with bankruptcy process as may be required from the debtor or the creditor or any other person who in the opinion of the Bankruptcy Trustee, may provide such information. The persons from whom information or explanation is sought shall furnish such information or explanation within seven days of receipt of the request.

XV. The Bankruptcy Trustee shall exercise all the powers as enumerated under the Code read with Rules and Regulations made thereunder.

XVI. The Bankruptcy Trustee shall submit to this Adjudicating Authority and committee a preliminary report within in ninety days from this date of Bankruptcy order after serving copy of the report on bankrupt as provided in Regulation 8 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for personal Guarantors to corporate debtors) Regulation, 2019.

XVII. The Bankruptcy Trustee shall submit to this Authority periodical progress report within fifteen days after the end of every quarter after serving copy of the report on the bankrupt provided under Regulation 10 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for personal Guarantors to corporate debtors) Regulation, 2019.

XVIII. The fee of Bankruptcy trustee to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for personal Guarantors to corporate debtors) Regulation, 2019.

XIX. The Bankruptcy Trustee is expected to take full charge of the Personal Guarantor assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the Bankruptcy Trustee in this regard.

XX. 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.

XXI. A certified copy of the order is to be issued upon compliance with requisite formalities. The file be consigned to record.

**18.** The interim moratorium commenced under section 124(1)(a) of the IBC, 2016 shall cease to have effect from the date of this order.

**19.** In terms of the above, **CP (IB)/104(AHM)/2025** filed under 121 of the Code r.w. Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy process for Personal Guarantors to Corporate Debtors) Rules, 2019 is admitted and the Bankruptcy Process stands initiated against the Respondent/Personal Guarantor.

-sd- -sd-

**DR. V. G. VENKATA CHALAPATHY**
**MEMBER (TECHNICAL)**

**SHAMMI KHAN**
**MEMBER (JUDICIAL)**

P.S. LRA