

IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-II

RCP (IB)/15/2025

IN

C.P. (IB)/302(MB)2024

[Under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019]

IN THE MATTER OF:

Pinky Arya

A/801, Raj Grandeur,
Behind Dr. L.H. Hiranandani Hospital Powai,
Powai IIT, Mumbai Suburban,
Maharashtra- 400076.

... Applicant/ Personal Guarantor

Pronounced On: 15.10.2026

CORAM:

HON'BLE SHRI ASHISH KALIA, MEMBER (JUDICIAL)

HON'BLE SHRI ANIL RAJ CHELLAN, MEMBER (TECHNICAL)

Appearances: Hybrid

For Applicant: Adv. Agam H. Maloo

ORDER

[PER: Coram]

1. BACKGROUND

- 1.1. The present Application has been filed by **Pinky Arya** (hereinafter referred to as the "Applicant/ Personal Guarantor") on **14.10.2023** in the prescribed Form 'A' under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code"), 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 (hereinafter referred to as "the PG to CD Rules"), seeking initiation of the insolvency resolution process, being the Personal Guarantor to **M/s Zusak Exim Pvt. Ltd.** (hereinafter referred to as the "Corporate Debtor").
- 1.2. The Corporate Debtor has been availing various banking and credit facilities from the State Bank of India ("SBI") since 2018. In this regard, the Corporate Debtor availed a Working Capital Cash Credit Facility of ₹9.50 Crores from SBI vide Loan-cum-Hypothecation Agreement dated 05.06.2018. Subsequently, in view of the expansion and growth of its business, the Corporate Debtor availed an additional Ad hoc SLC Facility of ₹1.40 Crores from SBI vide Supplemental Loan-cum-Hypothecation Agreement dated 27.03.2019. The Corporate Debtor subsequently repaid and closed the said Ad hoc Facility in full on 16.08.2019.
- 1.3. That owing to its rapid growth in business and to honor its existing orders on a timely basis to further meet its projected sales/turnover, the Corporate Debtor wished to renew the existing credit facilities with enhancement with SBI from Rs 9.5 cr. to Rs 18.00 cr. vide letter dt.

10.06.2019. Further, the Corporate Debtor sent various letters to SBI requesting for restructuring of the account. Further, on request of the Corporate Debtor, the said outstanding credit facility was renewed, and accordingly the loan account of the Corporate Debtor was restructured vide sanction letter dt. 20.10.2020 by SBI.

- 1.4. The Corporate Debtor had incurred heavy losses due to the nationwide lockdown on account of outbreak of COVID-19, which resulted in deep financial crunch. Thereafter, due to unavailability of funds with the Corporate Debtor, the account of the Corporate Debtor was classified as NPA by SBI on 29.06.2022 on account of continuous default in the repayment of the instalment/interest/principal debt in the existing financial facility.

2. **FINDINGS AND ANALYSIS**

- 2.1. Having heard the submissions and perused the record, this Bench proceeds to analyse the sequence of events leading up to the present application.
- 2.2. It is observed that the Guarantee Deed was called for from the Applicant on various occasions during the pendency of the proceedings. Vide order dated 25.10.2024, the Applicant was specifically directed to file the Guarantee Deed.
- 2.3. Later, there was no representation; hence, the matter was dismissed for non-prosecution vide order dated 02.04.2025. Subsequently, Restoration Application (IB)/15/2025 was filed by the Applicant, which was allowed vide order dated 13.06.2025, subject to payment of cost of Rs. 10,000/- (Rupees Ten Thousand only) on the Applicant.

- 2.4. Thereafter, a Resolution Professional was appointed vide order dated 31.10.2025. The Resolution Professional filed his report vide IA/5726/2025, with a delay of 10 days. The reason cited for the delay was the non-submission of the Guarantee Deed by the Guarantor. The said report was allowed, and the delay was condoned vide order dated 15.12.2025.
- 2.5. Despite the above, this Tribunal once again called upon the Applicant to file the Guarantee Deed vide order dated 22.07.2026, granting a further period of two weeks for compliance.
- 2.6. It is pertinent to note that, notwithstanding the multiple opportunities extended by this Tribunal, the Guarantee Deed remains unfiled as on date. This Bench is of the considered view that sufficient and ample opportunities were granted to the Applicant to place the Guarantee Deed on record, and the conduct of the Applicant reflects a persistent failure to comply with the directions of this Tribunal.
- 2.7. This Bench notes that the principles of natural justice have been duly complied with in the present proceedings, inasmuch as the Applicant was granted repeated and sufficient opportunities to be heard and to place the requisite Guarantee Deed on record, as detailed in the preceding paragraphs. Despite these opportunities being afforded at every stage, the Applicant has failed to comply, and no prejudice can therefore be said to have been caused to the Applicant on this count.
- 2.8. Furthermore, this Bench is of the view that the present Application appears to have been filed with the intent of availing the benefit of interim moratorium under the provisions of the Code, so as to stall/halt the

proceedings initiated under the SARFAESI Act, 2002, rather than for genuine resolution of debt in question.

2.9. In view of the foregoing discussion and the conduct of the Applicant in failing to comply with the repeated directions of this Tribunal despite granting sufficient opportunities, and the principles of natural justice having been duly followed, this Bench is of the considered opinion that the present Application does not merit admission and is liable to be dismissed.

2.10. Accordingly, RCP (IB)/15/2025 in old C.P. (IB)/26(MB)2025 is **rejected**.

Sd/-

ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

//LRA-Mukund Mandrawaliya//

Sd/-

ASHISH KALIA
MEMBER (JUDICIAL)