

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**DIVISION BENCH, COURT – 1, AHMEDABAD**

ITEM No.305- C.P.(IB)/225(AHM)2025  
With  
ITEM No. 306- IA/791(AHM) 2025

**Order under Section 94 IBC**

**IN THE MATTER OF:**

Mamtaben Hareshbhai Bhalodiya  
V/s  
Small Industries Development Bank of India

.....Applicant

.....Respondent

**Order delivered on: 06/10/2025**

**C O R A M:**

MR. SHAMMI KHAN, HON'BLE MEMBER (J)  
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

**ORDER**  
**(Hybrid Mode)**

The case is fixed for pronouncement of the order, the order is pronounced in the open court, vide separate sheet.

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**SANJEEV SHARMA**  
**MEMBER (TECHNICAL)**

-Sd-

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

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

**CP(IB) No.225/AHM/2025  
With  
IA/791(AHM)2025**

*Filed under Section 94 of the Insolvency & Bankruptcy Code,  
2016*

**CP(IB) No.225/AHM/2025**

*In the matter of Mrs. Mamtaben Hareshbhai Bhalodiya*

**Mrs. Mamtaben Hareshbhai Bhalodiya**

Having address at  
White House, 3<sup>rd</sup> Floor,  
Canal Chokdi, Opp. Swagat Hall,  
Darpan Society-2, Morbi,  
Gujarat-363641  
E-Mail id. Hareshbhalodiya42@gmail.com

**...Applicant/PG**

**VERSUS**

**(1) Small Industries Development Bank of India,  
Having Branch office at**

Navjeevan Amrit Jayanti Bhavan,  
1<sup>st</sup> Floor, Behind Gujarat Vidhyapith,  
P.B. No. 10, Navjeevan PO,  
Ahmedabad – 380014

**... Respondent No.1**

**(2) Aricon Papers Private Limited,  
Having registered office at**

Sr. No. 402/P2, Morbi Kandla Highway,  
Haripar-Kerala Road,  
Tal & Dist. Morbi, Rajkot,  
NAVA SADULKA, Gujarat, India, 363642

**... Respondent No.2**



**WITH**

**IA/791(AHM)2025**

**In the matter of:**

**Mr. Rahul N Shah**

Interim Resolution Professional of

**Mamtaben Hareshbhai Bhalodiya**

Personal Guarantor to

Aricon Papers Private Limited

Having Correspondence address at:

Shop No.6, Samprati Residency,

Opp. Paliyadnagar AMC Garden,

Naranpura, Ahmedabad, Gujarat, 380013.

**...Applicant/IRP**

**VERSUS**

**(1) Mrs. Mamtaben Hareshbhai Bhalodiya**

(Personal Guarantor of

M/s. Aricon Papers Private Limited)

Having Correspondence Address at

White House, 3<sup>rd</sup> Floor,

Canal Chokdi, Opp. Swagat Hall,

Darpan Society-2, Morbi, Gujarat 363641.

**Respondent No. 1**

**(2) Small Industries Development Bank of India,**

**Having Branch office at**

Navjeevan Amrit Jayanti Bhavan,

1<sup>st</sup> Floor, Behind Gujarat Vidhyapith,

P.B. No. 10, Navjeevan PO,

Ahmedabad – 380014.

**Respondent No. 2**

**(3) Aricon Papers Private Limited,**

**Having registered office at:-**

Sr. No. 402/P2, Morbi Kandla Highway,

Haripar-Kerala Road,



Tal & Dist. Morbi, Rajkot,  
Nava Sadulka, Gujarat, India, 363642

**Respondent No. 3**

**Order pronounced on 06.10.2025**

**C O R A M:**

**SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)**

**SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)**

**A P P E A R A N C E:**

For the Applicant/PG : Mr. Arjun Padhiyar, Advocate  
For the Applicant/IRP : Mr. Sumit Parikh, Advocate  
For Respondent / FC : Mr. Arjun Sheth, Advocate R-1

**O R D E R**

***Per: Bench***

1. The present Company Petition was filed on 12.06.2025 by the Personal Guarantor under Section 94 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred a "IBC, 2016") r/w Rule 6 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtor) Rules, 2019 to initiate the Insolvency Resolution Process (hereinafter referred to as "IR Process") against herself who is stated to be Personal Guarantor of **Aricon Papers Private Limited** in relation to the Credit Facilities extended by the Small Industries Development Bank of India.

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2. On presentation of the application by the Applicant/Personal Guarantor, this Authority vide order dated 18.06.2025 has appointed the Resolution Professional viz, **Mr. Rahul Shah, CA**, having Registration No. IBBI/IPA-001/IP-P02170/2020-2021/13367 as IRP to file a report under Section 99 of Insolvency and Bankruptcy Code, 2016 within ten days, which has been filed by IRP dated 30.06.2025 through **I.A. No. 791 of 2025**, recommending the admission of the application filed under section 94 of IBC, 2016. The IRP recorded in the report that:-

*“The RP recommends that based on the examination of information / material / date available with RP, the RP recommends that present Application filed under section 94 of the Code by the Personal Guarantor Mamtaben Hareshbhai Bhalodiya deserved to be admitted under section 100 of the Code and Insolvency Resolution Process be commenced against Mamtaben Bhalodiya Personal Guarantor to M/s Aricon Papers Private Limited.*

3. The case of the Applicant/ Personal Guarantor is that the Applicant as Personal Guarantor had given a personal guarantee on 30.06.2016 and 11.12.2019 in respect of Credit Facilities of Rs.8,50,00,0000/- granted in favour of Corporate Debtor - **Aricon Papers Private Limited** by the Respondent/Financial Creditor. The aforesaid Credit Facilities were renewed and enhanced from time to time for which various loan/security documents were executed in favour of the Respondent/Financial Creditor.



4. However, after availing the aforesaid Loan/Credit Facilities, the Corporate Debtors failed to maintain financial discipline as per the terms and conditions of the loan agreement due to which loan accounts became irregular and Corporate Debtors defaulted in repayment of dues. Accordingly, the debt was classified as Non-Performing Asset by the Respondent/Financial Creditor on 28.03.2024.
5. Thereafter, Demand Notices dated 09.09.2024 was also issued by the Respondent/Financial Creditor calling upon the borrower **Aricon Papers Private Limited** and to the others as well as the Applicant repay the amount mentioned in the Recall Notices with further interest and other charges. The Respondent/Financial Creditor by way of these Recall notices also invoked the Personal Guarantee of the Applicant and others. Thereafter, the SIDBI issued a notice under section 13(2) of the SARFAESI Act, 2002 on 10.10.2024 against M/s Aricon Papers Private Limited and its Guarantors.
6. The Applicant/Personal Guarantor has filed this petition in prescribed FORM-A on 12.06.2025 under Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019 before this Adjudicating Authority for initiation of Insolvency Resolution Process.

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7. After issuance of notice, Financial Creditor / SIDBI was filed reply on 14.08.2025, vide inward diary No.D-5565 in IA/791(AHM) 2025. The relevant portion of the same are reproduced as under: -

- I. It is stated that the Personal Guarantor (PG) has not come with clean hands SARFAESI Proceedings already initiated by answering respondent no. 2 who is the sole financial creditor malicious Initiation of insolvency resolution process. That the PG has filed the insolvency petition to stall the proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI") initiated by the answering respondent no. 2/bank.
- II. It is further stated that the answering Respondent no. 2 at the request of Aricon Papers Pvt. Ltd. ("Corporate Debtor"/ "CD") had sanctioned credit facility, interalia, by way of working capital limit to the extent of Rs. 5 Crore vide Letter of Intent dt. 15.06.2016 which was renewed from time to time and further enhanced to the extent of Rs. 8,50,00,000/- vide Letter of Intent dt. 11.12.2019 and thereafter renewed from time to time and lastly by Letter of Intent dt. 13.04.2023 on the terms and conditions contained in the letter of intent(s) and Hypothecation Agreement(s) entered into by CD with answering respondent no. 2 and the security

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documents including the guarantees and other securities.

- III. That the answering Respondent no. 2 permitted the CD to avail the said limit, through Working Capital Transaction Account (WCTA) opened by the CD with Yes Bank Ltd., to the maximum extent of Rs. 8,50,00,000/- (Operating Limit).
- IV. That the CD was required to renew the working capital limits within a stipulated timelines but failed to renew the working capital limits due to non- operations of it unit and non-compliance of the renewal terms. Further, in terms of the said Agreements, the CD was required to maintain adequate balance in WCTA for ensuring timely payment of interest, penal interest and all other charges due to answering Respondent no. 2 on specified dates. However, the CD failed to make payments to answering Respondent no. 2 in accordance with the terms of the said Agreements and committed default in making the payment of interest, penal interest and penal charges which resulted in turning of the said Working Capital Account under Non Performing Assts (NPA) category on 28.03.2024.
- V. Consequently, answering Respondent no. 2 issued a notice dt. 18.07.2024 to the CD recalling the outstanding amount under the said limit and demanding payment of Rs.7,92,36,798/- together with interest and all other costs, charges, expenses and



monies payable by the Borrower under the said agreements. A copy of the said notice was also forwarded to the guarantors including the personal guarantor herein. Copy of the notice dt. 18.07.2024 is annexed with the insolvency petition at **Annexure- B**.

- VI. That since the CD failed to pay the dues to answering respondent no. 2 within the time stipulated in the said notice dt. 18.07.2024, the answering Respondent no. 2 invoked guarantee, including that of the personal guarantor, vide notice of invocation of guarantee dt. 09.09.2024. Copy of the said guarantee invocation notice dt. 18.07.2024 is annexed at pg. no. 26-29 of the insolvency petition.
- VII. That, notice dt. 10.10.2024 under section 13(2) of the SARFAESI Act, 2002 read with Security Interest (Enforcement) Rules, 2002 was issued by the answering Respondent no. 2 upon the CD and its guarantors, including to the PG in the instant case, calling upon the CD and the guarantors to pay the entire dues amounting to Rs. 8,22,99,268/-. Further, pursuant to the said notice, symbolic possession of the property of the PG in the instant case was also taken by the answering Respondent no. 2 on 22.01.2025. Copy of the notice dt. 10.10.2024 under section 13(2) of the SARFAESI Act, 2002 and copy of the possession notice is annexed at pg. no. 30-36 of the insolvency petition.

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VIII. That after the symbolic possession of the property of the PG was taken, the managing director of the CD Shri Hareshkumar R. Bhalodiya, who is also the husband of PG had visited the regional office of answering respondent no. 2 on 24.01.2025 and had requested for deferment of SARFAESI action and had submitted a letter dt. 24.01.2025 to that effect. Copy of the letter dt. 24.01.2025 written by the CD to the answering respondent no. 2 is annexed hereto and marked as **Annexure-[A]**.

IX. That pursuant to the request made and commitment made by the CD, the answering Respondent no. 2 deferred the SARFAESI action with respect to one of the mortgaged residential properties belonging to the PG in the instant case by not publishing the possession notice and also by not taking any further steps for sale of the property.

X. That despite giving ample opportunities to the CD to repay the complete outstanding amount, the CD failed to fulfil the commitment as assured by its management during the visits and communications held with the officials of answering respondent no. 2. Hence, notice/ letter dt. 12.03.2025 was issued by answering respondent no. 2 upon the CD and personal guarantors for payment of outstanding amount. That the CD had also replied to the said notice/letter dt. 12.03.2025 vide their letter dt. 24.03.2025. Copy of the said



notice/letter dt. 12.03.2025 issued by answering respondent no. 2 upon the CD and its personal guarantors and the reply letter dt. 24.03.2025 issued by the CD is annexed hereto and marked as **Annexure- (B)**.

XI. That since the whole outstanding amount had not been repaid by the CD, the answering respondent No. 2 had continued with the proceedings under SARFAESI. That symbolic possession of the property of the PG was taken again by the answering respondent no. 2 on 23.05.2025. Further, publication of possession notice in newspapers namely Times of India, Ahmedabad/ Rajkot (English) and Sandesh, Rajkot (Gujarati) was done on 29.05.2025. It is pertinent to mention that the insolvency petition has been filed by the PG on 12.06.2025 but the possession notice of May, 2025 has not been annexed with the insolvency petition. Copy of the possession notice is annexed hereto and marked as **Annexure- [C]**.

XII. That application under section 14 of the SARFAESI Act, 2002 was filed against the CD and its Directors before the Hon'ble Chief Judicial Magistrate, Morbi, for taking the physical possession of the immovable property (secured assets). Copy of the memo of application under section 14 of the SARFAESI Act, 2002 along with a copy of the case status is annexed hereto and marked as **Annexure- [D]**.



- XIII. That the answering respondent no. 2 was in the process of filing an application under section 14 of the SARFAESI Act, 2002 for taking the physical possession of the property of the PG in the instant case, however, in view of the present insolvency proceedings initiated by the PG, the answering respondent no. 2 is not able to take further action under the SARFAESI.
- XIV. That the PG has not annexed the personal guarantee contract with the insolvency petition. Further, the statement of affairs of the guarantor has also not been annexed with the insolvency petition.
- XV. That the answering respondent no. 2 is the sole secured financial creditor and SARFAESI proceedings were already initiated by the answering respondent against the CD and the guarantors. That on perusal of the aforesaid timelines, and at the time when the answering respondent no. 2 was in the process of taking the physical possession of the property of the PG, the PG has with the intent to thwart the SARFAESI proceedings, instituted the personal insolvency petition.
- XVI. That the whole and sole purpose of filing present application is to take benefit of interim moratorium granted under Section 96 of IB Code, 2016.

**Present application cannot be proceeded forward since the resolution professional not appointed as per and in accordance with the provisions of the IB**



**code Reply to the Report filed by Resolution Professional.**

- XVII. Without prejudice to the aforesaid submissions, it is submitted that pursuant to proceedings filed under section 94 of the IB code, under section 99 of the IB code, the resolution professional/ interim resolution professional after examining the application may recommend acceptance or rejection of the present insolvency application in his report to this Hon'ble Adjudicating Authority.
- XVIII. Hence, the role of the resolution professional/ interim resolution professional may have some significance.
- XIX. Accordingly, the appointment of a resolution professional/interim resolution professional becomes all the more important.
- XX. At this juncture it is pertinent to draw the attention of this Hon'ble AA to the provision for appointment of a resolution professional/ interim resolution professional pursuant to an application filed under section 94 of the IB code. The relevant provisions section 97 of the IB code is reproduced hereinbelow as follows:

*"97. Appointment of resolution professional. –  
(1) If the application under section 94 or 95 is filed through a resolution professional, the Adjudicating Authority shall direct the Board within seven days of the date of the application to confirm that there are no disciplinary proceedings pending against resolution professional.*



(2) The Board shall within seven days of receipt of directions under sub-section (1) communicate to the Adjudicating Authority in writing either –

(a) confirming the appointment of the resolution professional; or

(b) rejecting the appointment of the resolution professional and nominating another resolution professional for the insolvency resolution process.

(3) Where an application under section 94 or 95 is filed by the debtor or the creditor himself, as the case may be, and not through the resolution professional, the Adjudicating Authority shall direct the Board, within seven days of the filing of such application, to nominate a resolution professional for the insolvency resolution process.

(4) The Board shall nominate a resolution professional within ten days of receiving the direction issued by the Adjudicating Authority under sub-section (3).

(5) The Adjudicating Authority shall by order appoint the resolution professional recommended under sub-section (2) or as nominated by the Board under sub-section (4).

(6) A resolution professional appointed by the Adjudicating Authority under subsection (5) shall be provided a copy of the application for insolvency resolution process."

XXI. That in the present case there is no such provision under the proceedings of section 94 of the IB Code, 2016 read with section 97 of the IB Code, 2016 for nominating a resolution professional/interim resolution professional by the PG.

XXII. That in view of the absence of such provision, it is quite clear that there is a conscious decision on the part of the legislature to ensure absolute independence of the



process of resolution of debts of an individual and his bankruptcy proceedings thereto.

XXIII. That in the present case, the PG has nominated resolution professional/ interim resolution professional, being one Mr. Rahul N. Shah, who has given his written consent dated 05.06.2025 and has also issued report dated which is annexed with the captioned application.

XXIV. It is submitted that the entire exercise of nominating resolution professional/interim resolution professional, taking his written consent beforehand, and the issuance of report under section 99 of the IB code thereafter, is wholly and completely without any basis of provision of the law.

XXV. That as per section 97 of the IB code, in the event an application under section 94 is filed by debtor himself/itself and not through resolution professional/ interim resolution professional, the Adjudicating Authority shall direct the board within 7 days of filing of such application, to nominate a resolution professional for the insolvency resolution process. Thereafter, the board is required to nominate a resolution professional within 10 days of receiving such direction from the Adjudicating Authority. The Adjudicating Authority thereafter is required to appoint such a resolution professional as nominated by the board.



- XXVI. In light of the above it can be seen that there is absolutely no provision in the IB Code, 2016 for the purpose of nominating of the resolution professional/ interim resolution professional by applicant, where application is filed by the debtor himself/itself, and the resolution professional is required to be nominated by the board and thereafter be appointed by this Hon'ble Adjudicating Authority.
- XXVII. In light of the aforesaid, the report issued by the Interim Resolution Professional ("IRP") and in the present matter, being Mr. Rahul N. Shah, is non est, void ab initio and a nullity in the eyes of law, and no further proceedings can be proceeded with by this Hon'ble Adjudicating Authority till the aforesaid issue has been rectified.
- XXVIII. Further, part IV of the Form is required to be filled only when the application is filed through the resolution professional. However, the present is not such case where the insolvency petition has been filed through resolution professional since, the personal guarantor has signed the Form A, and has herself filed the insolvency petition. Hence, on that count also the Form A is defective.
- XXIX. Without prejudice to the aforesaid, it is stated and submitted that the IRP has issued an email dt. 21.06.2025 to the PG which is annexed at pg. no. 25 to 28 of the captioned application being IA No. 791 of

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2025 filed by the IRP. Similarly, IRP has issued only one email dt. 21.06.2025 to the CD which is annexed at pg. no. 22 to 32 of the captioned application being IA No. 791 of 2025 That, no reply to the said emails and letter has been given by the PG and CD. Further, except one email written by the IRP to the PG and CD, no efforts have been made by the IRP to collect the details and documents from the CD.

XXX. That no statement of affairs has been prepared and submitted by the PG which are vital for the admission and successful completion of personal insolvency proceedings. Further, in spite of SARFAESI proceedings initiated by the sole secured financial creditor, the PG has initiated the present insolvency proceedings with a view to thwart the said SARFASI proceedings and to enjoy the interim moratorium period. Hence, the actions initiated by the PG does not seem to be in line for resolving its debt but for some other purpose except of that of resolution of its debts.

XXXI. That the Personal Guarantor has filed the insolvency petition only to frustrate the legitimate recovery actions initiated by the creditors before the competent court of law which fact is further strengthen from non-submission of any information in response to the e-mail issued by the IRP and also non submission of Statement of Affairs, and hence, the insolvency petition



is required to be dismissed with heavy costs upon the personal guarantor.

XXXII. That, the answering Respondent crave leave to refer to and rely upon other grounds at the time of hearing.

XXXIII. In light of the above, it is humbly prayed that this Hon'ble AA be pleased to dismiss the captioned application and the insolvency petition.

8. Further, written submission has also been filed by the Personal Guarantor in IA/791(AHM) 2025 vide inward diary No.D-6464 on 23.09.2025. The relevant portion of the same are reproduced as under:

I. It is submitted that the guarantor in the support of its petition under Section 94 of the Code has submitted (1) Notice dated 09.09.2024 (attached at Page No. 17-20 of the main petition) in relation to Invocation of Guarantee, (2) Demand Notice 2 issued under Section 13(2) of the SARFAESI Act (attached at Page No. 30-34 of the main petition).

II. That the IRP with its report has produced the Deed of Guarantee dated 11.12.2019 (attached at Page No. 39-44 of the present application).

III. That as per the details as provided by the Financial Creditor i.e. SIDBI to the IRP and as further mentioned in the report under Section 99 of the Code, the total outstanding dues has been reduced from Rs. 8,22,99,268/- as on 30.09.2024 to Rs.



6,42,71,423.99/- as the corporate debtor has even after date of NPA i.e. 28.03.2024.

- IV. That even the Financial creditor in their reply at Paragraph No. 12 has admitted that the personal guarantee as given by the Personal Guarantor herein has been invoked vide notice dated 09.09.2024.
  - V. That the personal guarantor herein is eligible to file the petition under Section 94 of the Insolvency and Bankruptcy Code, 2016.
  - VI. Hence, the present application is required to be admitted and an appropriate order under Section 100 of the Code admitting the Petition under Section 94 of the Code is required to be passed.
9. Thereafter, the Respondent No.2 has also filed its written submissions on 26.09.2025, vide inward diary No.D-6579. The relevant portion of the same are reproduced as under:
- I. That the respondent no. 2 is the sole secured financial creditor and SARFAESI proceedings were already initiated by the respondent no. 2 against the CD and the guarantors. That on perusal of the aforesaid timelines, and at the time when the respondent no. 2 was in the process of taking the physical possession of the property of the PG, the PG has with the intent to thwart the SARFAESI proceedings, instituted the personal insolvency petition.



- II. That the whole and sole purpose of filing of the insolvency petition is to take benefit of the interim moratorium as granted under section 96 of the IB Code and to thwart the SARFAESI proceedings initiated by the respondent no. 2 who is the sole financial creditor. Hence, the actions initiated by the PG does not seem to be in line for resolving its debt but for some other purpose except that of resolution of debts.
- III. That application under section 14 of the SARFAESI Act, 2002 was filed against the CD and its Directors before the Hon'ble Chief Judicial Magistrate, Morbi, for taking the physical possession of the immovable property (secured assets) **(Kindly refer pg. no. 34 to 46 of the reply of R2 dt. 12.08.2025)**
- IV. That the respondent no. 2 was in the process of filing an application under section 14 of the SARFAESI Act, 2002 for taking the physical possession of the property of the PG in the instant case, however, in view of the present insolvency proceedings initiated by the PG, the respondent no. 2 is not able to take further action under the SARFAESI.
- V. That the actions taken by the Respondent No. 2 to recover its dues from the CD and its guarantors including the PG are mentioned in para. 8 to 19 of the Reply of Respondent No. 2 dated 12.08.2025.
- VI. That **reliance is placed on the judgment dt. 24.05.2025 passed by the Hon'ble NCLAT, New**



**Delhi in CA(AT) (Ins) No. 455 of 2025- Syed Sirajis Salikin Khadri Vs Edelweiss Asset Reconstruction Company Limited & Anr.** wherein the Hon'ble NCLAT, New Delhi has held as follows:

"10. The moot question before us for our consideration is whether in the given facts and circumstances, the Adjudicating Authority was correct in concluding that the initiation of SARFAESI proceedings was sufficient basis to hold that the Section 94 application has been resorted to by the Appellant for putting a spanner in the recovery proceedings initiated by the Respondent No.1 and therefore deserved to be dismissed.

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14. This now brings us to the filing of the Section 94 application on 03.12.2022 and its timing. We notice that Section 94 application was filed by the Appellant within weeks after the issue of a possession notice upon them on 11.11.2022 by the Respondent No.1. When after the 4th SA was disposed of, the Appellant realised that it had failed to secure any further relief from the DRT and that dispossession from the subject residential premises was imminent that the present Section 94 petition was filed on 03.12.2022 and a communication sent on 06.12.2022 to the Respondent No.1 to hold its hand from taking over possession of the residential premises on account of moratorium. This letter of 06.12.2022 clearly reveals the intention of the Appellant to stall the recovery proceedings by taking undue benefit of the moratorium provisions. Filing of the Section 94 application at this juncture leaves no room for doubt in our mind that these proceedings were not initiated with the intent of genuine insolvency resolution but as a tool to obstruct lawful recovery of enforcement with the manifest intent of the Appellant being to seek refuge under the moratorium provision under Section 96 of the IBC in an effort to prevent enforcement of possession of the secured residential premises.

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VII. It is also pertinent to mention that the PG has not annexed the personal guarantee contract with the insolvency petition. Further, the statement of affairs of the guarantor has also not been annexed with the insolvency petition.

VIII. Insolvency petition under section 94 of the IB Code filed in Form A is defective Part IV of the Form A is required to be filled when application under section 94 of the Code is filed through the Resolution Professional.

**Insolvency petition under section 94 of the Code not filed through resolution professional**

IX. Part IV of the Form is required to be filled only when the application is filed through the resolution professional. However, the present is not such case where the insolvency petition has been filed through resolution professional since, the personal guarantor has signed the Form A, and has herself filed the insolvency petition. Hence, on that count also the Form A is defective.

**Present application cannot be proceeded forward since the interim resolution professional/resolution professional not appointed as per and in accordance with provisions of IB Code No efforts have been made by the IRP/ RP of the PG to collect details and documents from PG**



- X. That the resolution professional is not appointed as per and in accordance with the provisions of the IB Code (Kindly refer para. 23 to 33 of the Affidavit in Reply of Respondent No. 2 dt. 12.08.2025).
- XI. That only one email dt. 21.06.2025 has been written by the IRP to the PG and no efforts have been made by the IRP to collect the details and documents from the CD.
- XII. In view of the aforesaid, this Hon'ble AA be pleased to dismiss the captioned application and the insolvency petition.
- 10.** We have heard the Ld. Counsel for the Applicant/Personal Guarantor, Ld. Counsel for the Financial Creditor as well as Ld. Counsel for the IRP and perused the records as well as the Report of IRP.
- 11.** The matter involves application under Section 94 of the Insolvency and Bankruptcy Code, 2016 filed by Personal Guarantor for initiation of Insolvency Resolution Process in capacity as personal guarantor to Corporate Debtor for credit facilities from Financial Creditor. Interim Resolution Professional filed IA No. 791/AHM/2025 on 30.06.2025, recommending admission under Section 100 of the Insolvency and Bankruptcy Code, 2016. Financial Creditor opposed admission through reply on 14.08.2025, raising objections on procedure and merits.



- 12.** The Interim Resolution Professional in the report dated 28.06.2025 examined the application and confirmed existence of financial debt of Rs. 850.00 lakh sanctioned to the Corporate Debtor vide Letter of Intent dated 11.12.2019 enhanced and renewed up to 13.04.2023. The account was classified as Non-Performing Asset on 28.03.2024 with outstanding amount of Rs. 822.99 lakh as on 30.09.2024 reduced to Rs. 642.71 lakh post recoveries.
- 13.** The personal guarantee executed on 30.06.2016 and on 11.12.2019 was invoked vide notice dated 09.09.2024, crystallising the liability under Section 127 of the Indian Contract Act, 1872 read with Sections 2(7) and 7 of the Insolvency and Bankruptcy Code, 2016. No bar of limitation was found as the application was filed within three years from the date of default. The Interim Resolution Professional recommended acceptance of the application.
- 14.** The Applicant/Personal Guarantor in written submissions dated 22.09.2025 submitted that the invocation of the guarantee dated 09.09.2024 converted the contingent liability into direct debt, making her eligible under Section 94 of the Insolvency and Bankruptcy Code, 2016. Reference was made to the admission of invocation by the Financial Creditor in reply dated 12.08.2025.


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15. Respondent No.1/Financial Creditor in reply dated 14.08.2025 and written submissions dated 25.09.2025 opposed admission, contending the absence of the Deed of Guarantee and statement of affairs in the application rendering it defective under Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019.
16. Regarding the appointment of the IRP (Mr. Rahul Shah), While SIDBI argued that the IRP's nomination by the applicant violated Section 97 of the IBC, the Tribunal proceeded to appoint the same IRP (Mr. Rahul Shah) as the Resolution Professional (RP), implying acceptance of the appointment for practical purposes as no disciplinary proceedings are pending against him.
17. Regarding the adequacy of the IRP's report, the report confirms the existence of a financial debt of Rs.8.50 crore, the invocation of the personal guarantee on 09.09.2024, and a default with no limitation bar, supported by the Deed of Guarantee dated 11.12.2019. The limited efforts to collect further details from the Corporate Debtor and the absence of the statement of affairs do not vitiate the report's sufficiency at this threshold stage under Section 100, as substantial compliance with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019, is established.

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Accordingly, this objection does not merit dismissal of the petition.

- 18.** It was further contended that the application was filed to stall proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 including notice under Section 13(2) dated 10.10.2024 and application under Section 14 dated 21.05.2025 before Chief Judicial Magistrate Morbi. Reliance was placed on Syed Sirajis Salikin Khadri Vs. Edelweiss Asset Reconstruction Company Limited and Anr. [(2025) ibclaw.in 294 NCLAT] where the National Company Law Appellate Tribunal held that Section 94 application filed to obstruct recovery under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 by invoking moratorium under Section 96 of the Insolvency and Bankruptcy Code, 2016 deserves dismissal.
- 19.** The contention of the Financial Creditor regarding defect in Form A is not sustainable as the Deed of Guarantee dated 11.12.2019 was placed on record by the Interim Resolution Professional in the report and substantial compliance with the rules is sufficient at the threshold stage under Section 100 of the Insolvency and Bankruptcy Code, 2016.
- 20.** On the aspect of intent to stall proceedings under the Securitisation and Reconstruction of Financial Assets and



Enforcement of Security Interest Act, 2002 the National Company Law Appellate Tribunal in **Getz Cables Pvt. Ltd. v. State Bank of India and Anr., (2024) ibclaw.in 766 NCLAT** decided on 21.11.2024 held that the right of personal guarantor under Section 94 of the Insolvency and Bankruptcy Code, 2016 cannot be denied merely on ground of initiation of proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 against the corporate debtor and each case is to be decided on its facts.

21. In the present case the application was filed on 12.06.2025, post invocation of the guarantee on 09.09.2024 and notice under Section 13(2) on 10.10.2024, indicating genuine intent for resolution rather than prolonged evasion as distinguished in **Syed Sirajis Salikin Khadri v. Edelweiss Asset Reconstruction Company Ltd. and Anr., (2025) ibclaw.in 294 NCLAT** decided on 24.05.2025, where the application was filed after over a decade of litigation.
22. Further, the National Company Law Appellate Tribunal in **Manoj Aggarwal v. Karnataka Bank Ltd., (2025) ibclaw.in 692 NCLAT** decided on 02.09.2025, observed that repeated applications under Section 94 to delay recovery under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,



2002 are not maintainable. But the present is the first application filed within time post crystallisation of debt.

23. The threshold under Section 100 of the Insolvency and Bankruptcy Code, 2016 requires satisfaction of existence of debt and default, which stands established from the report of the Interim Resolution Professional dated 28.06.2025. The Applicant is eligible under Section 94 as no prior insolvency proceedings are pending against her.
24. Accordingly, the application is admitted under Section 100 of the IBC, 2016, initiating the insolvency resolution process against **Mrs. Mamtaben Hareshbhai Bhalodiya**, the Personal Guarantor of **Aricon Papers Private Limited**.
25. The moratorium under Section 101 commences on the date of admission and shall cease at the end of 180 days or on an order under Section 114, whichever is earlier.
26. During the moratorium period, the following provisions shall be in effect: -
  - a. pending legal actions in respect of any debt are stayed;
  - b. creditors shall not initiate legal actions in respect of any debt;
  - c. the debtor shall not transfer, alienate, encumber, or dispose of assets or rights;
  - d. provisions do not apply to notified transactions by the Central Government.

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27. The Interim Resolution Professional viz. **Mr. Rahul Shah** having a Registration No. IBBI/IPA-001/IP-P02170/2020-2021/13367 is appointed as Resolution Professional. The RP The RP shall:

- (i) cause a public notice to be published within 7 days on the NCLT website, inviting claims within 21 days from the date of issuance, including details under Section 102(2);
- (ii) publish in one English and one vernacular newspaper with wide circulation in the state where the debtor resides, affix the notice in the premises of the Adjudicating Authority;
- (iii) ensure the public notice is also affixed in the premises of this Adjudicating Authority as per Section 102(3)(b);
- (iv) prepare a list of creditors under Section 104 within 30 days from the date of admission;
- (v) assist debtor in preparing repayment plan under Section 105, including justifications, RP fees, etc.;
- (vi) submit a repayment plan and report under Section 106 within 21 days from claim submission;
- (vii) if a meeting is recommended, specify details under Section 106(3), including the date and time of such meeting, which shall not be less than 14 days or more than 28 days from the date of submission of the report under Section 106(1), with at least 14 days' notice under Section 107(2)
- (viii) conduct a meeting under Sections 108-111;
- (ix) prepare a meeting report under Section 112 and submit to the Tribunal with copies;



- (x) perform duties under Section 208;
- (xi) The Registry is directed to communicate a copy of the order, report and application within seven working days to the Applicant, Respondent/PG, and Resolution Professional and upload on the website immediately after the pronouncement of the order.

**28.** In terms of the above, **CP(IB)/225(AHM)/2025** filed under Section 94 (1) of the IBC, 2016 is **admitted**, and the Insolvency Resolution Process stands initiated against the Applicant/Personal Guarantor.

**29.** Accordingly, **IA/791(AHM) 2025** in **CP(IB)/225 (AHM)/2025** is disposed of.

**SANJEEV SHARMA**  
**MEMBER (TECHNICAL)**

VP

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