



IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Through Hybrid Mode)

Item No.6
IA (IBC)/197/2025 in
CP (IB)/52/95/AMR/2024

IN THE MATTER OF:

IDBI Bank Limited

... Petitioner/
Financial Creditor

Versus

Mr. Rebba Babu Rao & Anr.

... Respondents

Under Section: 95, 60(5) of IBC, 2016

Order delivered on 16.09.2025

CORAM:

SHRI UMESH KUMAR SHUKLA
HON'BLE MEMBER (TECHNICAL)

SHRI KISHORE VEMULAPALLI
HON'BLE MEMBER (JUDICIAL)

PRESENT:

For the Financial Creditor : Mr. B. Harinath Rao, Adv.
For the Personal Guarantor : Ms. Aishwarya Chevuturi, Adv.
For the Resolution Professional : Ms. JVL Bharati, Adv.

ORDER

Order pronounced and recorded *vide* separate sheets. The Application bearing **IA (IBC)/197/2025 in CP (IB)/52/95/AMR/ 2024** filed by the Financial Creditor is **allowed and disposed of**. **CP (IB)/52/95/AMR/2024** filed by the Financial Creditor is **admitted**.

Sd/-
(UMESH KUMAR SHUKLA)
MEMBER (TECHNICAL)

Sd/-
(KISHORE VEMULAPALLI)
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI**
*(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)*

IA (IBC)/197/2025 in CP (IB)/52/95/AMR/2024

And

CP (IB)/52/95/AMR/2024

Application under Section 95 of 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 Debtors) Rules, 2019

In CP (IB)/52/95/AMR/2024 & IA (IBC)/197/2025:

Between:

IDBI BANK LIMITED

Having its Regd. Office at:

IDBI Tower, WTC Complex,

Cuffe Parade, Mumbai-400 005.

And having one of its branch offices at:

IDBI Bank Limited, NPA Management Group at

2nd Floor, H. No. 5-9-89/1 & 2, Chapel Road,

Hyderabad, Telangana-500001.

Rep. by its Authorized Signatory, Shri. Bhagabat Prasad Patra,

S/o. Shri. Pradyumna Kumar Patra, aged about: 45 years,

Occ: Deputy General Manager, IDBI Bank Ltd.,

NPA Management Group, Chapel Road, Hyderabad.

... Financial Creditor

Versus

1. Sri. Rebba Babu Rao,

S/o. Rebba Venkateshwara Rao,

Occ: Business, R/o. MIG-19, APHB Colony, By Pass Road,

Machilipatnam, Krishna District,

Andhra Pradesh-521001.

... Personal Guarantor

2. M/s. R V R Marine Products Limited,

Registered Office at

Door No. 26-8-6, Balusumidi, Bhimavaram,

West Godavari District, Andhra Pradesh-534202.

... Corporate Debtor



Order delivered on: 16 .09.2025

Coram: HON'BLE SHRI KISHORE VEMULAPALLI, MEMBER (JUDICIAL)
HON'BLE SHRI UMESH KUMAR SHUKLA, MEMBER (TECHNICAL)

Parties/Counsels Appearance:

For Financial Creditor : Mr. B. Harinath Rao, Advocate
For Personal Guarantor : Ms. Aishwarya Chevuturi, Advocate
For Resolution Professional : Ms. JVL Bharati, Advocate

ORDER
PER: BENCH

CP (IB)/52/95/AMR/2024:

The present Petition has been e-filed on 24.07.2024 and physically filed on 14.10.2024 vide Diary No. 1487, by IDBI Bank Limited (hereinafter referred to as the “**Financial Creditor**”) through its Deputy General Manager, Shri. Bhagabat Prasad Patra, under section 95 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “**IBC**” or “**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 (hereinafter referred to as the “**Personal Guarantors Rules**”) seeking to initiate Personal Insolvency Resolution Process (hereinafter referred to as the “**PIRP**”) against Sri. Rebba Babu Rao (hereinafter referred to as the “**Personal Guarantor**”), who is the Personal Guarantor of the loan accounts of M/s. R V R Marine Products Limited (hereinafter referred to as the “**Corporate Debtor**” or “**Principal Borrower**”) and who has extended the Personal Guarantee to the Financial Creditor.

2. The registered office of the Corporate Debtor is at Door No. 26-8-6, Balusumidi, Bhimavaram, West Godavari District, Andhra Pradesh-534202, which is situated in the State of Andhra Pradesh. Further, the Corporate Debtor has been admitted into



Corporate Insolvency Resolution Process (hereinafter referred to as the 'CIRP'), vide this Adjudicating Authority Order dated 30.10.2019 in TCP(IB)/101/7/AMR/2019. Therefore, the jurisdiction lies with this Adjudicating Authority.

FACTS OF THE CASE:

3. The facts of the case, as stated in the Petition filed by the Financial Creditor, are summarized below:

- (i) The Personal Guarantor is the one of the Personal Guarantor, who provided irrevocable personal guarantee for the financial assistance granted by the Financial Creditor to the Corporate Debtor.
- (ii) The Corporate Debtor, who is carrying business of rearing, culturing and processing of marine products and sea foods etc., approached the Financial Creditor in the year 2010 for availing the working capital requirements in the form of pre-shipment credit for running of PC/PCFC of Rs.3200 lakh, post shipment credit- FDBP/ FUDBP/ FBDB/ FUBBD (Under LC) of Rs.2500 lakh, cash credit of Rs.1000 lakh, term loan of Rs.110 lakh and stand by LC of Rs.200 lakh totally amounting to Rs.7010 lakh and the Financial Creditor having considered the request of the Corporate Debtor, sanctioned the said loan facilities vide sanction letter Ref.No.IDBI-ABG-APC-130/2009-10 dated 10.03.2010, on the terms and conditions contained therein and the Corporate Debtor accepted the said sanction terms, executed necessary loan documents in favour of the Financial Creditor.
- (iii) The Personal Guarantor, **Sri. Rebba Babu Rao** stood as guarantor to the above said loan facilities availed by the Corporate Debtor and executed



Guarantee Agreement dated 22.03.2010 and Guarantors Undertaking dated 22.03.2010, in favour of the Financial Creditor agreeing to repay the due amounts in the event of default committed by the Corporate Debtor.

(iv) At the request of Corporate Debtor, the Financial Creditor renewed/enhanced the above said working capital limits vide renewal/ enhancement of working capital limits Ref. No. IDBI-ABG-APC-HYD-01/2011-12, dated 04.05.2011 on the terms and conditions contained therein and the Corporate Debtor having agreed to the said sanction terms has executed necessary loan documents in favour of the Financial Creditor. Further, at the request of the Corporate Debtor, the Financial Creditor extended the Gold Card Facility under Gold Card Scheme vide sanction letter Ref. No. IDBI-ABG-APC-HYD-01(A)/2011-12, dated 01.06.2011 on the terms and conditions contained therein and the Corporate Debtor accepted the said sanction terms, executed necessary loan documents in favour of the Financial Creditor. Having agreed to the said sanction terms, the Personal Guarantor herein along with other personal guarantors executed Guarantee Agreement dated 01.06.2011 in favour of the Financial Creditor, agreed to repay the loan amounts to the Financial Creditor in the event of default committed by the Corporate Debtor. Further, the Personal Guarantor herein along with the other personal guarantors also executed Supplemental Guarantee Agreement dated 29.06.2011 in favour of the Financial Creditor agreeing to repay the above said loan amounts availed by the Corporate Debtor in the event of default committed by it.

(v) At the request of Corporate Debtor, the Financial Creditor renewed the working capital limits vide Ref. No. IDBI/ABG/HYD/7001/11/2012-13,



dated 09.03.2013 on the terms and conditions contained therein and revised the existing limits from Rs.100.28 crores to Rs.100 crores and the Corporate Debtor along with all the personal guarantors including the Personal Guarantor herein having acknowledged the terms and conditions of the said sanction terms have subscribed their signatures in token acceptance of the same and executed the necessary loan documents along with the undertaking and Personal Guarantee Agreements dated 22.03.2010 in favour of the Financial Creditor. At the request of Corporate Debtor, the above said loan facilities were revised vide sanction letter Ref. No. IDBI/RBG/HYD/002/01/2014-15, dated 07.08.2014.

- (vi) The Corporate Debtor failed to fulfil the terms and conditions of the above said sanction letters and became irregular in repaying the loan amounts as per the repayment schedule. As such the Financial Creditor several times requested the Corporate Debtor and the Personal Guarantor to clear the loan amounts, but the same were fallen to their deaf ears, consequent to which the loan accounts of the Corporate Debtor was classified as Non-Performing Asset (hereinafter referred to as the '**NPA**') as on 01.10.2014. Subsequent to classification of the loan accounts as NPA, the Financial Creditor requested the Corporate Debtor as well as the Personal Guarantor to clear the outstanding due amounts in respect of the above said loan accounts of the Corporate Debtor, but neither the Corporate Debtor nor the Personal Guarantor have come forward to clear the due amount. As such the Financial Creditor issued Recall Notice vide Ref. No. IDBI/RBG-HYD/Recall/RMPL/2014-15/1045, dated 21.02.2015 to the Corporate Debtor to clear the outstanding due amount of



Rs.94,06,74,806.20 as on 01.02.2015 together with further interest from 02.02.2015 at the contractual rates upon the footing of the compound interest within 15 days from the date of said notice. The said notice was also marked to the Personal Guarantors. However, the Corporate Debtor as well as the Personal Guarantor herein even after receipt of the said notice did not come forward to clear the outstanding dues. Therefore, the Financial Creditor invoked the guarantee executed by the Personal Guarantor and issued guarantee invocation notice vide Ref. No. IDBI/RBG-HYD/PG Invocation/RMPL/2014-15/1104 dated 09.03.2015 to all guarantors including the Personal Guarantor herein demanding all of them to pay Rs.94,27,14,402.20 as on 01.03.2015 together with further interest thereon w.e.f. 02.03.2015 at the contractual rates, upon the footing of compound interest until payment/realisation. The Financial Creditor also invoked action under The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the "SARFAESI") and issued Demand Notice under section 13(2) of the said Act vide Ref. No. IDBI/HYD/RBG/SARFAESI/RMPL/2014-15/1121, dated 12.03.2015 to the Corporate Debtor as well as the Personal Guarantors including the Personal Guarantor herein demanding all of them to pay the outstanding due amount of Rs.94,34,16,695.05 as on 01.03.2015 together with further interest thereon w.e.f. 02.03.2015 at the contractual rates, upon the footing of compound interest until payment/realisation, within a period of 60 days from the date of said notice.

- (vii) Since the Corporate Debtor and the Personal Guarantors including the Personal Guarantor herein failed to clear the outstanding due amount, the



Financial Creditor filed O.A. No. 812 of 2015 against the Corporate Debtor and others including the Personal Guarantor herein and other personal guarantors for recovery of money before the Hon'ble Debt Recovery Tribunal, Hyderabad (hereinafter referred to as the "**DRT**") and the Hon'ble DRT after adjudication allowed the said O.A. by Order dated 25.01.2017 and issued Recovery Certificate dated 25.05.2019 in RC No. 44 of 2019, and subsequently the Recovery Officer of DRT-1, Hyderabad has issued Demand Notice dated 11.11.2019 to the Corporate Debtor and others including the Personal Guarantor herein in RP No. 44 of 2019 in O.A. No. 812 of 2015 and the RP is still pending for adjudication.

- (viii) While the matter stood thus, the Financial Creditor filed Company Application bearing No. CP(IB)320/7/HDB/2019 before the Hon'ble NCLT, Hyderabad Bench against the Corporate Debtor under section 7 of IBC and subsequent to establishment of this NCLT, the matter is transferred to this Adjudicating Authority and renumbered as TCP(IB) No.101/7/AMR/2019 and after hearing the same, this Adjudicating Authority, vide its order dated 30.10.2019 admitted the Corporate Debtor into CIRP and subsequently the Resolution Professional (hereinafter referred to as the '**RP**') filed I.A. No. 33 of 2021 under Section 30 of IBC read with Regulation 39 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as the "**CIRP Regulations**") for approval of the Resolution Plan under section 31(1) of IBC read with Regulation 39 of CIRP Regulations and the said I.A. No. 33 of 2021 was allowed by vide this Adjudicating Authority Order dated 02.11.2021 approving the Resolution Plan and subsequently, a



corrigendum order was passed on 13.12.2021 wherein "a representative nominated by the Financial Creditor" is inserted as point No. (iii) at Para No.8-Para-2(xvi)(b) in the said order dated 02.11.2021 and the Financial Creditor received a sum of Rs.11.75 crore, from the said Resolution Plan towards its part of the claim.

- (ix) Neither the Corporate Debtor nor the Personal Guarantor paid the outstanding due amount to the Financial Creditor, and the Financial Creditor issued Form B Demand Notice dated 27.02.2024 under Rule 7(1) of the Personal Guarantors Rules to pay the outstanding due amount of Rs.220,33,54,296.42 and the Personal Guarantor having received the said notice did not come forward to clear the due amounts. The Financial Creditor also submitted report to the National E-Governance Services Limited-Record of Financial Information-Form C, dated 25.01.2024 and the National E- Governance Services Limited issued Record of Default in Form D dated 06.02.2024, duly affixing its digital signature.
- (x) As per statement of accounts, the Personal Guarantor is liable to pay an amount of Rs.220,33,54,296.42 as on 02.02.2024 together with future interest. However, the Personal Guarantor failed to make the payments within stipulated time, therefore, the Financial Creditor filed this Petition against the Personal Guarantor in terms of provisions contained in Section 60(2) and Section 95(1) of IBC.
- (xi) The Recovery Certificate was issued on 25.05.2019 and the Recovery Proceedings in RP No. 44 of 2019 in O.A. No. 812 of 2015 is still pending before the Recovery Officer of DRT-I, Hyderabad for adjudication. Further, the Personal Guarantor submitted his Statement of Assets and Liabilities



as on 26.11.2021 (i.e. within 3 years from the date of issuance of Recovery Certificate dated 25.05.2019, by DRT-1, Hyderabad in RC No. 44 of 2019), duly signed by him and certified by his Chartered Accountant, wherein at Column No. 16 of the said Statement of Assets and Liabilities, under the caption of Details of Liabilities, the Personal Guarantor acknowledged his debt to the Financial Creditor as Guarantor of the Corporate Debtor. The said Column No.16 is extracted reproduced below:

16. Details of Liabilities :-

(i) As Borrower :-

(Amt. In Lakhs)

| Name of the Bank | Purpose of Loan | Amt. of Loan | Security | Repayment Terms | Outstanding Balance (As on 26-11-2021) |
|------------------|-----------------|--------------|----------|-----------------|---|
| IDBI Bank Ltd | Fish Culture | 198.00 | | | 370.00 |

(i) As Guarantor :-

(Amt. In Lakhs)

| Name of the Person/Company to whom | Name of the Bank/ Financial | Guarantee Amount (Rs.) | Present Status of Account | Outstanding Balance (As on .././..../) |
|------------------------------------|-----------------------------|------------------------|---------------------------|--|
| Fish Tank Loans | IDBI Bank, Hyd | 5500.00 | NPA | |
| RVR Marine Products Ltd | IDBI Bank, Hyd | 9450.00 | NPA | |

- (xii) In view of the submission of aforesaid Statement of Assets and Liabilities by the Personal Guarantor as on 26.11.2021 duly reflecting the liability towards the Financial Creditor as stated in the said column No. 16, under the Details of Liabilities, it amounts to acknowledgement of debt as per Article 18 of the Limitation Act, 1963, which is extracted herewith for perusal of the Tribunal.

18. Effect of Acknowledgment in writing:-

"(1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his



title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed".

(xiii) In view of the above, it is prayed to initiate PIRP against the Personal Guarantor of the Corporate Debtor.

4. This Adjudicating Authority, vide order dated 04.11.2024, appointed Mr. K. Murali Krishna Prasad (Reg. No. IBBI/IPA-001/IP-P00967/2017-2018/11588) as the RP with the direction to submit his report under Section 99 of the Code within 10 days.

RP REPORT:

5. In compliance of this Adjudicating Authority Order dated 04.11.2024, the RP filed IA(IBC)/439/2024 in e-portal on 16.11.2024 and physically on 20.11.2024 vide Diary No. 1686 to place on record the RP Report under Section 99 of the Code, which was taken on record by this Adjudicating Authority vide its Order dated 28.11.2024. The contents of the RP report has been summarised below:

| Provision as per Code | | Compliance Status |
|-----------------------|---|--|
| 99(1) | The RP shall examine the application referred to in section 94 or section 95, as the case may be, within ten days of the appointment of RP, and submit a report to the Adjudicating Authority for recommending approval or rejection of the application | I have obtained copy of Petition filed by IDBI Bank and examined the same. The Petition was filed by IDBI Bank Limited under section 95 for the defaults committed by the Corporate Debtor as well as the Personal Guarantor in payment of debt due from the Corporate Debtor, for whom the Personal Guarantor has given a personal guarantee. I have sent notice of appointment thorough mail to Personal Guarantor on 09.11.2024 and called for the details of payment made towards defaults claimed through the instant Petition, but has not received any response from him. As such it is presumed that there is no payment of debt as claimed through the Petition. The instant RP report is accordingly filed with this Adjudicating authority. |
| 99(2) | Where the application has been filed under section 95, the RP may require the debtor to prove repayment of the debt claimed as unpaid by the creditor by furnishing: | The Financial Creditor has issued a Demand Notice in Form B to the Personal Guarantor dated 27.02.2024 by speed post vide consignment number RN089095758IN, which was delivered on 01.03.2024 to the Personal |



| Provision as per Code | | Compliance Status |
|-----------------------|---|--|
| | <p>a) evidence of electronic transfer of the unpaid amount from the bank account of the debtor;</p> <p>b) evidence of encashment of a cheque issued by the debtor; or</p> <p>c) a signed acknowledgment by the creditor accepting receipt of dues.</p> | <p>Guarantor demanding an amount of Rs.220,33,54,296.42 as on 02.02.2024 through the registered post, acknowledgement due, which was received by the Personal Guarantor. Since no payment has been received, the Petition under section 95 of the Code has been filed on 24.07.2024 for initiation of Insolvency Resolution Process against the Personal Guarantor. Upon verification of the particulars of the debt, as attached with the Petition filed by the Financial Creditor, it is observed that no payment has been made by the Personal Guarantor after issuance of the demand notice.</p> |
| 99(3) | <p>Where the debt for which an application has been filed by a creditor is registered with the information utility, the debtor shall not be entitled to dispute the validity of such debt.</p> | <p>The Financial Creditor has notified the debt with National E-governance Services Limited, the record of default, attached with the Petition.</p> |
| 99(4) | <p>For the purposes of examining an application, the RP may seek such further information or explanation in connection with the application as may be required from the debtor or the creditor, or any other person who, in the opinion of the RP, may provide information.</p> | <p>No other information is sought, as the above information is adequate to establish the existence of debt, default by the Personal Guarantor and non-payment of the same subsequent to filing the Petition.</p> |
| 99(5) | <p>The person from whom information or explanation is sought under sub-section (4) shall furnish such information or explanation within seven days of receipt of the request.</p> | <p>I have sought the repayment details, if any, from the Personal Guarantor, vide e-mail dated 09.11.2024, but so far, not received any response.</p> |
| 99(6)(a) | <p>The RP shall examine the application and ascertain that - (a) the application satisfies the requirements set out in section 94 or 95;</p> | <p>I have examined the Petition filed by the Financial Creditor and the same satisfies the requirements of section 95 of the IBC.</p> |
| 95(1) | <p>A creditor may apply either by himself, or jointly with other creditors, or through a RP to the Adjudicating Authority for initiating an insolvency resolution process under this section by submitting an application.</p> | <p>The Financial Creditor has filed the Petition to this Adjudicating Authority for initiating Insolvency Resolution Process against the Personal guarantor.</p> |
| 95(4) | <p>An application under sub-section (1) shall be accompanied with details and documents relating to-</p> <p>a) The debts owed by the debtor to the creditor or creditors submitting application for insolvency</p> | <p>a) The Petition has been filed accompanied by required details and documents relating to the debts owed by the Corporate Debtor to the Financial Creditor as on the date of Petition.</p> |



| Provision as per Code | | Compliance Status |
|-----------------------|--|--|
| | <p>resolution process as on the date of application;</p> <p>b) The failure of the debtor to pay the debt within a period of fourteen days of the service of the notice of demand; and 98.</p> <p>c) Relevant evidence of such default or non- repayment of debt.</p> | <p>b) The Financial Creditor furnished particulars of debt/ statement of account demand notice.</p> <p>c) Bank statement filed by Financial Creditor and IDBI certificate regarding disbursal of loan amount to the Corporate Debtor, for whom the personal guarantee was given, by the Personal Guarantor.</p> |
| 95(5) | The creditor shall also provide a copy of the application made under sub-section (1) to the debtor. | The Financial Creditor has provided the copy of the Petition made under Sub-section 1 to the Corporate Debtor and furnished the proof of service. |
| 95(6) | The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed. | The Petition has been filed along with the requisite fees. |
| 95(7) | The details and documents required to be filed under sub section (4) shall be such as may be specified | <p>The Financial Creditor has submitted the following documents in proof of the debt owed by the Corporate Debtor/ Personal Guarantor</p> <p>i. Certificate of disbursal by the Financial Creditor to the Corporate Debtor and copy of personal guarantee agreements supplemental agreements signed by Personal Guarantor.</p> <p>ii. Bank statement as proof of outstanding loan</p> <p>iii. Legal Notice to Personal Guarantor by the Financial Creditor</p> <p>iv. Copy of demand notice/ Form B by the Financial Creditor to Personal Guarantor.</p> <p>v. Record of default as filed with NESL.</p> |
| 99(6)(b) | The applicant has provided information and explanation sought by the RP under sub-section (4). | The Financial Creditor provided all documents and copy of Petition |
| 99(7) | After examination of the application under sub section (6), he may recommend acceptance or rejection of the application in his report. | The RP is recommending acceptance of the Petition and admit the same for taking further steps as required under the provisions of the Code. |
| 99(9) | The RP shall record reasons for the recommendation of acceptance or rejection under sub-section (7). | The Financial Creditor has filed this Petition in compliance of section 95 of IBC. The Personal Guarantor has not made any payment in spite of the demand notice in Form B by the Financial Creditor. Hence, it is recommended for acceptance of the Petition accordingly. |
| 99(10) | The RP shall provide copy of this report under sub-section (7) to the debtor or creditor as the case may be. | Copy of report provided to the Financial Creditor. |



OBJECTIONS BY THE PERSONAL GUARANTOR TO THE RP REPORT:

6. The Personal Guarantor on 02.06.2025, vide Diary No. 1048, filed Objections to the RP Report stating that the Petition needs to be dismissed in *limine* at the outset for the lack of proper authorization and glaring irregularities in the Form C to the detriment of the Personal Guarantor and also the Petition is devoid of any merit, self-contradictory and in violation of several Reserve Bank of India (hereinafter referred to as the "RBI") guidelines and filed without giving a chance for the Personal Guarantor an opportunity to revive the loan accounts of the Corporate Debtor with the Financial Creditor. The objections of the Personal Guarantor are summarised below:

A. Lack of proper authorization: The Petition is not maintainable for lack of specific authorization and is liable to be dismissed:

- (i) The Petition is filed without a valid authorization of Shri Bhagabat Prasad Patra and it appears that the authorization is derived from a purported letter dated 29.06.2024 and it cannot be construed as sufficient and proper authorization, as it does not rely on any board resolution of the Financial Creditor. Without the board resolution, the purported letter dated 29.06.2024 has no legal validity and cannot be relied upon.
- (ii) The Financial Creditor being a company registered under the Companies Act, 1956 is a juristic person and acts only through the Board of Directors collectively. An individual director or any other person has no power to act on behalf of the company, unless specific power is given to him/ her by some resolution of the Board of Directors of the Company and the instant Petition is liable to be dismissed for the lack of specific authorization.



- (iii) The Financial Creditor not proved the identity of Shri Bhagabat Prasad Patra, and Mr. Telli Rama Rao, who have allegedly executed the purported letter of authorization, as there is no proof whatsoever about their association/ relationship with the Financial Creditor.
- (iv) The initiation of proceedings under the Code without specific authorization would gravely affect the interests of the Personal Guarantor.

B. The Claim is barred by Limitation: The instant Petition is barred by limitation:

- (i) The alleged claim, if any, of the Financial Creditor was much after three years from the date of alleged invocation of guarantee. It is the statement of the Financial Creditor under the Form C of the Petition that the date of default by the Personal Guarantor is the date of NPA i.e., 01.10.2014, thereafter, the Financial Creditor allegedly claims that the personal guarantee of the Personal Guarantor has been invoked by the Financial Creditor, vide letter dated 09.03.2015. However, the present Petition is filed by the Financial Creditor in the year 2024, which is way beyond three years from the date mentioned by the Financial Creditor in their Form-C.
- (ii) The Financial Creditor, despite being completely aware that the date of alleged default is 01.10.2014, filed this Petition, which is time barred. A bare perusal of the alleged amounts due, would make it clear that even according to the Financial Creditor the alleged default is barred by limitation.
- (iii) The Hon'ble Supreme Court in ***Consolidated Construction Consortium Limited v Hitro Energy Solutions Private Limited, Civil Appeal No.***



2839 of 2020, categorically held that limitation does not commence, when the debt becomes due, but only when a default occurs. However, the Financial Creditor by their own admission have stated that the date of default is 01.10.2014.

C. RP has not analysed documentation submitted by Financial Creditor:

The Petition of the Financial Creditor may be rejected without accepting the RP report:

- (i) The recommendation of the RP is against the statutory provisions, in violation of the Personal Guarantee Agreements dated 22.03.2010, 01.06.2011 and 29.06.2011, principle of natural justice and without application of mind. Even otherwise, the Personal Guarantee Agreements are not enforceable in law, as it cannot be read in evidence. It is settled law that for a document to be enforceable in law, it must adequately be stamped and/ or registered, the Personal Guarantee Agreement is neither stamped nor registered and consequently, cannot be read in evidence, and therefore, not enforceable.
- (ii) The RP failed to seek additional information from the Financial Creditor including but not limited to the details of tracking of the alleged invocation of guarantee dated 09.03.2015, wherein, the Financial Creditor failed to annex the tracking reports of the invocation of guarantee letters, which is essential for invoking the provisions of the section 95 under the Code.

7. During the course of hearing held on 17.06.2025, the Counsel for the Financial Creditor was present and submitted that a notice of invocation of the personal guarantee was issued to the Personal Guarantor on 09.03.2015, and the same was



duly served on the Personal Guarantor on 16.03.2015. It is submitted that the notice did not stipulate a specific date for repayment, thus the Financial Creditor has treated the date of service of the notice, i.e., 16.03.2015, as the date of default for the purposes of limitation. As per Para 5 of the invocation notice, the guaranteed amount is Rs.94,27,14,402.20, and in the event of failure to pay the same, the creditor has claimed the right to initiate recovery proceedings under the personal guarantee. During the course of hearing, it was observed that the limitation period for filing the present Application under Section 95 of the IBC would expire on 09.03.2018. However, the present Application has been filed only on 14.10.2024, which prima facie indicates that the Application is barred by limitation. The Counsel for the Financial Creditor sought two weeks' time to explain how the Petition is within limitation, relying upon legal propositions and judgments of the Superior Courts. It was also observed that the RP has not applied his mind properly, while preparing the report and has failed to examine crucial aspects, including the question of limitation arising out of invocation of guarantee, prepared a defective report and submitted before this Adjudicating Authority for consideration. Accordingly, this Adjudicating Authority directed the RP to file a supplementary report thoroughly covering all the aspects.

SUPPLEMENTARY REPORT OF RP:

8. In compliance of the above order dated 17.06.2025, the RP filed the Supplementary Report on 04.07.2025 vide Diary No. 1283 stating the following:

- (i) As per Article 137 of the Limitation Act, 1963, the limitation period for an application is three years from the date, when the right to apply accrues. Section 18 of the Limitation Act, 1963 provides that if an acknowledgment



of liability is made in writing and signed by the party against whom the claim is made within the original limitation period, a fresh limitation period of three years begins from the date of acknowledgment.

- (ii) Considering the factual chronology supporting extension of limitation, the Petition has been filed within the fresh limitation period starting from 26.11.2021 as shown below:

| Particulars | Date |
|--|------------|
| Invocation of Personal Guarantee | 09.03.2015 |
| Service of Guarantee Notice | 16.03.2015 |
| DRT Final Order in OA 812/2015 | 25.01.2017 |
| Recovery Certificate issued by DRT | 25.05.2019 |
| Recovery Officer's Demand Notice | 11.11.2019 |
| Acknowledgment by Personal Guarantor (Asset & Liabilities Statement) (within 3 years from Recovery Certificate dated 25.05.2019) | 26.11.2021 |
| Fresh limitation period starts | 26.11.2021 |
| Section 95 Petition filed (within 3 years limitation period from Sl. No. 6 (within 25.11.2024) | 24.07.2024 |

- (iii) The Hon'ble Supreme Court in the matter of ***Dena Bank vs. C. Shivakumar Reddy & Ors. (2021) 10 SCC 330*** held that acknowledgment of liability in the balance sheets and One Time Settlement (hereinafter referred to as the "OTS") proposals constitutes acknowledgment under section 18 of the Limitation Act. Further, the Court held that a Recovery Certificate issued by DRT constitutes a fresh cause of action to initiate proceedings under the IBC.
- (iv) The Personal Guarantor submitted a signed statement of assets and liabilities as on 26.11.2021, clearly admitting the liability to the Financial Creditor (Annexure-3 of the supplementary report of RP) and this acknowledgment was made within the original limitation period (Recovery Certificate dated 25.05.2019 is at Annexure-4 of the supplementary report



of RP). Therefore, a fresh three-year limitation period commenced on 26.11.2021, valid until 25.11.2024. The present Petition was filed on 24.07.2024, well within this renewed limitation window.

- (v) Authorization of Bank employee filing NCLT Petition has been examined and the Financial Creditor enclosed their Authorization at page no. 60-62 of Petition.
- (vi) The Supplemental Guarantee Agreement enclosed at page no. 203-207 of Petition is properly stamped and found to be alright.
- (vii) In light of the above analysis and judicial pronouncements, the Petition under Section 95 is not barred by limitation as the filing of the Recovery Certificate and subsequent acknowledgment provide a fresh cause of action and extend the limitation period lawfully & there exists a valid acknowledgment of debt as required under Section 18 of the Limitation Act; Authorization of Bank employee filing this Application is proper and the Guarantee Agreement is properly stamped.

IA (IBC)/197/2025:

9. In compliance of the Order dated 17.06.2025, the Interlocutory Application bearing no. IA(IBC)/197/2025 (hereinafter referred to as the “**IA 197/2025**”) was filed by the Financial Creditor under section 60(5) of the IBC (e-filed on 04.07.2025 and physically on 08.07.2025 vide Diary No. 1313) seeking to place on record the documents submitted by the Corporate Debtor seeking for grant of OTS of its loan account before initiation of CP Proceedings and payment of some amounts under OTS etc., and payment of some amounts in pursuance of the Orders of the passed



by DRT, Visakhapatnam in SA No. 81 of 2017, in the interest of justice and better adjudication of the case. It is submitted in the IA 197/2025 that:

- (i) At the time of filing the Petition, the Financial Creditor filed Recovery Certificate dated 25.05.2019, which was issued by the DRT-1, Hyderabad, vide RC No. 44 of 2019 in O.A. No. 812 of 2015, since the Hon'ble Supreme Court in the case of ***Dena Bank vs C. Shiva Kumar Reddy & Ors. (Supra)*** has held that a fresh cause of action for filing cases under IBC will arise from the date of passing of Judgment and/ or decree for the money in favour of the Financial Creditor, passed by the DRT, or any other tribunal or court, or the issuance of a certificate of recovery in favour of the Financial Creditor. Further, on 26.11.2021, the Personal Guarantor submitted his statement of assets and liabilities as on 26.11.2021 duly certified by his Chartered Accountant duly acknowledging his liability to the Financial Creditor. Therefore, a fresh cause of action accrued to the Financial Creditor to file the Petition.
- (ii) The above documents were brought to the notice of this Adjudicating Authority during the course of arguments held on 17.06.2025, however, this Adjudicating Authority prima facie observed that the above said Petition is barred by limitation, as such the Financial Creditor is constrained to file the IA 197/2025 seeking the Adjudicating Authority to receive the documents such as OTS letters submitted by the Corporate Debtor from 2016 onwards viz., 13.12.2016, 21.01.2017, 15.02.2017, 23.10.2017, 26.02.2018, 08.03.2018, 31.08.2018, 02.02.2019, 17.08.2019, 27.01.2020, 02.02.2021 and 09.12.2021 and amounts paid by Corporate Debtor in pursuance of the Orders of DRT, Visakhapatnam, vide Letters



dated 07.04.2017, 09.05.2017, 08.06.2017, 07.07.2017, 08.08.2017, 08.09.2017, 07.11.2017 and 08.12.2017 and all the said amounts were credited to the loan account of the Corporate Debtor. The said submission of OTS proposals amounts to acknowledgment of debt by the Corporate Debtor, as such the Petition filed by the Financial Creditor against the Personal Guarantor is well within the period of limitation.

- (iii) The filing of these documents are very much necessary for just disposal of the case and non-filing of the documents is neither intentional nor deliberate, and filing of the documents are at the earliest.
- (iv) No prejudice would be caused to the Petitioner, if this IA 197/2025 is allowed and ordered to receive these documents on behalf of the Financial Creditor.

10. On perusal of the record, we note that vide order dated 17.06.2025, this Adjudicating Authority granted permission and directed the Financial Creditor to file the submissions with supporting legal propositions justifying the maintainability of the Petition on the ground of limitation.

11. The Personal Guarantor has neither filed the Counter to the IA 197/2025, nor has raised any objection for taking on record the above documents filed in IA 197/2025.

12. After careful consideration of the documents, we are of the considered view that in the interest of justice, the additional documents placed by the Financial Creditor in the IA 197/2025 are the necessary documents and therefore, needs to be taken on record for the proper adjudication of the matter. In view of the above, the additional



documents placed by the Creditor in the IA 195/2025 are taken on record and the **IA (IBC)/197/2025 is hereby allowed and disposed of.**

13. During the hearing held on 23.07.2025, the Counsel for the Financial Creditor by relying on the ***Judgment of the Hon'ble NCLAT, Chennai Bench in the matter of E.M. Najeeb Ellias Mohammed Promoter of Air Travel Enterprises India Ltd. vs. Union Bank of India (Supra)***, decided on 26.02.2024 stated that the acknowledgement of the debt made by the Principal Borrower will be treated as an acknowledgement by the Personal Guarantor. He also referred to the Guarantee Agreement dated 22.03.2010 executed by the Personal Guarantor in favour of the Financial Creditor, Invocation of Guarantee dated 09.03.2015, Demand Notice dated 12.03.2015 issued under section 13(2) of the SARFAESI and the proof of service of invocation of guarantee on the Personal Guarantor through RPAD, which shows that the same has been delivered on 16.03.2015. During the course of arguments, the Counsel for the Personal Guarantor raised three objections, and the Financial Creditor counter the objections.

- (a) Firstly, this Petition is signed by Mr. Bhagabat Prasad Patra, Deputy General Manager of the Financial Creditor, but the Financial Creditor has not filed any Board Resolution and also his identification is not provided. In response, the Counsel for the Financial Creditor stated that by virtue of Clause No. 4(a)(ii) of the Delegation of Power dated 03.05.2023 approved by IDBI Bank Ltd., the Petition has been filed by the Authorized Person.
- (b) The second objection put forth by the Counsel for the Personal Guarantor was that the date of default is stated as 01.10.2014 in Part-III of the Application, which is beyond the three years period of limitation to file this



Petition. In response, the Counsel for the Financial Creditor referring to various OTS proposals given by the Corporate Debtor, vide letters dated 13.12.2016, 23.10.2017, 26.02.2018, 31.08.2018, 02.02.2019, 17.08.2019, & 27.01.2020; and receipt of Rs.10 lakh on 27.01.2020, 02.02.2021 and 09.12.2021, stated that the Petition has been filed on 14.10.2024 and thus, it is not barred by limitation.

- (c) The last objection raised by the Counsel for the Corporate Debtor was that Guarantee Agreement is not registered as mandated under Section 17(1)(c) of the Registration Act, 1908 and therefore, is not a valid Guarantee and cannot be given same legal value. In response, the Counsel for the Financial Creditor by relying on Section 18(b) of the Registration Act, 1908 stated that the registration of the Guarantee Agreement is optional. On specific query to the Counsel for the Personal Guarantor, whether the Personal Guarantor is disputing the signature on the Guarantee Agreement and whether non-registration would absolve the liability of the Guarantor, the Counsel for the Personal Guarantor acknowledged that the signature on the Guarantee Agreement is of the Personal Guarantor and the same is not disputed.

ANALYSIS AND FINDINGS:

14. We have heard the submissions of learned Counsels for the Financial Creditor, Personal Guarantor and also perused the RP Reports and other records carefully.

15. The first issue that arises before this Adjudicating Authority is ***“Whether the Petition is filed within the period of limitation?”***

- (i) The account of the Corporate Debtor was declared as NPA on 01.10.2014.



- (ii) The Financial Creditor, vide letter dated 09.03.2015 (annexed at page 242-247 of the Petition), called upon the Personal Guarantor in terms of the Guarantee Agreement dated 29.06.2011 to pay Rs.94,27,14,402.20 with further interest thereon with effect from 02.03.2015. The extracts of the said letter dated 09.03.2015 is reproduced below:

IDBI BANK
 भारतीय (CIN) : L65199MH200400148330

REGISTERED POST ACKNOWLEDGEMENT DUE

Ref. IDBI/RBG-HYD/PG Invocation/RMPL/2014-15/1104 March 09, 2015

To,

| | |
|---|---|
| Shri Rebba Satyanarayana, S/o. Shri Rebba Venkateswara Rao, MIG. 18, Housing Board Colony, Machilipatnam - 521 001, Krishna District, Andhra Pradesh. | Shri Kanna Murali, S/o. Veekateswara Rao, MIG-19, APHB Colony, By Pass Road, Machilipatnam - 521 001, Krishna District, Andhra Pradesh. |
| Shri Rebba Satish, S/o. Shri R Babu Rao, MIG-18, APHB Colony, By Pass Road, Machilipatnam - 521 001, Krishna District, Andhra Pradesh. | Smt. Rebba Dhanalakshmi, W/o. Shri. R. Satyanarayana, MIG-18, APHB Colony, By Pass Road, Machilipatnam - 521 001, Krishna District, Andhra Pradesh. |
| Smt. Rebba Padma, W/o. Babu Rao, MIG-19, APHB Colony, By Pass Road, Machilipatnam - 521 001, Krishna District, Andhra Pradesh. | Shri Rebba Babu Rao, S/o. Venkateswara Rao, MIG-19, APHB Colony, By Pass Road, Machilipatnam - 521 001, Krishna District, Andhra Pradesh. |
| Shri Kodali Naveen Rao, S/o. Tatabai, Door No.29/160-5, Ward No.36, Machilipatnam - 521 001, Krishna District, Andhra Pradesh. | Smt. Rebba Bhagyavathi, W/o. Venkateswara Rao, MIG -19, APHB Colony, By Pass Road, Machilipatnam - 521 001, Krishna District, Andhra Pradesh. |

Dear Sir/Madam,

**The Financial assistance aggregating Rs.100 Crore sanctioned to you by IDBI Bank
- Defaults committed.**

M/s RVR Marine Agri Products Limited ("the Borrower"), has been sanctioned by us, IDBI Bank Limited (IDBI Bank), financial assistance aggregating Rs.100 Crore (Rupees One Hundred Crore Only) ("Loan") for the purposes and on the terms and conditions more particularly set out in the Loan Agreement dated June 29, 2011 made between the Borrower and IDBI Bank ("the Loan Agreement")





2. One of the conditions stipulated in the Loan Agreement was that the Loan shall be secured, inter alia, by unconditional and irrevocable personal guarantees to be executed by each one of you in favour of IDBI Bank. Accordingly, each one of you have executed unconditional and irrevocable personal guarantee(s) on June 29, 2011, in favour of IDBI Bank, guaranteeing the due repayment of the Loan and payment of interest and other monies payable by the Borrower to IDBI Bank.

3. The Borrower has failed and neglected to pay to IDBI Bank, the instalments of principal and interest, which fell due on different dates in respect of the Loan. The Borrower has also committed some other defaults in terms of the Loan Agreement. Therefore, IDBI Bank, in terms of the provisions of the Loan Agreement called upon the Borrower to repay to IDBI Bank, the Loan together with interest and other monies, vide its letter Ref: IDBI/RBG-HYD/Recall/RMPL/2014-15/1045, dated February 21, 2015 issued to the Borrower.

The Borrower has failed and neglected to pay the dues of IDBI Bank as per its above letter. A copy of the said letter (which gives particulars, inter alia, of the amounts of defaults committed by the Borrower and the total amounts recoverable from it) is enclosed hereto for information as Annexure I. In spite of the said letter, the Borrower has failed and neglected to pay the outstanding dues to IDBI Bank as required therein.

4. By the aforesaid Guarantee Agreement dated June 29, 2011 each one of you have agreed as under:-

- a) In the event of any default on the part of the Borrower in repayment of the Loan and payment of interest, etc. each one of you will make payment as required;
- b) Indemnify and keep IDBI Bank indemnified against all losses, damages, costs, claims and expenses whatsoever which IDBI Bank may suffer, pay or incur by reason of or in connection with any such default on the part of the Borrower including legal proceedings taken against the Borrower and/or the Guarantors for recovery of the moneys referred to above;
- c) Guarantee shall be enforceable against each one of you, notwithstanding that any security or securities comprised in any instrument(s) executed or to be executed by the Borrower in favour of IDBI Bank shall, at the time when the proceedings are taken against the Guarantor(s) on this Guarantee, be outstanding or unrealised or lost;



- d) To give effect to the Guarantee, IDBI Bank may act as though each one of you were the principal debtor to IDBI Bank;
- e) A certificate in writing signed by a duly authorised official of IDBI Bank shall be conclusive evidence against each one of you of the amount for the time being due to IDBI Bank from the Borrower in any action or proceeding brought on the Guarantee against each one of you.

5. In the premises, we hereby call upon each one of you and demand from each one of you to pay forthwith to IDBI Bank at Hyderabad sums aggregating Rs.94,27,14,402.20/- (Rupees Ninety four Crore Twenty seven Lakh Fourteen thousand Four hundred and Two and Paise Twenty only), as per details given in Annexure II of this letter, together with further interest thereon with effect from March 02, 2015 at the given contractual rates, upon the footing of compound interest until payment/realisation. In case, you fail to make the payments as aforesaid, IDBI Bank, shall be constrained to take such steps against you as may be necessary for enforcing the guarantees and realising the dues at your own risk as to the costs and consequences thereof.

Please also note that this notice is issued to you without prejudice to our rights and remedies against the Borrower.

- (iii) The Guarantee Agreement dated 29.06.2011 is the Supplemental Guarantee Agreement executed by Personal Guarantors (copy of which is at page no. 203-207 of the Petition) including the Personal Guarantors herein in favour of the Financial Creditor for modification of the Guarantee Agreement dated 01.06.2011 for the limited purpose of enhancing the amount of guarantee from Rs.9200 lakh to Rs.10100 lakh keeping other clauses of the Guarantee Agreement dated 01.06.2011 in full force, the relevant extract of which are reproduced below:

SUPPLEMENTAL GUARANTEE AGREEMENT

THIS SUPPLEMENTAL GUARANTEE AGREEMENT executed at Hyderabad, this 29th day of June, Two thousand and Eleven by

XXXXXXXXXXXXXXXXXX



Shri. Rebba Babu Rao S/o. Venkateswara Rao, MIG-19, APHB Colony , By Pass
Road, Machilipatnam, Krishna District

XXXXXXXXXXXXXXXXXX

hereinafter unless otherwise specifically designated referred to as "the Guarantors"
(which expression shall unless repugnant to the context or meaning thereof be
deemed to include in so far as the company is concerned its successors and
permitted assigns and in so far as the others are concerned their respective heirs,
executors, administrators and legal representatives)

IN FAVOUR OF

IDBI Bank Ltd., a company incorporated under the Companies' Act, 1956, and a
banking company within the meaning of the Banking Regulation Act, 1949, having its
Registered Office at IDBI Tower, World Trade Complex, Cuffe Parade, Mumbai – 400

hereinafter unless otherwise specifically designated referred to as "the Guarantors"
(which expression shall unless repugnant to the context or meaning thereof be
deemed to include in so far as the company is concerned its successors and
permitted assigns and in so far as the others are concerned their respective heirs,
executors, administrators and legal representatives)

IN FAVOUR OF

IDBI Bank Ltd., a company incorporated under the Companies' Act, 1956, and a
banking company within the meaning of the Banking Regulation Act, 1949, having its
Registered Office at IDBI Tower, World Trade Complex, Cuffe Parade, Mumbai – 400

005 and a Branch Office at, Mahavir House, Basheerbagh Square, Hyderabad – 500
029 hereinafter unless otherwise specifically designated referred to as "the Bank"
(which expression shall unless repugnant to the context or meaning thereof be deemed
to include its successors and assigns).

XXXXXXXXXXXXXXXXXX

AND WHEREAS Guarantee Agreement dated ^{1st} June, 2011 executed by the
Guarantors in favour of the Bank (hereinafter referred to as "the Principal Guarantee
Agreement").

AND WHEREAS the Bank has at the request of the Borrower and the Guarantors
agreed to grant the total aggregate limit and the Facilities stands revised from Rs.9200



lakh (Rupees Nine Thousand Two Hundred Lakhs only) to Rs.10100 lakh(Rupees Ten thousand and one hundred lakhs) comprising –

(a) EPC (Pre-Shipment Credit) PC / PCFC: for Rs.4500 lakh (Rupees Four thousand Five hundred lakhs)

(b) Cash Credit Limit : for Rs.1500 lakh(Rupees Fifteen Hundred lakh only)

(c) Post shipment Credit : for Rs.2800lakh (Rupees Two Thousand Eight Hundred Lakhs only)

(d) Letter of Credit : for Rs.200 lakh (Rupees Two hundred lakhs)

(e) LER limit : for Rs.200 lakh (Rupees Two hundred lakhs)

(f) Export Business limit Under Gold Card scheme ;for Rs.900 lakh (rupees nine hundred lakh only) on the terms and conditions contained in the Supplemental hypothecation Agreement dated June 24th 2011 between the Bank and the Borrower (hereinafter referred to as "Supplemental hypothecation Agreement"). One of the conditions contained in the Supplemental hypothecation Agreement being that the Guarantors shall extend their liability under the Principal Guarantee Agreement from from Rs.9200 lakh (Rupees Nine Thousand Two Hundred Lakhs only) to Rs.10100 lakh(Rupees Ten thousand and one hundred lakhs) which the Guarantors have agreed so to do.

xxxxxxxxxxxxxxxx

3. The Principal Guarantee Agreement as hereby varied shall remain in full force and shall be carried into effect in the same manner as if the provisions of this Guarantee Agreement have been incorporated therein.

- (iv) As per Clause 25 of the Guarantee Agreement dated 01.06.2011 executed by the Personal Guarantor, a demand notice for payment or notice under the Guarantee is considered served, if sent by post to the guarantor's last known address, and a bank officer's confirmation of mailing is conclusive proof of service, even if the notice is returned unserved and the period of limitation shall commence to run in favour of the Personal Guarantor. The



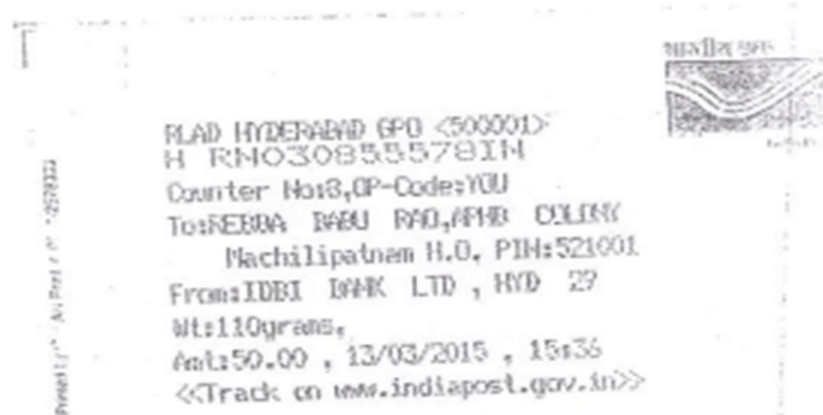
extract of the Clause 25 of the Guarantee Agreement dated 01.06.2011 is reproduced below:

25. Any demand for payment or notice under this Guarantee shall be sufficiently given if sent by post to or left at the last known address of the Guarantors or his personal representative(s), such demand or notice is to be made or given, and shall be assumed to have reached the addressee in the course of post, if given by post, and no period of limitation shall commence to run in favour of the Guarantors until after demand for payment in writing shall have been made or given as aforesaid and in proving such notice when sent by post it shall be sufficiently proved that the envelope containing the notice was posted and a certificate by any of the responsible officers of the Bank that to the best of his knowledge and belief, the envelope containing the said notice was so posted shall be conclusive as against the Guarantors, eventhough it was returned unserved on account of refusal of the Guarantors or otherwise.

(v) The address of the Personal Guarantor mentioned in the Supplemental Guarantee Agreement dated 29.06.2011 is reproduced below:

Shri. Rebba Babu Rao S/o. Venkateswara Rao, MIG-19, APHB Colony , By Pass Road, Machilipatnam, Krishna District

(vi) The aforesaid notice has been delivered to the Personal Guarantor on 16.03.2015 as per the track consignment (annexed at page 269 & 278 of the Petition), which are reproduced below:





Acknowledgement of liability, on behalf of Guarantor. The relevant extract of the above order is reproduced below:

66. An Acknowledgement of a liability made by the Principal Borrower should be considered as an Acknowledgement of liability, on behalf of Guarantor.

67. A Revival Letter/ an Acknowledgement, executed by the Principal Borrower on the authorization binds the Guarantor.

68. At this stage, this Tribunal aptly points out that an acknowledgment of debt by the Principal Borrower shall be binding on the Guarantor also as per decision in Omprakash V. UCO Bank, as per decision in 2005 (9) Current Civil Cases reported in AIR at page 382.

69. In the decision in Syndicate Bank V. UVK Prakash reported in 2008 (1) CCC Page 142 (Madras), it is held that since the Borrower had acknowledged his liability, the Acknowledgement will be binding on the Guarantor as well.

- (ix) The last OTS proposal was submitted by the Corporate Debtor vide letter dated 09.12.2021, which would amount to fresh start of the limitation with effect from 09.12.2021.
- (x) The instant Application has been e-filed on 24.07.2024 and physical filed on 14.10.2024, both of which are within the limitation period of three years.
- (xi) Hence, we are of the considered view that the present Petition is filed within the limitation period.

16. The next issue for consideration is ***“Whether the Petition has been filed by the Authorised Person on behalf of the Financial Creditor?”***

- (i) The Counsel for the Personal Guarantor raised an issue that the Petition is signed by Mr. Bhagabat Prasad Patra, Deputy General Manager of the Financial Creditor without any Board Resolution and also his identification is not provided.



- (ii) The Financial Creditor has submitted the Delegation of Power dated 03.05.2023 at Page 60-62 of the Petition, Clause 4(a)(ii) of which authorises, the General Manager or Deputy General Manager to file the Petitions with NCLT/DRT/affidavits before NCLT/DRT, the relevant extract of which is reproduced below:

IDBI BANK

**DELEGATION OF POWERS
(Effective May 03, 2023)**

Business Process Re-engineering Department

IDBI BANK *Delegation of Powers - May 2023*

V. IBC RELATED MATTERS

| Clause No. | Nature of Delegation | Delegated Authority | Control Reporting |
|------------|---|--|------------------------------|
| 1 | Identification of an account for filing the case against corporate debtors and corporate guarantors and for filing insolvency and bankruptcy case against individuals and personal guarantors, in NCLT/ DRT (for individuals where applicable) under the IBC | (i) For cases upto EDCC - EDCC (ii) For cases above EDCC - Respective Sanctioning Authority | Yes (Except for EC cases) |
| 2 | Approval of applications and other documents to be filed before adjudicating authorities | DGM (Legal)/ DGM | No |
| 3 | a) Appointment of Advocate/ Legal Counsel, and fixing of legal fee at the time of filing reference to NCLT and DRT (in case of insolvency and bankruptcy of individuals as applicable) and till the reference is admitted i) When the bank's exposure is ₹100 crore and above ii) When the bank's exposure is less than ₹100 crore b) Payment to advocate/ Legal counsel at the time of filing reference to NCLT and DRT (in case of insolvency and bankruptcy of individuals as applicable) and till the reference is admitted after approval from delegated authority (as per clause 3(a) above) | a) (i) CGM (ii) GM b) (i) AGM OR (BH/ CH of any grade can also exercise powers) | a) Yes b) No |
| 4 (a) | Filing of application with NCLT/ DRT/ affidavits before NCLT/ DRT (in case of individuals where applicable) (after approval of delegated authority for action under IBC) (i) When the bank's exposure is ₹100 crore and above (ii) When the bank's exposure is less than ₹100 crore | (i) GM or DGM holding (RH/ CH/ BH) position (ii) DGM | No |

For cases being referred to IBC, "Outstanding" to be used in lieu of "Exposure" for NPA/ TWO accounts. Outstanding shall include: Fund

- (iii) The Financial Creditor at Page 60 of the Petition, has also submitted the authorisation letter dated 29.06.2024 in favour of the Mr. Bhagabat Prasad Patra, Deputy General Manager of the Financial Creditor to file the Petition before this Adjudicating Authority. The authorisation letter dated 29.06.2024, is reproduced below:



60

Ref.No : IDBI/ NMG-HYD/2024-25/RMPL/79

June 29, 2024

To whomsoever It May Concern

This is to certify/confirm that Shri Bhagabat Prasad Patra., Deputy. General Manager of IDBI Bank Ltd. presently posted at NPA Management Group, IDBI Bank Limited, D.No.5-9-89/L & 2, Chapel Road, Hyderabad- 500001, is hereby authorized for filing of application with NCLT/DRT/affidavits before NCLT / DRT (in case of individuals where applicable) in case of RVR Marine Products Limited on behalf of IDBI Bank Ltd. by virtue of the Delegation of Power dated May 03, 2023, Operational Matters, Chapter V – IBC Related Matters, Clause No. 4 (a) (ii) on page 170 approved by IDBI Bank Ltd.


(Telli Rama Rao) 29/06/24
General Manager
IDBI Bank Ltd.


Signature of Authorised person

(Bhagabat Prasad Patra)

Dy. General Manager
IDBI Bank Ltd.

- (iv) Accordingly, Mr. Bhagabat Prasad Patra, Deputy General Manager of IDBI Bank Ltd., i.e., the Financial Creditor herein, has filed the Petition against the Personal Guarantor on 24.07.2024.
- (v) Hence, we are of the considered view that Petition has filed by the person with valid authorisation to file the Petition.

17. The next issue for consideration is ***“Whether the Registration of Guarantee Agreement is mandated under Section 17(1)(c) of the Registration Act, 1908 or not?”***

- (i) The Personal Guarantor in his objections to the RP Report has stated that the Personal Guarantee Agreements are not enforceable in law, as it cannot be read in evidence. It is settled law that for a document to be enforceable in law, it must adequately be stamped and/ or registered, the



Personal Guarantee Agreement is neither stamped nor registered and consequently, cannot be read in evidence, and therefore, not enforceable.

(ii) During the hearing held on 23.07.2025, the Counsel for the Personal Guarantor, again raised an objection that the Guarantee Agreement not registered as mandated under Section 17(1)(c) of the Registration Act, 1908 is not a valid guarantee and cannot be given same legal value, while the Counsel for the Financial Creditor submitted that under Section 18(b) of the Registration Act, 1908, the registration of the Guarantee Agreement is optional.

(iii) Section 17(1)(c) and 18(b) of the Registration Act, 1908 reads as follows:

“17. Documents of which registration is compulsory.—(1) The following documents shall be registered, **if the property to which** they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or this Act came or comes into force, namely:—

.....

(c) non-testamentary instruments, which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest”

“18. Documents of which registration is optional.—Any of the following documents may be registered under this Act, namely:—

xxxxxxxxxx

(b) instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest;”

(iv) The plain reading of above sections suggests that the registration of the non-testamentary instruments that acknowledge the receipt or payment of consideration for the creation, declaration, assignment, limitation, or extinction of any such right, title, or interest, which are related to immovable property are compulsory, while in other cases is optional. A Guarantee Agreement generally does not deal with the immovable properties and it



creates a contractual obligation to repay a debt on part of the guarantor, if the Principal Borrower defaults and therefore, the Guarantee Agreement in the instant Petition, apparently doesn't fall under the scope of section 17(1)(c) of the Registration Act, 1908.

- (v) Further, we note that a contract of guarantee is specifically governed by Section 126 of the Indian Contract Act, 1872, which creates a contractual obligation to repay a debt on part of the guarantor, if the Principal Borrower defaults and a guarantee may be oral or written. Thus, the validity of a guarantee does not depend upon its registration.
- (vi) We observe that the invocation of personal guarantee was made in terms of the Guarantee Agreement dated 29.06.2011 and the same is duly stamped. The RP in its Supplementary Report has also confirmed that the Supplemental Guarantee Agreement enclosed at page no. 203-207 of Petition is properly stamped and found to be alright.
- (vii) Further, during the course of hearing 23.07.2025, on specific query to the Counsel for the Personal Guarantor, whether the Personal Guarantor is disputing the signature on the Guarantee Agreement and whether non-registration would absolve the liability of the Personal Guarantor, the Counsel for the Personal Guarantor acknowledged that the signature on the Guarantee Agreement is of the Personal Guarantor and the same is not disputed.
- (viii) In view of the above, we are of the considered view that the Personal Guarantor is not absolved of his liability under the Guarantee Agreement within the ambit of IBC.



18. The next issue that arises for adjudication before this Adjudicating Authority is ***“Whether the Personal Guarantor is liable to pay the dues by virtue of the Guarantee Agreements executed by him?”***

- (i) As per the Guarantee Agreement dated 01.06.2011 (Page 172 of the Petition), the Personal Guarantors jointly and severally, undertake and agree to be liable to the Bank for the dues of the Borrower as and when they become due:

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS;

In consideration of the premises, the Guarantor(s) hereby, jointly & severally, unconditionally, absolutely and irrevocably guarantee to and agree with the Bank as follows:

- (ii) As per Clause 3 of the Guarantee Agreement dated 01.06.2011, if the Corporate Debtor fails to pay or meet any terms of the Agreement, the Personal Guarantor must, when asked by the Bank, immediately pay all the amounts the Corporate Debtor owes and the Personal Guarantor cannot delay or dispute the payment. The extract of the same is reproduced below:

3. In the event of any default on the part of the Borrower(s) in payment/repayment of any of the monies referred to above, or in the event of any default on the part of the Borrower(s) to comply with or perform any of the terms, conditions and covenants contained in the Agreement, the Guarantors shall, upon demand, forthwith pay to the Bank without demur all the amounts payable by the Borrower(s) under the Agreement.

- (iii) As per Clause 7 of the Guarantee Agreement dated 01.06.2011, the guarantee can be enforced against the Personal Guarantors, even if the Financial Creditor hasn't yet recovered, realized, or has lost the security provided by the Corporate Debtor and the Personal Guarantors'



responsibility remains, regardless of what happens to that security. The extract of the same is reproduced below:

7. This Guarantee shall be enforceable against the Guarantors notwithstanding that any security or securities comprised in any instrument(s) executed or to be executed by the Borrower(s) in favour of the Bank shall, at the time when the proceedings are taken against the Guarantors on this Guarantee, be outstanding or unrealised or lost.

- (iv) As per Clause 8 of the Guarantee Agreement dated 01.06.2011, the Financial Creditor's rights against any one Personal Guarantor remain fully valid even if it makes separate arrangements with, releases, or stops pursuing other Personal Guarantors and each Personal Guarantor is fully responsible for the entire obligations, as if they were the only one liable.

The extract of the same is reproduced below:

8. The rights of the Bank against the Guarantors shall remain in full force and effect notwithstanding any arrangement which may be reached between the Bank and the other Guarantors, if any, or notwithstanding the release of that other or others from liability and notwithstanding that any time hereafter the other Guarantors may cease for any reason whatsoever to be liable to the Bank, the Bank shall be at liberty to require the performance by the Guarantors of his/her/their obligations hereunder to the same extent in all respects as if the Guarantor(s) had at all times been solely liable to perform the said obligations.

- (v) As per Clause 12 of the Guarantee Agreement dated 01.06.2011, to enforce, the Guarantee, the Financial Creditor can treat the Personal Guarantor, as if they were the main borrower. The extract of the same is reproduced below:

12. To give effect to this Guarantee, the Bank may act as though the Guarantor(s) was/were the principal debtor to the Bank.



(vi) As per Clause 17 of the Guarantee Agreement dated 01.06.2011, the guarantee remains fully in effect, even if the Corporate Debtor makes partial payments to the Financial Creditor and the Personal Guarantor's responsibility continues until all the amounts owed under the Agreement are fully repaid and any partial payments do not reduce or cancel the Personal Guarantor's liability. The extract of the same is reproduced below:

17. This Guarantee shall not be wholly or partially satisfied or exhausted by any payments made to or settled with the Bank by the Borrower(s) and shall be valid and binding on the Guarantor(s) and operative until repayment in full of all monies due to the Bank under the Agreement.

(vii) As per clause 18 of the Guarantee Agreement dated 01.06.2011, the guarantee cannot be cancelled, and the Personal Guarantor's obligations do not depend on receiving any prior notice. A demand or notice from the Financial Creditor, as stated in Clause 25, is enough to require the Personal Guarantor to pay and no separate notice is needed for the Personal Guarantor or the Corporate Debtor. The extract of the same is reproduced below:

18. This Guarantee shall be irrevocable and the obligations of the Guarantor(s) hereunder shall not be conditional on the receipt of any prior notice by the Guarantor(s) or by the Borrower(s) and the demand or notice by the Bank, as provided in Clause 25 hereof shall be sufficient notice to or demand on the Guarantor(s).

(viii) As per clause 22 of the Guarantee Agreement dated 01.06.2011, the guarantee shall be a continuing one and shall be remain in full force till such time the Corporate Debtor repay the due amount together with interest. The extract of the same is reproduced below:



22. This Guarantee shall be a continuing one and shall remain in full force and effect till such time the Borrower(s) repays in full the Loan together with all interest, liquidated damages, costs, charges and all other monies that may from time to time become due and payable and remain unpaid to the Bank under the Agreement.

(ix) As per Clause 23 of the Guarantee Agreement dated 01.06.2011 read with Guarantee Agreements dated 29.06.2011, the liability of the Personal Guarantors shall not exceed the sum of Rs.10100 lakh plus interest and other monies payable by the Corporate Debtor to the Financial Creditor:

23. The liability of the Guarantors hereunder shall not exceed the sum of Rs.9200 lakhs (Rupees Nine Thousand Two Hundred Lakhs only) in aggregate plus all interest, liquidated damages, costs, charges and other monies payable by the Borrower(s) to the Bank under the Agreement.

(x) In view of the above clauses of the Guarantee Agreement, we are of the considered view that the Personal Guarantor is liable by virtue of the Guarantee Agreements executed by him.

19. The next issue for consideration is ***“Whether the Demand Notice was duly served upon the Personal Guarantor demanding the outstanding amount beyond the threshold of Rs. One Crore due and payable under the Guarantee Agreement?”***

(i) The Financial Creditor issued the demand notice for outstanding debt of Rs. 220,33,54,296.42 in Form B on 27.02.2024 at the registered address of the Personal Guarantor, which was delivered on 01.03.2024. The Financial Creditor also produced the registered postal acknowledgment. The extract of the demand notice and postal acknowledgment is reproduced below:



, 8

337

By Registered post with acknowledgement Due
FORM B

[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]

Ref: IDBI / NMG-Hyd/259 / RVR / 2023-24

February 27, 2024

To
Shri Rebba Babu Rao
MIG 19, APHB Colony,
Bypass Road, Machilipatnam
Krishna District- 521 001

From
The Authorised officer,
IDBI Bank Limited,

Branch Office:
2nd Floor, NPA Management Group,
#5-9-89/1&2,
Chapel Road,
Hyderabad- 500 001

Registered Office:
IDBI Tower, WTC Complex,
Cuffe Parade,
Colaba,
Mumbai- 400 005

Subject: Demand notice in respect of unpaid debt in default due from RVR Marine Products Ltd under the Code

XXXXXX.



2. Please find particulars of the unpaid debt in default below:

| PARTICULARS OF DEBT | | |
|---------------------|---|---|
| 1. | Total outstanding debt (including any interest or penalties) | Rs.220,33,54,296.42 (Rupees Two Hundred and Twenty Crore Thirty Three Lakh Fifty Four Thousand Two Hundred and Ninety Six and Paise Forty Two Only) as on February 01, 2024 together with further interest at the contractual rates with effect from February 02, 2024. Facility wise details given at <u>Appendix-I</u> . |
| 2. | Amount of debt in default | Rs.220,33,54,296.42 (Rupees Two Hundred and Twenty Crore Thirty Three Lakh Fifty Four Thousand Two Hundred and Ninety Six and Paise Forty Two Only) as on February 01, 2024 |
| 3. | Date when the debt was due | July 01, 2014. |
| 4. | Date when the default occurred | NPA Date: October 01, 2014 |
| 5. | Nature of the debt | Export Packing Credit, Post-shipment Credit backed by LC, Cash Credit, Gold Card facility, ILC/FLC/BG, LER, Debit Balance in Current Account and Expenses |
| 6. | Secured debt including particulars of security held, the date of its creation, its estimated value as per the creditor (as applicable), and details of securities | Secured Debt: Rs.220,33,54,296.42 (Rupees Two Hundred and Twenty Crore Thirty Three Lakh Fifty Four Thousand Two Hundred and Ninety Six and Paise Forty Two Only) as on February 01, 2024 Details of securities and its creation are given at <u>Appendix -II</u> . |

आर. पी - 54.
R.P - 54

भारतीय डाक विभाग
DEPARTMENT OF POSTS - INDIA
पावती / ACKNOWLEDGEMENT

पंजीकृत पत्र / पार्सल प्राप्त हुआ
Received Registered Letter / Parcel.....

क्रमांक / No. _____ तारीख / Date _____ का / of. _____

बीमा का मूल्य रुपये में
Insured for Rupees.....

प्राप्तकर्ता
Addresses to

Shri Rebba Babu Rao
MIG 19, APHB Colony,
Bypass Road, Machilipatnam,
Krishna District- 521 001, A.P.

को / on.....
हस्ताक्षर और नाम Signature and Name

वितरण डाकघर की तारीख - माह

(ii) Based on the aforesaid documents, we are of the considered view that the Demand Notice dated 27.02.2024 in Form B has been duly served upon the Personal Guarantor demanding the outstanding amount beyond the threshold of Rs. One Crore due and payable under the Guarantee Agreement.

20. While considering the Petition under Section 99(7) of IBC, we need to refer to the report/recommendation of the RP. In the present case, the RP in his report filed



under Section 99 of IBC has stated that the Petition filed by the Financial Creditor, is in compliance with section 95 of the Code and has recommended for acceptance of the present Petition for initiating Personal Insolvency Resolution Process against the Personal Guarantor– **Shri Rebba Babu Rao**.

21. In terms of the provisions of Section 100 of IBC, 2016, while considering the admission of Petition filed under Section 95(1) of IBC, 2016, this Adjudicating Authority needs to satisfy itself regarding the acceptability of the RP report filed under Section 99 of IBC. In view of the above, we are of the considered view that this Petition needs to be admitted. Therefore, CP(IB)/52/95/AMR/2024 is admitted.

22. As a sequel of admission of the present Petition, the interim moratorium, which had kicked in as per Section 96 of the IBC shall cease and a fresh moratorium will begin in terms of Section 101 of the IBC in relation to all the debts of the Personal Guarantor. During the moratorium period– (a) any pending legal action or proceedings in respect of any debt qua the Personal Guarantor shall be deemed to have been stayed; (b) the Creditors shall not initiate any legal action or legal proceedings in respect of any debt qua the Personal Guarantor; and (c) the Personal Guarantor shall not transfer, alienate, encumber or dispose of any of the assets or his legal right or beneficiary interest therein. The moratorium shall cease to have effect at the end of a period of 180 days.

23. The public notice as envisaged under Section 102 of the IBC shall be issued by the RP, on behalf of the Adjudicating Authority, within seven days of passing of this Order, inviting claim from all creditors within 21 days of such notice. The notice shall include details of the present Order, particulars of the RP with whom the claims have to be registered and the last date for the submission of the claims. The notice shall



be – (a) published in English and one Vernacular Language newspaper, which are in circulation in the State, where the Personal Guarantor resides as well as where the registered office of the Corporate Debtor is situated; (b) affixed in the premises of this Adjudicating Authority; and (c) placed on the website of the Adjudicating Authority.

24. The RP in exercise of the powers conferred under Section 104 shall prepare a list of creditors within 30 days from the date of the notice as provided under Section 105, the Personal Guarantor shall, in consultation with the RP, prepare a repayment plan containing a proposal to the creditors for restructuring of his debts or affairs, which besides other things, shall also include the provisions for payment of fee to the RP. The RP shall submit the repayment plan along with his report on the plan to this Adjudicating Authority within a period of 21 days from the last date of submission of claims, as provided under Section 106 of the IBC.

25. In case the RP recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons thereof. If the RP is of the opinion that the meeting of the creditors should be summoned, he 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 list prepared) shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107 of the IBC.

26. The meeting of the creditors shall be conducted in accordance with sections 108, 109, 110 and 111 of IBC. The RP 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 Adjudicating Authority, copies of which shall be provided to the



Debtor and all the Creditors. It is made clear that the RP shall perform his functions and duties in compliance with the code of conduct provided under Section 208 of the IBC.

27. A copy of this Order along with a copy of the Petition and RP Report shall be provided to the Financial Creditor, Personal Guarantor and IBBI by the Registry/ Court Master within 7 days from today by email.

28. It goes without saying that whatever amount is paid to the Financial Creditor by the Principal Borrower (Corporate Debtor) and other guarantors, the same would be deducted from the liability of the Personal Guarantor to repay.

29. To come up for consideration of Status Report to be filed by RP, within eight weeks.

Sd/-
(Umesh Kumar Shukla)
Member (Technical)

Sd/-
(Kishore Vemulapalli)
Member (Judicial)

Chandu