NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET OF THE HEARING ON 9th OCTOBER, 2025

CP (IB)/2/GB/2025

Present: 1. Hon'ble Member (Judicial), Shri Rammurti Kushawaha
2. Hon'ble Member (Technical), Shri Yogendra Kumar Singh

In the Matter of	UCO Bank, Rehabari Branch Vs Garima Dugar (PG) to ***M/s Feather and Flute Fintrade Private Limited (CD)***
Under Section	U/s 95 of IBC, 2016

Appearances (via video conferencing/physically)

For Petitioner (s) : Mr. Mukesh Sharma, Adv.

: Mr. K. Borad, Adv.

For Respondent (s) : None

For RP : None

ORDER

Order pronounced in the open Court *vide* separate order sheets.

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)

Zeba (PS)

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

CP(IB)/2/GB/2025

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

In the matter of:

UCO Bank, a body corporate duly constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, having its head office at 10, BTM Sarani, Brabourne Road, Kolkata. -700001, in the state of West Bengal and carrying on the Business of banking through diverse branches and in particular a branch office named UCO Bank, Rehabari Branch, A.K. Azad Road, Guwahati. -781008, Assam, being represented through its authorized officer Mr. Ajay Sahay.

…Financial Creditor/Petitioner

-Versus-

Mrs. Garima Dugar, erstwhile director and the Personal Guarantor to the Corporate Debtor, M/s Feather and Flute Fintrade Private Limited, resident of D/o Manak Chand Dugar, Resident of C/o Mamta Enterprise, MD Shah Road, Near Meghdhoot Cinema Hall, Paltan Bazar, Guwahati.-781008, Assam.

…Personal Guarantor/Respondent

Coram:

Shri Rammurti Kushawaha	:	Member (Judicial)
Shri Yogendra Kumar Singh	:	Member (Technical)

Appearances (through video conferencing):

For Petitioner	:	Mr. M. Sharma (Adv.), Mr. K. Borad (Adv.)
For Respondent	:	Mr. P. Chhajer, CS

Order pronounced on: 09.10.2025

JUDGEMENT

1. The present petition is filed by UCO bank, Rehabari branch ("**Financial Creditor**") under section 95 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") for default in the repayment of Rs. 1,31,52,295.92/- (Rupees One Crore Thirty-One Lakhs Fifty-Two Thousand Two Hundred Ninety-Five and Ninety-Two Paisa), as on 31.12.2024., by Mrs. Garima Dugar ("**Personal Guarantor**") to M/s Feather and Flute Fintrade Private Limited ("**Corporate Debtor**").

2. **Submissions of the financial creditor-**

   2.1. The Corporate Debtor is a company duly incorporated under the relevant provisions of the Companies Act, 2013 ("**Act**"), bearing Corporate Identification Number (**CIN**) U36990AS2020PTC020000, having its registered office at House No. 399, Haldi Gali, S.J. Road, Athgaon, Kamrup, Guwahati. 781001, Assam.

   2.2. The Corporate Debtor was incorporated on 12.04.2020, and having authorized share capital of Rs. 15,00,000/- (Rupees Fifteen Lakhs) only, and Paid-up share capital of Rs. 15,00,000/- (Rupees Fifteen Lakhs) only, divided into 1,50,000 (One Lakhs Fifty Thousand) equity shares of Rs. 10/- (Rupees Ten) each. Further, the Corporate Debtor is in violation of statutory filing requirements, having failed to file its Annual Returns and Balance Sheets from the date of its incorporation to the present.

   2.3. The Corporate Debtor was incorporated with the main objective of Manufacturing activities, including Glass Processing, Stainless Steel Modular Railings Processing, Aluminum Doors, Windows Fabrication etc., to establish and support its business, the Corporate Debtor through its director applied for credit facility for an amount of Rs. 2,00,00,000/- (Rupees Two Crores) only from the Financial Creditor. The Financial Creditor *vide* sanction letter dated 15.07.2020, sanctioned a term loan for an amount of Rs. 80,00,000/- (Rupees

Eighty Lakhs) only and a cash credit facility of Rs. 31,00,000/- (Thirty-One Lakhs) only.

2.4. Corporate Debtor issued Two Demand Promissory Note in favour of the Financial Creditor, thereby promising to pay an amount of Rs. 80,00,000/- (Rupees Eighty Lakhs) and Rs. 31,00,000/- (Rupees Thirty-One) Lakhs, respectively. Corporate Debtor signed and executed a Term Loan Agreement in favour of the Financial Creditor. Corporate Debtor through its directors signed and executed a Composite Deed of Hypothecation dated 04.09.2020 in favour of the Financial Creditor. Guarantee Agreement was also executed between the Financial Creditor and the Personal Guarantor to secure the credit facilities availed by the Corporate Debtor.

2.5. Further, on request of the Corporate Debtor, the Financial Creditor sanctioned additional working capital term loan under GECL Scheme, for an amount of Rs. 9,95,000/- (Rupees Nine Lakhs Ninety-Five Thousand) only, vide its Sanction Letter dated 22.07.2021.

2.6. Corporate Debtor issued a Demand Promissory Note, in favour of the Financial Creditor, thereby promising to re-pay an amount of Rs. 9,95,000/- (Rupees Nine Lakhs Ninety-Five Thousand) only. Corporate Debtor through its directors signed and executed a Term Loan Agreement in favour of the Financial Creditor. Corporate Debtor through its directors signed and executed a Deed of Hypothecation of Goods, in favour of the Financial Creditor.

2.7. That the Corporate Debtor to avail the aforementioned credit facilities signed and executed necessary loan documents through its director. Further, based on the above arrangements, the Managing Director and Personal Guarantor of the Corporate Debtor, had given her personal Guarantee to the loan facility availed by the Corporate Debtor in favour of the Financial Creditor. Further, the personal guarantor had executed various loan documents along with the letter of Guarantee dated 04.09.2020, in favour of the Financial Creditor, guaranteeing repayment of the debt under the said agreement(s).

2.8. Thereafter, the loan accounts of the Corporate Debtor were classified as Non-Performing Asset ("**NPA**") on 25.05.2022.

2.9. The Financial Creditor issued a demand notice on 30.06.2022, under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("**SARFAESI**"), requesting the repayment of the entire outstanding debt of Rs. 1,28,74,869.84/- against the loan accounts of the Corporate Debtor. Subsequently, the Financial Creditor filed an Original Application bearing O.A. No. 416 of 2022 on 14.10.2022, before the Hon'ble Debt Recovery Tribunal at Guwahati (DRT), against the Corporate Debtor, Personal Guarantors, as Defendants for recovery of Rs. 1,33,37,284/- and the said application is pending adjudication before the Hon'ble DRT.

2.10. On 25.11.2024, the Financial Creditor issued a demand notice under Section 95 of the Code in accordance with Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 ("Personal Guarantor Rules") calling upon the Personal Guarantor to repay the unpaid debt owed to the Financial Creditor. However, even after service of the demand notice there was no reply from the Personal Guarantor. Therefore, the Financial Creditor has filed the present Section 95 Application for a default in repayment of the financial debt amounting to Rs. 1,31,52,295.92/- (One Crore Thirty-One Lakhs Fifty Two Thousand Two Hundred and Ninety Five and Ninety Two Paise) only.

2.11. That in order to support the claim, the Financial Creditor has annexed with the application the statement of accounts in accordance with the Banker's Book Evidence Act, 1891, which proves the claim of the Financial Creditor against the Corporate Debtor. Further, the Financial Creditor, in support of its contentions has annexed the details of financial debt, records and evidence of default including copies of sanction letters, statement of accounts showing the amount claimed to be in default and its calculation.

2.12. The Corporate Debtor has defaulted in repayment of Rs. 1,31,52,295.92/- (One Crore Thirty-One Lakhs Fifty Thousand Two Hundred and Eighteen) of Financial Debt for 3 different Loan Accounts in respect of the loan availed from the Financial Creditor which are Tabulated as under:

Loan Account No.	Principal outstanding (INR)	Interest Outstanding	Penal Interest	Legal Charges	Amount (INR) (as on 31.12.2024)
07090610011799	6,56,823.00/-	1,64,211.00/-	29,993.00/-		8,51,027.00
07090610010983	68,77,428.36/-	12,05,560.00/-	2,20,193.00/-		83,03,181.36
07090510000694	33,25,996.56/-	2,55,436.00/-	46,655.00/-		36,28,087.00
Total	**1,08,60,247.92/-**	**16,25,207/-**	**2,96,841.00/-**	**3,70,000/-**	**1,31,52,295.92/-**

3. Submissions by the Resolution Professional

3.1. Insolvency Resolution Process was initiated against the Personal Guarantor to the Corporate Debtor, pursuant to Order dated 20.03.2025, passed by the this Tribunal in C.P.(IB)/2/GHY/2025, on an application filed by the Financial Creditor, under Section 95 of the Code.

3.2. Accordingly, Mr. Bishal Agarwal, Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI) bearing Registration No. IBBI/IPA-002/IP-N01294/2024-2025/14446, was appointed as the Resolution Professional for Mrs. Garima Dugar, Personal Guarantor.

3.3. The Resolution Professional was directed to submit his Report under Section 99 of the Code within a period of ten (10) days from the date of the Order. The said Order was communicated to the Resolution Professional on 25.03.2025, through the Advocate of the Financial Creditor.

3.4. On 28.03.2025, the Resolution Professional sought certain financial documents and information from the Personal Guarantor, which was essential for the preparation of the Report under Section 99 of the Code. Thereafter, the Resolution Professional sent multiple follow-up emails, on 30.03.2025, 02.04.2025 and 06.04.2025, to the Personal Guarantor, requesting for submission of the financial information.

3.5. The Personal Guarantor, on 06.04.2025, responded to the email of the Resolution Professional, stating that the requested information would be shared soon.

3.6. Due to non-receipt of the requested documents and/or information from the Personal guarantor within the prescribed period, the Resolution Professional, being unable to submit his Report under Section 99 of the Code within the stipulated timeline of ten (10) days, preferred an Interlocutory Application on 02.04.2025 seeking extension of time for a period of seven (7) days for the submission of his Report. The Resolution Professional, through this Interlocutory Application, seeks to submit his Report under Section 99 of the Code.

4. Report by the Resolution Professional under Section 99 of the Code:

4.1. This Tribunal, by its Order dated 20.03.2025, had directed the Resolution Professional to file this present Report under Section 99 of the Code for the purpose of recommending approval or rejection of the Application filed by the Financial Creditor.

4.2. In compliance thereof, the Resolution Professional has taken necessary steps as required under the provisions of the Code in examining the Application in detail. The Report sought by this Tribunal, in the prescribed format, is as under:

1.	Particulars of the Financial Creditor	UCO Bank, a body corporate duly constituted under the Banking Companies (Acquisition and Transfer of

		Undertakings) Act, 1970, having its Head Office at 10, BTM Sarani, Brabourne Road, Kolkata - 700001 , in the state of West Bengal and carrying on the business of banking through diverse branches and in particular through a Branch Office named UCO Bank, Rehabari Branch, at A.K. Azad Road, Guwahati - 781008, Assam. The Applicant is represented through Mr. Ajay Sahay, Authorized Officer.
2.	Particulars of Corporate Debtor under CIRP	Feather and Flute Fintrade Private Limted, a private company limited by shares incorporated on 12.04.2020 under the provisions of the Act having CIN U36990AS2020PTC020000 and its Registered Office at House No. 399, Haldi Gali, S.J. Road, Athgaon, Guwahati, Kamrup(M), Assam - 781001. The Corporate Debtor is not undergoing Corporate lnsolvency Resolution Process ("**CIRP**") under the provisions of the Code.
3.	Date of Commencement of CIRP of the Corporate Debtor	Not applicable
4.	Details of personal guarantee given to the Financial Creditor by Personal Guarantor	Feather and Flute Fintrade Private Limted, submitted an application to the Financial Creditor for availing a credit facility/ loan, vide Loan Application for MSME dated June 08, 2020, for a sum of INR 1,11,94,000/- (Rupees One Crore Eleven Lakhs Ninety-Four Thousand Only). Subsequently, the Financial Creditor sanctioned a credit facility of INR 1,11,00,000/- (Rupees One Crore Eleven Lakhs Only), which was divided into a Term Loan of INR 80,00,000/-

		(Rupees Eighty Lakhs Only) and Cash Credit of INR 31,00,000/- (Rupees Thirty-One Lakhs Only), as per the Sanction Letter dated July 15 2020. In connection with the said credit facility/ loan, the Personal Guarantor executed a Demand Promissory Note Agreement, a Composite Deed of Hypothecation, and a Letter of Guarantee in favor of UCO Bank on September 04, 2020. An additional Working Capital Term Loan was sanctioned to the Corporate Debtor under the "Guaranteed Emergency Credit Line (GECL)" Scheme, amounting to INR 9,95,000/- (Rupees Nine Lakhs Ninety-Five Thousand Only) on July 22. 2021. ln this regard, the Personal Guarantor executed a Demand Promissory Note Agreement relating to the Term Loan and a Deed for 'Hypothecation of Goods to Secure a Demand Gash Credit' in favor of UCO Bank on July 22,2021.
5.	Date of invocation of personal guarantee by Financial Creditor	June 30, 2022, being the date of the issuance of Notice under Section 13(2) of SARFAESI to the Personal Guarantor, calling upon her to repay the outstanding liabilities due and payable to the Financial Creditor within sixty (60) days from the date of receipt of the notice.
6.	Date of filing Petition under Section 94/95 of the Code	February 11, 2025 (Petition registered on February 12,2025)
7.	Amount in default by Corporate Debtor to the Financial Creditor at the time of commencement of CIRP	Not applicable

8.	Amount provided in the Not applicable resolution plan, if any, against the claim of the applicant	Not applicable
9.	Balance due from personal guarantor	INR 1,31,52,296/- (Rupees One Crore Thirty-One Lakhs Fifty-Two Thousand Two Hundred Ninety-Six Only) as on December 31, 2024
10.	Net worth of personal guarantor as on date of the report	Not available; details have been sought by the Resolution Professional from the Personal Guarantor. However, despite repeated reminders, the Personal Guarantor has failed to provide the same.
11.	Copies of past 5 years balance sheet and income Tax Return of personal guarantor	Not available; details have been sought by the Resolution Professional from the Personal Guarantor. However, despite repeated reminders, the Personal Guarantor has failed to provide the same.
12.	Details of actions taken by Financial Creditor or any other Financial Creditor against Personal Guarantor under any other Act in respect of debt owed by Corporate Debtor.	(i) The credit facility/ loan availed by the Corporate Debtor from the Financial Creditor was classified as NPA on May 30, 2022. Thereafter, a Recall Notice was issued by the Financial Creditor to the Corporate Debtor and Personal Guarantor(s) on May 31, 2022. (ii) A Notice under Section 13(2) of the SARFAESI was issued to Mrs. Garima Dugar, Personal Guarantor, on June 30, 2022, calling upon her to repay the outstanding liabilities due and payable to the Financial Creditor within sixty (60) days from the date of receipt of the Notice. (iii) An Original Application bearing O.A. No. 416 of 2022 was filed on October 14, 2022, by Financial; Creditor against the Corporate

		Debtor and the Personal Guarantor(s) before the Hon'ble Debts Recovery Tribunal, Guwahati Bench, for the recovery of INR 1,33,37,284/- (Rupees One Crore Thirty Three Lakhs Thirty-Seven Thousand Two Hundred Eighty Four Only), due and payable to the Financial Creditor as on August 31, 2022. The said application was last listed on March 24, 2025, and has been adjourned to May 08, 2025, for further consideration.
13.	Recommendation (Admit/Reject)	The Resolution Professional, having examined the Application filed by the Financial Creditor under Section 95 of the Code, the reply(ies) received from the Personal Guarantor, and the compliances under Section 99 of the Code, hereby recommends for the admission of the Application, for the following reasons: (i) The Personal Guarantor has executed the Deed of Guarantee dated September 04, 2020 in favor of the Financial Creditor. The Financial Creditor has attached a copy of the same in its Application. (ii) The credit facility/ loan availed by the Corporate Debtor from the Financial Creditor was classified as 'Non Performing Asset' on May 30, 2022. Thereafter, a Recall Notice was duly issued by the Financial Creditor to the Corporate Debtor and Personal Guarantor(s) on May 31, 2022. The Financial Creditor has attached a copy of the Recall Notice along with its Postal Receipt in its Application.

		(iii) The Guarantee of the Personal Guarantor was invoked by the Financial Creditor through the issuance of a Notice under Section 13(2) of the SARFAESI on June 30, 2022, calling upon the Personal Guarantor to repay the outstanding liabilities due and payable to the Financial Creditor within sixty (60) days from the date of receipt of the Notice. (iv) A Demand Notice dated November 25, 2024, was duly issued in Form B under Rule 7(1) of the Personal Guarantor Rules, by the Financial Creditor to the Personal Guarantor in respect of the outstanding dues. The said Demand Notice was sent to the Personal Guarantor via Speed Post dated November 26, 2024, and was delivered at the address of the Personal Guarantor on November 29, 2024. (v) ln accordance with the provisions of Section 99(2) of the Code, a Notice was issued by the Resolution Professional to the Personal Guarantor via Email and Speed Post dated March 28, 2025, requiring, *interalia*, proof of repayment of the debt claimed as unpaid by the Financial Creditor. However, the Personal Guarantor has failed to provide details of any repayment of the debt claimed by the Financial Creditor in her communication to the Resolution Professional.

		(vi) The Application of the Financial Creditor satisfies the requirements prescribed under Section 95 of the Code. The Financial Creditor has provided all relevant evidence in support of the default and non-payment of the debt.

i. In view of the aforesaid, the Resolution Professional recommended the acceptance of the Application filed by the Financial Creditor under Section 95 of the Code.

14. Submissions on behalf of the Personal Guarantor:

14.1. The Personal Guarantor herein disputes all the averments and claims made by the Financial Creditor. At the very outset and before dealing with the allegations made by the Financial Creditor herein, the Personal Guarantor craves leave to submit the following preliminary objections as well as preliminary submissions in order to enable this Tribunal to truly appreciate the sheer perversity of the present proceedings.

14.2. The Personal Guarantor humbly submits that, following her marriage on 11.12.2020, she relocated to Bangalore and subsequently resigned from her position as a director of the Corporate Debtor, with effect from 07.05.2022, owing to her inability to participate in the affairs of the company.

14.3. That it is pertinent to mention that even after various reminders by the Personal Guarantor, the Corporate Debtor failed to take note of her resignation in a timely manner and did not file the required e-Form DIR-12 with the Ministry of Corporate Affairs as mandated under the Act.

14.4. *Vide* letter dated 05.05.2022, the Personal Guarantor requested the Financial Creditor to release her from personal guarantee provided in respect of the loan/facility extended to the Corporate Debtor. She also proposed a substitute personal guarantor offering better terms and conditions than the existing personal guarantee. But the Financial Creditor denied the Personal Guarantor's release in spite of following the bank procedures and offering a better terms and conditions of personal guarantee than that of existing personal guarantee.

14.5. The Financial Creditor's actions in not releasing the personal guarantee of the Personal Guarantor despite her resignation and offering better terms and conditions through a new personal guarantee, demonstrate a clear lack of good faith and fair dealing. The Financial Creditor refused to release the Personal Guarantor from her obligations, without offering any valid or reasonable justification. This denial was in violation of principles of natural justice and reflects a lack of fair dealing and good faith. The Personal Guarantor further submits that the Financial Creditor's denial of the request to replace the personal guarantee without providing any valid reasons or justification is arbitrary and capricious. Financial Creditor's actions appear to be an attempt to unfairly prejudice the Personal Guarantor, despite her resignation and efforts to provide alternative guarantees.

14.6. That the Personal Guarantor's resignation was formally recorded on 02.09.2022 at the Extra Ordinary General Meeting of the Corporate Debtor which is not in compliance with the provision of Section 168(2) of the Act, which clearly stipulates that a resignation takes effect from the date specified in the resignation notice or the date the notice is received by the company, whichever is later. Accordingly, the effective date of resignation is 07.05.2022, as stated in the resignation letter.

14.7. That the Personal Guarantor submits that she ceased to be involved with the Corporate Debtor following her marriage, owing to her relocation and inability to dedicate time to the company's affairs. Consequently, an application was submitted to the Financial Creditor to replace the Personal Guarantor's personal guarantee with a personal guarantee from Jyoti Jalan, offering better terms and conditions. In September 2022, the Personal Guarantor visited the Financial Creditor, as requested, to facilitate the replacement of the personal guarantee. However, the Financial Creditor denied the request without adhering to the principles of natural justice. The Financial Creditor arbitrarily refused to consider this proposal. The

Financial Creditor's refusal to acknowledge the Personal Guarantor's changed circumstances and continued insistence on enforcing the personal guarantee is oppressive, unreasonable, and has caused undue hardship to the Personal Guarantor.

14.8. The Personal Guarantor emphasizes that her resignation as a director of the Corporate Debtor and the cessation of her involvement in the company's affairs are significant factors that should have been taken into account by the Financial Creditor when considering her request to release her personal guarantee.

14.9. The Personal Guarantor humbly submits that the Financial Creditor's failure to consider the Personal Guarantor's changed circumstances and its insistence on maintaining the personal guarantee despite the changed circumstances, amounts to an unreasonable and oppressive act.

14.10. The Personal Guarantor's resignation and cessation of involvement with the Corporate Debtor have resulted in a material change in circumstances, which the Financial Creditor has failed to acknowledge or accommodate.

14.11. The Financial Creditor's refusal to release the Personal Guarantor's personal guarantee is not only unjustified but also causes undue hardship to the Personal Guarantor.

14.12. It is therefore most respectfully prayed that this Tribunal may be pleased to discharge/release the Personal Guarantor from her obligations as a personal guarantor to the Corporate Debtor's loan/facility with the Financial Creditor, exclude from the total assets of the Personal Guarantor such personal ornaments that are customary and of religious usage, including but not limited to Mangalsutra, Nose pin, Anklet, Wedding Ring etc. in terms of Section 79(14) of the Code read with Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, and grant such other and further relief(s) as this Tribunal may deem fit and proper in the circumstances of the case and for this act of kindness the Personal Guarantor as in duty bound shall ever pray.

15. Rejoinder filed by the Financial Creditor:

15.1. The Financial Creditor submits that the present proceedings have been initiated strictly in accordance with law, and the Financial Creditor has scrupulously adhered to all statutory and contractual requirements.

15.2. It is further submitted that the Personal Guarantor, pursuant to her marriage on 11.12.2020, relocated to Bangalore. However, it is factually incorrect that the Personal Guarantor resigned from her position as director of the Corporate Debtor effective 07.05.2022, as alleged. According to the master data available on the official website of the MCA, the correct date of cessation of the personal guarantor is 02.09.2022. A copy of Director's Master Data of the Personal Guarantor has been annexed herewith and marked as Exhibit No. A-1.

15.3. While the Personal Guarantor has annexed a purported reminder letter dated 31.08.2022 as [Annexure-R-1], wherein reference is made to an alleged earlier letter dated 07.05.2022, a bare perusal of the record reveals that no such resignation letter and/or letter dated 07.05.2022 has been annexed or produced by the Personal Guarantor.

15.4. It is further submitted that, as per the statutory provisions, it was incumbent upon the Personal Guarantor, as the resigning director, to independently notify the Registrar of Companies (“RoC”) by filing Form DIR-11 within the prescribed period, irrespective of the company's actions. The Personal Guarantor's failure to do so cannot be attributed to the Financial Creditor or used as a shield to evade her continuing obligations and liabilities as a director and personal guarantor.

15.5. At the outset, it is submitted that the Personal Guarantor's own submissions are inherently contradictory, as she claims to have resigned with effect from 07.05.2022, yet purports to have addressed a letter to the Financial Creditor seeking release of her guarantee on 05.05.2022, prior to the alleged date of resignation.

15.6. Furthermore, a bare perusal of the letter dated 05.05.2022, marked as [Annexure R-2], reveals that the Financial Creditor had duly communicated to the Personal Guarantor that the matter could only be considered in a face-to-face meeting and that release of the guarantee would strictly be subject to completion of all requisite banking procedures. Despite such clear intimation, the Personal Guarantor failed to take any concrete steps or actions to formally withdraw her guarantee or to provide any documentary evidence demonstrating compliance with the established procedures for release.

15.7. It is a well-settled principle of law that the liability of a personal guarantor persists unless and until the guarantee is expressly released in accordance with the terms of the contract and the applicable legal framework. The doctrine of *vigilantibus non dormientibus jura subveniunt* mandates that the law assists those who are vigilant and not those who sleep over their rights. The Personal Guarantor's inaction and failure to diligently pursue the prescribed process cannot be a ground to seek discharge from her obligations as a guarantor.

15.8. Further, the Financial Creditor submits that the liability of a guarantor under the Indian Contract Act, 1872, particularly Sections 126, 128, and 129, is well settled. The guarantee furnished by the Personal Guarantor is a continuing guarantee, and by operation of Section 128 of the Indian Contract Act, 1872, the liability of the surety is co-extensive with that of the principal debtor. The mere resignation of the Personal Guarantor from the directorship of the Corporate Debtor or the offer of an alternative guarantee on allegedly better terms does not, in law or equity, entitle her to unilateral release from her subsisting obligations.

15.9. The Financial Creditor's actions have at all times been in strict compliance with the contractual terms and the governing legal framework, and the Personal Guarantor has neither demonstrated nor substantiated any procedural or substantive infirmity in the Financial Creditor's conduct. The assertion that the Financial Creditor acted arbitrarily or without justification is wholly baseless, as the Financial Creditor has consistently communicated the requisite procedures for consideration of such requests, which the Personal Guarantor has failed to fulfill.

15.10. It is further submitted that the sanctity of the guarantee contract cannot be diluted at the mere behest of the surety, especially when the principal debt remains unpaid and the Financial Creditor's security interests are yet to be satisfied. Therefore, the Personal Guarantor remains liable for the indebtedness and is bound to pay the outstanding amount of Rs. 1,31,52,295.92/- (Rupees One Crore Thirty-One Lakhs Fifty-Two Thousand Two Hundred Ninety-Five and Ninety-Two Paisa) only.

15.11. It is submitted that, pursuant to Section 168(1) of the Act read with Rule 16 of the Companies (Appointment and Qualification of Directors) Rules, 2014, it is the independent and mandatory obligation of a resigning director to forward a copy of her resignation, together with the reasons therefor, to the RoC in Form DIR-11 within thirty days of her resignation.

15.12. The Personal Guarantor has failed to adduce any evidence of compliance with this statutory requirement, which amounts to a clear and gross violation of the Act. While it is true that the company is required to file Form DIR-12, this in no manner absolves the director of her independent statutory duty. Moreover, Annexure R-1, relied upon by the Personal Guarantor herself, merely demonstrates that she intimated the company about her resignation on 07.05.2022; however, no proof of actual resignation has been placed on record.

15.13. The subsequent letter dated 31.08.2022, is nothing more than a communication stating "her inability to participate in company operations due to relocation and personal commitments", and does not constitute formal resignation in the eyes of law. As per Section 168(2) of the Act, the resignation of a director takes effect from the date on which the notice is received by the company or the date specified in the notice, whichever is later.

15.14. In the present case, the Personal Guarantor has failed to establish that her resignation was served upon the company on 07.05.2022; the only communication received by the company was the letter dated 31.08.2022. Accordingly, by operation of law, the effective date of resignation is 02.09.2022, and not 07.05.2022, as incorrectly claimed by the Personal Guarantor.

15.15. Furthermore, a perusal of Annexure R-3, being the certified true copy of the board resolution dated 02.09.2022, reveals that the resolution does not specify any date on which the resignation was actually submitted, thereby further undermining the Personal Guarantor's claim and confirming that the resignation date must be taken as 02.09.2022.

15.16. Additionally, Section 168(2) of the Act unequivocally provides that a director who has resigned shall remain liable, even after her resignation, for all offences and obligations incurred during her tenure as director. Consequently, the Personal Guarantor continues to remain liable for the loan facilities availed by the Corporate Debtor even after cessation of her directorship, and her obligations as a personal guarantor are not extinguished by the mere act of resignation.

15.17. It is a well-settled principle under Section 128 of the Indian Contract Act, 1872, that the liability of the surety is co-extensive with that of the principal debtor, and in terms of Section 129, the guarantee furnished by the Personal Guarantor is a continuing guarantee, which remains in force until expressly revoked in accordance with law. Therefore, the Personal Guarantor's resignation from directorship does not, in any manner, absolve her from her continuing and co-extensive liability as guarantor for the outstanding dues of the Corporate Debtor.

15.18. In view of the foregoing, it is manifest that the Personal Guarantor remains liable for the outstanding indebtedness and is bound to pay the sum of Rs. 1,31,52,295.92 (Rupees One Crore Thirty-One Lakhs Fifty-Two Thousand Two

Hundred Ninety-Five and Ninety-Two Paisa only) to the Financial Creditor. A copy of the board resolution dated 02.09.2022, has been annexed herewith and marked as Exhibit No. A-3.

15.19. The Financial Creditor vehemently and categorically denies the Personal Guarantor's contentions made in para no. B (ii) of Preliminary Submissions regarding the alleged submission of an application for replacement of her personal guarantee with a personal guarantee from Mrs. Jyoti Jalan and the purported denial thereof by the Financial Creditor in violation of the principles of natural justice. It is further submitted that the Personal Guarantor has failed to produce any documentary evidence whatsoever to substantiate her claim that such an application was ever submitted to the Bank. The record is entirely bereft of any such application or communication, and the Personal Guarantor's failure to bring forth even a single document in support of this allegation renders her claim wholly unworthy of credence.

15.20. It is a settled principle of law, as affirmed by the Hon'ble Apex Court that the liability of a personal guarantor is independent and co-extensive with that of the principal borrower, arising from a distinct contract of guarantee. The mere act of resignation from the management does not, in any manner, absolve the guarantor of obligations voluntarily undertaken towards the creditor. Guarantees are specifically obtained by financial institutions to ensure that promoters and directors remain personally committed to the repayment of dues, irrespective of their subsequent association with the company. Unless there is an express release or discharge of the guarantee by the creditor, the personal guarantor remains fully liable for the outstanding debts, and such liability persists even after cessation of directorial duties. Therefore, the Personal Guarantor's resignation is irrelevant to the enforceability of the personal guarantee, and the Financial Creditor is well within its rights to proceed against the Personal Guarantor for recovery of dues under the terms of the guarantee and prevailing law.

15.21. It is well established that a contract of guarantee is a solemn and independent undertaking, the enforceability of which is not contingent upon the continuing association of the guarantor with the principal debtor, nor upon any subsequent change in the guarantor's personal or professional circumstances. The liability of a guarantor is co-extensive with that of the principal debtor and persists until the guaranteed obligations are duly discharged or the creditor expressly releases the guarantor.

15.22. The law does not impose any obligation on the Financial Creditor to reassess or revoke the guarantee merely because of changes in the guarantor's circumstances, as personal guarantees are intended to provide enduring security to the creditor. In the absence of any express release or discharge by the Financial Creditor, the Personal Guarantor's liability remains intact, and the Financial Creditor's insistence on enforcing the guarantee is both reasonable and entirely consistent with settled principles of law. The Personal Guarantor's contention, therefore, is devoid of substance and deserves to be rejected outright by this Tribunal with exemplary costs.

15.23. It is a settled position of law, repeatedly affirmed by the Hon'ble Supreme Court, that the liability of a personal guarantor is independent and co-extensive with that of the principal debtor, and is not extinguished by the guarantor's resignation or withdrawal from the company's management. The guarantee is a binding contract, enforceable in accordance with its terms, and the Financial Creditor is under no legal or equitable obligation to accommodate subsequent changes in the guarantor's personal or professional circumstances. The refusal to release the guarantee is entirely justified, reasonable, and consistent with the statutory framework under the Code, as well as the Indian Contract Act, 1872. Any alleged hardship to the Personal Guarantor is a consequence of her own voluntary undertaking and cannot override the rights of the creditor.

15.24. The Financial Creditor further submits that the Personal Guarantor's reservation of rights to raise additional grounds does not, in any manner, dilute the binding and subsisting liability arising from the personal guarantee, which remains fully enforceable in law.

15.25. The Financial Creditor submits that this reply as speculative, unsubstantiated, and devoid of legal and/or factual foundation. The Personal Guarantors claim of undue hardship is entirely conjectural and failed to meet threshold for relief as prayed for under the Code. The company petition in question remains fully maintainable, has been instituted within the statutory limitation period and within the jurisdictional competence of this Tribunal, with no procedural or substantive infirmity warranting interference. The Personal Guarantor in her capacity as a personal guarantor, is statutorily bound by the obligations enshrined in the Code, and cannot circumvent liability through meritless objections designed to obstruct proceedings.

15.26. Further, their request to file/ raise additional points or submissions at a subsequent stage is patently dilatory, and undermines the Code, which mandates for expeditious resolution and value maximization. The reliefs sought are not only vague and legally untenable but also contravene settled principles of laws. In the light of the foregoing, the Financial Creditor respectfully urges this Tribunal to dismiss the application in its entirely as an abuse of process, expedite adjudication of the main company petition, and affirm that no grounds exist-legal, equitable or evidentiary to grant the prayers sought. The reply constitutes a transparent stratagem to derail proceedings, and its rejection is imperative to uphold the integrity of the Code framework.

15.27. The Financial Creditor submits that the personal guarantor has failed to establish a prima facie case in her favour, which is a fundamental requirement. Moreover, the said reply appears to be a deliberate attempt to delay the insolvency proceedings, as it lacks the necessary legal and factual foundation to proceed. Such a warranted procedural objection are contrary to the spirit of the Code, which aims to ensure expeditious resolution of insolvency matters. Therefore, this

Tribunal is respectfully prayed to dismiss this reply in limine with heavy exemplary costs.

15.28. Therefore, in the light of the aforesaid submissions as enumerated as well as the relevant provisions of the laws as explained in the foregoing paragraphs hereinabove, it is clear that the captioned reply is not maintainable both in law as well as on facts, misconceived and is liable to be dismissed. Further, the Financial Creditor states that if such misconceived and *ex-facie* bad in law reply, if allowed could establish a dangerous precedent, enabling miscreants to overstep their bounds.

15.29. Furthermore, the Financial Creditor emphasizes that the personal guarantor constitutes a deliberate attempt to mislead this Tribunal and obstructs the due process of law. Hence, in the view of aforementioned, this Financial Creditor prays that this Tribunal be pleased to dismiss the captioned reply and proceed with the company petition against the personal guarantor.

15.30. That the Financial Creditor craves for the leave of this Tribunal, to file additional documents, applications, affidavits etc., during the proceedings of this case and for the ends of justice.

16. We have heard the learned Counsels for the Financial Creditor and the Personal Guarantor and perused the documents on record. We have also gone through the report dated 07.04.2025 filed by the Resolution Professional.

17. The present application is filed under Section 95 of the Code by the Financial Creditor, UCO Bank, against Mrs. Garima Dugar, Personal Guarantor to the Corporate Debtor, **M/s Feather & Flute Fintrade Private Limited**. The Financial Creditor has demonstrated a default of Rs. 1,31,52,295.92 as on 31.12.2024, which is well above the statutory threshold of ₹1 crore prescribed under Section 4 of the Code. The petition is within the territorial and pecuniary jurisdiction of this Tribunal and is, therefore, maintainable.

18. The debt arises from credit facilities sanctioned by the Financial Creditor comprising a Term Loan of ₹80,00,000/-, a Cash Credit facility of ₹31,00,000/-, and a further Working Capital Term Loan of ₹9,95,000/- under the GECL Scheme. To secure these facilities, the Personal Guarantor executed a Deed of Guarantee and other loan documents on 04.09.2020 and 22.07.2021.

19. The Financial Creditor has produced on record the sanction letters, term loan agreements, demand promissory notes, deeds of hypothecation, and personal guarantee agreements dated 04.09.2020 and 22.07.2021, along with certified statements of account and Banker's Book certificate. These documents establish that the Corporate Debtor availed credit facilities and committed default, and that the Personal Guarantor executed unconditional and continuing guarantees in favour of the Financial Creditor. The liability of a guarantor being co-extensive with that of the principal debtor under Section 128 of the Indian Contract Act, 1872, the Personal Guarantor's liability stands established.

20. It is the submission of the Financial Creditor that the Corporate Debtor's loan accounts were classified as NPA on 25.05.2022. Service of the demand notice under Section 95 by speed post has been duly proved by production of postal receipts and tracking confirmation on record. Subsequent recall notices and demand notices under SARFAESI as well as under Section 95 of the Code were duly issued and served upon the Personal Guarantor, but no repayment was made. The outstanding liability as on 31.12.2024 stands at ₹1,31,52,295.92.

21. The Resolution Professional, appointed pursuant to the order of this Tribunal dated 20.03.2025, submitted his report under Section 99 of the Code. From the report, it is clear to us that:

    21.1. The Resolution Professional has verified that the Financial Creditor, a body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, carries on banking business through its Rehabari

Branch at Guwahati and is represented by its Authorized Officer, Mr. Ajay Sahay.

21.2. The Corporate Debtor, incorporated on 12.04.2020 (CIN: U36990AS2020PTC020000), with registered office at Athgaon, Guwahati, is not undergoing any CIRP.

21.3. The Resolution Professional records that the Corporate Debtor availed total credit facilities of ₹1,11,00,000/- (Term Loan of ₹80,00,000/- and Cash Credit of ₹31,00,000/-) sanctioned vide sanction letter dated 15.07.2020, and an additional Working Capital Term Loan of ₹9,95,000/- under the GECL Scheme sanctioned on 22.07.2021. The Personal Guarantor executed the Deed of Guarantee, Demand Promissory Notes, and Deed of Hypothecation in favour of UCO Bank on 04.09.2020 and 22.07.2021, securing repayment of these loans.

21.4. The personal guarantee was invoked on 30.06.2022 through issuance of notice under Section 13(2) of the SARFAESI Act, 2002, calling upon the Personal Guarantor to repay the dues. The Financial Creditor thereafter filed the present petition under Section 95 on 11.02.2025 (registered on 12.02.2025).

21.5. As per the records, the outstanding balance due from the Personal Guarantor is Rs. 1,31,52,296/- as on 31.12.2024. The Resolution Professional notes that despite repeated communications, the Personal Guarantor failed to furnish her net worth statement, balance sheets, or income tax returns for the preceding five years.

21.6. The Resolution Professional further notes that the Financial Creditor had already initiated proceedings before the DRT in O.A. No. 416 of 2022 for recovery of ₹1,33,37,284/-, and the matter is pending consideration.

21.7. Upon scrutiny of all records, the Resolution Professional has confirmed:

a) the valid execution of the Deed of Guarantee dated 04.09.2020;

b) the classification of the Corporate Debtor's loan account as NPA on 30.05.2022;

c) the issuance and delivery of recall notice dated 31.05.2022 and demand notice under Rule 7(1) of the Personal Guarantor Rules, 2019 dated 25.11.2024, duly served on 29.11.2024; and

d) the failure of the Personal Guarantor to provide proof of repayment or any evidence negating liability, despite notice under Section 99(2) issued by the Resolution Professional on 28.03.2025.

21.8. Having verified the application, supporting documents, and compliance under the Code, the Resolution Professional concludes that the application satisfies the requirements of Section 95 and that default on the part of the Personal Guarantor is duly established.

21.9. Accordingly, the Resolution Professional recommends admission of the application filed by the Financial Creditor under Section 95 of the Code.

22. The defence taken by the Personal Guarantor rests substantially on:

(i) her resignation from directorship of the Corporate Debtor on 07.05.2022 and cessation of involvement in the company, and

(ii) her request to the Financial Creditor to release her from the personal guarantee, coupled with an offer of substitution by another guarantor.

23. However, the evidence on record, i.e. the MCA Master Data and the Board resolution shows that her cessation was recorded only on 02.09.2022. More importantly, there is no document evidencing any release of the personal guarantee by the Financial Creditor. The Personal Guarantor has failed to show that the Financial Creditor expressly released her from liability or that the guarantee was otherwise extinguished in accordance with law. The argument based on changed personal circumstances is untenable in law. The Personal Guarantor continues to remain liable for the guaranteed debt.

24. It is a settled principle of law that a personal guarantee is an independent and continuing obligation, co-extensive with that of the principal debtor under Section 128 of the Indian Contract Act, 1872, enforceable irrespective of the guarantor's continuing association with the principal debtor. The liability persists unless expressly revoked or discharged by

the creditor. The revocation of a continuing guarantee, under Section 130 of the Indian Contract Act, 1872, is prospective and affects only future advances, not the existing defaulted debt. The mere resignation of the guarantor from the directorship of the corporate debtor or the offer of a substitute guarantee does not automatically absolve the guarantor of obligations voluntarily undertaken.

25. This Tribunal therefore finds that the Financial Creditor has established the existence of a financial debt, default by the Corporate Debtor, valid invocation of the personal guarantee, and non-payment by the Personal Guarantor. No procedural or legal infirmity has been demonstrated that would defeat the petition. The requirements of Section 95 of the Code stand satisfied.

26. Mr. Bishal Agarwal, having registration no. IBBI/IPA-002/IP-N01294/2024-2025/14446, was appointed as Resolution Professional by order dated 20.03.2025. The Resolution Professional has filed the required written consent to act as Resolution Professional in the matter under regulation 4(2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 and certificate confirming eligibility of the proposed Insolvency Professional for appointment as the Resolution Professional on 16.09.2025.

27. The Resolution Professional filed his report under Section 99 of the Code and sought leave to file an additional affidavit to incorporate documents received from the Personal Guarantor. Adequate opportunities were granted to the Personal Guarantor to file objections, which she ultimately declined, reserving liberty to raise submissions during final hearing. The requirements of service and opportunity of hearing have thus been complied with.

28. For the foregoing reasons, this Tribunal is satisfied that the conditions for admission under Section 100(4) of the Code are met and the application deserves to be admitted.

ORDER

1. Consequently, the instant Petition i.e. **CP(IB)/2/GB/2025** is **ALLOWED** and **ADMITTED** on the following terms:

1.1 Initiate Insolvency Resolution Process against the Respondent/Personal Guarantor and moratorium in relation to all the debts is declared, from today i.e. date of admission of the application and shall cease to have effect at the end of the period of 180 days, or this Tribunal passes order on the repayment plan under Section 114 whichever is earlier as provided under Sec 101 of the Code. During the moratorium period:

a. Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed, and
b. The creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt; and
c. The debtor shall not transfer, alienate, encumber, or dispose of any of his assets or his legal rights or beneficial interest therein:
d. The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

1.2 In terms of Section 97(5) of the Code, the Resolution Professional, **Mr. Bishal Agarwal**, having registration no. **IBBI/IPA-002/IP-N01294/2024-2025/14446**, e-mail: **ip.bishalagarwal@gmail.com**, and having his address at Ward No. 4, Amtala, Barpeta Road - 781315, Assam, who has already been appointed by this Tribunal *vide* order dated 20.03.2025, shall continue to perform his functions as Resolution Professional in respect of the Personal Guarantor.

1.3 The Resolution Professional shall discharge his duties in accordance with Sections 99 to 105 of the Code and the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019.

1.4 The Resolution Professional is directed to cause a public notice published on behalf of the Adjudicating Authority within 7 days of passing this Order on the website of the NCLT Guwahati Bench, inviting claims from all Creditors, within 21 days of such issue. The notice under Sub Section (1) of Section 102(2) shall include: -

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

1.5 The publication of notice shall be made in two newspapers, one in English and other in Vernacular, which have wide circulation in the State where the Corporate Debtor and Personal Guarantor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry for the record.

1.6 The Resolution Professional, in exercise of the powers conferred under Section 104, shall prepare a list of creditors on the basis of:

i. the information disclosed in the application filed by the debtor under Sections 94 or 95, as the case may be, and
ii. claims received by the Resolution Professional under Section 102 within 30 days from the date of the notice. The debtor shall prepare a repayment plan under Section 105, in consultation with the Resolution Professional, containing a proposal to the Creditors for restructuring of his debts or affairs.

1.7 The repayment plan may authorize or require the Resolution Professional to:

a. carry on the debtor's business or trade on his behalf or in his name: or
b. realise the assets of the debtor; or
c. administer or dispose of any funds of the debtor.

1.8 The repayment plan shall include the following, namely;

a. justification for preparation of such repayment plan and reasons based on which the creditors may agree upon the plan;
b. provision for payment of fee to the Resolution Professional;
c. such other matters as may be specified

2. The Resolution Professional shall submit the repayment plan along with his report on the plan to this Authority within a period of **21 days** from the last date of submission of claims, as provided under Section 106.

3. In case the Resolution Professional recommends that a meeting of the creditors is not required to be called, he shall record the reasons thereof. If the Resolution Professional is of the opinion that a meeting of the creditors should be summoned, he shall specify the details as provided under Section 106(3) of the Code. 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 of the Code, for which at least 14 days' notice to the creditors (as per the list prepared) shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107 of the Code.

4. The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 and 111 of the Code. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 of the Code, and submit the same to this Tribunal, copies of which shall be provided to the Corporate Debtor and the Financial Creditor. It is made clear that the Resolution Professional shall perform his functions and duties in compliance with the Code of Conduct provided under Section 208 of the Code.

5. The Resolution Professional shall coordinate with parallel recovery proceedings to ensure that there is no duplication or double recovery, and that any sums realised in O.A. No. 416/2022 proceedings before the Hon'ble DRT, Guwahati are duly disclosed and adjusted in the insolvency estate statement. The Financial Creditor shall ensure full disclosure of any amounts realised elsewhere.

6. The Personal Guarantor is directed to extend full cooperation to the Resolution Professional and furnish all documents and information as may be required for the effective discharge of his duties.

7. The Resolution Professional shall submit the periodic reports before this Tribunal, every 30 days.

8. The Petitioner is directed to deposit **INR 1,25,000/-** (Rupees One Lakh Twenty Five Thousand) to the bank account of the Resolution Professional within **one week**, towards his fees. This shall be subjected to the rules and regulations under the provisions of the Code.

9. In terms of the above, **CP (IB)/2/GB/2025** filed under Section 95 of the Code is **admitted** and the Insolvency Resolution Process stands initiated against the Personal Guarantor.

10. The Financial Creditor and its Counsel are hereby directed to serve the copy of this Order along with copy of the Application and documents on the Resolution Professional by all modes for information and compliance.

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

12. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Sd/-	Sd/-
Yogendra Kumar Singh	**Rammurti Kushawaha**
Member (Technical)	**Member (Judicial)**

Signed this on 9th day of October, 2025

Madhurita Tiwari (L.R.A.)