



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

CP (IBC)/24/KOB/2024

*(Under Section 95 of IBC, 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 the matter of:

Central Bank of India Vs Mr. Vinu Sagar

MEMO OF PARTIES:

Central Bank of India

having its Regd. Office at
Chander Mukhi, Nariman Point,
Mumbai 400 021
& Branch at
Asset Recovery Branch,
346, Standard Building,
3rd Floor, D. N. Road, Fort,
Mumbai - 400023

...Petitioner/Financial Creditor

-Vs-

Mr. Vinu Sagar

35-36, Patel Heights,
Plot No. 15, 16, 17, Sector-7,
Ghansoli, Navi Mumbai.

...Respondent/Personal Guarantor



Order delivered on: 01.07.2025.

Coram:

Smt. Madhu Sinha

Shri. Vinay Goel

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

Appearances:

For the Petitioner

: Mr. P. Prashanth, Adv;

For Respondent

: Mr. Harikumar. G. Nair, Adv.

O R D E R

Per Coram

1. This petition has been filed by Petitioner/ Financial Creditor, Central Bank of India, under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 ("the 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 ("Rules") for initiation of the insolvency resolution process of Mr. Vinu Sagar, Personal Guarantor of the Corporate Debtor M/s. Jupiter Leys Private Limited (hereinafter referred to as "Corporate Debtor"), for default of a debt amounting to Rs. 72,03,68,700.
2. The petitioner stated that the Corporate Debtor, M/s. Jupiter Leys Private Limited was sanctioned various credit facilities on 26.04.2012. Pursuant thereto, a Loan Agreement was executed on 18.06.2012. The credit facilities were extended for the setting up of their new factory unit at Mahad, Maharashtra.



The Petitioner stated that the hypothecation agreement dated 18.06.2012 and 23.09.2014 was executed respectively against the sanctioned credit facility.

4. The Petitioner stated that to secure the said facility, Mr. Vinu Sagar and Mr. Vijayan Thoppil Vidyasagar executed personal guarantees in favour of the Bank, thereby assuring repayment of the credit facility in the event of default by the Corporate Debtor.
5. It is stated that Pursuant to the defaults committed by the Borrowers, including the Respondent, the Petitioner initiated recovery proceedings against them under the Recovery of Debts and Bankruptcy Act, 1993 and the SARFAESI Act, 2002, wherein one of the properties of the Corporate Debtor was sold through an E-Auction conducted on 23.12.2019, and recoveries have been effected thereafter."
6. It is stated that this Tribunal has admitted the Corporate Insolvency Process against the Corporate Debtor vide order dated 22.12.2023 in CP (IBC)/ 21/KOB/2023 filed by the IDBI Bank Limited under Section 7 of the Insolvency and Bankruptcy Code, 2016.
7. The Petitioner served a demand notice on the guarantors in Form B as required under section 95(4)(b) of the IBC,2016, read with Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019 on 30.03.2024.
8. The Petitioner served a copy of the petition to the personal guarantors as well as to the Corporate Debtor.



Despite receiving all the notices, the Corporate Debtor and the Personal Guarantors have failed to repay the amount. Therefore, the Financial Creditor initiated the present proceedings under Section 95 of the Insolvency and Bankruptcy Code, 2016, before this Tribunal.

10. The amount of default is more than the minimum threshold of one Crore Rupees. The date of default stated in Part III of the petition is 28.12.2014, the date on which the account was classified as NPA.
11. Record of default of the Corporate Debtor has been duly filed with NESL (information utility), evidencing default on the part of the corporate debtor in repayment as per the schedule, and the NESL records the date of default as 28.12.2014.
12. On presentation of the application by the Petitioner, this Adjudicating Authority vide order dated 05.09.2024 appointed Mr. V Duraisamy as Resolution Professional, directing him to file a report under Section 99 of the Code.
13. Accordingly, the Resolution Professional, Mr. V Duraisamy, has filed his report dated 15.09.2024 as IA(IBC)/428/KOB/2024 in CP(IBC)/24/KOB/2024, recommending the admission of the Company Petition.
14. The Respondent/Personal Guarantor filed his reply stating that the petition is not maintainable and premature at this stage, as insolvency proceedings against the Corporate Debtor, M/s Jupiter Leys Pvt. Ltd., have already been admitted and are currently under consideration of this Tribunal. The personal guarantee can only be invoked if the debt is not resolved through an approved resolution plan or if the Corporate Debtor goes into liquidation. In this case, the Resolution Professional has invited resolution



plans, with the last date for submission being 23.12.2024, and the Respondent intends to submit a plan that benefits all creditors. Initiating separate insolvency proceedings against the personal guarantor now would lead to legal absurdity and duplicity of claims for the same debt. If the debt is resolved through the resolution plan, such action would be unjust and cause undue hardship. Therefore, it has been requested that the report be kept on hold until the resolution process is completed.

15. It is further stated that the claim against the Corporate Debtor is barred by limitation, and it is settled law that no action can be maintained against a personal guarantor for a time-barred debt; the invocation of the personal guarantee in this case is also legally untenable and hit by the law of limitation.
16. It is stated that the Corporate Debtor has initiated proceedings against the Petitioner bank before the Hon'ble DRT, Mumbai in Securitisation Application No. 38 of 2020, challenging the attempted sale of its property by the bank, which led to status quo orders being passed against the bank and auction purchaser. Though original documents were released, it was done without prejudice to the rights of the parties. As the ownership and validity of the property sale, which involves assets sufficient to discharge the Corporate Debtor's liabilities, are pending adjudication, no proceedings should be initiated against the personal guarantor until the insolvency process of the Corporate Debtor is concluded and the DRT's decision is rendered.
17. It is stated that the Corporate Debtor, engaged in manufacturing natural spice products, had mortgaged its leasehold rights over a Maharashtra Industrial Development Corporation (MIDC) plot to the Petitioner Bank as



security for a loan which was declared NPA on 28.01.2015 due to delayed repayment beyond the Corporate Debtor's control. Although SARFAESI proceedings were initiated, these do not keep the claim against the personal guarantors alive for the purpose of maintaining proceedings under Section 95 of the IBC. Since the Petitioner did not file an application under Section 7 of IBC, 2016 within three years of the loan default date, the claim against the Corporate Debtor is time-barred. Consequently, the present proceedings against the personal guarantors are also barred by limitation and unsustainable, especially as the guarantee is limited to a specified amount, while the Petitioner seeks recovery of the entire debt.

18. It is stated that the the assets listed in the application cannot be proceeded against as the Respondent is not the sole owner and others have crystallised rights over the property, and further, the debt amount stated in Part III is disputed with no conclusive evidence provided by the Petitioner to establish the alleged default.
19. It is stated that as per the Petitioner's own case, the date of default is 28.12.2014, and therefore, the present proceedings against the personal guarantors are barred by limitation; accordingly, the Resolution Professional's report, which fails to consider this fundamental issue, is per se untenable and deserves no consideration.
20. We have heard both sides and also gone through the records. The Counsel for the applicant, while arguing his case, submitted that there is no bar for the initiation of insolvency proceedings against the Personal Guarantor during the pendency of the CIRP. As such, the objection has been raised is unfounded, and from the date of recall and acknowledgement of debts by the Corporate Debtor, the application as filed is within time and is well



maintainable. The resolution professional has submitted its report to accept the report and initiate insolvency proceedings against the Personal Guarantor.


21. Whereas, counsel for the Personal Guarantor submitted that this application is premature as the suspended director/Personal Guarantor of the MSME unit, i.e., Corporate Debtor, has already submitted its resolution plan. The said resolution plan is favourable to all the creditors, and after deliberations, CoC would forward that plan to this Tribunal for approval. So, the applicant, being a secured creditor in said pending CIRP proceedings, has no right to initiate this present application. Simultaneous proceedings against the Personal Guarantor are not only unwarranted but would be harsh. It is further argued that the applicant has failed to prove a record of service of notice of invocation of the Bank guarantee. As such, the application under Section 95 is not maintainable. He further submitted that Annexure-7 is a deed of hypothecation and not a deed of guarantee. As such, the Resolution Professional committed a grave error in relying upon the same. It is further submitted that the claim against the principal borrower is barred by the limitation. As such, no proceedings against the guarantors can be invoked.
22. It is further submitted that one proceeding before the Hon'ble Debt Recovery Tribunal, Mumbai, initiated by the Corporate Debtor is pending adjudication under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and pending said adjudication, no action can be taken against the Persona Guarantors.
23. Heard both sides, and we have also considered the materials available on record by way of pleadings and documents. It is vehemently argued on



behalf of the Respondent that under the CIRP initiated against the Corporate Debtor, one of the guarantors has submitted a resolution plan, and the recovery made under such plan would satisfy the debt. As such, the applicant has no right to proceed against the Personal Guarantor. The proceedings under Section 7 of the IBC, 2016, are not recovery proceedings, and it is a settled proposition of law. Even during the pendency of the CIRP, the creditor has the right to invoke the personal guarantee and proceed against the directors under Section 95 of the IBC, 2016. We can rely upon the judgment of *the Hon'ble NCLAT, Chennai in the matter of Mr. Paresh Rastogi vs. M/Omkara Assets Reconstruction Pvt. Ltd. and another*. The relevant portion of the judgement is reproduced as under: -

"63. Now we delve into the issue of Invocation of the Guarantee and Liability of the Appellant. It is claimed by the Appellant that the guarantee was not properly invoked. The Guarantee Deed provides that liability arises upon the occurrence of default by the borrower, and the subsequent actions taken by the financial institution were in line with the contractual obligations. It is claimed that the guarantee becomes a debt once the said guarantee is invoked, wherein after the guarantor becomes liable. The Appellant has placed reliance upon Edelweiss Asset Reconstruction Company v Orissa Manganese and Minerals Limited and others (supra) wherein it has been held that: "A contract of guarantee matures in to a binding obligation only upon its invocation. Contract of Guarantee is an autonomous contract and the admission of the principal debtor to CIRP does not mean that the debt stands proved as against the Guarantor in a Section 7 proceeding against the Corporate Guarantor automatically. The guarantee has to be invoked and the debt and default proved separately in the proceeding against the Guarantor." (Emphasis is supplied) The Appellant does not get any support from Edelweiss Asset Reconstruction Co. v. Orissa Manganese and Minerals Ltd. (supra), as the existence of a Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor does not preclude the initiation or continuation of proceedings against the Personal Guarantor. This principle has been upheld in decisions such as Lalit Kumar Jain v. Union of India (supra) by the Hon'ble Apex Court, wherein it was held that even if the resolution plan is approved, the same does not discharge the personal guarantor. The relevant portion of the judgement is reiterated hereunder:

"111. In view of the above discussion, it is held that approval of a resolution plan does not ipso facto discharge a personal guarantor (of a corporate debtor) of her or his liabilities under the contract of guarantee. As held by



this Court, the release or discharge of a principal borrower from the debt owed by it to its creditor, by an involuntary process i.e. by operation of law, or due to liquidation or insolvency proceeding, does not absolve the surety/guarantor of his or her liability, which arises out of an independent contract."

24. So, in the light of said judgement, even if the personal guarantor, i.e., the suspended director of the Corporate Debtor in his/her individual capacity, has filed the resolution plan, that would not absolve guarantors from their liability in terms of the guarantee agreement. So, on that account, we find no merits in the arguments as advanced.
25. Further, it is argued that the Bank has failed to place on record the proof of service of the demand notice. The bank has annexed a notice dated 30.03.2024 on record along with the report of the Resolution Professional, at page 58. The postal receipts, dated 30.03.2024, and the track report evidencing due delivery of the demand notice to the addressee can be considered as valid proof of service. Though the Bank has not placed a postal receipt or track report in their application filed under Section 95, taking advantage of the same, the Respondent has come with a plea that it has not received any such notice.
26. Whereas, the Bank has produced such evidence of depositing and delivery before the Resolution Professional. It shows the acts and conduct of the Respondents, and this Tribunal would come to the conclusion that the Respondents have not come to this Tribunal with clean hands. As such, the defence taken is not tenable.
27. Once, the Applicant Bank has proved on record the execution of the guarantee agreement, and there is no denial about the execution of the guarantee agreement, and reference to Annexure-7 hypothecation deed in the report of the Resolution Professional for collateral purpose would not



have any adverse bearings on the report and claim of the Bank. The guarantee agreement, though, is an important document to make the guarantor liable, but in fact, a guarantee is a tripartite agreement between the creditor, debtor, and the guarantor. So, reliance on the hypothecation deed in the report of the Resolution Professional, in fact, was necessary and expedient to arrive at the right conclusion. So, reference of hypothecation agreements would not be averse to the report of RP. As such, on that account also, we find no merits in the arguments so advanced.

28. The applicant Bank initiated the process under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and sold some of the assets. The said process and pending proceedings under the SARFAESI Act, 2002, cannot be treated as hurdle to initiate the process under Section 95 of the IBC, 2016. So, at that score also we find no merits in the defence taken.
29. Although along with the petition, or before the RP, the Bank failed to annex any demand notice issued for invocation of the bank guarantee or issued under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. But, subsequently, at the direction of this Tribunal, the applicant Bank has produced notice issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, dated 29.01.2015 issued to Mr. Vijayan Thoppil Vidhyasagar with copy to Mr. Vinu Sagar Thoppil Vijayan, Mr. Sunil Jajoo and M/s Jupiter Leys Private Limited. The Bank claimed Rs. 22,67,00,693/- from Mr. Vijayan Thoppil Vidhyasagar in the said notice, and the copy of the said notice was forwarded to three persons, including the present Respondent, without any request to repay the said amount or without any recital about the



invocation of the guarantee. The layout of the demand notice issued under Section 13(2) of The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is reproduced here as under: -

**NOTICE U/S 13(2) OF THE SECURITISATION AND RECONSTRUCTION OF
FINANCIAL ASSETS AND ENFORCEMENT OF
SECURITY INTEREST ACT, 2002.**

Date 29/01/2015

TO,
MR. VIJAYAN THOPPIL VIDYASAGAR
HOUSE NO 12/343, THOPPIL HOUSE, OKKAL,
PO ERNAKULAM, KERALA-683574

1. You are aware that we have sanctioned various credit limits for an aggregate amount of Rs. 30,72,00,000.00 (Rs Thirty crore seventy two lakhs only), to M/S JUPITER LEYS PVT LTD (principal debtor), for which you stood as guarantor, and the details of various credit facilities are as under:
2. We Inform you that a total amount of Rs. 30,72,00,000.00 (Rs Thirty crore seventy two lakhs only), Rs 22,67,00,693.00 (Rs Twenty two crores sixty seven lakhs six hundred ninety three only) is due to us in various accounts as on 28/01/2015 plus interest to be calculated thereon from 28/01/2015 till date of recovery.
3. As the principal debtor has defaulted in repayment of his full liabilities, we have classified their/its dues as Non Performing Asset in accordance with the directions or guidelines issued by the Reserve Bank of India.
4. We also Inform you that in spite of our repeated demand notices & oral requests for repayment of the entire amount due to us, the principal debtor has not so far paid the same.....
9. We also Inform you that, notwithstanding our action of proceeding under SARFAESI Act, we reserve our right either 1) to simultaneously file, proceed & pursue suits/Applications/cases against you & or guarantors, before DRT/Court, as the case may be, to realize the outstanding dues from you & or guarantor/s, & or ii) to proceed against you & or guarantor/s before Debt Recovery Tribunal/ Courts for recovery of the balance amount due to our bank, if the entire outstanding amount together with contractual rate of Interest, are not fully satisfied with the sale proceeds of the secured assets.

(HEMANT P PARULEKAR)
AUTHORISED OFFICER/ASST. GENERAL MANAGER
MID CORPORATE FINANCE BRANCH, THANE

- Copy to: 1) Mr. Vinu Sagar Thoppil Vijayan, Director /-Guarantor
House No 12/343, Thoppil House, Okkal, PO Emakulam
Kerala-683574
2) Mr. Sunil Jajoo, Director/Guarantor
Flat No 1101, 11th Floor, Kingston Tower, G D Ambedkar
Road, Parel, Maharashtra-400012



3) M/s Jupiter Leys P Ltd
708, Vashl Infotech Park, Plot 16 Sec 30
Vashl, N Mumbai 400705

30. The Bank has just forwarded the demand notice to the Respondent without disclosing any purpose, object, or reason for forwarding said notice to the Respondent. The notice issued under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, can be considered a valid demand and invocation of the bank guarantee. But there should be specific averments in the said notice, and the notice should be addressed to the guarantor with a clear intention to invoke the bank guarantee. The notice issued to a third party with the intention to invoke the guarantee against the addressee only, and the copy thereof forwarded to the Respondent would not constitute a valid demand and invocation of the guarantee as required under law. There is no provision to draw conclusions on implied meanings.
31. Recently, in Hon'ble NCLAT, New Delhi in the matter of ***Asha Basantilal Surana vs. the State Bank of India and others*** ruled that a demand notice issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, sent to the guarantor would be a valid notice for the purpose of invocation of guarantee. But this case has quite distinguishable facts, as in the present case, though a copy of the demand notice was sent to the guarantor/respondent herein, but there was no demand or invocation of guarantee. Though in the said notice, the bank invoked the guarantee and raised a demand from one of the guarantors, such demand and invocation of guarantee cannot be used against the respondent as liability of all the guarantors and borrowers, though it is joint, several, and co-extensive with each other. It is the prerogative of the Bank to proceed against the borrower



or guarantor against some of the guarantors. So, individual notice of demand and invocation of the guarantee is very much required to enforce the terms of the guarantee agreement against the guarantors.

32. Simpliciter, forwarding a copy of the demand notice addressed to some third person without raising any demand from the Respondent in the demand notice issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 would not constitute a valid demand and invocation of guarantee. So, no limitation would start against the Respondent from the demand notice issued under section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The Bank has filed one application under Section 7 of the IBC, 2016, against the Corporate Debtor, and this Tribunal, vide order dated 22.12.2023 passed in CP(IBC)/21/KOB/2023 recorded the following findings: -

“6. The applicant in their rejoinder states that the petition is filed under authority of the Board of FC as per Annexure 51 and that letter of authority dated 16.05.2023 is valid. It is stated that the loan was declared NPA on 01.07.2015 and the it is the date of default on loan account which is 26.01.2015. It is stated that the Annexure 52 revival letter dated 31.12.2016 wherein debt is clearly acknowledged by CD and petitioner relies on Asset Reconstruction Company (India) Limited vs Tulip Star Hotels Limited and others (AIR 2022) to state that revival letter after date of classification of NPA is valid to cover limitation. Reliance is placed on Asset Reconstruction company (India) Limited vs Bishal Jaiswal and Anr. AIR 2021 SC 5249, that entry made in Balance sheet of CD amounts to acknowledgement of liability and Dena Bank vs C Shivakumar Reddy and Anr(2021) (10) SCC 330, to state that OTS proposals made within limitation amounts to fresh period of limitation. In the Audited BS for FY ending FY 2019, 2020, 2021 and 2022, the debt is acknowledged by CD. Further it is stated that petitioner availed SARFAESI and DRT proceedings which are remedies available within statutory period of limitation. Petitioner places the OTS proposals on 28.01.2019, 04.01.2020, 01.08.2022 and letter of rejections by FC dated 26.02.2019, 15.09.2022 in support of acknowledgement of claim by FC.”



3.

Even in the present case also, the statutory demand notice on Form B was issued on 30.03.2024, and prior to that, there was a balance confirmation in the balance sheet of the year 2022-2023. The acknowledgment made in the balance sheet would constitute a valid acknowledgment under section 18 of the Limitation Act, 1963. We can rely upon the judgment of the *Hon'ble NCLAT, New Delhi in the matter of Mr. Shailendra Agarwal vs. Asit Upadhyaya and others*. The relevant portion of the judgement is reproduced here under: -

"27. The Appellant has placed reliance on the judgements of Hon'ble Supreme Court in Asset Reconstruction Co. (India) Ltd. v. Bishal Jaiswal, Civil Appeal No. 323 OF 2021 and also Asset Reconstruction Company India Limited Vs Uniworth Textiles Limited CA(AT) (Ins) No. 991 of 2020 of this Appellate Tribunal. The relevant extracts of the judgement of Hon'ble Supreme Court are as follows: "14. Several judgments of this Court have indicated that an entry made in the books of accounts, including the balance sheet, can amount to an acknowledgement of liability within the meaning of Section 18 of the Limitation Act. ... 16. An exhaustive judgment of the Calcutta High Court in Bengal Silk Mills Co. v. Ismail Golam Hossain Ariff, 1961 SCC OnLine Cal 128 : AIR 1962 Cal 115 ["Bengal Silk Mills"] held that an acknowledgement of liability that is made in a balance sheet can amount to an acknowledgement of debt as follows: ... Importantly, this judgment holds that though the filing of a balance sheet is by compulsion of law, the acknowledgement of a debt is not necessarily so. In fact, it is not uncommon to have an entry in a balance sheet with notes annexed to or forming part of such balance sheet, or in the auditor's report, which must be read along with the balance sheet, indicating that such entry would not amount to an acknowledgement of debt for reasons given in the said note. ... 22. A perusal of the aforesaid sections would show that there is no doubt that the filing of a balance sheet in accordance with the provisions of the Companies Act is mandatory, any transgression of the same being punishable by law. However, what is of importance is that notes that are annexed to or forming part of such financial statements are expressly recognised by Section 134(7). Equally, the auditor's report may also enter caveats with regard to acknowledgments made in the books of accounts including the balance sheet. A perusal of the aforesaid would show that the statement of law contained in Bengal Silk Mills [Bengal Silk Mills Co. v. Ismail Golam Hossain Ariff, 1961 SCC OnLine Cal 128 : AIR 1962 Cal 115] , that there is a compulsion in law to prepare a balance sheet but no compulsion to make any particular admission, is correct in

law as it would depend on the facts of each case as to whether an entry made in a balance sheet qua any particular creditor is unequivocal or has been entered into with caveats, which then has to be examined on a case by case basis to establish whether an acknowledgment of liability has, in fact, been made, thereby extending limitation under Section 18 of the Limitation Act..."

34. The bank has not issued any demand notice invoking guarantee qua the Respondent, except the notice on Form B dated 30.03.2024. So, the question would be whether in the absence of any formal demand notice and invocation of bank guarantee, the notice issued on 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 would constitute valid invocation of guarantee or not.
35. We can rely upon the judgment of the Hon'ble NCLAT in the matter of the ***State Bank of India Vs. Deepak Kumar Singhania [(2025) ibclaw.in 153 NCLAT]***. The relevant portion of the judgement is reproduced here as under: -
- i. A personal guarantor's liability arises only upon invocation of the guarantee as per the Deed of Guarantee.*
 - ii. The Demand Notice under Rule 7(1) is a statutory step, not an invocation of the guarantee.*
 - iii. Both conditions under Rule 3(1)(e) must be fulfilled for the guarantor to be liable.*
36. As discussed in the above case, the bank forwarded copy of demand notice issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 to the respondent and there was no demand from the respondent, so that was not valid invocation of guarantee against the respondent. The statutory notice issued on 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 cannot be



considered as valid invocation of guarantee, makes this case premature and not maintainable for the purpose of Section 95 of the IBC, 2016.

37. In light of the foregoing analysis and findings, we find no merit for admission of this Petition filed under Section 95 of the Code. Hence, **CP(IBC)/24/KOB/2024** stands **dismissed**. Further, this Tribunal deems it judicious and proper to impose a **cost of Rs. 25,000/- to be deposited into the National Defense Fund** by the petitioner, while granting liberty to the Bank to proceed afresh in accordance with law after compliance with due process.
38. Registry is directed to communicate this order to the respective parties through email.
39. A certified copy of the order shall be issued on request of the parties as per the procedure.
40. File be consigned to records.

SD/-
MADHU SINHA
(MEMBER TECHNICAL)

SD/-
VINAY GOEL
(MEMBER JUDICIAL)

Signed on this the 01st day of July, 2025

Athira. N. R/LRA
Anjali/Steno