



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

Supplementary Cause List

Item No.1
IA (IBC)/164/2025, IA (IBC)/102/2025, IA (IBC)/103/2025,
IA (IBC)/105/2025 and IA (IBC)/96/2025 in
CP (IB)/1/95/AMR/2023

IN THE MATTER OF:

Bank of Maharashtra ... Petitioner/Creditor

Versus

Mr. Sridhar Cherukuri & Anr. ... Respondents

Under Section: 95, 60(5) of IBC, 2016
Rule: 11, 55 of NCLT Rules, 2016

Order delivered on 26.09.2025

CORAM:

SHRI UMESH KUMAR SHUKLA
HON'BLE MEMBER (TECHNICAL)

SHRI KISHORE VEMULAPALLI
HON'BLE MEMBER (JUDICIAL)

PRESENT:

For the Creditor : Ms. Aishwarya Ch., Adv.
For the Personal Guarantor : Mr. Bikki Raveendra Babu, Adv.
Resolution Professional : Mr. Murali Mohan Chevuturi

ORDER

Order pronounced and recorded *vide* separate sheets. The Application bearing IA (IBC)/96/2025 filed by the Creditor is dismissed and Applications bearing IA (IBC)/102/2025 and IA (IBC)/103/2025 filed by the Personal Guarantor are allowed and disposed of, and Applications bearing IA (IBC)/105/2025 and IA (IBC)/164/2025 filed by the Creditor are allowed and disposed of. **CP (IB)/1/95/AMR/2023** filed by the 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)

CP (IB)/1/95/AMR/2023

Under Sections 95 and 60(5) 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 Debtors) Rules, 2019 read with Ruled 11, 40 and 55 of the National Company Law Tribunal Rules, 2016

BETWEEN:

Bank of Maharashtra

#4-3-448 to 460 & 465, 1st Floor,
Vinoothna Pittie's Majesty, Gopalbagh,
Near Bank Street, Koti,
Hyderabad-500001.

..... Creditor

AND

1. Shri Sridhar Cherukuri

8-2-293/82/A/61/1, Plot No. 60 & 61A,
Road No. 1 & 5, Jubilee Hills Co-operative Society,
Hyderabad-500033.

..... Personal Guarantor

2. Transstroy (India) Limited

5-91-25, 4th line, Lakshmipuram,
Guntur, Andhra Pradesh-522007.

..... Corporate Debtor

IN THE MATTER OF INTERLOCUTORY APPLICATION NOS. 96/2025, 105/2025 &164/2025:

BETWEEN:

Bank of Maharashtra

#4-3-448 to 460 & 465, 1st Floor,
Vinoothna Pittie's Majesty, Gopalbagh,
Near Bank Street, Koti,
Hyderabad-500001.



..... Creditor

AND

1. Shri Sridhar Cherukuri

8-2-293/82/A/61/1, Plot No. 60 & 61A,
Road No. 1 & 5, Jubilee Hills Co-operative Society,
Hyderabad-500033.

..... Personal Guarantor

2. Transstroy (India) Limited

5-91-25 4th line Lakshmipuram,
Guntur, Andhra Pradesh-522007.

..... Corporate Debtor

**IN THE MATTER OF INTERLOCUTORY APPLICATION NOS.102/2025 AND
103/2025:**

BETWEEN:

Shri Sridhar Cherukuri

8-2-293/82/A/61/1, Plot No. 60 & 61A,
Road No. 1 & 5, Jubilee Hills Co-operative Society,
Hyderabad-500033.

..... Personal Guarantor

AND

1. Bank of Maharashtra

#4-3-448 to 460 & 465, 1st Floor,
Vinoothna Pittie's Majesty, Gopalbagh,
Near Bank Street, Koti,
Hyderabad-500001.

..... Creditor

2. Transstroy (India) Limited

5-91-25, 4th line, Lakshmipuram,
Guntur, Andhra Pradesh-522007.

..... Corporate Debtor

Order delivered on: 26.09.2025

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

Parties/Counsels Appearance:

For Creditor : Ms. Aishwarya Ch., Adv.

For Personal Guarantor : Mr. Bikki Raveendra Babu, Adv.

Resolution Professional : Mr. Murali Mohan Chevuturi



ORDER
PER: BENCH

The Company Petition bearing No. CP (IB)/1/95/AMR/2023 (hereinafter referred to as the “CP 1/2023” or “Petition”) has been is filed, vide Diary No. 1452, on 19.12.2022 (e-filed on 20.12.2022) by the Bank of Maharashtra (hereinafter referred to as the “**Creditor**”) through its Deputy Zonal Manager & AGM, Zonal Office Mr. Abhishek Dubey (who is having authorisation letter dated 07.12.2022) 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 Mr. Sridhar Cherukuri (hereinafter referred to as the “**Personal Guarantor**”), who is the Personal Guarantor of the loan accounts of M/s. Transstroy (India) Limited (hereinafter referred to as the “**Corporate Debtor**” or “**Principal Borrower**”) and who has extended the Personal Guarantee to the Creditor.

2. The Corporate Debtor is a Company incorporated under the Companies Act, 1956 having its registered office at 5-91-25, 4th line, Lakshmipuram, Guntur-522007, which is situated in the state of Andhra Pradesh. Further, the Corporate Debtor has been admitted into Corporate Insolvency Resolution Process vide this Adjudicating Authority order dated 27.09.2024 in Company Petition bearing No. CP(IBC)/35/7/2022. Therefore, the present Petition lies under the jurisdiction of this Adjudicating Authority as per provisions of section 60(1) and 60(2) of the IBC.



FACTS OF THE CASE:

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

- (i) The Creditor vide sanction letter dated 23.09.2013 bearing reference no. AV2/ADV/TRANSSTROY/2013-14 (annexed at page 15 of the Petition) had sanctioned a working capital facility consisting of cash credit limit of Rs.40 crores along with bank guarantee limit of Rs.40 crores and letter of credit of Rs.40 Crores.
- (ii) The total amount payable is Rs.253,06,99,297.79, including a principal amount of default payable of Rs.19,61,48,926.00 along with a total interest amount of Rs.233,45,50,371.79 calculated until 23.08.2022.
- (iii) The Corporate Debtor had failed to honour its obligations towards the Creditor. Accordingly, the loan account of the Corporate Debtor was declared as 'non-performing assets' (hereinafter referred to as the "NPA") as on 27.03.2015.
- (iv) The Personal Guarantor executed a Guarantee Deed on 14.03.2014 (copy annexed at page 25 of the Petition) to secure the financial assistance granted by the Creditor to the Corporate Debtor, vide which the Personal Guarantor undertook to pay to the Creditor upon demand forthwith, without demur or protest all the amounts payable by the Corporate Debtor. The Personal Guarantor also undertook to indemnify and keep the Creditor indemnified against all losses, costs, claims, damages, whatsoever, which the Creditor may suffer, pay, or incur by reason of or in connection with any such default on the part of the Corporate Debtor.



- (v) The Guarantee Deed also provides that a certificate in writing signed by an official of the Creditor shall be conclusive evidence against the Personal Guarantor for the amount due to the Financial Creditor. The Guarantee Deed executed by the Personal Guarantor is irrevocable, independent, coextensive and continuing guarantee.
 - (vi) The Personal Guarantor had failed to pay the outstanding amount and the Creditor, while invoking the provisions of the IBC vide Form B Demand Notice dated 15.06.2022 through Speed Post (receipt annexed along with the Form C Petition), issued a notice to the Personal Guarantor, requesting to honour the terms of Guarantee Deed.
4. The Personal Guarantor vide Diary No.3049 dated 26.04.2023, filed the Counter contending as under:
- (i) It is averred by the Creditor that Form-B Demand Notice dated 15.06.2022 was issued to the Personal Guarantor requesting him to honour the terms of the Guarantee Deed, however, no such Demand Notice was served on the Personal Guarantor at all. The Creditor choose to file only copy of the Demand Notice at pages 38-41 of the Petition, but did not file acknowledgement to show that the Demand Notice in Form-B was issued and served to the Personal Guarantor. In the absence of postal acknowledgement, it can only be said that Demand Notice was not served upon Personal Guarantor. In the absence of service of Demand Notice, there is no cause of action for the Creditor to initiate Insolvency Resolution Process against the Personal Guarantor invoking section 95 of the IBC read



with Personal Guarantors Rules. Hence, this Petition is liable to be dismissed.

- (ii) The address of the Personal Guarantor given by the Creditor in this Petition is the erstwhile address of the Corporate Office of the Corporate Debtor i.e., 8-2-293/82/A/61/1, Plot No.60 & 61A, Road No.1 & 5, Jubilee Hills Co-operative House Building Society Ltd., Hyderabad-500033. The said building was acquired by the Hyderabad Metro Rail Co-operation for the purpose of construction of Metro Rail and subsequently the said building was demolished in 2015 itself. The Creditor being the mortgagee of a portion of the building, claimed part of the compensation from Metro Rail Authority. Hence, it is within the knowledge of the Creditor that the said building to which the demand notice purported to have sent was not in existence in the year 2022. This clearly shows the malicious intention of the Creditor in sending the Demand Notice to the above non-existing address to harass the Personal Guarantor in order to file this frivolous Petition.
- (iii) The Creditor further attempted to send the Petition through email to consultanttty@gmail.com, which the Personal Guarantor had never used nor even heard of prior to this proceeding. The deliberate and conscious mention of this incorrect email ID in the NCLT filing system caused difficulties to the Personal Guarantor in uploading documents through the official NCLT e-filing portal. The Creditor had full knowledge of the correct residential address of the Guarantor as mentioned in OA No.1145 of 2016 filed before the Debts Recovery Tribunal (hereinafter referred to as the “DRT”), where the Guarantor was shown to be residing at H. No. 8-2-684/2, Flat No. 106, Rock Level Apartments, Gulmohar Avenue, Road No.2,



Banjara Hills, Hyderabad-500033. But purposefully in the Petition, wrong address is mentioned.

- (iv) In case the Demand Notice sent to the Personal Guarantor as required by Clause (b) of Sub-Section 4 of Section 95 of IBC read with Rule 7(1) of the Rules is returned unserved, it is the mandatory duty of the Creditor to send the notice again or get it affixed at the outer door or some other conspicuous part of the house or building in which the Personal Guarantor ordinarily resides or carries on business or personally works for gain. The Creditor did not choose to place any material on record to show that it has complied with the proviso to Rule 3(1)(g) of the Personal Guarantors Rules.
- (v) In view of Rule 3(i)(g) of Personal Guarantors Rules, the General Clauses Act cannot be invoked. Further, the deemed service provided under the General Clauses Act, can be made applicable only in case when the postal cover is sent to the registered address/ to the address, where the addressee ordinarily resides or works for gain. In this case, the Demand Notice has not been sent to the address, where the Personal Guarantor is residing.
- (vi) In the absence of complete address in the Personal Guarantee document, the Creditor ought to have sent Demand Notice to the address mentioned in the OA No.1145 of 2016, which is very much available with the Creditor. Instead of doing so, the Creditor sent the Demand Notice to the address, which is not in existence.
- (vii) Further, Section 95(4) of the IBC provides that service of notice of demand is a pre-condition and that 14 days after the service of Demand Notice only, the cause of action accrue to the Creditor to file an Petition under section



95(1) of the IBC. In the absence of service of Demand Notice and in view of violation of Rule 3(i)(g) of the Rules, there is no cause of action for the Creditor to file this Petition.

(viii) Prior to this Petition, the Bank of Baroda filed a similar Petition under section 95 against the Personal Guarantor vide CP(IB) No. 71/95/AMR/ 2021 and the same was withdrawn by Bank of Baroda on 09.03.2022 on the ground that that the Demand Notice was not served on the Personal Guarantor. Furthermore, the Personal Guarantor has also challenged the constitutional validity of Sections 95 to 100 of the IBC by filing WP (C) No. 361/2023 under Article 32 of the Constitution of India before the Hon'ble Supreme Court, which is pending adjudication.

(ix) Since, no Demand Notice was served on the Personal Guarantor, the Petition needs to be dismissed.

5. This Adjudicating Authority, vide its Order dated 08.12.2023, appointed Mr. Murali Mohan Chevuturi (Reg. No. IBBI/IPA-003/00307/2020-2021/13464) as the Resolution Professional (hereinafter referred to as the “**RP**”) with the direction to submit his report under Section 99 of the Code.

REPORT OF RP:

6. In compliance of this Adjudicating Authority order dated 08.12.2023, the RP, vide Diary No. 20, filed IA(IBC)/34/2024 (hereinafter referred to as the “**IA 34/2024**”) on 08.01.2024 to place on record the RP report under Section 99 of the Code. The contents of the RP's report are extracted below:

(i) The Corporate Debtor has availed various credit facilities from the Creditor aggregating Rs.120 Crore. The Personal Guarantor along with others jointly



and severally provided personal guarantee to secure the said loans sanctioned by the Creditor to the Corporate Debtor by executing prescribed loan documents, which include Guarantee Deed dated 14.03.2014.

- (ii) The Creditor preferred to initiate insolvency resolution process against the Personal Guarantor of the Corporate Debtor and filed CP 1/2023 under section 95 against the Personal Guarantor.
- (iii) This Adjudicating Authority vide its Order dated 08.12.2023, while declaring Interim moratorium, appointed him as RP with directions to file the RP report.
- (iv) The report recommends for acceptance of the Petition for initiating PIRP against the Personal Guarantor to the Corporate Debtor for recovery of unpaid dues aggregating to Rs.223,08,66,402.79 with interest up to 23.08.2022 and pass appropriate order under section 100 of IBC for admission of the Petition on the following grounds:
 - (a) The Petition filed by the Creditor is complete, in order and comply with the requirements of Section 95 of IBC read with Rule 7 the Personal Guarantors Rules.
 - (b) The existence of debt and default are evidenced by the documents filed by the Creditor.
 - (c) The amount of default is in excess of Rs.1,00,00,000/-, which satisfies the provisions under section 4(1) of the IBC.
 - (d) The Personal Guarantor was given an opportunity to repay the amount in default and claimed by the Creditor as unpaid, by serving



a Demand Notice on 14.06.2022. However, the Personal Guarantor failed to repay the amount within 14 days provided thereof.

- (e) The RP sought details of repayment made, if any, into the accounts of the Corporate Debtor, after receipt of Demand Notice dated 15.06.2022, which did not evoke any response. Thus, the Personal Guarantor has committed the default in repayment of the dues to an extent of Rs.223,08,66,402.79 with interest up to 23.08.2022.
- (f) The Personal Guarantor herein is liable jointly and severally to discharge the un-discharged liability of the Corporate Debtor in terms of Section 43 of Indian Contract Act 1872, which reads as
- “43. Any one of joint promisors may be compelled to perform- When two or more persons make a joint promise, the promise may, in the absence of express agreement to the contrary, compel any one or more of such joint promisors to perform the whole of the promise.”
- (g) The relevant evidence of such default or non-payment of debt is evidenced through the email communication dated 15.12.2023 sent by the Creditor to the RP, advising that no repayments were received into the accounts of the Corporate Debtor, after the Demand Notice dated 14.06.2022.
- (h) The prescribed fee of Rs. 2,000/- as per Rule 7(2) has been paid. Therefore, the requirements set out in Section 95(6) are satisfied.
- (i) The compliances under section 95 and 99 of the IBC are as under:

Sec. Ref.	Section	Compliance
95.	Application by creditor to initiate insolvency resolution process. -	
1	A creditor may apply either by himself, or jointly with other creditors, or through a resolution professional to the Adjudicating Authority for initiating an insolvency resolution process under this section by submitting an application.	Bank of Maharashtra, SAM Branch, Koti, Hyderabad, the Financial Creditor, applied to the Adjudicating Authority for initiating personal insolvency resolution process under Section 95.
2	A creditor may apply under sub-section (1) in relation to any partnership debt owed to him for initiating an insolvency resolution process against (a) any one or more partners of the firm; or (b) the firm.	Not Applicable
3	Where an application has been made against one partner in a firm, any other application against another partner in the same firm shall be presented in or transferred to the Adjudicating Authority in which the first mentioned application is pending for adjudication and such Adjudicating Authority may give such directions for consolidating the proceedings under the applications as it thinks just.	Not Applicable
4	An application under sub-section (1) shall be accompanied with details and documents relating to-	Application submitted by the Financial Creditor by enclosing the following documents.
4(a)	The debts owed by the debtor to the creditor or creditors submitting the application for insolvency resolution process as on the date of application;	Guarantee Deed dated 14.03.2014 (Page No. 22 to 29 of the application)
4(b)	the failure by the debtor to pay the debt within a period of fourteen days of the service of the notice of demand; and	Not paid the dues as demanded in the demand notice.
4(c)	relevant evidence of such default or non-repayment of debt.	In response to the email sent by Resolution Professional (Annexure- I), the Financial Creditor advised partial payment of Rs 10,36,83,969/ vide email dated 15/12/2023 in response to the email sent by the Resolution Professional (Annexure II). Hence the debt claimed by the creditor remains



		unpaid.
5	The creditor shall also provide a copy of the application made under sub-section (1) to the debtor.	Copy of the application made by the Financial Creditor was provided to the personal guarantor by Speed Post vide Postal Receipt No. EN043994865IN dated 08/02/2023 (Annexure IV)
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.	Application seeking initiation of insolvency resolution process against the Personal Guarantor was made in Form C, as suggested in Rule 7 of the and requisite fee of Rs 2,000/- was paid through Bharatkosh on 28/10/2022.
7	The details and documents required to be submitted under sub-section (4) shall be such as may be specified.	Documents submitted along with the application are listed in the Index. All the required documents have been submitted by the Financial Creditor. (Page No. 12 to 41 of the Application)
99.	Submission of report by resolution professional. -	
(1)	The resolution professional shall examine the application referred to in section 94 or section 95, as the case may be, within ten days of his appointment, and submit a report to the Adjudicating Authority recommending for approval or rejection of the application.	Application filed under section 95 has been examined and the report referred to herein is being submitted within the time stipulated therefor.
(2)	Where the application has been filed under section 95, the resolution professional may require the debtor to prove repayment of the debt claimed as unpaid by the creditor by furnishing.	The Personal Guarantor has not responded to the Notice sent by the RP dated 15/12/2023. The relevant email dated 15/12/2023 is enclosed (Annexure- III).
(3)	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.	Not Applicable
(4)	For the purposes of examining an application, the resolution professional 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 resolution professional, may provide such information.	The Resolution Professional found that the information available in the application is sufficient.
(5)	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.	Not Applicable
(6)	The resolution professional shall examine the application and ascertain that -	a) The Resolution Professional examined the application filed by the Financial Creditor under section 95 and found that the application satisfied the



	(a) the application satisfies the requirements set out in section 94 or 95; (b) the applicant has provided information and given explanation sought by the resolution professional under sub-section (4).	requirements under section 95 of the IBC 2016 and applicant (Financial Creditor) has provided the required information in the application. b) The applicant has prevised all the information that was called for by the Resolution Professional.
(7)	After examination of the application under sub-section (6), he may recommend acceptance or rejection of the application in his report.	After examination of the application, the Resolution Professional recommends for acceptance of the application through this report.
(8)	Where the resolution professional finds that the debtor is eligible for a fresh start under Chapter II, the resolution professional shall submit a report recommending that the application by the debtor under section 94 be treated as an application under section 81 by the Adjudicating Authority.	Not Applicable
(9)	The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report under sub-section (7).	Furnished below.
(10)	The resolution professional shall give a copy of the report under sub-section (7) to the debtor or the creditor, as the case may be.	Copy of the report will be given to the creditor and to the Personal Guarantor.

7. This Adjudicating Authority vide its order dated 24.01.2024 has taken on record the RP report and disposed of the IA 34/2024 with the direction to serve a copy of the RP report to the Personal Guarantor for filling the objections, if any. .

OBJECTIONS BY PERSONAL GUARANTOR TO RP's REPORT:

8. The Personal Guarantor vide Diary No.1055 dated 26.07.2024, filed objections to the RP Report, substantially reiterating the objections already raised in the Petition and has further submitted as follows:



- (i) The recommendation of the RP is against the statutory provisions, in violation of the Guarantee Deed dated 14.03.2014, principles of natural justice and without application of mind.
- (ii) The Guarantee Deed is not a document 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 (if registration is required), but the Guarantee Deed is neither stamped nor registered. Consequently, the document cannot be read in evidence, and is therefore not enforceable.
- (iii) The RP without verifying, whether the Demand Notice was served on the Personal Guarantor as provided under the Code and Rules stated that the Creditor has furnished the proof of service of Demand Notice. In fact, no such postal acknowledgment is filed by the RP along with his report.
- (iv) The RP in his report stated that the Personal Guarantor was given an opportunity to repay the amount in default and claimed by the Creditor as unpaid by serving a Demand Notice on 14.06.2022. Whereas the Creditor in the Petition stated that Demand Notice was sent on 15.06.2022 and there is no proof of service enclosed.
- (v) In the absence of service of Demand Notice, there is no cause of action for the Creditor to file this Petition, and on that ground alone, the Petition must be rejected. However, the RP recommended for the admission of Petition, which does not merit acceptance by this Adjudicating Authority.
- (vi) The RP did not send any notice to the Personal Guarantor seeking for details of repayment and further information. The mail annexed to his report



is sent to the Mail ID 'consultanttty@gmail.com', which is not the Mail ID of Personal Guarantor herein at any point of time. Thereby, RP violated 99(2) and 99(4) of the IBC.

- (vii) The RP has failed to apply his mind to the defences raised in the Counter filed in the Petition. The RP is required to enquire into each of the defences and render a finding, as to whether any or all of the defences(s) raised are tenable or not, and if not, why. However, the RP has completely abdicated his duty and proceeded to recommend initiation of resolution process against the Personal Guarantor on the presumption of non-repayment of debt.
- (viii) Chapter III i.e., Sections 94 to 187 of the IBC came into force with effect from 01.12.2019. The ***Hon'ble Supreme Court in the matter of Dilip B Jiwrajka vs. Union of India and Others, W.P. (Civil) No. 1281/2021*** vide its order dated 09.11.2023 in para 84 has inter alia held that the IBC cannot be held as operating in a retroactive manner, so as to violate Article 14 of the Constitution.
- (ix) The Guarantee Deed in this case is dated 14.03.2014. Therefore, Chapter III of the IBC that consists of sections 94 to 187 of the IBC came into force with effect from 01.12.2019 cannot be given retrospective effect or retroactive in nature to the Guarantee Deed executed on 14.03.2014. Further, even in the 'Master Circular on Wilful Defaulters' issued by Reserve Bank of India (hereinafter referred to as the "RBI") on 01.07.2015, the Personal Guarantee Deeds that were executed prior to 09.09.2014 are exempted.



9. During the hearing dated 25.03.2025, this Adjudicating Authority raised a query as to why the Corporate Debtor is made a party in the Petition, since proceedings under Section 95 of the IBC is against the Personal Guarantor only and the Counsel for the Creditor sought one week's time to amend the Cause Title of the Petition, which was granted and the Counsel for the Creditor was directed to amend the Cause Title of the Petition within a period of one week.

IA(IBC)/96/2025:

10. In compliance of the above Order, the Creditor vide Diary No. 533 on 02.04.2025 (e-filed on 27.03.2025), filed Interlocutory Application bearing No. IA(IBC)/96/2025 (hereinafter referred to as the "IA 96/2025) under section 60(5) of the IBC read with Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter referred to as the 'NCLT Rules') seeking to permit the Creditor to amend the Cause Title of the CP 1/2023 for removing the Corporate Debtor from the array of parties. It is stated in the IA 96/2025 that the Corporate Debtor, who is the Principal Borrower in the present matter, was made as Respondent No. 2, Proforma Party. However, as the provisions of Section 95 does not permit the Creditor to make the Principal Borrower a party to the Petition, this Adjudicating Authority vide order dated 25.03.2025 permitted the Creditor to take necessary steps to rectify the Petition by removing Respondent No. 2 i.e., the Corporate Debtor from the array of parties. Further, no prejudice will be caused to the Personal Guarantor herein, if the IA 96/2025 is allowed. However, the Creditor will be put to irreparable loss, if the IA 96/2025 is not allowed, and the abovementioned omission is bona fide and the same does not change the nature of the main Petition.



11. The Personal Guarantor as well as the Corporate Debtor have neither filed the Counter to the IA 96/2025 nor have raised any objection to amend the Cause Title of the CP 1/2023 by removing the Corporate Debtor from the array of parties.

12. In the present case, the Creditor has arrayed the Corporate Debtor namely Transstroy (India) Limited as 2nd Respondent as Proforma Respondent. The mere continuation of its name in the cause title does not have any adverse effect to any of the parties to the proceedings. In view of the forgoing, we are not inclined to order deletion of the 2nd Respondent from the cause title. Accordingly, **IA 96/2025 is dismissed and disposed of.**

13. During the hearing held on 07.04.2025, this Adjudicating Authority observed that the Creditor filed the Petition without placing on record any document evidencing invocation of the guarantee, which is a mandatory requirement to establish the cause of action for initiating proceedings against the Personal Guarantor. The Counsel for the Creditor sought one week's time to file copy of notice issued under section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the "**SARFAESI**").

IA (IBC)/105/2025:

14. Accordingly, the Financial Creditor vide Diary No. 729 on 23.04.2025 (e-filed on 22.04.2025) filed Interlocutory Application bearing No. IA(IBC)/105/2025 (hereinafter referred to as the "**IA 105/2025**") under Section 60(5) of the IBC read with Rule 11 of NCLT Rules, seeking to take on record the (i) copy of Guarantee Deed dated 25.09.2013 executed by Personal Guarantor in favour of the Creditor, (ii) copy of the notice dated 25.02.2016 issued under Section 13(2) of the SARFAESI, (iii) copy of the



Order dated 02.07.2019 in OA No. 1184/2016 and (iv) copy of tracking receipt of Form B Demand Notice dated 15.06.2022. It is stated in the IA 105/2025 that:

- (i) The Personal Guarantor extended guarantee against the loan facilities availed by Corporate Debtor in favour of the Creditor vide Guarantee Deed dated 25.09.2013, and thereafter executed another comprehensive Guarantee Deed dated 14.03.2014 in favour of the entire consortium of lenders being led by Canara Bank (Lead Bank). The Creditor filed the Guarantee Deed dated 14.03.2014 executed by Personal Guarantor in favour of the entire consortium of lenders, in which the Creditor is also a member at the time of filing the CP 1/2023 and the Creditor through the present IA seeks to bring on record the previous Guarantee Deed dated 25.09.2013, which was executed prior to the Guarantee Deed dated 14.03.2014, to assist this Adjudicating Authority in better adjudication of the matter. The said Guarantee Deed dated 25.09.2013 was not filed earlier, as the Personal Guarantor subsequently executed another comprehensive Guarantee Deed in favour of all the Members of the Consortium as a whole. However, the Creditor is now seeking the leave of this Adjudicating Authority to bring on record the previous Guarantee Deed as well in support of the relief sought by the Creditor.
- (ii) The Creditor further sought to bring on record the notice dated 25.02.2016 issued by the Creditor to the Personal Guarantor under Section 13(2) of the SARFAESI calling upon the Personal Guarantor being the guarantor of the Principal Borrower to repay its entire dues.
- (iii) The guarantee furnished by the Personal Guarantor was invoked through the notice dated 25.02.2016 and since the Personal Guarantor failed to pay



the demanded amount, the Creditor proceeded to initiate recovery proceedings against Principal Borrower and also the Personal Guarantor herein. Accordingly, OA No. 1184/2016 was filed by the Creditor before the Hon'ble DRT-I, Hyderabad against the Personal Guarantor and the Corporate Debtor. Upon hearing the contentions of the parties therein, the Hon'ble DRT vide order dated 02.07.2019, allowed OA No. 1184/ 2016 and the Personal Guarantor herein was directed to pay an amount of Rs.111,81,81,881/- along with interest @ 15.4% to the Creditor herein. In pursuance of the said Order dated 02.07.2019, a Recovery Certificate was issued against the Personal Guarantor, which is already on record before this Adjudicating Authority and in order to ensure that the entire set of documents governing the present litigation is placed on record, the Creditor seeks to bring on record the Order dated 02.07.2019 in OA No. 1184/2016 passed by the Hon'ble DRT-I, Hyderabad also on record for better adjudication of the matter and it is not a disputed document.

- (iv) The above mentioned 3 documents are essential for effective adjudication of the matter and since will assist the Creditor in demonstrating, as to how the Personal Guarantor failed to fulfil his obligations under the Guarantee Deed(s) despite its invocation way back in the year 2016 itself and to adhere to his payment obligations despite suffering an Order from the DRT.
- (v) The above said documents are admitted documents and have already been considered by another forum prior to passing the Order dated 02.07.2019, and in the event, the said documents are taken on record in the present matter, no prejudice would be caused to the Personal Guarantor herein. On



the contrary, if the same are not taken on record, the Creditor herein will suffer irreparable loss.

- (vi) In addition to the above 3 documents, the Creditor further placed the tracking receipt with respect to the demand notice dated 15.06.2022 issued by the Creditor to the Personal Guarantor under Rule 7(1) of the Personal Guarantor Rules, and the said tracking receipt could not be attached earlier, as the receipt was misplaced, and upon filing the Petition, the Creditor was able to trace the tracking receipt, and as such the Creditor is seeking to place the same on record for the perusal of this Adjudicating Authority.
- (vii) Therefore, the Creditor prays to take on record the documents annexed along with the IA 105/2025 and to permit the Creditor to rely upon such documents at the time of hearing of the CP 1/2023 in the interest of justice.

15. The Personal Guarantor and Corporate Debtor have neither filed the Counters nor objected the IA 105/2025 for taking on record the above-mentioned additional documents.

16. After careful consideration of the documents, we are of the considered view that in the interest of justice, the additional documents placed by the Creditor in the IA 105/2025 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 filed by the Creditor in the IA 105/2025 are taken on record and the **IA (IBC)/105/2025 is hereby allowed and disposed of.**

**IA (IBC)/102/2025:**

17. The Personal Guarantor vide Diary No. 733 on 23.04.2025 (e-filed on 21.04.2025), filed Interlocutory Application bearing No. IA(IBC)/102/2025 (hereinafter referred to as the “**IA 102/2025**”) under Rule 55 read with Rule 11 of the NCLT Rules, seeking to take on record the additional pleas by way of additional Counter, which are summarised below:

- (i) The Creditor initiated PIRP Process against the Personal Guarantor under Section 95 of the IBC even without issuing any notice of invocation of Guarantee Deed dated 14.03.2014 against the Personal Guarantor and as such this CP 1/2023 is not maintainable.
- (ii) The Demand Notice dated 15.06.2022 and Section 13(2) notice dated 25.02.2016 cannot be treated as invocation of Guarantee Deed dated 14.03.2014 against the Personal Guarantor.
- (iii) Section 13(2) notice was issued to the Personal Guarantor in the capacity of Chairman & Managing Director, but not as the Personal Guarantor.
- (iv) The proceedings under Section 95 of IBC initiated against the Personal Guarantor in CP 1/2023 are barred by limitation.
- (v) The above said pleas were not specifically taken in the Counter filed in CP 1/2023 in spite of exercise of due diligence, but being legal pleas based on material available on record, can be taken at any stage of the proceedings and these pleas are not going to cause prejudice to the interest of the Creditor.
- (vi) The Personal Guarantor prays to dismiss CP 1/2023, as the Creditor even without giving any notice of invocation of Guarantee initiated PIRP against



the Personal Guarantor basing upon Demand Notice dated 15.06.2022, which is not at all served on the Personal Guarantor and there is no mention of invocation of Guarantee either in the Demand Notice dated 15.06.2022 or in Section 13(2) Notice dated 25.02.2016 issued under the SURFAESI and the initiation of PIRP against the Personal Guarantor is barred by limitation.

18. The Financial Creditor neither filed its Counter nor raised any objection to take on record the additional counter filed by the Personal Guarantor along with IA 102/2025.

19. After careful consideration of the documents, we are of the considered view that the additional pleas as sought to be introduced by way of an additional counter by the Personal Guarantor in the IA 102/2025 are necessary in the interest of justice and therefore, needs to be taken on record for the proper adjudication of the matter. In view of the above, the additional Counter filed along with IA 102/2025 is taken on record, and **IA (IBC)/102/2025 is hereby allowed and disposed of.**

IA (IBC)/103/2025:

20. The Personal Guarantor vide Diary No. 734 on 23.04.2025 (e-filed on 22.04.2025 filed) Interlocutory Application bearing No. IA(IBC)/103/2025 (hereinafter referred to as the "**IA 103/2025**") under Rule 40 read with Rule 11 of NCLT Rules, seeking to take on record the additional documents on record as additional evidence on behalf of the Personal Guarantor. It is stated in the IA 103/2025 that:

- (i) The Creditor filed the Petition under Section 95 of the IBC against the Personal Guarantor on the basis of Personal Guarantee Deed dated 14.03.2014.



- (ii) The Creditor alleged in the Petition that Demand Notice dated 15.06.2022 was sent to the Personal Guarantor at the address 8-2-293/82/A/61/1, Plot No.60 & 61A, Road No.1 and 5, Jubilee Hills Co-operative Society, Jubilee Hills, Hyderabad, which is the then Corporate Office of the Corporate Debtor. The above said building was acquired by the Hyderabad Metro Rail Limited for the purpose of laying Metro Rail and the said building was demolished in April, 2016 and the said fact was very much within the knowledge of the Creditor. In fact, the Creditor in O.A. 1184/2016 claimed compensation amount for the said building on the ground that the said building was mortgaged to the Creditor.
- (iii) The order in O.A. 1184/2016 clearly shows that the Creditor claimed compensation in respect of aforesaid building at Hyderabad. The copy of notice dated 25.02.2016 issued by the Creditor under Section 13(2) of SARFAESI clearly show that there is no invocation of Guarantee Deed dated 14.03.2014.
- (iv) Further, even from the date of order in O.A. 1184/2016, the proceedings against Personal Guarantor in CP 1/2023 are clearly barred by limitation.
- (v) Moreover, the copy of letter of the Corporate Debtor dated 20.02.2016 addressed to the Principal Secretary, Government of Telangana and copy of letter dated 04.03.2016 of the Corporate Debtor addressed to the Creditor clearly show that the Creditor has got knowledge about the acquisition of the building and demolition of the building even in the year 2016. Further, the copy of the letter of Corporate Debtor dated 14.03.2016 addressed to the Special Grade Deputy Collector (LAO) Metro Rail Project, GHMC,



Hyderabad clearly establish that the award was passed and the Corporate Debtor requested for reasonable and adequate compensation.

- (vi) To establish the above said facts, the following documents are essential for arriving at just decision in this case:
- (a) Copy of order dated 02.07.2019 made in O.A. 1184/2016 on the file of DRT- I, Hyderabad.
 - (b) Copy of notice dated 25.02.2016 issued by the Creditor under section 13(2) of SARFAESI.
 - (c) Copy of the letter dated 20.02.2016 of the Corporate Debtor addressed to the Principal Secretary, Government of Telangana.
 - (d) Copy of the letter dated 04.03.2016 of the Corporate Debtor addressed to the Bank of Maharashtra/ Financial Creditor.
 - (e) Copy of the letter dated 14.03.2016 of the Corporate Debtor addressed to the Special Grade Deputy Collector (LAO) Metro Rail Project, GHMC, Hyderabad.
- (vii) This Adjudicating Authority is empowered to receive the above said documents under Rule 40 of NCLT Rules for just decision of the case, and the ***Hon'ble Supreme Court in 'Dena Bank Vs Siva Kumar Reddy' (Civil Appeal No.1650/2020)*** held that additional documents can be received at any stage of the proceedings.

21. The Financial Creditor has neither filed the Counter nor objected for taking on record the above-mentioned additional documents.

22. After careful consideration of the documents, we are of the considered view that in the interest of justice, the additional documents placed by the Personal Guarantor in



the IA 103/2025 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 filed by the Personal Guarantor in the IA 103/2025 are taken on record and the **IA (IBC)/103/2025 is hereby allowed and disposed of.**

23. During the hearing held on 28.04.2025, the Counsel for the Creditor sought and was granted two weeks' time to file proof of service of notice served on the Personal Guarantor and paper publication issued under Section 13(2) under SARFAESI.

IA (IBC)/164/2025:

24. The Creditor vide Diary No. 1101 on 10.06.2025 (e-filed on 09.06.2025), Interlocutory Application bearing No. IA(IBC)/164/2025 (hereinafter referred to as the "**IA 164/2025**") under Section 60(5) of the IBC read with Rule 11 of NCLT Rules seeking to take on record the letter dated 01.03.2016 issued by the Personal Guarantor to the Creditor acknowledging the Section 13(2) Notice dated 25.02.2016. It is stated in the IA 164/2025 that:

- (i) The Personal Guarantor herein vide letter dated 01.03.2016, as a response to Section 13(2) Notice dated 25.02.2016, acknowledged the notice and sought for further time from the Creditor to repay entire dues of the Corporate Debtor, which indicates the acknowledgment of issuance of section 13(2) notice.
- (ii) This document is essential for effective adjudication of the matter and will assist the Creditor in demonstrating, as to how Personal Guarantor failed to fulfil his obligations under the Guarantee Deed(s) despite its invocation way back in the year 2016 itself and to adhere to his payment obligations despite suffering an Order from another Tribunal.



- (iii) The above said documents are admitted documents and have already been considered by another forum prior to passing the Order dated 02.07.2019 and in the event the said documents are taken on record in the present matter, no prejudice would be caused to the Personal Guarantor herein. On the contrary, if the same is not taken on record, the Creditor will suffer irreparable loss.
- (iv) The Creditor be permitted to rely upon the above document at the time of hearing of the CP 1/2023 in the interest of justice.

25. The Personal Guarantor vide Diary No. 1161 dated 17.06.2025 filed the Counter contending that the IA 164/2025 is nothing, but another attempt made by the Creditor to fill the lacuna of non-service of Section 13(2) notice issued under SARFAESI. It is further submitted that:

- (i) The Creditor did not issue or serve Section 13(2) notice on the Personal Guarantor in his capacity as Personal Guarantor and the contents of section 13(2) notice does not lead to a conclusion that the Personal Guarantor has been asked to discharge his liability if any, since there is no such demand in section 13(2) notice filed by the Creditor along with IA 105/2025.
- (ii) Chapter III of the IBC comprising of Sections 94 to 187 came into force with effect from 01.12.2019 and therefore the Creditor that issued Section 13(2) notice on 25.02.2016, may not have in its contemplation that they intend to proceed against the Personal Guarantor also under the provisions of IBC.
- (iii) The contents of Section 13(2) notice do not lead to a conclusion that the Personal Guarantee Deed dated 14.03.2014 has been invoked. A perusal of reply letter dated 01.03.2016 filed along with the IA 105/2025 shows that



it has not been issued to the Personal Guarantor, and was received by the Chairman and Managing Director of the Corporate Debtor. Therefore, the same cannot be taken as proof of service of Section 13(2) notice on the Personal Guarantor. Further, no document is filed by the Creditor along with the IA 105/2025 or along with this IA 164/2025, to establish that Section 13(2) notice was issued to the Personal Guarantor and it was served on the Personal Guarantor.

- (iv) The address of the Personal Guarantor shown in Section 13(2) notice dated 25.02.2016 is altogether different from the address of the Personal Guarantor given in the Petition.

Address of Personal Guarantor in Section 13(2) notice:

"Mr. Sridhar Cherukuri (Guarantor),
H.No. 8-2-684/2, Flat No.106, Rock Levels Apartments,
Gulmohar Avenue, Road No.2, Banjara Hills, Hyderabad - 500034"

Address of Personal Guarantor in CP 1/2023:

"Shri Sridhar Cherukuri, 8-2-293/82/A/61/1,
Plot No. 60 & 61A, Road No.1 & 5,
Jubilee Hills Co-operative Society, Hyderabad-500033"

Address of Personal Guarantor in the Deed of Guarantee dated 14.03.2014:

"Sri Cherukuri Sridhar,
S/o. Cherukuri Jagannadha Rao,
Aged about 47 years,
Residing at Flat No.202, Sharada Residency,
Road No.12, Banjara Hills, Hyderabad-500034"

- (v) The Creditor claim that Section 13(2) notice was sent to Rock Levels Apartment, Gulmohar Avenue, but not filed proof of dispatch or proof of service. Further, the Creditor claim that Form B Demand Notice was sent to Jubilee Hills Co-operative Housing Society, Jubilee Hills address, but not filed proof of service of Demand Notice in Form B on the Personal Guarantor.



- (vi) The Personal Guarantor never acknowledged the issuance of Section 13(2) notice and the letter dated 01.03.2016 filed by the Personal Guarantor cannot be taken as proof of service of Section 13(2) notice.
- (vii) According to the Financial Creditor, the Recovery Certificate dated 16.11.2019 issued by the Hon'ble DRT, Hyderabad in RC.No.430/2019 in O.A. 1184/2016 is the starting point of limitation. It is settled law that the period of limitation is only 3 years from 16.11.2019. The CP 1/2023 was filed on 20.12.2022 i.e., beyond 3 years from 16.11.2019 and therefore, is clearly barred by limitation. Section 3 of the Limitation Act clearly lays down that every suit instituted, appeal preferred and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence. In fact, Personal Guarantor took the plea of limitation in the additional Counter filed along with IA 102/2025. Therefore, the Petition is barred by limitation and it is not even covered by Covid period, which is from 15.03.2020 to 28.02.2022 and not saved by the judgement of the Hon'ble Supreme Court in SLP (Civil) No. 7940/2017.
- (viii) Therefore, the Personal Guarantor prays to dismiss the IA 164/2025 with exemplary costs for filing an irrelevant document.

26. Upon hearing the Counsels for both sides and on perusal of the record, we are of the considered view that the question as to the evidentiary value, authenticity, and admissibility of the reply letter dated 01.03.2016 by the Personal Guarantor in the capacity of the Chairman & Managing Director of the Corporate Debtor is a matter to be examined at the stage of deciding the CP 1/2023. However, for the limited purpose of deciding whether the document can be taken on record, we finds no impediment in



permitting the Creditor to place reliance on the said document. Accordingly, the reply letter dated 01.03.2016 annexed at Page 8-9 of IA (IBC)/ 164/2025 is taken on record and **IA (IBC)/164/2025 is allowed and disposed of.**

27. During the hearing held on 11.06.2025, it was noted that in compliance with the previous directions of this Adjudicating Authority, the Creditor has filed IA 164/2025 to place on record the reply submitted by the Personal Guarantor as proof of service of the notice issued under Section 13(2) of the SARFAESI, purportedly served on the Personal Guarantor. However, the Counsel for the Personal Guarantor contended that the alleged reply of acknowledgment as notice is not in the individual capacity of the Personal Guarantor, but rather in the capacity of Managing Director of the Corporate Debtor. At this stage, the Counsel for the Creditor was directed to file specific proof of service of the SARFAESI notice under Section 13(2) served on the Personal Guarantor in his individual capacity, well before the next date of hearing.

28. During the hearing held on 20.06.2025, it was observed that no compliance has been made for the order dated 11.06.2025 and the Counsel for the Creditor present stated that they could not trace the said document and therefore sought additional three weeks' time to file specific proof of service of the SARFAESI notice issued under Section 13(2) on the Personal Guarantor in his individual capacity. After hearing the submissions made by the Counsel for the Creditor, this Adjudicating Authority took a lenient view, on the ground that the Creditor is a public sector bank, and granted two weeks' time and in the event of failure of producing the said proof of service, the matter would be decided on merits on the next date of hearing and no further adjournment shall be granted.



29. On the next date of hearing on 28.07.2025, it was noted that the Creditor failed to submit the specific proof of service of the SARFAESI notice in compliance of this Adjudicating Authority Orders dated 11.06.2025 and 20.06.2025.

ANALYSIS AND FINDINGS:

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

31. The first issue that arises before us is ***“Whether the Petition is filed within the period of limitation?”***

- (i) The account of the Corporate Debtor was declared as NPA on 27.03.2015.
- (ii) The Personal Guarantor herein executed the two Guarantee Deeds dated 25.09.2013 (page 10-15 of IA 105/2025) and 14.03.2014 (page 25-29 of the CP 1/2025) in favour of the Creditor.
- (iii) While there is no clause with regard to service of the notice for demand in the Guarantee Deed dated 14.03.2014 filed with the Petition, the clause 17 of the Guarantee Deed dated 25.09.2013 provides that any demand or notice to the Guarantor may be given by hand or post addressed to the Guarantor at their place of business, residence or office. The extract of the above Clause is reproduced below:

17. Any demand or notice to be made or given to the Guarantor/s may be made or given by leaving the same at or posting the same by post in an envelope under Certificate of posting addressed to the Guarantor/s at their place of business, residence or office and every such demand or notice shall be deemed to be received as the case may be at the time at which it is left or at the time at which it should have been delivered in the ordinary course of post.



- (iv) The address of the Personal Guarantor as mentioned in the Guarantee Deeds dated 25.09.2013 and 14.03.2014 are as below:

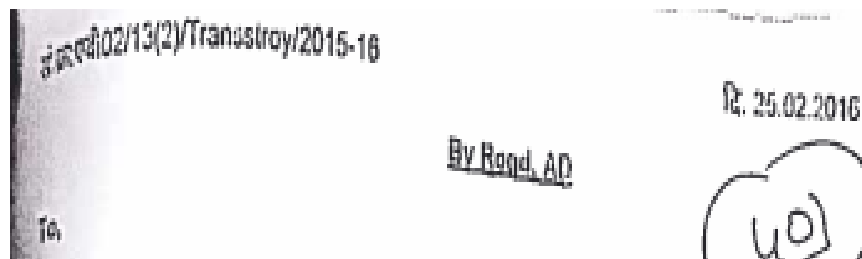
Guarantee Deeds dated 25.09.2013:

(1) Mr. Sridhar Cherukuri aged 46 Years, residing at 8-2-684/2, Flat No.106, Rock Levels Apartments, Gulmohar Avenue, Road No. 2, Banjara Hills Hyderabad 500034

Guarantee Deed dated 14.03.2014

[REDACTED] 2) Sri Cherukuri Sridhar S/o Cherukuri Jagannadha Rao, aged about 47 years residing at Flat No. 202, Sharada Residency, Road No.12, Banjara Hills, Hyderabad-500 034.

- (v) Pursuant to the default committed by the Corporate Debtor, the Financial Creditor issued a notice dated 25.02.2016 under Section 13(2) of the SARFAESI, by registered post, calling upon the Corporate Debtor as well as Personal Guarantors to discharge the entire outstanding liabilities of the Financial Creditor within 60 days from the date of receipt of notice. The said notice was sent to the Personal Guarantor herein at his registered address mentioned in the Guarantee Deed dated 25.09.2013. The extracts of the notice dated 25.02.2016 is reproduced below:



XXXXXXXXXXXXXXXXXXXX

7 Mr. Sridhar Cherukuri, (Guarantor)
H. No. 8-2-684/2, Flat No. 106, Rock Levels Apartments,
Gulmohar Avenue, Road No. 2, Banjara Hills, Hyderabad-500034

Dear Sir/Madam,

Sub: - Notice U/s 13 (2) of Securitization & Reconstruction of Financial Assets and Enforcement of security interest Act -2002

XXXXXXXXXXXXXXXXXXXX



4) That you have failed to adhere to the terms & conditions of sanction and made defaults and accordingly, your account has been classified by the bank as NPA in accordance with the prescribed norms issued by Reserve Bank of India. In spite of our repeated demands, you have not repaid outstanding amount in your account.

5) The undersigned has been duly appointed as authorized official by the Bank in terms of SARFAESI Act 2002

6) That in exercise of the powers, conferred on the bank under the ordinance referred to above, you are, therefore, hereby called upon to repay in full the amount of

1. Term Loan Rs. 102,85,31,192/- (Rs. One hundred and two crores eighty five lakhs thirty one thousand one hundred and ninety two only) plus un applied interest @ 15.45 % (including 2% penal interest) w.e.f 25.02.2016 plus expenses and other charges if any.

2. Cash Credit Rs. 68, 75, 76,859/- (Rs. Sixty eight crores seventy five lakhs seventy six thousand eight hundred and fifty nine only) plus un applied interest @ 15.45 % (including 2% penal interest) w.e.f 25.02.2016 plus expenses and other charges if any

3. Forced loan under LC Rs. 27,73,79,867/- (Rs. Twenty seven crores seventy three lakhs seventy nine thousand eight hundred and sixty seven only) plus un applied interest @ 17.45 % (including 2% penal interest) w.e.f 25.02.2016 plus expenses and other charges if any

4. Forced Loan under LC Rs. 23, 55, 62,414/- (Rs. Twenty three crores fifty five lakhs sixty two thousand four hundred and fourteen only) plus un applied interest @ 17.45 % (including 2% penal interest) w.e.f 25.02.2016 plus expenses and other charges if any

5. Forced Loan under LC Rs. 24, 12, 32,987/- (Rs. Twenty four crores twelve lakhs thirty two thousand nine hundred and eighty seven only) plus un applied interest @ 17.45 % (including 2% penal interest) w.e.f 25.02.2016 plus expenses and other charges if any

as mentioned above within 60 days from the date of receipt of this notice, failing which the bank shall exercise any and/ or all of the powers under sub section 4 of section 13 of the above ordinance, in which case you shall be also liable to pay all costs, charges , expenses and other incidental charges thereof.

- (vi) It is noted that the last address of the Personal Guarantor available with the Creditor is that mentioned in the Guarantee Deed dated 14.03.2014 on which the notice was not served.
- (vii) The Creditor has filed IA 164/2025 to place on record the reply submitted by the Personal Guarantor as proof of service of the notice issued under Section 13(2) of the SARFAESI, purportedly served on the Personal Guarantor. The said letter is reproduced below:




Date: 01.03.2016

The Assistant General Manager,
Bank of Maharashtra,
Sultan bazaar Branch,
Hyderabad,
Dear Sir

Sub:- Notice U/S 13 (2) of Securitization & restructuring of Financial Assets and Enforcement of Security Interest Act-2002.

Ref: Your letter 02/13 (2) Transstroy/2015-16 dated 25.02.2016.

We acknowledge receipt of your above referred letter dated 25.02.2016 on 01.03.20016. While thanking you for your timely support in sanctioning various credits limits to the company In our long association, we wish to inform you the following.

You are aware that the entire Infrastructure industry is going through tough phase for the past three years and our Company is not an exception. In spite of such critical conditions, the Company is executing 18 projects with a total project cost around Rs 22,415.67 Crores. As the Company was executing works for various Central and State Governments including NHAI Road Projects and Polavaram irrigation Project which are of National importance and the said BOT/SPV/EPC projects have to be completed in a time bound period and most of the projects are in execution.

The Company is facing severe liquidity crunch for the past two year due to enormous delay in realisation of receivables from Government Departments. As such the Company could not meet its repayment obligations.

We have already informed in the meeting about the steps taken by the company by way of BG discounting process, shareholder agreement for equity infusion expected to be completed by March 2016, after completion of the above there will be flow of funds; we are working on clearing of over dues and up gradation of account to standard asset. We have also informed that the recalling the advances at this juncture will spoil all the steps taken by the Company for infusion of funds.



9



The Company is trying all possibilities, like raising the equity, and recovering project receivables from ongoing Projects to adjust the over dues from the proceeds of the same. Though it was decided by the consortium member banks in the JLB held on 09.02.2016 to wait up to 20.03.2016 and not to start the recovering action against Company, surprisingly, we have received the above notice.

Further, we assure that the Company is confident to turn the corner and taking every possible step in not allowing the Accounts slipping to NPAs.

In view of the above we request you not to take any drastic steps in terms of Securitization and Reconstruction of Financial Assets in Enforcement of Security Interest Act 2002 as informed in your Letter.

We are hopeful that we shall be clearing all the over dues at the earliest. Hence kindly bear with us.

Thanking you,

Yours faithfully,
For Transstroy (India) Ltd.,


Sridhar Cherukuri
Chairman & Managing Director



- (viii) However, during the course of hearing held on 11.06.2025, the Counsel for the Personal Guarantor contended that the alleged reply of acknowledgment as notice is not in the individual capacity of the Personal Guarantor, but rather in the capacity of Managing Director of the Corporate Debtor. At this stage, the Counsel for the Creditor was directed to file specific proof of service of the SARFAESI notice under Section 13(2) served on the Personal Guarantor in his individual capacity, well before the next date of hearing.



- (ix) During the hearing held on 20.06.2025, it was observed that no compliance has been made for the order dated 11.06.2025 and the Counsel for the Creditor present stated that they could not trace the said document and therefore sought additional three weeks' time to file specific proof of service of the SARFAESI notice issued under Section 13(2) on the Personal Guarantor in his individual capacity. After hearing the submissions made by the Counsel for the Creditor, this Adjudicating Authority took a lenient view, on the ground that the Creditor is a public sector bank, and granted two weeks' time and in the event of failure of producing the said proof of service, the matter would be decided on merits on the next date of hearing and no further adjournment shall be granted. On the next date of hearing on 28.07.2025, it was noted that the Creditor failed to submit the specific proof of service of the SARFAESI notice in compliance of this Adjudicating Authority Order dated 11.06.2025 and 20.06.2025.
- (x) The Personal Guarantor is the Managing Director of the Principal Borrower/ Corporate Debtor. He received the notice section 13(2) of SARFAESI Act as an innovation of Guarantee. Hence, this receipt of the above notice by the Personal Guarantor/ Managing Director would be treated as a deemed acknowledgment of the receipt of the section 13(2) notice for invocation of personal guarantee, in view of the following facts:
- (a) Section 13(2) notice itself categorically state that the sl.no.7 stood as a Personal Guarantor for repayment of the dues of the credit granted to S.No.1 i.e. Principal Borrower.
- (b) Clause 6 of the notice itself categorically further state that the notice is issued for all. The Clause 6 of the notice is reproduced below:



6) That in exercise of the powers, conferred on the bank under the ordinance referred to above, you are, therefore, hereby called upon to repay in full the amount of

1. Term Loan Rs. 102,85,31,192/- (Rs. One hundred and two crores eighty five lakhs thirty one thousand one hundred and ninety two only) plus un applied interest @ 15.45 % (including 2% penal interest) w.e.f 25.02.2016 plus expenses and other charges if any.

2. Cash Credit Rs. 68, 75, 76,859/- (Rs. Sixty eight crores seventy five lakhs seventy six thousand eight hundred and fifty nine only) plus un applied interest @ 15.45 % (including 2% penal interest) w.e.f 25.02.2016 plus expenses and other charges if any

3. Forced loan under LC Rs. 27,73,79,867/- (Rs. Twenty seven crores seventy three lakhs seventy nine thousand eight hundred and sixty seven only) plus un applied interest @ 17.45 % (including 2% penal interest) w.e.f 25.02.2016 plus expenses and other charges if any

4. Forced Loan under LC Rs. 23, 55, 62,414/- (Rs. Twenty three crores fifty five lakhs sixty two thousand four hundred and fourteen only) plus un applied interest @ 17.45 % (including 2% penal interest) w.e.f 25.02.2016 plus expenses and other charges if any

5. Forced Loan under LC Rs. 24, 12, 32,987/- (Rs. Twenty four crores twelve lakhs thirty two thousand nine hundred and eighty seven only) plus un applied interest @ 17.45 % (including 2% penal interest) w.e.f 25.02.2016 plus expenses and other charges if any

as mentioned above within 60 days from the date of receipt of this notice, failing which the bank shall exercise any and/ or all of the powers under sub section 4 of section 13 of the above ordinance, in which case you shall be also liable to pay all costs, charges , expenses and other incidental charges thereof.

- (xi) Therefore, there is proper invocation of guarantee and therefore, the cause of action in the instant case arises on 30.04.2016, which is 60 days from the date of receipt of the notice i.e. 01.03.2016.
- (xii) However, the instant Petition has been filed on 19.12.2022, which is beyond the period of three years from the date, when the cause of action arose.
- (xiii) It is observed that in the recovery proceedings bearing RC No.439/ 2019 in O.A. No.1184 of 2016, initiated by the Creditor against both the Corporate Debtor and the Personal Guarantor, the Hon'ble DRT-1 Hyderabad issued a Recovery Certificate on 16.11.2019 against both the Corporate Debtor and Personal Guarantor. It is a settled position of law that issuance of such a Recovery Certificate gives rise to a fresh cause of action. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in ***Dena Bank vs. C. Shiva Kumar Reddy & Anr. (supra)***, wherein it was held that a judgment and/ or decree for money passed in favour of a Financial



Creditor by DRT, or by any other Tribunal or Court, or the issuance of a Recovery Certificate in favour of the Financial Creditor, would give rise to a fresh cause of action for initiating proceedings under Section 7 of the IBC, if the dues of the Corporate Debtor under such judgment/ decree or any part thereof remained unpaid.

- (xiv) In view of the above legal position, the fresh limitation starts on the date of issue of Recovery Certificate and thus limitation period would get extended up to 15.11.2022.
- (xv) Further, the Hon'ble Supreme Court vide its Order dated 10.01.2022 in **M.A. No. 21 of 2022 in Suo Motu Writ Petition (C) No. 3 of 2020** gave the following directions:

"I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."

- (xvi) Therefore, after considering the exclusion of the period as per the above order of Hon'ble Supreme Court, the present Petition has been filed well within the limitation period.



(xvii) Further, clause 6 of the Deed of Guarantee dated 25.09.2013 provides that the Guarantee remains valid until all dues are fully paid, regardless of document renewal or legal proceedings, holding Guarantors liable even if credit facilities are time-barred for recovery. The above clause is reproduced hereunder:

6. This Guarantee shall not be revoked by the Guarantors and shall remain in force till all the amounts due and payable to the Bank by the Borrowers in respect of the said credit facilities are paid in full inclusive of interest and other charges payable by the Borrowers. The Guarantors further specifically agree that this Guarantee shall continue to be liable there under for all amounts due and payable to the Bank by the Borrowers even though some of the credit facilities may have been unutilized or utilized and then repaid in full so long as the credit facility is continued by the Bank to the Borrower. This Guarantee shall be in full force even though the Borrowers have not renewed the documents and even though the claim of the Bank for the amounts due from the Borrowers get time barred and the Bank cannot recover the same from the Borrowers by filing a suit or any legal proceeding against the Borrowers.

(xviii) In view of the foregoing discussions, we are of the considered view that the Petition is not barred by limitation

32. The next issue for consideration before us is ***“Whether in the ‘Master Circular on Wilful Defaulters’ issued by RBI on 01.07.2015, the Personal Guarantee Deeds that were executed prior to 09.09.2014 are exempted.”***

(i) In the ‘Master Circular on Wilful Defaulters’ issued by RBI on 01.07.2015, the clause 2.6 deals with the guarantees furnished by individuals, which is reproduced below:

“2.6 Guarantees furnished by individuals, group companies & non-group companies

While dealing with wilful default of a single borrowing company in a Group, the banks/ FIs should consider the track record of the individual company, with reference to its repayment performance to its lenders. However, in cases where guarantees furnished by the companies within the Group on behalf of the wilfully defaulting units are not honoured when invoked by the banks /FIs, such Group companies should also be reckoned as wilful defaulters.

*In connection with the guarantors, banks have raised queries regarding inclusion of names of guarantors who are either individuals (not being directors of the company) or non-group corporates in the list of wilful defaulters. **It is advised that in terms of***



Section 128 of the Indian Contract Act, 1872, the liability of the surety is co-extensive with that of the principal debtor unless it is otherwise provided by the contract. Therefore, when a default is made in making repayment by the principal debtor, the banker will be able to proceed against the guarantor/surety even without exhausting the remedies against the principal debtor. As such, where a banker has made a claim on the guarantor on account of the default made by the principal debtor, the liability of the guarantor is immediate. In case the said guarantor refuses to comply with the demand made by the creditor/banker, despite having sufficient means to make payment of the dues, such guarantor would also be treated as a wilful defaulter. It is clarified that this treatment of non-group corporate and individual guarantors would apply only prospectively and not to cases where guarantees were taken prior to this circular. Banks/FIs may ensure that this position is made known to all prospective guarantors at the time of accepting guarantees.”

- (ii) We observe that the RBI has advised the banks that in terms of Section 128 of the Indian Contract Act, 1872, the liability of the surety is co-extensive with that of the principal debtor unless it is otherwise provided by the contract. Therefore, when a default is made in making repayment by the principal debtor, the banker will be able to proceed against the guarantor/surety even without exhausting the remedies against the principal debtor. As such, where a banker has made a claim on the guarantor on account of the default made by the principal debtor, the liability of the guarantor is immediate.
- (iii) In view of the above, we are of the considered view that the Personal Guarantor is not exempt under the Master Circular and the liability of the Personal Guarantor would be governed as per the Contract of Guarantee.

33. 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) The Guarantee Deeds dated 25.09.2013 and 14.03.2014 have been executed by the Personal Guarantor for the loan extended by the Financial Creditor to the Corporate Debtor.
- (ii) As per Clause 11 of the Guarantee Deed dated 14.03.2014, the Personal Guarantor, in the event any default by the Corporate Debtor, has agreed to pay the principal not exceeding Rs.3756/- crore together with interest, costs, charges, expenses etc. The above clause is reproduced below:

NOW THIS INDENTURE WITNESSETH that in consideration of the above premises it is hereby covenanted and agreed (the Guarantors covenanting and agreeing jointly and severally) as follows:

1. *If at any time default shall be made by the Borrower in payment of the principal sum not exceeding Rs.37,76,00,00,000.00 (Rupees Three Thousand Seven Hundred and Seventy Six Crores only) together with interest, costs, charges, expenses and/or other money for the time being due to the Lead Bank in respect of or under the above mentioned credit facilities or any of them the Guarantors shall forthwith on demand pay to the Lead Bank the whole of such principal sum (not exceeding Rs.3,776.00 Crores) together with interest, penal interest, cost, charges, expenses and/or any other money as may be then due to the Lead Bank in respect of the above mentioned credit facilities and shall indemnify and keep indemnified the Lead Bank against all losses of the said principal sum, interest or other money due and all costs, charges and expenses whatsoever which the Lead Bank may incur by reason of any default on the part of the Borrower.*
- (iii) As per Clause 6 of the Guarantee Deed dated 14.03.2014, the guarantee shall be enforceable against the Personal Guarantor notwithstanding the securities obtained by the Creditor. The above clause is reproduced below:
6. *The Guarantee herein contained shall be enforceable against the Guarantors notwithstanding the securities aforesaid or any of them or any other collateral securities that the Lead Bank may have obtained or may obtain from the Borrower or any other person shall at the time when proceedings are taken against the Guarantors hereunder be outstanding and/or not enforced and/or remain unrealised.*
- (iv) As per Clause 7 of the Guarantee Deed dated 14.03.2014, the Financial Creditor can treat the Personal Guarantor as Corporate Debtor for all



payments guaranteed by them. The extract of the same is reproduced hereunder:

In order to give effect to the Guarantee herein contained the Lead Bank shall be entitled to act as if the Guarantors were principal debtors to the Lead Bank for all payments guaranteed by them as aforesaid to the Lead Bank.


- (v) As per Clause 8 of the Guarantee Deed dated 14.03.2014, the Guarantee is a continuing for all amounts advanced by the Financial Creditor to the Corporate Debtor. The extract of the same is reproduced hereunder:

The Guarantee herein contained is a continuing one for all amounts advanced by the Lead Bank to the Borrower in respect of or under the above mentioned credit facilities as also for all interest, costs and other money which may from time to time become due and remain unpaid to the Lead Bank thereunder and shall not be determined or in any way be affected by any account or accounts opened or to be opened by the Lead Bank becoming nil or coming into credit at any time or from time to time or by reason of the said account or accounts being closed and fresh account or accounts being opened in respect of fresh facilities being granted within the overall limit sanctioned to the Borrower.

- (vi) As per Clause 11 of the Guarantee Deed dated 14.03.2014, the guarantee shall be irrevocable and enforceable against the Personal Guarantor. The extract of the same is reproduced hereunder:

The Guarantee shall be irrevocable and enforceable against the Guarantors notwithstanding any dispute between the Lead Bank and the Borrower.

- (vii) As per Clause 12 of the Guarantee Deed dated 14.03.2014, any acknowledgement of debt by the Corporate Debtor shall be deemed to have been by or on behalf of Personal Guarantor. The extract of the same is reproduced hereunder:



The Guarantors affirm, confirm and declare that any balance confirmation and/or acknowledgement of debt and/or admission of liability given or promise or part payment made by the Borrower or the authorised agent of the Borrower to the Lead Bank shall be deemed to have been made and/or given by or on behalf of the Guarantors themselves and shall be binding upon each of them.

- (viii) As per Clause 17 of the Deed Guarantee, the Personal Guarantor shall remain liable even if the Corporate Debtor becomes insolvent or enters into liquidation etc., or Corporate Debtor make any arrangement or composition with the Financial Creditor. The extract of the same is reproduced hereunder:

The Guarantors agree that if the Borrower being an individual becomes an Insolvent or being a company enters into liquidation or winding up (whether compulsory or voluntary) or if the management of the undertaking of the Borrower is taken over under any law or if the Borrower and/or the undertaking of the Borrower is nationalized under any law or make any arrangement or composition with creditors the Lead Bank may (not with standing payment to the Lead Bank by the Guarantors or any other person of the whole or any part of the amount hereby secured) rank as creditor and prove against the estate of the Borrower for the full amount of the Lead Bank's claims against the Borrower or agree to and accept any composition in respect thereof and the Lead Bank may receive and retain the whole of the dividends, composition or other payments thereon to the exclusion of all the rights of the Guarantors in competition with the Lead Bank until all the Lead Bank's claims are fully satisfied and the Guarantors will not by paying off the amounts payable by them or any part thereof or otherwise prove or claim against the estate of the Borrower until the whole of the Lead Bank's claims against the Borrower have been satisfied and the Bank may enforce and recover payment from the Guarantors of the full amount payable by the Guarantors notwithstanding any such proof or composition as aforesaid. On the happening of any of the aforesaid events, the Guarantors shall forthwith inform the Lead Bank in writing of the same.

- (ix) Further, the Hon'ble NCLAT in the matter of ***State Bank of India vs. Mr. Deepak Kumar Singhania in Company Appeal (AT) (Insolvency) No.191 of 2025*** has held that liability of the Guarantor must be determined strictly



in terms of the Deed of Guarantee. The relevant extracts of the judgement are reproduced below:

24. This Tribunal in **Archana Deepak Wani vs. Indian Bank - Company Appeal (AT) (Ins.) No.301 of 2023** has also held that liability of the Guarantor must be determined strictly in terms of the Deed of Guarantee. In paragraph 26, following has been laid down:

“26. The scheme of I&B Code clearly indicate that both the Principal Borrower and the Guarantor become liable to pay the amount when the default is committed. When default is committed by the Principal Borrower the amount becomes due not only against the Principal Borrower but also against the Corporate Guarantor, which is the scheme of the I&B Code. When we read with as is delineated by Section 3(11) of the Code, debt becomes due both on Principal Borrower and the Guarantor, as noted above. The definition of default under Section 3(12) in addition to expression ‘due’ occurring in Section 3(11) uses two additional expressions i.e “payable” and “is not paid by the debtor or corporate debtor”. The expression ‘is not paid by the debtor’ has to be given some meaning. As laid down by the Hon’ble Supreme Court in **“Syndicate Bank vs. Channaveerappa Beleri & Ors.” (supra)**, a guarantor’s liability depends on terms of his contract. There can be default by the Principal Borrower and the Guarantor on the same date or date of default for both may be different depending on the terms of contract of guarantee. It is well settled that the loan agreement with the Principal Borrower and the Bank as well as Deed of Guarantee between the Bank and the Guarantor are two different transactions and the Guarantor’s liability has to be read from the Deed of Guarantee.”


- (x) In view of these specific clauses in the Guarantee Deeds, we are of the considered view that the Personal Guarantor herein is liable under the aforesaid of Guarantee Deeds and the contentions raised by the Personal Guarantor regarding not being liable on various grounds are tenable .



34. 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) It is noted that the Creditor issued the demand notice for outstanding debt of Rs. 327,07,94,445.45 in Form B on 15.06.2022 to the Personal Guarantor of the Corporate Debtor, which was delivered on 22.06.2022 as per track consignment, the extract of which is reproduced below:



You are here Home>> Track Consignment

Track Consignment Quick help

* Indicates a required field.

* Consignment Number
EN413363910IN Track More

Booked At	Booked On	Destination Pincode	Tariff	Article Type	Delivery Location	Delivery Confirmed On
Hyderabad G.P.O.	17/06/2022 17.12.49	500033	17.70	Inland Speed Post	Jubilee Hills S.O	22/06/2022 13.46.26

Event Details For : EN413363910IN
Current Status : Item Delivery Confirmed

Date	Time	Office	Event
22/06/2022	13.46.26	Hyderabad G.P.O.	Item Delivery Confirmed
22/06/2022	09.42.24	Hyderabad G.P.O.	Out for Delivery
22/06/2022	08.45.14	Hyderabad G.P.O.	Item Received
21/06/2022	18.34.15	Hyderabad NSH	Item Dispatched
21/06/2022	16.10.02	Narayana(Nellore) B.O	Item Delivery Confirmed
21/06/2022	16.06.05	Hyderabad NSH	Item Bagged
21/06/2022	14.32.41	Hyderabad NSH	Item Received
21/06/2022	12.17.16	Jubilee Hills S O	Item Bagged
20/06/2022	18.00.43	Jubilee Hills S O	Item Returned Addressee Left without instructions
20/06/2022	11.56.50	Narayana(Nellore) B.O (Beat Number:1)	Item Delivered [To: D GAYATHRI (Addressee)]
20/06/2022	11.26.10	Jubilee Hills S O	Out for Delivery
20/06/2022	10.31.25	Mannur S.O (Cuddapah)	Item Bagged
20/06/2022	10.31.25	Mannur S O (Cuddapah)	Dispatched to BO
20/06/2022	10.31.25	Mannur S.O (Cuddapah)	Item Dispatched
20/06/2022	09.31.57	Jubilee Hills S O	Item Received
20/06/2022	09.16.24	Mannur S O (Cuddapah)	Item Received

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7/18/22, 9:19 PM			Track Consignment
20/06/2022	01:55:40	Cuddapah ICH	Item Dispatched
20/06/2022	01:37:00	Cuddapah ICH	Item Bagged
19/06/2022	19:42:05	Cuddapah ICH	Item Received
19/06/2022	04:04:39	Tirupati TMO	Item Received
19/06/2022	02:46:33	Tirupathi NSH	Item Dispatched
19/06/2022	02:31:13	Tirupathi NSH	Item Bagged
18/06/2022	20:02:42	Hyderabad NSH	Item Dispatched
18/06/2022	19:41:52	Tirupathi NSH	Item Received
18/06/2022	15:53:55	Hyderabad NSH	Item Bagged
18/06/2022	08:51:26	Hyderabad NSH	Item Received
17/06/2022	21:09:29	Shamshabad Air Port TMO	Item Received
17/06/2022	19:42:06	Hyderabad G.P.O.	Item Bagged
17/06/2022	17:12:49	Hyderabad G.P.O.	Item Booked
17/06/2022	16:31:32	Hyderabad NSH	Item Dispatched
17/06/2022	15:35:11	Hyderabad NSH	Item Bagged
17/06/2022	12:27:03	Hyderabad NSH	Item Received
16/06/2022	21:13:36	PBC Autonagar	Item Dispatched
16/06/2022	21:11:27	PBC Autonagar	Item Bagged
16/06/2022	17:25:12	PBC Autonagar	Item Booked

- (ii) In view of the above, we are of the considered view that the Demand Notice dated 15.06.2022 in Form B has been duly served upon the Personal Guarantor demanding the outstanding amount beyond the threshold of Rupees One Crore due and payable under the Deeds of Guarantee. 0

35. 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 Creditor, is in compliance with section 95 of the Code and has recommended for acceptance of the present Petition for initiating PIRP against the Personal Guarantor – **Shri Sridhar Cherukuri**.

36. In terms of the provisions of Section 100 of IBC, 2016, while considering the admission of a Petition filed under Section 95(1) of IBC, 2016, this Adjudicating



Authority needs to satisfy itself regarding the acceptability of the report filed under Section 99 of IBC, 2016. In view of the above, we are of the considered view that this Petition needs to be admitted. Therefore, **CP (IB) No.1/95/AMR/2023 is admitted.**

37. 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.

38. 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.

39. 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 debtor (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.

40. 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.

41. The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 and 111 of IBC, 2016. 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, 2016.

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



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

44. 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)

Reddy Pavani, LRA