



**NATIONAL COMPANY LAW TRIBUNAL**  
**INDORE BENCH**  
**COURT NO. 1**

ITEM No.205  
**IA/7(MP)2025**  
in  
**CP(IB)/68(MP)2024**

**Order under Section Rule 11**

**IN THE MATTER OF:**

Samunnati Agro Solutions Pvt Ltd

.....Applicant

V/s

Shikha Tayal, Personal Guarantor to Shri Bhagwati Agro  
Industries Pvt Ltd

.....Respondent

**Coram:**

Hon'ble Shri Brajendra Mani Tripathi, Member (J)

Hon'ble Shri Man Mohan Gupta Member (T)

**PRONOUNCEMENT OF ORDER**  
**Delivered on 05/12/2025**

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

Sd/-

**MAN MOHAN GUPTA**  
**MEMBER (TECHNICAL)**

**BRAJENDRA MANI TRIPATHI**  
**MEMBER (JUDICIAL)**

Deepti LRA



NCLT INDORE BENCH  
IA NO.7 OF 2025  
in  
CP(IB)68 OF 2024  
DATED: 05.12.2025

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

**IA No.7 of 2025**  
in  
**CP(IB) 68 OF 2024**

**IN THE MATTER OF:**

Sammunati Agro Solutions Pvt. Ltd.

.....**Applicant**

**Versus**

Shikha Tayal, [ Personal Guarantor to  
Shri Bhagwati Agro Industries Pvt. Ltd.]

.....**Respondent**

**CORAM:**

**Hon'ble Shri Brajendra Mani Tripathi, Member (J)**

**Hon'ble Shri Man Mohan Gupta Member (T)**

**APPEARANCE:**

For the Applicant : Ld. Adv. Mr. Rohit Dubey

For the PG : Mr. Prashant Upadhyay, Adv.

**ORDER**

**Deliver on: 05.12.2025**

1. The Present Interlocutory application has been filed by Sammunati Agro solutions Private Limited seeking dismissal of the company petition filed by Shikha Tayal under Section 94 of the Insolvency and Bankruptcy Code, 2016.



2. The fact is that the Applicant states that it has extended financial assistance to M/s Shri Bhagwati Agro Industries Pvt. Ltd. and that Shikha Tayal (Respondent) is a Personal Guarantor in respect of the said facility. And that recall notice dated 09.10.2024 and subsequent notice dated 04.12.2024 invoking the personal guarantee were issued on account of default, and that the outstanding dues of Rs.2,70,97,433/- remain unpaid. It is further pointed out that, when the matter was listed before this Tribunal on 09.12.2024, the learned counsel for the Personal Guarantor could not furnish clarity regarding the assets owned by the Personal Guarantor. With reference to these circumstances, the Applicant contends that the filing of the petition under Section 94 is not a bona fide insolvency action but a step to obtain the benefit of the interim moratorium under Section 96.

3. The objection in the IA pertains to the jurisdiction of this Tribunal to entertain the petition under Section 94. The Applicant submits that, as on date, no CIRP or liquidation proceeding is pending against the principal borrower, M/s Shri Bhagwati Agro Industries Pvt. Ltd., and therefore proceedings concerning the Personal Guarantor should lie before the Debts Recovery Tribunal(**DRT**) in terms of Sections 78, 79 and 179 of the Code. Reliance is placed on Section 60(2) of the Code, along with the judgment of the Madras High Court in Rohit Nath v. KEB Hana Bank Ltd., and the order dated 20.12.2024 of the NCLT, Kolkata



Bench in Tata Capital Financial Services Ltd. v. Arjun Agarwal, to contend that a petition under Section 94 before the NCLT is not maintainable unless a CIRP is already pending against the Corporate Debtor.

4. It is also stated that the Applicant is prejudiced due to the operation of the interim moratorium under Section 96 since the date of filing of the Section 94 petition and that recovery has been obstructed on account of this proceeding.

5. We have examined the record and considered the submissions. The Applicant is the Financial Creditor in CP (IB) 68 (MP) 2024 and a party directly affected by the operation of the interim moratorium, and therefore has the locus to maintain this Interlocutory Application. The IA is accordingly taken up on merits.

6. The objections touching upon the conduct of the Personal Guarantor, including the timing of the filing of the petition, absence of settlement efforts, and the alleged lack of assets, do not govern the maintainability of a petition under Section 94. Section 94 enables an individual debtor, including a personal guarantor to a corporate debtor, to apply for initiation of an insolvency resolution process upon occurrence of default. The provision does not prescribe prior invocation of the guarantee, demonstration of asset position, or proof of pre-litigation settlement as a condition for filing. The reference to the order dated



09.12.2024, in our view, cannot be treated as a conclusive basis to terminate the petition at the threshold. These objections are therefore rejected.

7. The jurisdictional objection is next considered. Section 60(1) of the Code provides that the Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including personal guarantors thereof, shall be the National Company Law Tribunal. Section 60(2) ensures that where a CIRP or liquidation of the corporate debtor is already pending, proceedings concerning the personal guarantor are also brought before the same NCLT. Section 60(2) does not curtail or condition the jurisdiction conferred under Section 60(1), nor does it state that proceedings under Part III concerning a personal guarantor cannot be filed before the NCLT in the absence of a pending CIRP.

8. While the Applicant has placed reliance on decisions taking a contrary view, the Hon'ble NCLAT in *State Bank of India v. Mahendra Kumar Jajodia* has held that pendency of a CIRP is not a sine qua non for maintaining a petition under Section 95 and that an application cannot be rejected solely on the ground that no CIRP or liquidation proceeding is pending against the corporate debtor. The said pronouncement squarely answers the legal issue raised in this IA. In view of the above, the objection that this Tribunal lacks jurisdiction only because no CIRP has been initiated against the corporate debtor cannot be accepted.



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9. As regards the grievance of prejudice arising out of the interim moratorium, Section 96 provides for an interim moratorium from the date of filing of an application under Section 94 until its admission or rejection. The interim moratorium is a statutory consequence and cannot, by itself, constitute a ground to dismiss a petition that is otherwise maintainable under law.

10. On a consideration of all grounds urged, we find that no case has been made out for dismissal of the petition under Section 94. The allegations touching upon conduct and asset position do not affect maintainability; the jurisdictional objection stands answered by the language of Section 60(1) and the law laid down by the Hon'ble NCLAT; and the grievance regarding interim moratorium is a matter flowing from the statute.

11. In view of the above, **IA No. 7 of 2025** stands **dismissed & disposed of**.

Sd/-

**MAN MOHAN GUPTA  
(MEMBER TECHNICAL)**

Deepti-LRA

Sd/-

**BRAJENDRA MANI TRIPATHI  
(MEMBER JUDICIAL)**