NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1459 of 2025

[Arising out of the Impugned Order dated 11.09.2025 passed by the Adjudicating Authority, National Company Law Tribunal, Indore Bench in C.P. (IB) No. 45 (MP)/2024]

In the matter of:

Pravir Krishak,
Suspended Director Of
C-Net Infotech Private Limited
(Corporate Debtor)
Address: HX-4, E-7, Arera Colony,
Bhopal, Madhya Pradesh – 462016
Email: pravir@cnet-india.com

.... Appellant

Versus

1. **Bank of Baroda**
Registered Office:
Bank of Baroda, Baroda House,
Near Mandvi, P.B No. 506, Vadodara,
Gujarat – 390005

Concerned Branch:
R.O.S.A.R.B Branch,
Basement Plot No. 11 & 12,
Banjari, Kolar Road Bhopal,
Madhya Pradesh – 462042
E-mail: sarbhp@bankofbaroda.co.in

2. **Ms. Teena Saraswat Pandey**
IBBI/IPA-001/IP-P00652/2017-18/11126
Interim Resolution Professional ("IRP")
Address: 387 F, 114 Scheme Part 1,
Behind Diksha Boys Hostel,
Sant Nagar, Indore, Madhya Pradesh – 452010

.... Respondents

Present:

For Appellant : Mr. Krishnendu Dutta, Sr. Advocate with Ms. Abiha Zaidi, Mr. Pritam Raman Giriya, Ms. S. Chowdhary, Ms. Pragya Samal, Ms. Arushi and Mr. Yash Tandon and Mr. Harshit Chaudhary, Advocates.

For Respondent : Mr. Abhishek Naik, Ms. Gulafsha Kureshi and Mr. Bhavesh Bothra, Advocates for R-1.

J U D G M E N T
(Hybrid Mode)

Per: Barun Mitra, Member (Technical)

The present appeal filed under Section 61 of Insolvency and Bankruptcy Code 2016 ('**IBC**' in short) by the Appellant arises out of the Order dated 11.09.2025 (hereinafter referred to as '**Impugned Order**') passed by the Adjudicating Authority (National Company Law Tribunal, Indore Bench) in C.P. (IB) No. 45 (MP)/2024. By the impugned order, the Adjudicating Authority has admitted the Section 7 application filed by the Respondent-Bank of Baroda and admitted C-Net Infotech Pvt. Ltd.-Corporate Guarantor of the Corporate Debtor-C-Net Digital Pvt. Ltd. into the rigours of CIRP. Aggrieved by the impugned order, the present appeal has been preferred by the suspended director of the Corporate Guarantor-Appellant.

2. Recapitulating the sequence of events, it is relevant to notice that following the admission of the Section 7 application filed by the Respondent-Bank of Baroda by the Adjudicating Authority vide the impugned order dated 11.09.2025, the present appeal was filed by the Appellant assailing the impugned order. However, since the Appellant soon entered into a settlement with Bank of Baroda and the latter had consented to file appropriate application under Section 12A of IBC for withdrawal of the CIRP, this appeal had been disposed of by this Tribunal on 06.10.2025 with liberty to the Bank of Baroda to file Section 12A application in accordance with law. The Appellant also made part payment to the Bank of Baroda in terms of the settlement. However, the Bank of Baroda did not file the Section 12A application on the ground that CoC had already been constituted on 06.10.2025. The Appellant thereafter filed Restoration Application (AT) No. 26 of 2025 for revival of the appeal. On 13.11.2025, this Tribunal recalled its order dated 06.10.2025 and revived the appeal on its original number. In the interregnum, permission of this Tribunal had been obtained by the Appellant on 26.09.2025 to file additional grounds in the Appeal. Pursuant to the order dated 26.09.2025, the Appellant filed IA No. 7680 of 2025 raising certain additional grounds pertaining to the maintainability of the Section 7 application in that the Section 7 application was not maintainable as the alleged default was below the statutory threshold of Rs 1 Cr. as prescribed under Section 4 of the IBC. The IA No. 7680 of 2025 was allowed and amended application taken on record.

3. Making submissions on behalf of the Appellant, Shri Krishnendu Dutta, Ld. Senior Advocate submitted that the Adjudicating Authority had admitted the Section 7 application without adjudicating on the issue of maintainability of the Section 7 application from the viewpoint of threshold under Section 4 of the IBC. It was asserted that the impugned order suffered from jurisdictional defect as it had admitted the Section 7 application even though it was below the statutory threshold of Rs 1 Cr. as prescribed under Section 4 of the IBC. It was submitted that though two separate corporate guarantees were executed by the Appellant for an amount of Rs 75 lakhs and Rs 95 lakhs, the Section 7 application was filed by the Respondent-Bank of Baroda only in respect of the corporate guarantee of Rs 75 lakhs. It was stressed that no invocation in respect of the other corporate guarantee was made by the Respondent. It was vehemently contended that the terms of this Guarantee Deed governing this guarantee had clearly capped the liability of the Corporate Guarantor to Rs 75 lakhs inclusive of interest and other charges. Hence the claim against the Appellant-Corporate Guarantor did not cross the threshold level of Rs 1 Cr. and hence the Section 7 application was not maintainable. It was therefore contended that the impugned order dated 11.09.2025 admitting the Section 7 application without adjudicating on the jurisdictional defect by the Adjudicating Authority rendered the impugned order vitiated in law. Without denying that this ground of jurisdictional defect had not been raised by the Appellant before the Adjudicating Authority, it was canvassed that this being a question of law which went into the root of jurisdiction, this issue of maintainability of the Section 7 application could as well be raised at the appellate stage. In support of their contention, it has been submitted that the Hon'ble Supreme Court in ***Jagmittar Sain Bhagat Vs Director, Health Services, Haryana (2013) 10 SCC 136*** has categorically held that a pure question of law going to the root of jurisdiction, particularly one concerning maintainability, can be raised at any stage of the proceedings.

4. Refuting the contentions raised by the Appellant, it has been submitted by the Shri Abhishek Naik, Ld. Counsel for the Respondent that the present appeal tantamount to gross abuse of the process of law as the issues raised in the Section 7 application are no more res integra. Repelling the argument canvassed by the Appellant that the Section 7 application did not meet the requisite threshold, it was asserted that this ground not having been taken by the Appellant before the Adjudicating Authority, it was estopped from raising this new plea. It was also added that this plea is raised only as an after-thought since this Appellant was aware that the twin conditions of debt and default having been met and the guarantee having been invoked on time, there was no escape from CIRP. The one-sided interpretation of the clauses of the Guarantee Deed by the Appellant to contend that the guarantee amount was capped to a total of Rs 75 lakh was a deliberate misrepresentation created to suit their interests in thwarting their admission into CIRP. This distorted interpretation of the clauses on which there is no consensus *ad idem* between the two parties cannot be accepted as it goes against the intent and spirit of the guarantee document. It was also submitted that if the interpretation of the clauses as suggested by the Appellant is to be followed, this would amount to causing grave prejudice to a public sector bank. Moreover, this would mean that a defaulting guarantor would get unintended benefit from the Guarantee Deed and would amount to conferring undue advantage on the Appellant inspite of their default.

5. We have duly considered the arguments advanced by the Learned Counsels for both parties and perused the records carefully.

6. The short question before us for our consideration is whether the Section 7 application as admitted by the Adjudicating Authority qua the Corporate Guarantor in terms of the Guarantee Deed which has been invoked by the Respondent is hit by maintainability in the context of the threshold limit of Rs 1 Cr set out by Section 4 of IBC.

7. Before we dwell on the maintainability issue, what needs to be ascertained is whether the Section 7 application was admitted in respect of invocation of the Corporate Guarantee of Rs 75 lakhs or also covered the other Guarantee Deed of

Rs 95 lakhs also. When we look at Part-IV of the Section 7 application filed by the Respondent-Bank of Baroda, we find that the default raised is in respect of the guarantee of Rs 75 lakhs only. The relevant extract of Part-IV is as reproduced below which clearly indicates that the Section 7 application was filed only in respect of the Guarantee Deed of Rs 75 lakhs and not in respect of the other guarantee of Rs 95 lakhs. We also notice that the principal amount outstanding has been shown as Rs 93,16,846.09/- which alongwith interest of Rs 43,39,523.29/- amounted to a total of Rs 1,37,71,961.38/- only. The Part-IV reads to the effect:

Part- IV

PARTICULARS OF FINANCIAL DEBT			
1.	*TOTAL AMOUNT OF DEBT GRANTED DATE(S) OF DISBURSEMENT*	*A/C 29210500002803* *A/c 29210600006160* *A/c 29210600006742* *A/c 29210600006157* *Total*	***75,00,000*** ***19,45,000*** ***8,41,000*** ***7,50,000*** ***1,10,36,000***
		As per Sanction dated 27.07.2017 for CC & Term Loan, Two BECLS-TL 02.05.2020 and FITL-TL 26.11.2020	*1,10,36,000*
		TOTAL AMOUNT OF DEBT GRANTED (AS PER ANNEXURE -C)	*1,10,36,000*
2.	*AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURED (ATTACH THE WORKING FOR COMPUTATION OF*	*PRINCIPAL OUTSTANDING*	***93,16,846.09/-***
		INTEREST OUTSTANDING (unapplied + un-serviced)	***43,39,523.29 /-***
		Other Charges	***1,15,592.00/-***
		TOTAL OUTSTANDING as on 19.02.2024	***1,37,71,961.38/-*** *The loan was given to C-Net*

	AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM)	*DATE ON WHICH DEFAULT OCCURRED (THE WORKING FOR COMPUTATION OF AMOUNT AND DATES OF DEFAULT IN TABULAR FORM SHOWN IN ANNEXURE-D)*	*Digital Private limited and C- Net-Digital Private limited Account has slipped into NPA on 29.11.2020 as per RBI Norms* *C-Net Infotech Private Limited has given corporate Guarantee for the loan of C- Net Digital Private limited.*

8. It is the case of the Appellant that the Section 7 application based on the Guarantee deed of Rs 75 lakhs could not have met the threshold limit of Rs 1 Cr. since the Guarantee Deed had capped the outer limit of the liability to Rs 75 lakhs only. The instant Section 7 application which has been filed by the Respondent by invoking the Guarantee Deed of Rs 75 lakh has wrongly reflected the claim amount to be Rs 1,37,71,961.38/- at a time when Clauses 1 and 2 of the Guarantee Deed expressly limited the claim to a maximum of Rs 75 lakhs only. It was asserted that when the language of the Guarantee Deed clauses clearly capped the liability to Rs 75 lakhs including both principal and interest, the Section 7 application logically failed to meet the Section 4 threshold bar and hence was not maintainable but this aspect has escaped the attention of the Adjudicating Authority.

9. Per contra, it is the contention of the Respondent that in terms of the wordings employed under the Deed of Guarantee, on the invocation of the guarantee, the Corporate Debtor was required to not only repay the principal amount of Rs 75 lakhs but additionally also the interest and other charges upon the loan advanced to the principal borrower. Hence the claim made in Part-IV for an amount of Rs 1,37,71,961.38/- was pretty much in tandem with the terms of the Guarantee Deed and having crossed the threshold limit of Rs 1 Cr was not hit by the threshold bar set by Section 4 of IBC.

10. For us to return our findings on the short question framed by us at para 6 above, we would like to first take note of the two relevant clauses of the Guarantee Deed viz Clauses 1 and 2 which determines the guarantee obligations including the payment of guarantee amount, interest and charges thereon. The two relevant clauses are as reproduced below:

> ***Clause 1***
>
> *"I/We the undersigned C-net Infotech Pvt Ltd, solely/jointly and severally guarantee the payment upto but not exceeding in the aggregate the sum of Rupees Seventy Five Lacs only and also of all moneys, which term shall include all the interest due or to become due in respect of the moneys already advanced and paid to such Principal or in respect of any liability incurred by you, for such principal or in respect of any monies you may at any time advance, or pay to or any liability you may incur for the use or accommodation, or on the credit of the principal, whether on Current, Overdraft, Cash Credit or any other accounts in connection therewith for which the principal shall be liable to you solely/jointly with others"*
>
> ***Clause 2***
>
> *"I/We expressly declare that this guarantee shall be for the periods aforementioned and a continuing guarantee to you for any amount from time to time not exceeding as aforesaid the said sum of (Rupees only) on the wholesome due on the said account/s together with interest and charges thereon and whether or not from time to time there be nothing owing on any or all the said accounts or the same be brought to credit from time to time."*

11. It was submitted by the Appellant that Clause 1 opens with the line reading as "*solely/jointly and severally guarantee the payment <u>upto but not exceeding in the aggregate</u> the sum of Rupees Seventy Five Lacs only <u>and also of all moneys</u>, which term <u>shall include</u> all the interest due or to become due in respect of the moneys already advanced and paid to such Principal or in respect of any liability incurred by you,*". It was pointed out that the use of the word "aggregate" meant the complete whole of the amount. To substantiate their contention, attention was adverted to the dictionary meaning of the word "aggregate". It was submitted that according to the Cambridge Dictionary, the word "aggregate" means "something formed by adding together several amounts or things". It was also submitted that the usage of the word "aggregate" coupled with the other set of inclusive words "and also of all moneys" in Clause 1 clearly pointed out that the "aggregate" amount included principal plus interest plus charges. It was also emphasised that the presence of the words "shall include" was yet another all- embracing word with a wide amplitude. Hence the combination of wordings employed in Clause 1 made it resoundingly clear that on the invocation of this Guarantee Deed, the amount claimed was confined to the overall aggregated liability of Rs 75 lakhs with no room for exceeding this hard ceiling.

12. Much emphasis was also laid by the Ld. Counsel of the Appellant on the fact that Clause 2 of the Guarantee Deed further reaffirmed the intent and scope of the guarantee as outlined in Clause 1. It was pointed out that the Clause 2 of the Guarantee Deed expressly stated "*<u>not exceeding as aforesaid the said sum</u>*". The phraseology "as aforesaid the said sum" here clearly is a throwback to the cap of Rs 75 lakhs as spelt out in Clause 1.

13. Refuting the above interpretation adopted by the Appellant, the Ld Counsel for the Respondent contended that the interpretation of the two Clauses 1 and 2 of the Guarantee Deed by the Appellant is skewed and misconceived. There is a clear usage of the conjunctive words "*and also*". Relying on the Oxford English Dictionary, it was submitted that the words "and" read with "also" meant "in addition" or "as well". Further, it was asserted that the term "of all moneys" has been positioned right after the words "and also" is also significant and hence whatever amount qualified to fall in the category of "all moneys" was to be over and above the Rs 75 lakh sum. It was asserted that the term "all moneys" in Clause1 had been elaborated to mean that it "shall include all the interest due or to become due in respect of the moneys already advanced and paid to such principal or in respect of any liability incurred by you". Hence a combined reading of the two Clauses makes it amply clear that the Corporate Guarantor was liable not only to repay the principal amount of Rs 75 lakhs but additionally also the interest and other charges upon the loan advanced to the principal borrower.

14. Coming to our analysis and findings, we begin with our observation that it is well settled that the liability of the Guarantor has to depend on the terms of the Guarantee Deed and in interpreting the terms of a Guarantee Deed, a plain and simple meaning as derived from the express provisions of the Guarantee Deed requires to be read into the same. A Guarantee Deed being a contractual document, its interpretation needs to be based strictly on its written terms. We also hasten to add here that there is no role for equity jurisdiction in looking at a Guarantee Deed for applying the principles of equity would lead to the vulnerability of rewriting or modifying or varying the express agreement of the parties which is beyond the jurisdiction of this Tribunal.

15. We would like to first deal with the term "aggregate" appearing at Clause1 of the Guarantee deed. For this purpose, we have looked at some other dictionary meanings of the word "aggregate" apart from what was pointed out by the Appellant. According to the Black's Law Dictionary, the word "aggregate" has been defined as "entire number, sum, mass, or quantity of something; amount; complete whole". The word "aggregate" is defined in the Merriam-Webster Dictionary to mean "a whole sum or total". In Corpus Juris Secundum, the word "aggregate" has been defined to mean "a collection or assemblage of items considered as a single entity". Thus, the word "aggregate" implies a sum or entity formed by accumulating and assembling of distinct units to create one composite unit. In other words, this definition implies that the word "aggregate" means to collect or gather into a mass or whole. As the word "aggregate" refers to a sum or total, formed by combining multiple elements or items, extending the same meaning to the word "aggregate" in the context of quantifying any liability would cover the liability in its entirety. Applying this derivative to the facts of the present case, the "aggregate" sum would mean a complete whole including both the principal and interest amount. If the liability arising out of this Guarantee Deed was to be restricted only to the principal amount of Rs 75 lakhs which was already a known and determinate amount, the usage of the word "aggregate" would not have been required to be inserted in the Guarantee Deed. Thus, we are inclined to agree with the Appellant that the word "aggregate" also included other elements i.e. interest and other charges apart from the principal amount within the amount of Rs 75 lakhs.

16. We further find that in Clause 1, two phrases have been used viz. "not exceeding in the aggregate the sum of Rs 75 lakhs only" and "and also of all moneys". Both these phrases are interspersed with the conjunctive word "and" and therefore has to be read conjointly. Furthermore, the term "all moneys" has been clarified in Clause 1 that it "shall include all interest due or to become due in respect of the moneys already advanced and paid to such principal" and has been prefaced with the word "aggregate". Thus, the aggregate ceiling limit of Rs 75 lakhs was equally applicable to the term "all moneys". Hence, the use of the term "all moneys" cannot be read to mean monies independent of the capped liability. When we read the expression "and also of all moneys" alongwith the phrase "upto but not exceeding in the aggregate" it clearly signifies that the ceiling of Rs 75 lakhs was the upper limit for which the guarantee could be invoked and that this ceiling was sacrosanct and impenetrable.

17. At this stage, we would like to notice the use of the words "on the <u>*wholesome due*</u> on the said account/s <u>*together*</u> with interest and charges thereon" appearing in Clause 2 of the Guarantee Deed. The crucial word used here is "together" and therefore the import of the word "together" cannot be ignored or overlooked. This affirms that the amount of Rs 75 lakhs was treated as the "wholesome due" coupled with interest component as well as any other charges arising thereon. Moreover, the usage of the phrase "as aforesaid the said sum" in Clause 2 is a clear reference to the cap of Rs 75 lakhs as spelt out in Clause 1. The term "as aforesaid" makes it clear that the same outer ceiling limit governed both the clauses. The express language of both Clause 1 and Clause 2 complement and affirm each other and are mutually explanatory and this aspect cannot be overlooked.

18. In the present case, when Clause 1 and Clause 2 are read together, it is clear that the intent of the Guarantee Deed clearly espoused that the ceiling of Rs 75 lakhs was on the wholesome due together with interest and charges thereon. We have therefore no hesitation in concluding that the aggregation of the wholesome due in terms of the Guarantee Deed amounted to merging of the various components of principal, interest and charges into one unified entity which cumulatively fell within the overarching ceiling of Rs 75 lakhs. Thus, the entire liability fell within the capped sum of Rs 75 lakhs and the Guarantee Deed precluded any scope for addition, expansion or enlargement of the said sum.

19. On the applicability of the ratio contained in the judgment of this Tribunal in ***ICICI Bank Ltd. Vs Seeta Neeraj Shah and Ors. in CA(AT)(Ins) No. 731 of 2025*** wherein it had been held that a Guarantee Deed cannot be constructed narrowly to mean that interest amount cannot be charged over and above the cap laid down in the Guarantee Deed, it was distinguished by the Appellant that in that case there was a separate clause for default interest burden imposed on the guarantor themselves in the event they did not clear the guarantee liability on time. We agree that the default interest in that case was an independent and stand-alone liability which was specifically and separately provided for in the Guarantee Agreement while in the present case, there is no such stand-alone default liability payable by the corporate guarantor. Hence, we are of the view that the cap limit of Rs 75 lakh provided in Clause 1 embraced the entire basket of liabilities including principal, interest, charges and even default interest. Since fulfilment of the condition of threshold of Rs 1 Cr is a condition precedent for initiation of Section 7 proceedings and in the present case the default amount does not exceed Rs 75 lakhs in terms of the Guarantee Deed, the Section 7 application clearly suffers from jurisdictional effect and cannot be entertained against the Corporate Guarantor.

20. In view of the aforesaid discussion, we find merit in IA No. 7680 of 2025 and are of the considered view that the Section 7 application is not maintainable as it fails to meet the threshold level of default amount of Rs 1 Cr. Accordingly the Appeal is allowed. The impugned order admitting the Section 7 application is set aside. The Corporate Guarantor is freed from the rigours of CIRP. All IAs stand closed. No order as to cost.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Place: New Delhi
Date: 07.01.2026

Abdul