



DIVISION BENCH
COURT - II

M-1

(MENTIONING)

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/306(KB)2021
IA(I.B.C)/2486(KB)2024

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI D. ARVIND**

ORDER SHEET OF THE HEARING ON 08TH JANUARY 2025

IN THE MATTER OF	STATE BANK OF INDIA VS SAVITA LOHARIWAL
UNDER SECTION	SECTION 95(1)

Appearance (via video conferencing/physically)

C O R R I G E N D U M O R D E R

1. Upon mentioning the order dated 6th January, 2025, learned Counsel Mr. Riyanshu Agarwal appearing on behalf of the RP states that in the said order, some inadvertent error has crept in and the same needs to be corrected. On being satisfied, we amend the order as under:
 - (a) In paragraph 28, “Since no repayment plan has been received from the Personal Guarantor.” will be replaced by “Since the repayment plan received from the Personal Guarantor has been rejected”.
2. Rest of the order dated 6th January, 2025 will remain unchanged.

**D. Arvind
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**



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**I.A.(IB) No.2486/KB/2024
in
C.P. (IB)/306(KB)2021**

*An Application under Section 112 of the Insolvency and Bankruptcy Code,
2016*

In the matter of:

State Bank of India

...Financial Creditor

Versus

Savita Lohariwal

...Personal Guarantor

And

Daulat Ram Jain

...Applicant/RP

Date of pronouncement: 06.01.2025

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)

Appearance (via video conferencing/physically)

Mr. Riyanshu Agarwal, Adv.] For the RP

O R D E R

Per: Bidisha Banerjee, Member (Judicial)

1. The Court Convened in a hybrid mode.
2. This application has been filed by the applicant seeking for following reliefs:



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- a. “To take on record the report of the creditors’ meeting held on 16th December, 2024 regarding the repayment plan.*
- b. To allow the Financial Creditor(s) to initiate bankruptcy proceedings against the Personal Guarantor under Chapter IV of Part III of the Insolvency and Bankruptcy Code, 2016.*
- c. To grant any ad-interim reliefs in terms of the aforesaid reliefs.*
- d. Costs*
- e. To pass any other order(s) as this Hon’ble Tribunal may deem fit and proper in the interest of justice.”*

3. Brief facts of the case:

- 3.1. On September 28, 2021, State Bank of India (hereinafter referred to as “Financial Creditor”), filed an application under Section 95 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “IBC, 2016”) against the Personal Guarantor, Smt. Savita Lohariwal, for initiating the insolvency resolution process being the Personal Guarantor of the Principal borrower M/s. Hanumanta Engineering Pvt Ltd. which is currently under Liquidation.
- 3.2. By an order dated May 09, 2022 this Tribunal was pleased to appoint the Applicant, Shri Daulat Ram Jain, as the Resolution Professional for the Personal Guarantor under Section 97 of IBC, 2016.



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- 3.3. The RP submitted his report under Section 99 of IBC, 2016 on May 20, 2022, recommending the admission of the application filed by Financial Creditor under Section 95 of the IBC, 2016 to initiate the insolvency resolution process against the Personal Guarantor.
- 3.4. This Tribunal considered the report of the Applicant and, on July 08, 2024, admitted the Personal Guarantor into insolvency under Section 100 of IBC, 2016, which is marked as Annexure “A”.
- 3.5. In compliance with Section 102 of IBC, 2016, the applicant for inviting claims from creditors, issued a Public Notice on July 09, 2024 in “Business Standard” in English and in “Ekdin” in Bengali in West Bengal where the debtor resides. The last date for submission of claims was stipulated as July 29, 2024. A single claim was received by the Resolution Professional and the State Bank of India with 100% voting rights.
- 3.6. The Personal Guarantor submitted the repayment plan on September 24, 2024, proposing a repayment of Rs.1(One) Lakhs. Resolution Professional made several requests to improve the repayment amount but Personal Guarantor failed to enhance the Repayment Plan.



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- 3.7. In compliance with Section 108 of the Insolvency and Bankruptcy Code (IBC), 2016, the Resolution Professional called a Meeting of Creditors on December 16, 2024.
- 3.8. The sole Financial Creditor, State Bank of India, rejected the Repayment Plan under Section 111 of the IBC, 2016. The Financial Creditor emphasized that the proposed repayment amount of Rs. 1 lakhs was grossly inadequate and failed to address the outstanding liabilities effectively. It was further noted that the outstanding claim stood at approximately Rs.335.75 crores. The Financial Creditor expressed its intention to initiate bankruptcy proceedings against the Personal Guarantor.
- 3.9. The present application is filed by the Resolution Professional under Section 112 of IBC, 2016 to bring on record a report of the meeting of the creditors on repayment plan.
- 3.10. Report on Meeting of creditors on Repayment Plan

Section	Provisions	Compliance
112(2)(a)	Whether the Repayment Plan was approved or rejected and if approved,	The repayment plan was rejected by the Creditor, State Bank of India observing that the



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	the list the modifications, if any	amount of Rs. 1 lakh offered by the Personal Guarantor is negligible against the claim of Rs.335.75 Crore (Approx.)
112(2)(b)	The Resolutions which were proposed at the meeting and the decision on such resolution	“RESOLVED THAT” in accordance with section 111 of the Insolvency & Bankruptcy Code, 2016 the creditors of Smt. Savita Lohariwal, be and is hereby rejected the repayment plan of Rs.1 lac submitted by the personal guarantor.”
112(2)(c)	List of Creditors who were present or represented at the meeting and the voting records of each creditor	The meeting of Creditors held on December 16, 2024 was attended by the Mr. Barun Kumar Dutt, AGM representing



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	for all meetings of the creditors	State Bank of India, the Sole Creditor.
112(2)(d)	Such other information as the resolution professional thinks appropriate to make known to the AA	The creditor intends to initiate bankruptcy of the Personal Guarantor under Part IV of Chapter III of the Insolvency and Bankruptcy Code, 2016.

4. Analysis and Findings:

4.1. We have noted the contentions.

4.2. Report of the Creditor's meeting held on 16th December, 2024 regarding repayment plan is taken on record.

4.3. Section 115 of the code envisages the following:

115(1) where the Adjudicating Authority has approved the repayment plan under Section 114, such repayment plan shall-

(a) Take effect as if proposed by the debtor in the meeting;

(b) be binding on creditors mentioned in the repayment plan and the debtor.

(2) Where the Adjudicating Authority rejects the repayment plan under Section 114, the debtor and the creditors shall be entitled to file an application for bankruptcy under Chapter IV.

(3) A copy of the order passed by the Adjudicating Authority under sub-section (2) shall be provided to the Board, for the purpose of recording an entry in the register referred to in Section 196.



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28. Since no repayment plan has been received from the Personal Guarantor. We invoke the provision under Section 115(2) to allow the application for bankruptcy to be filed.

29. In the facts and circumstances noted above we partly allow the prayers.

30. Accordingly, I.A. (IB) No. 2486/KB/2024 is allowed and **disposed of**. A Copy of the order be forwarded to the Board under Section 115(3) as above.

30. C.P.(IB) No. 306/KB/2021 for further consideration on **20.02.2025**

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

32. Certified copy of the order may be issued, if applied for, upon compliance of all requisite formalities.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Singed on this, the **06th January, 2025**.

S. Ghose, (Steno)