

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II

IA (I.B.C) No. 572/MB/2025
IN
C.P. (IB) No. 296/MB/2023

*[Under Section 112 read with Section
114(1) and 115(2) of the Insolvency and
Bankruptcy Code, 2016]*

Anil Kashi Drolia

**(Resolution Professional of Aditya
Vivek Kawade)**

**[IBBI Regn. No. IBBI/IPA-001/IP-P-
02327/2020-2021/13482]**

..... Applicant/RP

Vs.

Aditya Vivek Kawade

..... Respondent/PG

IN THE MATTER OF

Bank of Maharashtra

... Petitioner

Vs.

Aditya Vivek Kawade

... Respondent

Pronounced: 26.06.2025

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (TECHNICAL)

SHRI K. R. SAJI KUMAR
HON'BLE MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II

IA (I.B.C) No. 572/MB/2025
IN
C.P. (IB) No. 296/MB/2023

Appearances: Hybrid

For Applicant /RP : Adv. Manoj Mishra

ORDER

Per: Anil Raj Chellan, Member (Technical)

1. This is a report in the form of an application prepared and submitted by the Applicant, the Resolution Professional (RP) of Mr. Aditya Vivek Kawade, the Personal Guarantor (PG) to Aniirudh Civil Engineers and Contractors Private Limited under Section 112 read with 114(1) and 115(2) of the Insolvency and Bankruptcy Code, 2016 (Code). The prayers made in this application are extracted below:

- (a) *Pass an Order taking on record closure report filed by the Applicant/Resolution Professional of Mr. Aditya Vivek Kawade, the Personal Guarantor of Ms. Aniirudh Civil Engineers and Contractors Private Limited, u/s. 112 of the IBC, 2016 reporting that the Personal Guarantor failed to submit repayment plan, as enclosed as Exhibit-"A (colly)" of this Application.*
- (b) *Pass an Order u/s. 114 & 115 of IBC, 2016 closing Personal Insolvency Resolution Process initiated against Mr. Aditya Vivek Kawade, the Personal Guarantor of M/s. Aniirudh Civil Engineers And Contractors Private Limited, arising out of Admission Order passed by this Hon'ble Tribunal dated 22.08.2024 u/s. 100 of IBC, 2016 in CP (IB) No. 296/MB/2023 u/s. 95(1) of IBC, 2016.*

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II

IA (I.B.C) No. 572/MB/2025

IN

C.P. (IB) No. 296/MB/2023

- (c) *To pass an order discharging the Applicant / Mr. Anil Kashi Drolia from his duty as Resolution Professional of Mr. Aditya Vivek Kawade, the Personal Guarantor of M/s. Anirudh Civil Engineers And Contractors Private Limited.*
- (d) *To pass any such other or further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*

Brief facts of the case

2. The Applicant was appointed as the Resolution Professional of Mr. Aditya Vivek Kawade, Personal Guarantor to Anirudh Civil Engineers and Contractors Private Limited (Borrower).
3. The Borrower is a Private Company limited by shares having its registered office in the State of Maharashtra. The Borrower had availed certain financial assistance from the Bank of Maharashtra (Financial Creditor). As security for the financial assistance availed by the Borrower, the Personal Guarantor executed personal guarantee(s) dated 17.02.2012, 28.03.2012, 30.03.2013 and 15.05.2013. On account of the defaults committed by the Borrower, the Financial Creditor issued a Demand Notice under Section 13(2) of the SARFAESI Act, 2002 on 31.01.2015. Subsequently, demand notice in Form-B under Rule 7(1) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019 was issued to PG on 28.06.2022

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II

IA (I.B.C) No. 572/MB/2025
IN
C.P. (IB) No. 296/MB/2023

calling upon him to pay the outstanding amount of Rs. 35,69,35,879/- as on 28.02.2023 along with further interest.

4. Subsequently, the Borrower was admitted into the Corporate Insolvency Resolution Process (CIRP) vide Order dated 03.03.2023. Thereafter, liquidation order dated 01.02.2024 was passed against the Borrower.
5. In view of the defaults in repayment of the outstanding dues amounting to Rs. 35,69,35,879/-, the financial creditor filed C.P.(IB)-296(MB)2023 under Section 95 of the Code seeking initiation of Personal Insolvency Resolution Process (PIRP) against the PG.
6. This Tribunal vide Order dated 03.01.2024 appointed the Applicant as the RP for the purpose of filing his report. Thereafter, the Applicant filed his report under Section 99 of the Code. After considering the report and other materials on record, this Tribunal passed a final order under Section 100 of the Code on 22.08.2024 admitting C.P. (IB)296(MB)2023 and initiating PIRP of the PG and declared moratorium under Section 101 of the Code. The Applicant was also appointed as the RP for the Personal Guarantor.
7. The Applicant made Public Announcement inviting claims from the creditors of PG on 24.08.2024 in 'Free Press Journal' (English Newspaper), Mumbai Edition and 'Navakal' (Marathi Newspaper), Mumbai Edition. In response to the public announcement, the Applicant received the following claims:

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II

IA (I.B.C) No. 572/MB/2025
IN
C.P. (IB) No. 296/MB/2023

Sr. No.	Name of Creditors	Claim Received	Claim Admitted	Voting Share
1.	Central Bank of India -Secured Financial Creditor	45,89,54,387/-	45,89,54,387/-	50.57%
2.	Bank of Maharashtra-Secured Financial Creditor	44,85,42,105/-	44,85,42,105/-	49.43%
1+2	Total	90,74,96,492/-	90,74,96,492/-	100%

8. The Applicant, as part of the PIRP, sent emails on 25.09.2024, 03.10.2024, 09.10.2024, 14.10.2024 and 04.12.2024, whereby RP sought for data/information from the PG in order to prepare statement of affairs of the PG and further sought for a Repayment Plan. However, the said emails did not elicit any response from the PG. The Applicant, therefore, convened the meeting of creditors on 21.11.2024. During the meeting, the PG was present through VC and agreed to provide the data requested by RP, within a week's time. However, the PG neither furnished any data nor provided the Repayment Plan.
9. On account of the non-cooperation of the PG, the applicant filed an application filing no. 2709138116682024 under Regulation 22 of the PIRP Regulations before this Tribunal on 13.12.2024 seeking *inter alia* necessary directions upon the PG to extend co-operation to the Applicant. The said IA is still pending. However, the Creditors of the PG at its meeting held on 26.12.2024 approved the following resolution.

"5. *To discuss and seek approval for filing of the application for closure of personal insolvency resolution process (PIRP) of the PG:*

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II

IA (I.B.C) No. 572/MB/2025

IN

C.P. (IB) No. 296/MB/2023

After deliberation, the members approved the following resolution by "Show of Hands":

"RESOLVED THAT filing the application for closure of the Personal Insolvency Resolution Process (PIRP) of the Personal Guarantor (PG) be and is hereby approved."

In the circumstances, the Applicant has filed the present application.

Submissions of the Applicant

10. The Applicant submits that the PG has not filed /submitted any Repayment Plan to the Applicant for consideration by the creditors. Non-filing of the Repayment Plan causes a similar effect of rejection of the repayment plan under Section 114 as provided under Section 115(2) of the Code.
11. The PG has not provided any list of assets or a Repayment Plan for the settlement of the creditors or to meet the fees of the RP.
12. The 2nd meeting of the creditors held on 26.12.2024 resolved for filing an application for closure of the PIRP of the PG and also for filing an application for initiation of Bankruptcy Process against the PG.
13. Since the members of the creditors' committee decided with 100% voting to close the process, the Applicant seeks to allow the reliefs sought in the application.

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II

IA (I.B.C) No. 572/MB/2025
IN
C.P. (IB) No. 296/MB/2023

Analysis and decisions

14. We have heard the counsel for the Applicant and perused the documents annexed thereto.
15. It is seen from the records that PIRP against the PG was initiated under Section 100 of the Code pursuant to the order dated 22.08.2024. Thereafter, as mandated by the Code and the Regulations, the Applicant made paper publication and formed Committee of Creditors consisting of the Central Bank of India and, Bank of Maharashtra, with voting shares of 50.57% and 49.43% respectively. The PG joined the meeting of the Creditors through video conference and agreed to provide the necessary data within a week's time. However, the PG has not submitted any Repayment Plan.
16. As per Section 105 of the Code, the debtor shall prepare, in consultation with the resolution professional, a repayment plan containing a proposal to the creditors for restructuring of his debts or affairs. The Ld. Counsel for the Applicant submits that the PG has not furnished any data or material to the Applicant/RP nor submitted a Repayment Plan containing a proposal for restructuring of his debts or affairs. Consequently, the absence of a repayment plan has the same effect as the rejection of a repayment plan under Section 114 and Section 115(2) of the Code.
17. Based on the above, we are satisfied that the report of the Applicant regarding the decision of creditors for closure of the PIRP of the PG is taken on record. Accordingly, the debtor or the

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II

IA (I.B.C) No. 572/MB/2025

IN

C.P. (IB) No. 296/MB/2023

creditors of the PG shall be entitled to file an application for Bankruptcy under Chapter IV of the Code.

18. Thus, this application **IA.No.572/2025 is allowed, and C.P.(IB)296(MB)2023 stands disposed of.**

Sd/-
ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)