NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 297 of 2025
& I.A. No. 1135 of 2025

IN THE MATTER OF:

Canara Bank
Through its Chief Manager and Authorised Officer ...Appellant

Versus

Babulal Gumanlal Jain ...Respondent

With

Company Appeal (AT) (Insolvency) No. 299 of 2025
& I.A. No. 1141 of 2025

IN THE MATTER OF:

Canara Bank
Through its Chief Manager and Authorised Officer ...Appellant

Versus

Pushpadevi Babulal Jain ...Respondent

With

Company Appeal (AT) (Insolvency) No. 298 of 2025
& I.A. No. 1526 of 2025

IN THE MATTER OF:

Canara Bank ...Appellant

Versus

Devendra Gumanlal Jain,
Guarantor of Nakoda Ltd ...Respondent

Present:

For Appellant : Mr. Dhruvin Dssani, Advocate.

For Respondent : Mr. Anuj Tiwari, Ms. Kanchi Ahuja, Mr. Vaibav Vats, Mr. Nilay Sengupta, Mr. Sujit Banerjee, Ms. Aroshi Pal, Advocates.

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O R D E R

(Hybrid Mode)

12.03.2025: These three appeals have been filed by the Canara Bank challenging the order dated 16.12.2024 passed by NCLT, Division Bench, Court-1, Ahmedabad rejecting Section 95 application filed by the Appellant against the Personal Guarantor – Respondents herein.

2. The Canara Bank has extended financial facility to the Corporate Debtor – M/s Nakoda Ltd. under consortium finance. The guarantee has been given by the Personal Guarantors on 22.08.2013, 09.01.2024 and 01.12.2010. The demand notice was issued under Section 13(2) on 12.03.2015 to the Borrower and the Guarantor to repay the outstanding dues. OA No.417 of 2015 was also filed before the Debts Recovery Tribunal (DRT) for recovery of outstanding amount of Rs.460,54,87,310/-, which is pending adjudication. Section 7 application filed by the Appellant against the Corporate Debtor was also admitted, which is under liquidation as on date. The Bank's case is that notice under Form B under Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 was issued on 02.12.2023 and subsequent to the issuance of said notice, Section 95 application was filed by the Appellant on 18.11.2024. The case of the Bank before the Adjudicating Authority was that notice issued under Form B is notice invoking guarantee, hence, application under Section 95 filed on 18.11.2024 is within time.

3. The Adjudicating Authority heard the appellant and after considering the submissions of the Appellant held that the notice issued in Form B cannot give any help to the Appellant to extend the period of limitation. Recall notice having been issued on 26.02.2015 invoking personal guarantees the time was available till 29.05.2022, hence, the application filed by the Appellant was barred by time. The Appellant aggrieved by the said order has come up in this appeal.

4. Learned counsel for the Appellant challenging the order submits that notice issued under Form B Rule 7 of 2019 Rules is the notice invoking guarantee, hence, the application filed by Appellant was not barred by time.

5. We have considered the submissions of learned counsel for the Appellant and perused the record.

6. The issue which is sought to be raised by the Appellant has already been considered and decided by this Tribunal in *"Company Appeal (AT) (Ins.) No.191 of 2025, State Bank of India vs. Mr. Deepak Kumar Singhania"* decided on 28.02.2025. In the above judgment, while considering the above issue we have held as follows:

> *"27. In view of the foregoing discussion, we are not persuaded to accept the submission of the Appellant that Notice under Rule 7 (1) issued in Form-B to the Guarantor, demanding repayment of the default amount, has to be treated as Notice for invoking guarantee. Default before issuance of Notice under Rule 7(1), must exist on the part of the Guarantor.*

> *Hence, we reject the submission of the Appellant that Notice under Rule 7, sub-rule (1) is a Notice, invoking the guarantee. We, thus, do not find any error in the order of the Adjudicating Authority, rejecting Section 95 Application filed by the SBI. There is no merit in the Appeal. The Appeal is dismissed. There shall be no order as to costs."*

7. The issues which are sought to be raised by learned counsel for the Appellant are fully covered by our judgment dated 28.02.2025, as above. Following the above judgment of this Tribunal, we have no option except to dismiss these appeals. All the Appeals are dismissed accordingly.

[Justice Ashok Bhushan]
Chairperson

[Arun Baroka]
Member (Technical)

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