

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: MS. REETA KOHLI,
HON'BLE JUDICIAL MEMBER

MS. KAVITA BHATNAGAR,
HON'BLE TECHNICAL MEMBER

IA (IBC) No. 341/JPR/2024
In CP No. (IB)- 19/95(1)/JPR/2021

IN THE MATTER OF:

STATE BANK OF INDIA

...Financial Creditor

VERSUS

MR. HEMANT KUMAR BOHRA

...Personal Guarantor

MEMO OF PARTIES

MR. HEMANT KUMAR BOHRA
220, Ashok Nagar, Udaipur, 313001
Email:cmdcell@bohraindustries.com

...Applicant

VERSUS

1. **MANOHAR LAL VIJ**
8/28, WEA, 3rd Floor, Abbdul Aziz
Road, Karol Bagh, New Delhi -
110001
2. **STATE BANK OF INDIA.**
Stressed Assets Management
Branch-II, 11th Floor, STC Building,
Jawahar Vyapar Bhawan, Tolsytoy
Marg, Janpath, New Delhi-1100001
3. **BOHRA INDUSTRIES LIMITED**
301, Anand Plaza, University Road,
Udaipur

...Respondents

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FOR THE APPLICANT(S) : Prateek Kedawat, Adv.
Mohd. Bilal, Adv.

FOR THE RESPONDENT(S): Abhishek Devgan, Adv.
Vishesh Kalra, Adv. For RP
Vishal Hirawat, Adv.

Order Pronounced on: 07.10.2025

ORDER

Per: Ms. Reeta Kohli, Judicial Member

1. The instant Application has been filed by *Mr. Hemant Kumar Bohra* ('Applicant'/ 'Guarantor'), the Personal Guarantor of *M/s Bohra Industries Limited* ('Corporate Debtor'/ 'BIL'/ 'Respondent No. 3'), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ('IBC') for challenging the admission of the claim of *State Bank of India* ('SBI'/ 'Respondent No. 2') amounting to Rs. 1,33,43,05,513/- (Rupees One Hundred and Thirty-Three Crores Forty-Three Lakhs Five Thousand Five Hundred and Thirteen Only) by the Resolution Professional, *Mr. Manhoar Lal Vij* ('Respondent No. 1'/ 'Resolution Professional'), in the Insolvency Resolution Process ('IRP') of the Applicant initiated vide order dated 28.03.2024. The Application has been filed seeking the following relief inter-alia among others:

"Pass an order directing the Resolution Professional, Mr. Manohar Lal Vij, to revise the claim of Respondent No. 2, SBI after taking into account the sums set out in paragraph 19 of this Application;"



2. The brief set of facts as put forth by the Applicant which are apposite for adjudication of the instant Application are as follows:

2.1. It is stated that Respondent No. 2 i.e., *State Bank of India*, being the Financial Creditor filed a Petition bearing *CP No. (IB)-19/95(1)/JPR/2021* under Section 95 of the Code read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 ('Personal Guarantor Rules') seeking initiation of Insolvency Resolution Process against the Personal Guarantor of the Corporate Debtor for an amount of Rs. 70,73,95,918.49/- (Rupees Seventy Crores Seventy-Three Lakhs Ninety-Five Thousand Nine Hundred Eighteen and Forty-Nine Paisa Only) in relation to the credit facility extended therein.

2.2. The Resolution Professional i.e., Respondent No. 1, was appointed *vide* Order dated 16.07.2021 and was directed to file a report under section 99 of the Code and the same was filed via Application bearing *IA No. 232/JPR/2021* recommending admission of the Petition. This, Adjudicating Authority *vide* Order dated 28.03.2024 admitted the Petition under Section 100 of the Code and initiated the insolvency resolution proceedings against the Applicant.

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2.3. In the insolvency resolution proceedings, the Resolution Professional admitted the claim of SBI to the tune of Rs. 1,33,43,05,513 vide email dated 03.05.2024. The admission of claim of Rs. 1,33,43,05,513/- is completely illegal and unlawful. It was submitted that SBI in the captioned Company Petition claimed only an amount of Rs. 70,73,95,918,49/- and the pleadings in the Petition constitute judicial admission and forms foundation of rights of parties. Further, as per Section 104(2)(a) of the Code, the list of creditors has to be prepared from the information disclosed in the Application filed by the Creditor under Section 95. Since, SBI in the main Petition specifically admitted that the amount in default was only INR 70,73,95,918,49/- and thus, Respondent No. 2 cannot be permitted to set up a case that it is entitled to recover such inflated sum at this belated stage.

2.4. The amount of initial claim asserted by SBI is further confirmed by the demand notice sent by it on 25.08.2020 to the Applicant under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019. The demand notice was in fact relied on by the Resolution Professional in the written submissions filed on his behalf as late as December 2023 before this very Hon'ble Tribunal.

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- 2.5. Pertinently, the Section 95 Petition was filed on the strength of the last supplemental guarantee executed by the Applicant on 05.09.2017. The supplemental deed of guarantee expressly states that the aggregate sum limit of the credit facilities to the Corporate Debtor i.e., *Bohra Industries Limited*, would be increased from Rs. 63.50 crore to Rs. 68.50 crore in consideration for the guarantor i.e., the Applicant, increasing his liability from Rs. 63.50 crore to Rs. 68.50 crore. It is well settled that a contract of guarantee ought to be construed in a manner that the surety's obligations are co-extensive with the Principal Debtor. As such, SBI is precluded from bringing a claim higher than Rs. 68.50 crore against the Applicant. It is submitted that interpreting the deed of guarantee to permit SBI to claim a higher sum would effectively denude the clauses stipulating a specific sum nugatory and redundant. Further, the guarantee was drafted by SBI and was signed by its representatives with due application of mind. Hence, allowing SBI to bring in a claim for a sum higher than Rs. 68.50 Crore amounts to rewriting the supplemental deed of guarantee.
- 2.6. The rights of Respondent No. 2 i.e., SBI, flows from the supplemental deed of guarantee and it does not have any right de hors the supplemental deed of guarantee to recover any sums due from the Applicant. As such, the extent of liability is governed strictly by the

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express terms of the supplemental deed of guarantee and the Respondent bank cannot be allowed to rely on one part of the instrument and deny the other. Further, it was contended that the Section 95 Petition mentions 07.07.2019 as the date of default and as per the supplemental deed of guarantee, the Applicant's liability is subject to the following restrictions: -

".....covenanted and agreed jointly and severally to pay to the Bank on demand upon default made by the Borrower the whole of such principal amount of together with interest costs charges expenses and/or other monies as may then be due to the Bank and also agreed to indemnify and keep indemnified the Bank against all loss of principal, interests and other monies due, and all costs (as between advocate and client) charges and expenses whatsoever which the Bank may incur by reason of any default on the part of the Borrower...."


The use of the phrase 'as may then be due to the Bank' demonstrates that the claim of SBI crystallises once the principal borrower/ Corporate Debtor i.e., Respondent No. 3, defaults. Thus, applying the principle of co-extensiveness, the liability of the Applicant is also limited to the date on which the default occurred i.e., 07.07.2019. Therefore, SBI does not have the right to claim any further interests/costs after the default has occurred.

- 2.7. It was contended that the claim of SBI to the tune of ₹1.33,43,05,513 as admitted by the Resolution Profession is an afterthought and has been asserted for the first time after the commencement of the



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Insolvency Resolution Process on 28.03.2024. The Applicant is still unclear on the computation of the claimed sum, both by contractual and jural basis. Besides, despite repeated requests for clarifications including at the meeting of Committee of Creditors, the Applicant has not yet received any explanation.

2.8. Moreover, this Hon'ble Tribunal admitted a Petition under section 7 of the Code against the Corporate Debtor namely, *Bohra Industries Ltd.*, vide Order dated 07.08.2019 and the Corporate Debtor was successfully revived. This Hon'ble Tribunal accepted the Resolution Plan submitted by a consortium led by *Mr. Krishna Aggarwal* on 13.10.2021. In the CIRP of the Corporate Debtor, SBI filed a claim of ₹70,72,42,964.68 before the Resolution Professional of the Corporate Debtor. The said amount was also recorded in the CoC meetings of the Corporate Debtor where Resolution Plan was approved and the Order dated 13.10.2021 wherein the Resolution Plan was confirmed by the Hon'ble Tribunal. It is pertinent to note that SBI was the sole member of the CoC of the Corporate Debtor and is, therefore, estopped by its own conduct, from asserting a claim in excess of ₹70,72,42,964.68.

2.9. That as per the approved Resolution Plan, Respondent No. 2 i.e.. SBI, had the limited right to recover only the residual amount from their


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claim after deduction of the amounts received from it from the insolvency process of the Corporate Debtor. It is well settled that the express terms of the Resolution Plan would prevail over any other prior instrument including the supplemental deed of guarantee dated 05.09.2017. The term residual amount deserves to be interpreted to restrict the claim of SBI to the amount which remain due after the setting off the sums received by it under the Resolution Plan of the Corporate Debtor. The right to continue to collect interest post the issuance of the demand notice, if any, which emanated from the supplemental deed of guarantee stood extinguished after the approval of the Resolution Plan of the Corporate Debtor on 13.10.2021. Further, due to initiation of CIRP of the Corporate Debtor and approval of its Resolution Plan, the contractual right to interest post the date of initiation of CIRP of CD i.e., 07.08.2019, stands extinguished. Since the debt qua the principal borrower i.e., the Corporate Debtor, crystalized upon filing of the claim in the CIRP by SBI and stood extinguished post 13.10.2021 i.e., post approval of the plan. Thus, the Bank cannot be permitted to recover interest for the period post submission of its claim. The sums claimed in the Section 95 Petition also ought to be modified as per the Resolution Plan with

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effect from 13.10.2021 since the Resolution Plan was approved after filing of the captioned Section 95 Petition.

2.10. SBI has admittedly received a sum of ₹25.21 crore from the CIRP of Respondent No.3. In addition to the above, the Applicant has also identified additional sums which are liable to be deducted from the dues payable to SBI and the same are annexed as Annexure A-9 of the Application.

2.11. That Resolution Professional was appointed at the instance of SBI. The Resolution Professional has erred in mechanically accepting the claim of SBI to the tune of ₹1,33,43,05,513/- without proper verification and any legal sustainable basis. The Applicant raised its grievances qua the inflated claim of SBI, however the Resolution Professional refused to accept the objections and proceeded to call for meetings of the creditors of the Applicant. The Resolution Professional has further granted 100% voting rights to SBI.

2.12. The illegality of the admission of the claim is compounded by the fact that despite seeking a clarification in respect of the admission of such an exaggerated claim, neither the Resolution Professional nor SBI has been able to explain the computation of the sum of ₹1,33,43,05,513/-. The Applicant would suffer irreparable harm if SBI is allowed to maintain a claim of ₹1,33,43,05,513/-. The questions of law raised in

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the present I.A. significantly impact the quantum of the claim maintainable by a party which is presently the sole voting member of the insolvency process.

2.13. The Applicant also submitted that the reliance placed by the Resolution Professional on the Judgment of the Hon'ble Supreme Court in the matter of *Lalit Kumar Jain v. Union of India* is misplaced. The Apex court in the said judgment has clarified the extent of liability in paragraph 124 that the rule of recovery from guarantors in context of insolvency proceedings prevents a double proof of what is in substance the same debt being made against the same estate, leading to the payment of a double dividend out of one estate. Hence, SBI in view of above cannot be permitted to maintain a claim to the tune of Rs. 133,43,05,512.81/- as SBI had claimed a sum limited to Rs. 70,72,42,378.49/- in CIRP proceeding of Corporate Debtor and has recovered a sum of approximately Rs. 25.5 Crore. It is relevant to note that Respondent No. 2 had adjusted a sum of INR 56,96,307/- in credit in the Fixed Deposit held by the Applicant in March 2020 which was never informed to the Applicant and the same was not factored in at the time of filing the claim in the present proceedings at the time of admission. This demonstrates the lack of transparency and mala fide manner in which SBI has computed its claim against the Applicant. It

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also submitted that the table of computation of interest and ledger account as set out in Reply by the Resolution Professional is not admissible since it has not been certified as per the procedure laid down by of the Bankers Book Evidence Act, 1891. It was also submitted that the interest was never due post revival of Respondent No. 3 and hence cannot be treated as being due from the Applicant. The extent of claim of SBI having been decided at the time of admission cannot be reagitated or disputed by the Respondents. Further, Respondent No. 1 i.e., the Resolution Professional, despite being duty bound to verify the claim through proper and cogent evidence, has failed to properly discharge his duties and has accepted the claim of SBI in a mechanical manner.

2.14. Besides the aforementioned contentions, in response to the preliminary issue qua maintainability of the Application under Section 60(5) of the Code, the Applicant contended that the reference to Section 60 (5) was an inadvertent error and the Applicant intended to refer to Section 60 (2) of the Code. Further, it was submitted that mere mentioning of an incorrect provision is not fatal to the Application if the power to pass such an order is available with the Adjudicating Authority.





3. In response to the contentions raised by the Applicant, Respondent No. 1 i.e., the Resolution Professional, has put forth the following defence to counter the allegations in the present Application:

3.1. The Resolution Professional raised a preliminary objection qua maintainability of the instant Application. It was contended that under Section 60(5) of the Code, the Hon'ble Adjudicating Authority has been vested with powers apropos the disputes/ proceedings pertaining to Corporate Debtor or Corporate Persons. However, the instant case pertains to personal insolvency as provided in Part-III of the Code and therefore, the instant Petition is liable to be dismissed in limine.

3.2. It was submitted that the Resolution Professional made a public announcement qua initiation of insolvency resolution proceedings of the Personal Guarantor/ Applicant *vide* Public Notice dated 03.04.2024 in the requisite form in '*The Indian Express (English)*' and '*Pratahkal (Hindi)*' having wide circulation in Udaipur, Rajasthan region with the last date for submissions of claim being 24.04.2024. Further, the RP in terms of Section 104 of the Code, collated all claims submitted by the Creditors of the Personal Guarantor/Applicant including the claim of State Bank of India dated 17.04.2024 pursuant to the publication of aforesaid Public Notice.

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- 3.3. That based on the claim received and subsequent clarification and documents, submitted by creditors, the list of creditors was prepared on 03.05.2024 and the same was circulated to the creditors for inspection in compliance with Regulation 9(2)(a) of the Personal Guarantor Regulations as well as to the Debtor *vide* email dated 03.05.2024 in compliance with Regulation 9(2)(b) of the Personal Guarantor Regulations.
- 3.4. That in year 2017, SBI *vide* sanction letter dated 10.08.2017 renewed the facilities to Rs 68.50 cr. and consequently entered into a supplementary loan agreement on 05.09.2017 with the Corporate Debtor/Respondent No. 3. To secure the abovementioned financial facilities, the company created a pledge on its assets and *Mr. Hemant Kumar Bohra*, the Applicant herein, extended his personal guarantee in favour of the Bank on 05.09.2017 through a supplemental deed of guarantee. As per the supplemental deed of guarantee the Applicant agreed to jointly and severally pay to the Bank the whole of such principal amount together with interest cost charges etc upon default made by the Corporate Debtor and undertook to indemnify the Bank against the loss of principal, interest and other monies and costs that may incur by reason of any default on the part of the borrower.

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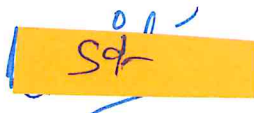
- 3.5. That owing to the default on the part of the Corporate Debtor, this Hon'ble Tribunal vide its Order dated 07.08.2019 initiated CIRP of the Corporate Debtor and declared moratorium prohibiting all such activities as provided under Section 14 of the Code. Consequently, the Bank filed its claim, as on the CIRP commencement date which was duly admitted by the RP for an amount of Rs 70,72,42,378.49/-. State Bank of India being the sole member of the COC approved the Resolution Plan of the principal borrower/ Corporate Debtor and recovered an amount of Rs 25.5 cr. (approx.) leading to the extinguishment of the liability in so far as the principal borrower was concerned.
- 3.6. The Hon'ble Supreme Court in the case of *Lalit Kumar Jain v/s Union of India & Ors* (Transferred Case (Civil) No. 245/2020) observed that the sanction of a resolution plan and finality imparted to it by Section 31 does not per se operate as a discharge of the guarantor's liability and held that the nature and extent of the liability of the guarantor would depend on the terms of the guarantee itself. In terms of the supplemental deed of guarantee dated 05.09.2017, the Applicant is jointly and severally liable pay to the Bank not only the whole of the principal amount of Rs 68.50 crores but also the interest cost charges etc upon default made by the company. Owing to the non-payment of




dues by the Corporate Debtor, the outstanding dues kept on mounting in accordance with the terms of the sanction, leading to admission of a claim of Rs 133,43,05,513/- which is arrived at after adjusting the amount recovered from the resolution plan of the Corporate Debtor.

3.7. In so far as the interpretation of the supplemental deed of guarantee is concerned, it was contended that the contract must be interpreted in its entirety and its clauses cannot be read in isolation to frustrate its purpose. The Applicant highlighted his liability on the date of default by the Corporate Debtor but neglected to consider the future liabilities, specifically the indemnification against all losses of principal, interest, and other monies due, as well as all costs incurred on account of default by the borrower. Consequently, the debt, including principal, interest, and other charges, continues to accumulate until fully repaid either by the Principal Borrower or the guarantor.

3.8. It is reiterated that neither the commencement of moratorium under Section 14 nor interim moratorium/ moratorium under Section 96/101 estops the accrual of subsequent interests or charges as the purpose of moratorium is to is to keep the assets of the Corporate Debtor/Guarantor safeguarded during the insolvency resolution





process and to facilitate orderly completion of the processes envisaged under the statute.

3.9. It was submitted that the captioned Petition under Section 95 of the Code was filed in the month of January 2021 and the individual insolvency against the Personal Guarantor/ Applicant was initiated vide Order dated 28.03.2024. Further, as per Form B of the Personal Guarantee rules, the claimant is required to submit its claim which is due and payable on the insolvency commencement date. Accordingly, the debt is required to be computed as on the aforementioned date. It was also submitted that at present the voting rights of State Bank of India is 74.77% and STCI Finance Limited is 25.33 % (for unsecured portion).

3.10. The Resolution Professional via its written submissions dated 27.06.2025 reiterated its contentions and additionally submitted that while submitting the claim for the personal guarantor in Form B, SBI has already adjusted the amount received in CIRP proceedings of Corporate Debtor and all receipts as shown in calculation sheet are attached as Annexure-2 with the Reply. The moratorium period is not applicable to guarantors and their liability subsist independently of the liability of Principal Borrower. Further the limitation period also continues to run against the guarantors/ co-borrowers and



computation of dues including interest and other contractual liabilities against them is not stayed by initiation of CIRP against the Corporate Debtor.

4. We have delved into submissions from both the counsels. The moot question which arises for consideration in this matter is whether *'Initiation of CIRP proceedings against the Corporate Debtor leading to moratorium under Section 14 of the Code and the approval of Resolution Plan of the Corporate Debtor, will lead to freezing the claim of the Creditors apropos the liability of the Personal Guarantor?*
5. To adjudicate upon the issue raised in the instant Application, it is pertinent to refer to Section 14 of the Code and the same is reproduced hereunder: -

"14. Moratorium –

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: –

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;


(b) transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor

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[Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;]

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

[(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.]

[(3) The provisions of sub-section (1) shall not apply to —
(a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;]

(b) a surety in a contract of guarantee to a corporate debtor.]

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process: Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”

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6. On perusal of the aforementioned Section, it transpires that the moratorium as envisaged under Section 14 of the Code does not specify any 'interest waiver' and that too in favour of the guarantors of the Corporate Debtor. Further, it is a well settled law that the Claim of the Creditors does not stop on initiation of CIRP. At this juncture, it is also pertinent to refer to the Judgment of the Hon'ble NCLAT in the case of *Mr. Arun Kumar Vs. Ms. Sripriya Kumar (2023) ibclaw.in 503 NCLAT* wherein it was observed that:-

“19. A simple and purposive reading of this Section 14 does not specify any 'interest waiver' during the period of moratorium. Therefore, this Tribunal is of the earnest view that the contention of the Learned Counsel for the Appellant that no interest could be charged subsequent to the admission of the Claim by the RP is untenable, specifically keeping in view the Agreement, the Provisions of Section 14 of the Code. As regarding the argument of the Appellant that the RP ought not to have added the interest of the Claim amount after admission of the Claim, we hold that the role of the RP under IBC, 2016 is only to collate the Claims and that he does not have any adjudicatory powers. The Claim of the Creditors does not stop on initiation of CIRP. Only the actions of enforcement are suspended during the period of moratorium. We find force in the contention of the Learned Counsel for the RP that the Claim is determined as of the CIRP commencement date so that the RP can state the value of the amount due to the Creditors in the Information Memorandum and invite Expression of Interest from Prospective Resolution Applicants.”

7. Thus, it transpires that Section 14 of the Code does not impose any restriction on charging of any interest as its objective is only to safeguard the assets of the Corporate Debtor and it has nothing to do with the proceedings against the Personal Guarantors. Further, there is no provision in the Code that enables the guarantors of a Corporate Debtor to seek

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remission in the interest claims from the Financial Creditors solely on the basis that there is a Resolution Plan. Further, it is not the case of the Applicant that the liabilities of the Personal Guarantors have been extinguished in the Resolution Plan of the Corporate Debtor. Moreover, it is not in the domain of the IBC, 2016, even to decide any contractual interest liability.

8. In so far the contention of the Applicant qua the cessation of penal interest post approval of the Resolution Plan i.e., 07.08.2019, of the Corporate Debtor is concerned, it is pertinent to refer to the judgment of the Hon'ble Apex Court in the case of *Lalit Kumar Jain versus Union of India & Ors. Transferred Case (Civil) No. 245/2020* wherein it was held that:

“108. It is therefore, clear that the sanction of a resolution plan and finality imparted to it by Section 31 does not per se operate as a discharge of the guarantor's liability. As to the nature and extent of the liability, much would depend on the terms of the guarantee itself. However, this court has indicated, time and again, that an involuntary act of the principal debtor leading to loss of security, would not absolve a guarantor of its liability.”

9. Thus, as far as interest on the principal amount is concerned, the Appellant is bound by the terms of the Supplementary Guarantee Deed. Proceeding further, it is incumbent to refer to the relevant extract of the supplementary deed of guarantee dated 05.09.2017, the Relevant extract of guarantee deed is reproduced hereunder-

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"..... covenanted and agreed to jointly and severally pay to the Bank on demand upon default made by the company the whole of such principal amount together with interest cost charges expenses and/or other monies as may then be due to the Bank and also agreed to indemnify and keep indemnified the Bank against all loss of principal, interest and other monies due and all costs (as between advocate and client) charges and expenses whatsoever which the Bank may incur by reason of any default on the part of the borrower."

10. A bare reading of the aforementioned clause makes it conspicuous that in case of default, the guarantor shall be jointly and severally liable to pay the Bank along with the principal amount, any interest cost charges, expenses or such other sum as may then be due to the Bank. Thus, we do not find any force in the argument of the Applicant that since the supplementary deed of guarantee pertained to a sum of Rs. 68.50 Crore, the Bank cannot claim a sum higher than that. If the interpretation suggested by the Applicant is to be accepted then the financial institution can never be allowed to recover penal interest from the defaulters and their guarantors and the same will result in suffocating the financial ecosystem of the country.
11. At this juncture, it is also pertinent to refer to Form B of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulation, 2019. For the sake of convenience, the relevant extract of Form-B is reproduced hereunder: -

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FORM B
CLAIM WITH PROOF BY A CREDITOR

(Under regulation 7(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019)

[Date]

To
[Name of the Resolution Professional]
[Address as set out in public announcement]

From
[Name and address of the creditor]

Subject: Submission of claim with proof in the matter of [name of guarantor].

Madam/Sir,

[Name of the creditor], hereby submits the claim with proof in respect of the resolution process of [name of guarantor]. The details for the same are set out below:

1.	Title and full name of creditor				
2.	Identification number of creditor	Aadhaar Number	PAN	CIN	GSTIN
3.	Address	Present	Permanent	Business	
4.	Email				
5.	Total amount of claim (Including any interest as on the resolution process commencement date)				
6.	Details of documents by reference to which the debt is substantiated				
7.	Details of any dispute, as well as the record of such dispute with respect to claim (if any)				
8.	Details of how debt was incurred and the date when such debt was incurred				
9.	Details of any mutual credit, mutual debts, or other mutual dealings between the guarantor and the creditor, which may be set-off against the claim				
10.	Details of any retention of title arrangements in respect of goods or properties to which the claim refers				

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12. A perusal of column 5 of Form B makes it clear that the person filing the claim has to submit its claim including interest as on the date of resolution

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process commencement date. In the instant case, the Insolvency Resolution Process of the Applicant was initiated by this Adjudicating Authority vide its Order dated 28.03.2024. Thus, we are of the opinion that SBI was entitled to levy interest till the date of initiation of insolvency resolution process i.e., 28.03.2024. Further, as observed above, the approval of the Resolution Plan will not freeze the liability of the Creditor or penal interest in so far as the Personal Guarantor is concerned. Moreover, as regarding the argument of the Appellant that the RP ought not to have admitted the Claim amount due to the same being highly inflated, it is no more Res integra that the role of the RP under IBC, 2016 is only to collate the Claims and he does not have any adjudicatory powers. Besides, the amount of interest levied as per the contractual liability is a question that lies beyond the jurisdiction of this Court and any interference with the same will amount to rewriting the contract between the parties.

13. In so far as the computation of the claimed account is concerned, the Resolution Professional has placed on record a copy of the claim filed by the Bank. Further, on bare perusal of the same, it transpires that Respondent No. 2 i.e., SBI, has taken into account all the credit transactions made in Corporate Debtor's loan account and thus, we are not inclined to interfere with the claim amount admitted by the Resolution Professional.

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14. Hence, in view of foregoing discussion, finding no merit in the contentions of the Applicant, the Application bearing *IA (IBC) No. 341/JPR/2024* stands dismissed, thus disposed off.

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**REETA KOHLI
JUDICIAL MEMBER**

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**KAVITA BHATNAGAR
TECHNICAL MEMBER**