

DIVISION BENCH

ITEM NO.106

**NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH
PRAYAGRAJ**

IA NO.437/2022 IN CP (IB) No.52/ALD/2022

CORAM:

- 1. SHRI PRAVEEN GUPTA,
HON'BLE MEMBER (JUDICIAL)**
- 2. SHRI ASHISH VERMA,
HON'BLE MEMBER (TECHNICAL)**

Date of Order: 8th May, 2024

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	STATE BANK OF INDIA THROUGH MANISH AGARWAL V/S SH.CHAND NARAIN KUCHROO (PERSONAL GUARANTOR OF M/S K K MILK FRESH INDIA LTD.)
UNDER SECTION	95(1) IBC

COUNSEL APPEARED THROUGH PHYSICAL/ VIRTUAL HEARING:

Sh. Karan Kohli, Adv. : *For the State Bank of India*
Sh. Vasu Goyal with : *For the Personal Guarantor*
Sh. Arjun Sanjay, Adv.

ORDER

Ld. Counsels representing the parties are present through VC.

1. In this case, the notice was earlier issued to the Respondent/ Personal Guarantor, whereupon however no reply was preferred after granting repeated opportunities.

2. As per our one of the previous orders dated 17.04.2024, the following observations were made in IA No.437/2022 filed by the Personal Guarantor.

1. As per the previous order dated 1st March, 2024 vide Para No.4, we have granted liberty to the Personal Guarantor to file reply subject to the deposit of Rs.25,000/- in the Prime Minister's National Relief Fund. The said liberty was granted, in view of the fact that despite repeated

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opportunities granted in the past no reply was filed, however on 1st March, 2024 another request was made for seeking time to file reply, which was allowed subject to the payment of the cost as aforesaid.

2. *It is pointed out by the Registry that no reply has so far been filed by the Personal Guarantor.*
3. *Ld. Counsel representing the RP also states that he is not in the receipt of any reply from the Personal Guarantor as well.*
4. *In view of the aforesaid situation, the right to file reply is struck off.*
3. In view of the last opportunity having already been granted to the Personal Guarantor, even on payment of the cost, no reply was filed and therefore the right to file reply was struck of.
4. There is however a representation today on behalf of the Personal Guarantor and the Ld. Counsel, Sh. Vasu Goyal has put in appearance.
5. In view of this, we have permitted the Ld. Counsel representing the Personal Guarantor to make oral submissions.
6. The main contention raised by the Ld. Counsel representing the Personal Guarantor is that the present petition filed by the State Bank of India, is not maintainable in terms of the limitation, as it is grossly barred by limitation. It is also pointed out that as per Deed of Personal Guarantee dated 22.11.2013, upon occurrence of an Event of Default, the Security Trustee, which in the present case is SBI CAP Trustee Co. Ltd., may raise a notice of demand upon the personal guarantor. However, in the present case, notice of demand is issued by the State Bank of India i.e. the lender and not the Security Trustee.

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7. *Per contra*, the Ld. Counsel representing the Financial Creditor states that the present petition is maintainable on merits as well as on limitation.
8. Detail arguments have been advanced by the Ld. Counsels representing the respective parties.
9. Arguments heard. Order reserved.
10. At the request of the Ld. Counsels representing the parties, however three days time is granted for filing the written submissions. Let the same be filed within the aforesaid stipulated period, in any case not later than 11.05.2024, failing which, the written submissions will not be taken into consideration.

-Sd-
(Ashish Verma)
Member (Technical)

-Sd-
(Praveen Gupta)
Member (Judicial)

8th May, 2024

Kavya Prakash Srivastava
(Stenographer)