

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**COURT - 2**

ITEM No.303  
**C.P.(IB)/139(AHM)2022**

**Order under Section 95 IBC**

**IN THE MATTER OF:**

Indian Bank (Erstwhile Allahabad Bank)

.....Applicant

V/s

Amit Suresh Bhatnagar

.....Respondent

**Order delivered on: 16/05/2024**

**Coram:**

**Mrs. Chitra Hankare, Hon'ble Member(J)**

**Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)**

**ORDER**

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sd-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-Sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY  
THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD (COURT - II)**

**CP(IB) No. 139 / NCLT / AHM / 2022**

(Filed under Section 95(1) of the Insolvency & Bankruptcy Code, 2016)

Indian Bank (Erstwhile Allahabad Bank)  
Having its Corporate office (Head Office),  
At 254-260, Avvai Shanmugam Salai,  
Royapettha, Chennai-600014 and  
Having It's branch office amongst the,  
Other at Indian Bank,  
Stressed Asset Management (SAM) Branch,  
2<sup>nd</sup> floor, Deshna Chambers, B/H Kadva Patidar,  
Vadi, Usmanpura Cross Road, Opp. AMC,  
Water Tank, Ashram Road, Ahmedabad-380014

... Financial Creditor

Versus

Mr. Amit Suresh Bhatnagar,  
6, Green Park Society,  
Nizampura, Vadodara-390002.

... Personal Guarantor

**Order pronounced on 16.05.2024**

**Coram:**  
**MRS. CHITRA HANKARE**  
**HON'BLE MEMBER (JUDICIAL)**

**DR. V. G. VENKATA CHALAPATHY**  
**HON'BLE MEMBER (TECHNICAL)**

**Present:**

For the Applicant : Mr. Ritesh Patadia, Adv.  
For the Respondent : Mr. Kunal Vaishnav, Adv

**JUDGEMENT**

1. Indian Bank (Financial Creditor) has filed this Application under section 95 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as IBC,2016) read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 to initiate Resolution Process against Mr. Amit Suresh Bhatnagar, the Personal Guarantor of the Corporate Debtor namely Maktel Power Limited for default of an amount of Rs. 22,94,45,298.64/-.
2. The total debt is Rs. 22,94,45,298.64/- and date of default as mentioned in application is 31.05.2018. The applicant filed an original application bearing OA No. 1252 of 2019 before Debt Recovery Tribunal II, Ahmedabad for recovery of dues. Thereafter, Company Petition bearing No. CP(IB) 482/NCLT/AHM/2019 filed by the applicant under Section 9 of the IBC against Maktel Power Limited and same was admitted by this Hon'ble National Company

Law Tribunal, Ahmedabad vide order dated 11.09.2020.

3. It is observed from the application E-filed on 31.05.2022 for bringing insolvency under Sec 95 of IBC 2016 based on a guarantee stated to have been executed by the respondent Mr. Amit Suresh Bhatnagar on 26.09.2013 for certain credit facilities granted to M/s Maktel Power Limited which was admitted under CIRP by this Tribunal. However, the name of the personal guarantor mentioned in the guarantee agreement differs from the name mentioned in the Form-B filed by the applicant on 09.11.2020 wherein the name is mentioned as Mr. Amit Bhatnagar, 6 Green Park Society, Nizampura, Vadodara. The addresses mentioned are however, same. Further the applicant has not enclosed the original sanction letter or any other modification or enhancement of sanction or grant of additional facilities granted or if any other guarantee was executed in favor of the Corporate Debtor after this guarantee was executed. The respondent in his reply affidavit dated 20.11.2023 to this application has denied having executed the bank guarantee and has also stated that vide his letter dated 23.01.2015 that he had withdrawn the personal guarantee given in the credit facility granted to Maktel Power Limited. The reply of the respondent has certain contradictions, however the lack of documents in support of this

application filed by the applicant to prove the continuance of the guarantee with details of the sanction, extensions granted and decision taken on this letter of withdrawal raises doubt whether this application is sustainable both for material defects and limitation. As per the applicant the date of NPA was 31.05.2018 while the date of debt due is mentioned as 30.10.2019. It is also stated that the applicant is a director in the Corporate Debtor which is under CIRP.

4. Due to lack of the appropriate documents of sanction, difference between the date of NPA and the date of default, insufficiency of documents to prove that the guarantee had continued and that the Form B notice does not clearly indicate the relevant guarantee document which is being invoked, this application is found to be defective and not maintainable. Hence, we pass the following order.

**ORDER**

- i. Accordingly CP(IB) 139 of 2022 is rejected.

-Sd-

**DR.V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-Sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**