

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

ITEM No.216  
**C.P.(IB)/141(AHM)2022**

**Proceedings under Section 95 IBC**

**IN THE MATTER OF:**

Indian Bank (Erstwhile Allahabad Bank)  
V/s  
Jayaben N Patel

.....Applicant

.....Respondent

**Order delivered on: 06/05/2024**

**Coram:**

**Mrs. Chitra Hankare, Hon'ble Member(J)**  
**Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)**

**PRESENT:**

For the Applicant : Mr. Ritesh Patadia, Adv.  
For the Respondent : Mr. Harmish Shah, Adv.

**ORDER**

The respondent had on 26<sup>th</sup> September 2013 had executed a deed of guarantee for grant of certain facilities to M/s Maktel Power Limited. Heard the Ld. Counsel for the applicant (erstwhile Allahabad Bank) and the personal guarantor. It is stated that the guarantee was invoked by the financial creditor and A notice was also issued on 09.11 2020. As per the affidavit submitted by the respondent and in arguments advanced, subsequent to this letter dated 12 November 2013, the applicant had accepted certain alternate mortgagee documents and released the personal guarantee of the respondent. Further in the subsequent sanction of loans to the respondent dated 17 May 2017, the applicant financial creditor had not made any reference to the respondent as guarantor. The respondent also stated that he has revoked the guarantee on 21.01.2015, and the bank agreeing to release the guarantors of their liability vide their letter dated 12 November 2013.

We observe that the financial creditor (applicant) is not able to prove and submit any record to substantiate his claim. In his written submission he has stated that the notice was issued within the period allowed under limitation Act. Since the guarantee appears to have been withdrawn and accepted by the respondent. This application is rejected for non-maintainability for non-disclosure of material facts by applicant while filing this application, it is necessary to impose cost upon applicant for wasting time of this Tribunal as well as making wrong submissions, applicant is saddled with cost of Rs.50,000/- to be paid to Prime Minister's National Relief Fund and submit receipt herewith.

-Sd-

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

-Sd-

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