

**NATIONAL COMPANY LAW TRIBUNAL**  
**MUMBAI BENCH**  
**COURT-IV**

6. IA 558(MB)2024  
IN  
C.P. (IB)/1275(MB)2021

CORAM:

MS. ANU JAGMOHAN SINGH  
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI  
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **16.02.2024**

Name of the Party: Bank Of Baroda (Through Resolution  
Professional Mr. Shailesh Bhalchandra  
Desai)  
Vs  
Mrs. Zulekha Amir Dodhia

Section 95(1), 60(2) of Insolvency and Bankruptcy Code, 2016

**ORDER**

1. Mr. Ayush Rajani a/w Ms. Mitali Bhatt, Ld. Counsel for the Applicant present in IA. Mr. Darshit Rupale, Ld. Counsel for the Personal Guarantor present through VC.

**IA-558/2024**

2. This is an Application filed u/s 60(2) by the Applicant/ Financial Creditor seeking recall of the order dated 01.02.2024 which was rejected on the ground of limitation period.

3. Ld. Counsel for the Applicant stated that the Company Petition i.e. C.P. (IB)/1275(MB)2021 is filed on 21.12.2021 by the Bank of Baroda against the Personal Guarantor of the Corporate Debtor u/s 95 of IBC.

4. Ld. Counsel for the Applicant stated that the date of invocation of guarantee through SARFEASI notice is 12.12.2017 and the Demand Notice is dated 31.10.2020. Taking note of these dates, this Bench held that the notice is hit by limitation.

5. The Applicant stated that the said Company Petition is not barred by limitation and the same is within limitation period. The relevant dates and events are mentioned in the below table:

Sr. No.	Particulars	Date	Page No.
1	Date of Personal Guarantor invocation notice annexed with the petition also refer order dated 01 <sup>st</sup> February 2024 passed by this Bench.	12 <sup>th</sup> December 2017	Pg. 11 and 101 of the Petition also refer order dated 01 <sup>st</sup> February 2024
2	Limitation period of 3 years expired on	12 <sup>th</sup> December 2020	
3	Date of filing of present Company Petition	21 December 2021	
4	<i>Suo moto</i> order dated 23 <sup>rd</sup> September 2021 passed by the Hon'ble Supreme Court of India clarified that the period from 15 <sup>th</sup> March 2020 till 02 <sup>nd</sup> October 2021 plus additional 90 days from 03 <sup>rd</sup> October 2021 shall also stand excluded while computing the limitation period.	90 days from 03 <sup>rd</sup> October 2021 is 01 <sup>st</sup> January 2022. Present petition is filed on 21 <sup>st</sup> December 2021 hence, within limitation period	Annexure at Pg. 131, Annexure 13 of the main company petition
5	Even otherwise, subsequently <i>suo moto</i> order dated 10 <sup>th</sup> January 2022 passed by the Hon'ble Supreme of India clarified that the period from 15 <sup>th</sup> March 2020 till 28 <sup>th</sup> February 2022 plus additional 90 days from 28 <sup>th</sup> February 2022 shall also stand excluded in	Period to be excluded from 15 <sup>th</sup> March 2020 till 28 February 2022 + 90 days thereafter which extends the period till 31 <sup>st</sup> May 2022 (para 5 of the said order should be excluded while	

computing the periods. Copy of the said order is hereto annexed and marked as "Annexure 5". Present petition was filed on 21 <sup>st</sup> December 2023.	considering the limitation period	
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6. The Counsel submitted that during pleading and arguments this was not brought to the notice of the Bench. Inadvertently, the Bench held that the petition is hit by limitation.
7. This Bench observes that in view of *suo moto* order of the Hon'ble Supreme Court the present Company Petition is within limitation. Hence, Order dated 01.02.2024 is recalled.
8. The Registry is directed to list this matter on 26.02.2024 before this Bench.
9. In view of aforesaid direction, the present Application is **allowed** and disposed of.

Sd/-

**ANU JAGMOHAN SINGH**  
**Member (Technical)**

/Dubey/

Sd/-

**KISHORE VEMULAPALLI**  
**Member (Judicial)**