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Application/Petition registered with Case No:C.P. (IB)/403(ND)2025

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IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT– II)

Item No. 210
CP(IB)-403/ND/2025
IA-4295/ND/2025

IN THE MATTER OF:

IndusInd Bank Ltd. **... Applicant/ Financial Creditor**

Versus

Mr. Surpreet Singh Suri **... Respondent/ Personal Guarantor**

AND IN THE MATTER OF IA-4295/ND/2025:

Rabhakar Kumar
B-5/41, Ground Floor, Vivekanand Apartment,
Sector 8, Rohini, Delhi -110085 **... Applicant/RP**

Under Section: 99 r/w 95 of IBC, 2016

Order delivered on 16.03.2026

CORAM:

SHRI ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)
MS. REENA SINHA PURI, HON'BLE MEMBER (T)

PRESENT:

For the Applicant/RP	:	Adv. Ishwar Mohapatra, Adv. Animesh Pandey
For the Respondent	:	Adv. Usha Singh

Hearing Through: VC and Physical (Hybrid) Mode

ORAL ORDER

IA-4295/ND/2025: Ld. Counsel for the RP could draw our attention to the application preferred under Section 99 of IBC, 2016. The factual matrix has been captured in Para 2 of the application which reads thus:-

"2. The brief facts which led to the filing of the present Recommendation Report is as under:-

i. IndusInd Bank (hereinafter the "Lender Bank") vide its Sanction Letter dated 28.08.2014, has sanctioned a Term Loan Facility (hereinafter "CCF") of Rs. 60,00,00,000/- (Rupees Sixty Crores only) to the Corporate Debtor.

ii. In order to secure the sanctioned facility, Cloud 9 Projects Private Limited executed Deed of Hypothecation dated 06.09.2014 in favour of the Applicant/ IndusInd Bank Ltd. with respect to the following assets:

a. Plant and machinery and other movable assets;
b. Book debts;
c. Stock in trade

iii. To secure the above facility, Letters of Continuing Guarantees dated 06.09.2014 was executed between the Lender Bank and Mr. Surpreet Singh Suri, Mr. Vidur Bhardwaj and, Mr. Nirmal Singh Personal Guarantee given by the PG. Copy of stated Letters of Continuing Guarantees have already been enclosed as Annexure-F from Page No. 79-94 of Section 95 Petition.

iv. The Corporate Debtor M/s Cloud 9 Projects Private Limited requested the Applicant to sanction Term Loan-2 worth Rs. 45 Crores, which was sanctioned vide sanction letter bearing ref No. IBL/CAD North/2017-18/ 110 dated 28.06.2017.

v. The above stated additional credit facilities in the form of Term Loan-2 was also secured by way of Guarantees given by several Guarantors of the Corporate Debtor including the Personal Guarantee of Surpreet Singh Suri, Undertaking and declaration dated 08.07.2017, Irrevocable Undertaking for post-dated cheques dated 08.07.2017, Term Loan Agreement dated 10.07.2017, Letters for Continuing Guarantee etc were executed.

vi. That upon continuous default in making the payment of installments of the Term loan facilities, the Lender Bank has *declared the account of the Corporate Debtor as Non-Performing Asset (NPA) on 30.01.2021.*

vii. *That in view of the defaults committed by the Cloud 9 Projects Private Limited and its Personal and Corporate guarantors leading to a violation of the terms of the various documents executed under the said Credit Facilities, the Applicant/ IndusInd Bank Ltd. has recalled the entire facilities and invoked the guarantees executed by the Personal and Corporate guarantors in its favour vide Recall Notice dated 29.06.2021, the Applicant/ IndusInd Bank Ltd herein called upon the Cloud 9 Projects Private Limited and its personal and Corporate guarantors to pay the Applicant a sum of 16,97,24,063.12 /- [Rupees Sixteen Crore Ninety Seven Lakhs Twenty Four Thousand Sixty Three and Paisa Twelve) due as on 31.05.2021.*

viii. *However, no payment was received by the Creditor either by the Corporate Debtor or from the Guarantors subsequent to which the Creditor further issued a Statutory Demand Notice dated 13.09.2024 Under Rule 7(1) of the IBBI (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtor) Rules, 2019 Calling upon Guarantor Mr. Surpreet Singh Suri to pay the entire due and payable amount of Rs. 24,86,35,607 /- [Rupees Twenty Four Crores Eighty Six Lakhs Thirty Five Thousand Six Hundred Seven Only] as on 31.07.2024 with further applicable interest and penal interest.*

ix. *Upon further continuous non-receipt of payments, the Creditor has preferred the captioned company petition before this Hon'ble Tribunal u/s 95 of IBC seeking to initiate personal insolvency process against the PG."*

2. To indicate the steps taken by him, the Ld. Counsel could refer to Para 5 of the application, which reads thus:-

5. Thereupon, the RP undertook all his duties as enshrined under Section 99 of IBC *interalia* including-

Date	Particulars
19.08.2025	The RP has created a distinctive and dedicated Email ID on 19.08.2025 for the purpose of all the correspondences in the matter. The email ID generated is- pirpcloud9pg@gmail.com. The RP has sent the intimation communication through mail dated 19.08.2025 along with the copy of order received, to the personal guarantor.
20.08.2025	The RP has sent the intimation communicating letter dated 19.08.2025 along with the copy of order received, to the personal guarantor through Speed post on dated 20.08.2025 which was delivered on 21.08.2025 as per delivery receipt. A copy of the letter dated 19.08.2025 along with speed post receipt and tracking report is enclosed herein and marked as **Annexure-A2.**
22.08.2025	The RP has sent the intimation communicating letter dated 19.08.2025 along with the copy of order received, to the personal guarantor by hand on 22.08.2025 which has been received by one Mr. Guddu (Mob: 8700482853), who is the security guard of the Personal Guarantor and upon his instructions. A copy of acknowledgement/receipt of letter dated 22.08.2025 is enclosed herein and marked as **Annexure-A3.**
23.08.2025	The RP has sent the intimation communicating letter dated 19.08.2025 along with the copy of order received, to the personal guarantor through Courier on dated 23.08.2025 which was delivered on 23.08.2025 as per delivery receipt. A copy of the letter dated 19.08.2025 along with Courier receipt and tracking report is enclosed herein and marked as **Annexure-A4.**

3. In Para 14 of the application, the RP has indicated that the requirements of Section 95(4) and Section 99(2) of IBC have been met. In Paragraphs 15 and 16, the RP has indicated that the examination/verification process carried by him. The Paragraphs 15 to 19 of the application read thus:-

"15. In terms of Section 99(1) of IBC, the Resolution Professional has comprehensively examined the petition filed by the Creditor u/s 95 of IBC.

16. *Upon examination of the petition u/s 95 the Resolution Professional has ascertained that-*

   a) *The Corporate Debtor has availed Term Loan Facilities from the Lender Bank amounting to Rs. 60 Crores (Rupees Sixty Crores only).*

   b) *The Corporate Debtor has also availed additional credit facilities in the form of Term Loan-2 amounting to Rs. 45 Crores (Rupees Forty five Crores only).*

   c) *The petition filed u/s 95 of the IBC encloses all the sanction letters along with the bank account statements evidencing the grant of credit facilities by the Lender Bank to the Corporate Debtor.*

   d) *The Personal Guarantor, Surpreet Singh Suri, among several other Guarantors, has provided his Personal Guarantee to the credit facilities availed by the Principal Borrower. The Letter of Guarantee signed by the Personal Guarantor has also been enclosed with the Petition filed u/s 95 of IBC by the Creditor. `*

   e) *The Principal Borrower has failed to repay the credit facilities availed by it from the Lender Bank.*

   f) *The Creditor has issued multiple Notices including Notice of Invocation of Guarantee & a Statutory Demand Notice under relevant rules of IBC to the Personal Guarantor asking him to pay the outstanding dues of the Corporate Debtor. All the notices are enclosed by the Creditors with the petition filed u/s 95 of IBC.*

   g) *The RP, in pursuant to his appointment, has sent multiple letters, emails, Speed post as well as Courier communications to the Personal Guarantor and the RP has also taken effort to by hand delivery to the address of the PG as provided in the petition filed u/s 95 of IBC and provided the opportunities to the PG to show if he has paid any amount to the Creditor or if there is any genuine pre-existing dispute with regards to the Debt. However,* *the Personal Guarantor has failed to show any such repayment of debt or existence of any genuine dispute over the debt.*

17. *Section 3(11) and Section 3(12) of IBC, defines the term "debt" and "default' as under:-*

    (11) "debt" means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt

    (12) "default" means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not Paid by the debtor or the corporate debtor, as the case may be;

18. *After examination of the documents and information provided to the RP, the RP is satisfied that there was a liability/obligation in respect of the claim of the Creditor which is due from the Principal Borrower and the Personal Guarantor. Hence the definition of "debt" as provided u/s 3(11) is satisfied.*

19. *Further, there was non-payment of debt when the amount of debt has become due and payable and is not Paid by the debtor. Hence the definition of "default' as provided u/s 3(12) is also satisfied."*

4. The applicant has made specific recommendations for the admission of the application. The relevant excerpt of the application reads thus:-

"***<u>RECOMMENDATION OF THE RESOLUTION PROFESSIONAL IN TERMS OF SECTION 99(1) R/W SECTION 99(7) OF IBC:</u>***

After a comprehensive review of all the information and documents submitted to the Resolution Professional (RP), I, Mr. Prabhakar Kumar, the Resolution Professional, appointed by this Hon'ble Tribunal vide its order dated 01.08.2025, hereby recommends that the present application, registered as CP IB 403/ND/2025, fulfills all the requirements under Section 95 of the Insolvency and Bankruptcy Code

(IBC) and satisfies the definition of "debt' and "default'" in terms of Section 3(11) r/w Section 3(12) of IBC and that the petition is accordingly ***<u>SUITABLE FOR ADMISSION.</u>"***

5. As can be seen from the provision of Section 100 of IBC, 2016. The Adjudicating Authority should give a decision within fourteen days from the date of submission of the report under Section 99, passing an order of either admitting or rejecting the application referred to in Section 94 or 95 of IBC, 2016, as the case may be. It is seen from the provision of Section 99 of the Code that the RP needs to carry out the exercise in terms of the provisions of Sections 99(2), (3), (4), (5) and (6) of the Code. Having carried out such an exercise, he needs to make a recommendation in terms of the provisions of Section 99(7) of the Code. The object and purpose of appointing the RP in terms of provision of Section 97 of the Code and considering his report for the purpose of taking a decision regarding admission of an application preferred under Section 95 of the Code is that, due weightage needs to be attached to the report. Only in such cases where the report of RP is not self-contained and lacks sufficient material, he may prefer to refer to the material enclosed in the application preferred under Section 95 of the Code and form an independent opinion. In the present case, the RP has made a specific recommendation for admission of the application. We don't find any material or record to persuade us to nix the application/recommendation. **In the wake, we are left with no option but to accept the recommendation made by the Resolution Professional and allow IA-4295/ND/2025 and admit CP(IB)-403/ND/2025. Ordered accordingly.**

6. It goes without saying that during the Insolvency Resolution Process, the RP shall give an opportunity to Personal Guarantor to submit his repayment plan. Nevertheless, before that the RP shall also carry the exercise in terms of the provisions of Section 100(2) of IBC 2016. For such purpose it would be open to the Respondent to appear before RP within 1 week from today.

7. There is no request by the RP for the purpose of conducting negotiation between the debtor and the creditor. As a sequel of admission of the present application, a moratorium shall commence in relation to all the debts of the Respondent. During the moratorium period – (a) any pending legal action or proceedings in respect of any debt qua the Respondent shall be deemed to have been stayed; (b) the creditors shall not initiate any legal action or legal proceedings in respect of any debt qua the Respondent; and (c) the debtors shall not transfer, alienate, encumber or dispose of any of the assets or his legal right or beneficiary interest therein. The moratorium shall cease to have effect at the end of period of 180 days.

8. A public notice shall be issued by the RP within seven days of passing of this order, inviting claim from all creditors within 21 days of such notice. The notice shall include details of the present order, particulars of the Resolution Professional with whom the claims have to be registered and the last date for the submission of the claims. The notice shall be – (a) published in two National Newspapers, one in English and other one Vernacular Language, in circulation in State where the debtor resides; (b) affixed in the premises of this Adjudicating Authority; and (c) placed on the website of the Adjudicating Authority.

9. We are sanguine that the RP shall discharge all such duties as are incumbent upon him in terms of the provisions of Sections 102, 103, 104, 105, 106, 107, 108, 112 and 113 of IBC, 2016, with the due deference of the procedure enshrined in Regulations 5, 7, 8, 9, 11, 12, 13, 14, 15 and 17 of IBBI (Insolvency Resolution Process for Personal Guarantor to Corporate Debtors) Regulations, 2019 and also in terms of the other extent provisions of the aforementioned code/ regulations and/or any other provisions of law applicable to him, in discharge of his duties as RP.

10. It goes without saying that whatever amount is paid to the creditor by the Principal Borrower (Corporate Debtor) and other guarantors would be deducted from the liability of the Respondent to repay.

11. A copy of this order along with the copy of the application as also the report of Resolution Professional shall be provided to the Creditor (Applicant), Personal Guarantor (Respondent) and IBBI, by the Registry/Court Master within 7 days from today by email.

12. IA-4295/ND/2025 stands disposed of accordingly. To come up for consideration of Status Report to be filed by RP, within 8 weeks.

-Sd/-
(REENA SINHA PURI)
MEMBER (T)

-Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)

Poonam/Ruchita