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Subject: Application/Petition registered with Case No:C.P. (IB)/405(ND)2025

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

Item No. 219
IB-405/ND/2025
IA-5481/ND/2025

IN THE MATTER OF:
IndusInd Bank Ltd. ... **Applicant/Financial Creditor**

Versus

Mr. Vidur Bhardwaj ... **Respondent/Personal Guarantor**

AND IN THE MATTER OF IA-5481/ND/2025:
Prabhakar Kumar
Resolution Professional of Vidur Bhardwaj
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 15.04.2026

CORAM:

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

PRESENT:
For the Applicant : Advocate Usha Singh
For the Respondent :

Hearing Through: VC and Physical (Hybrid) Mode

ORAL ORDER

IA-5481/ND/2025: As can be seen from the petition preferred under Section 95 of the IBC, 2016, it is the case of the Creditor that the Personal Guarantor/ Debtor before us stood as guarantor qua the financial facility amounting to Rs. 28,82,02,314.95/-defaulted to be paid by Principal Debtor. The Part-III of the application wherein the amount of debt and particulars of the various documents executed in respect of financial facilities are given reads thus:-

PART – III

PARTICULARS OF DEBT		
1.	Total debt	Rs. 28,82,02,314.95/-[Rupees Twenty Eight Crore Eighty Two Lacs Two Thousand Three Hundred Fourteen and Paisa Ninety Five Only] as on 31.05.2025 with further interest at documented rates till realization/repayment, breakup of which is provided in the computation schedule. A copy of statement of accounts along with working computation are annexed and marked hereto as **ANNEXURE-S[COLLY]**
2.	Amount in default	**Rs. 28,82,02,314.95/- (Rupees Twenty Eight Crore Eighty Two Lacs Two Thousand Three Hundred Fourteen and Paisa Ninety Five Only)** as on 31.05.2025 with further interest at documented rates till realization/repayment, breakup of which is provided in the computation schedule.
3.	Date on which debt was due	29.06.2021 (As per Loan recall and guarantee invocation Notice dated 29.06.2021 wherein the loan facilities were recalled by the Bank)
4.	Date on which default occurred	29.06.2021 Loan Recall Notice was issued on 29.06.2021 through which your guarantee was invoked, and you were called upon to pay the entire outstanding dues of Cloud 9 Projects Pvt. Ltd. The default is still continuing and existing.
5.	Nature of the debt	1. IndusInd Bank Ltd. as per the request made by the Cloud 9 Projects Private Limited approached the Applicant in the year 2014 for availing financial assistance and pursuant the request of the Cloud 9 Projects Private

Limited, the Applicant /IndusInd Bank Ltd had sanctioned the Credit Facility to the Cloud 9 Projects Private Limited to the tune of Rs. 60 crores vide Sanction Letter bearing ref. no. IBL/CAD/2014-2015/1139 dated 28-08-2014 for development of both Lotus Espacia project & Lotus Peak Projects. Copy of Sanction Letter bearing ref. no. IBL/CAD/2014-2015/1139 dated 28.08.2014 is annexed and marked hereto as **ANNEXURE-D**

2. That out of the total Sanction limit of Rs. 60 crores, only Rs. 30 crores was disbursed to the Cloud 9 Projects Private Limited on 27.03.2015 as Term Loan-1. The Cloud 9 Projects Private Limited made repayment of Rs. 15 crores from said disbursal of Rs. 30 crores from Term Loan -1. Accordingly, the sanctioned limit was reduced from Rs. 60 crores to Rs. 15 crores vide Sanction Letter dated 02.09.2015.

That while Rs. 15 crores were pending outstanding dues from Term Loan – 1, the Cloud 9 Projects Private Limited approached the Applicant /IndusInd Bank Ltd and requested for second Term Loan – for the purpose of development of its other project namely, 'Lotus Peak Towers' situated in NOIDA

3. 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;

		Copy of Deed of Hypothecation dated 06.09.2014 is marked and annexed hereto as **ANNEXURE–E** 4. Further, a Letter of Continuing Guarantee dated 06.09.2014 was executed by Mr. Vidur Bhardwaj , Nirmal Singh and Mr. Surpreet Singh Suri in favour of the Applicant /IndusInd Bank Ltd. Copy of the Letter of Continuing Guarantee dated 06.09.2014 is marked and annexed hereto as **ANNEXURE–F** 5. At the request of the Cloud 9 Projects Private Limited, the Applicant /IndusInd Bank Ltd sanctioned Term Loan – 2 worth Rs. 45 Crores vide
		Sanction Letter bearing ref No. IBL/CAD North/2017-18/1103 dated 28.06.2017. It is pertinent to mention here that at the time of sanction of Term Loan -2, there was pending outstanding dues of Rs. 15 crores against the Cloud 9 Projects Private Limited pertaining to Term Loan - 1. Therefore, the total sanctioned limit and total disbursed amount of the Cloud 9 Projects Private Limited stood at Rs. 60 crores and Rs. 30 crores respectively. Copy of Sanction Letter bearing ref No. IBL/CAD North/2017-18/1103 dated 28.06.2017 is marked and annexed hereto as **ANNEXURE–G** 6. That Term Loan -2 was sanctioned for the development of Lotus Peak Tower and disbursement of Rs. 15 Crores was made by Applicant /IndusInd Bank Ltd in July 2017 and a deferral was provided to Cloud 9 Projects Private Limited for obtaining Permission to Mortgage (PTM) from NOIDA Authority.

7. In order to secure the Term Loan -2 facility, a Deed of Hypothecation dated 14.07.2017 was executed for creating first and exclusive charge by way of hypothecation following assets;

- Plant and machinery and other movable assets;
- Trade Receivables;
- Book Debts;
- Stocks in trade;
- Escrow account of the Project of the Cloud 9 Projects Private Limited

Copy of Deed of Hypothecation dated 14.07.2017 executed by Cloud 9 Projects Private Limited is marked and annexed hereto as **ANNEXURE–H**

8. Further, Hacienda Projects Pvt. Ltd and Granite Gate Properties Pvt. Ltd. also executed Deed of Hypothecation dated 14.07.2017 for creating exclusive charge on current assets of Lotus Boulevard Project owned by Granite Gate Properties Pvt. Ltd. and for creating first and exclusive charge on current assets of Hacienda Projects Pvt. Ltd. Copy of Deed of Hypothecation dated 14.07.2017 executed by Hacienda Projects Pvt. Ltd and Granite Gate Properties Pvt. Ltd is marked and annexed hereto as **ANNEXURE–I**

However, above-mentioned mortgage could not be perfected as Permission to Mortgage was not obtained from Noida Authority being the first charge holder of the property.

9. Undertaking and declaration dated

		08.07.2017 executed by Cloud 9 Projects Private Limited in favour of the Applicant /IndusInd Bank Ltd in respect of the terms and conditions agreed upon by the Cloud 9 Projects Private Limited in respect of the said facilities. Copy of the Undertaking and declaration dated 08.07.2017 executed by Cloud 9 Projects Private Limited in favour of the Applicant /IndusInd Bank Ltd is marked and annexed hereto as **ANNEXURE–J.** 10. An Irrevocable Undertaking for post-dated cheques dated 08.07.2017 executed by Cloud 9 Projects Private Limited in favour of the Applicant /IndusInd Bank Ltd. Copy of Irrevocable Undertaking for post-dated cheques dated 08.07.2017 is marked and annexed hereto as **ANNEXURE–K** **11.** In order to secure the payment obligations under the financing documents, a Term Loan Agreement dated 10.07.2017 executed by Cloud 9 Projects Private Limited in favour of the Applicant /IndusInd Bank Ltd thereby subject to terms of the Master General Terms Agreement, the Sanction Letters, the Applicant Bank agreed to make available and the Borrower agrees to avail of the facilities for the purpose as mentioned in the schedule of the Agreement.
		Copy of Term Loan Agreement dated 10.07.2017 is marked and annexed hereto as **ANNEXURE–L** **12.** Letters for Continuing Guarantee all dated 10.07.2017 executed respectively by Mr. Vidur Bhardwaj, Mr. Nirmal Singh , Mr. Surpreet Singh Suri and other Corporate Guarantors in favour of the Applicant /IndusInd Bank whereby the said guarantors

irrevocably and unconditionally agreed to guarantee the due repayment to the bank forthwith within on the Bank's first demand, without demur or protest any or all amounts due and payable by the Borrower to the bank under the Facility including the principal sum as mentioned in the First Schedule hereto for the time being outstanding under the facility and all interests, charge, expenses and all other moneys whatsoever, due and payable by the Borrower to the Bank [the "Guaranteed Amounts"] , to the satisfaction of the Bank , in the event of failure on the part of Borrower in repaying the same to the Bank or otherwise upon occurrence of an event of default under the Facility/facility documents. Copy of the Letters for Continuing Guarantee dated 10.07.2017 executed by Mr. Vidur Bhardwaj, Mr. Nirmal Singh, Mr, Surpreet Singh Suri and other Corporate Guarantors in favour of the Applicant /IndusInd Bank is marked and annexed hereto as **ANNEXURE-M[Colly].**

13. As the Corporate debtor and its guarantors failed to pay the loan amount, principal and interest to the Applicant /IndusInd Bank Ltd and despite multiple reminders could not meet its obligations under the loan Agreement/Sanction Letters and defaulted in its payments as envisaged under the Loan Agreement(s)/Sanction Letter(s) due to which the loan account of the Cloud 9 Projects Private Limited was declared as a Non-Performing Asset ("NPA") in the books of the Applicant /IndusInd Bank on 30.01.2021 as per the extant Reserve Bank of India (RBI) guidelines and the

		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 favor vide Recall Notice dated 29.06.2021 issued by the Applicant/ IndusInd Bank Ltd thereby calling upon the Cloud 9 Projects Private Limited and its personal and Corporate guarantors to pay the Cloud 9 Projects Private Limited a sum of Rs 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. Copy of Loan Recall Notice dated 29.06.2021 alongwith dispatch proof is marked and annexed hereto as **ANNEXURE-N[Colly]** 14. Cloud 9 Projects Private Limited has committed recurring and regular defaults of its repayment obligations of its loan facility, Cloud 9 Projects Private Limited's failure to make the due and payable installments tantamount to "Default" under Clause 4.4 of Loan Agreement dated 10.07.2017. 15. The Applicant /IndusInd Bank Ltd. has also filed Company Petition bearing CP(IB) No. 362/2022 under section 7 of the Insolvency and Bankruptcy Code 2016 against Defendant no.1 on 05.05.2022 before Hon'ble National Company Law Tribunal, New Delhi and same is pending for admission. It is significant to mention that the Corporate debtor i.e. Cloud 9 Projects Private Limited duly

admitted/acknowledged its liability to repay the dues during the course of the said proceedings and also submitted a proposal dated 15.10.2024 to the Applicant/IndusInd Bank Ltd for settlement of dues.

Copy of the order dated 16.01.2024 in CP(IB) No. 362/2022 and proposal letter dated 15.10.2024 is marked and annexed hereto as **ANNEXURE-O[Colly]**

16. An Original Application No. 506/2024 was filed on 18.06.2024 against the Cloud 9 Projects Private Limited and its guarantors including the Respondent herein before Debt Recovery Tribunal Delhi -2, Delhi for recovery of an amount of Rs. 24,11,63,162.62/- (Rupees Twenty Four Crores Eleven Lakhs Sixty Three Thousand One Hundred Sixty Two and Paise Sixty Two Only) as on 31.05.2024 with further contractual rate of interest and other charges and the same is pending adjudication.

17. Upon failure to pay the due and payable amount in terms of Sanction terms and other financing documents, IndusInd Bank Ltd served the demand notice dated 13.09.2024 under Section 95 of Insolvency and Bankruptcy Code, 2016 calling upon the Respondent /guarantor Mr. Vidur Bhardwaj 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 and Seven Only) as on 31.07.2024 with further interest at documented rates till realization/repayment.

Copy of Demand Notice dated 13.09.2024 along with original dispatch proof tracking reports is marked and annexed hereto as **ANNEXURE-P[Colly]**

18. The present application is preferred by the creditor against the guarantor of Corporate Debtor on failure to pay the due and payable amounts.

6.	Secured debt including particulars of security held, the date of its creation, its estimated value as per the creditor.	Following securities were created in order to secure the Credit facilities availed by Cloud 9 Projects Private Limited.: 1. Personal Guarantee of Mr. Vidur Bhardwaj, Nirmal Singh and Mr. Surpreet Singh Suri in favour of the Applicant /IndusInd Bank Ltd executed by virtue of Letter of Continuing Guarantee dated 06.09.2014. 2. Deed of Hypothecation dated 06.09.2014 in favour of the Applicant /IndusInd Bank Ltd with respect to the following assets: • Plant and machinery and other movable assets; • Book debts; • Stock in trade. *(not perfected)* 3. Deed of Hypothecation dated 14.07.2017 executed by Hacienda Projects Pvt. Ltd and Granite Gate Properties Pvt. Ltd *(not perfected)* 4. Letters for Continuing Guarantee dated 10.07.2017 executed by Mr. Vidur Bhardwaj, Mr. Nirmal Singh, Mr. Surpreet Singh Suri and other Corporate Guarantors in favour of the Applicant /IndusInd Bank Copy of the security Agreements/documents are marked and annexed hereto as **ANNEXURE-Q[Colly].**
7.	Unsecured debt	Rs. 28,82,02,314.95 /- as on 31.05.2025

8.	Details of retention of title arrangement in respect of goods to which the debt refer	Not applicable
9.	Details of any mutual credit, mutual debt, or other mutual dealings between the guarantor and the creditor, which may be set-off against the claim	Not applicable
10.	Particular of an order of a court, tribunal or arbitral panel adjudicating on the default, if any	Not applicable
11.	Record of default with the information utility, if any	CIBIL Report is marked and annexed hereto as **ANNEXURE- R**
12.	Details of succession certificate, or probate of a will, or letter of administration, or court decree (as may be applicable), under the Indian Succession Act, 1925 (39 of 1925)	Not applicable
13.	Provision of law, contract or other document under which debt has become due	1. Section 126 of Indian Contract Act,1872 2. Insolvency and Bankruptcy Code 2016 3. Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules 2019. 4. IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Regulations, 2019 5. Default" under Clause 4.4 of Loan Agreement dated 10.07.2017

14.	A statement of bank account where deposit are made or credits received normally by the creditor in respect of the debt of the corporate debtor, from the date on which the debt was incurred	A statement of accounts maintained by the IndusInd Bank Limited/ Working Computation/Statement of the Creditor is attached as **ANNEXURE-S[Colly].**
15.	List of documents attached to this application in order to prove the existence of debt and the amount in default	1. Sanction Letter bearing ref. no. IBL/CAD/2014-2015/1139 dated 28.08.2014. 2. Deed of Hypothecation dated 06.09.2014 3. Letter of Continuing Guarantee dated 06.09.2014 executed by Mr. Vidur Bhardwaj and other personal guarantors 4. Sanction Letter bearing ref No. IBL/CAD North/2017-18/1103 dated 28.06.2017 5. Undertaking and declaration dated 08.07.2017 executed by Cloud 9 Projects Private Limited 6. Irrevocable Undertaking for post-dated cheques dated 08.07.2017 executed by Cloud 9 Projects Private Limited 7. Term Loan Agreement dated 10.07.2017 executed by Cloud 9 Projects Private Limited in favour of the Applicant /IndusInd Bank Ltd 8. Letters for Continuing Guarantee all dated 10.07.2017 executed respectively by Mr. Vidur Bhardwaj, Mr. Nirmal Singh, Mr. Surpreet Singh Suri and other Corporate Guarantors in favour of the Applicant /IndusInd Bank 9. Loan Recall Notice dated 29.06.2021 10. Demand Notice dated 13.09.2024 11. Working Computation/Statement of the Creditor.

16.	Statement by creditor in respect of excluded debts	I, Vani Mahajan on behalf of IndusInd Bank Limited hereby state that the debt(s) for which the insolvency resolution process application is filed does not include any- i. Liability to pay fine imposed by a court or tribunal; ii. Liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation; iii. Liability to pay maintenance to any person under any law for the time being in force; iv. Liability in relation to a student loan; v. Any other debt prescribed under section 79(15)(e) of the Code.
17.	If you are a secured creditor, tick the applicable box in the right column relating to forfeiture of right to enforce during the period of the repayment plan, which will determine the voting share as per section 110 of the Code.	Not applicable since exposure is unsecured.

2. During the course of hearing, the Ld. Counsel for the Personal Guarantor submitted that the Creditor had extended financial facility in the nature of Term Loan-1 and Term Loan-2 to the Principal Debtor and as far as Term Loan-1 is concerned, a settlement could arrive at between the parties and the Debtor/Personal Guarantor before us did not stand as guarantor qua Term Loan-2. The Ld. Counsel for the RP submitted that the Creditor filed a petition under Section 95(1) of the Code in respect of Term Loan-2 and no proceedings have been initiated in respect of Term Loan-1.

3. On perusal of the record, we could find that the Personal Guarantee executed on behalf of the Personal Guarantor/Debtor before us in terms of Deed of Guarantee has been placed on record as Annexure 2 (collectively) to the application. It is seen from Clause 2 to the Deed of Guarantee that the Personal Guarantor before us has irrevocably and unconditionally guaranteed the due payment to the Bank. The Clause 2 of the guarantee deed reads thus:-

2. GUARANTEE

2.1 The Guarantor hereby irrevocably and unconditionally guarantees the due repayment to the Bank

forthwith within on the Bank's first demand, without demur or protest any or all amounts due and payable by the Borrower to the Bank under the Facility including the principal sum as mentioned in the First Schedule hereto for the time being outstanding under the Facility and all interests, charges, expenses and all other moneys whatsoever, due and payable by the Borrower to the Bank (the "Guaranteed Amounts"), to the satisfaction of the Bank, in the event of failure on the part of Borrower in repaying the same to the Bank or otherwise upon occurrence of an event of default under the Facility/Facility Documents.

2.2 The obligations hereunder are independent of the obligations of Borrower or any other guarantor. The Guarantor shall, without prejudice to the other provisions contained in this Letter of Guarantee, as primary obligor and principal debtor to the Bank, and not merely as surety, on a full indemnity basis, indemnify the Bank, for any reason whatsoever irrespective of whether such reason or any related fact or circumstance was known or ought to have been known to the Bank or any of its officers, employees, agents or advisers. The Liability of Guarantor shall be joint and several with the Borrower and/or with any other guarantors.

4. Indubitably, all three guarantors have signed the Deed of Guarantee. Notably, each page of Deed of Guarantee has been signed by all the three guarantors. When Ld. Counsel for the guarantor submitted that the Personal Guarantor/Debtor before us did not execute any Deed of Guarantee in respect of Term Loan-2, the Ld. Counsel for the RP submitted that the stand taken by Debtor/Personal Guarantor before the RP was that he has not signed the Deed of Guarantee and it was not his stand that no guarantee deed was executed by him in respect of Term Loan-2.

5. Indubitably, when the present proceeding was preferred in respect of Term Loan-2 qua which the Personal Guarantor/Debtor before us stood as

Guarantor, the creditor could have no reason to place different set of documents on record.

6. The RP appointed by this Tribunal in terms of the provisions of Section 97 of the Code submitted his report. The factual matrix given by him in Para-2 of the report of the application reads thus:-

> **<u>FACTUAL MATRIX</u>**
>
> **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 Vidur Bhardwaj, 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 <u>30.01.2021</u>.**
>
> **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. Vidur Bhardwaj 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.

7. In Para-6 of the application/report, the RP has taken note of the response received by him from the Personal Guarantor. Having examined the objection by the Personal Guarantor, the RP could record his opinion. The objection raised by the Personal Guarantor and opinion of the RP as reflected in the application/report of the RP reads thus:-

6. <u>REPLY RECEIVED BY RP FROM THE PG THROUGH HIS ASSOCIATE/ADVOCATE</u>

The PG, through his associate/advocate has sent an email dated 15.10.2025 denying the existence of any debt against the petitioner-Bank. The PG, through his associate/advocate has raised the following grounds/objections before the RP-

6.1 <u>Objection-1 (Repayment of TL-I by CD)</u>

The PG through his advocate stated that the Term Loan-I has already been repaid in its entirety by the principal borrower and he relied on the statement made by the applicant-Bank in OA/506/2024 filed by the Bank before the DRT, New Delhi (at Page 22 of the OA).

<u>Resolution Professional's Opinion</u>

Upon perusal of the records, it is factually correct that IndusInd Bank, the sole Financial Creditor, in its application O.A. No. 506/2022 filed before the Hon'ble DRT, New Delhi, has stated at page 22 that the Corporate Debtor had repaid the entire outstanding dues pertaining to Term Loan–I on 07.04.2018, and that the said loan account bearing No. 545000000051 stood closed thereafter.

Nevertheless, the Statutory Demand Notice dated 13.09.2024 issued by IndusInd Bank under relevant rules of IBC (enclosed at Page No. 262 of Section 95 petition) mentions and demands the total outstanding debt of approx. **Rs. 24.86 crores** for term loan facility bearing account no. 545000000334 which does not pertains to Term Loan-I as mentioned in Page 22 of O.A. 506/2022 by the IndusInd Bank. Accordingly, the RP is of the view that the demand under the Statutory Notice relates to a separate loan facility and not to Term Loan–I.

6.2 Objection-2 (Forged signature in Guarantee Deed for TL-I)

The PG through his advocate further alleged that his Signature over the Guarantee Deed executed for Term Loan-I were forged and that he never ever signed any Guarantee Deed even for Term Loan-I.

Resolution Professional's Opinion

In response to Objection–2, pertaining to the alleged forgery of the PG's signature on the Guarantee Deed for Term Loan–I, the RP is of the considered view that the said allegation involves a question of fact and a matter of criminal nature, which falls outside the adjudicatory scope and jurisdiction of the RP.

The RP has no authority under the IBC, 2016 or the relevant rules and regulations to undertake any forensic examination or to adjudicate upon the authenticity or validity of signatures on documents. Accordingly, the RP refrains from expressing any conclusive opinion on the veracity of the alleged forgery and respectfully leaves the matter to the wisdom of this Hon'ble Tribunal to adjudicate and pass such orders as it may deem fit and proper in the facts and circumstances of the case.

6.3 Objection-3 (Non-existence of Guarantee Deed for TL-II)

The PG through his advocate also denied that he ever gave any guarantee for Term Loan-II alleging that the applicant-Bank has never produced any such guarantee deed for Term Loan-II either before the DRT or before the NCLT in Section 95 petition.

Resolution Professional's Opinion

Upon careful examination of the records submitted along with the Section 95 petition filed by IndusInd Bank, the RP finds the said contention of the PG to be factually incorrect and misleading. The copy of the Guarantee Deed pertaining to the Sanction Letter dated 28.06.2017, which relates to Term Loan–II, is duly enclosed at **Page 159 of the Section 95 petition.**

Further, Page 172 of the same document—forming part of the said Guarantee Deed—clearly mentions the name of the Personal Guarantor at Serial No. 4 in the tabular list of guarantors. Additionally, the same Guarantee Deed has also been filed by IndusInd Bank before the Hon'ble DRT, New Delhi, in O.A. No. 506/2022, where it is enclosed at Page 117, and the corresponding table forming part of the Guarantee Deed again appears at Page 129 of the said O.A.

This unequivocally establishes that a Guarantee Deed for Term Loan–II does exist and has, in fact, been filed by the applicant–Bank as part of the record before this Hon'ble Authority.

Accordingly, the RP is of the considered view that the objection raised by the PG regarding non-existence or non-production of the Guarantee Deed for Term Loan–II is factually baseless and devoid of merit.

6.4 <u>Objection-4 (Loan recall notice does not amounts to Invocation of Guarantee)</u>

The PG through his advocate raised further objection stating that the Loan Recall notice dated 29.06.2021 does not amounts to Invocation of Guarantee and the Invocation has to be in the form of clear and unequivocal demand by the Creditor from the PG.

<u>Resolution Professional's Opinion</u>

Upon careful examination of the Loan Recall Notice dated 29.06.2021, the Resolution Professional ("RP") observes that the said notice was expressly addressed to all the Personal Guarantors, including Mr. Vidur Bhardwaj, whose name is specifically mentioned therein.

Furthermore, as evident from the last paragraph on Page 240 of the Section 95 petition (where a copy of the said Loan Recall Notice has been enclosed), the Creditor—IndusInd Bank—has clearly recalled the loan and demanded repayment of the outstanding dues. The said paragraph also contains a specific reference to the invocation of the personal guarantees and a direct demand upon the guarantors, including the present PG, to pay the outstanding amounts.

In light of the above, the RP is of the considered view that the said Loan Recall Notice constitutes a valid and specific demand addressed to the PG. However, the question as to whether such a Loan Recall Notice can, in law, be treated as a formal Invocation of Guarantee is a pure question of law, which falls beyond the adjudicatory scope of the RP. Accordingly, the RP respectfully leaves this issue for determination by this Hon'ble Court, to be decided in accordance with law and on the basis of the material placed on record as this is of purely legal issue.

6.5 <u>Objection-5 (Non-service of Loan Recall Notice as well as Statutory Demand Notice)</u>

The PG through his advocate gave his final objection stating that both the Loan Recall Notice and the Statutory Demand Notice under relevant rules of IBC were served upon by the Bank to the address at 51-B, Friends Colony East, New Delhi – 110045 which does not at all belongs to the PG and he is completely unaware as to who resides or operated from that address.

<u>Resolution Professional's Opinion</u>

Upon perusal of the record, the Resolution Professional ("RP") notes that both the Loan Recall Notice dated 29.06.2021 and the Statutory Demand Notice dated 13.09.2024 were sent by IndusInd Bank to the address 51-B, Friends Colony East, New Delhi – 110045. The Bank has also enclosed copies of the Speed Post receipts and corresponding tracking reports evidencing dispatch of the said notices to the PG at the aforementioned address.

> Based on the documents made available to the RP and in view of the normal course of banking practice, wherein notices are ordinarily dispatched to the last known address of the guarantor as recorded in the Bank's records, the RP has bonafide reason to believe that the notices were duly served upon the PG at the address available with the Bank.

8. In para-7 of the report, the RP has given reference of legal provisions on the issues. As can be seen from Para-14 & 15 of the report, the RP could find the requirement of Section 95(4) & 99 of IBC, 2016 as met. Para-15 of the report reads thus:-

15. LEGAL PROVISIONS AND ITS COMPLIANCES BY THE RP:

PROVISIONS	COMPLIANCES
Section 95(1) of IBC *A creditor may apply either by himself, or jointly with other creditors, or through a resolution professional to the Adjudicating Authority for initiating an insolvency resolution process under this section by submitting an application*	The application has been filed by IndusInd Bank i.e. the Creditor, through an advocate, before the Hon'ble NCLT, New Delhi.
Section 95(4)- *An application under sub-section (1) shall be accompanied with details and documents relating to-* **(a)** *the debts owed by the debtor to the creditor or creditors submitting the application for insolvency resolution process as on the date of application*	(a) Multiple sanctions letters have been enclosed with the Section 95 petition along with Bank Statements. (b) Deed of Guarantees, Deed of Hypothecations are enclosed with Section 95 petition. (c) Board Resolution of Corporate Debtor and a letter acknowledging the debt is also enclosed with Section 95 petition. (d) Copy of recall cum Invocation of Guarantee and Statutory Demand Notices are enclosed with Section 95 petition.
Section 95(4)- *An application under sub-section (1) shall be accompanied with details and documents relating to-* **(b)** *the failure by the debtor to pay the debt within a period of fourteen days of the service of the notice of demand;*	a) Copy of recall cum Invocation of Guarantee and Statutory Demand Notices are enclosed with Section 95 petition. b) Bank account statements are enclosed with Section 95 petition.

Section 95(4)- *An application under sub-section (1) shall be accompanied with details and documents relating to-* **(c)** *relevant evidence of such default or non-repayment of debt.*	a) Copy of recall cum Invocation of Guarantee and Statutory Demand Notices are enclosed with Section 95 petition. b) Bank account statements are enclosed with Section 95 petition.
Section 95(6)- *The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed.*	The petition u/s 95 of IBC has been filed in relevant "Form-C" and the prescribed fees has also been paid
Section 99(1) *The resolution professional shall examine the application referred to in section 94 or section 95, as the case may be, within ten days of his appointment, and submit a report to the Adjudicating Authority recommending for approval or rejection of the application.*	The RP has examined the application and submitting the present application cum report in compliance with this provision.
Section 99(2) *Where the application has been filed under section 95, the resolution professional may require the debtor to prove repayment of the debt claimed as unpaid by the creditor by furnishing—* *(a) evidence of electronic transfer of the unpaid amount from the bank account of the debtor;* *(b) evidence of encashment of a cheque issued by the debtor; or* *(c) a signed acknowledgment by the creditor accepting receipt of dues*	The RP has sent email dated 24.09.2025, 08.10.2025, 10.10.2025, 13.10.2025 and 14.10.2025 along with letter dated 27.09.2025 sent to the PG via speed post on the same day and it was delivered on 30.09.2025 to the PG as evident by the delivery report enclosed with this report, intimating him regarding the order dated 28.08.2025 passed by this Hon'ble Tribunal and seeking information/documents including evidence of electronic transfer of the unpaid amount from the bank account of the debtor or evidence of encashment of a cheques issued by the debtor or any signed acknowledgment by the creditor accepting receipt of dues.
Section 99(3) *Where the debt for which an application has been filed by a creditor is registered with the information utility, the debtor shall not be entitled to dispute the validity of such debt*	Not available

Section 99(4) *For the purposes of examining an application, the resolution professional may seek such further information or explanation in connection with the application as may be required from the debtor or the creditor or any other person who, in the opinion of the resolution professional, may provide such information.*	The RP has sent email dated 24.09.2025, 08.10.2025, 10.10.2025, 13.10.2025 and 14.10.2025 along with letter dated 27.09.2025 sent to the PG via speed post on the same day and it was delivered on 30.09.2025 to the PG as evident by the delivery report enclosed with this report, seeking information/documents as per Section 99(2) of the IBC.
Section 99(5) *The person from whom information or explanation is sought under sub-section (4) shall furnish such information or explanation within seven days of receipt of the request.*	Though the PG has responded to RP's emails though his associate/legal counsel, however the PG has not provided any documents evidencing repayment of debt. Instead the PG has denied the existence of any such debt on the grounds that he never executed any Guarantee deed.
Section 99(6) *The resolution professional shall examine the application and ascertain that—* *(a) the application satisfies the requirements set out in section 94 or 95;* *(b) the applicant has provided information and given explanation sought by the resolution professional under sub-section (4).*	The RP has examined the application and; a) The RP has ascertained that the application filed by the Creditor u/s 95 of IBC satisfied the requirements as set out thereunder. b) The applicant-creditor has already provided all the information and documents to the RP.
Section 99(8) *Where the resolution professional finds that the debtor is eligible for a fresh start under Chapter II, the resolution professional shall submit a report recommending that the application by the debtor under section 94 be treated as an application under section 81 by the Adjudicating Authority*	As mentioned in the subsequent row of this table, since the PG does not qualifies any of the criteria as mentioned u/s 80(2) of IBC for the purpose of initiating any "*Fresh Start Process*", the provision of Section 99(8) does not apply in this case.
Section 80(2) *A debtor may apply, either personally or through a resolution professional, for a fresh start under this Chapter in respect of his qualifying debts to the Adjudicating Authority if —* *(a) the gross annual income of the debtor does not exceed sixty thousand rupees;* *(b) the aggregate value of the assets of the debtor does not exceed twenty thousand rupees;* *(c) the aggregate value of the qualifying debts does not exceed thirty-five thousand rupees;* *(d) he is not an undischarged bankrupt;* *(e) he does not own a dwelling unit, irrespective of whether it is encumbered or not;* *(f) a fresh start process, insolvency resolution process or bankruptcy process is not subsisting against him; and* *no previous fresh start order under this Chapter has been made in relation to him in the preceding twelve months of the date of the application for fresh start.*	The RP has comprehensively examined the application and is ascertained that none of the eligibility criteria for "*Fresh Start Process*" as prescribed u/s 80(2) of IBC is fit and applicable in the present case of Personal Guarantor.

9. The RP has reflected in the report, the examination of the application by him independently. The relevant excerpt the application reads thus:-

EXAMINATION OF THE APPLICATION BY THE RESOLUTION PROFESSIONAL, FILED U/S 95 OF THE IBC BY THE CREDITOR

16. 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.

17. 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, Vidur Bhardwaj, 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 a Loan Recall Notice & 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 emails & letters to the Personal Guarantor and the RP has also provided the opportunities to the PG to show if he has paid any amount to the Creditor. However, the Personal Guarantor has contested the existence of debt.

10. Finally, the RP made recommendation for admission of the application preferred under Section 95 of the IBC, 2016. The recommendation reads thus:-

RECOMMENDATION OF THE RESOLUTION PROFESSIONAL IN TERMS OF SECTION 99(1) R/W SECTION 99(7) OF IBC:

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 28.08.2025, hereby recommends that the present application, registered as CP IB 405/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 **SUITABLE FOR ADMISSION.**

21. The reason for "recommending the **acceptance** of the captioned company petition", by the RP is:-

a) Because the RP has comprehensively examined all the information and documents provided by the Creditor and is satisfied that there is a debt and default of the debt by the Corporate Debtor in terms of Section 3(11) r/w Section 3(12) of IBC.

b) Because the RP is satisfied that the PG has provided his personal guarantee to the debt taken by the Principal Borrower.

c) Because the RP is satisfied that the Creditor has served Notice invocating the Guarantee and recalling the Guarantor to pay the debts taken by the Corporate Debtor.

d) Because the RP is satisfied that the debt has not been repaid either by the Corporate Debtor or by the Guarantor to the Creditor.

e) Because the RP has sent letters, emails and speed post communications to the PG to provide his side of the case. However, the PG has not provided any information or documents to the RP showing that the debt has been repaid.

11. In our view, the RP could perform his function could due diligence and precision and could deal with all such objections raised on behalf of the Guarantor, which has been raised today. We do not find any reason or justification not to accept report of the RP, more for the reason that we have already admitted the application preferred under Section 95 of IBC, 2016 in respect of Personal Guarantors in respect of same financial facility. **Resultantly, the IA preferred under Section 99 of IBC, 2016 is allowed and the application preferred under Section 95 stands admitted.**

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. IA-5481/ND/2025 stands disposed of accordingly. To come up for consideration of Status Report to be filed by RP, within 8 weeks.

Sd/-	**Sd/-**
(REENA SINHA PURI)	**(ASHOK KUMAR BHARDWAJ)**
MEMBER (T)	**MEMBER (J)**

Jitendra/Ruchita