



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

Item No. 217
IB-673/ND/2023
IA-1209/ND/2025

IN THE MATTER OF:

Central Bank of India

Stressed Asset Management Branch 5,
Jeevan Tara Building, Parliament Street,
New Delhi 110001

... Applicant

Versus

Harneet Kaur

B-50, BLOCK-B, Part-H,
Lajpat Nagar New Delhi - 110024

... Respondent

AND IN THE MATTER OF IA-1250/2025:

Central Bank of India

Stressed Asset Management Branch 5,
Jeevan Tara Building, Parliament Street,
New Delhi 110001

... Applicant

Versus

Harneet Kaur

B-50, BLOCK-B, Part-H,
Lajpat Nagar New Delhi - 110024

... Respondents

Under Section: 99 r/w 95(1) of IBC5(1) of IBC, 2016

Order delivered on 10.07.2025

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

MS. REENA SINHA PURI, HON'BLE MEMBER (T)

PRESENT:

For the Applicant :

For the RP : Adv. Shivam Gautam

Hearing Through: VC and Physical (Hybrid) Mode

ORAL ORDER



IA-1209/ND/2025: Having considered the application preferred under Section 95(1) of IBC, 2016, we appointed Mr. Vimal Kumar, IP as Resolution Professional. The order dated 01.02.2024 reads thus:

“The Applicant herein viz., Central Bank of India, has moved the present application u/s 95(1) of IBC, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 against Personal Guarantor to Corporate Debtor with a prayer to initiate IR process and to pass consequent order qua the PG. According to the Ld. Counsel for the applicant, Demand Notice dated 14.09.2023 under clause (b) of sub-Section 4 of Section 95 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantor to Corporate Debtors) Rules 2019 (ibid) demanding payment of amount of default (in Form-B) is enclosed with the application and is placed on record at page No. 55-63 of the application. The Ld. Counsel could also draw our attention to the proof of service of a copy of the application referred to in sub-Rule 1 of the afore-mentioned Rules, upon the Personal Guarantor but not upon the Corporate Debtor for whom the guarantor is a Personal Guarantor. We have also perused the Judgment of the Hon’ble Supreme Court of India delivered in a Batch of 384 petitions including

WP (Civil No. 1281/2021 Dilip B Jiwarajka vs. Union of India & amp; Ors. filed under Article 32 of the Constitution of India, on 09.11.2023 As per the provision of the Law, on filing of this application, the interim moratorium as stipulated under Section 96(1)(a) of IBC, has already commenced qua all debts of the Personal Guarantor. As proposed by the Applicant/ Guarantor, this Bench appoints Mr. Vimal Kumar (Email ID: vimal@ultiwise.in & maidvimal1@rediffmail.com) as Resolution Professional, whose details are given below:

IBBI Registration No. : IBBI/ IPA-002/ IP-00995/ 2020- 2021/ 13236

E-mail Address : vimal@ultiwise.in & maidvimal1@rediffmail.com

Contact Number : 7022034145

*The Resolution Professional so appointed shall perform all the functions as stipulated under Section 99 of IBC, 2016 read with Rules made thereunder. **He shall also examine the application and make recommendations with reasons in writing for acceptance or rejection of the present application within the time stipulated under Section 99 of IBC, 2016.***

The Resolution Professional shall give a copy of its Report to the Applicant as well as the Creditors of the Applicant as soon as the same is filed before this Authority.

The Applicant and his counsel are directed to make available a copy of this order along with a copy of the application and documents immediately to Mr. Vimal Kumar Resolution Professional by all modes for information and necessary compliance.



The Petitioner shall also make a copy of the application with all enclosures available to the principal borrower forthwith.

The Court Officer is also directed to inform the RP by E-mail.

List on 26.02.2024.”

2. The Ld. Resolution Professional completed the exercise in terms of the provisions of Section 99 of IBC, 2016 and preferred his report/application under Section 99 of IBC, 2016. Having considered the application, we passed the order dated 15.05.2024 admitting the application. The relevant excerpt of the order reads thus:

“8. The RP further made examination of the application as required under Section 99(6) of the IBC, 2016 which reads thus:-

“2.2.1 Examination of the application as required under Section 99(6)(a) of IBC read with Section 99(4) of IBC

2.2.1.1 Under the above mentioned provision, the Resolution Professional has to examine whether the requirements for filing the application as set out in Section 95 of the IBC have been complied with.

2.2.1.2 Under Section 95(4)(a) of IBC, the application under Section 95(1) shall be accompanied with details and documents relating to the debts owed by the debtor to the creditors as on the date of application submitted for Insolvency Resolution Process.

2.2.1.3 The date of filing of application is 30.09.2023. The relevant documents accompanying the application in this regards are as follows: - i. The copy of guarantee deed executed on 24.02.2014, being Annexure A-6 of the Application filed by the applicant under Section 95 of the IBC.

ii. The copy of Statement of Account along with Bankers Book of Evidence Act, being Annexure A-10 (Colly) of the Application filed by the applicant under Section 95 of the IBC.

iii. Under Section 95(4)(b) of IBC, the application should be accompanied with the documents showing the failure of the personal guarantor to pay the debt within a period of fourteen days of the service of the notice of demand sent by the applicant.

2.2.1.4 The relevant documents accompanying the application in this regards are as follows: -

i. Demand notice under Section 95(4)(b) of the Code, 2016 was issued by the applicant in Form B as per Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules 2019 calling upon the Personal Guarantor to pay Rs. 4,24,09,55,848/- as on 14.09.2023 which was duly served upon the Personal Guarantor



by sending the notice by speed post and affixing of demand notice on the premises by the applicant.

ii. Tracking report showing delivery of the demand notice in the form of photographs of the premises on 15.09.2023 has been annexed herewith as ANNEXURE-F.

2.2.1.5 Under Section 95(4)(c) of IBC, the application should be accompanied with the relevant evidence of such default or non-payment of debt. The relevant documents accompanying the application in this regards are as follows: -

i. Statement of loan accounts along with Certificate as per Bankers Book of Evidence Act, being Annexure A-10 (Colly) of the application, shows that no payment of debt has been made after the demand notice dated 14.09.2023 has been served on the personal guarantor.

2.2.1.6 Under Section 95(5) of IBC, the applicant has to provide a copy of the application to the debtor. The applicant has served a copy of the application to the Personal Guarantor, as per proof of service as per page 60 of the application.

2.2.1.7 Under Section 95(6) of IBC, the application has to be filed in such form and manner and accompanied by such fee as prescribed. The applicant has filed the application in the prescribed form, being Form C of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules 2019.”

9. The RP has given the reasons for making recommendation to admit the application as the application filed by the Creditor viz:-

(i) The application has been filed in the prescribed form and manner along with all the details and documents as are required to be submitted as per the provisions of IBC.

(ii) Based on the verification of documents, there is no evidence of repayment of the debt claimed as unpaid by the applicant.

10. Pursuant to the observations enumerated hereinabove, the Resolution Professional is of the opinion that it is a fit case where the application should be admitted

11. As can be seen from the provisions of Section 99(2) of IBC, 2016, what the RP need to do while preparing his report is to find out as to whether the Personal Guarantor is able to produce any of the evidences referred to in Section 99(2) of IBC, 2016 to prove that the amount of debt has been repaid. In the present case, in Para 2.2.1.5 of the application the RP has specifically averted that the Statement of Loan accounts along with Certificates as per Bankers Book Evidence Act shows no repayment of debt after the demand notice dated 14.09.2023 was served upon the Personal Guarantor. Section 99(2) of IBC 2016 reads thus:-

“99. Submission of report by resolution professional.— (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.”

12. As has been provided in Section 100 of IBC, 2016, the Adjudicating Authority is to pass an order with reference to the report of the RP, after giving opportunity to Personal Guarantor for hearing. In the present case, the Personal Guarantor did not file her reply to the report of the RP and we had proceeded against her ex-parte vide order dated 13.03.2024(ibid).

13. On perusal of documents on record and report of RP, we found that the Applicant/Creditor has been able to establish the ‘debt’ and ‘default’ beyond doubt in respect of the Guarantee given by the Respondent/Personal Guarantor. In view of the aforementioned, **we are inclined to accept the report of the RP filed by him under Section 99 of the IBC, 2016 and admit the present application filed by the Applicant/Creditor and accordingly, order initiation of the IR process in respect of Mrs. Harneet Kaur, Respondent/Personal Guarantor with immediate effect. Ordered accordingly**

14. There is no request by the RP for the purpose of conducting negotiation between the debtor and the creditors. 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.

15. 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 English and one Vernacular Language newspaper which is in circulation in the State where the debtor resides; (b) affixed in the premises of this Adjudicating Authority; and (c) placed on the website of the Adjudicating Authority.

16. We are sanguine the RP shall discharge all such duties as are incumbent upon him in terms of the provisions of Sections 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.

3. As the Personal Guarantor/Debtor did not participate in the Insolvency Resolution Process proceedings and did not offer any repayment plan we passed the order dated 27.01.2025 permitting the Creditor to initiate the Insolvency Resolution Process. The relevant excerpt of order dated 27.01.2025 reads thus:

*“5. In view of the aforementioned there being no repayment plan submitted by the Personal Guarantor we close the Insolvency Resolution Process. **The application stands disposed of.** The creditors may prefer appropriate application in terms of the provisions of Section 115 of IBC, 2016 read with Section 121 & Section 123 of the Code. No cost.”*

4. In terms of the aforementioned order passed by this Tribunal on 27.01.2025 the Creditor has preferred the present application under Section 123 of IBC, 2016. Despite service of notice no one has entered appearance on behalf of the Personal Guarantor/Debtor. The Ld. Counsel for the Creditor pointed out that even in response to the notice issued qua the report/application preferred under Section 99 of IBC, 2016 no one appeared on behalf of the Debtor and we ordered the proceedings as ex-parte. Para-12 of the order dated 15.05.2024 reads thus:

“12. As has been provided in Section 100 of IBC, 2016, the Adjudicating Authority is to pass an order with reference to the report of the RP, after giving opportunity to Personal Guarantor for hearing. In the present case, the Personal Guarantor did not file her reply to the report of the RP and we had proceeded against her ex-parte vide order dated 13.03.2024(ibid).”

5. It is apparent that from the order dated 27.01.2025 that the Personal Guarantor did not participate in the proceedings monitored by the IRP under Section 102 to 113 of the Code.

6. The captioned application meets the requirement under Section 123 of IBC, 2016. It is apparent from the record that the provisions of Section 123(1) of IBC, 2016 have been complied with. The Applicant bank is directed to file an affidavit



in terms of the provisions of Section 123(2) of IBC, 2016. Let the needful be done within one week from today. The Applicant has proposed the name of Mr. Vimal Kumar to be appointed as Bankruptcy Trustee.

7. In the wake of the aforementioned orders passed by Tribunal and in due deference to the provisions of Section 123 of IBC, 2016, the **application is allowed** and **the Personal Guarantor i.e. Harneet Kaur is declared as Bankrupt and Mr. Vimal Kumar IP is appointed as Bankruptcy Trustee.**

- **IBBI Registration No:** IBBI/IPA-002/IP-N00995/2020-2021/13236.
- **E-mail:** maidvimal1@rediff.com
- **Contact Number:** 7022034145

8. The Registry is directed to provide a copy of this Order as also copy of the Bankruptcy Petition to the creditors and bankruptcy trustee within a week as provided in Section 126 (2) of IBC, 2016.

9. As mandated under Section 127 of the Code, this order of Bankruptcy shall continue to have the effect till the debtor is discharged under section 138 of IBC, 2016.

10. The bankrupt shall submit his statement of financial position to the bankruptcy trustee in the prescribed Form within seven days from the date of the order, as required under Section 129 of IBC, 2016.

11. By operation of the provisions of Section 128 and 154 of the IBC, 2016, the estate of the bankrupt excluding the assets mentioned in Section 155(2) of Code r/w Rule 5 of Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtor) Rules, 2019 would vest with the Bankruptcy Trustee. The Bankruptcy Trustee is directed to take into his custody all the assets, properties, and actionable claims of the Bankrupt and take necessary steps to ensure preservation, protection, security and maintenance of those properties as provided under section 128 and 154 of IBC, 2016 forthwith.



12. The Bankruptcy Trustee is directed to adhere to provisions of Section 128, 129 (4), 132, 133, 134, 135, 136 and 137 of IBC, 2016 and discharge his powers and duties as specified and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time. Besides, the Bankruptcy trustee would perform his duty and function as provided in Section 149, 150, 157, 159, 164, 165, 166 and 167 of the Code.

13. The Bankruptcy Trustee would be entitled to exercise the right and general power as provided in Section 151 and 152 of the Code.

14. The Bankrupt, his banker or agent or any other person having possession of his property, books, papers, or other records which the Bankruptcy trustee is required to take possession for the purpose of the Bankruptcy process shall deliver the said property and documents to the Bankruptcy Trustee as per provisions of Section 157 of IBC, 2016.

15. The Bankruptcy Trustee would also ensure the compliance of all the provisions of IBC.

16. The Bankruptcy Trustee shall send public notices as provided under Section 130(a) of IBC, 2016 within ten days from the date of this order to the creditors mentioned in statement of affairs submitted by the Bankrupt under section 129 of IBC, 2016 as also to the creditors mentioned in the captioned application.

17. The Public Notice inviting claims from the creditors as contemplated under section 130(2) of the Code shall be issued in two leading newspapers, one in English and one in vernacular newspaper having wide circulation where the bankrupt resides.

18. In the wake of the present order and subject to the provisions of subsection (2) of 128 of the Code, no action shall be initiated against the property of the bankrupt in respect of debt and no suit or other legal proceeding shall be initiated against the bankrupt, save and except with the leave of this



Adjudicating Authority as provided in Section 128(1)(c) of the Code and on such terms as this Adjudicating Authority may impose.

19. The Bankruptcy Trustee shall conduct the administration of distribution of estates of bankrupt under Chapter V as provided in Section 136 of the Code.

In the wake of the present order the bankrupt would incur such disqualifications and restrictions as are provided under Sections 140 and 141 of the Code.

20. The Bankruptcy Trustee may seek such further information or explanation in connection with the bankruptcy process as may be required from the debtor or the creditor or any other person who in the opinion of the Bankruptcy Trustee, may provide such information. The persons from whom information or explanation is sought shall furnish such information or explanation within seven days of receipt of the request.

21. The Bankruptcy Trustee would exercise all the powers as enumerated under the Code read with Rules and Regulations made thereunder.

22. The Bankruptcy Trustee shall submit to this Adjudicating Authority and committee a preliminary report within ninety days from the date of this Bankruptcy Order after serving copy of the report on bankrupt as provided in Regulation 8 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulation, 2019.

23. The Bankruptcy Trustee shall submit to this Authority periodical progress report within fifteen days after the end of every quarter after serving copy of the report on the bankrupt provided under Regulation 10 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulation, 2019.

24. The fee of Bankruptcy Trustee to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019. The



Bankruptcy Trustee would also show due deference to the provisions of Section 169 of IBC, 2016.

25. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsel for information as also to Bankruptcy Trustee for taking necessary steps. A certified copy of the order is to be issued upon compliance with requisite formalities.

In terms of the aforesaid directions, the I.A. No. 1209/2025 stands disposed of.

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

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

