

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

[Through Physical hearing/VC Mode (Hybrid)]

ITEM No.13
I.A (IBC) No.380/2025
C.P (IBC) No.42/BB/2025

IN THE MATTER OF:

Canara Bank ... Petitioner
Vs

Mr. Harish S ... Respondent

Petition under Section 95 (1) of I & B Code, 2016

Order delivered on: 29.04.2026

CORAM:

SHRI. SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI. RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner : Shri Hemanth Rao

ORDER

1. Heard Ld. Counsel for the parties.
2. **I.A (IBC) No. 380/2025 is allowed and disposed of vide separate order.**
3. List the Main CP on **29.06.2026**.

-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)

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IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)

I.A. No. 380/2025
in
C.P.(IB) No. 42/BB/2025

Under Section 99 & Section 60(5) of IBC, 2016 read with Rule 7 (2) of the IB
(Application to Adjudicating Authority for Insolvency Resolution Process for Personal
Guarantors to Corporate Debtors) Rules, 2019.

IN THE MATTER OF IA 380/2025:

Shri. Ravindra Beleyur,
Resolution Professional of **Shri Harish S.,**
Personal Guarantor of *M/s Kanva Fashions Limited*
'Shreevathsa', No. 428, 19th B Cross Road,
Jayanagar 03rd Block, Bengaluru- 560 011 Applicant/ Resolution Professional

IN THE DECIDED MATTER OF:

Canara BankPetitioner

Versus

Shri. Harish S. Respondent

Order Delivered on: 29.04.2026

Coram: Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)
Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

ORDER

1. The present Application has been filed on 09.05.2025 by the Resolution Professional, with the following prayer:
 - a. *Take on record the Report of the Resolution Professional under section 99 of Insolvency & Bankruptcy code being submitted to this Hon'ble Tribunal;*
 - b. *Pass appropriate order u/s 100 of IBC, 2016 for admission of the application;*
2. Brief facts of the case are as follows:
 - i. The Applicant submits that an application under Section 95(1) of IBC, 2016 was filed before this Tribunal by Canara Bank ('Petitioner') for initiating

Insolvency Resolution Process against the Personal Guarantor Shri. Harish S. who is the Personal Guarantor of M/s Kanva Fashions Limited ('Corporate Debtor').

- ii. The Petitioner has granted various credit facilities to M/s. Kanva Fashions Limited ('Corporate Debtor'). Shri. Harish S has personally guaranteed the debts of Corporate Debtor. The Corporate Debtor failed to pay the Creditor the liability under the aforesaid credit facilities. The Financial Creditor on 15.06.2020 filed an Original Application (OA No. 785/2020) for recovery of Rs. 84,83,44,542 before DRT-II, Bengaluru.
 - iii. The DRT-I, at Chennai vide its Order dated 02.02.2024 in T.A. No. 130/2022 (Old No. O.A. 785/2020 - DRT-II Bengaluru) held that the Creditor is entitled to recover a total sum of Rs. 84,83,44,542 and the Corporate Debtors are directed to pay the said sum within one month after the receipt of the final order along with the interest @ 9% p.a. from the date of filing of the OA till the date of realization. On 13.02.2024 the Creditor issued Demand Notice to the Personal Guarantor under Section 95(4)(b) of the IBC, however, the same was outstanding in spite of sufficient time and opportunity granted by the Petitioner.
 - iv. This Tribunal vide order dated 18.03.2025, passed an order appointing the Applicant as the Resolution Professional and was directed to examine the application and after examining, may recommend for the acceptance/rejection of the application within a period of 10 days as contemplated under Section 99(1) of IBC.
 - v. The Applicant herein submits that he has examined the Application filed by Canara Bank under Section 95(1) of IBC, 2016 along with details of documents/information received from the Petitioner, Personal Guarantor and the Liquidator of the Corporate Debtor and recommends for the application of Canara Bank to be accepted for initiation of Insolvency Resolution Process against Sri. Harish S.
3. The Resolution Professional, after examining the petition filed by the Personal Guarantor under Section 95(1) read with Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, has filed this application

under Section 99(1) of the Code recommending the acceptance of application as it satisfies the requirements set out under Section 99(6) of the IBC, 2016, as follows:

- i. The Applicant is submitting the copies of the deeds of Guarantee executed between the Personal Guarantor and Canara Bank as *ANNEXURE-E (Colly)*. The said deed of guarantee contains a clause regarding the liability of the Personal Guarantor in case of default. It is crystal clear that the Personal Guarantor is liable for payment of the debt in the event the borrower commits any default.
- ii. Canara Bank had sanctioned various facilities to the Corporate Debtor, and the same were utilised by the Corporate Debtor. From the perusal of the demand notice dated 13.02.2024 addressed to Shri. Harish S., Canara Bank had demanded an amount of Rs. 1,54,71,13,141/- as on 31st January 2024, since there has been no payment and satisfaction of the charge created either by the Corporate Debtor or/and by the Personal Guarantor. Further, there is no dispute about the debt and default. The Liability of the Guarantor is coextensive with that of the corporate debtor, as expressly provided under Section 128 of the Indian Contract Act, 1872.
- iii. The Corporate Debtor has failed to pay the Creditor the liability under the aforesaid credit facilities, and the account became a Non-Performing Asset (NPA) on 31.07.2019. The Financial Creditor filed an Original Application (OA No. 78512020) for recovery of Rs.84,83,44,542 before DRT-II, Bengaluru, on 15.06,2020. The DRT 1, at Chennai vide its order dated 02.02.2024 in T.A. No. 130/2022 (Old No, O.A.785/2020 - DRT II Bengaluru) held that the creditors are entitled to recover a total sum of Rs.84,85,44,542 and the Corporate Debtors are directed to pay the said sum within one month after the receipt of the final order along with the interest (@9%p.a.) from the date of filing of the OA till the date of realization. In light of the above, the debt is within the Limitation period.
- iv. Clause 4 of the Deed of the Guarantee makes it very clear that the liability of this Personal Guarantor is co-extensive as such, and there is nothing contrary in the same Deed to which is otherwise than what is stated in Section 128 of the Contract Act.

- v. Neither the corporate Debtor nor any of the personal Guarantors have settled all the amounts due to Canara Bank. Based on the latest statement of account of loan accounts obtained from the Petitioner, we notice that there are no credits in the statement after the date of the demand notice until 8th April 2025, and no amount has been recovered from the corporate Debtor or by any of the other personal Guarantors.
 - vi. The aggregate value of the debt exceeds Rs. 35,000/-, and also the personal guarantor does not fulfil the criteria set out under section 80 of IBC, 2016, the Personal Guarantor is not eligible for making a fresh start under section 81.
4. Heard the Petitioner and perused the entire record, including the report of the Resolution Professional. Proof of service upon the Personal Guarantor was filed on 09.05.2025; however, no objections have been filed to date. It is evident that sufficient and adequate opportunities were afforded to the Respondent to appear and file a reply. In this regard, vide order dated 22.05.2025, the following directions were issued to the Petitioner:
- “Fairly it is informed that the communication sent to Respondent through registered post has returned with remarks ‘Addressee left without instruction’/‘unclaimed’. Before considering the admission prayer, let the Petitioner make an endeavor to ascertain the current whereabouts of the Respondent, either from its own records or by way of physical verification.”*
- Despite the above directions and efforts, the Respondent has failed to enter appearance or file any reply.
5. At the outset, it is observed that the financial creditor has extended various credit facilities to the Corporate Debtor, which were duly secured by a Deed of Guarantee dated 30.06.2016 executed by the Personal Guarantor. The existence of the guarantee and the co-extensive liability of the Personal Guarantor with that of the Corporate Debtor stands established, in terms of Section 128 of the Indian Contract Act, 1872.
6. Recovery proceedings were initiated before the Debts Recovery Tribunal, culminating in a final order dated 02.02.2024, whereby the debt and liability of the borrower were adjudicated and crystallized. Insofar as limitation is concerned, this Adjudicating Authority notes that the debt stands crystallized by virtue of the order passed by the

Debts Recovery Tribunal on 02.02.2024. The present Application, having been filed thereafter, is well within the prescribed period of limitation.

7. The Resolution Professional has examined the Application and ascertained that – (a) this Application satisfies the requirements set out in Sections 95 of the IBC, 2016; (b) the Applicant has provided information and given explanation sought by the Resolution Professional under sub-section (4) of Section 95 of the IBC, 2016. Further, based on the examination of the Application in the matter along with the information provided by the Petitioner, the Resolution Professional is of the opinion that the Application filed U/s.95 of the Code against the Personal Guarantor is satisfied and therefore recommended for acceptance of the same.
8. In light of the above reasons, the Resolution Professional having duly examined the application in accordance with the mandate of the Code and collected material and information for report, has come to a just conclusion. As such his recommendation is accepted, consequently the instant **I.A. No. 380/2025 is allowed** and the Petition i.e., C.P.(IB) No.42/BB/2025 filed under Section 95(1) of IBC, 2016 is hereby **admitted** under Section 100 of the IBC, 2016.
9. The **Insolvency Resolution Process is initiated against the Respondent/Personal Guarantor and moratorium is declared** in place of interim moratorium, which begins with the date of admission of the Application and shall cease to have effect at the end of the period of 180 days, as provided U/s.101 of IBC, 2016.
10. During the moratorium period;
 - (i) Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed;
 - (ii) The creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt;
 - (iii)The debtor shall not transfer, alienate, encumber, or dispose of any of his assets or his legal rights or beneficial interest therein;
 - (iv)The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

11. The Resolution Professional viz. **Mr. Ravindra Beleyur**, already appointed vide order dated 18.03.2025 is directed to cause a public notice published on behalf of the Adjudicating Authority, inviting claims from all Creditors within 7 days of uploading of this Order on the website of the NCLT, Bengaluru, who shall register their claims as provided under Section 103 within 21 days of such issuance. The notice shall contain the necessary information as provided under Section 102(2) of the IBC, 2016. The publication of the notice shall be made in newspapers, one in **English** and the other in a **Vernacular** language having wide circulation in the State where the Corporate Debtor and Personal Guarantor exist. The Resolution Professional shall furnish two copies of the notice to the Registry.
12. The Resolution Professional, in exercise of the powers conferred under Section 104 of the IBC, 2016, shall prepare a list of creditors within 30 days from the date of notice. The debtor shall prepare a repayment plan in consultation with the Resolution Professional as provided under Section 105 of the IBC, 2016, which shall include provisions for payment of fee to the Resolution Professional. The Resolution Professional shall submit the repayment plan along with his report on the plan to this Authority within a period of 21 days from the last date of submission of claims, as provided under Section 106 of the IBC, 2016.
13. In case the Resolution Professional recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons therefor. If the Resolution Professional is of the opinion that the meeting of the creditors should be summoned, he shall specify the details as provided under Section 106(3) of the IBC, 2016. The date of meeting should not be of less than 14 days or more than 28 days from the date of submission of the Report under Sub-Section (1) of Section 106 of the IBC, 2016 for which at least 14 days' notice to the creditors [as per the list prepared] shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107 of the IBC, 2016.
14. The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 & 111 of the IBC, 2016. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 of the IBC, 2016 and submit to this Authority, copies of which shall be provided

to the Debtor and the Creditors. It is made clear that the Resolution Professional shall perform his functions and duties in compliance with the Code of Conduct provided under Section 208 of the IBC, 2016.

15. The Resolution Professional is directed to inform this Adjudicating Authority in case no repayment plan has been prepared or submitted by the Personal Guarantor under Section 105 of the Code by filing an application before this Adjudicating Authority in accordance with the procedure stipulated under Regulation 17B of the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.
16. The Resolution Professional shall submit periodic reports before this Adjudicating Authority, as per the relevant provisions of the Code and the Rules made thereunder.
17. In terms of the above, **I.A. No. 380 of 2025 stands disposed of.**

-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)