NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET OF THE HEARING ON 12th MAY 2026

CP(IB)/17/GB/2025

Present: 1. Hon'ble Member (Judicial), Shri Rammurti Kushawaha
2. Hon'ble Member (Technical), Shri Yogendra Kumar Singh

In the Matter of	Canara Bank Limited (FC) Vs Abel Darkhopui Hmar (PG) to ***North East Region Finservices Limited (CD)***
Under Section	U/s 95 of IBC, 2016

Appearances (via video conferencing/physically)

For Petitioner (s) : Mr. S. Dutta, Adv. (FC)

For Respondent (s) : Ms. S. Katakey, Adv. (PG)

For IRP : Mr. R. Sehgal, in person
: Mr. S. Parvez, Adv. for IRP

ORDER

Order pronounced in open court *vide* separate sheets.

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)

NATIONAL COMPANY LAW TRIBUNAL,
GUWAHATI BENCH
GUWAHATI

CP (IB)/17/GB/2025

Application under Section 95 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019.

In the matter of:

Canara Bank a body corporate duly constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 having its head office at 112, JC Road, Bangalore-760002 and having its branch office at Fancy Bazar Branch, Hem Baruah Road, opposite Taxi Stand, Fancy Bazaar, Guwahati, Assam 781001;

…Applicant/ Financial Creditor

-Versus-

Abel Darkhopui Hmar, Son of Reverend Darlung, Siqulpuikawn, P.O.- Kulikawn, District-Aizawl, Mizoram-796001.

…Respondent/ Personal Guarantor

Coram:

Shri Rammurti Kushawaha	:	Member (Judicial)
Shri Yogendra Kumar Singh	:	Member (Technical)

Appearances (through video conferencing):

For Petitioner	:	Mr. S. Dutta (Adv.)
For Respondent	:	Mr. A. Chetia, S. Katakey (Advs.)

Order pronounced on: 12.05.2026

As Per Bench

1. The present petition is filed by Canara Bank ("**Financial Creditor**") under Section 95 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 ("**Personal Guarantor Rules, 2019**"), seeking initiation of an Insolvency Resolution Process against **Abel Darkhopui Hmar** ("**Personal Guarantor**"), Personal Guarantor to the Corporate Debtor, M/s North East Region Finservices Limited ("**Corporate Debtor**").

2. **Submissions on behalf of the Financial Creditor:**

   2.1. The Corporate Debtor is a private limited company incorporated on 06.12.2002, bearing CIN: U65921MN2002PLC008241, having its registered office at Jim Blessing Home, Ground Floor Sangaiprou, Mamang Leikai, Airport Road , Imphal, Manipur, India –795001. The company is engaged in business of leasing, refinancing and hire purchase and to acquire, maintain, sell, give on lease or to provide on hire purchase basis all types of industrial and offices, plant equipment, machinery, vehicles, real estate building constructions required for development of colonies, commercial complex, shopping malls and educational centers for weaker section of the societies in India.

   2.2. The Corporate Debtor approached the Financial Creditor for grant of Term Loan and applied for Term Loan of Rs. 20 Crores *vide* application dated 30.08.2012. Upon consideration, the Financial Creditor had sanctioned a Term Loan-1 ("TL-1") of Rs. 20 Crore *vide* sanction letter dated 26.02.2013.

   2.3. The Corporate Debtor through its Managing Director executed the requisite loan security documents which included Demand Promissory Notes dated 12.03.2013, agreement dated 12.03.2013, Common Hypothecation Agreement dated 12.03.2013, Letter of Undertaking dated 12.03.2013 and Articles of Agreement dated 18.03.2013.

   2.4. The Personal Guarantor, Abel Darkhopui Hmar who is also a director of M/s North East Region Finservices Limited executed a Deed of Personal Guarantee dated 12.03.2013 in favour of the Financial Creditor, guaranteeing repayment of the loan

apart from Corporate Guarantee by M/s Asian Bulls Construction and Developers Limited. A copy of Deed of Personal Guarantee dated 12.03.2013 is annexed as *'Annexure I-10'.*

2.5. Apart from Deed of Personal Guarantee, Abel Darkhopui Hmar and M/s Asian Bulls Construction and Developers Limited also created equitable mortgage of their respective immoveable properties (since sold under the provisions of SARFAESI Act, 2002 and the Rules there under). The Corporate Debtor passed Board Resolution dated 20.02.2013.

2.6. Furthermore, the Corporate Debtor again approached the Financial Creditor for grant of Term loan of Rs. 10 Crores *vide* 02.11.2013 and 09.11.2013. Upon consideration, the Financial Creditor had sanctioned a Term Loan-2 ("TL-2") of Rs. 10 Crore *vide* sanction letter dated 23.01.2014.

2.7. Again, the Corporate Debtor through its Managing Director executed the requisite loan security documents which included Demand Promissory Notes dated 21.02.2014, agreement dated 21.02.2014, Common Hypothecation Agreement dated 21.02.2014, Letter of Undertaking dated 21.02.2014 and Articles of Agreement dated 21.02.2014.

2.8. The Personal Guarantor, Abel Darkhopui Hmar who is also a director of M/s North East Region Finservices Limited executed a Deed of Personal Guarantee dated 21.02.2014 in favour of the Financial Creditor, guaranteeing repayment of the loan apart from Corporate Guarantee by M/s Asian Bulls Construction and Developers Limited. A copy of Deed of Personal Guarantee dated 21.02.2014 is annexed as *'Annexure I-19'.*

2.9. Apart from Deed of Personal Guarantee, Abel Darkhopui Hmar and M/s Asian Bulls Construction and Developers Limited also created equitable mortgage of their respective immoveable properties (since sold under the provisions of SARFAESI Act, 2002 and the Rules there under). The Corporate Debtor passed Board Resolution dated 28.01.2014.

2.10. Thereafter, the Corporate Debtor again approached the Financial Creditor for restructuring of the Term Loan-I and Term Loan-II accounts *vide* Applications/Letters dated 15.11.2014 and upon consideration the Financial Creditor had agreed in principle to sanction the restructuring of the TL-I and TL-II

facilities by way of a fresh Term Loans of Rs.15,38,00,000.00 only and Rs.10.00 Crores respectively by closing the existing TL-I and TL-II on 28.03.2015 and an FITL of Rs. 4,57,25,721.00/- was sanctioned *vide* sanction Letter dated 27.03.2015.

2.11. Again, the Corporate Debtor through its Managing Director executed the requisite loan security documents which included Term Loan Agreement dated 28.03.2015, Agreement dated 28.03.2015, Common Hypothecation Agreement dated 28.03.2015, Letter of Undertaking dated 28.03.2015 and Articles of Agreement dated 28.03.2015.

2.12. The Personal Guarantor, Abel Darkhopui Hmar who is also a director of M/s North East Region Finservices Limited executed a Deed of Personal Guarantee dated 28.03.2015 in favour of the Financial Creditor, guaranteeing repayment of the loan apart from Corporate Guarantee by M/s Asian Bulls Construction and Developers Limited. A copy of Deed of Personal Guarantee dated 28.03.2015 is annexed as *'Annexure I-27'.*

2.13. Apart from Deed of Personal Guarantee, Abel Darkhopui Hmar and M/s Asian Bulls Construction and Developers Limited also created equitable mortgage of their respective immoveable properties (since sold under the provisions of SARFAESI Act, 2002 and the Rules there under). The Corporate Debtor passed Board Resolution dated 28.03.2015.

2.14. However, the loan accounts subsequently got stressed due to non-payment of installments and overdue amount in the Term Loan accounts and FITL account (Term Loan I A/C No. 0177738000004, Term Loan II A/c No. 0177738000005 and FITL A/c No. 0177747000003 maintained by the Fancy Bazar Branch of the Financial Creditor) and the said loan accounts were classified as NPA on 29.09.2016.

2.15. Thereafter, the Financial creditor had issued Demand Letters dated 03.09.2016 (through e-mail), 07.09.2016 (through e-mail), 08.09.2016, 14.09.2016, 26.09.2016 and Loan Recall Notice dated 15.10.2016 to the Corporate Debtor/Personal Guarantor demanding the repayment of the outstanding dues. Having received no response the Financial Creditor issued Demand Notice dated 29.03.2017 under Section 13(2) of the SARFAESI Act, 2002 to the Corporate Debtor/Personal

Guarantor. A copy of the Section 13(2) of the SARFAESI Notice dated 29.03.2017 is annexed as *'Annexure I-37'.*

2.16. Furthermore, it is submitted that it is pertinent to mention that the Financial Creditor sold the secured properties under the provisions of the SARFAESI Act, 2002 and the total amount so recovered from such sale of the two Secured properties was Rs. 563.50 Lacs (Rs. 466.00 Lacs on 07.09.2023 and Rs. 97.50.00 Lacs on 15.05.2024) and the said amount had been adjusted in the Loan accounts.

2.17. Thereafter, the Financial Creditor had issued Demand Notice dated 22.05.2024 through Registered post in respect of unpaid debt in default due from North East Region Finservices Limited under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency resolution process of Personal Guarantors to Corporate Debtors) Rules, 2019. Copy of the Demand Notice 22.05.2024 is annexed as *'Annexure I-46'.*

2.18. However, the said notices returned unserved and the Financial Creditor got published the said Demand Notice in the following Newspapers namely Business Standard (English), Business Standard (Vernacular), Sanaleibak Daily, Imphal Free Press, News Link, The Aizawl Post all dated 31.10.2024. Copy of the Newspaper are annexed as *'Annexure I-48, I-49, I-50, I-51, I-52, I-53'.*

2.19. It is also pertinent to mention that the Financial Creditor had preferred an Original Application (OA No.72/2018) before the Debts Recovery Tribunal Guwahati on 22.02.2018 and Recovery Certificate No. D322/2023 dated 17.10.2023 was also issued on the basis of Judgment and Order dated 17.10.2023 and the instant Petition had been filed well within three years from the issuance of the Recovery Certificate by the Hon'ble DRT. A copy of Judgment & order dated 17.10.2023 is annexed as *'Annexure I-44'* and a copy of the Recovery Certificate No. 322/2023 dated 17.10.2023 is annexed as *'Annexure I-45'.*

2.20. The Financial Creditor had debt of **Rs. 124,13,03,479.47** (Rupees One Hundred Twenty Four Crores Thirteen Lakhs Three Thousand Four Hundred Seventy Nine and Paise Forty Seven Rupees Only) as on 15.07.2025 with interest calculated till 15.07.2025 against the personal guarantor, i.e., the Respondent and as such the Financial Creditor through the statements of accounts of the loan accounts and of

Interest Calculation Sheets duly certified under Banker's Book of Evidence Act, 1879 established the debt as against the Personal Guarantor (Respondent) to the tune of **Rs. 124,13,03,479.47 as on 15.07.2025.** A copy of the Banker's Book of Evidence Act, 1879 of Term Loan -I, Term Loan -II and FITL are annexed as *'Annexure I-58, I-60 and I-62'.*

2.21. In view of the above, the Financial Creditor prays that this Tribunal may admit the application under Section 95 of the Code, and pass such further orders as may be deemed fit in the interest of justice.

3. **Submission on behalf of Respondent *vide* Reply affidavit dated 31.01.2016:**

3.1 The Respondent submitted that the application has been filed in abuse of the process of law and mala fide and vexatious proceeding. Further submitted that the application is not maintainable in facts or in law.

3.2 The Respondent further submitted that the Financial Creditor failed to serve invocation notice to Respondent which is prerequisite to filing an application under Section 95 of the code. The NCLAT has emphasized that a creditor must first formally invoke the personal guarantee as per the terms of the guarantee agreement before initiating insolvency proceedings against the guarantor.

3.3 Furthermore, the Respondent submitted that a creditor must first invoke the personal guarantee as per the terms of the deed of guarantee for an application under Section 95 of the Code to be entertained. Without invocation, there is no due debt against the guarantor and therefore, no default occurs. A guarantee is a contractual obligation, and liability on the guarantor arises only when the creditor formally invokes it.

3.4 Further the Respondent deny the facts of default on its part and submitted that under terms of the Guarantee Agreement dated 12.03.2013, 21.02.2014 and 28.03.2015, executed by the Respondent, the liability of Personal Guarantor crystallizes only upon specific and express invocation of the guarantee by the Financial Creditor, calling upon the guarantor to discharge the guaranteed debt in terms of the said agreement.

3.5 Furthermore, it is submitted that the demand notice issued under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency

Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019, dated 22.05.2024 doesn't constitute invocation of Guarantee. Reliance in placed upon the judgment of NCLAT in ***State Bank of India v. Deepak Kumar Singhania (2025)***, decided on 28.02.2025, ruled that a creditor must first invoke the personal guarantee as per the terms of the deed of guarantee for an application under Section 95 of the Code to be entertained. Without invocation, there is no due debt against the guarantor, and therefore, no default occurs.

3.6 The Respondent further submitted that the demand notice issued under Section 13(2) of SARFAESI Act, 2002, dated 29.03.2017, addressed only to the Corporate Debtor and relates to enforcement of secured assets, and the same does not call upon the answering deponent, as Personal Guarantor, to make good the debt under the Guarantee Agreement, nor does it refer to or invoke the guarantee executed by the answering deponent.

3.7 The Respondent submitted that in the absence of any express invocation of the guarantee in accordance with the terms of the Guarantee Agreement, no default can be said to have occurred qua the Personal Guarantor, and consequently, the foundational requirement for initiation of proceedings under Section 95 of the Insolvency and Bankruptcy Code, 2016 is not satisfied.

3.8 Furthermore, it is submitted that total debt of Rs. 124,13,03,479.47/- as alleged by the Financial Creditor, is denied and disputed by the Respondent inasmuch as the alleged default has not arisen, the action(s) and/or contention(s) of the Financial Creditor of demanding its payment and alleged subsequent default is illegal, unjustified and incorrect.

3.9 Furthermore, it is submitted that pursuant to the loan defaults, the Bank invoked the provisions of the SARFAESI Act, 2002 and took symbolic as well as physical possession of the immovable properties mortgaged by the answering deponent as security for the loan facilities. That the said secured assets were thereafter brought to sale by the Applicant Bank, strictly in exercise of its statutory powers as a secured creditor, and the sale consideration realised from such sale has already been appropriated and adjusted in the respective loan accounts of the Corporate Debtor and/or the guarantors.

3.10 That the Applicant has itself admitted and disclosed in the present application that the secured properties have been sold and that a total amount of Rs. 563.50 Lakhs has been recovered from such sale, including

- Rs. 466.00 Lakhs realised on 07.09.2023; and
- Rs. 97.50 Lakhs realised on 15.05.2024,

Which amount is duly adjusted towards the outstanding dues.

3.11 Furthermore, it is submitted that upon completion of the sale of the secured assets, no further security remains available with the Applicant in respect of the guarantees executed by the Respondent and all securities furnished by the Respondent stand fully exhausted.

4. **Report by the Resolution Professional:**

4.1 The Resolution Professional submitted that vide Order dated 28.08.2025, the Hon'ble National Company Law Tribunal (NCLT), Guwahati, has appointed Rakesh Sehgal as Insolvency Resolution Professional (IRP) of Sri Abel Darkhopui Hmar under Section 97 of the IBC, 2016. The said Order was received on 29/08/2025.

4.2 The Resolution Professional had duly communicated both the petitioner and Respondent vide email dated 30/08/2025 information about the order dated 28/08/2025 passed by this Hon'ble Tribunal in CP(IB)/17/GB/2025, appointment of IRP and intimation of duty to submit his report to this Hon'ble Tribunal within 10days from the date of communication of his appointment as IRP on 28/08/2025 recommending/rejecting this application for the Insolvency Resolution Process, intimation about IRP's duty to collect information under Section 99 of the Insolvency and Bankruptcy Code, 2016 from the Petitioner and Respondent and any other person/persons and his/their obligation to provide details within 7days of his request. The IRP has further given reminder to the Guarantor on 05/09/2025 and 11/09/2025. However, the Guarantor failed to provide the required information.

4.3 Further submitted that the Resolution Professional have perused/examined the Insolvency Application filed by the applicant/financial creditor under Section 95 of the Code along with all the underlying documents and annexures and have formed

the opinion to **recommend** the same for approval to this Hon'ble Adjudicating Authority, based on following grounds:

a. The Insolvency Application has been filed to initiate the Insolvency Resolution Process of Mr. Abel Darkhopui Hmar, in the requisite form, Form C, in terms of the Sub Rule 2 of Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, supported by requisite fee and documents.

b. A notice in Form B as per Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 which was issued by the Creditor to the Debtor is also attached with the application.

c. The Insolvency Application for initiating Insolvency Resolution Process of Personal Guarantors to Corporate Debtors Rules, 2019 satisfies the requirements set out in Section 95 of the Code.

d. The RP had allowed the Debtor concerned to prove repayment of the debt and provide additional documents/information. From the Judgement and Order dated 17/10/2023 passed by the Hon'ble DRT at Guwahati in O.A. No. 72/2018 it is found that the Corporate Debtor North East Region Finservices Limited and Ors. (which includes Guarantor Sri Abel Darkhopui Hmar) is liable to pay a sum of Rs. 35,42,59,325/- (Rupees Thirty Five Crore Forty Two Lacs Fifty Nine Thousand Three Hundred Twenty Five only) with pendite interest @14.15% per annum with monthly rest from 20/01/2018 till the date of full payment.

e. The Debtor, Personal Guarantor, is not eligible for the fresh start Process under Chapter II of Part III of the Code.

5. We have heard the submissions made by the Ld. Counsels and perused the documents on record.

6. The present application has been filed by the Financial Creditor under Section 95 of the Code seeking initiation of Insolvency Resolution Process against Abel Darkhopui Hmar, Personal Guarantor to the Corporate Debtor, M/s North East Region Finservices Limited.

7. By virtue of Section 60(2) of the Code, where insolvency resolution or liquidation proceedings of a corporate debtor are pending before the Adjudicating Authority, an application relating to insolvency resolution of a Personal Guarantor to such corporate debtor shall be filed before the same Tribunal. Accordingly, this Bench has jurisdiction to entertain and adjudicate the present application under Section 95 of the Code.
8. The record reflects that the Demand Notice dated 22.05.2024 was sent by post to the Personal Guarantor, which was returned unserved. Thereafter, the Financial Creditor published the demand notice in newspaper namely Business Standard (English), Business Standard (Vernacular), Sanaleibak Daily, Imphal Free Press, News Link, The Aizawl Post on 31.10.2024.
9. In compliance with Section 97 of the Code, this Tribunal appointed Rakesh Sehgal as Resolution Professional (RP) on 28.08.2025 to examine the application and submit his report under Section 99 of the Code. The Resolution Professional, in the report under Section 99 of the Code, has recommended acceptance of the application and has opined that the material available indicates the existence of a debt and default for consideration by this Tribunal.
10. The RP submitted his report on 27.09.2025. The Resolution Professional, in the report under Section 99 of the Code, has recommended acceptance of the application and has opined that the material available indicates the existence of a debt and default for consideration by this Tribunal under Section 100 of the Code.
11. The RP recorded that Loan Statement of the Corporate Debtor, deed of Guarantee, loan sanction letters, and notice issued under Form B dated 22.05.2024 under Rule 7(1) of Insolvency and Bankruptcy Application to Adjudicating Authority for insolvency resolution process of personal guarantors to Corporate Debtors) Rules,2019 are on record. The essential material evidencing the debt and the guarantee is, thus, before this Tribunal establishing debt and guarantee. Thus compliance of Section 95(4) of the Code is held satisfied.
12. The Respondent has contended that the Petition is not maintainable on the ground that an application under Section 95 of the Code, there is no invocation of Personal Guarantee and without invocation there is no due debt against the guarantor and therefore, no default occurs. This contention is found to be untenable. The notices under Section 13(2) of SARFAESI dated 29.03.2017 has been placed on record by the Financial Creditor. The

record reflects that a notice under Section 13(2) of the SARFAESI Act dated 29.03.2017 was issued to the principal borrower as well as the guarantors, demanding discharge of the entire outstanding liability within the statutory period. Thus, there is valid invocation of the Guarantee. Subsequently, a Demand Notice in Form B under Rule 7(1) was issued on 22.05.2024 prior to filing of the present application.

13. The demand notice issued under Section 13(2) of the SARFAESI Act dated 29.03.2017 contains a clear and unequivocal demand for repayment and in substance, constitutes invocation of the Personal Guarantee in terms of the Deed of Guarantee. The Personal Guarantor has not specifically denied receipt of the said notice. Moreover, it is evident from the proceedings before the Hon'ble DRT in O.A. No. 72/2018 that Recovery Certificate No. 322/2023 was also issued against the Personal Guarantor. In the absence of any material placed on record to the contrary, this Tribunal is satisfied that the guarantee stood duly invoked by the Financial Creditor.

14. This Tribunal also relies on the judgment of the Hon'ble NCLAT in ***Asha Basantilal Surana vs State Bank of India & Ors.*** (Company Appeal (AT) (Insolvency) No. 84 of 2025 & I.A. No. 334 of 2025) wherein it was held that where a Section 13(2) of the SARFAESI Act, 2002, if notice explicitly demands payment from the guarantor in terms of the guarantee agreement, it amounts to an invocation of the personal guarantee. The Relevant observation of the NCLAT is as follows:

"14. The above judgment, thus, clearly holds that in a case where Notice under Section 13(2) makes a demand as per the Guarantee Agreement between the parties, the Notice has to be treated as notice for invocation of Bank Guarantee……"

15. Insofar as 'default' is concerned, the record reflects that the loan account of the Corporate Debtor was classified as Non-Performing Asset (NPA) on 29.09.2016 on account of failure to repay the debt as per agreed terms. A demand notice under Section 13(2) of the SARFAESI Act dated 29.03.2017 was thereafter issued, calling upon the borrower and personal guarantors to discharge the outstanding liability, which remained unpaid. The Application and the Demand Notice in Form B dated 22.05.2024 also specify the date of default as 29.09.2016. Despite invocation of personal guarantee deed and subsequent demand notice, no repayment has been made. The issuance of Recovery Certificate dated 17.10.2023 by the Hon'ble Debt Recovery Tribunal, Guwahati against the Corporate

Debtor as well as against Personal Guarantor further evidences crystallization of the liability and continued non-payment. Hence, this Tribunal is satisfied that the occurrence of default stands duly established in terms of the Code.

16. Insofar as 'default' is concerned, the record reflects that the loan account of the Corporate Debtor was classified as Non-Performing Asset (NPA) on 29.09.2016 on account of failure to service the debt as per agreed terms. A demand notice under Section 13(2) of the SARFAESI Act dated 29.03.2017 was thereafter issued, calling upon the borrower and guarantors to discharge the outstanding liability, which remained unpaid. The Application and the Demand Notice in Form B dated 22.05.2024 also specify the date of default as 29.09.2016. Despite invocation of the guarantee and subsequent demands, no repayment has been made. The issuance of Recovery Certificate dated 17.10.2023 by the Hon'ble Debt Recovery Tribunal, Guwahati against the Corporate Debtor as well as against Personal Guarantor further evidences crystallization of the liability and continued non-payment. Hence, this Tribunal is satisfied that the occurrence of default stands duly established in terms of the Code.
17. The Corporate Debtor had continuously submitting the OTS Proposal dated 17.12.2016, 27.02.2017, 24.04.2017, 31.08.2017, 29.11.2022 and 30.11.2022, acknowledging the debt and requesting for settlement of the dues. Moreover, the Financial Creditor had filed an Original Application (O.A No. 72/2018) before the Hon'ble Debt Recovery Tribunal on 22.02.2018 and Recovery Certificate No. 322/2023 dated 17.10.2023 was issued against the Corporate Debtor as well as the Personal Guarantor.
18. In light of the Recovery Certificate dated 17.10.2023 issued by the Hon'ble DRT, Guwahati, the limitation period stands extended and the present Petition has been filed on 08.08.2025, hence this application is not barred by the limitation.
19. The record also discloses the continuation of recovery proceedings under the SARFAESI Act pursuant to notice dated 29.03.2017 and the proceedings before the Hon'ble DRT in O.A. No. 72/2018 and issuance of Recovery Certificate No. 322/2023 dated 17.10.2023. The guarantee in question being a continuing guarantee and the liability of the guarantor being co-extensive under Section 128 of the Indian Contract Act, 1872, the debt cannot be said to have been extinguished.

20. At the stage of admission under Section 100 of the Code, the Tribunal is required to ascertain existence of debt and default. On the material available, the application cannot be said to be ex facie time-barred.
21. Insolvency proceedings against a Personal Guarantor under Part III of the Code are not confined to enforcement against a specific secured asset. The pendency of a title dispute or status quo order in respect of a mortgaged property does not bar initiation of insolvency proceedings against a Personal Guarantor.
22. The Code is concerned with the insolvency of the individual guarantor and the existence of debt and default. Issues relating to title and adjudication of proprietary rights fall within the jurisdiction of the competent civil court/ High Court and do not preclude admission under Section 100 of the Code.
23. Accordingly, upon examination of the record under Section 100 of the Code, this Tribunal is satisfied that the application under Section 95 of the Code is complete, a financial debt exists, default has occurred, and the objections raised do not dislodge the foundational requirements for admission.

ORDER

24. In view of the foregoing, the present Petition being **CP(IB)/17/GB/2025** filed under Section 95 of the Code is hereby **admitted** on the following terms
    i. The Insolvency Resolution Process against the Respondent/Personal Guarantor is hereby initiated. In terms of Section 101 of the Code, a moratorium in relation to all debts shall commence from the date of this order and shall cease to have effect at the end of 180 days or on the date this Tribunal passes an order under Section 114 approving or rejecting the repayment plan, whichever is earlier. During the moratorium period:
        a. Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed,
        b. The creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt;
        c. The debtor shall not transfer, alienate, encumber, or dispose of any of his assets or his legal rights or beneficial interest therein; and

d. The provisions of Section 101 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

ii. In terms of Section 97(5) of the Code, **Rakesh Sehgal**, having registration no. **IBBI/IPA-002/IP-N01194/2021-2022/13991**, e-mail: rakeshsehgal58@gmail.com and having his address at J-151, Gulshan Ikebana, Sector-143 NOIDA, Near Oxygen Business Park, Gautam Buddha Nagar, Uttar Pradesh – 201306, who was appointed *vide* order dated 28.08.2025, shall continue to act as the Resolution Professional (RP) for the Personal Guarantor.

iii. The Resolution Professional shall discharge the duties in accordance with Sections 99 to 105 of the Code and the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019.

iv. The Resolution Professional is directed to issue a public notice on behalf of the Adjudicating Authority within 7 days of passing this Order on the website of the NCLT Guwahati Bench, inviting claims from all Creditors, within 21 days of such issue. The notice under Section 102(2) shall include: -

a. details of the order admitting the application;
b. particulars of the resolution professional with whom the claims are to be registered; and
c. the last date for submission of claims.

v. The notice shall be published in two newspapers, one in English and other in Vernacular, which is in wide circulation in the State where the Corporate Debtor and Personal Guarantor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry for the record.

vi. The Resolution Professional, in exercise of the powers conferred under Section 104, shall prepare a list of creditors on the basis of:

a. the information disclosed in the application filed by the debtor under Sections 94 or 95, as the case may be, and
b. claims received by the Resolution Professional under Section 102 within 30 days from the date of the notice.

vii. The debtor shall prepare a repayment plan under Section 105, in consultation with the Resolution Professional, containing a proposal to the Creditors for restructuring of his debts or affairs.

viii. The repayment plan may authorize or require the Resolution Professional to:

a. carry on the debtor's business or trade on his behalf or in his name: or
b. realise the assets of the debtor; or
c. administer or dispose of any funds of the debtor.

ix. The repayment plan shall include the following, namely:

a. justification for preparation of such repayment plan and reasons based on which the creditors may agree upon the plan;
b. provision for payment of fee to the Resolution Professional;
c. such other matters as may be specified

x. The Resolution Professional shall submit the repayment plan along with his report on the plan to this Adjudicating Authority within a period of 21 days from the last date of submission of claims, as provided under Section 106.

xi. In case the Resolution Professional recommends that a meeting of the creditors is not required to be called, she shall record the reasons thereof. If the Resolution Professional is of the opinion that a meeting of the creditors should be summoned, she shall specify the details as provided under Section 106(3) of the Code. The date of meeting should not be 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 Code, 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 Code.

xii. The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 and 111 of the Code. 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 Code, and submit the same to this Tribunal, copies of which shall be provided to the Corporate Debtor and the Financial Creditor. 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 Code.

xiii. The Personal Guarantor is directed to extend full cooperation to the Resolution Professional and furnish all documents and information as may be required for the effective discharge of his duties.

xiv. The Resolution Professional shall submit the periodic reports before this Tribunal, every 30 days.

xv. The Financial Creditor is directed to deposit **INR 1,00,000/-** (Rupees One Lakh only) to the bank account of the Resolution Professional within **one week**, towards the fees of the Resolution Professional. This shall be subjected to the rules and regulations under the provisions of the Code.

25. In terms of the above, **CP (IB)/17/GB/2025** filed under Section 95 of the Code is **admitted** and the Insolvency Resolution Process stands initiated against the Personal Guarantor.

26. The Financial Creditor and its Counsel are hereby directed to serve the copy of this Order along with copy of the Application and documents on the Resolution Professional by all modes for information and compliance.

27. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

28. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)

Signed this on 12th day of May, 2026

Aditya P. (L.R.A.)