

**IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH (Court-I)
KOLKATA**

**I.A.(IB)No.1057/KB/2024
IN
C.P. (IB)/125(KB)2024**

***An application under Section 99 (1) of the Insolvency and Bankruptcy
Code, 2016***

And

***An application under Section 95(1) of the Insolvency and Bankruptcy
Code, 2016 and Under Rule 7(2) of the Insolvency Resolution Process
for Personal Guarantors to Corporate Debtors) Rule, 2019.***

In the matter of:

Punjab National Bank

...Financial Creditor

Versus

Sri Anirudh Pasari

...Personal Guarantor

And

Ms. Brinda Bidasaria

...Resolution Professional/Applicant

Date of pronouncement: **17.06.2026**

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

SMT. REKHA KANTILAL SHAH, HON'BLE MEMBER (TECHNICAL)

Appearance (via video conferencing/physically)

Mr. Avik Chaudhuri, Adv.] For the Resolution Professional

O R D E R

Per: Bidisha Banerjee, Member (Judicial)

1. The Court Convened in a hybrid mode.

2. This I.A.(IB)No.1057/KB/2024 in C.P.(IB)/125(KB)2024 has been preferred by the Financial Creditor to seek initiation of Insolvency Regulation Process against the Respondent Personal Guarantor to Corporate Debtor Rule, 2019 (“Personal Guarantors Rules”) and Regulation 4(2) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (‘Personal Guarantors Regulations’) in terms of Section 99 (1) of the Insolvency and Bankruptcy Code, 2016 read with applicable Regulation of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors), 2016.
3. The amount in Debt & Default is Rs.62,96,52,778.51/-(Rupees Sixty-Two Crores Ninety-Six Lakhs Fifty-Two Thousand Seven Hundred Seventy-Eight and Fifty-One Paise only) inclusive of interest applied upto 31.01.2024
4. Date of default occurred on 07.04.2023
5. The application is complete as required under Section 95 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019.
6. It is to be noted that Hon’ble Supreme Court in the judgment of **Dilip B. Jiwrajka vs. Union of India & Ors. In WP (Civil) No. 1281 of 2021** dated 09.11.2023 has upheld the Constitutional Validity of the Sections

94 to 100 and the propositions that can be culled out from the Judgments inter-alia are as follows:

- “i. No judicial adjudication is involved at the stages envisaged in Sections 95 to Section 99 of the IBC;*
- ii. The Resolution Professional appointed under Section 97 serves a facilitative role of collating all the facts relevant to the examination of the application for the commencement of the insolvency resolution process which has been preferred under Section 94 or Section 95. The report to be submitted to the adjudicatory authority is recommendatory in nature on whether to accept or reject the application;*
- iii. No adjudicatory function of Adjudicating Authority is contemplated at the admission stage. To read in such a requirement at that stage would be to rewrite the statute which is impermissible in the exercise of judicial review;*
- iv. The resolution professional may exercise the powers vested under Section 99(4) of the IBC for the purpose of examining the application for insolvency resolution and CP/IB/337/AHM/2020 12 of 17 to seek information on matters relevant to the application in order to facilitate the submission of the report*

recommending the acceptance or rejection of the application;

- v. There is no violation of natural justice under Section 95 to Section 100 of the IBC as the debtor is not deprived of an opportunity to participate in the process of the examination of the application by the resolution professional;*
- vi. No judicial determination takes place until the adjudicating authority decides under Section 100 whether to accept or reject the application. The report of the resolution professional is only recommendatory in nature and hence does not bind the adjudicatory authority when it exercises its jurisdiction under Section 100;*
- vii. The adjudicatory authority must observe the principles of natural justice when it exercises jurisdiction under Section 100 to determine whether to accept or reject the application;*
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- viii. The purpose of the interim moratorium under Section 96 is to protect the debtor from further legal proceedings; and*

*ix. The provisions of Section 95 to Section 100 of the IBC
are not unconstitutional as they do not violate Article
14 and A.”*

- 7.** The Applicant had not proposed the name of the Insolvency Professional for appointment as Resolution Professional. In view of the above, Ms. Brinda Bidasaria, IBBI Registration No. IBBI/IPA-001/IP-P-02818/2023-24/14329, email ID: **cabrindadalmia@gmail.com**; was appointed as Resolution Professional, subject to his possessing a valid AFA, in exercise of the power conferred under Section 97 of the IBC, 2016 on this Authority.
- 8.** The Resolution Professional was directed to file declaration within seven days to the effect that he fulfils all the requirements for being appointed as Resolution Professional in the matter which he has given, and to file his report in terms of Section 97 in two weeks.
- 9.** The Resolution Professional Ms. Brinda Bidasaria has vide his report dated 22.04.2024 suggested/stated as extracted hereunder:

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III. RECOMMENDATION:

It is submitted that, the Application u/s 95 (1) of IBC, 2016 has been filed by the Creditor and to submit the Report u/s 99 and I have examined the application and ascertained the satisfaction of requirements set out in Section 95 as under:

Section		Observations of the Resolution Professional
95(1)	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 creditor, Punjab National Bank submitted the aforesaid application on 21.03.2024
95(2)	A creditor may apply under sub-section (1) in relation to any partnership debt owed to him for initiating an insolvency resolution process against— (a) any one or more partners of the firm; or (b) the firm.	Not Applicable
95(3)	Where an application has been made against one partner in a firm, any other application against another partner in the same firm shall be presented in or transferred to the Adjudicating Authority in which the first mentioned application is pending for adjudication and such Adjudicating Authority may give such directions for consolidating	Not Applicable



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	the proceedings under the applications as it thinks just.	
95(4)	An application under sub-section (1) shall be accompanied with details and documents relating to –	
95(4)(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;	Debt owed by M/s SKP Steel Industries Private Limited to the applicant Punjab National Bank is Rs.62,96,52,778.51p/- inclusive of interest applied upto 31.01.2024. Sri Anirudh Pasari had extended personal guarantee as evidenced by the deed of guarantee from time to time submitted along with the application. The applicant has invoked the personal guarantee against Sri Anirudh Pasari. However, the personal guarantor failed to repay the amount in default. Hence the debt owed by Sri Anirudh Pasari to the applicant is Rs.62,96,52,778.51p/- inclusive of interest applied upto 31.01.2024.

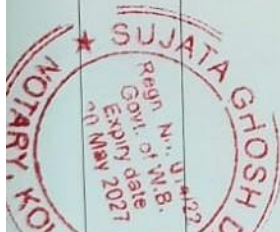
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Expiry date
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95(4)(b)	Failure by the debtor to pay the debt within a period of fourteen days of the service of the notice of demand; and	No repayment has been made within fourteen days of receipt of notice satisfying the requirement of Section 95(4)(b).
95(4)(c)	Relevant evidence of such default or non-repayment of debt	The Applicant, Punjab National Bank by their Advocate served a copy of the application.
95(5)	The creditor shall also provide a copy of the application made under sub-section (1) to the debtor.	The Applicant, Punjab National Bank served a copy of the application to Sri Anirudh Pasari.
95(6)	The application referred to in subsection (1) shall be in such form and manner and accompanied by such fee as may be prescribed.	The application was submitted in the prescribed form accompanied with prescribed fee. However, the applicant have submitted payment receipt of the transaction evidencing the proof of payment.
95(7)	The details and documents required to be submitted under sub-section (4) shall be such as may be specified.	The application along with related documents was presented in Form C along with a fee of Two Thousand rupees as prescribed under Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process of Personal



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		Guarantors to Corporate Debtors) Rules 2019.
Further, the compliance set out in Section 99 is reported as under:		
Section		REMARKS
99(1)	The RP shall examine the application referred u/s 94 or 95 within 10 days of appointment and submit a report to Adjudicating Authority for the approval/rejection of the application;	The present report is prepared in compliance with the requirements of Section 99(1) of the Code.
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 - Evidence of electronic transfer of the unpaid amount from the bank account of the debtor; Evidence of encashment of a cheque issued by the debtor; or a signed acknowledgement by the creditor accepting receipt of dues.	It is submitted that, a letter to the Personal Guarantor, Sri Anirudh Pasari, was sent on 13.05.2024 requesting to provide the proof for repayment of dues as provided u/s 99(2) of IBC 2016. Copy of the letter sent to personal guarantee along with India Post Tracking receipt is attached as ANNEXURE - A5 . No reply received from Personal Guarantor however no such evidence or signed acknowledgement was provided by the Personal Guarantor. Copy of the mail dated 13.05.2024 to the personal guarantor is attached as ANNEXURE-A6

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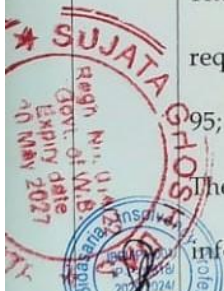
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99(3)	Where the debt for which an application has been filed by a creditor is registered with the information utility, the debtor shall not be entitled to dispute the validity of such debt.	The debtor has not disputed the debt.
99(4)	For the purposes 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 had sought information's/documents from the Financial Creditor, the Personal Guarantor and Liquidator. The required information was sought from the financial creditor through mail on 11.05.2024, The Applicant, Punjab National Bank through Advocate on record served a copy of the application. Copy of the communication to the Financial Creditor are attached as ANNEXURE-A7. Also information's / documents was sought from the Personal Guarantor by letter dated 13.05.2024. No Reply from personal guarantor was received. Copy of the communication to personal guarantor is attached as ANNEXURE- A5 & A6.

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		Also information's / documents was sought from the liquidator by letter dated 13.05.2024. Copy of the letter sent to liquidator along with India Post Tracking receipt is attached as ANNEXURE - A8. Mail was also sent to liquidator on 13.05.2024. Reply from liquidator was received on 14.05.2024. Copy of the communication to and from liquidator are attached as ANNEXURE- A9.
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.	Personal Guarantor: The required information was not provided in the said period. Financial Creditor: The Applicant, Punjab National Bank through Advocate on record served a copy of the application.
99(6)	The resolution professional shall examine the application and ascertain that- The application satisfies the requirements set out in Section 94 and 95; The applicant has provided information and given explanation	The application has been duly examined. It is submitted that, as provided in Section 99(6) of IBC 2016, the applicant has provided information and given explanation sought u/s 99(4). The applicant has evidenced that the



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	sought by the resolution professional under sub-section (4).	balance outstanding of Rs.62,96,52,778.51p/- (Rupees Sixty Two Crores Ninety Six Lakhs Fifty Two Thousand Seven Hundred Seventy Eight and Fifty One Paisa Only) inclusive of interest applied upto 31.01.2024 and no repayment received from Sri Anirudh Pasari, Personal Guarantor after issue of Demand Notice in Form - B. Copy of the demand notice dated 16.03.2023 is attached as ANNEXURE-A 10
99(7)	After examination of the application under sub-section (6), he may recommend acceptance or rejection of the application in his report.	It is submitted that the present application satisfies the requirements of provisions of Section 95 as is required to be examined under Section 99(6) of the Code. It is further submitted that based on examination of the present application, it is recommended to be admitted under Section 100 of the Code and the Hon'ble NCLT may pass appropriate orders in this regard.

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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.	Not Applicable
99(9)	The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report under sub-section (7).	It is submitted that the present report is being presented under Section 99(7) of the Code to this Hon'ble NCLT with a recommendation of accepting the present application as the Personal Guarantor/debtor has not repaid the debt due to the Creditors.
99(10)	The resolution professional shall give a copy of the report under sub-section (7) to the debtor or the creditor, as the case may be.	It is submitted that the requirement of providing a copy of this report prepared under Section 99(7) of the Code to the debtor has been complied.

- 10.** That considering the above, RP recommends for the acceptance of the application No. CP (IB) No.125/KB/2024 filed u/s. 95(1) of the IBC 2016 by the Applicant, Punjab National Bank to initiate Insolvency Resolution Process against Personal Guarantor Sri Anirudh Pasari, of the Corporate Debtor M/s. SKP Steel Industries Private Limited, the Hon'ble NCLT may pass appropriate order u/s 100 of IBC, 2016 for admission of the application.
- 11.** We have noted that prior to issuance of Form B notice, guarantee invocation notice was issued on 01.06.2022, the Personal Guarantor neither entered appearance nor refuted the statements in the report of Resolution Professional.
- 12.** We have considered the report and perused the details of claim indicated therein.
- 13.** We are satisfied with the recommendation of the Resolution professional to admit the application.
- 14.** In absence of any dispute or controversion by the Personal Guarantor, this application is admitted with the following directions:

(1) Since the application is **admitted under Section 100**;

(2) **In terms of Section 101 :**

When the application is admitted under section 100, a moratorium shall commence in relation to all the debts and shall cease to have effect at the end of the period of one hundred and eighty days beginning with the date of admission of the application or on the

date the Adjudicating Authority passes an order on the repayment plan under section 114, whichever is earlier.

(3) 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 shall not initiate any legal action or legal proceedings in respect of any debt; and
- (c) the debtor shall not transfer, alienate, encumber or dispose of any of his assets or his legal rights or beneficial interest therein;

(4) Where an order admitting the application under section 96 has been made in relation to a firm, the moratorium under sub-section (1) shall operate against all the partners of the firm.

(5) 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.

(6) IRP is directed to cause a public notice on behalf of the Adjudicating Authority and Act in terms of Section 102, 103, 104 of the Code, to cause public notice, invite claims from creditors, list of creditors etc and hold regular meeting.

102. Public notice and claims from creditors:

(1) The Adjudicating Authority shall issue a public notice within seven days of passing the order under section 100 inviting claims from all creditors within twenty-one days of such issue.

(2) The notice under sub-section (1) 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.

(3) The notice shall be—

- (a) published in at least one English and one vernacular newspaper which is in circulation in the state where the debtor resides
- (b) affixed in the premises of the Adjudicating Authority; and
- (c) placed on the website of the Adjudicating Authority.

103. Registering of claims by creditors:

- (1) The creditors shall register claims with the resolution professional by sending details of the claims by way of electronic communications or through courier, speed post or registered letter.
- (2) In addition to the claims referred to in sub-section (1), the creditor shall provide to the resolution professional, personal information and such particulars as may be prescribed.

104. Preparation of list of creditors:

- (1) The resolution professional shall prepare a list of creditors on the basis of—
 - (a) the information disclosed in the application filed by the debtor under section 94 or 95, as the case may be;
 - (b) claims received by the resolution professional under section 102.

(2) The resolution professional shall prepare the list mentioned in sub-section (1) within thirty days from the date of the notice

(i) **In terms of Section 105:**

The Resolution Professional shall assist the debtor in preparing repayment plan containing a proposal to the creditors for restricting of his debts or affairs.

(ii) **In terms of Section 106:**

The Resolution Professional shall submit the repayment plan under Section 105 along with his report, within 21 days from the last date of submission of claims under Section 102 specifying.

(a) That the repayment plan is in compliance with the provisions of any law for the time being in force;

(b) That the repayment plan has a reasonable prospect of being approved and implemented; and

(c) Whether there is a necessity of summoning a meeting of the creditors, if required, to consider the repayment plan:

(iii) Meeting of creditors shall be held if necessary, specifying the

(a) Date, Time and Place of meeting after consulting the creditors;

(b) Within 14 to 28 days from submission of its report;

(c) After issuance notice for meeting at least 14 days in advance, to all the creditors mentioned in the list of creditors.

- (iv) The Resolution Professional will act in accordance with Sections 107, 108, 109 and 110 to summon creditors, conduct meeting of creditors, allow them voting rights in accordance with voting share assigned to each, and seek approval of repayment plan if any.
 - (v) The Resolution Professional shall prepare a report of the meeting in accordance with Section 112 and furnish a report to this Adjudicating Authority.
- 15.** Report under Section 99(1) is taken on record.
- 16.** The RP appointed in the matter is directed to issue a public notice as envisaged in Section 102, on behalf of the Adjudicating Authority and invite claims from creditors, list of creditors etc and hold regular meeting and conduct the entire IR process as per Chapter-III of IBC 2016 read with the IBBI regulations cited above. Meanwhile he is directed to obtain Net worth certificate & last 5 years balancesheet and Income Tax returns of the Personal Guarantor, failing which Personal Guarantor is directed to be present on the next date of hearing.
- 17.** The Financial creditor shall deposit **Rs 1,00,000/- {Rupees One Lakh}** with the RP for meeting all initial expenses. These expenses have to be adjusted in the final account to be rendered by the RP against remuneration and other expenses and is subject to final approval by the Financial Creditor /Creditors as the case may be.

- 18.** As **Company Petition No. 125 of 2024** stands **admitted**.
I.A.(IB)No.1057/KB/2024 is **disposed of**.
- 19.** Next date for consideration would be **25.08.2026**
- 20.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel in terms of Section 100(3) of the Code for information and for taking necessary steps.
- 21.** Certified copy of the order may be issued, if applied for, upon compliance of all requisite formalities.

Rekha Kantilal Shah
Member (Technical)

Bidisha Banerjee
Member (Judicial)

This Order signed on this, the 17th June, 2026.

S. Ghose (Steno)