

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

*(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)*

I.A. No.427/2026

in

C.P. (IB) No.48/BB/2024

*Under Section 99 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:

Ms. Shirley Mathew

Resolution Professional of **Mr. Santosh L.S.**

Personal Guarantor of **M/s. Kashyap Construction Private Limited**

R/o. at No.23, 5th Cross,

Hutchins Road, Cooke Town,

Bengaluru – 560 084.

... Applicant/ Resolution Professional

IN THE DECIDED MATTER OF:

Mr. Santosh L.S.

No.537, Jyeshta, 3rd Main,

B S K 3rd Stage,

Girinagar, Hosakerehalli Cross,

Bengaluru – 560 085

... Petitioner/Personal Guarantor

Order Delivered on: 18.06.2026

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

Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

Parties/Counsels Present:

For the Petitioner : Ms. Anish Aatresh

For the Financial Creditor : Shri Hemanth Rao

For the R.P. : Ms. Maitreyi Bhat

ORDER

1. The present Application has been filed on 20.05.2026 by the Resolution Professional, seeking to admit the Petition and initiating insolvency proceedings under Section 100 of the Code against the Personal Guarantor.
2. The Personal Guarantor has filed a petition under Section 94(1) of the Code to initiate personal insolvency. The total debt and default by the Corporate Debtor amounts to **Rs.47,88,39,719/-**.
3. Subsequently, the Personal Guarantor filed I.A.No.299/2026 seeking appointment of Ms. Shirley Mathew as the Resolution Professional. By an order dated 23.04.2026, the Applicant was appointed as the Resolution Professional and directed to submit a report under Section 99 of the Code, recommending approval or rejection of the Application within 10 days of appointment.
4. In terms of Section 99(6) of the IBC, the Resolution Professional has examined the application and supporting documents and concluded that the Personal Guarantor had committed default under the Guarantees dated 29.06.2015 executed in favour of the Financial Creditor.
5. Upon default committed by the Corporate Debtor and classification of the account as NPA on 01.03.2018, the Financial Creditor had issued demand notice dated 18.10.2021 under Section 13 (2) of the SARFAESI Act, 2002 to the Corporate Debtor and the guarantors, including the Petitioner, thereby invoking the personal guarantee calling upon them to discharge the outstanding liability. Thereafter, symbolic possession notice under Section 13 (4) of the SARFAESI Act, 2002 was issued in January 2024 and the present Petition under Section 94 (1) of the Code came to be filed in February 2024 by the Petitioner. Despite invocation of the guarantee and demand for payment, the dues remained unpaid. Accordingly, the present proceedings are within limitation as the personal guarantee was invoked on 18.10.2021 and the Petition was filed in February 2024, i.e., within 3 years of invocation of the personal guarantee by the Financial Creditor. Therefore, the Petition is liable to be admitted.
6. Upon default by the Corporate Debtor, the Financial Creditor classified the loan account as Non-Performing Assets (NPA) on 01.03.2018 and issued a demand

notice under Section 13(2) of the SARFAESI Act, 2002 on 18.10.2021 to the Corporate Debtor and the Guarantor. The Financial Creditor also invoked the guarantees furnished by the guarantors

7. The Application was filed in Form A as prescribed under Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019.
8. Thereupon, vide Order dated 28.03.2025, Mr. Madhu Desikan was appointed as the Resolution Professional and directed to exercise all the powers as enumerated under Section 99 of the Code, and further directed to make recommendation with reasons in writing for acceptance or rejection of the instant Company Petition. On Mr. Madhu Desikan expressing inability in continuing as the Resolution Professional at initial stage itself, he was replaced by the Applicant on an application of petitioner/PG, vide Order dated 23.04.2026.
9. The Resolution Professional, after examining the **petition filed by the Personal Guarantor under Section 94(1)** IBC read with Rule 6(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. Demand notice dated 18.10.2021 served upon the Petitioner by the Financial Creditor (i.e. Canara Bank) under Section 13 (2) of the SARFEASI Act, 2002.
 - ii. Symbolic Possession Notice dated 08.01.2024 served upon the Petitioner under Section 13 (4) of SARFEASI Act, 2002.
 - iii. Company Master Data of **M/s. Kashyap Construction Private Limited**.
 - iv. Audited Financial Statements of M/s. Kashyap Construction Private Limited for the Financial Year 2015-16, 2016-17.
 - v. List of immovable properties owned by the Guarantor and immediate family
 - vi. KYC documents of the Petitioner.

- vii. Statement of Affairs of the Petitioner as on 31.01.2024.
 - viii. In view of the above, as repayment of dues/debts of Canara Bank is not yet made, the Applicant submitted her report recommending for approval of the said Application.
10. We have heard arguments on behalf of the Applicant/Resolution Professional, Petitioner/PG and Financial Creditor and perused the entire case records/documents.
 11. From the report of the Resolution Professional there does not appear any request for issuance of any direction for the purpose of conducting negotiations between the Personal Guarantor and the Financial Creditor for arriving at the repayment plan.
 12. Having himself come up with this Petition, Ld. Counsel for the Petitioner/Personal Guarantor does not object to the recommendation of R.P in his report for initiation of PIRP.
 13. The Resolution Professional has examined the Application and ascertained that this Application satisfies the requirements set out in Section 94 of the Code. The Personal Guarantor has provided comprehensive information and explanation as sought by the Resolution Professional under Section 99(4) of the Code. All requisite documents have been submitted, including demand notices, financial statements, asset details, and KYC documents.
 14. Hence, based on the reasons recorded in the report submitted by the Resolution Professional, the instant **I.A. No. 427/2026 is allowed** and C.P. (IB) No.48/BB/2024 filed under Section 94(1) of IBC, 2016 is hereby **admitted** under Section 100 of the IBC, 2016.
 15. The **Insolvency Resolution Process is initiated against the Petitioner/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.
 16. 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.
17. The Resolution Professional **Ms. Shirley Mathew**, 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 in the Registry. The RP fee may be decided by the parties by interacting each other in terms of the relevant Regulations.
18. 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.
19. 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.

20. 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.
21. The Resolution Professional is directed to inform this Authority in case no repayment plan is prepared or submitted by the Personal Guarantor under Section 105 of the Code by filing an application in accordance with the procedure stipulated under Regulation 17B of the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.
22. Accordingly, in above terms, **I.A. No. 427 of 2026 is accepted and disposed of.**

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RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-

SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)