

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, (COURT NO.-II)

KOLKATA

I.A.(I.B)215/KB/2026

In

C.P.(I.B)180/KB/2021

*An Application under Section 114 of the Insolvency and  
Bankruptcy Code, 2016*

IN THE MATTER OF

ICICI Bank Limited, Having its  
Office At ICICI Bank Tower,  
Near Chakli Circle, Old Padra  
Road, Vadodara, Gujarat- 390  
007

...Financial  
Creditor

VERSUS

Vijay Bothra, Personal  
Guarantor of Kohinoor Paper  
and Newsprint Private Limited,  
having his residence at 8A,  
Alipore Road, Kolkata - 700  
027, West Bengal.

...Personal Guarantor

AND

**IN THE MATTER OF:**

Sudipta Ghosh, Resolution  
Professional Of Vijay Bothra,  
Working For Gain At 8, N. N.  
Mukherjee 3rd Lane, Uttarpara,  
Hooghly, Pin - 712258, West  
Bengal.

...Applicant

Date of Pronouncement: 22.6.2026

**CORAM:**

Shri. Labh Singh, Hon'ble Member (Judicial)

Ms. Rekha Kantilal Shah, Hon'ble Member (Technical)

**Counsel appeared through physically or virtually**

Ms. Pallavi Ray, Adv. ] For Resolution Professional

**O R D E R**

(Heard Through Hybrid Mode)

**LABH SINGH, JUDICIAL MEMBER**

1. This is an application filed by Sudipta Ghosh (IBBI/IPA-001/IP-P00484/2017-18/10872) Resolution Professional (hereinafter referred to as "RP") of Vijay Bothra, the Personal Guarantor, under Section 114 of the

Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “IBC Code”) seeking following reliefs:

- a) *Take on record the Report under Section 112 of the Insolvency and Bankruptcy Code, 2016, prepared in respect of the Insolvency Resolution Process of the Personal Guarantor;*
- b) *Reject the Repayment Plan submitted by the Personal Guarantor on the basis of the report of meeting of Creditors prepared by the Applicant herein under Section 112 of the Insolvency and Bankruptcy Code, 2016;*
- c) *Any other or further orders(s) as this Tribunal may deem fit and proper.*

2. This Adjudicating Authority, vide order dated March 04, 2022, accepted the recommendation of the Resolution Professional and admitted the application filed under Section 95 of the IBC Code, and initiated the Insolvency Resolution Process against the Personal Guarantor under Section 100 of the Code. Following this, a Public Notice under Section 102 of the Code was issued on March 11, 2022, in the “Financial Express” (English Newspaper-Kolkata Edition) and “Ekdin” (Bengali Newspaper-Kolkata Edition) newspapers, requesting creditors to submit their claims by April 01, 2022.

3. Although proceedings were briefly kept in abeyance due to a constitutional challenge to Sections 95 to 100 of the Code before the Hon'ble Supreme Court of India. However, Hon'ble Supreme Court upheld the validity of these provisions on November 9, 2023, allowing the proceedings to resume. In compliance with the original admission order, the applicant has prepared and submitted six Progress Reports before this Bench between April 28, 2022, and March 22, 2025. The particulars of which are set forth below:

Progress Report	Date of Submission
1 <sup>st</sup> Progress Report	April 28, 2022
2 <sup>nd</sup> Progress Report	June 20, 2022
3 <sup>rd</sup> Progress Report	July 28, 2022
4 <sup>th</sup> Progress Report	December 02, 2023
5 <sup>th</sup> Progress Report	January 12, 2024
6 <sup>th</sup> Progress Report	March 22, 2025

4. It is submitted that the applicant conducted several meetings with the Personal Guarantor to provide consultation for the preparation of the Repayment Plan in compliance with the contents of Repayment Plan as mandated under Regulation

17 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (hereinafter referred to as “Regulations”).

5. It is submitted that in compliance with Regulation 10 a Statement of Affairs was prepared and circulated among all creditors on July 15, 2024. During this period, the Tribunal also condoned the delay in submissions of claim by Union Bank of India and PTC India Financial Services Limited in I.A.(I.B.C)786(KB)2022 and I.A.(I.B.C)951(KB)2022 vide order dated December 6, 2023. The initial Repayment Plan submitted on July 7, 2024, along with the Resolution Professional’s report dated July 11, 2024 and an updated list of creditors as on July 30 2024, was brought on record through Interlocutory Application I.A.(I.B.C.)1877 of 2024. It is submitted that at the First Meeting of Creditors held on August 02, 2024, the creditors suggested the Personal Guarantor improve the offer and decided that a decision on the plan would only be considered after obtaining an Investigation Report of the Personal Guarantor’s asset base from a private detective agency.
6. Following the creditors decision, EDCI, a private detective agency, was appointed on September 19, 2024. The EDCI report dated November 12, 2024 stated that the Personal Guarantor

had no assets as of March 04, 2022, or November 12, 2024. After further meetings, the Personal Guarantor submitted a Revised Repayment Plan on December 19, 2024. At the Second Meeting of Creditors held on January 08, 2025, the creditors were of the opinion that a Second Investigation Report is required from any other Private Detective Agency empanelled with the Banks or Financial Institutions. Consequently, Unified Management Private Limited was appointed on February 24, 2025, and its report dated March 15, 2025 stated that, except for a few bank accounts, no other attachable property exists in the name of the Personal Guarantor.

7. During the Third Meeting of Creditors on May 20, 2025, the First Revised Repayment Plan was discussed. The members present in the meeting suggested to improve the revised Repayment Plan again. Where the representative of Bank of Baroda suggested that the repayment period be restricted to six months and further stated that the Plan was conditional in nature, which was not acceptable to them. It was further suggested that no conditions be incorporated in the Repayment Plan.
8. It is submitted that the representative of ICICI Bank Limited expressed that the amount offered under the Repayment Plan was not acceptable and suggested for improvement of the offer for favourable consideration of the

Plan. Further, the representative of Rare Asset Reconstruction Limited suggested that the Personal Guarantor incorporate the name of Rare Asset Reconstruction Limited as a creditor in the further revised Repayment Plan. The Personal Guarantor took the initiative to submit Revised Repayment Plan within seven days from the date of the third meeting.

9. The Final Revised plan was put to a vote during the Fourth Meeting of Creditors held on June 19, 2025. As most of the Creditors were not present, the voting process was extended until September 15, 2025, till 7.00 pm on the request of the Creditors. Upon conclusion of the voting, the Repayment Plan was rejected by the creditors with a voting share of 50.89%. Accordingly, the applicant has prepared a Report of the meeting of the creditors under Section 112 of the Code.
10. Heard learned Counsel for the petitioner. We have perused the record of the present case. We have duly appreciated the law applicable on the facts and circumstances of the present application.
11. It is pertinent to note that as per Section 109 of IBC, 2016, a creditor shall be entitled to vote at every meeting of the creditors in respect of the repayment plan in accordance with the voting share assigned to it. The RP shall determine the voting share to be assigned to each

creditor in the manner specified by the Insolvency and Bankruptcy Board of India. Section 109 of IBC, 2016 reads thus:

*“109. Voting rights in meeting of creditors –*

*(1) A creditor shall be entitled to vote at every meeting of the creditors in respect of the repayment plan in accordance with the voting share assigned to him.*

*(2) The resolution professional shall determine the voting share to be assigned to each creditor in the manner specified by the Board.*

*(3) A creditor shall not be entitled to vote in respect of a debt for an unliquidated amount.*

*(4) A creditor shall not be entitled to vote in a meeting of the creditors if he –*

*a) is not a creditor mentioned in the list of creditors under section 104; or*

*b) is an associate of the debtor.”*

12. It has been provided in Section 110 of IBC Code that the Secured Creditor shall also be entitled to participate and vote in the meetings of the creditors. In terms of the provisions of Section 111 of IBC, 2016, the repayment plan or any modification to the repayment plan shall be approved by a majority of more than three-fourth in value of the

creditors present in person or by proxy and voting on the resolution in a meeting of the creditors. Section 111 of IBC, 2016 provides as under:

*“111. Approval of repayment plan by creditors – The repayment plan or any modification to the repayment plan shall be approved by a majority of more than three-fourth in value of the creditors present in person or by proxy and voting on the resolution in a meeting of the creditors.”*

13. Thus, despite subsequent revisions in the repayment plan addressing the concerns of the creditors with respect to repayment terms, conditionality and updation of creditor details in the final revisited plan, the repayment plan was ultimately rejected by the Creditors with 50.89% votes. The voting results pertaining to the approval of the Resolution Plan are reproduced below (as reflected at page 75 of the application):

Assented	Dissented	Abstained
15.39%	50.89%	33.72%

14. Section 114 contemplates Order of Adjudicating Authority on Repayment Plan, which are as follows:

*“114. Order of Adjudicating Authority on repayment plan.–*

*(1) The Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of the report of the meeting of the creditors submitted by the resolution professional under section 112: Provided that where a meeting of creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under section 106.*

*(2) The order of the Adjudicating Authority approving the repayment plan may also provide for directions for implementing the repayment plan.*

*(3) Where the Adjudicating Authority is of the opinion that the repayment plan requires modification, it may direct the resolution professional to re-convene a meeting of the creditors for reconsidering the repayment plan.”*

15. It has clearly been provided in Section 114(1) of the IBC, 2016 that the Adjudicating Authority shall approve or reject the Repayment Plan on the basis of the minutes of the meeting of the Creditors submitted by the Resolution Professional under Section 112 of the IBC, 2016, read with Regulation 19 of IBBI (IRP for Personal Guarantors to Corporate Debtors) Regulations, 2019.

16. It can be seen from the provisions of Chapter-IV of IBC, 2016, particularly Section 121 thereof, in the event of rejection of repayment plan or there being no repayment plan submitted by the debtor/personal guarantor, an application for bankruptcy of debtor will be made by creditor individually or jointly with other creditors or by debtor to the Adjudicating Authority in the circumstances mentioned in the section. One of such circumstances is passing of order under Section 115(2) of IBC, 2016.
17. In terms of the provisions of Section 115 (2) of IBC, 2016, upon rejection of repayment plan by the Adjudicating Authority under Section 114, the debtor and the creditors shall be entitled to file an application for bankruptcy under Chapter-IV. The provisions of Section 115(2) of IBC, 2016 reads thus:

*“115. (1) Where the Adjudicating Authority has approved the repayment plan under section 114, such repayment plan shall—*

*(a) take effect as if proposed by the debtor in the meeting; and*

*(b) be binding on creditors mentioned in the repayment plan and the debtor.*

*(2) Where the Adjudicating Authority rejects the repayment plan under section 114, the debtor and*

the creditors shall be entitled to file an application for bankruptcy under Chapter IV.

*(3) A copy of the order passed by the Adjudicating Authority under sub-section (2) shall be provided to the Board, for the purpose of recording an entry in the register referred to in section 196.”*

18. In view of the above, the Report submitted under Section 112 of the IBC, 2016 is taken on record. Further, based on the report of the meeting of creditors and the voting outcome, the Repayment Plan submitted by the Personal Guarantor is hereby rejected.
19. The creditors shall be at liberty to initiate the proceedings in terms of the provisions of Section 115(2) of IBC, 2016 read with Section 121 thereof.
20. The RP stands discharged and he is entitled to claim IRP costs from the Stakeholders.
21. Let a copy of this order be provided to IBBI for the purpose of recording an entry in the register referred to Section 196 of IBC, 2016. The RP shall also make copies of this order available to all the creditors and Personal Guarantor within one week from today.
22. I.A.(I.B)215/KB/2026 in C.P.(I.B)180/KB/2021 is allowed and stands disposed of accordingly.

23. Let the certified copy of the order may be issued, if applied for, upon compliance of all requisite formalities.

**Rekha Kantilal Shah**  
**Member (Technical)**

**Labh Singh**  
**Member (Judicial)**

SRIDHAR.R(LRA)