IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH - I

C.P. (IB) NO. 1267/MB/2025

Under Section 95 of the Insolvency & Bankruptcy Code, 2016 *r/w* Rule 7(2) of the Insolvency and Bankruptcy (Application to the Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors), Rules, 2019.

In the matter of

TJSB Sahakari Bank Ltd ...Petitioner/Financial Creditor

Versus

Mr. Kumar Dharamdas Kewalramani

…Respondent/Personal Guarantor

Order pronounced on 23.07.2026

Coram:

Prabhat Kumar	Sushil Mahadeorao Kochey
Member (Technical)	Member (Judicial)

Appearances:

For the Applicant	: Adv. Sagar Wagle a/w Adv. Kashyap Samant and Adv. Lisa Rasquinha
For the Resolution Professional	: Adv. Avinash R Khanolkar a/w Adv. Maheshkumar T. Nulolu
For the Respondent	: Adv. Drishti Ostwal

BRIEF FACTS:

1. The present petition is filed *u/s.* 95 (1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “IBC/Code")

r/w Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 by **TJSB Sahakari Bank Ltd** ("hereinafter referred to as Petitioner/Financial Creditor") for initiating insolvency process against **MR. KUMAR DHARAMDAS KEWALRAMANI** ("hereinafter referred to as Personal Guarantor/Respondent") for outstanding debt of **Rs. 10,90,17,138.46 (Rupees Ten Crores Ninety Lakhs Seventeen Thousand One Hundred Thirty-Eight and Forty-Six Paise Only)** with further interest and charges payable. The Date of Default as specified in Part-III of the present petition is 25.08.2025.

2. The Petitioner is a Multi-State Scheduled Bank registered on 23.10.2008 under the provisions of the Multi-State Societies Act, 2002, having its address at TJSB House, Plot No. B-5, Road No. 2, Behind Aplab Lab, Wagle Industrial Estate Thane (W) - 400604.

3. The Personal Guarantor, viz. **MR. KUMAR DHARAMDAS KEWALRAMANI** having his address at Plot No. C 30, Road No. 16, Wagle Estate, Thane - 400604, stood as the Guarantor for **M/S. Capitol Fibres Private Limited** (hereinafter referred to as the "Corporate Debtor/ Principal Borrower") to secure the credit facilities extended to the Corporate Debtor.

4. The Corporate Debtor was incorporated on 04.09.1995 bearing **CIN** No. U17120MH1995PTC092324 and has its registered address at Plot No. C-30 Road No 16, Wagle Industrial Estate, Thane (West), Thane, Maharashtra, India - 400604.

<u>SUBMISSIONS OF THE APPLICANT:</u>

5. The Corporate Debtor approached the Applicant from time to time for availing various credit facilities. Upon considering the

requests, the Applicant sanctioned the said financial facilities on different dates, the details whereof are set out in the table hereinbelow:

SR. NO.	LOAN ACCOUNT DETAILS	DATE OF SANCTION LETTER	AMOUNT SANCTIONED (IN RS.)
1.	PRLNR/403	30.11.2013	1,00,00,000/-
2.	WCTLR/2	27.12.2016	75,00,000/-
3.	SAHAYOGR/1	11.06.2020	95,00,000/-
4.	CCR/2216	30.12.2006	4,30,00,000/-
5.	WCTLR/1	31.05.2017	2,00,00,000/-
6.	PRLNR/404	20.04.2019	30,00,000/-
7.	PRFINR/37	16.10.2019	1,90,00,000/-

6. The aforesaid facilities were inter-alia, secured by way of Personal Guarantees, furnished by the Respondent in favour of the Applicant. The following Personal Guarantees were extended to secure the facilities sanctioned to the Corporate Debtor:

SR. NO.	LOAN ACCOUNT DETAILS	DATE OF DEED OF PERSONAL GUARANTEE
1.	PRLNR/403	11.01.2014
2.	WCTLR/2	08.03.2016
3.	SAHAYOGR/1	16.06.2020
4.	CCR/2216	20.02.2021
5.	WCTLR/1	30.11.2017
6.	PRLNR/404	08.07.2019
7.	PRFINR/37	05.11.2019

7. It is submitted that the Corporate Debtor committed default in repayment of the credit facilities and breached the terms and conditions governing the said facilities. Consequently, the loan account of the Corporate Debtor was classified as a Non-Performing Asset (NPA) on 26.06.2021 in accordance with the applicable guidelines of the Reserve Bank of India.

8. The Applicant issued a Demand Notice dated 10.12.2021 under Section 13(2) of the SARFAESI Act, 2002 to the Corporate Debtor and its Personal Guarantors, including the Respondent, calling upon them to discharge the outstanding dues within 60 days from date of notice. However, despite service of the said notice, the Corporate Debtor and the Personal Guarantors failed to liquidate the outstanding liabilities.

9. Thereafter, The Applicant vide invocation letter dated 18.08.2025, invoked the personal guarantees furnished by the Respondent and other guarantors, calling upon them to jointly and severally discharge the outstanding liabilities due under the respective credit facilities.

10. Thereafter, a Statutory Demand Notice under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 was issued to the Personal Guarantors on 28.08.2025. However, no repayment or settlement has been affected.

11. It is submitted that the Respondent, vide replies dated 03.09.2025 and 12.09.2025 to the Demand Notice and the invocation of the Personal Guarantee, denied liability under the Personal Guarantee and contended that no debt was due and payable. The Respondent further objected to the invocation of the guarantee, alleging that the Applicant was attempting to revive a time-barred debt by invoking the guarantee afresh, despite the guarantee having already been

invoked through the notice dated 10.12.2021 issued under Section 13(2) of the SARFAESI Act, 2002, and accordingly rejected the Applicant's claim. Pursuant thereto on 21.09.2025, The Applicant addressed a rejoinder to the said notices.

12. As on 30.09.2025, the total outstanding amount payable by the Corporate Debtor and the Personal Guarantor is stated to be **Rs. 10,90,17,138.46** (Rupees Ten Crores Ninety Lakhs Seventeen Thousand One Hundred Thirty-Eight and Forty-Six Paise Only) along with further interest and charges, which continue to accrue.

13. In view of the continued default and failure of the Personal Guarantor to honour the guarantee obligations, the Applicant filed the present Petition seeking initiation of Insolvency Resolution Process against the Respondent under Section 95 of the Code.

14. The Applicant further Submitted that the debt in respect of which the present insolvency resolution process has been initiated does not include any ‘excluded debt’ as defined under the provisions of the Insolvency and Bankruptcy Code, 2016, namely:

    (i) any liability to pay fine imposed by a Court or Tribunal;
    (ii) any liability to pay damages for negligence, nuisance, or breach of statutory, contractual or other legal obligations;
    (iii) any liability to pay maintenance to any person under any law for the time being in force;
    (iv) any liability in relation to a student loan; and
    (v) any other debt as may be prescribed under Section 79(15)(e) of the Insolvency and Bankruptcy Code, 2016.

15. The Applicant has filed written submissions reiterating that the financial facilities granted to the Corporate Debtor, the execution of the Personal Guarantees by the Respondent, the default committed by the Corporate Debtor, the invocation of the Personal Guarantee and issuance of the statutory demand notice in Form-B are all duly established from the documents placed on record.

16. It is further submitted that the Respondent has admitted receipt of the notice dated 10.12.2021 issued under the SARFAESI Act, 2002 and has itself contended that the said notice amounted to invocation of the Personal Guarantee. The Applicant, therefore, submits that it is not placing reliance upon the subsequent invocation notice dated 18.08.2025 for establishing invocation of the Personal Guarantee. It is further submitted that despite due invocation of the guarantee and service of the statutory demand notice in Form B upon the Respondent, no payment was made towards the outstanding dues. Accordingly, the Applicant contends that the statutory requirements under the Insolvency and Bankruptcy Code, 2016 have been duly complied with and the present Petition is liable to be admitted.

17. It is submitted that the objection regarding limitation is untenable as the debt was duly acknowledged in the Balance Sheets of the Corporate Debtor for the financial years ending 31.03.2023 and 31.03.2024, which, in terms of Clause 6 of the Deed of Personal Guarantee, is binding upon the Respondent. The Applicant, therefore, contends that the present Petition has been filed within the prescribed period of limitation.

18. The Petitioner submitted that the statutory Demand Notice in Form B was duly issued in accordance with the provisions of the Insolvency and Bankruptcy Code and the terms of the Deed of Guarantee. It was contended that the notice was dispatched to the Personal Guarantor's last known place of business, which is a valid mode of service under Clause 13 of the Deed of Guarantee, and therefore service is deemed to have been effected. Alternatively, it was argued that service upon the other co-guarantors also constitutes valid service under the guarantee deed. Reliance was further placed on the decision of the **Hon'ble NCLAT in Paresh Rastogi v. Omkara Asset Reconstruction Pvt. Ltd**. [*Company*

Appeal (AT) (Insolvency) No. 2053 of 2024] to contend that dispatch of the notice to the correct address by registered/speed post raises a presumption of due service, notwithstanding its return undelivered.

SUBMISSIONS OF THE RESOLUTION PROFESSIONAL:

19. This Tribunal, vide Order dated 27.11.2025, appointed **Mr. Sandeep Jayant Kulkarni** as the Resolution Professional and directed him to submit a report under Section 99 of the Insolvency and Bankruptcy Code, 2016 within a period of 10 days. Pursuant thereto, the Resolution Professional filed **I.A (I.B.C.) No. 44/MB/2026** for placing the said report on record, which came to be taken on record by this Tribunal vide Order dated 07.01.2026.

20. The Resolution Professional, in view of the detailed examination of the Application along with the supporting documents, has recommended that the Application filed by the Financial Creditor, namely **TJSB Sahakari Bank Ltd**, under Section 95(1) of the Insolvency and Bankruptcy Code, 2016, bearing **C.P. (IB) No. 1267/2025**, be admitted under Section 100 of the Code and that the Insolvency Resolution Process be commenced against the Personal Guarantor, namely **MR. KUMAR DHARAMDAS KEWALRAMANI**.

21. The Resolution Professional further states that:

> *"As examined by the Resolution Professional herein-above the debt is owed by the Personal Guarantor to the Financial Creditor and the Petition satisfies the provisions of the Code; the Resolution Professional Recommends **Admission** of the **C.P. (IB)/1267(MB) 2025** and prays before this Hon'ble Bench to pass an Order U/s. 100 of the Code. This reasoning is given by the Resolution Professional in pursuance to the provisions of S. 99 (9) of the Code."*

22. On 23.03.2026, this Tribunal had directed the Resolution Professional to file fresh report in view of objection raised by the Personal Guarantor that the Resolution Professional, having sought information from them in terms of Section 99(4) of IBC vide letter dated 10.12.2025, proceeded to file this report on 13.12.2025 thus denying mandatory period of 7 days to the Personal Guarantor.

23. Pursuant thereto, the Resolution Professional filed **I.A (I.B.C.) No. 1813/MB/2026** for placing the said report on record, which came to be taken on record by this Tribunal vide Order dated 04.05.2026.

24. In view of the detailed examination of the material on records, The Resolution Professional recommended the Admission of **CP(IB)1267/MB/2025** and also recommended the commencement of Insolvency Resolution Process against **MR. KUMAR DHARAMDAS KEWALRAMANI.**

25. The Resolution Professional further states that:

> *".... I hereby recommend for the acceptance of the application **C.P. (IB)/ 1267(MB)2025** filed U/s 95 (1) of the Code by the M/s. TJSB Sahakari Bank Limited to initiate Insolvency Resolution Process against **Mr. Kumar Dharamdas Kewalramani**, Personal Guarantor to M/s. Capitol Fibers Private Limited and the Adjudicating Authority may pass an appropriate order U/s. 100 of the Code."*

SUBMISSIONS OF THE RESPONDENT:

26. The Respondent has filed an Affidavit in Reply dated 13.05.2026 opposing the fresh Report of the Resolution Professional. It is submitted that the fresh Report is merely a reproduction of the earlier report with minor changes and has been filed without any

independent examination of the Petition or the documents on record. The Respondent contends that the Resolution Professional has acted mechanically and in violation of Sections 97(6) and 99 of the Insolvency and Bankruptcy Code, 2016, without application of mind. It is further submitted that despite the specific directions of this Tribunal to submit a fresh report, the Resolution Professional failed to issue a fresh notice under Section 99(4) of the Code, thereby denying the Respondent an opportunity to furnish further information and documents, including details of recoveries made under the SARFAESI Act. According to the Respondent, such failure amounts to non-compliance with the Tribunal's directions and violation of the principles of natural justice, rendering the fresh Report unsustainable in law.

27. The Respondent has further submitted that the Report of the Resolution Professional is merely recommendatory in nature and is not binding upon this Tribunal. It is contended that the Adjudicating Authority is required to independently examine the existence of debt, default and other issues, including limitation, before passing any order under Section 100 of the Insolvency and Bankruptcy Code, 2016. In support of the said contention, the Respondent has placed reliance on the judgment of the Hon'ble Supreme Court in ***Dilip B. Jiwrajka v. Union of India, (2024) 5 SCC 435,*** to contend that the Resolution Professional performs only a recommendatory role and that the Adjudicating Authority is duty-bound to independently apply its mind after complying with the principles of natural justice.

28. The Respondent submitted that no crystallised debt or default exists, as the validity of the NPA classification is pending adjudication before the Debts Recovery Tribunal in Securitisation Application No. 540 of 2023. Hence, the liability of the Personal

Guarantor has not crystallised and the present proceedings are premature.

29. The Respondent further submitted that although the DRT by its order dated 30.01.2026 held that the SARFAESI demand notice to be defective, the said order is presently under challenge before the DRAT and DRAT has stayed the said order by order dated 30.03.2026. As the very foundation of the Applicant's claim is sub judice, continuation of the present proceedings is unwarranted.

30. It was submitted that the Applicant is seeking to invoke the provisions of the IBC on the basis of the same disputed NPA classification which is pending before the DRT, thereby amounting to parallel proceedings and an abuse of the insolvency process.

31. The Respondent further contended that the Applicant has not disclosed the correct outstanding liability, as the amount claimed in the petition differs from its own audit report and does not account for the amount realised through auction of the secured assets.

32. It is further contended that the present Petition is barred by limitation, the personal guarantee having already been invoked on 10.12.2021, and that a fresh invocation dated 18.08.2025 cannot revive a time-barred claim. The Respondent has also submitted that no acknowledgment of debt has been executed by the Personal Guarantor to extend the period of limitation, that the alleged debt is not legally enforceable and remains disputed in proceedings pending before the Debts Recovery Tribunal, and that the statutory demand notice issued under Form B is incomplete and not in compliance with the prescribed requirements

33. The Respondent submitted that the statutory Demand Notice dated 28.08.2025 was never served upon the Respondent, as it

was dispatched to an incorrect address. It was further contended that, in the absence of valid service of the mandatory notice, the present proceedings are not maintainable. The Respondent denied the existence of any legally enforceable debt or default and put the Applicant to strict proof of its claims. On these grounds, the Respondent has prayed for rejection of the Resolution Professional's Report and dismissal of the present Petition.

IA (I.B.C)/2652/MB/2026

34. The Present interim application is filed by the personal guarantor for seeking following relief:

a) *Allow the present application;*
b) *Make a reference to the Insolvency and Bankruptcy Board of India under Section 98(2) of the Code;*
c) *Appoint a new Resolution Professional under Section 98(7) of the Code;*
d) *Replace the Respondent from conducting the present resolution process;*
e) *Any other just and proper order in the favour of the Applicant.*

35. The Personal Guarantor further submitted in his Interim Application that the Resolution Professional failed to discharge the statutory duties under Sections 97 and 99 of the Insolvency and Bankruptcy Code in an independent and impartial manner. It was contended that the Resolution Professional issued notices to an incorrect, non-operative address, submitted the report mechanically without awaiting the Guarantor's response, merely reproduced the contents of the Company Petition without independent examination, failed to comply with the directions of this Adjudicating Authority to conduct a fresh examination, and thereby violated the principles of natural justice. It

was further submitted that the repeated procedural lapses and predetermined conduct have resulted in a loss of confidence in the Resolution Professional, warranting substitution of the Resolution Professional and reference to the Insolvency and Bankruptcy Board of India under Section 98(2) of the Code.

FINDINGS & ANALYSIS:

36. We have heard the learned counsel for both the parties and perused the documents placed on record, the Reports submitted by the Resolution Professional under Section 99 of the Insolvency and Bankruptcy Code, 2016.

37. The material placed on record establishes that the Applicant had extended various credit facilities to the Corporate Debtor and that the Respondent had executed the Deed of Personal Guarantee in favour of the Applicant guaranteeing repayment of the dues of the Corporate Debtor. The execution of the Deed of Personal Guarantee has not been specifically denied by the Respondent.

38. It is further evident from the record that the Applicant invoked the Personal Guarantee by issuing a Demand Notice dated 10.12.2021 under Section 13(2) of the SARFAESI Act, 2002 to the Corporate Debtor and its Personal Guarantors, including the Respondent. The receipt of the said notice is not in dispute. Thereafter, the Applicant issued the statutory demand notice dated 28.08.2025 in Form B under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019.

39. The principal objection of the Respondent pertains to limitation. According to the Respondent, the Personal Guarantee stood invoked through the notice issued under Section 13(2) of the SARFAESI Act, 2002 and, therefore, the present Petition is barred by limitation. We are unable to accept the said contention. The material placed on record

discloses that the liability of the Corporate Debtor continued to be acknowledged in its Balance Sheets for the years 2023-2024. The Present petition is admittedly filed on 24.11.2025. The Applicant has also relied upon Clause 6 of the Deed of Personal Guarantee, which provides that acknowledgment of liability by the Corporate Debtor shall be binding upon the Personal Guarantor. The relevant portion from the Deed of Personal Guarantee is reproduced hereinbelow:

> *"6. It is also agreed that any admission or acknowledgement in writing by the Borrower of the amount of the said debt or otherwise relating to the subject matter of this Guarantee, shall be binding on us and we accept the correctness of any statement of account served on the Borrower which is certified by any Manager or Officer of the Bank and the same shall be binding and conclusive as against us also, and we further agree that in making an acknowledgement or making a payment he shall be treated as our duly authorised agent."*

Therefore, such acknowledgments constitute valid acknowledgments under Section 18 of the Limitation Act, 1963 and have the effect of extending the period of limitation.

40. In the present case, the statutory demand notice under Rule 7(1) was issued on 28.08.2025 and the present Petition has thereafter been instituted on 24.11.2025 which is within the extended period of limitation. Merely because the Personal Guarantee had earlier been invoked through the notice dated 10.12.2021 does not render the present proceedings barred by limitation when the underlying debt continued to be acknowledged by the Corporate Debtor in accordance with law and the terms of the Deed of Personal Guarantee make such acknowledgment binding upon the Respondent.

41. The contention of the Respondent that no acknowledgment was executed by the Personal Guarantor, therefore, cannot be accepted in

view of the contractual stipulation contained in the Deed of Personal Guarantee and the acknowledgments made by the Corporate Debtor. We are, therefore, satisfied that the present Petition is not barred by limitation.

42. It is relevant to refer Clause 13 of the Deed of Guarantee which provides as under -

> *"13. Any notice by way of request, demand or otherwise hereunder may be given by the Bank to us or any of us personally or may be left at then or last known, place of business or residence in India of us or any of us addressed as aforesaid to us or may be sent by post to us or any of us addressed as aforesaid and if sent by post it shall be deemed to have been given at the time when it would be delivered in due course of post and it shall be sufficient to prove that the envelope containing the notice was posted by the Bank."*

43. It is also contended by the Respondent that the Resolution Professional failed to give 7 days' time after being directed by this Tribunal on 23.03.2026 for filing of a fresh report in view of earlier report filed by him was not accepted by this Tribunal on the ground of denial of hearing in terms of Section 99(4)/(5) of IBC. It is noted that Section 99(4) vests a discretion in the Resolution Professional to call for further information or explanation in connection with the Application from the Debtor, and in case, such further information or explanation is called for, the Debtor is granted 7 days' time to respond. In the present case, it is noted that the Resolution Professional had not called further information or explanation in connection with the Application from the Debtor in terms of Section 99(4) of IBC, accordingly, the Respondent Personal Guarantor cannot be aggrieved for non-provision of opportunity to provide information or explanation in connection with the Application. Nonetheless, the Resolution Professional had earlier required, vide letter dated 10.12.2025, the Respondent

Personal Guarantor to furnish the information / explanation stated therein, and there was no bar on the Respondent Personal Guarantor to provide the same to the Resolution Professional if he considered it necessary for information of Resolution Professional.

44. In the present case, the respondent/personal guarantor has admitted the receipt of notice under section 13 (2) of the SERFAESI Act, 2002 dated 10.12.2021 and pleading that the guarantee came to be invoked vide said notice as against the claim of the Applicant/Creditor that the guarantee was invoked vide notice dated 18.08.2025. This constitutes specific admission in relation to receipt of the notice under section 13 (2) of the SERFAESI Act, 2002 whereby the respondent called upon to pay in terms of guarantee. On perusal of the order passed by the hon'ble Debts Recovery Tribunal (DRT), It is noted that the notice under Section 13(2) suffered from certain defects on account of absence of facility-wise particulars, such finding pertains to the validity of the SARFAESI proceedings and not to the factum of invocation of the Personal Guarantee. Moreover, the said order of the hon'ble Debts Recovery Tribunal is admittedly under challenge before the Hon'ble Debts Recovery Appellate Tribunal (DRAT) and its operation has been stayed. Consequently, the observations made by the hon'ble DRT cannot be relied upon to invalidate the invocation of the Personal Guarantee for the purposes of the present proceedings under the Insolvency and Bankruptcy Code, 2016.

45. It is noted that the statutory demand notice dated 28.08.2025 in Form B was issued to the Respondent at his last known address i.e. Plot No. C 30. Road No. 16 Wagle Estate. Thane - 400604 in accordance with Clause 13 of the Deed of Guarantee, however, the same returned unserved. The Respondent had not communicated any change in his address to the applicant Creditor. The similar notices were duly served upon the other Personal Guarantors. Earlier notice u/s 13(2) of SARFAESI Act was duly served upon the personal guarantor at the

same address. Further clause 13 of the deed of guarantee provides that the notice received by any of the guarantor shall constitute service of notice upon other guarantors as well. Accordingly, there is a valid service of statutory notice issued under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 when the notice was dispatched to the last known address by registered/speed post, even if such notice returned undelivered. In such case, the statutory demand notice shall be deemed to have been duly served upon the Respondent.

46. The contention that the proceedings are premature because the validity of the NPA classification and the SARFAESI proceedings are pending before the Debts Recovery Tribunal, Mumbai. The pendency of proceedings under the SARFAESI Act or before the Debts Recovery Tribunal does not bar initiation of proceedings under Part III of the Chapter III of the Insolvency and Bankruptcy Code, 2016, where the Applicant has otherwise established the existence of debt, the execution of the Personal Guarantee and the occurrence of default.

47. The execution of Guarantee Agreements during the period of 2014 to 2021 by the Respondent establishes his status as Personal Guarantor with co-extensive liability under Section 128 of the Indian Contract Act, 1872.

48. The Guarantee was invoked vide Demand Notice dated 10.12.2021 under Section 13(2) of the SARFAESI Act, 2002 to the Corporate Debtor and its Personal Guarantors, including the Respondent, calling upon them to discharge the outstanding dues. It observed that despite service of the said notice, the Corporate Debtor and the Personal Guarantors failed to liquidate the outstanding liabilities.

49. Upon perusal of the Demand Notice issued under [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] sent to the Respondent in respect of unpaid debt in default due from Applicant. It is stated in the Notice dt. 28.08.2025, that "*the undersigned request you to unconditionally pay the unpaid debt in default in full within fourteen days from the receipt of this letter, failing which, the insolvency resolution process, under the code shall be initiated against you*".

50. The statutory requirements under Section 95 read with Rule 7 of the 2019 Rules have been complied with. The Resolution Professional, in exercise of powers under Section 99(9), has recommended admission.

51. Hence, this Tribunal is satisfied that a debt is due and payable by the Personal Guarantor and that the default has occurred. The Application is complete in terms of the Code and Rules. Accordingly, the requirements under Section 100 of the Code stand fulfilled.

52. Since there exists a debt and there is a default in payment thereof and such default amount exceeds the threshold limit as applicable to the personal guarantor for invoking jurisdiction of this Tribunal, the Petition deserves to be allowed for commencement of insolvency resolution process in case of personal guarantor.

53. In case of ***Mr. Ravi Ajit Kulkarni v. State bank of India, (2021) ibclaw.in 396 NCLAT***, it was held that

> *"31. Going through Section 98 of IBC, we do not find that Section 98 is stage specific. Section 98 itself shows that the Section could be resorted to even on stages like implementation of repayment plan which would be stage beyond Section 116, where implementation and supervision of repayment plan is provided for. Thus, the argument that before report of Resolution Professional the Debtor must get a chance to seek replacement of Resolution Professional and thus notice was required to be given has no substance. It is only after the Resolution Professional is appointed by the Adjudicating Authority under Section 97(5), that step under Section 98 is contemplated.*

32. Section 99 require the Resolution Professional to "examine the application" and to "submit the report" to the Adjudicating Authority "recommending for approval or rejection of the application". What the Resolution Professional does under Section 99(2) is to "require the Debtor to prove repayment of the debt claimed as unpaid by the Creditor" by furnishing (a) evidence of electronic transfer of the unpaid amount from the bank account of the Debtor; (b) evidence of encashment of a cheque issued by the Debtor; or (c) a signed acknowledgement by the Creditor accepting receipt of dues. This is mere collection of evidence. These provisions give opportunity to the Debtor to submit material in his favour. Section 99(3) provides that 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". Thus, where debt concerned is registered with information utility is established, it would be conclusive evidence of valid debt and Personal Guarantor is not entitle to raise dispute regarding validity of the debt. Thus, where the debt is registered as mentioned, dispute of validity of debt cannot be raised and thus Adjudicating Authority need not adjudicate on it."

54. In view of this decisions, this Tribunal is required to examine only whether the opinion formed by the Applicant/Personal Guarantor is founded on rational basis and objective consideration.

55. Before we proceed further, it is pertinent to refer the case of ***S. Parthasarathi vs. State of Andhra Pradesh (1974) 3 Supreme Court Cases 459,*** wherein it was held that:

> *"13…………We are of the opinion that the cumulative effect of the circumstances stated above was sufficient to create in the mind of a reasonable man the impression that there was a real likelihood of bias in the inquiring officer. There must be a "real likelihood" of bias and that means there must be*

a substantial possibility of bias. The court will have to judge of the matter as a reasonable man would judge of any matter in the conduct of as own business (see R. v. Sunderland JJ [1901] 2 K. B. 357 at 373.

14. The test of likelihood of bias which has been applied in a number of cases is based on the "reasonable apprehension" of a reasonable man fully cognizant of the facts. The courts have quashed decisions on the, strength of the reasonable suspicion of the party aggrieved without having made any finding that a real likelihood of bias in fact existed [see R. v. Huggins [1895] 1 Q. B. 563]; R. v. Sussex JJ., ex. p. McCarthy [1924] 1 K. B. 256; Cottle v. Cottle [1939] 2 Ail E. R. 535; R. v. Abingdon JJ. ex. p. Cousins [1964] 108 S. J. 840. But in R. v. Camborne ff., ex. p. Pearce [1955] 1 Q. B. 41 at 51, the Court, after a review of the relevant cases held that real likelihood of bias was the proper test and, that a real likelihood of bias had to be made to appear not only from the materials in fact ascertained by the party complaining, but from such further facts as he might readily have ascertained and easily verified in the course of his inquiries.

The question then is: whether a real likelihood "of bias existed is to be determined on the probabilities to be inferred from the circumstances by court objectively, or, upon the basis of the impressions that might reasonably be left on the minds of the party aggrieved or the public at large.

The tests of "real likelihood" and "reasonable suspicion" are really inconsistent with each other. We think that the reviewing authority must make a determination on the basis of the whole evidence before it whether a reasonable man *would in the circumstances infer that there is real likelihood of bias. The court must look at the impression which other people have. This follows from the principle that justice must not only be done but seen to be done. If right minded persons would think that there is real likelihood of bias on the part of an inquiring officer, be must not conduct the enquiry; nevertheless, there must be a real likelihood of bias. Surmise or conjecture would not be enough. There must exist circumstances from which reasonable men would think it probable or likely that the inquiring officer will be prejudiced against the delinquent. The court will not inquire whether he was really prejudiced. If a reasonable man would think on the basis of the existing circumstances that. he is likely to be prejudiced, that is sufficient to quash the decision [see per Lord Denning, M.R. in Metropoli- tan Properties Co, (F.G.C.) Ltd. v. Lannon and Others, etc. (1968) 3 W. L. R. 694 at 707]. We should not, however, be understood to deny that the court might with greater propriety apply the "reasonable suspicion" test in criminal or in proceedings analogous to criminal proceedings."*

56. On perusal of the Application, it is noted that the Applicant's case is premised on the Respondent making sweeping remarks against the Personal guarantor in the Report despite (a) Non-compliance of specific directions; (b) Breach of Statutory Mandate (Section 99(4)); (c) Violation of Natural Justice *(Audi Alterarn Partent);* (d) Non-Application of Mind & Failure of Investigative Duty. These allegations are flowing from the Letter dt. 10.12.2025, and no further specific allegations/deficiencies have been pointed out. As held by the ***Hon'ble Supreme Court in S. Parthasarthy (supra)*** that *"the reviewing authority must make a determination on the basis of the whole evidence before it whether a reasonable man would in the*

circumstances infer that there is real likelihood of bias", we could not find from the material placed before us that reasonable man would infer likelihood of bias. The Applicant/Personal Guarantor, being conscious of timelines in the Code in relation to the submission of Report under Section 99 of the Code, has not brought forth any communication from their side to the Resolution Professional inquiring the status of the Report. After the objection raised by the personal Guarantor, this tribunal vide order dated 23.03.2026 directed the Resolution Professional to file a fresh Report. Pursuant thereto, the Resolution Professional filed **I.A (I.B.C.) No. 1813/MB/2026** for placing the said Fresh Report on record. We noticed that the Resolution Professional had asked the Applicant/Personal Guarantors the details in relation to the debt alleged to be in default, and the Applicant/Personal Guarantor is otherwise entitled to place the same before this Tribunal in the adjudication proceedings under Section 100 of the IBC, which certainly contemplates an opportunity of being heard to both the Creditor as well as Debtor. In view of the law laid down by the Hon'ble Supreme Court in ***'Dilip B. Jiwrajka' (Supra),*** adjudicating authority has to apply its mind and not to mechanically follow the Report of the IRP. Observation of the Hon'ble Supreme Court are *"In essence, the adjudicating authority conducts an independent assessment, not solely relying on the resolution professional's report, to decide the fate of applications under Section 94 or 95 of the IBC"*

57. Further, the determination in relation to the quantum of debt as well as existence thereof made by the Resolution Professional in his Report is based on the documents forming part of the Petition, and the said determination is not final. In our considered view the Resolution Professional was entitled to make such determination while forming his opinion in relation to approval or the rejection of the Petition before him.

58. Accordingly**, IA (I.B.C.) No. 2652/MB/2026** is devoid of merits and is liable to be dismissed.

ORDER:

59. Upon perusal of the documents on record, it is clearly established that the Corporate Debtor has committed defaults in repayment of loan amount granted by the Financial Creditor. **MR. KUMAR DHARAMDAS KEWALRAMANI**, Personal Guarantor to **M/S. Capitol Fibres Pvt. Ltd.** has also committed default in payment of amount due from the Principal Borrower in terms of guarantee after invocation thereof. The Application filed by the Creditor satisfies the requirement as set out in Section 95 of the Code. Hence, we have no hesitation to hold that the Respondent is liable to be admitted to the bankruptcy process in terms of Section 100 (2) of the Code.

60. Considering the above facts and circumstances and upon perusal of the documents on record, the **C.P. (IB)/1267/MB/2026** filed under Section 95 of the IBC, 2016 is hereby **Admitted** and the Insolvency Resolution Process stands initiated against **MR. KUMAR DHARAMDAS KEWALRAMANI** *viz.* the Respondent herein. We hereby direct as hereinafter:

I. Initiate Insolvency Resolution Process against the Respondent/Personal Guarantor and moratorium in relation to all the debts is declared, from today *i.e.* date of admission of the application, and shall cease to have effect at the end of the period of 180 days, or this Tribunal passes order on the repayment plan under Section 114 whichever is earlier as provided under Section 101 of IBC, 2016. During the moratorium period,

a. Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed, and *b.* The creditors of the debtor shall not initiate any legal action or 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;

d. 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.

II. The Resolution Professional *viz.* **MR. SANDEEP JAYANT KULKARNI,** having Insolvency Registration No. **IBBI/IPA-002/IP-N01080/2021- 2022/13714,** having address at Office No.1, SN.167A/B Ekadant APTS PL-26, Suvarna Baug Colony Kothrud, Pune - 411029, Karve Road, Opposite the Business Hub, Near Mirch Masala Hotel, Pune, Maharashtra - 411029, having E-mail address kulkarni.sandeep@rediffmail.com having Contact No. 9673000045, is directed to cause a public notice published on behalf of the Adjudicating Authority within 7 days of passing this Order on the website of the NCLT Mumbai Bench, inviting claims from all Creditors, within 21 days of such issue. The Resolution Professional shall discharge the functions/duties casted upon him under the provisions of the Code in this relation within time bound manner and shall be empowered to exercise the powers vested in him for discharge of such functions/duties.

III. The Applicant is directed to deposit **INR 75,000/-** (Indian Rupees Seventy-Five Thousand) or such amount as is agreed between the Resolution Professional and the Applicant to the bank account of the Resolution Professional within **one week**, towards his fees and out of pocket expenses, which shall be such as is approved by the applicant herein and subsequently confirmed by the Creditors. This shall be subject to the rules and regulations under the provisions of the Insolvency and Bankruptcy Code, 2016.

IV. The Registry is directed to communicate a copy of order to the Resolution Professional immediately after the pronouncement of order, and upload the same on the website within **seven** working days after the pronouncement of order.

V. IA (I.B.C.) No. 2652/MB/2026 is dismissed.

VI. Ordered accordingly.

SD/-	**SD/-**
Prabhat Kumar	Sushil Mahadeorao Kochey
Member (Technical)	Member (Judicial)

Vipul Ghate