NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH
(SPECIAL BENCH)

1. IA/5785/2024 C.P. (IB)/4(MB)2021

IN THE MATTER OF
Union Bank of India … Petitioner
Vs
Dheeraj Wadhawan … Respondent

U/s 95(1) of the Insolvency & Bankruptcy Code, 2016

Order Delivered on 29.07.2026

CORAM:

MS. LAKSHMI GURUNG, MEMBER (J)
SH. HARIHARAN NEELAKANTA IYER, MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:
For the RP: Adv. Shyam Kapadia, a/w Mr. Nishant Upadhyay, a/w Ms. Mrudula Dixit i/b AZB & Partners (PH)

For the Respondent:

ORDER

IA/5785/2024- The above IA is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-
HARIHARAN NEELAKANTA IYER
Member(Technical)

Sd/-
LAKSHMI GURUNG
Member(Judicial)

/Ziyaul/

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, COURT – V

IA 5785 of 2024
(Under Section 17A of the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019)

Mr. Abhilesh Lal (Resolution Professional of Dheeraj Wadhawan)

Having address at:
C 192, Belvedere Towers, DLF Phase II, Gurgaon – 122 002.

… Applicant/RP

In the Matter of:

CP (IB) 04 of 2021
(Under Section 95 of Insolvency and Bankruptcy Code, 2016)

Union Bank of India

Having address at:
Industrial Finance Branch Mumbai, Union Bank Bhavan, First Floor, 239, Vidhan Bhavan Marg, Nariman Point, Mumbai, Maharashtra – 400 021.

…Petitioner/ Financial Creditor

Versus

Mr. Dheeraj Wadhawan

Having address at:
Plot No. 32/A, Union Park, Road No. 5, Bandra (West), Mumbai – 400050

…Respondent/Personal Guarantor

Order Pronounced on: 29.07.2026

Coram:

Ms. Lakshmi Gurung, Member (J) — Sh. Hariharan Neelakanta Iyer, Member (T)

Appearances:

For the Applicant	:	Adv. Shyam Kapadia a/w Adv. Nishant Upadhyay i/b AZB & Partners
For the Respondent	:	Appeared but not marked presence.

ORDER

1. This Interlocutory application bearing IA No. 5785 of 2024 is filed on 21.10.2024 by Mr. Abhilash Lal **("Applicant/RP")** of Mr. Dheeraj Wadhawan **("Personal Guarantor"),** seeking following prayers:
   a. *To take on record of the Hon'ble Tribunal the Report dated October 19, 2024, filed by the Resolution Professional i.e. the Applicant herein, under Section 115 of the Code annexed as Annexure A herein; and*
   b. *Any other reliefs as this Hon'ble Tribunal may deem fit and necessary in the present facts and circumstances.*

Brief Facts of the Case

2. The Company Petition No. 04 of 2021 was filed on 12.12.2020 by Union Bank of India **("UBI")** under Section 95 of the Code read with Rule 7(2) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 **("PGIRP Regulations")** seeking initiation of the Personal Insolvency Resolution Process against Mr. Dheeraj Wadhawan, the Personal Guarantor of Dewan Housing Finance Corporation Limited.

3. This Tribunal, vide order dated 01.02.2022, read with order dated 02.03.2022, appointed Mr. Devendra Mehta, bearing IP Registration No. IBBI/IPA-001/IPP01252/2018-2019/11929, as the Resolution Professional **("Erstwhile RP")** under Section 97(5) of the Insolvency and Bankruptcy Code, 2016.

4. Pursuant to Section 99 of the Insolvency and Bankruptcy Code, 2016, the Erstwhile Resolution Professional submitted a report dated 25.04.2022, recommending admission of the Petition on the ground that a debt of INR 2,421,59,61,872.71 was due and payable by the Respondent and that no proof of repayment had been furnished.

5. This Tribunal by order dated 20.03.2024 admitted the Company Petition (IB) No. 04 of 2021 and initiated the insolvency resolution process against the Personal Guarantor under Part III of the Code, inter alia directing the Personal Guarantor to prepare a repayment plan in consultation with the Resolution Professional in accordance with Section 105 of the Code.

6. In compliance with the order dated 20.03.2024, the resolution professional issued public notice dated 26.03.2024 in Business Standard (in English) and Navshakti (in Marathi), inviting claims from creditors of the Personal Guarantor, the last date for submission of claims being 16.04.2024.

7. By letter dated 23.04.2024 annexed to the Application as Annexure D, the Erstwhile RP forwarded to the Personal Guarantor the public notice, the NCLT order dated 20.03.2024 and the provisional list of creditors. Erstwhile RP requested the Personal Guarantor to prepare and submit a repayment plan under Section 105 of the Code read with Regulation 17 of the PGIRP Regulations within one week. The Personal Guarantor was further directed to submit a statement of affairs under Section 107(3) of the Code read with Regulation 10 of the PGIRP Regulations, along with the

requisite information and documents, including details of his assets and liabilities for the preceding three financial years, income tax returns, and particulars of debts owed by him, within five days of receipt of the said letter.

8. The letter dated 23.04.2024 dispatched by courier to the Personal Guarantor's last know residential address, could not be delivered on 23.04.2024. Further attempt was made on 24.04.2024 to effect hand delivery through the Superintendent, Taloja Central Prison, Navi Mumbai being the Personal Guarantor's last known location to the knowledge of Erstwhile RP, the Superintendent declined to accept service, informing the Erstwhile RP that the Personal Guarantor had been granted nail and was no longer at Taloja Prison. Thereafter on 29.04.2024, the letter dated 23.04.2024 was hand-delivered to Rashmikant and Partners, the advocates on record for the Personal Guarantor who acknowledged receipt on 29.04.2024.

9. First meeting of creditors was convened on 04.06.2024, wherein the creditors were apprised in regards to the non-receipt of the repayment plan from the Personal Guarantor. As the meeting remained inconclusive, it was adjourned and labelled as not concluded until next session.

10. By order dated 08.07.2024, this Tribunal allowed the Interlocutory Application filed by the Lenders for replacement of Mr. Devendra Mehta, the Erstwhile Resolution Professional. Pursuant to the said order, the Applicant was appointed as the Resolution Professional.

11. On 14.08.2024, the Resolution Professional conducted a video conference with Mr. Dheeraj Wadhawan at Tihar Jail in the presence of the jail authorities. The RP requested Mr. Wadhawan to submit a repayment plan and provide the information required for the preparation of the Statement

of Affairs, while extending all necessary assistance. Mr. Wadhawan replied that, having been incarcerated for over four years, he was not in a position to access his financial information.

12. Pursuant to the meeting, the Resolution Professional shared a summary of the discussions with the creditors via email dated 16.08.2024. Thereafter, by letter dated 17.08.2024, the Resolution Professional requested the Personal Guarantor to furnish the repayment plan and the information sought during the meeting. As no response was received from the Personal Guarantor, the Resolution Professional issued a further reminder vide letter dated 02.09.2024. Furthermore, an email dated 03.09.2024 was sent to the Personal Guarantor informing him that the meeting of creditors dated 04.06.2024 was decided to be reconvened on 13.09.2024.

13. Thereafter, adjourned session of First meeting of the creditors was convened on 13.09.2024 at which the Applicant informed the creditors that no repayment plan had been received and that the moratorium period of 180 days under Section 101 of the Code was due to expire on 16.09.2024.

14. The RP has prepared the list of creditors in compliance with Section 104 of the Code read with Regulation 9 of the PGIRP Regulations, as under:

(Amount in Crores)

S.No	Financial Creditor	Claimed Amount	Provisionally Admitted Amount	Under Verification	Not Admitted	Voting Share
1	Central Bank of India	1159.48	1159.48	-	-	5.48%
2	Karnataka Bank	111.69	111.69	-	-	0.53%
3	Federal Bank	292.06	227.59	-	64.47	1.08%
4(a)	Canara Bank	2,452.03	1,220.91	1,231.12	-	10.06%

4(b)	Canara Bank (Syndicate)	1,668.87	907.20	761.87	-	
5	IDBI Bank	981.47	975.79	0.00	5.87	4.62%
6	Indian Bank	1,890.93	800.08	1,090.85	-	3.78%
7	Indian Overseas Bank	929.23	924.69	-	4.54	4.37%
8	JC Flower	1219.42	0.00	1219.42	-	-
9	Punjab Sindh	690.47	690.42	-	0.05	3.27%
10	HDFC	379.45	205.18	174.27	-	0.97%
11	South Indian Bank	119.61	119.61	-	-	0.57%
12(a)	UCO Bank	476.17	294.90	181.27	-	2.25%
12(b)	UCO Bank (NCD)	28.57	-	-	28.57	-
13	Kotak (ING Vyasya)	131.07	131.07	--	-	0.62%
14	Bank of Baroda	2,152.19	874.07	1277.11	1.00	4.13%
15	Bank of India	5,635.37	2,340.69	3294.68	-	11.07%
16	Bank of Maharashtra	631.93	338.47	293.46	-	1.60%
17(a)	PNB	3500.79	1707.21	1793.58	-	8.08%
17(b)	PNB (Wadhawan Holdings)	1.22	1.22	-	-	
18	SBI	5,020.40	5019.25	1.15	-	23.74%
19(a)	UBI	1,836.30	1,832.34	-	3.96	13.78%
19(b)	UBI (Andhra Bank)	669.17	623.23	45.94	-	
19(c)	UBI (Corporation Bank)	457.21	457.21	-	-	
	Total	32,435.10	20,962.30	10,145.12	108.27	100.00%

15. In the meeting dated 13.09.2024, the creditors, unanimously were of the opinion to seek closure of the insolvency resolution process of the Personal Guarantor, if the repayment plan was not received on or before 16.09.2024. The Applicant, accordingly, filed the Report dated 19.10.2024, recording the aforesaid sequence of events and requesting that this Tribunal take on record the non-receipt of the repayment plan and close the insolvency resolution process on that basis. The present Application has been filed to place the Report on Record.

Discussion

16. We have heard the learned Counsel for the applicant and perused the documents on record.

17. In the present case, the Personal Guarantor has not submitted any repayment plan despite repeated reminders from the RP. This fact was placed before the creditors at meetings held on 04.06.2024 and 13.09.2024. The creditors, on being informed that the moratorium under Section 101 was due to expire on 16.09.2024, unanimously resolved to seek closure of the insolvency process if no repayment plan was received from the Personal Guarantor before the prescribed date. However, no repayment plan was prepared by the Personal Guarantor.

18. Before proceeding further, it is apposite to reproduce the provisions of Sections 105, 106, 111, 112, 114 of the Insolvency and Bankruptcy Code, 2016 along with Regulation 17A of the Insolvency Resolution Process for Personal Guarantors to Corporate Debtors Regulations, 2019, which read as under:

> *"**Section 105. Repayment plan. —***
>
> *(1) The debtor shall prepare, in consultation with the resolution professional, a repayment plan containing a proposal to the creditors for restructuring of his debts or affairs.*

Section 106. Report of the Resolution Professional on repayment plan. —

(1) The resolution professional shall submit the repayment plan prepared under Section 105 along with his report thereon to the Adjudicating Authority within a period of 21 days from the last date of submission of claims under Section 102.

Section 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.

Section 112. Report of meeting of creditors on repayment plan

(1) The resolution professional shall prepare a report of the meeting of the creditors on repayment plan

………

Section 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."

Regulation 17A. Meeting of creditors. —

The resolution professional shall place the repayment plan prepared under Section 105 before the meeting of creditors for its consideration under Section 111.

> *Provided that where no repayment plan has been received within the period stipulated under Section 106, the resolution professional shall notify the same in a meeting of creditors."*

19. A plain reading of Section 105 of the Code makes it evident that the debtor is required to prepare, in consultation with the Resolution Professional, a repayment plan for consideration by the creditors. Upon receipt of such repayment plan, the Resolution Professional is required under Section 106 to submit the same, together with his report, before the Adjudicating Authority.

20. As per Section 111, the repayment plan shall be approved by more than three-fourth majority. Regulation 17A further provides that where no repayment plan has been received within the period stipulated under Section 106, the Resolution Professional shall notify the creditors of such non-submission in a meeting of creditors.

21. In the present case, the insolvency resolution process against the Personal Guarantor commenced on 20.03.2024. It is an admitted position that despite the commencement of the insolvency resolution process and the opportunities provided to the Personal Guarantor, he failed to prepare any repayment plan under Section 105 of the Code. Consequently, there was no repayment plan which could be submitted by the Resolution Professional under Section 106 or placed before the creditors for consideration under Section 111 of the Code.

22. In these circumstances and in accordance with Regulation 17A, the Resolution Professional convened meetings of the creditors on 13.09.2024, for notifying the creditors that no repayment plan had been prepared by the Personal Guarantor. The relevant portion of the minutes of the meeting of creditors dated 13.09.2024 is reproduced below for ready reference:

> *After a detailed discussion the Creditors unanimously were of the opinion that it would be best to follow the provisions outlined in the Code and* ***seek closure of Insolvency process and initiate the bankruptcy process with the Hon'ble NCLT provided no Repayment plan is received till 16th September 2024.*** *They were also of the opinion that given no information has been received in the past 180 days, an extension would not yield any benefits*
>
> ***(Bold for Emphasis)***

23. Thereafter, the Resolution Professional filed the Report dated 19.10.2024 before this Adjudicating Authority recording the non-submission of the repayment plan and seeking appropriate orders in the matter.

24. In the facts and circumstances discussed hereinabove, it stands established that no repayment plan was ever prepared or submitted by the Personal Guarantor. Consequently, the procedure contemplated under Sections 105, 106, 111 and 112 of the Code, insofar as it relates to consideration of a repayment plan by the creditors, could not be undertaken. In such circumstances, this Adjudicating Authority proceeds in terms of Section 114 of the Code on the basis of the Report submitted by the Resolution Professional.

25. In the absence of a repayment plan by the Personal Guarantor, there is no proposal that can be considered or approved under the statutory scheme. The effect is the same as the rejection of a repayment plan. This position has also been recognised by Hon'ble NCLAT ***in Naseer Ahmed v. Ravindra Beleyur (RP), (2025) ibclaw.in 433 NCLAT decided on 13.06.2025*** which states that:

> ***"20***. *In the instant case, the Appellant has failed to file the Repayment Plan; it is not his case that he was not given a chance to file the same.* ***Non-filing of Repayment Plan will***

> ***clearly imply rejection under Section 114 (1) of I & B Code, as nothing has been put up before Ld. Adjudicating Authority to consider for approval and accordingly the Creditors will be entitled to file an Application for Bankruptcy under Chapter IV in the light of Sub-Clause (b) of Sub-Section (1) of Section 121 to be read with Sub-Section (2) of Section 115 of I & B Code, 2016."***
>
> (Bold for Emphasis)

26. In present case also, there is no repayment plan by the Personal Guarantor despite sufficient opportunities. The non-submission of the repayment plan is liable to be treated as having the same consequence as rejection of the repayment plan under Section 114 of the Code.

27. The consequence of rejection of a repayment plan is provided under Section 115(2) of the Code. In this regard, the provisions of Section 115(2) and Section 121 of the Code are reproduced below:

> *"**Section 115. Effect of order of Adjudicating Authority on repayment plan. —***
>
> *(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.*
>
> ***Section 121. Application for bankruptcy. —***
>
> *(1) An application for bankruptcy of a debtor may be made by a creditor individually or jointly with other creditors or by the debtor to the Adjudicating Authority in the following circumstances, namely: -*
>
> *b. where an order has been passed by an adjudicating authority under sub section (2) of section 115;"*

28. A plain reading of the aforesaid provisions makes it clear that where the repayment plan stands rejected under Section 114 of the Code, the debtor as well as the creditors become entitled to initiate bankruptcy proceedings under Chapter IV of Part III of the Code.

29. Accordingly, IA is disposed of in terms of the following order:

ORDER

a. The report filed by the RP is taken on record.

b. As there is no repayment plan, non-filing of repayment plan implies rejection of repayment plan under Section 114(1) of IBC, 2016.

c. The Insolvency Resolution Process in respect of Personal Guarantor stands terminated and moratorium, if in force, shall cease to operate.

d. The creditors of the Personal Guarantor as well as the Debtor are entitled to file application to initiate bankruptcy proceedings in terms of the provisions of Section 115(2) of IBC, 2016 read with Section 121 of the IBC, 2016 under Chapter IV.

e. The RP stands discharged and he is entitled to claim RP/IRP costs if any from stakeholders.

30. The Registry is directed to forward a copy of this order to IBBI for record purpose. The RP shall also make a copy of this order available to all the creditors and Personal Guarantor within one week from today.

Sd/-

Hariharan Neelakanta Iyer
Member (Technical)

Sd/-

Lakshmi Gurung
Member (Judicial)

//Smeet//