IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH - I

C.P. (IB) NO. 532/MB/2026

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

ASREC (INDIA) LIMITED ...Petitioner/Financial Creditor

Versus

MR. RAUNAK PRASHANT KHADILKAR

…Respondent/Personal Guarantor

Order pronounced on 03.08.2026

Coram:

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

Appearances:

For the Applicant	:	Pranali Rawool i/b Abhishek Samant and Associates
For the Resolution Professional	:	Adv Shashank Bhondave a/w Adv Manoj Kumar Mishra

ORDER

BRIEF FACTS

1. The present Petition has been filed on 13.05.2026 under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 ("IBC" or "the Code"), read with 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 **ASREC (India) Limited** (hereinafter referred to as the "Petitioner" or the "Financial Creditor") seeking initiation of the insolvency resolution process against **Mr. Raunak Prashant Khadilkar** (hereinafter referred to as the "Respondent" or the "Personal Guarantor") in respect of an outstanding debt of **Rs. 61,68,75,186/-** (Rupees Sixty-One Crore Sixty-Eight Lakhs Seventy-Five Thousand One Hundred and Eighty-Six Only). As stated in Part III of the Petition, the date of default is **13.06.2023**.

2. The Petitioner is a company incorporated under the Companies Act, 1956 and is registered as a Securitisation and Asset Reconstruction Company under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act"). Its registered office is situated at Solitaire Corporate Park, Building No. 2, Unit Nos. 201-202A and 200-202B, Ground Floor, Andheri-Ghatkopar Link Road, Chakala, Andheri (East), Mumbai – 400093.
3. **Mirage Ceramics Private Limited** (CIN: 51909MH2005PTC153140) (hereinafter referred to as the "Principal Borrower" or the "Corporate Debtor") is a company incorporated under the Companies Act, 2013, having its registered office at Flat No. 505, Laxmi Baug Estate, 1st Floor, Phadke Road, Dombivli, Thane, Maharashtra – 421201.
4. The Personal Guarantor, **Mr. Raunak Prashant Khadilkar**, residing at B-903/904, Coral Runwal Pearl, Kolshet Road, Dhokali Naka, Manpada, Thane (West) – 400607, is the suspended director of the Corporate Debtor. He had also executed a deed of personal guarantee in favour of the Financial Creditor to secure the due repayment of the credit facilities extended to the Corporate Debtor.

<u>SUBMISSIONS OF THE APPLICANT</u>

5. It is submitted that the Corporate Debtor had availed a Term Loan of Rs. 3,00,00,000/- (Rupees Three Crores Only) and a Cash Credit Facility of

Rs. 17,00,00,000/- (Rupees Seventeen Crores Only) from Abhyudaya Co-operative Bank Limited (Principal Lender). The said credit facilities were sanctioned and disbursed pursuant to Sanction Letters dated 30.06.2017 and 03.08.2018, respectively, carrying a floating rate of interest at 16.25% per annum.

6. It is further submitted that the Personal Guarantor was one of the signatories to the aforesaid Sanction Letters in his capacity as a Director of the Corporate Debtor. To secure the due repayment of the credit facilities, the Directors of the Corporate Debtor, including the Personal Guarantor, executed Deeds of Guarantee dated 01.07.2017 and 17.09.2018.
7. The Applicant further submits that STPM Logistics LLP, claiming to be an Operational Creditor of the Corporate Debtor, filed a petition under Section 9 of the IBC bearing C.P. (IB) No. 571 (MB) of 2019 against the Corporate Debtor. The said petition culminated in an order of liquidation passed by this Tribunal on 15.06.2023.
8. In support of the aforesaid credit facilities, the Applicant has relied upon the following security documents executed in favour of Abhyudaya Co-operative Bank Limited:
    i. Guarantee Agreements for all facilities dated 01.07.2017 and 17.09.2018;
    ii. Consent Letters of Surety dated 07.06.2017 and 29.06.2018;
    iii. Deeds of Hypothecation in respect of plant, machinery and goods dated 01.07.2017 and 17.09.2018;
    iv. Demand Promissory Notes dated 01.07.2017 and 17.09.2018;
    v. Letters of Undertaking dated 01.07.2017 and 17.09.2018; and
    vi. Deed of Simple Mortgage dated 31.07.2017.
9. It is submitted that the loan account of the Corporate Debtor became irregular on account of persistent defaults in repayment. Consequently, the account was classified as a Non-Performing Asset (NPA) on

29.01.2019 in accordance with the guidelines issued by the Reserve Bank of India.

10. Thereafter, Abhyudaya Co-operative Bank Limited issued a demand notice dated 02.03.2019 under Section 13(2) of the SARFAESI Act calling upon the Corporate Debtor and the Personal Guarantors to discharge the outstanding liabilities. The said notice was duly served upon them.
11. It is further submitted that Abhyudaya Co-operative Bank Limited assigned the loan account of the Corporate Debtor in favour of the Applicant by way of an Assignment Deed dated 26.08.2020, registered as Registration No. BDR-6361-2020 before the Office of the Sub-Registrar, Andheri.
12. The Applicant creditor, after assignment of debt in its favour, invoked the personal guarantee furnished by the Respondent by issuing a notice of invocation dated 13.06.2023 in respect of the loan account of the Corporate Debtor. According to the Applicant, the Respondent failed to honour the guarantee, and the date of default is stated to be 13.06.2023.
13. It is further submitted that a Demand Notice 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, dated 05.02.2026, was duly served upon the Respondent. Despite service of the said notice, the outstanding debt remained unpaid. Accordingly, the Petitioner has filed the present Petition under Section 95 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of the insolvency resolution process against the Personal Guarantor.

<u>SUBMISSIONS OF THE RESOLUTION PROFESSIONAL:</u>

14. This Tribunal, vide Order dated 01.06.2026, appointed Ms. Suman Atul Maheshwari, 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 IA(I.B.C)/2550 (MB)2026 for placing the said report on record, which came to be taken on record by this Tribunal vide Order dated 19.06.2026

15. The Resolution Professional has stated that, in view of the detailed examination of the Application along with the supporting documents, she recommends that the Application filed by the Financial Creditor under Section 95(1) of the Insolvency and Bankruptcy Code, 2016, bearing C.P. (IB) No. 532/2026, be admitted under Section 100 of the Code and that the Insolvency Resolution Process be commenced against the Personal Guarantor, namely MR. RAUNAK PRASHANT KHADILKAR

16. The Resolution Professional further states that,

> *"21. That in view of the above-stated facts and circumstances, as well as analysis of the RP based on the examination of material available on record by the RP, the RP recommends that present Application under section 95 of the Code filed by ASREC (INDIA) Limited, Financial Creditor be admitted under Section 100 of the Code and Insolvency Resolution Process be commenced against Mr. Raunak Prashant Khadilkar, Personal Guarantor to Mirage Ceramics Pvt. Ltd. for the following reasons as mentioned herein below: -*
>
> *a) That the Application filed by the Personal Guarantor satisfies the requirement as set out in Section 95 of the Code.*
>
> *b) That the Corporate Debtor, Mirage Ceramics Pvt. Ltd. has committed default in repayment of various credit facilities granted by the Creditors.*
>
> *c) That Mr. Raunak Prashant Khadilkar, Personal Guarantor to Mirage Ceramics Pvt. Ltd. has also committed default in repayment of credit facilities demanded by the Financial Creditor.*

d) That Personal Guarantor did not provide any evidence proving contrary as to unpaid debt has been repaid by her or Corporate Debtor or it is been set-off.

e) That the Petitioner, vide email confirmed that they have not received any repayment towards the unpaid debt claimed till today's date."

FINDINGS & ANALYSIS:

17. Heard learned counsel for the Petitioner and the Resolution Professional and perused the record, including the report submitted under Section 99 of the Code.

18. Despite being granted sufficient opportunities, the Personal Guarantor failed to enter appearance or file a reply. Accordingly, the matter was proceeded **ex parte** and has been considered on the basis of the material available on record.

19. Upon consideration of the material available on record, we find that the existence of the financial debt due from Principal borrower and the execution of the Deeds of Guarantee dated 01.07.2017 and 17.09.2018 to secure said debts by the Respondent are not in dispute. The grant of the loan facilities, execution of the security documents, classification of the loan account as a Non-Performing Asset (NPA), initiation of recovery proceedings before the Debts Recovery Tribunal, and issuance of the demand notices are duly supported by the documentary evidence(s) placed on record.

20. It is stated by the Applicant that the loan account of the Corporate Debtor was classified as an NPA on 29.01.2019. It is further noted that no acknowledgment of debt or liability was executed by the Respondent/Personal Guarantor thereafter. The records further reveal that Abhyudaya Co-operative Bank Limited, the original lender, issued a demand notice dated 02.03.2019 under Section 13(2) of the SARFAESI Act to the Corporate Debtor as well as its Directors and Personal Guarantors, calling upon them to discharge the outstanding dues.

According to the Petitioner, despite due service of the said notice, neither the Corporate Debtor nor the Personal Guarantor discharged the outstanding liability. Subsequently, upon assignment of the debt in favour of the Petitioner, the Petitioner issued a notice dated 13.06.2023 invoking the personal guarantee executed by the Respondent. The Petitioner contends that the guarantee was invoked for the first time by the said notice and that the Respondent committed default on 13.06.2023 upon failure to comply with the demand raised therein.

21. We have duly considered the aforesaid submission. It is well settled that the invocation of a personal guarantee must be in accordance with the terms and conditions of the deed of guarantee. Where the guarantee is in the nature of an on-demand guarantee, a notice issued under Section 13(2) of the SARFAESI Act, specifically calling upon the personal guarantor to discharge the outstanding dues, constitutes a valid invocation of the guarantee. In this regard, the Hon'ble National Company Law Appellate Tribunal *in **Ujwal Gupta v. Union Bank of India & Anr.**, (2026) ibclaw.in 18 NCLAT,* has held as under:

> *"31. This Appellate Tribunal in Asha Basantilal Surana (Supra), which is a three member's decision, after considering Amanjyot Singh (Supra) and Mavjibhai Nagarbhai Patel (Supra) clearly holds that in a case where notice under Section 13(2) makes a demand as per the guarantee agreement between the parties, the notice has to be treated as a notice for invocation of bank guarantee. This appellate Tribunal in the above case has also distinguished the law laid down by this Appellate Tribunal earlier in Amanjyot Singh (Supra), to be a case confined to its own facts, by observing in para 12 of the judgment, that the dismissal of the appeal in Amanjyot Singh case was on the facts of the said case and has no application in the facts of the case under scrutiny and also that the invocation of personal guarantee has to be in accordance with the terms of the guarantee agreement. We reproduce the para*

no. 12 of the aforesaid judgment (Asha Basantilal Surana) (Supra) for convenience herein below:

> *"12. Thus, the dismissal of the Appeal in the Amanjyot Singh's case was on the facts of the said case and has no application in the facts of the present case. The invocation of personal guarantee has to be in accordance with the terms of the Guarantee Agreement which is a settled law. Clause 7 of the Guarantee Agreement does not require any particular mode and manner of the demand notice. When demand notice is issued against the personal guarantor asking the personal guarantor to discharge its liabilities, the guarantee stands invoked. Whether notice under Section 13(2) in a particular case invoked the guarantee or not depends on the words and intent of the notice. For finding out as to whether Notice under Section 13(2) invoked the personal guarantee, the letters and words of the Notice has to be looked into to come to any conclusion that whether personal guarantor has been asked to discharge its liabilities or not. In the facts of the present case, we are of the considered opinion that the Notice under Section 13(2) issued by the State Bank of India is a clear demand notice from the Appellant to pay the amount of Rs.28,56,64,336.06/-." (Emphasis Supplied)*

32. Thus, what has been highlighted by the aforesaid judgment is that it would be the terms and conditions of the agreement executed between the parties with regard to the guarantee which would be relevant to assess as to whether the guarantee has been sufficiently invoked or not. Therefore, whether a guarantee may be invoked by giving notice under Section 13(2) of the SARFAESI Act depends on the terms of the guarantee and the content of the notice. If the notice *clearly demands payment from the personal guarantor in terms of the guarantee, it can be treated as an invocation of the guarantee. The facts and the wording of the notice are crucial in this determination."*

22. Accordingly, in order to determine the invocation of the personal guarantee, it is necessary to examine the terms and conditions of the Deeds of Guarantee as well as the demand notice issued under Section 13(2) of the SARFAESI Act. A perusal of the Deeds of Guarantee dated **01.07.2017** and **17.09.2018**, which are identical in material terms, reveals the following:

"2. The Guarantors agree that the amount hereby guaranteed shall be due payable by the Guarantors jointly and severally to the Bank two days after demand and without demur merely upon the Bank sending to the Guarantors a demand notice requiring payment of the amount. Any such demand made by the Bank on the Guarantors shall be conclusive as regards the amount claimed therein having become due and payable by the Borrower to the Bank in respect of the credit facilities mentioned herein and also conclusive as regards the default having been committed by the Borrower in repayment of the said amount to the Bank. The Guarantors agree that they will not require any further proof of these facts from the Bank and will pay the amount demanded forthwith on receipt of the demand notice. Any such demand notice sent by the Bank by the hand delivery or by post to the Guarantors at their address mentioned above or such address as may be known to the Bank shall be deemed to duly served on Guarantors at the time when the notice would in the ordinary course of the post be delivered at such address, notwithstanding that the notice may not in fact have been received by the Guarantors or that the address to which it is dispatched may have ceased to be the Guarantors' address. It is

agreed that the Bank may in its sole discretion invoke this Guarantee as regards the amounts due from the Borrower under some of the credit facilities without prejudice to its right to invoke this Guarantee thereafter in respect of the other credit facilities.

23. A plain reading of the aforesaid Deeds of Guarantee makes it evident that the guarantee furnished by the Respondent is an on-demand guarantee. Accordingly, the guarantee stands invoked upon a valid demand being made by the creditor in terms of the Deeds of Guarantee, and the liability of the Personal Guarantor arises upon the expiry of the period stipulated therein. Consequently, the date of default would arise upon the expiry of two days from the date of valid invocation of the guarantee.

24. The record further reveals that Abhyudaya Co-operative Bank Limited, the Financial Creditor from whom the Petitioner has derived its interest by way of assignment, had issued a demand notice under Section 13(2) of the SARFAESI Act dated 02.03.2019. A perusal of the said notice shows that it was addressed not only to the Corporate Debtor but also to Mr. Raunak Prashant Khadilkar, the Personal Guarantor and the Respondent herein. The notice, inter alia, records as follows

"1. You No.1 the principal borrower have availed credit facilities from the Bank, which have become overdue/irregular owing to your non-payment and are classified as Non-Performing Assets (NPA) on 29.01.2019 in terms of guidelines of the Reserve Bank of India. As on date, a sum of Rs. 20,59,78,012.14 (Rupees Twenty Crore Fifty-Nine Lakh Seventy-Eight Thousand Twelve and Paise Fourteen) including interest up to 28.02.2019 is outstanding in the said credit facilities account

2. You No.2 & 3 the Directors of You No. 1 the borrower company and have personally guaranteed the repayment of above mentioned credit facilities.

…….

In view of the default committed by you in payment of aforesaid secured debts. we hereby call upon You Nos.1 to 3 jointly and severally to make payment of Rs 17,85,47,782.64 (Rupees Seventeen Crore Eighty Five Lakh Forty Seven Thousand Seven Hundred Eighty Two and Paise Sixty Four) together with further interest from 01.03.2019 under Cash Credit facility No.CC/9 and Rs 2,74,30,229.50 (Rupees Two Crore Seventy Four Lakh Thirty Thousand Two Hundred Twenty Nine and Paise Fifty) together with further interest from 01.03.2019 under Term Loan facility No. ESCLN/500029 as mentioned herein above to discharge your liabilities within a period of 60 days from the receipt hereof by you, failing which the undersigned shall take appropriate steps for enforcement of securities set out in the above security agreements under the provisions of the , "Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act. 2002" (SARFAESI Act" for short) which please note."

25. It is pertinent to note that 'Noticee No. 2' in the aforesaid notice is the Personal Guarantor and the Respondent herein. A plain reading of the notice leaves no manner of doubt that the Personal Guarantor was expressly called upon to discharge the outstanding dues along with the Corporate Debtor within 60 days from receipt of aforesaid notice. The demand made therein is clear, unequivocal, and in consonance with the terms of the Deeds of Guarantee. Accordingly, we hold that the personal guarantee stood validly invoked by the demand notice dated 02.03.2019. The said notice has been acknowledged to have been received by the Personal Guarantor in his reply to the recall notice dated 13.06.2023 issued by Applicant Creditor subsequently.
26. Admittedly, neither the Corporate Debtor nor the Personal Guarantor discharged the outstanding dues within the period of 60 days stipulated in

the notice issued under Section 13(2) of the SARFAESI Act. Consequently, the default on the part of the Personal Guarantor occurred upon the expiry of the said period, i.e., on 01.05.2019, accordingly, the limitation would expire on 30.04.22. Further, the period from 15.3.2020 till 28.2.2022 is excluded in terms of decision in view of decision in the case of ***Suo Moto WP (Civil) No. 3 of 2020***, as further explained in the decision in case of ***M/s Arif Azim Co. Ltd. Vs M/s Aptech Ltd. (2004) 3 S.c.R. 73: 2004 INSC 155.*** Taking it into consideration, the limitation period would expire on 16.3.2024. The present Petition under Section 95 of the Insolvency and Bankruptcy Code, 2016 having been instituted on 13.05.2026, is clearly beyond the prescribed period of limitation of three years reckoned from the date of default and is, therefore, barred by limitation.

ORDER

27. In view of the foregoing discussion and for the reasons recorded hereinabove, C.P. (IB) No. 532 of 2026, filed under Section 95 of the Insolvency and Bankruptcy Code, 2016 by ASREC (India) Limited seeking initiation of the insolvency resolution process against Mr. Raunak Prashant Khadilkar, stands dismissed as being barred by limitation. No order as to costs.

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

Vijay Andhale