NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, COURT-I, CHANDIGARH

IA (IBC) No.1169(CH)2026
In
CP (IB) No. 107/Chd/Pb/2025
And
IA (IBC) No.1168/CH)2026
In
CP (IB) No. 108/Chd/Pb/2025

(Application under Section 60 (5) of the Insolvency Bankruptcy Code, 2016 R/w Rule 11 of the National Company Law Tribunal Rules, 2016)

IA NO.1169/2026:

Rohit Sharma
S/o Sudarshan Kumar Sharma aged about 58 years
Resident of House no 365, DR - Hira Singh Road, Civil Lines, Ludhiana, Punjab–141001.
E-mail ID: rohit@multipleoverseasexports.com
Ph: 9814229270

......APPLICANT/PERSONAL GUARANTOR

Versus

1. CANARA BANK
Though its Authorized Officer
Having address Asset Recovery and Management Branch, Circle Office Sector-34A, Chandigarh
E-mail ID: cb5220@canarabank.com
Ph: 8291220220

...**RESPONDENT NO.1**

2. DISTRICT MAGISTRATE, LUDHIANA
Having address DC Office, Ludhiana, Punjab.
E:- dc.ldh@punjab.gov.in
Ph:- 0161-2403100. ...**RESPONDENT NO.2**

3. TEHSILDAR-CUM-EXECUTIVE MAGISTRATE, LUDHIANA (EAST)
Tehsildar Office, Near Transport Nagar (Industrial Area A), Ludhiana, Punjab.
E:- tehsileast@gmail.com
Ph :- 01612400150. **...RESPONDENT NO.3**

AND IN THE MATTER OF CP(IB) NO.107/Chd/Pb/2025 :-

Rohit Sharma

.... PERSONAL GUARANTOR/APPLICANT

AND

IA NO.1168/2026:

Shalini Sharma
W/o Rohit Sharma aged about 53 years
Resident of House no 365,
DR - Hira Singh Road, Civil Lines, Ludhiana, Punjab–141001.
E-mail ID: shalushalini1973@gmail.com
Ph: 9855559270

......APPLICANT/PERSONAL GUARANTOR

Versus

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Having address Asset Recovery and Management Branch,
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Tehsildar Office, Near Transport Nagar (Industrial Area A),
Ludhiana, Punjab.
E:- tehsileast@gmail.com
Ph :- 01612400150.

...RESPONDENT NO.3

IN THE MATTER OF CP(IB) NO.107/Chd/Pb/2025 :-

Shalini Sharma

.... PERSONAL GUARANTOR/APPLICANT

Order delivered on: 20.08.2026

CORAM: MR. KHETRABASI BISWAL, HON'BLE MEMBER (JUDICIAL)
MR. SHISHIR AGARWAL, HON'BLE MEMBER (TECHNICAL)

PRESENT:-

For the Applicants	:	Mr. Anand Chhibbar, Sr. Advocate Mr. Vishisht, Advocate Mr. Arpit Chawla, Advocate
For the Respondents	:	Mr. Harsh Garg, Advocate Mr. Pulkit Goyal, Advocate

COMMON ORDER

1. In both the Applications, common questions of law with common and identical facts of the cases arises, therefore, this common order is passed.
2. These Applications, have been filed by Rohit Sharma and Shalini Sharma, U/s 60 (5) of Code R/w Rule 11 of NCLT Rules, 2016 by inter alia seeking to quash and set aside four identical E-Auction notices issued to each of the Applicants, even dated 30.07.2026 proposing to conduct e-auction of the Applicants assets on 25.08.2026 and also two identical Possession notices even dated 30.07.2026 issued to both of Applicants separately proposing to take physical possession of the assets of Applicants on 21.08.2026 being illegal in the light of interim moratorium in force in terms of provisions of Section 96 of IBC, 2016 etc.
3. Brief facts of the case leading to filing of these Applications are as follows**:**

(1) EagAleline Fixing and Fixures Pvt Ltd, the Corporate Debtor, was incorporated on 10.02.2004 with Registrar of Companies, Chandigarh, which was engaged in the business of whole sale construction materials etc. And the Company has availed credit facilities from Canara Bank and the Applicants have given personal guarantees for repayment of loan availed by the Company. When the Company Account was classified as NPA, the Bank has initiated recovery proceedings under provisions SARFAESI Act, 2002 and RDB Act, 1993 against CD and also against the Applicants herein (Rohit Sharma and Shalini Sharma. Subsequently, CD has challenged the action of Bank before Punjab and Haryana High Court by filing CWP 26069 of 2022 and also filed a Securitization Application before DRT-III Chandigarh vide SA 486 of 2024. These cases are pending before them as of now.

(2) When the Applicants are unable to comply with demand notices issued by Canara Bank to re-pay outstanding amount, both the Applicants have filed separate Company Petitions bearing CP (IB) No. 107/Chd/Ph/2025 & CP (IB) No. 108/Chd/Ph/2025 , U/s 94 of Code on 10.03.2025, by inter-alia seeking to admit the Petion U/s 100 of the Code; to initiate insolvency Resolution process against the Applicants; to appoint Resolution professional etc. However, these Petitions are still pending on the file of this Hon'ble Tribunal. In the meanwhile, by operation of law, the statutory interim moratorium as contemplated U/s 96 of Code came into operation and it is still in force and the

Respondent (Canara Bank) has not opposed the Petitions so far by filing its Reply. Therefore, the Respondents are required to be restrained to take any kind of action much less the impugned actions as long as interim mortarium is in force.

(3) While the matter stood thus, Canara Bank has issued identical four E-Auction notices all even dated 30.07.2026 to the Applicants, by proposing to e-auction the assets of the Applicants on 25.08.2026 under the provisions of the SARFAESI Act, 20022. And also issued identical Possession Notices to the Applicants, even dated 30.07.2026 by proposing to take physical possession of assets of the Company on 21.08.2026. It is alleged that these impugned actions are contrary to interim moratorium, which came into force by operation of law.

(4) Therefore, the present Applications have been preferred by questioning the action of Respondents initiating the impugned actions and thus prayed to allow the Applications as prayed for.

4. The Respondent No. 1, Canara Bank, has opposed the present Applications by filing identical Replies dated 05.08.2026 in both the Applications, by inter-alia contending as follows:

(1) The first contention raised under Para 2 of their Reply is as follows:

"That the Bank craves leave of this Hon'ble Tribunal to file a detailed reply/objections on merits to CP(IB) No.

107/CHD/PB/2025 in accordance with the timelines to be fixed by this Hon'ble Tribunal. Nothing stated in the present Reply, which is confined to the limited issue raised in the present application, shall be construed as a waiver or abandonment of Banks rights or contentions in the main proceedings, all of which are expressively reserved

(2) The contention of the Applicants that newly inserted Section 96(4) of Code would have prospective effect with effect from 26.05.2026 and not applicable to them is un-tenable and baseless. In this regard, they have relied upon the decisions of Hon'ble High court of Judicature at Bombay in the case of *TATA Capital Financial Services Ltd Vs Neel Motors LLP & ors* rendered in Commercial Arbitration Petion No. 620 of 2021 delivered on 24.07.2026. They have contended that any Application filed for initiating insolvency resolution process in respect of personal guarantor to Corporate Debtor, whether it is filed before or after 26.05.2026 and are pending falls outside the protection of section 96(1) of the Code and other related provisions irrespective of date. They have also relied upon the judgement of NCLAT rendered in *Pratibha Industries Ltd Vs. Yes Bank Ltd & another (Ibc law.in 239 NCLAT)* which is also followed by this Bench in *Ashiwini Kumar Obreroi Vs. District Magistrate Jagadhri*

& Ors in IA No. 1743/2024 In CP(IB) No. 148/Chd/2024 decided on 25.03.2026.

5. We have heard Mr. Anand Chhibbar, Learned Senior Counsel for the Applicant and Mr. Harsha Garg, Learned Senior Counsel for the Respondent. And we have carefully perused the pleadings of the both the Parties, extant provisions of Code and the Law available on the issue.

6. After arguing the case, both the Parties are permitted to file their written arguments. Accordingly, written arguments dated 18.08.2026 have been filed on behalf of Applicants by taking similar line of arguments orally made. Therefore, they are not being repeated here as basic facts are not in dispute in these cases and only question of law is involved in the cases.

7. The basic facts with regard to details of Applicants, taking loans, Company becoming default, filing several cases, filing of individual main Company Petitions U/s 94 of Code etc are not in dispute. Therefore, only issue arise for consideration in these cases is proposition of law. It is not in dispute that amendment to IBC (Amendment) Act, 2026(No. 6 of 2026) came into force with effect 26.05.2026 which contains amendment to Section 96 of earlier Code, 2016, wherein Under Section 51 of principal Act, after sub-section (3), subsection (4) was inserted saying *"(4) the provisions of this Section shall not apply where an application is filed for initiating insolvency resolution process in respect of a personal guarantor to a Corporate Debtor."*

Therefore, it is contended that the said amendment applies to all cases whether they are pending or fresh filing after 26.05.2026.

8. Therefore, it is necessary to examine whether amendment to Section 96 of Code, 2016 by subsequent amendment of IBC (Amendment) Act, 2026 is prospective only from 26.05.2026 or to all pending cases like in the present cases. In this respect, firstly we have to examine the facts and ratio of the decision relied upon by the Respondent i.e. *TATA Capital Financial Services Ltd Vs Neel Motors LLP & Ors.* This Petition is filed by Financial Creditor U/s 9 of Arbitration and Conciliation Act, 1996 against Respondents (1-5) who are LLPs and Personal guarantors. And this Petition was filed way back in the year 2021 and just one month prior to this Petition, they have also filed Petition U/s 7 of Code by seeking to initiate CIRP, which ultimately led to imposition of moratorium U/s 14 of Code. And the CD subsequently was put under liquidation process vide order dated 1st April, 2022 passed by NCLT, Mumbai Bench. The Petitioner itself again filed proceedings invoking Section 95 of Code against the Respondents therein. Therefore, interim moratorium, as contemplated in terms of Section 96, comes into operation, thereby preventing continuation of any proceedings against the Respondents, which includes the said Arbitration case filed by the very same TATA Capital Financial Services Ltd. However, the Petitioner itself by violating interim moratorium came into force by operation law, has filed the said Commercial Arbitration Petition No. 620 of 620 by inter-alia seeking to attach assets/properties of Respondents, not to alienate the

properties in question etc. Therefore, a question arises in the said case, whether said Arbitration case can be considered, while the interim mortarium was in operation. By discussing various provisions of the Code, old and new, and the law on the issue, the Hon'ble Court was pleased to hold that the said Petition can be considered as being not barred by operation of mortarium, which triggered at instance of same Petitioner itself, by holding that Section 9 of Arbitration Act is an equitable jurisdiction, thus considered the case to limited extent and then granted limited conditional reliefs as prayed for Therefore, the observations made by the Hon'ble High Court is only relates to circumstances prevailing in that particular case (TATA Capital) and it has no application to the facts and circumstances of the present Miscellaneous Applications. And there is no ratio laid down in that case. The reliance placed by CANARA Bank is non application of mind and it is without analyzing facts of case available in that case with the present cases. Hence, the judgement rendered in the case of *Tata Capital Financial Services Ltd Vs Neel Motors LLP & Others* is distinguishable on facts and circumstances and therefore cannot be applied in the case at hand.

9. So far as reliance placed on the order dated 25.03.2026 passed in *Ashwini Kumar Oberoi in IA No. 1743 of 2024 in CP (IB) No. 148/Chd/Chd/2024* by this Tribunal, is concerned, the facts in this case is totally different from the facts in the present case. And the new amendment of section 96(4) IBC, 2026 is not the subject matter in the case as it is earlier in time. The issue

and relief asked in this case is to restrain the Respondents to take physical possession of the auctioned property, of which e-auction was successfully conducted on 11.04.2024 and thus sale was confirmed in favour of *M/s Aarushi Mehta and another* on 12.04.2024 and final sale certificate was also issued in favour of bidder on 31.05.2024. However, CP was initially stated to be filed on 27/29.04.2024 and the Registry returned the file on 30.05.2024 raising objections and thereafter the case was re-submitted after complying the objections only on 04.06.2024. The Bank has filed Caveat Application before the Tribunal seeking to hear them before passing/taking cognizance of the case. Therefore, the subject issue has been considered by the this Adjudicating Authority and it will not applicable to the facts and circumstances of the present cases.

10. So far as the other case relied upon by ***Canara Bank, viz Pratibha Industries Ltd Vs. Yes Bank Ltd. (2025) ibclaw.in 239 NCLAT)*** is concerned, the Appeal was filed by Liquidator of CD by questioning NCLT Mumbai Bench order, by inter-alia seeking to reverse the sale transactions in question in that case on the ground that such transactions are in violation of Moratorium imposed U/s 14 of the Code. In this case, there are two decisions of Apex Court were cited by the *Parties Viz Indian Overseas Bank Vs. M/s RCM Infrastructure Ltd and Ors*, Civil Appeal No. 4750 of 2021 and Celir LLP cases. The issue raised there is effect of Section 13(8) SARFAESI Act, after its amendment on 01.09.2016 over the properties slated for public auction. As stated supra, the legal issue raised in the

instant Applications are whether Moratorium which come into force U/s 96 of Code, which underwent amendment under new IBC, 2016 or not. Therefore. Facts and circumstances are totally different and it has no bearing on the instant cases.

11. So far as binding nature of judicial decisions are concerned, the decisions/judgements of Hon'ble Supreme Court of India would prevail on all Courts situated all over the Country. Article 141 of Constitution of India says " The law declared by the Supreme Court shall be binding on all courts within the territory of India. Though various Courts may have different opinions/stand basing on set of facts prevailing in the cases before them but there cannot be any different opinion taken on the ratio as set by the Apex Court.

12. Therefore, what is the law of land on the issue of prospective or retrospective application of amended laws is required to be discerned. An authority on this issue judgement rendered by a constitution Bench of Apex Court rendered in **GARIKPATI VEERAYA VS N.SUBBAIAH CHOWDHARY, 1957 AIR 540/1957 SCR 488** . And in this judgement several critical issues around substantive rights, statutory interpretation and non-retrospective application of law are clarified. And the issue arose from a dispute involving the right of Appeal in ongoing litigation. The core question revolved around whether subsequent legislative changes could retrospectively affect vested rights particularly right to appeal. A

cornerstone of the judgement is the Golden rule of construction. The Court emphasized the Golden rule of construction is that in the absence of anything in the enactment to show that it is to have retrospective operation, it cannot be construed as to have the effect of altering the law applicable to a claim in litigation at the time when the act was passed.

The ruling in the above case influence spans decades cited in diverse contexts Viz Applies in recovery of economic costs, affirming non retroactivity, used insolvency, criminal, tax appeals to protect pre amendment rights. There are a lot of judgement in the Country following ratio laid down in the above case.

13. To cite one of the Apex Court judgements, where the ratio as held in Garikapati *supra*, is followed in ***Ecge Limited Vs Mokul Shriram Epc Jv dated 2022(SCC, 57)*** wherein, the question examined was whether the present Appeal would be governed under the Consumer Protection Act 2019 which came into force from 20.07.2020 under the erstwhile Section 23 of 1986 Act. In terms of Section 67 of 2019 Act, no appeal against the order of National Commission shall be entertained by the Supreme Court unless the Person has deposited fifty percent of the amount require to be paid. Whereas under the 1986 act, by virtue a provision inserted vide Central Act, 62 w.e.f. 15.03.2003, the condition was that no appeal shall be entertained by the Supreme Court unless the person who is required to pay amount deposits fifty percent of amount or fifty thousand, whichever is less. The Appeal in

question was preferred U/s 23 of 1986 Act. Therefore, keeping in view the principle that the law which is applicable at the time of initiation of the LIS, it is held that old(pre-amended) Act, 1986 will be applicable.

It is referred therein Section 6 of **General Clauses Act, 1897** in support of the above decision, which reads as follows:

> "*6. **Effect of repeal** : Where this Act or any central Act or Regulation made after commencement of this, repeals any enactment hitherto made or hereafter to be made, then unless a different intention appears, the repeal shall not –*
>
> *a) revive anything not in force or existing at the time at which the repeal takes effect or*
>
> *b) affect the previous operation of any enactment to repealed or anything duly done or suffered thereunder: or*
>
> *c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed: or*
>
> *d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed: or*
>
> *e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may institute, continued or enforced, and such penalty, forfeiture or punishment may be imposed as if the repealing act or Regulation had not been passed."*

It is inter-alia held the institution of suit carries with it the implication that all rights of appeal then in force are preserved to the parties thereto till the rest of career of the suit.

14. It is also pertinent to point out here that Canara Bank, the Respondent No.1, though the Company Petitions filed by the Applicants U/s 94 of Code, are pending disposal having suffered various adjournments since 10th March, 2025, they did not chose to file even replies till date. However, for the reasons best known to them, they are contemplating the impugned

actions in direct violation of interim moratorium came into force by operation of law and are opposing the instant Applications by filing their replies.

15. For the aforesaid reasons and circumstance of the cases and the settled position of law on this issue, it is to be held that the main Company Petitions filed by the Applicants U/s 94 of Code are governed by the provisions of IBC, 2016 and interim moratorium as contemplated U/s 96 of Code continues to be in force prohibiting the Respondents(Canara Bank) to go ahead with the impugned proceedings And the impugned proceedings are in direct violation of interim moratorium set in force when the main Company Petions are filed. Moreover, balance of convenience lies heavily in favour of the Applicants to grant the reliefs as prayed for till the disposal of the main Petitions. In addition, if the interim orders as prayed for in the instant applications are not granted now, all the cases pending before this Tribunal, High Court, DRT will become infructuous. On the other hand, Respondents would not suffer any disadvantage if these applications are allowed, the properties in question and outstanding dues are intact and they can initiate proceedings as per law later on.

16. In the result, both the Applications bearing ***IA(IBC) No.1169(CH)2026 in CP (IB) No. 107/Chd/Pb/2025 & IA(IBC) No.1168/CH)2026 in CP (IB) No. 108/Chd/Pb/2025 are hereby allowed with following consequential directions:***

(1) It is hereby quashed and set aside the impugned four identical E-Auction Notices issued separately to both of the Applicants, all even dated 30.07.2026 proposing to conduct e-auction of the Applicants assets on 25.08.2026 being illegal and contrary to settled position of law;

(2) It is hereby quashed and set aside two identical impugned possession notices, all even dated 30.07.2026 issued to both of the Applicants, proposing to take physical possession of the Applicants assets on 21.08.2026 being illegal and contrary to settled position of law.

Sd/-	Sd/-
(SHISHIR AGARWAL) **(MEMBER TECHNICAL)**	**(K. BISWAL)** **(MEMBER JUDICIAL)**