NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI
ORDER SHEET OF THE HEARING ON 14th AUGUST 2026

IA(IBC)/79/GB/2026 & IA(IBC)/73/GB/2026
In CP(IB)/24/GB/2026

Present: 1. Hon'ble Member (Judicial), Shri Rammurti Kushawaha
2. Hon'ble Member (Technical), Shri Yogendra Kumar Singh

In the Matter of	UCO Bank Vs Satyawan Sarma (PG) To *M/s Lohit Construction Pvt. Ltd. (CD)*
Under Section	U/s 95 of IBC, 2016

Appearances (via video conferencing/physically)

For Petitioner (s) : None

For Respondent (s) : Mr. R. Dubey, Adv. (PG)

For IRP : Mr. A. Pareek, in person

ORDER

CP(IB)/24/GB/2026, IA(IBC)/73/GB/2026 & IA(IBC)/79/GB/2026

Order pronounced in open court *vide* separate sheets.

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)

Shubhamtiwari PS

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/73/GB/2026
And
IA (IBC)/79/GB/2026
In Main
CP (IB)/24/GB/2026

An Application under Section 99 of the Insolvency and Bankruptcy Code, 2016

In the matter of IA (IBC)/73/GB/2026:

Mr. Amit Pareek

... Applicant/Resolution Professional

-And-

An Application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016

In the matter of IA (IBC)/79/GB/2026:

Satyawan Sharma, son of Sri Jairam Sharma, residing at House No. 2, Keteki Path, NH-37, Gotanagar, Jalukbari, Guwahati- 781011

...Applicant/ Personal Guarantor

-Versus-

UCO Bank, Silpukhuri Branch, Silpukhuri, Guwahati- 781003, Assam, being represented by its Chief Manager Abhishek Kumar

...Respondent No. 1/ Financial Creditor

-And-

Amit Pareek, Resolution Professional, having its office at 4th Floor, Ram Prasad Complex, Chatribari, Kamrup (M), Guwahati -781001, Assam, Email ID: amitpareek99@yahoo.com

...Respondent No. 2/ Resolution Professional

-In Main-

An Application under Section 95 of the Insolvency and Bankruptcy Code, 2016 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

In the matter of CP (IB)/24/GB/2026:

UCO Bank, a body corporate and a banking company duly constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 having its corporate office at UCO Bank, 10 BTM Sarani, Brabourne Road, Kolkatta-700001 and one of its zonal office at Silpukhuri Branch, Silpukhuri, Guwahati-781003, and carrying on the business of banking through diverse branches and in particular a branch named UCO Bank, Silpukhuri Branch, Silpukhuri, Guwahati-781003, Assam and represented by Sri Abhishek Kumar, Chief Manager of the said branch.

...Petitioner/ Financial Creditor

-Versus-

Satyawan Sharma, son of Late Sri Jaya Ram Sharma, residing at Narikal Basti, Geeta Nagar, Guwahati – 781024

...Respondent/Personal Guarantor

Coram:

Shri Rammurti Kushawaha	:	Member (Judicial)
Shri Yogendra Kumar Singh	:	Member (Technical)

Appearances (through video conferencing/physical):

For Petitioner	:	S. Chamaria (Adv.)
For Respondent	:	Mr. R. Dubey, Ms. A.B. Kayastha (Advs.)
For IRP/RP	:	Amit Pareek

Order pronounced on: 14.08.2026

As Per Bench

CP (IB)/24/GB/2026

1. The present Company Petition("**CP**") No. 24 of 2025 has been filed by UCO bank, Silpukhuri branch ("**Financial Creditor**") under section 95 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") for default in the repayment of Rs. 01,41,15,28,508.09/- (Rupees One Hundred Forty One Crore Fifteen Lakh Twenty Eight Thousand Five Hundred Eight and Nine Paisa), as on 20.01.2025., by Satyawan Sarma ("**Personal Guarantor**") to M/s Lohit Construction Private Limited ("**Corporate Debtor**")

2. **Submissions of the Financial Creditor** filed on 31.03.2026:

2.1. The Corporate Debtor is a private limited company bearing Corporate Identification Number ("**CIN**") U45201AS1998PTC005343 registered under the Indian Companies Act having its registered office situated at Rajgarh Road, Guwahati, Assam, PIN- 781007.

2.2. The Corporate Debtor initially approached the Financial Creditor to avail a cash credit facility of Rs. 32 lakhs on 06.02.1998. On 03.04.2000, the Corporate Debtor confirmed and acknowledged their liability at Rs. 91,46,293.34/- with interest calculated up to 31.03.2000. The aforesaid loan facility and its limit were renewed or enhanced time to time by executing Demand Promissory Note on 24.03.2003, 14.03.2005, and 08.08.2006. Hypothecation of movable plant and machineries were also executed on 14.03.2005 amounting to Rs. 45.78 lacs. Copies of the Demand Promissory Notes, and Hypothecation of plant and machinery are attached to the Petition as "*Annexure I-D (series)*" and "*Annexure I-E (series)*" respectively.

2.3. The Corporate Debtor again approached the Financial Creditor for a fresh term loan to meet the cost of the business. The Financial Creditor enhanced the loan limit to Rs. 350 lakh from Rs. 250 lacs at 15% interest per annum after the scrutiny of papers and documents and being satisfied with the transaction in the said loan amount.

2.4. The Personal Guarantor stood a guarantor along with others for the aforesaid loan by executing a letter of guarantee (Form No. A21) dated 07.06.2007 in favour of the Financial Creditor. This letter of guarantee assured and guaranteed that the

Personal Guarantor, along with other representatives of the Corporate Debtor, will repay the entire amount with interest, cost and charges that arises therefrom in case the Corporate Debtor defaults on its payment. A copy of the Letter of Guarantee is attached to the Petition as "*Annexure I-N*".

2.5. The Financial Creditor scrutinised another application by the Corporate Debtor and on 13.03.2008, it sanctioned a cash credit limit of Rs. 350 lakh at 15% interest per annum with monthly rest subject to changes as per banks directive from time to time repayable on demand for a period of one year. It also sanctioned a bank guarantee of Rs. 950 lakh enhanced from Rs. 340 lakh with inland letter of credit of Rs. 200 lakhs out of the above bank guarantee limit of 950 lakh with interchangeability clause against primary security of hypothecation of stock of plant and machinery and hypothecation of construction materials, Work-in-Progress and Book Debts besides guarantee of the Personal Guarantor along with others.

2.6. Once again, the Personal Guarantor along with other representatives stood as a guarantor against the aforesaid loan by executing letter of guarantee (Form A21) dated 09.05.2008 in favour of the Financial Creditor by which they guaranteed to repay the entire loan amount with interest, costs and charges therefrom. A copy of the Letter of Guarantee is attached to the Petition as "*Annexure I-V*".

2.7. On 13.03.2009, the Financial Creditor considered another application by the Corporate Debtor and sanctioned and enhanced the cash credit limit from Rs. 350 lakh to Rs. 600 lakh with additional cash credit facility of Rs. 300 lakhs approved within the overall bank guarantee facility of Rs. 17.50 crores. Taking additional facility, the total cash credit facility would be Rs. 9 crores and with this sanction, existing ad-hoc limit of Rs. 2 crores would get merged with enhanced limit at 14.25% per annum. In furtherance of the same the Personal Guarantor executed another Letter of Guarantee dated 13.03.2009 in favour of the Financial Creditor. A copy of the Letter of Guarantee is attached to the Petition as "*Annexure I-AE*".

2.8. Once again, the Corporate Debtor applied for enhancement of limit and on 06.09.2010, the Financial Creditor approved the one way interchangeability from Bank Guarantee to cash credit for additional Rs. 3 crores with certain terms and conditions mentioned in the said approval besides those of last sanction dated

13.03.2009. The Personal Guarantors deposited the Title Deed from time to time in terms of the sanction as co-lateral security of the loans.

On 13.09.2009, they extended the earlier mortgage covering the increase limit in respect of the land covered by Title /Sale Deed no. 1143 of 2005, 8864 of 2001, 11345 of 2007, 1141 of 2005, 2206 of 1994, 2551 of 1994, 2193 of 2001, 2190 of 2001, 2091 of 2001, 1144 of 2005, 15258 of 2008, 8663 of 2001, 15758 of 2008, 4222 of 2002, 957 of 2006, 9404 of 2000, 8665 of 2001, 9402 of 2000, 1252 of 1971, 1314 of 1995, 5667 of 1962, 1085 of 2006, 761 of 1995 and also extended the mortgaged from time to time in favour of the Financial Creditor. A copy of Letter of Extension of the earlier mortgage along with Title/ Sale Deed is attached to the Petition as "*Annexure I-AL*".

2.9. The Financial Creditor repeatedly requested and reminded the Personal Guarantors to regularize the loan account but the said company did not take any steps and thereafter, the Financial Creditor declared the aforesaid account as Non-Performing Asset ("**NPA**") on 29.11.2011. Subsequently, the Financial Creditor approached before the Debt Recovery Tribunal ("**DRT**"). Guwahati and filed the case numbered as O.A. No. 03/2012. However, the two parties reached a compromise in this matter. The learned DRT *vide* order dated 18.05.2018 directed that the compromised amount i.e. Rs. 12,65,00,000/- should be paid by the Company as per terms and conditions mentioned in the said Joint Petition bearing I.A. No. 119/2018 dated 17.05.2018 executed between the parties. In the event of default of payment in terms of the compromise made between the parties, the settlement would stand cancelled and the Company would have to pay the entire claimed amount to the Financial Creditor. A copy of the DRT Order is attached to the Petition as "*Annexure I-AR*".

2.10. The judgment passed in O.A. Case No. 03/2012 dated 18.05.2018 was basically passed in terms of the settlement deed made between the parties on 17.05.2018 which contained a time limit for repayment which was to be followed by the guarantors. However as they could not follow up, the guarantors made a representation on 08.06.2020 which was accordingly considered. Again on 07.11.2022, the guarantors sought an extension of time upto the period of May 2024 to repay the amount due to the Financial Creditor but failed to make any payments as per the letter dated 07.11.2022. Furthermore, R.C. 3009/2018, i.e. the certificate issued in connection with O.A. Case No. 03/2012 by the Recovery Officer of the DRT, Guwahati for recovery of due amount is still pending in the aforesaid certificate proceeding pending before the DRT, Guwahati, but the due amount could not be recovered till yet, hence this instant proceeding is initiated against the Personal Guarantor to recover the due amount of the Financial Creditor. Copies of the Recovery Certificate, Extension of Repayment, and Letter dated 07.11.2022 are attached to the Petition as "*Annexure I-AS*", "*Annexure I-AT*", and "*Annexure I-AU*" respectively.

2.11. It is submitted that the Financial Creditor was assured by the representatives of the Corporate Debtor to repay the compromised amount in terms of settlement made on 17.05.2018 but no such payment was made subsequently. The Financial Creditor requested each of the Personal Guarantors to square up the liability but the Personal Guarantor repeatedly delayed the matter. The Financial Creditor concluded that the Personal Guarantor had no intention to repay the amount in terms of the Agreement of Guarantee as much as settlement is arrived at.

2.12. It is submitted that a demand notice dated 09.04.2025 under Rule 7(1) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 ("**Personal Guarantor Rules**") have issued through registered post to all Personal Guarantors to their personal addresses available on record, to the email address of the lead company, and also by way of two local leading newspaper publication. But nothing has been recovered till date. Copies of the Demand Notice and its Proof of Service through email and newspaper publication are attached to the Petition as "*Annexure I-AX*", "*Annexure I-AAA*" and "*Annexure I-AAB*" respectively.

2.13. It is submitted that the instant Application has been filed by the Financial Creditor exclusively claiming the outstanding dues of Rs. **01,41,15,28,508.09/-** as on 20.01.2025 from the Personal Guarantors, duly supported by the books of account.

2.14. It is submitted that this Application has been filed well within the period of limitation. The Financial Creditor has been constantly pursuing the matter from the date the Recovery Certificate was issued in connection with O.A. Case No. 03/2012 but it has not been recovered till date. Therefore, the recovery attempt is still in continuance process and the recovery proceeding against the personal guarantor is within time limit.

2.15. In view of the above, the Financial Creditor prayed that this Tribunal may admit the application under Section 95 of the Code, and pass such further orders as may be deemed fit in the interest of justice.

IA (IBC)/73/GB/2026

3. **Report by the Resolution Professional:** It had been filed as case numbered **IA(IB)/73/GB/2026** dated 27.04.2026

3.1. The Resolution Professional submitted that vide Order dated 13.04.2026, the Hon'ble National Company Law Tribunal ("**NCLT**"), Guwahati, has appointed Amit Pareek as Resolution Professional ("**RP**") of Satyawan Sarma under Section 97 of the Code. The said Order was uploaded on the NCLT website on 17.04.2026. A copy of the order dated 13.04.2026 has been annexed to the RP Report as "*Annexure A*".

3.2. The Resolution Professional had duly communicated the Personal Guarantor vide letter dated 18.04.2026 information about the order dated 13.04.2026 passed by this Hon'ble Tribunal in CP(IB)/24/GB/2026, appointment of IRP, and intimation of his duty to submit the report to this Hon'ble Tribunal within 10 days, recommending admission/rejection this application for the Insolvency Resolution Process, intimation about IRP's duty to collect information under Section 99 of the Code from the Financial Creditor and Personal Guarantor and any other persons and their obligation to provide the details within 7 days of his request.

3.3. In an email dated 27.04.2025, the legal counsel for the Personal Guarantor replied that the Financial Creditor had already filed an application under Section 95 of the Code against him registered as CP(IB) 11/GB/2025, and claimed no second application can be filed by the Financial Creditor against the same Personal Guarantor. It was also submitted that the Application is not only time barred but its claim amount is also exaggerated, baseless, and unsupported as it is not even linked with a letter of guarantee. It was also submitted that there was no proper demand or service of the notice under Section 95(4)(b) of the Code. A copy of the response from the Personal Guarantor is annexed to the RP Report as "*Annexure-D*".

3.4. With respect to compliance of Section 95 of the Code:

3.4.1. With reference to Section 95(4)(a) of the Code, the Financial Creditor had filed the Application along with Statement of Account dated 20.01.2025 reflecting an outstanding of dues of Rs. 1,41,15,28,508.09/- as on 20.01.2025. A copy of the statement of accounts is annexed to the Application as "*Annexure I-AW*".

3.4.2. With reference to Section 95(4)(b) of the Code, the Financial Creditor had issued a demand notice dated 09.04.2025 under Rule 7(1) of the Personal Guarantor Rules, calling upon the Personal Guarantor to pay the outstanding dues. This was served upon the Corporate Debtor through registered post and through email dated 15.05.2025 and through newspaper publication dated 22.05.2025. Despite service of the demand notice, the Personal Guarantor failed to repay the outstanding dues within the statutory period of fourteen days. Accordingly, the requisite details and documents evidencing such failure have been duly placed before this Hon'ble Tribunal.

3.4.3. With reference to Section 95(4)(c) of the Code, the details and documents evidencing the default and non-payment of debt have been placed before this Hon'ble Tribunal including demand promissory notes executed at various dates from 06.02.1998 to 15.09.2010, letters of guarantee executed by the Personal Guarantor on 07.06.2007, 09.05.2008, and 13.03.2009, DRT order dated 18.05.2018 passed in O.A. No. 03/2012, recovery certificate dated 07.06.2018 numbered as R.C. 3009/2018, statement of account as on 20.01.2025 showing total outstanding dues, and demand notice dated 09.04.2025, 15.05.2025, and 22.05.2025 with proof of service.

3.4.4. With reference to Section 95 (5) of the Code, a copy of the Application was sent to the Personal Guarantor through email on 31.03.2026. A copy of the proof of service has been annexed to the main Application as "*Annexure I-A*".

3.5. With respect to compliance of Section 99 of the Code:

3.5.1. With reference to Section 99(2) of the Code, upon receipt of the NCLT Order of Appointment of Resolution Professional, the RP served a notice on 18.04.2026 upon the Personal Guarantor and his legal counsel, calling upon him to furnish records as per Section 99(2) of the Code including evidence of electronic transfer of the unpaid amount from the bank account of the debtor, evidence of encashment of cheque issued by the debtor, and a signed acknowledgment by the creditor accepting receipt of funds. The Personal Guarantor opposed the Application on the ground of parallel same application by the Financial Creditor, limitation, baseless claims, etc.

3.5.2. With reference to Section 99(3) of the Code, the debt has not been registered with any information utility. However, the existence of debt is duly evidenced by documents filed along with the Application, including demand promissory notes, letters of guarantee, statement of account, DRT order dated 18.05.2018 and recovery certificate dated 07.06.2018.

3.6. As per Section 99(4) read with Section 99(6)(b) of the Code, the report was filed within the time prescribed recommending **admission** of the Application. The RP examined all submitted documents and was satisfied on the following grounds:

3.6.1. A debt exists in favour of the Financial Creditor amounting to Rs. 1,41,15,28,508.09/- as on 20.01.2025. The debt amount is qualifying debt not excluded debt.

3.6.2. The Personal Guarantor committed default in repayment as evidenced by NPA declaration on 29.11.2011, DRT proceedings and the Recovery Certificate issued as R.C. 3009/2018, so the requirement of Section 95(1) is satisfied.

3.6.3. The Personal Guarantor had duly executed Letters of Guarantee on 07.06.2007, 09.05.2008, and 13.03.2009 guaranteeing the repayment of the aforesaid loan. The application is made against the Personal Guarantor in his personal capacity hence Section 95(2) &(3) is not applicable.

3.6.4. The Application is accompanied with details and documents as required under Section 95(4) of the Code. It has been filed in prescribed Form-C with requisite fees as per Section 95(6) of the Code.

3.6.5. A demand notice was issued under Section 95(4) read with Rule 7(1) of the Personal Guarantor Rules on 09.04.2025 and served through registered post, emails dated 15.05.2025 and 31.03.2026, and newspaper publications dated 22.05.2025. Yet, service of demand remains subject to examination by Adjudicating Authority.

3.6.6. The Personal Guarantor has failed to repay the debt or dispute it within the prescribed period.

3.6.7. The Personal Guarantor is not eligible for a fresh start process as provided under Part III, Chapter II of the Code.

3.6.8. As per Section 60 (1) and (2) of the Code, this Hon'ble Tribunal has the jurisdiction to adjudicate this instant Application as the Corporate Debtor has its registered office at Guwahati, Assam and the Personal Guarantor is also a resident of Assam.

3.6.9. The Personal Guarantor replied to the notice issued by the RP under Section 99(2) of the Code calling upon him to prove repayment of debt. However, he decided to oppose the Application itself which is subject to this Hon'ble Tribunal's adjudication.

3.7. Thus, the Resolution Professional recommends the instant Application for **admission** against the Personal Guarantor.

<u>IA (IBC)/79/GB/2026</u>

4. **Submissions of the Personal Guarantor** to the instant Application filed separately as an Interlocutory Application, **IA (IBC)79/GB/2026** dated 03.05.2026:

4.1. The present Interlocutory Application ("**IA**"), being IA(IBC)/79/GB/2026 has been filed by Satyawan Sarma against UCO Bank and Amit Pareek under Section 60(5) of the Code read with Rule 11 of the National Company Law Tribunal Rules, 2016 ("**NCLT Rules**"). The Personal Guarantor seeking the following substantive prayer:

4.1.1. Pass an order dismissing the captioned Company Petition, i.e., CP (IB)/24/GB/2026, filed by the Respondent No. 1, in limine, as the same is non-maintainable in law, grossly misconceived, and an abuse of the process of this Hon'ble Tribunal.

4.1.2. Declare all actions, proceedings, and orders passed in the subsequent application, CP(IB)/24/GB/2026 including the order dated 13th April, 2026, appointing the Resolution Professional as non-est in law, null and void ab initio, and consequently set aside;

4.1.3. Direct that the report filed by the Resolution Professional, Mr. Amit Pareek, vide IA(IBC)/73 /GB/2026, dated 27th April, 2026, be rejected in its entirety and not be *taken on record, as the same is patently biased, legally flawed, and prepared in suppression of material facts.*

4.1.4. *Impose heavy exemplary costs upon the Respondents under Section 65 of the Insolvency and Bankruptcy Code. 2016, for initiating frivolous, vexatious, and parallel proceedings against the Applicant, thereby wasting the valuable time of this Hon'ble Tribunal and causing undue harassment;*

4.1.5. *Pass any such other order(s) or direction(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice, equity, and good conscience.*

4.2. It is submitted that the present proceedings originated against the backdrop of a separate application against the Personal Guarantor under Section 95 of the Code to initiate Personal Insolvency Resolution Process ("**PIRP**") with regards to a separate corporate debtor company, 'Berial Engineers Pvt. Ltd.'. This separate application was instituted by the same Financial Creditor, UCO Bank, before this Hon'ble Tribunal with alleged default amounting to Rs. 1,48,67,53,983.58/-(One Hundred Forty-Eight Crore Sixty-Seven Lakh Fifty-Three Thousand Nine Hundred Eighty-Three and Fifty-Eight Paisa). The aforesaid application was registered as CP (IB)/11/GB/2025 and the same is pending for adjudication. A copy of CP(IB)/11/GB/2025 Application has been annexed to the IA as "*Annexure No. A-1*".

4.3. This Hon'ble Tribunal *vide* its order dated 26.08.2025, had appointed Mr. Ujwal Kalita as the Resolution Professional to submit its Report under Section 99 of the Code. A copy of the order dated 26.08.2025 has been annexed to this IA as "*Annexure No. A-2*".

4.4. The Resolution Professional in that case filed his Report under Section 99 through IA (IBC)/94/GB/2025 on 11.09.2025 which was taken on record by this Hon'ble Tribunal *vide* its order dated 29.10.2025 and the same is disposed of. A copy of the RP Report and a copy of the order dated 29.10.2025 are annexed to the IA as "*Annexure No. A-3*" and "*Annexure A-4*" respectively.

4.5. Despite full knowledge of the pendency of the aforesaid application and the operation of resulting interim moratorium under Section 96 of the Code, the Financial Creditor subsequently filed the main CP herein, CP(IB)/24/GB/2026,under Section 95 of the Code on 31.03.2026 against the

Personal Guarantor in respect of an alleged liability of Rs. 1,41,15,28,508.09/- (Rupees One Hundred Forty One Crores Fifteen Lakh Twenty-Eight Thousand Five Hundred Eight and Nine Paisa only), before this Hon'ble Tribunal. A copy of CP (IB)/24/GB/2026 has been annexed to this IA as "*Annexure No. A-5*".

4.6. It is submitted that despite jurisdictional prohibition, the Financial Creditor did not disclose in its petition about the pendency of the earlier CP (IB)/11/GB/2025 and thus misled this Hon'ble Tribunal into passing an order dated 13.04.2026 appointing Mr. Amit Pareek as the Resolution Professional in CP (IB)/24/GB/2026, rendering not only this appointment but all consequent appointments patently unsustainable in law.

It is further submitted that this was a deliberate suppression of material fact to mislead this tribunal into securing admission of CP (IB)/24/GB/2026 by keeping this Hon'ble Tribunal in dark about the complete factual background of this case. Thus, the order dated 13.04.2026 should stand vitiated having been obtained through misrepresentation, and concealment. A copy of the order dated 13.04.2026 has been annexed to this IA as "*Annexure No. A-6*".

4.7. Subsequently, the appointed RP *vide* his email dated 18.04.2026 sought a response from the Personal Guarantor seeking information for preparation of report under Section 99 of the Code. A copy of the email dated 18.04.2026 has been annexed to the IA as "*Annexure No. A-7*".

4.8. The Personal Guarantor *vide* his email dated 27.04.2026 questioned the maintainability of CP(IB)/24/GB/2026 contending that—(i) an earlier CP proceeding was already pending against the Personal Guarantor; (ii) the CP is barred by limitation; (iii) the claimed amount is exaggerated, baseless and unsupported; (iv) the claimed amount is not any way linked with the purported guarantees issued by the Financial Creditor; and (v) there was no proper demand and no proper service of notice as per the provision of the Code.

A copy of the email dated 27.04.2026 has been annexed to the IA as "*Annexure No. A-8*".

4.9. After considering the submissions of the Personal Guarantors, the RP submitted a report *vide* IA(IBC)/73/GB/2026 recommending admission of CP(IB)/24/GB/2026. This report dated 27.04.2026 was vitiated on multiple counts including non-application of mind, failure to establish proper service of the statutory demand notice, proper invocation of guarantee as well as disregard of the mandatory preconditions under Section 95(4)(b) of the Code along with non-consideration of the objection raised by the Personal Guarantor through his counsel. A copy of RP Report dated 27.04.2026 is annexed to the IA as "*Annexure No. A-9*".

4.10. It is submitted that instituting the main CP herein subsequent to the pendency and subsistence of the inter-moratorium triggered by CP(IB)/11/GB/2025 is in the teeth of the express statutory bar imposed by the Section 96 of the Code which vitiates any subsequent application and amounts to manifest abuse of process.

4.11. The Financial Creditor has failed in his statutory duty to verify the prior application and bar of Section 96 of the Code, the proof of service of delivery of the crucial statutory demand notice in Form B, and the invocation of guarantee upon the Personal Guarantor. The report is entirely devoid of contemporaneous bar of Section 96 of the Code or any credible documentary evidence establishing valid service at the time of filing. In the absence of both elements, the very foundation of the main CP stands fatally defective. Additionally, the RP never conducted an independent as objective inquiry as mandate, rather he simply presumed due service merely on the Financial Creditor's assertions, thereby demonstrating apparent bias and abdication of his statutory responsibilities.

Further, it is a settled preposition of law that under Section 99 of the Code, the duty conferred upon the RP to recommend acceptance or rejection of an application under Section 95 is not a mere procedural formality but a substantive legal obligation. The legislative intent behind such scrutiny is to prevent admission of frivolous or deficient petitions by ensuring compliance with all jurisdictional requirements, including the due service of the statutory demand notice in conformity with Section 95(4)(b). However, the RP has not even apprised this Hon'ble Tribunal regarding non-compliance of the aforesaid provision.

4.12. Additionally, the RP has failed to disclose the material fact around the earlier proceedings of CP (IB)/11/GB/2025 before this Hon'ble Tribunal despite being fully aware of it. He also failed to recommend the subsequent proceedings of the main CP herein for rejection. Such omission constitutes a grave breach of statutory duty. By failing to disclose the operative interim moratorium of the earlier proceedings and endorsing the main CP herein which was non-maintainable at the very inception, the RP has directly facilitated the Financial Creditor's attempt to circumvent the statutory safeguard of Section 96(1) of the Code. It disregards the law and suppresses facts already part of this Tribunal's own records, undermining the integrity of these subsequent proceedings. Therefore, the report of the RP itself is not maintainable in law and liable to be rejected.

4.13. The Personal Guarantor duly informed the RP about the pendency of CP(IB)/11/GB/2025 and that no subsequent application is maintainable against him yet the RP failed to give any finding in that respect in his report. The Personal Guarantor prayed that the report submitted by the RP is rejected in its entirety and not taken on record by the Hon'ble Tribunal. It is fundamentally flawed as it failed to address the most critical jurisdictional bar on the existence of a prior pending application which automatically triggers interim moratorium under Section 96 of the Code. He has failed in his statutory duty to verify the maintainability of the petition.

4.14. It is submitted that every action, proceeding, order, or step taken in the subsequent application is wholly without legal foundation and stands non-est in the eyes of law. These proceedings suffer from a complete absence of jurisdiction from the outset as they stem from a defective and premature initiation that violates the fundamental principles of the Code. It particularly ignores that CP (IB)/11/GB/2025 already encompasses the very same debt and default. Consequently, the multiplicity of proceedings cause grave prejudice to the Personal Guarantor. The Hon'ble Tribunal is urged to hold all such proceedings as null and void ab initio, set them aside, and declare them non-est to prevent any further abuse of process.

4.15. Both the CPs are inter-connected and arise directly out of identical debt and financial transaction between the parties. The alleged debt in CP(IB)/24/GB/20267 is simply a repackaged claim mirroring the very same cause of action already moved in CP(IB)/11/GB/2025, which remains subjudice before this Hon'ble Tribunal. Allowing parallel proceedings on the same debt would lead to conflicting outcomes, forum shopping, and a blatant violation of provisions of the Code as well as Section 10 of the Code of Civil Procedure, 1908 ("**CPC**"), the principle of *res judicata*, and the Code's prohibition on multiplicity under Section 95 read with provisions of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The Financial Creditor has approached this Tribunal with unclean hands. Thus, the main CP captioned herein is not maintainable and deserves outright dismissal. It is prayed that the Financial Creditor and RP are imposed with heavy exemplary costs under Section 65 for wasting judicial time with frivolous litigation.

4.16. It is submitted that the report submitted by the RP is patently biased, one-sided, and prepared solely to favour the Financial Creditor. Despite having access to complete records, including bank statements, transaction ledgers, and correspondence proving no default or pre-existing disputes, the RP has selectively ignored exculpatory evidence and cherry-picked facts to bolster the Financial Creditor's claim. His conduct contravenes the RP's statutory duty of impartiality under Section 27 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, rendering the report unreliable and liable to be disregarded by this Hon'ble Tribunal.

4.17. It is submitted that is such misconceived and *ex-facie* bad in law CP, if allowed, would set a dangerous precedent. It is emphasized that this is a deliberate attempt to mislead this Hon'ble Tribunal and obstruct the due process of law.

5. **Submissions of the Financial Creditor** dated 18.05.2026 in response to the Objection filed by the Personal Guarantor in IA (IBC)/79/GB/2026 to the main CP.

5.1. It is submitted that the jurisdiction of this Hon'ble Tribunal under Section 60(5) of the Code is limited, specific, and circumscribed in nature and cannot be invoked as a substitute for adjudicatory or appellate powers so as to challenge the validity of a duly instituted application filed under Section 95 of the Code.

Section 60(5) of the Code is only intended to deal with questions of law or fact arising in relation to the "insolvency proceedings" and not to adjudicate upon the maintainability of the initiation of such proceedings. The Interlocutory Application seeks to expand the scope of Section 60(5) of the Code beyond its legislative intent by inviting this Hon'ble Tribunal to prematurely examine the disputed questions of facts relating to limitation, alleged suppression, and the validity of the proceedings itself. These issues are squarely within the domain of consideration under Section 99 and 100 of the Code. Therefore, the present Interlocutory Application is misconceived, not maintainable, and beyond the permissible contours of Section 60(5) of the Code.

5.2. The IA had been filed with an oblique motive to delay and frustrate the insolvency resolution process which is lawfully initiated by the Financial Creditor.

5.3. The Personal Guarantor had approached this Hon'ble Tribunal with unclean hands and has suppressed material facts and has deliberately misinterpreted the provisions of the Code, particularly, Section 96, in order to create a false and misleading narrative before this Hon'ble Tribunal for some oblique purposes only.

Para-wise reply:

5.4. The IA constitutes a clear abuse of the process of law and is liable to be dismissed with exemplary costs as it seeks to obstruct a valid statutory proceeding under the Code.

5.5. Barring statements that have been specifically admitted and those that are matters of record, the Financial Creditors denies all other averments made by the Personal Guarantors in the IA.

5.6. With reference to para 1, 2, and 3 of the IA, it is submitted they are matters of record and the Financial Creditor does not admit to anything which is contrary to the records available. It begs to prefer no comments for the same.

5.7. With reference to para 4 of the IA, it is admitted that an earlier application under Section 95 was filed, however, it is denied that the same creates any legal bar on initiation of subsequent proceedings.

5.8. With reference to para 5 of the IA alleging illegality in filing CP (IB)/24/GB/2926, the Financial Creditor denied this but submitted that filing of a subsequent application under Section 95 based on different set of facts is legally permissible under the Code, particularly where there is continuing default and updated financial liability are apparent and the Personal Guarantor has failed to establish that the cause of action of both cases are similar in nature between the same parties.

5.9. With reference to para 6, it is admitted to the extent that the Resolution Professional sought response from the Personal Guarantor, however, it is denied that there was any procedural irregularity or illegality in the same.

5.10. With reference of para 7, it is submitted that the objections raised by the Personal Guarantor within the reply have been found to be devoid of merit.

5.11. With reference to para 8 challenging the Report of the Resolution Professional, the Financial Creditor denied this and submitted that the Report has been strictly prepared in accordance with Section 99 of the Code after due verification of records, and the allegations of bias are false and unsupported by any cogent evidences.

5.12. With reference to para 9 invoking Section 96 of the Code, the Financial Creditor denied it and submitted that the Personal Guarantor has grossly misinterpret the provision as inter moratorium does not create a blanket prohibition of filing of subsequent insolvency application on different set of facts altogether. It cannot be used to defeat the statutory rights of the Financial Creditor to initiate action against the person, who was in fact found to be the guarantor of more than one company.

5.13. With reference to para 10 regarding failure of the RP, the same is denied and it is submitted that the RP has duly complied with all statutory requirements and exercised due diligence in examining the main CP.

5.14. With reference to para 11, it is submitted that there has been no failure on the part of the Resolution Professional to disclose any material fact.

5.15. With reference to para 12 alleging violation of Section 96 of the Code, the same is denied and it is also reiterated that no statutory bar exists.

5.16. With reference to para 13, it is submitted that the RP is not required to adjudicate disputes but only to conduct a prima facie examination, which he has duly done.

5.17. With reference to para 14 alleging suppression and misrepresentations, it is submitted that no misleading statement has ever been made before this Hon'ble Tribunal.

5.18. With reference to para 15, it is submitted that the proceedings in CP (IB)/24/GB/2026 are valid, lawful, and maintainable, and cannot be termed as non-est in law in any manner and hence the ground cited are devoid of merits and warrant rejection.

5.19. With reference to para 16 relating to *res judicata*, multiplicity of proceedings, and applicability of Section 10 of the CPC, the same is denied and it is submitted that the Code is complete in itself and such statutory principles cannot be mechanically applied to defeat insolvency proceedings.

5.20. With reference to para 17, it is submitted that allegations of bias by the RP are false, defamatory, and without any basis.

5.21. With reference to para 18, it is submitted that the RP Report is legally valid and deserves to be considered by this Hon'ble Tribunal.

5.22. With reference to para 19, it is submitted that the main CP is fully maintainable both in law and on facts.

5.23. With reference to para 20, it is submitted that seeking liberty to file additional documents is a matter within the discretion of this Hon'ble Tribunal

5.24. The Financial Creditor submits the IA is devoid of merits and liable to be rejected by this Hon'ble Tribunal with cost.

6. **Submissions of the Resolution Professional** dated 21.05.2026 in response to the Objection filed by the Personal Guarantor in IA (IBC)/79/GB/2026 to the main CP:

6.1. With reference to Objection No. 1 that a parallel Section 95 Application is allegedly already pending as CP (IB)/11/GB/2025, making a second application not maintainable.

6.1.1. It is submitted that the main CP herein, CP (IB)/24/GB/2026 arises from a completely different and independent personal guarantee executed by the Personal Guarantor in favour of UCO Bank for a separate Corporate Debtor, M/s Lohit Construction Pvt. Ltd., which is entirely distinct from the corporate debtor in CP (IB)/11/GB/2025, M/s Berial Engineers Pvt. Ltd. The two applications involve two separate contracts of guarantee, two distinct loan accounts, and two independent defaults. It is pertinent to submit that if two applications are pending before this Hon'ble Tribunal, it is for this Hon'ble Adjudicating Authority to decide if they may consolidate or appropriately deal with both applications. The existence of a prior application which is not yet admitted cannot be a ground for rejection of the main CP herein at a preliminary stage, particularly when the debt, default, and the failure to repay are fully established by documentary evidence.

6.1.2. It is submitted that the question of maintainability in light of an allegedly pending parallel application is a jurisdictional issue to be decided by the

Hon'ble Adjudicating Authority on merit and is not a sufficient ground for an RP to recommend rejection of an application under Section 99 of the Code.

6.1.3. It is further submitted that the question of creating any bar on the main CP herein is a pure question of law and jurisdiction falling exclusively within the adjudicatory domain of this Hon'ble Adjudicating Authority under Section 100 of the Code. The RP has even duly noted this objection in his Section 99 Report and marked it as a matter for determination by this Hon'ble Tribunal.

6.1.4. It is submitted that an RP's statutory duty is confined to examining the completeness of the Application and verifying debt and default. He has no discretion to refuse to examine a Section 95 application on the ground that Section 96 may create a bar. Section 96 never states that the RP is barred from examining a second Section 95 Application. The RP's examination is a pre-admission step. The question of maintainability under Section 96 is to be decided exclusively by this Hon'ble Tribunal at the Section 100 stage.

6.1.5. It is further submitted that the Code cannot be read to self-defeat its own resolution mechanism. Section 238 of the Code establishes itself as a supreme and self-contained code, providing that its provisions shall shave effect notwithstanding inconsistencies with any other law. While Section 95 is the designated statutory mechanism for a creditor to initiate insolvency resolution against a personal guarantor, if Section 96 were read to bar a fresh Section 95 application for a different and independent debt of a different corporate debtor, it would mean IBC's own Section 238 is being used to bar the Code's own statutory remedy under Section 95. This creates an irreconcilable internal contradiction within the Code, being a legislation that overrides all other laws but bars its own mechanism. This interpretation is clearly contrary to the legislative intent.

6.2. With reference to the Objection No. 2 that the application is time barred.

6.2.1. It is submitted that it is the Personal Guarantor along with Corporate Debtor who had acknowledged the debt and liability on 07.06.2007, 09.05.2008, and 13.03.2009 by executing Letters of Guarantee in favour of the Financial Creditor guaranteeing repayment of the loan. Each such execution of a Letter of Guarantee in favour of the Financial Creditor guaranteeing repayment of loan. Each such execution of a Letter of Guarantee constitutes a fresh acknowledgement of debt and liability under Section 18 of the Limitation Act, 1963 thereby extending the period of limitation.

6.2.2. Furthermore, the DRT, Guwahati *vide* its order dated 18.05.2018 in O.A. No. 03/2012 directed repayment of the compromised amount of Rs. 12,65,00,000/- was issued by the Recovery Officer, DRT, Guwahati on 07.06.2018 against both the Corporate Debtor and Personal Guarantor. The DRT Recovery Certificate proceedings are continuing before the DRT, Guwahati.

6.2.3. It is further submitted that subsequent to the DRT Order and Recovery Certificate, the Corporate Debtor and the guarantors made representations on 08.06.2020 and 07.11.2022 seeking extension of time for repayment of dues. Such representations constitute clear and unequivocal acknowledgments of the subsisting debt and liability under Section 18 of the Limitation Act and Section 25 of the Contract Act, thereby refreshing the limitation period.

6.2.4. It is submitted that the Hon'ble Supreme Court of India in ***Laxmi Pat Surana v. Union Bank of India**, (2021) 8 SCC 481* and the Hon'ble NCLAT in multiple decisions have consistently held that for proceedings under Section 95 of the Code against Personal Guarantors, the limitation period is to be computed from the date of default in repayment as per the guarantee obligation and acknowledgement refreshes limitation. Thus the question of limitation simply does not arise with cause of action being continuous and the Recovery Certificate proceedings being live.

6.2.5. Moreover, the total outstanding dues of the Financial Creditor as per the Statement of Account as on 20.01.2025 stands at Rs. 1,41,15,28,508.09/- and the demand notice was duly issued on 09.04.2025 with the Application under Section 95 filed on 01.04.2026. The Application is therefore well within the period of limitation, the question of limitation being a matter to be decided by the Hon'ble Adjudicating Authority on merits.

6.3. With reference to Objection No. 3 that the claim amount is exaggerated, baseless, and unsupported.

6.3.1. The aforesaid objection deserves to be rejected outright as the Personal Guarantor has not placed any documentary proof, bank statements, or any material whatsoever before the RP to demonstrate that the claimed amount is incorrect.

6.3.2. The Financial Creditor has filed the Section 95 application along with a statement of bank loan account dated 20.01.2025 duly certified by the Branch officials, reflecting an outstanding due of Rs. 1,41,15,28,508.09/-. The said statement is a certified bank statement and constitutes prima facie evidence of the debt and outstanding amount.

6.3.3. The debt is further evidenced by demand promissory notes executed from 06.02.1998 to 15.09.2010; letters of guarantee executed by the Personal Guarantor on 07.06.2007, 09.05.2008, and 13.03.2009; DRT order dated 18.05.2018; Recovery Certificate dated 07.06.2018 (R.C. 3009/2018); and various hypothecation and security documents. All of these have been duly annexed to the application before this Hon'ble Tribunal.

6.3.4. It is submitted that when called upon by the RP under Section 99(2) of the Code to prove repayment of the claimed amount, the Personal Guarantor conspicuously failed to produce any evidence of payment—no bank transfer receipts, no cheque encashment records, and no acknowledgement of payment by the Financial Creditor. The Personal Guarantor chose to raise various objections instead of demonstrating repayment, which in itself is conclusive of subsisting default.

6.3.5. Upon examination of documents, the RP was satisfied that a qualifying debt of Rs. 1,41,15,28,508.09/- exists in favour of the Financial Creditor as on 20.01.2025. The claim amount is based on a certified bank account statement and the quantum thereof is a matter for adjudication by the Hon'ble Adjudicating Authority on merit, not a basis for rejection at the threshold stage.

6.4. With reference to Objection No. 4 that the claim amount is not linked with the letter of guarantee

6.4.1. It is submitted to be factually incorrect. The Personal Guarantor had executed multiple letters of guarantee in favour of the Financial Creditor on 07.06.2007, 09.05.2008, and 13.03.2009, which are all continuing guarantees guaranteeing the repayment of the loan amounts and all dues of the Corporate Debtor, M/s Lohit Construction Pvt. Ltd. to the Financial Creditor.

6.4.2. It is submitted that the letters of guarantee were continuing guarantees and covered the entire outstanding liabilities of the Corporate Debtor including all renewed, enhanced, additional credit facilities sanctioned from time to time and OTS proposal. The enhancement of the cash-credit limit and bank guarantee facilities was done with the knowledge and participation of the Personal Guarantor, who had himself deposited the Title Deeds and extended the mortgage to cover the increased limits.

6.4.3. The Hon'ble DRT, Guwahati in O.A. No. 03/2012 had itself adjudicated upon the liability of the Corporate Debtor and the Personal Guarantor jointly, and a Recovery Certificate was issued against both of them. This is conclusive evidence that the claim is linked to and covered by the Letters of Guarantee executed by the Personal Guarantor.

6.4.4. In terms of Section 128 of the Indian Contract Act, 1872, the liability of a surety is co-extensive with that of the principal debtor. The Personal Guarantor cannot now seek to limit his liability by contending that the claim is not linked to the Letter of Guarantee when the DRT has already adjudicated upon and established his liability in connection with the very same facilities.

6.5. With reference to Objection No. 5 that there was no proper demand and no proper service of notice under Section 95(4) (b) of the Code.

6.5.1. This objection is stated to be contrary to the material on record. The Financial Creditor had issued a demand notice dated 09.04.2025 under Rule 7(1) of the Personal Guarantor Rules, 2019, calling upon the Personal Guarantor to repay the outstanding dues.

6.5.2. The said demand notice was served through registered post that was duly delivered on 16.04.2025, through email dated 15.05.2025 to the email address of the Corporate Debtor company, and through publication in two local leading newspapers on 22.05.2025.

6.5.3. Additionally, a copy of the Section 95 Application was served upon the Corporate Debtor from advnmdeka@gmail.com to lohitconstruction@gmail.com on 31.03.2026. Service through multiple modes including registered post (which was delivered), email, and newspaper publication constitutes complete and valid service under the Rules.

6.5.4. It is submitted that despite service of the Demand Notice through multiple modes, the Personal Guarantor failed to repay any amount within the statutory period of 14 days. The Personal Guarantor did not dispute the debt within the prescribed period either. Rather, his legal counsel responded only after the RP's communication dated 18.04.2026, raising legal objections without producing any proof of repayment.

6.5.5. It was submitted that the question of adequacy of service of demand notice is a matter to be examined by the Hon'ble Adjudicating Authority on merit and cannot be conclusively decided by the RP at this stage. The RP has noted in his Section 99 Report that service is subject to examination by the Adjudicating Authority. However, on the material available, the service has been demonstrated though delivery of registered post, email, and newspaper publication.

6.5.6. The Personal Guarantor has failed to discharge the primary statutory obligation cast upon him under Section 99(2) of the Code, namely, to prove repayment of the debt claimed as unpaid by the Financial Creditor. Instead of providing evidence of repayment—such as evidence of electronic transfer, encashment of cheques, or signed acknowledgement of receipt of funds by the creditor—the Personal Guarantor has chosen to raise technical and legal objections, all of which are matters of adjudication falling within the exclusive jurisdiction of this Hon'ble Adjudicating Authority under Section 100 of the Code.

6.5.7. It is submitted that the allegation of bias levelled against the Resolution Professional is wholly unfounded, scandalous, and unsupported by any material whatsoever. The RP is a statutory functionary appointed by this Hon'ble Tribunal under Section 97 of the Code and is bound by the Code of Conduct prescribed under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016. The RP has acted strictly within the scope of his statutory mandate under Section 99 of the Code by examining the application, calling upon the debtor to prove repayment, and submitting his Report to this Hon'ble Tribunal. The RP's recommendation is based entirely on documentary evidence placed before him and in accordance with settled law. The allegation of bias is a last-ditch attempt by the Personal Guarantor to deflect attention from his inability to produce any evidence of repayment of the outstanding debt.

6.5.8. The objections raised by the Personal Guarantor are matters of merit and adjudication which fall squarely within the jurisdiction of this Hon'ble Adjudicating Authority and cannot be determined by the RP in the Section 99 Report proceedings.

6.5.9. The objections raised by the Personal Guarantor are not eligible for the Fresh Start Process under Part-III Chapter II of the Code under Section 80 of the Code, as the total outstanding dues far exceed the threshold prescribed under the Code.

6.5.10. This Hon'ble Tribunal has jurisdiction to adjudicate the instant Application, as the Corporate Debtor, M/s Lohit Construction Pvt. Ltd. has its registered office at Guwahati, Assam, and the Personal Guarantor is also a resident of Assam.

7. Convenience note filed by Financial Creditor dated 23.06.2026:

7.1. Corporate Debtor's loan account was classified as NPA on 29.11.2011. Consequently, recovery proceedings initiated before DRT, Guwahati in O.A. No. 03/2012.

7.2. The borrower and guarantors entered a compromise settlement amidst DRT proceedings which was accepted by the DRT vide order dated 18.05.2018, wherein liability towards the Financial Creditor was unequivocally admitted and acknowledged.

7.3. Despite the compromise, borrower and guarantors defaulted and repeatedly sought extensions *vide* Letter dated 25.06.2020 and Letter dated 07.11.2022 which particularly acknowledged outstanding liability and sought time up to May 2024 for liquidation of dues.

7.4. These communications, along with the DRT compromise, constitute valid acknowledgments of liability under Section 18, Limitation Act, 1963, giving rise to fresh periods of limitation. The debt was never disputed but only repeatedly admitted. Cause of action against Personal Guarantor remained alive at least until expiry of extended repayment period, i.e., May 2024 as per the letter dated 07.11.2022.

7.5. Present Petition was filed on 31.03.2026 is thus contended to be within limitation.

7.6. Recovery Certificate dated 07.06.2018 remains under execution in R.C. No. 3009/2018. The recovery proceedings are still pending and have not culminated in satisfaction, thus, demonstrating debt remains due, payable, and enforceable.

7.7. Proceedings under the Code are governed by Article 137, Limitation Act, 1963 and valid acknowledgments of liability extend limitation. Thus, the compromise before the DRT Guwahati, the extension requests and the acknowledgment in letter dated 07.11.2022 collectively kept the debt alive and enforceable.

7.8. As on 20.01.2025, amount of Rs. 1,41,15,28,508.09 claimed as due and payable to Financial Creditor. Debt, default, guarantee obligations, and continuing acknowledgments were asserted to be established from records.

8. Convenience Note dated 22.07.2026 filed by Personal Guarantor in response to Financial Creditor's convenience note:

8.1. Personal Guarantor contends the Petition is jurisdictionally, statutorily, and factually defective, warranting dismissal in limine.

8.2. Financial Creditor argued invocation of guarantee is not a sine qua non. Personal Guarantor disputes this, asserting the guarantee is "on demand," making invocation mandatory. If invocation is absent, no "default" under Section 3(12) of the Code can be said to have occurred. Reliance is placed on ***State Bank of India v. Deepak Kumar Singhania****, Comp. Appeal (AT)(Ins) No. 191/202*5, and ***Amit Kumar Kejriwal v. UCO Bank & Anr.,*** *Comp. Appeal (AT)(Ins) No. 1775/2024.*

8.3. Account declared NPA on 29.11.2011 but DRT compromise accepted on 18.05.2018.

8.4. Financial Creditor relies on letter dated 07.11.2022 to claim cause of action survived till May 2024 but this was contested on grounds that:

8.4.1. It was executed by M/s Lohit Construction Pvt. Ltd., a third party but not the Personal Guarantor. An acknowledgment under Section 18, Limitation Act, 1963 by a third party cannot extend limitation against the guarantor as it is a separate and independent contract.

8.4.2. Even if treated as acknowledgment, extended limitation would run from three years since date of acknowledgement, that is, only till 06.11.2025.The petition filed 31.03.2026 is beyond this period.

8.4.3. The Financial Creditor's that cause of action survived until May 2024 is misconceived. A repayment proposal does not create fresh cause of action or a fresh period of limitation. The default occurred on 29.11.2011 when the account was declared NPA. The DRT Compromise was in 2018, after which, there was no acknowledgment by Personal Guarantor, making the debt hopelessly barred by limitation. Reliance on ***Laxmi Pat Surana v. Union Bank of India**, (2021) 8 SCC 481* to support that Section 7 application beyond 3 years from NPA date is time-barred and that right to sue accrues on date of default.

8.5. RP's report dated 27.04.2026 alleged to be vitiated on the following grounds:

8.5.1. It failed to consider jurisdictional bar from pendency of prior application CP (IB)/11/GB/2025 and interim moratorium under Section 96 IBC.

8.5.2. It did not address objections raised in reply dated 22.04.2026, contrary to the RP's statutory duty under Section 99 of the Code. He was required to examine the objections and submit a report that fairly and independently addresses them. He failed to do so, rendering the report one-sided and biased.

8.5.3. It failed to verify proper service of demand notice under Section 95(4) (b) of the Code.

8.5.4. It is remised on maintainability of second application despite pendency of first case under Section 95.

8.6. The Financial Creditor claims Rs. 1,41,15,28,508.09 as on 20.01.2025 which is alleged to be exaggerated and unsupported by any credible evidence. The DRT compromise was for Rs. 12,65,00,000. Furthermore, the NCLT liquidation order in CP (IB)/14/GB/2021 admitted a lesser claim amount from UCO Bank. The escalation to Rs. 141+ crores is unexplained and lacks reconciliation. The claim not properly linked against specific guarantees with regard to liability, invocation date, and amount under each guarantee not pleaded with specificity.

8.7. Lastly, Section 95(4)(b) of the Code requires demand notice to be served at least 14 days prior to filing. It is asserted no proper demand notice was served. No proof of service placed on record by Financial Creditor. But the RP's report is silent on this issue as well. Non-compliance with this provision renders the Petition non-maintainable.

9. Heard the submissions made by the Learned Counsel for the parties and perused the records.

FINDINGS AND ANALYSIS

10. The principal issue that arises for determination in the present Company Petition is whether CP(IB)/24/GB/2026 is maintainable in law, having regard to the pendency of the earlier application, CP(IB)/11/GB/2025, filed by the very same Financial Creditor against the very same Personal Guarantor, and the interim moratorium said to arise therefrom under Section 96 of the Code

Maintainability of the Petition

11. It is not in dispute that CP(IB)/11/GB/2025, filed by UCO Bank against the very same Personal Guarantor, Mr. Satyawan Sarma, in his capacity as personal guarantor to a different corporate debtor, M/s Berial Engineers Pvt. Ltd., was filed prior in point of time and, on the Financial Creditor's own admission, remained pending for adjudication as on 31.03.2026, being the date on which the present Petition, CP(IB)/24/GB/2026, came to be filed. It is also not in dispute that a Resolution Professional was appointed in CP(IB)/11/GB/2025 by order dated 26.08.2025 and that his Report under Section 99 was taken on record by order dated 29.10.2025, without the Petition itself having been either admitted or rejected under Section 100 of the Code.

12. Section 96(1) of the Code provides that an interim moratorium commences on the date of filing of an application under Section 94 or Section 95, as the case may be, and ceases to have effect on the date of admission or rejection of such application. During the subsistence of the interim moratorium, Section 96(1)(b)(i) deems any pending legal

action or proceeding in respect of "any debt" to be stayed, and Section 96(1)(b)(ii) prohibits the creditors of the debtor from initiating "any legal action or proceedings in respect of any debt". The Financial Creditor and the Resolution Professional have sought to read down this bar by contending that Section 96 operates only qua the debt which is the subject matter of the first application, and cannot extend to an independent debt owed to a different corporate debtor.

13. This Tribunal is unable to accept the aforesaid construction. The expression employed by the Legislature in Section 96(1)(b) is "any debt" and not "the debt" or "the debt in relation to which the application under Section 95 has been filed". Had the Legislature intended to confine the protection of the interim moratorium to the specific debt forming the subject matter of the first application, it would have said so in express terms, as it has done elsewhere in the Code where a debt-specific or creditor-specific moratorium is intended. The deliberate use of the unqualified expression "any debt" indicates that the interim moratorium under Section 96 is debtor-centric in character, i.e., it is intended to protect the person of the personal guarantor, once he becomes the subject of insolvency proceedings, from being simultaneously subjected to multiple, parallel applications under Section 95 at the instance of different creditors, or indeed the same creditor, in respect of different debts, during the pendency of the first such application. This construction is consistent with the scheme of Part III of the Code, which, unlike the corporate insolvency resolution process, is designed around the person of the individual debtor rather than around a specific debt or a specific creditor relationship

14. It follows that the pendency of CP (IB)/11/GB/2025 as on 31.03.2026 operated as a complete bar to the institution of any further application under Section 95 of the Code against the Personal Guarantor, Mr. Satyawan Sarma, including the present Petition, CP (IB)/24/GB/2026, regardless of the fact that the debt forming the subject matter of the present Petition arises out of a different corporate debtor and a different set of guarantees. The Financial Creditor, being fully aware of the pendency of CP (IB)/11/GB/2025 and having itself instituted the same, was under a duty of candor to disclose this fact to this Tribunal at the time of filing the present Petition. It failed to do so. This omission, whether attributable to inadvertence or otherwise, resulted in this Tribunal passing the order dated 13.04.2026 appointing Mr. Amit Pareek as

Resolution Professional in CP(IB)/24/GB/2026 without the benefit of this material fact.

15. The submission advanced on behalf of the Resolution Professional and the Financial Creditor, that the question of maintainability under Section 96 is a matter falling exclusively within the adjudicatory domain of this Tribunal at the stage of Section 100 and cannot be a ground for the Resolution Professional to decline examination of the Application under Section 99, may be accepted as a correct statement of the limited scope of the Resolution Professional's function. However, that submission does not answer, and cannot answer, the distinct question now before this Tribunal at the Section 100 stage, namely, whether the Petition itself was competent to be filed and entertained in the first instance. The Resolution Professional's Report dated 27.04.2026, having proceeded on the erroneous premise that the second application was maintainable without so much as adverting to the jurisdictional bar flowing from the pendency of CP(IB)/11/GB/2025, cannot be acted upon by this Tribunal for the purpose of admission of the present Petition.

16. For the foregoing reasons, this Tribunal holds that CP(IB)/24/GB/2026 was not maintainable on the date of its institution, having been filed during the subsistence of the interim moratorium under Section 96 of the Code triggered by the pendency of CP(IB)/11/GB/2025. Consequently, the order dated 13.04.2026 appointing Mr. Amit Pareek as Resolution Professional in CP (IB)/24/GB/2026, and all proceedings consequent thereto, including the Report of the Resolution Professional dated 27.04.2026 recommending admission of the Petition, are rendered non-est and are liable to be set aside.

17. In light of the above observation, CP (IB)/24/GB/2026 is liable to be dismissed. Consequently, it follows that the order dated 13.04.2026 appointing the Resolution Professional in CP(IB)/24/GB/2026, and all resultant proceedings including the Report dated 27.04.2026, cannot survive and are liable to be set aside.

ORDER

1. In view of the foregoing observations, **IA (IBC)/79/GB/2026** filed by the Personal Guarantor under Section 60(5) of the Code stands **ALLOWED** to the extent indicated above.

2. Consequently**, CP (IB)/24/GB/2026** filed by the Financial Creditor under Section 95 of the Insolvency and Bankruptcy Code, 2016 is hereby **REJECTED** under Section 100 of the Code and **DISPOSED OFF** accordingly. Thereby, **IA (IBC)/73/GB/2026** has been **DISPOSED OFF** in terms of above.
3. The order dated 13.04.2026 appointing Mr. Amit Pareek as Resolution Professional in CP(IB)/24/GB/2026, and all proceedings taken consequent thereto, including the Report of the Resolution Professional dated 27.04.2026, are declared non-est and are set aside.
4. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
5. Certified Copy of this order may be issued, if applied for, upon compliance with all requisite formalities.
6. File be consigned to records

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)

Signed this on 14th day of August, 2026

Madona Barman (L.R.A.)