IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.315 - C.P.(IB)/295(AHM)2024
With
ITEM No.316 - IA/1697(AHM)2024

Under Section 95 of IB Code 2016

IN THE MATTER OF:

State Bank of India ....**Applicant**
V/s
Mr. Suresh N. Bhatnagar ....**Respondent**

Order delivered on: 12/08/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

C O M M O N O R D E R
(Hybrid Mode)

The case is fixed for pronouncement of order. The common order is pronounced in the open court, vide separate sheet.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I, AHMEDABAD**

**CP (IB) No.295/95/AHM/2024
with
IA/1697(AHM)2024**

(Company Petition under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 r. w. Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019)

In the matter of: Suresh N. Bhatnagar

State Bank of India
Stressed Assets Management Branch,
2nd Floor, Param Siddhi Complex,
Opp. V. S. Hospital, Ashram Road,
Ellisbridge, Ahmedabad, Gujarat – 380006.

... **Petitioner/Financial Creditor**

VERSUS

Suresh N. Bhatnagar
Adult, Male, Residing at: 6,
Green Park, Nizampura,
Vadodara, Gujarat – 390002

...**Respondent/Personal Guarantor**

WITH

IA/1697(AHM)2024

Chandra Prakash Jain,
Interim Resolution Professional of
Mr. Suresh N. Bhatnagar (

Personal Guarantor to
Diamond Power Infrastructure Limited
Having address at:
D/501, Ganesh Meridian,
Opposite, High Court of Gujarat,
SG Road, Ahmedabad-380060
E: jain_cp@yahoo.com

...Applicant/ Resolution Professional

Order pronounced on 12.08.2026

C O R A M:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E:

For the Financial Creditor/ SBI	: Mr. Nikunt Raval, Advocate
For the Applicant/RP	: Mr. Ravi Pahwa, Advocate a. w.
	: Ms. Gunjan Aggarwal, Adv.
For the Respondent/PG	: Mr. Kunal Vaishnav, Advocate

O R D E R
***Per:* Bench**

1. This Company Petition has been filed on 14.09.2024 by the Petitioner/Financial Creditor under Section 95(1) 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, seeking initiation of Insolvency Resolution Process against the Respondent/Personal Guarantor to the Corporate Debtor, namely **Diamond Power Infrastructure Limited**, for a default amount of **Rs.566,44,63,865.80ps.** as on 31.07.2024, along with future interest at 14.25% per annum plus penal interest at 2% simple, in respect of the Deed of Guarantee dated 18.06.2015 executed by the Respondent in favour of the Petitioner/Financial Creditor. The Petition records the date on which the debt became due as 24.10.2019 and the date of default as 24.12.2019.

2. The Financial Creditor has placed the facts through this Petition in the following manner: –

2.1 The Corporate Debtor, namely Diamond Power Infrastructure Limited, bearing CIN L31300GJ1992PLC0181983, having its registered office at Phase II, Village Vadodara, Ta. Savli, Dist. Vadodara, Gujarat – 391520, was engaged in the business of manufacturing power and speciality cables, extra high voltage cables and providing services including turnkey design, erection and commissioning of transmission and distribution lines. The Corporate Debtor had approached the Petitioner/Financial Creditor, i.e. State

Bank of India (erstwhile State Bank of Mysore and State Bank of Hyderabad), for grant of various credit facilities.

2.2 The Petition states that the credit facilities comprised Cash Credit Limits of Rs. 84.10 Crores with sub-limits, letter of credit limits of Rs. 93.84 Crores and Term Loan/WCTL facilities of Rs. 95.95 Crores, aggregating to Rs. 273.89 Crores.

2.3 The Mr. Suresh N. Bhatnagar, executed the Deed of Guarantee dated 18.06.2015 in favour of the Financial Creditor for securing the liabilities of the Corporate Debtor, to the extent and in the manner stipulated therein. The Respondent was also a Director on the Board of Directors of the Corporate Debtor.

2.4 The liability of the Respondent as Personal Guarantor is therefore required to be examined with reference to the terms and conditions of the said Deed of Guarantee and the liability of the Corporate Debtor adjudicated by the competent forum.

2.5 The Financial Creditor classified the account of the Corporate Debtor as NPA on 01.01.2015. Thereafter, the Financial Creditor issued a notice under Section 13(2) of the SARFAESI Act, 2002 on 26.07.2018 and instituted O.A. No. 845 of 2018 before the Debts Recovery Tribunal-II, Ahmedabad. The DRT-II, Ahmedabad ultimately passed an order on 24.10.2019, and a Recovery Certificate was issued on the same date. The

Petition relies upon the said order and Recovery Certificate as documents establishing the debt and liability.

2.6 The Corporate Debtor was admitted into Corporate Insolvency Resolution Process under Section 7 of the Code vide order dated 24.08.2018 passed by this Tribunal in C.P. (IB) No. 137 of 2018.

2.7 Thereafter, the Financial Creditor issued a demand notice in Form B dated 05.08.2024 to the Respondent/Personal Guarantor, demanding payment of Rs. 566,44,63,865.80ps. as on 31.07.2024, together with future interest and other applicable charges. The demand notice was received by the Respondent on 08.08.2024. The Respondent raised objections to the demand notice vide reply dated 12.08.2024.

2.8 The Financial Creditor has relied upon, inter alia, the sanction letters dated 27.01.2017 and 03.02.2017, the Deed of Guarantee dated 18.06.2015, the order dated 24.10.2019 passed by DRT-II, Ahmedabad in O.A. No. 845 of 2018, the statement of account, the Recovery Certificate dated 24.10.2019, the order dated 24.08.2018 passed by the NCLT, Ahmedabad Bench in C.P. (IB) No. 137 of 2018, and the Record of Default maintained with National E-Governance Services Limited (NeSL).

3. On presentation of the Company Petitions, this Adjudicating Authority, vide order dated 04.10.2024 appointed Mr. Chandra Prakash Jain, having IBBI Registration No. IBBI/IPA-001/IP-P00147/2017-18/10311 as the Resolution Professional under Section 97(3) of the Insolvency and Bankruptcy Code, 2016 to examine the applications and submit his Report under Section 99 of the Code within the prescribed period. The Resolution Professional was also directed to file the Report through separate Interlocutory Application.

4. In compliance with the aforesaid order, the Resolution Professional submitted his Report under Section 99 of the Insolvency and Bankruptcy Code, 2016 through I.A. No.1697(AHM)2024, filed on 24.10.2024, recommending admission of the application under Section 95 of the Code.

5. Pursuant to issuance of notice and after service thereof, the Respondent/Personal Guarantor entered appearance and filed his Reply to the Company Petition as well as to the Report submitted under Section 99 of the Code through E-mode on 19.12.2024, denying the averments made in the

Company Petition and the Report. His principal contentions are summarized hereunder: -

5.1 The The Respondent/Personal Guarantor submits that, before submission of the Report under Section 99, no adequate communication was made to him for obtaining the relevant particulars. He further submits that the Petition refers to the Deed of Guarantee dated 18.06.2015 and the classification of the account as NPA on 01.01.2015, but does not establish any subsequent act or document signed by him acknowledging the liability after the alleged default.

5.2 The Respondent disputes the recommendation made by the Resolution Professional and submits that the Report substantially reproduces the case of the Financial Creditor without demonstrating adequate examination of the documents and evidence. He further disputes the quantum claimed from him and submits that the amounts received or receivable by the Financial Creditor pursuant to the resolution of the Corporate Debtor have not been properly accounted for.

5.3 The Respondent submits that the Corporate Debtor, Diamond Power Infrastructure Limited, was admitted into Corporate Insolvency Resolution Process on 24.08.2018 and that the Financial Creditor had submitted its claim in the said proceedings. He relies upon the communication dated 01.10.2022 issued by the Financial Creditor in relation to the approved Resolution Plan, including the cash payment and conversion of the residual amount into unsecured redeemable bonds.

5.4 It is submitted that the admitted claim of the Financial Creditor in the Corporate Debtor's resolution process was Rs.1,97,70,22,635.97, against which cash payments of Rs.23,24,07,722.09 were made and unsecured redeemable bonds were issued to the Financial Creditor. The Respondent relies upon the bond certificate evidencing issuance of 17,444,822 unsecured redeemable bonds and submits that, upon receipt of the consideration under the Resolution Plan, no further liability survives against him under the Deed of Guarantee.

5.5 Without prejudice to the aforesaid submissions, the Respondent relies upon the judgment of the Hon'ble National Company Law Appellate Tribunal in Amit Bhatnagar & Anr. v. UCO Bank & Ors., Comp. App. (AT) (Ins.) Nos.2038 & 2039 of 2024, and submits that the issues concerning limitation and the effect of the resolution process upon the liability of the Personal Guarantor require consideration before the present application can be admitted.

5.6 The Respondent further contends that the present application is barred by limitation. He relies upon the order of the DRT-II, Ahmedabad dated 24.10.2019, the

Recovery Certificate issued on the same date, the date of filing of the present application and the applicable period of limitation. He submits that there is no acknowledgment of liability within the meaning of Section 18 of the Limitation Act, 1963 so as to extend the period of limitation.

5.7 The Respondent submits that, after the Financial Creditor received the amounts payable to it under the approved Resolution Plan and accepted conversion of the residual debt into unsecured redeemable bonds, the underlying debt stood dealt with under the resolution process of the Corporate Debtor and the Financial Creditor cannot seek recovery of the same debt again from the Personal Guarantor.

5.8 On the aforesaid grounds, the Respondent seeks rejection of the application under Section 95 of the Code and submits that no amount remains legally recoverable from him as Personal Guarantor and, in any event, the application is barred by limitation.

6. The Petitioner/Financial Creditor filed its Counter Reply to the Reply of the Respondent/Personal Guarantor on 20.01.2025 vide Inward No. D-311. Its principal contentions are summarized hereunder: -

6.1 It is submitted that the Personal Guarantor was duly served with an advance copy of the Petition vide email dated 14.09.2024, annexed with the Petition, and that the Personal Guarantor appeared before this Adjudicating Authority when the matter was first listed for hearing.

6.2 It is submitted that the Corporate Debtor had executed the Master Restructuring Agreement dated 29.05.2015 containing provisions relating to the guarantee and that the Personal Guarantor was a party thereto in his capacity as Guarantor. A copy thereof has been placed on record as Annexure-R/1.

6.3 It is submitted that the Financial Creditor had instituted O.A. No.845 of 2018 before the DRT-II, Ahmedabad against the Corporate Debtor and the concerned Personal Guarantors. The said O.A. was allowed vide order dated 24.10.2019 and the Recovery Certificate was issued on the same date. The Financial Creditor relies upon the said adjudication and Recovery Certificate in support of the debt and liability of the Respondent.

6.4 It is further submitted that the Financial Creditor has not received the entire amount of the debt pursuant to the Resolution Plan of the Corporate Debtor. The amounts actually received pursuant to the approved Resolution Plan have been taken into account while computing the amount claimed from the Personal Guarantor. The Financial Creditor therefore disputes the contention that its claim is either extinguished or inflated.

6.5 It is submitted that the interim order passed by the Hon'ble NCLAT on 06.11.2024 did not stay the present proceedings or discharge the liability of the Personal Guarantor. The subsequent final judgment relied upon by the parties is therefore required to be considered for the legal position governing the effect of the Resolution Plan and the limitation objection.

6.6 On limitation, the Financial Creditor submits that the DRT adjudication and Recovery Certificate dated 24.10.2019 crystallised the liability and that the period directed to be excluded by the Hon'ble Supreme Court in Re: Cognizance for Extension of Limitation, Suo Motu W.P.(C) No.3 of 2020 is required to be excluded while computing the limitation applicable to the present proceedings. It is therefore submitted that the application filed on 14.09.2024 is within limitation.

6.7 The Financial Creditor accordingly submits that the application under Section 95 of the Code deserves to be admitted and the Insolvency Resolution Process of the Personal Guarantor be commenced in accordance with Section 100 of the Code.

7. The Applicant/Resolution Professional filed rejoinder to the Reply of the Personal Guarantor on 06.02.2025 vide Inward No. D-764. The principal submissions are summarised hereunder: -

7.1 The Resolution Professional submits that he examined the material placed on record, including the loan and sanction documents, the Deed of Guarantee executed by the Personal Guarantor, the demand notice issued by the Financial Creditor, the order dated 24.10.2019 passed by the DRT-II, Ahmedabad and the Recovery Certificate issued pursuant thereto.

7.2 It is submitted that the liability of the Personal Guarantor is governed by the terms of the Deed of Guarantee and that the resolution of the Corporate Debtor does not, by itself, constitute a release of the Personal Guarantor. It is further submitted that the amounts realised by the Financial Creditor under the Resolution Plan are required to be credited while determining the amount legally recoverable from the Personal Guarantor.

7.3 It is therefore submitted that the application under Section 95 satisfies the statutory requirements and deserves to be admitted under Section 100 of the Code.

8. We have heard the learned Counsel appearing for the Financial Creditor, the learned Counsel appearing for the Resolution Professional and the learned Counsel appearing for the Personal Guarantor. We have carefully considered the pleadings, documents, Report under Section 99 of the Code, Affidavits, Rejoinder and the submissions advanced by the respective parties.

9. The Financial Creditor relies upon the Deed of Guarantee dated 18.06.2015, the order dated 24.10.2019 passed by the DRT-II, Ahmedabad in O.A. No.845 of 2018, the Recovery Certificate issued pursuant thereto, the Form-B demand notice dated 05.08.2024, the statement of account and the Record of Default maintained with NeSL. The Resolution Professional, after considering the material placed before him, has recommended admission of the application under Section 100 of the Code.

10. The contention of the Personal Guarantor that the Resolution Professional mechanically reproduced the application of the Financial Creditor is not borne out from the record. The Section 99 Report records consideration of the application and the documents annexed thereto, and the material placed by the Personal Guarantor. The record further shows that the Resolution Professional sought information and supporting documents from the Personal Guarantor vide communication dated 08.10.2024. The statutory process under Section 99 has therefore been complied with and the objection raised on this count does not warrant rejection of the Report.

11. The Deed of Guarantee dated 18.06.2015, placed on record as Annexure-C to the Section 99 Report, constitutes the contractual foundation of the liability of the Respondent. The order dated 24.10.2019 passed by the DRT-II, Ahmedabad in O.A. No.845 of 2018 and the Recovery Certificate issued on the same date constitute material evidence concerning the adjudicated liability. The Respondent having been impleaded in the said proceedings, the said adjudication is relevant for determining the existence and extent of the liability claimed against him.

12. The Respondent principally contends that the liability stood discharged pursuant to the Resolution Plan approved in the Corporate Insolvency Resolution Process of Diamond Power Infrastructure Limited. The Respondent relies upon the communication dated 01.10.2022 issued by the Financial Creditor, the admitted claim of Rs.1,97,70,22,635.97, the cash payments of Rs.23,24,07,722.09 and the issuance of unsecured redeemable bonds in favour of the Financial

Creditor. The Financial Creditor, on the other hand, submits that the consideration received under the Resolution Plan has been taken into account and that the balance liability of the Personal Guarantor survives.

13. The law relating to the effect of approval of a resolution plan upon the liability of a Personal Guarantor is no longer res integra. In ***Lalit Kumar Jain v. Union of India & Ors.***, (2021) 9 SCC 321; 2021 SCC OnLine SC 396, the Hon'ble Supreme Court held that approval of a resolution plan in respect of the Corporate Debtor does not ipso facto discharge the Personal Guarantor from the guarantee liability. The liability of the Personal Guarantor, however, remains subject to the terms of the Deed of Guarantee and the amount legally due after giving credit for amounts actually realised by the creditor.

14. We have also considered the judgment of the Hon'ble NCLAT in ***Amit Bhatnagar & Anr. v. UCO Bank & Ors.***, Comp. App. (AT) (Ins.) Nos.2038 & 2039 of 2024, decided on 12.05.2026. The factual matrix of the said decision is distinguishable to the extent that the guarantees and the relationship between the concerned Corporate Debtors and the guarantors therein were materially different. Nevertheless, the said decision is relevant to the extent it reiterates that the effect of a resolution process upon the liability of a guarantor has to be examined with reference to the nature of the guarantee, the underlying debt, the amounts actually realised and the terms of the resolution plan.

15. The principle emerging from the aforesaid decisions is that the liability of a co-obligant or guarantor is not automatically extinguished merely because the creditor has received an amount under a resolution plan. At the same time, the creditor cannot recover an amount in excess of the debt legally due, and every amount actually realised towards the same underlying debt must necessarily be given due credit. The present proceedings therefore have to proceed on the basis of the legally recoverable balance after accounting for the amounts actually realised by the Financial Creditor.

16. The Respondent's reliance upon the interim order dated 06.11.2024 passed by the Hon'ble NCLAT in *Amit Bhatnagar & Anr. v. UCO Bank & Ors.* does not, by itself, establish either discharge of the present Personal Guarantor or a stay against the present proceedings. The final decision of the Hon'ble NCLAT dated 12.05.2026 is required to be considered for the principles finally determined therein. The interim order, therefore, cannot be treated as constituting a final adjudication of the Respondent's defence in the present proceedings.

17. The Respondent further relies upon the communication dated 01.10.2022 issued by the Financial Creditor in relation to the Debt Conversion Notice and the issuance of unsecured redeemable bonds. On consideration of the said document, we find that it does not expressly record release, discharge or exoneration of the Respondent from the Deed of Guarantee dated 18.06.2015. The mere acceptance of consideration under the Resolution Plan, therefore, cannot by itself be construed as an express contractual release of the Personal Guarantor.

18. However, the fact that the Personal Guarantor is not ipso facto discharged does not authorise the Financial Creditor to recover the same debt twice. The record indicates cash payment of Rs.23,24,07,722.09 and issuance of 17,444,822 unsecured redeemable bonds of Rs.100 each to the Financial Creditor pursuant to the Resolution Plan. The actual realisation, if any, from the said bonds and other consideration received under the Resolution Plan shall necessarily be accounted for while determining the amount legally recoverable in the present process. The admission of the present application shall therefore not be construed as an adjudication permitting recovery of any amount already finally realised by the Financial Creditor.

19. The objection regarding limitation also requires consideration. The present application was filed on 14.09.2024. The DRT-II, Ahmedabad adjudicated O.A. No.845 of 2018 on 24.10.2019 and the Recovery Certificate was issued on the same date. The Respondent was a party to the said proceedings. The question therefore is whether, having regard to the adjudication and the period excluded pursuant to the orders passed by the Hon'ble Supreme Court in ***Re: Cognizance for Extension of Limitation, Suo Motu***, W.P.(C) No.3 of 2020, the application filed on 14.09.2024 is within the applicable period of limitation.

20. The Hon'ble Supreme Court, in ***Re: Cognizance for Extension of Limitation***, directed exclusion of the period from 15.03.2020 to 28.02.2022 for the purposes of limitation in judicial and quasi-judicial proceedings, subject to the terms of the orders passed therein. The said period is therefore required to be excluded while computing the limitation applicable to the present proceedings. On consideration of the date of the DRT adjudication, the Recovery Certificate, the exclusion directed by the Hon'ble Supreme Court and the date of filing of the present application, we are unable to hold that the present application is ex facie barred by limitation.

21. We have considered the Deed of Guarantee dated 18.06.2015, the DRT order dated 24.10.2019, the Recovery Certificate, the Form-B demand notice dated 05.08.2024, the statement of account, the material relating to the Resolution Plan and the Report submitted under Section 99 of the Code. On consideration of the entire record, we are satisfied, for the purposes of Section 100 of the Code, that the application discloses an underlying debt, liability of the Respondent under the Deed of Guarantee and occurrence of default. The defence based upon the Resolution Plan does not establish an express release of the Personal Guarantor, while the limitation objection also fails in view of the adjudication by the DRT and the applicable exclusion directed by the Hon'ble Supreme Court. The amount ultimately recoverable, however, shall necessarily be determined after giving due credit for all amounts actually realised by the Financial Creditor.

22. Accordingly, **CP (IB) No.295/95/AHM/2024** filed under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 filed against the Personal Guarantor, **Mr. Suresh N. Bhatnagar,** is hereby **admitted under Section 100 of the Code**, and the Insolvency Resolution Process against the Personal Guarantor shall commence from the date of this order.

23. Upon admission of the application, **Mr. Mohit Chawla**, having Reg. No. IBBI/IPA-001/IP-P00524/2017-2018/10949, E-mail: **camohitchawla@gmail.com,** is appointed as the Resolution Professional to conduct the Insolvency Resolution Process of the Personal Guarantor and to discharge the functions prescribed under Part III of the Code and the applicable Regulations, subject to his eligibility and consent as required under the Code and the applicable Regulations.

24. In terms of Section 101 of the Code, moratorium shall commence from the date of this order and shall continue for a period of 180 days or until an order approving or rejecting the repayment plan is passed under Section 114 of the Code, whichever is earlier. During the period of moratorium, the consequences and restrictions specified under Section 101 of the Code shall operate in respect of the Personal Guarantor.

25. The Resolution Professional shall cause the public notice contemplated under Section 102 of the Code to be issued within seven days from the date of this order in the prescribed manner and in the applicable form, inviting claims from the creditors within the period prescribed under the Code and the applicable Regulations. Thereafter, the Resolution Professional shall prepare the list of creditors in accordance with Section 104 of the Code and the applicable Regulations.

26. The Resolution Professional shall, while verifying and admitting the claim of the Financial Creditor, take into account the terms of the Deed of Guarantee, the adjudicated liability, and all amounts actually realised by the Financial Creditor pursuant to the Resolution Plan of the Corporate Debtor, including cash payments, redemption or other realisation of the unsecured redeemable bonds and any other consideration received towards the same underlying debt. The process shall not result in double recovery of the same debt.

27. It is clarified that the present order determines the admission of the insolvency resolution process under Section 100 of the Code and shall not be construed as finally adjudicating the precise amount to be distributed under any repayment plan. The amount ultimately admitted and dealt with in the process shall be determined in accordance with the Code and the applicable Regulations after verification of the claims, the terms of the Deed of Guarantee and adjustment of all amounts actually realised by the Financial Creditor.

28. Consequently, **I.A. No.1697(AHM)2024**, whereby the Report under Section 99 of the Code has been placed on record, stands disposed of accordingly.

29. The Registry shall communicate a copy of this order to the Financial Creditor, the Personal Guarantor, the Corporate Debtor and the Resolution Professional forthwith and shall take further steps in accordance with Section 100(3) of the Code and the applicable provisions of law.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)
RUTVIK

SHAMMI KHAN
MEMBER (JUDICIAL)

Note: This order of the Bench consisting of Hon'ble Member (Judicial) and Hon'ble Member (Technical), is pronounced in open court on behalf of the Bench by Hon'ble Member (Judicial), under Rule 151 of the NCLT Rules, 2016

Sd/-
(Paresh Vedani)
Court Officer