

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING  
HELD ON **09.06.2026** THROUGH VIDEO CONFERENCE

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**CORAM:** HON'BLE SHRI SANJIV JAIN, MEMBER (JUDICIAL)  
HON'BLE SHRI VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

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**IN THE MATTER OF** : State Bank of India  
Vs  
Sarita Boorugu

**MAIN PETITION NUMBER** : CP(IB)/216(CHE)/2022

**(IA/MA) APPLICATION NUMBERS**

IA(IBC)/1361(CHE)2025

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**ORDER**

**CP(IB)/216(CHE)/2022  
IA(IBC)/1361(CHE)2025**

Present: None for the Petitioner  
Ms. Himangi Arora, Ld. Counsel for the Respondent / Personal  
Guarantor

Vide common order pronounced in the open Court, petition is admitted.

Insolvency proceedings are initiated against the Respondent / Personal  
Guarantor viz., Ms. Sarita Boorugu.

Mr. Sudhir GS is appointed as RP.

The report of the IRP is taken on record and the Application  
IA(IBC)/1361(CHE)2025 is disposed of.

-sd-

**[VENKATARAMAN SUBRAMANIAM]  
MEMBER (TECHNICAL)**

MS

-sd-

**[SANJIV JAIN]  
MEMBER (JUDICIAL)**

Date: 09.06.2026

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – I, CHENNAI**

**CP(IB)/216/(CHE)/2022**

*(Under Section 100 of the Insolvency and Bankruptcy Code, 2016)*

*In the matter of Mrs. Sarita Boorugu*

**State Bank of India**

Stressed Asset Management Branch

2<sup>nd</sup> Floor, LHO Campus,

#65, St Marks Road, Bengaluru – 560 001

*... Petitioner / Financial Creditor*

Versus

**Mrs. Sarita Boorugu**

W/o Mr. Prasanth Boorugu

Villa No. 85, Adarsh Palm Retreat,

Devarabeeshanalli, Outer Ring Road,

Sarjapur Road, Varthur Post,

Bangalore - 560103

*... Respondent / Personal Guarantor*

**Present:**

*For Petitioner : Mr. M.L. Ganesh, Advocate*

*For Respondent : Ms. Aakansha Nehra, Advocate*

**ALONG WITH**

**IA/(IBC)/1361/CHE/2025**

**in**

**CP(IB)/216(CHE)/2022**

*(Filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)*

**National Spot Exchange Limited,**

Represented by its Authorized Representative,

Having Registered Office at

1<sup>st</sup> Floor, Malkani Chamber,

Off: Nehru Road, Opp: Hotel Airlink, Vile Parle (East),

Mumbai-400 099

*.....Applicant*

-Versus-

1. **Mr. Pankaj Srivastava,**  
(Registration No. IBBI/IPA-001/IP-P00245/2017-2018/10474),  
Interim Resolution Professional,  
Residing at No. 58, 3<sup>rd</sup> Cross, Vinayaka Nagar,  
Hebbal, Bangalore, Karnataka-560 024

2. **Smt. Sarita Boorugu,**  
W/o. Mr. Prashanth Boorugu,  
Villa No. 85, Adarsh Palm Retreat,  
Devarabeeshanalli, Outer Ring Road,  
Sarjapur Road, Varthur Post,  
Bangalore-560 103

3. **State Bank of India,**  
Represented by its Assistant General Manager,  
Stressed Assets Management Branch,  
2<sup>nd</sup> Floor, LHO Campus,  
#65, St. Marks Road, Bengaluru-560 001

.....Respondents

**Present:**

*For Applicant* : *Shri. Hirendernath, Advocate*  
*For Personal Guarantor* : *Ms. Aakanksha Nehra, Advocate*  
*For State Bank of India* : *Shri. M.L. Ganesh, Advocate*

**CORAM**

**SANJIV JAIN, MEMBER (JUDICIAL)**  
**VENKATARAMAN SUBRAMANIAN, MEMBER (TECHNICAL)**

*Order pronounced on 9<sup>th</sup> June, 2026*

**COMMON ORDER**

*(Hearing through hybrid mode)*

1. This Application CP(IB)/216/CHE/2022 has been filed u/s. 95 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC, 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 by State Bank of India (“Financial Creditor”) for initiating insolvency resolution process against **Mrs. Sarita Boorugu** (“Personal Guarantor”) in respect of Default Amount of Rs. **157,12,74,647/-** (Rupees One Hundred Fifty-Seven Crores, Twelve Lakhs Seventy-Four Thousand Six Hundred Forty-Seven Only) as on 06.05.2022. The Date of Default, as specified in Part-III of the application is 02.05.2017. This Application has been filed on 26.05.2022.

2. **Part-I** of the application sets out the details of the Applicant / Financial Creditor. It has its registered office at Stressed Asset Management Branch, 2<sup>nd</sup> Floor, LHO Campus, #65, St. Marks Road, Bengaluru – 560 001. **Part-II** of the application sets out the details of the Personal Guarantor. The address of the Respondent is Villa No.85 Adarsh Palm Retreat, Devarabeeshanalli, Outer Ring Road, Sarjapur Road, Varthur Post, Bengaluru – 560 103. The Respondent stood as a personal guarantor in respect of the loans availed by **Mynah Industries Limited (MIL)**, the Corporate Debtor. In **Part-III** of the application, the Applicant has given the debt and default amount as Rs. 157,12,74,647/- and the date of default as 02.05.2017.

3. It is stated that the Corporate Debtor availed various credit facilities from the financial creditor for which the Respondent stood as guarantor by executing guarantee agreement dated 18.12.2009. The Deed of guarantee dated 18.12.2009 was revised by another Deed of Guarantee dated 04.05.2012 and was extended to the tune of Rs.95.0 Crores through Supplemental Deed dated 10.05.2012.

4. It is stated that, the Corporate Debtor defaulted in repaying the loan amount in terms of the loan agreements. Consequently, the loan amounts became NPA in the books of the Financial Creditor on 27.02.2015.

5. It is stated that, the Financial Creditor filed O.A. No. 1599 of 2016 before DRT-I Bengaluru and the same was renumbered as TA No. 1122 of 2017 before DRT-II Bengaluru. It is stated that the O.A. was allowed on 22.04.2017 against the Corporate Debtor, Corporate Guarantors and the Guarantors. The Debt Recovery Certificate DRC No.1812 of 2017 dated 02.05.2017 from DRT-II, Bengaluru was issued against the Corporate Debtor and the Guarantors.

6. It is stated that, the Corporate Debtor was admitted into CIRP vide order dated 26.02.2019 in C.P. No. 666/IB/2018. The resolution plan was approved by the Tribunal in MA/1394/2019 dated 28.02.2020 and the Corporate Debtor was sold as a going concern. The Financial Creditor reserved its right to enforce against the guarantors and corporate guarantors for the outstanding loan amount.

7. It is stated that, the Financial Creditor issued a mandatory demand notice in Form-B on 05.05.2022 to the guarantor. Despite receipt of the same, the guarantor did not pay the default amount.

8. It is stated that, after excluding the period from 15.03.2020 to 28.02.2022 (COVID period exclusion) as per Hon'ble Supreme Court order in *Suo Moto* WP/3/2020, this application having been filed on 26.05.2022, is within the limitation period from the issuance of Debt Recovery Certificate dated 02.05.2017.

9. The Petitioner has annexed the following documents along with the Application to support its claim;

- a. Deed of guarantee dated 18.12.2009 and supplemental deed of guarantees dated 26.07.2010, 04.05.2012 & 10.05.2012.
- b. Demand Notice under Form B dated 07.05.2022
- c. Debt Recovery Certificate dated 02.05.2017
- d. Order passed in TA No.1122 of 2017 by DRT, Bengaluru

**REPORT FILED BY THE IRP IN IA(IB)/231(CHE)/2024**

10. This Tribunal vide an order dated 20.12.2023 appointed Mr. Pankaj Srivastava (IBBI/IPA-001/IP-P00245/2017-2018/10474) as Interim Resolution Professional (IRP). Pursuant to the appointment of Mr. Pankaj Srivastava as IRP, the IRP filed the report.

11. The IRP in his Report, after due examination of the application, documents filed with the application, and the Reply filed by the Respondent, in addition to the requirements as mandated under clauses (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10) of Section 99 of the IBC, 2016, has recommended for the admission of the application filed by the Financial Creditor u/s. 95 of IBC, 2016.

**Reply filed by Respondent:**

12. It is stated that, the account of the Corporate Debtor was declared NPA on 27.02.2015. The Petitioner also invoked the deed of guarantee on 04.03.2015. Therefore, the cause of action for initiating any action, whether against the Corporate debtor or against the personal guarantors, arose on 27.02.2015, however, the applicaton

under Section 95 of the Code has been filed only in May 2022 i.e. much beyond the limitation period of three years and thus the same is barred by limitation.

13. It is stated that, in terms of Section 238A of the Code, the provisions of the Limitation Act, 1963 are applicable to all the proceedings or appeals before the Adjudicating Authority. It is settled law that Article 137 of Limitation Act, 1963 being a residual provision shall apply to such proceedings under the Code which provides the limitation of 3 years from the date of the cause of action.

14. It is stated that the COVID period is not to be excluded in the present application under Section 95(4) of the Code as the said benefit is only for the period from 23.03.2020 to 23.09.2021 as directed by the Hon'ble Supreme Court of India in Suo Motu Writ Petition (Civil) No.3 of 2020.

15. It is stated that, the report of the IRP does not mention the limitation aspect. The Hon'ble Supreme Court in the case of *Dilip B Jiwrajka v. Union of India W.P. (CJ No. 1281 of 2021)* has held that the Resolution Professional appointed under Section 97 serves a facilitative role of collating all the facts relevant to the examination of the application for the commencement of the insolvency resolution process which has been preferred under Section 94 or Section 95. The report to be submitted to the Adjudicatory Authority is recommendatory in nature on whether to accept or reject the application. It was incumbent upon the Interim Resolution Professional to collate all facts relevant to the examination of the application, which include the facts pertaining

to limitation which in turn would allow the Adjudicating Authority to properly appreciate the issues at hand. It is stated that as there is no discussion in the report/recommendation on the limitation aspect of the case, the same cannot be relied upon for the purposes of Section 99 of the Code.

16. It is stated that Section 79(1) of the Code defines Adjudicating Authority for the purpose of Part-III as the Debt Recovery Tribunal constituted under sub-section (1) of Section 3 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993. Therefore, any application under Section 95 of the Code is required to be filed before the Adjudicating Authority as defined under Section 79 of the Code. Thus, the Application filed before this Adjudicating Authority is not maintainable as the Adjudicating Authority in terms of Section 79 (1) of the Code for proceedings under Part III is the Debt Recovery Tribunal.

17. It is stated that, the part of the debt demanded from the Respondent already stood discharged on the approval of the Resolution Plan and the same cannot be sought to be discharged again from the Respondent as it would lead to dual payment of the same debt.

18. It is stated that so far as the transfer of proceedings to the National Company Law Tribunal under Section 60(3) of the Code is concerned, the same is applicable only during such period when the proceedings are pending before the National Company Law Tribunal in relation to the Corporate Debtor. However, in the present case as on date, no proceedings are pending before the National Company Law

Tribunal, Chennai Bench. Thus, any application, in respect of the Personal Guarantor to the Corporate Debtor was required to be filed before the Adjudicating Authority being Debt Recovery Tribunal, which admittedly has not been done in the present case.

**REJOINDER FILED BY PETITIONER**

19. The Petitioner has filed the rejoinder vide S.R. No.1143 dated 19.10.2024.

20. It is stated that, this application under Section 95 of IBC has been filed on 26.05.2022. The Hon'ble Supreme Court in the Suo Moto WP.No.3 of 2020, has directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation. Thus, after exclusion of COVID pandemic period, the present application is within limitation.

21. It is stated that, the part payment remitted by the SRA under the Resolution Plan, will not absolve the liability of the guarantor. In this case, the Financial Creditor has not released or relinquished its rights to enforce against the guarantors.

**Application No. IA(IBC)/1361/CHE/2025**

22. National Spot Exchange Ltd. (NSEL) has filed the IA(IBC)/1361/CHE/2025 seeking the following reliefs:

*Take on record the order dated 08.01.2024 passed by the Supreme Court Committee headed by Hon'ble Mr. Justice (Retd.) Pradeep Nandrajog and the judgment dated 15.05.2025 passed by the Hon'ble Supreme Court of India in W.P. (C) No. 995 of 2019.*

*Direct Respondent No. 1 (IRP) that properties of Respondent No.2 (Respondent herein) attached vide Gazette Notifications dated 11.04.2016, 22.06.2015, 31.03.2017 and 24.05.2018 will not form part of the asset pool in the insolvency proceedings of Respondent No.2*

*Pass such further orders or directions as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*

23. It is stated that Mynah Industries Limited had availed credit facilities from State Bank of India. Respondent No.2 stood as a Personal Guarantor. There is an outstanding debt. The DRT has passed a decree against the Corporate Debtor and the Guarantor on 22.04.2017. DRC was also issued on 02.05.2017. On the application filed u/s 95 of IBC by the State Bank of India, this Tribunal has appointed Mr. Pankaj Srivastva as the IRP. He has submitted his report u/s 99 of IBC.

24. It is stated that subsequent to initiation of insolvency proceedings against the personal guarantor, certain findings and directions have been given by the Hon'ble Supreme Court and the committee. It is submitted that the applicant provides an electronic exchange platform for trading in commodities. Respondent No.2 / Personal Guarantor was the director in the Metkore Alloys and Industries Limited. They traded in T+2 and T+15 contracts of Ferrochrome on the exchange. Respondent No.2 executed trading cum clearing membership undertaking dated 18.04.2013 inter alia accepting liability to pay the dues of the applicant out of her personal assets in case of any default. The trading on the exchange was suspended pursuant to the directions from the Department of Consumer Affairs

due to massive defaults by 24 trading members, including the Corporate Debtor, which alone defaulted to the tune of Rs.95.08 crores. The defaults led to registration of FIR dated 30.09.2013. Subsequently, provisions of MPID Act, 1999 were invoked. State of Maharashtra proceeded to attach the properties of 24 defaulters including the Corporate Debtor vide notifications dated 31.03.2018 and 24.05.2018. Respondent No.2 is also an accused in the charge sheet dated 25.12.2018 and 07.12.2021. The forensic audit report dated 21.02.2018 confirmed the liability of the Corporate Debtor.

25. It is stated that State of Maharashtra under MPID Act attached various properties of the Corporate Debtor and its promoter director including of the Respondent No.2 vide Gazette Notification dated 22.06.2015, 11.04.2016, 31.03.2017 and 24.05.2018 Annexure A1. Some investors also filed a representative suit for recovery on behalf of traders. A fact finding committee was constituted by the Hon'ble High Court which gave its report on 14.09.2018 crystallizing the liability of the Corporate Debtor. Hon'ble Supreme Court vide an order dated 04.05.2022 constituted a Supreme Court Committee for the purpose of executing the decrees, orders and arbitral awards obtained by the Applicant (NSEL) which include the order crystallizing the liability of the Corporate Debtor. The Hon'ble Supreme Court empowered the SCC to sell the properties of the judgement debtors, including those attached under PMLA or MPID Act. The Applicant (NSEL) also filed an execution against the Corporate Debtor before the SCC.

26. It is stated that in view of the directions of the Hon'ble Supreme Court, properties of Respondent No.2 attached under MPID Act stand for the execution of decrees, awards, and orders in favour of the Applicant (NSEL). The committee vide an order dated 08.01.2024 held that the properties attached under MPID Act prior to imposition of any moratorium would not form part of insolvency estate and would remain vested with the company authority under MPID Act for execution by the SCC. It is stated that the order of the committee was challenged before Hon'ble Supreme Court and the Hon'ble Supreme Court vide judgement dated 15.05.2025 upheld the order dated 08.01.2025 holding that the properties of the Judgment Debtors and Garnishees attached under the provisions of the MPID Act, would be available for the execution of the decrees against the Judgment Debtors by the S.C. Committee, despite the provision of Moratorium under Section 14 of the IBC.

27. It is stated that the applicant has already brought this to the notice of Respondent No.1/IRP. It is stated that the insolvency petition filed u/s 95 of IBC has a direct bearing on the execution proceedings before the SCC.

28. On this application, notice was directed to be served on the Respondents. The SBI filed the reply vide S.R. No.4761 dated 11.11.2025.

29. On 02.12.2025, Ld. Counsel for the Financial Creditor submitted that there is no impediment by virtue of Hon'ble Supreme Court order to proceed against the Personal Guarantor even if some of the assets of

the Personal Guarantors have been attached under the MPID Act. These proceedings are independent of the proceedings initiated by National Spot Exchange Ltd. On this, the counsel for National Spot Exchange Ltd. submitted that the Applicant (NSEL) by virtue of the application, has brought to the notice of the order of Hon'ble Supreme and has not sought any relief. There is already an attachment order in respect of the properties of the Personal Guarantor as detailed in the application. The Counsel for the Personal Guarantor submitted that the Personal Guarantor has taken measures and steps and filed the applications.

30. On 02.03.2026, the counsel for NSEL submitted that based on the Hon'ble Supreme Court order, the claims under MPID Act have priority over IBC proceedings.

31. The Guarantor filed the reply to the application vide S.R. No. 1227 dated 19.03.2026 alleging that under the guise of seeking to place on record a judgment passed by the Hon'ble Supreme Court, NSEL is seeking to indirectly initiate another round of litigation pertaining to the entitlement of different assets of the guarantor despite the said issues are pending before the Designated Court under MPID Act in case No.1 of 2014. The present case relates to admission of the application filed under Section 95 of IBC, 2016. So, the question of identifying the assets which can be used in the insolvency process or not, does not arise. Hon'ble Supreme Court in its judgment dated 15.05.2025, has held that vesting of the assets with the competent authority under Section 4 of MPID Act is subject to confirmation by the Designated Court. It is stated that a notification dated 17.03.2016

dealing with the properties of the guarantor was confirmed by the Designated Court vide order dated 19.04.2023. It was set aside by the Hon'ble High Court of Judicature at Bombay in Criminal Appeal No. 1070 of 2024 vide an order dated 07.07.2025 and the matter has remanded back to the designated court. It is stated that in that matter, the principal debtor was admitted into CIRP by the NCLT, Hyderabad vide an order dated 12.12.2018 and liquidation proceedings had commenced vide an order dated 24.12.2020. The liquidation proceedings were concluded vide an order dated 16.08.2023. It is stated that once the liquidation process was closed, all past liabilities stood extinguished hence the order of Hon'ble High Court of Judicature at Bombay in Suit No.173 of 2014 is against the provisions of the Code. It is stated that the Personal Guarantor was not the party to the suit. It is submitted that the NSEL has failed to explain its locus standi to file the application.

32. Having considered the application and the reply, we agree with the contention of the Financial Creditor as well as the Guarantor that the proceedings pending under MPID Act before the competent court are independent of the proceedings before this Tribunal in CP/216/2022 and have no bearing in the outcome of the application. Even if some of the assets/properties of the guarantor have been attached by the order of Hon'ble Supreme Court but the Respondent being the guarantor and her liability being coextensive with that of the Corporate Debtor and that in the resolution plan approved by the Tribunal, the debts of the Financial Creditor have not been fully settled, the Petitioner is entitled to maintain the application against

the guarantor by virtue of the guarantee agreement. That being the position, no order is required to be passed except taking on record the order dated 08.01.2024 passed by the Supreme Court Committee and the judgment dated 15.05.2025 passed by Hon'ble Supreme Court in W.P. No. C No.995 of 2019 which provides that the properties of the guarantor attached vide Gazette Notification dated 11.04.2016, 31.03.2017 and 24.05.2018 shall not form part of the asset pool in the insolvency proceedings against the Personal Guarantor/Respondent.

**OBSERVATIONS AND FINDINGS OF THIS TRIBUNAL:**

33. Heard the submissions made by Learned Counsels for the Applicant, Respondent and perused the report of the RP.

34. The IRP in his report has observed that the application satisfies the requirement as set out in Section 95 of IBC, 2016. He has accordingly recommended for admission of the present application.

35. It is seen from the records that, the Corporate Debtor had taken loans which it failed to pay. The Respondent stood as the personal guarantor to the loan availed by the Corporate Debtor. It is observed that the Respondent entered into an on-demand and continuous guarantee. The Respondent has not denied that the Corporate Debtor's account had become a non-performing asset. The Respondent has also not denied having executed personal guarantee in favour of the Corporate Debtor.

36. The Respondent has contended that the application is without any territorial jurisdiction. It is relevant to refer to the Hon'ble NCLAT judgment in the case of *Ankit Miglani vs State Bank of India Company Appeal (AT) (Insolvency) No.58 of 2023*, wherein it was held that, the Section 95 of IBC has to be filed only before the NCLT under whose jurisdiction the registered office of the Corporate Debtor is situated. In the present case, the registered office of the Corporate Debtor i.e., Mynah Industries Limited is situated in Tamil Nadu, thus, the present Application filed under Section 95 before this Tribunal is maintainable.

37. Section 128 of the Indian Contract Act, 1872, provides that when a default is committed, the Principal Borrower and Surety are jointly and severally liable to the Creditor and the Creditor has the right to recover its dues from either of them or from both of them simultaneously. Section 128 of the Indian Contract Act, 1872 is reproduced hereunder:

*"The liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract."*

38. The Respondent has contended that the liability of the Corporate Debtor was discharged when the Resolution Plan was approved by the Tribunal. As per the Resolution Plan, the amount proposed to be paid towards the resolution of the Corporate Debtor was Rs.10,35,00,000/-. Thus, the Respondent is absolved from any liability owed by the Corporate Debtor to the Petitioner.. Per contra, the Applicant has stated that the part payment of liability does not absolve the liability of the guarantor as the Petitioner has not released or relinquished its

rights to enforce against the guarantor. Further, the Respondent does not have any proof to show that the guarantor's liability is relinquished or released subsequent to the resolution of the Corporate Debtor.

39. In the instant case, the liability of the Corporate Debtor to pay the Financial Creditor is coextensive with that of Personal Guarantor. Thus, until all the debt and default amount is recovered, the Financial Creditor can pursue legal remedy against the Personal Guarantor. Therefore, part payment of the liability paid by the Corporate Debtor through a Resolution Plan shall not act as an hindrance to file an Application under Section 95 of IBC, 2016 against the Personal Guarantor.

40. It was held in the case of *Lalit Kumar Jain v. Union of India & Ors., (2021) ibclaw.in 61 SC* that *approval of a resolution plan does not ipso facto discharge a personal guarantor (of a corporate debtor) of her or his liabilities under the contract of guarantee. As held by this court, the release or discharge of a principal borrower from the debt owed by it to its creditor, by an involuntary process, i.e. by operation of law, or due to liquidation or insolvency proceeding, does not absolve the surety / guarantor of his or her liability, which arises out of an independent contract.* It is thus clear that release or discharge of principal borrower from debt owed to it by an involuntary process i.e. by operation of law or due to liquidation or insolvency process does not absolve the surety or guarantor of his/her liability, which arises out of an independent contract.

41. The Respondent has contended that the application has been filed beyond limitation period as the guarantee was invoked against the guarantor on 04.03.2015 and the limitation period ends within 3 years from date of invocation of guarantee agreement. Per contra, the Applicant has stated that the present application has been filed within the period of limitation as the DRT, Bangalore passed an order in TA No.1122 of 2017 against the Corporate Debtor and the Guarantors including the Respondent on 22.04.2017 and Debt Recovery Certificate was issued on 02.05.2017 against the Corporate Debtor and the guarantors.

42. With regard to limitation aspect, it is relevant to refer to the Judgment of Hon'ble Supreme Court in the case of *Dena Bank (Now Bank of Baroda) versus C. Shivakumar Reddy & Anr. (2021) 10 SCC 330*. It was held that the Judgment and/or decree for money in favour of the Financial Creditor', passed by DRT, or any other Tribunal or Court, or the issuance of a certificate of recovery in favour of the 'Financial Creditor', would give rise to a fresh cause of action for the 'Financial Creditor', to initiate proceedings under Section 7 of the Code, if the dues of the 'Corporate Debtor' under the Judgment/decree or any part thereof remained unpaid. The relevant para is reproduced as hereunder:

*"141. Moreover, a judgment and/or decree for money in favour of the financial creditor, passed by the DRT, or any other tribunal or court, or the issuance of a certificate of recovery in favour of the financial creditor, would give rise to a fresh cause of action for the financial creditor, to initiate proceedings under Section 7 IBC for initiation of the corporate insolvency resolution process, within three years from the date of the judgment and/or decree or within three years from the date of issuance of the certificate of recovery, if the dues of the corporate*

*debtor to the financial debtor, under the judgment and/or decree and/or in terms of the certificate of recovery, or any part thereof remained unpaid.”*

43. It is also relevant to refer to the Hon'ble Supreme Court judgment in the **MA.21 of 2022 in Suo Moto W.P No. 3 of 2020** where it was held that in cases where the limitation period would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. The relevant para is extracted below:

*5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:*

*i) The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.*

*ii) Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*

***iii) In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.***

*iv) It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe*

*period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.*

44. Thus, in terms of the Hon'ble Supreme Court judgment in the case of Dena Bank, *Supra*, Debt Recovery Certificate dated 02.05.2017 would give rise to a fresh cause of action to file the application. As such the limitation period of 3 years from the date of Debt Recovery Certificate would end on 02.05.2020. In terms of Hon'ble Supreme Court order in MA 21 of 2022 in WP 3 of 2020, the period between 15.03.2020 to 28.02.2022 shall be excluded and further 90 days from 01.03.2022 shall be provided. Therefore, the present application having been filed on 26.05.2022 will squarely fall within the limitation period.

45. As regards invocation of guarantee, although in the present case, the Petitioner has not placed the notice issued under Section 13(2) of the SARFAESI Act invoking the guarantee but the IRP in his report, he has attached the copy of the notice. Further, in reply dated 05.12.2024 to the notice of the IRP, she has admitted to have received the notice issued under the SARFAESI Act dated 04.03.2015.

46. In the light of the aforesaid observations, the present Application i.e. CP(IB)/216(CHE)/2022 is admitted. The Insolvency Resolution Process stands initiated against Mrs. Sarita Boorugu viz., the Respondent herein.

47. This Tribunal had appointed Shri. Pankaj Srivastava (Registration No. IBBI/IPA-001/IP-P00245/2017-2018/10474) as the IRP for his report. The Petitioner has also recommended the name of Shri. Pankaj Srivastava as RP. However, on verification in the IBBI

portal, it is found he does not valid Authorisation for Assignment (AFA). His registration has been suspended on 27.03.2026. Since no other name has been proposed, **we appoint Shri. Sudhir GS having Registration No. IBBI/IPA-001/IP-P-02744/2022-2023/14183 as Resolution Professional.** His AFA is valid till 31.12.2026.

48. We hereby direct as follows;

- I. Initiate Insolvency Resolution Process against the Respondent/Personal Guarantor. The moratorium in relation to all the debts is declared, from today i.e. date of admission of the application, and shall cease to have effect at the end of the period of 180 days, or this Tribunal passes order on the repayment plan under Section 114 whichever is earlier as provided under Sec 101 of IBC, 2016. During the moratorium period.
  - a. Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed, and
  - b. The creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt; and
  - c. The debtor shall not transfer, alienate, encumber, or dispose of any of his assets or his legal rights or beneficial interest therein:
  - d. The provisions of this section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

- II.** The Resolution Professional viz. Shri. Sudhri GS is directed to cause a public notice published on behalf of the Adjudicating Authority within 7 days of passing this Order on the website of the NCLT Chennai Bench, inviting claims from all Creditors, within 21 days of such issue The notice under Sub Section (1) of Section 102(2) shall include: -
- a. details of the order admitting the application;
  - b. particulars of the resolution professional with whom the claims are to be registered; and
  - c. the last date for submission of claims.
- III.** The publication of notice shall be made in two newspapers, one in English and other in Vernacular, which have wide circulation in the State where the Corporate Debtor and Personal Guarantor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry for the record.
- IV.** The Resolution Professional, in exercise of the powers conferred under Section 104, shall prepare a list of creditors on the basis of:
- a. the information disclosed in the application filed by the debtor under Sections 94 or 95 as the case may be, and
  - b. claims received by the Resolution Professional under Section 102 within 30 days from the date of the notice. The debtor shall prepare a repayment plan under Section 105, in consultation with the Resolution Professional, containing a proposal to the Creditors for restructuring of his debts or affairs.

The repayment plan may authorize or require the Resolution Professional to:

- a. carry on the debtor, business or trade on his behalf or in his name; or
- b. realise the assets of the debtor; or
- c. administers or dispose of any funds of the debtor.

The repayment plan shall include the following, namely;

- a. justification for preparation of such repayment plan and reasons based on which the creditors may agree upon the plan;
- b. provision for payment of fee to the Resolution Professional;
- c. such other matters as may be specified.

V. The Resolution Professional shall submit the repayment plan along with his report on the plan to this Authority within a period of 21 days from the last date of submission of claims, as provided under Section 106.

VI. In case the Resolution Professional recommends that a meeting of the creditors is not required to be called, he shall record the reasons thereof. If the Resolution Professional is of the opinion that a meeting of the creditors should be summoned, he shall specify the details as provided under Section 106(3) of IBC, 2016. The date of meeting should not be less than 14 days or more than 28 days from the date of submission of the Report under subsection (1) of Section 106 of IBC, 2016, for which at least 14 days' notice to the creditors

(as per the list prepared) shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107 of IBC, 2016.

- VII.** The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 & 111 of IBC, 2016. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 of IBC, 2016 and submit the same to this Tribunal, copies of which shall be provided to the Debtor and the Creditors. It is made clear that the Resolution Professional shall perform his functions and duties in compliance with the Code of Conduct provided under Section 208 of IBC, 2016.
- VIII.** The Resolution Professional shall submit his periodic reports before this Tribunal, every 30 days.
- IX.** The Petitioner is directed to deposit **Rs. 2,00,000/- (Rupees Two lakhs only)** to the bank account of the Resolution Professional within one week of this order, towards his expenses. This shall be subjected to the rules and regulations under the provisions of the Insolvency and Bankruptcy Code, 2016.
- X.** The Registry is directed to communicate to the concerned parties a copy of order within seven working days and upload the same on the website immediately after the pronouncement of order.

49. Accordingly, **CP(IB)/216(CHE)/2022** stands **admitted**. Application **IA/1361/2025** and **IA/231/2024** are **disposed of**.

**Sd/-**  
**VENKATARAMAN SUBRAMANIAM**  
Member (Technical)

**Sd/-**  
**SANJIV JAIN**  
Member (Judicial)

*Suguna*