IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH, COURT-III

I.A. - 117/2025
In
IB-646/2023

IN THE MATTER OF IB-646/2023:

State Bank of India ..... **Financial Creditor**

Versus

Mohnish Jain ..... **Personal Guarantor**

AND IN THE MATTER OF I.A.-117/2025:

Debashis Nanda ..... **Resolution Professional/Applicant**

Versus

Small Industries Development Bank of India

Through its Authorized Representative ..... **Respondent**

Order Pronounced On: 17.07.2026

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

MS. REENA SINHA PURI, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant/RP : Mr. Gaurav Mitra Mr. Gaurav Joshi, Advs.
For Respondent : Mohd Moonis Ababsi, Advocate.

ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. The present application i.e. IA-117/2025 has been filed by Mr. Debashis Nanda, the Resolution Professional in C.P.(IB) No. 646/ND/2023, in the matter of State Bank of India (Applicant/Financial Creditor) Vs. Mohnish Jain (Respondent/Personal Guarantor) seeking to approve the repayment plan submitted by the Personal Guarantor/ Mohnish Jain duly approved by creditors having 91.17% voting share. The prayers in the application are as under:

   I. *Allow the present application;*

   II. *Condone delay of 25 days in filing the present application for reasons stated in para 21 of the present application;*

III. *Take on record Report under Section 112 of the Code enclosed as ANNEXURE A-13 prepared by Applicant;*

IV. *Approve the Repayment Plan submitted by Personal Guarantor/debtor-Mohnish Jain duly approved by creditors having 91.1 7% voting share;*

V. *Pass such other order/ Direction as this Hon'ble Bench may deem fit and proper in the facts and circumstances.*

BRIEF FACTS OF THE CASE:-

2. Financial creditor i.e. State Bank of India vide sanction letter dated 08.09.2020 sanctioned various credit facilities to the Corporate Debtor/ Kotson's Pvt. Ltd. with credit limit of Rs 98.15 Crores for which Mr. Mohnish Jain, Pawan kumar Jain and Siddharth Jain stood as Personal Guarantors. The State Bank of India filed C.P.(IB) No. 646/ND/2023 against Mr. Mohnish Jain, personal guarantor to Kotson's Pvt. Ltd. under Section 95 of the Code for initiation of Insolvency Resolution Process of Personal Guarantor. Mr. Debashis Nanda, the Applicant therein, was appointed as the Resolution Professional vide order dated 20.12.2023 passed by this Adjudicating Authority.

3. Pursuant to the said order and in compliance of order dated 20.12.2023, Resolution Professional had filed its report under section 99 of the IBC Code recommending the admission of Insolvency preceding against Personal Guarantor/Mohnish Jain. The said report was filed on 08.01.2024 and was listed on 24.01.2024 and was duly taken on record by the adjudicating authority vide order dated 24.01.2024.

4. That this Adjudicating Authority, had, on recommendation made by Resolution Professional in the report filed under Section 99 of the Code, commenced Insolvency Resolution Process of Mr. Mohnish Jain, vide its order under section 100 of the Insolvency & Bankruptcy Code, 2016 dated 22.03.2024 and directed the Applicant Debashis Nanda, Resolution Professional in the present matter to take further steps for completion of Insolvency Resolution Process in accordance with provisions of Code.

5. In terms of Section 101 of the Code, Resolution Professional had published public notice inviting claims from creditor of personal guarantor by making public announcement in following newspapers :-

   i. *Jansatta - Hindi (Delhi).*

   ii. *Financial Express - English (Delhi)*

   iii. *Swadesh - Hindi (Agra)*

   iv. *Times Nation - English (Agra)*

   v. *Prabhat Abhinandan- Hindi (Alwar)*

   vi. *Times Day - English (Alwar)*

   In terms of Section 101 of the Code, the public notice was also published in website of this Adjudicating Authority.

6. In response to the public notice, claims were received from creditors which were verified and duly collated by Resolution Professional. Resolution Professional received claim and prepared list of creditors. In terms of Regulation 9 of IBBI (Insolvency Resolution Process for personal guarantor to corporate debtor) Regulations' 2019, list of creditors as on 26.04.2024 stood as follows:-

S. No.	Name of the Creditors	Amount Claimed	Amount admitted	Voting Share (%)	Security Interest
1.	State Bank of India	1,34,90,89,451	1,34,90,89,451	71.94	Nil
2.	Punjab National Bank	37,07,87, 795	37,07,87,795	19.77	Nil
3.	Small Industrial Development Bank of India (SIDBI)	14,78,69,394	14,78,69,394	7.88	Nil
4.	ICICI Bank	76,75,363	76,75,363	0.41	
	Total	1,87,54,22,003	1,87 ,54,22,003	**100**	

7. The Applicant/Resolution Professional prepared statements of affairs in accordance with Regulation 10 of IBBI (Insolvency Resolution Process for personal guarantor to corporate debtor) Regulations' 2019 on the basis of

information received from the Personal Guarantor and also shared with creditors.

8. Initially, in terms of section 105 of the code, the personal guarantor/debtor prepared a joint repayment plan containing a proposal to the creditors for restructuring of the debts and affairs. Since, all 3 personal guarantors have been admitted to insolvency proceedings for same set of debt claimed by State Bank of India and the total outstanding amounts owed by the guarantors to the creditors are also same, and all three guarantors belong to the same family, therefore, for the sake of simplicity and convenience of creditors, a unified Repayment Plan on behalf of all three guarantors was prepared.

9. In term of Section 106 of the Code, Resolution Professional had verified the Repayment Plan and prepared report in terms of Section 106 of the Code. That in terms of section 106(2) of the code, the applicant filed the report which was duly taken on record by this Adjudicating Authority order dated 14.05.2024.

10. The first meeting of the creditors of the personal guarantor was scheduled on 24th may 2024 wherein following matters were discussed in detail:-

    a) To take note on the action taken up by the Resolution professional

    i. *Public Announcement for initiation of Insolvency proceeding of the personal Guarantor- Mohnish Jain.*

    ii. *To take note on the list of creditors prepared by Resolution Professional along with voting Shares.*

    iii. *To take note on the report filed by the Resolution Professional under section 106 of the Code.*

    b) To take note on the Statement of affairs prepared by the RP in accordance with section 107 (3) (b) and in terms of Regulation 10 of IBBI, (Insolvency resolution process for personal guarantors to corporate debtors) 2019, for clause (b) of sub-section (3) of section 107.

    c) To Discuss and consider Joint Repayment Plan submitted by all 3 Personal guarantors- Mohnish Jain, Pawan Jain and Siddarth Jain.

11. In the second creditor's meeting, held on 19.06.2024, the following matters were discussed:

   a) *To take note of appointment of the valuers.*

   b) *To Discuss and consider Joint Repayment Plan submitted by all 3 Personal guarantors- Mohnish Jain, Pawan Jain and Siddarth Jain.*

12. The Applicant/Resolution Professional is required to file application for approval of the repayment plan in terms of Regulation 19 of IBBI (Insolvency Resolution Process of Personal Guarantor to Corporate debtor) Regulations' 2016 within 120 days from the Resolution Process commencement date. The due date for filing such application was 20.07.2024.

13. The Applicant thereafter, convened third meeting of the creditors on 16.08.2024 wherein the creditors discussed the following issues:

   a) *Valuation Report received from valuers;*

   b) *Investigation report received from detective agency;*

   c) *Negotiation and discussion on Repayment Plan submitted by Personal Guarantor.*

14. The Applicant-Resolution Professional, thereafter, filed an application for extension of period of 120 days by a further period of 60 days for filing application under Section 112 of the Code. This Adjudicating Authority vide order dated 18.09.2024 granted an extension of 60 days. Thereafter, the Applicant convened 4th Meeting of creditors on 03.10.2024 wherein the resolution for approval of the repayment plan was put for E-Voting, the e-voting commenced on 07.10.2024 and was extended on multiple occasions till 10.12.2024 on the request received from the creditor.

15. The Applicant filed another application seeking extension by a further period of 30 days since, the last date for submission of report under Section 112 of the Code was expiring on 17.11.2024 and creditors including lead bank i.e. SBI were in process of getting approval from their competent authorities and requested for extension of time. The timelines, in the Personal Insolvency Resolution Process given herein under:

S. No.	**Particulars**	**Date**
1.	Insolvency Commencement date	22-03-2024

2.	Expiry of 120 days for filing Section 112 report	20-07-2024
3.	Expiry of Extension by way of 1st Extension order	18-09-2024
4.	Expiry of Extension by way of 2nd Extension order	17-11-2024
5.	Expiry of Extension by a further period of 30 days(Application yet to be allowed)	17-12-2024

16. The repayment plan submitted by Personal Guarantor was approved by creditors having 91.17% voting share. The Applicant/Resolution Professional prepared the report in compliance with provision of Section 112 of the Code and also shared the same with debtor and creditor in terms of Section 113 of the Code. Hence, the present application has been filed seeking approval of the repayment plan which has been approved by the Creditors by 91.17% voting shares.

OBJECTIONS RAISED BY SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA (SIDBI)

17. The Small Industries Development Bank of India (SIDBI) was impleaded as a Respondent in the present application vide order dated 09.01.2025. SIDBI is a dissenting Financial Creditor and voted against the repayment plan for 8.83% votes in the 4th meeting of Creditors of Personal Guarantor (Shri Mohnish Jain) which was held on 03.10.2024.

OBJECTION RAISED BY SIDBI ARE BRIEFLY MENTIONED HEREINUNDER:-

18. The SIDBI is the Financial Creditor of the borrower named M/s Kotson's Pvt. Ltd. (hereinafter "borrower/Corporate Debtor"), to which a Term Loan of Rs. 10 Crores under Secured Business Loan (SBL) scheme was sanctioned on 30.09.2019 by SIDBI. The said borrower company is presently facing Corporate Insolvency proceedings initiated by State Bank of India before this Hon'ble Court bearing Company Petition- C.P(IB) No.761/ND/2022 titled State Bank of India Vs M/s Kotsons Pvt. Ltd. Various loan documents various loan documents were executed on 30.09.2019 in favour of SIDBI by the borrower company for availing financial facility. The financial facility was

disbursed BY SIDBI in two tranches i.e. Rs. 8 Crore on 01.10.2019 and Rs. 2 crore on 17.10.2019.

19. The SIDBI sanctioned another Loan of Rs. 2 crore on 04.03.2021 to the said borrower company under the Timely Working Capital Assistance to Revitalize Industries in Times of Corona Crisis (TWARIT) under Emergency Credit Line Guarantee Scheme (ECLGS) 2.0; and was subsequently disbursed in 3 tranches i.e. on 08.03.2021 (for Rs.1,50,00,000/-), on 09/04/2021 (for Rs. 22,00,850/-) and on 10.05.2021 (for Rs. 27,99,150/-) cumulating to Rs. 2,00,00,000/-. Various documents were executed on 04.03.2021 and 05.03.2021 by the said borrower Company in favour of SIDBI for availing the said financial assistance under the ECLGS.

20. In order to secure the repayment of the aforesaid financial facility to the aforesaid borrower company; Shri Mohnish Jain, had furnished and executed an irrevocable and unconditional personal guarantee dated 30/09/2019 in favour of SIDBI. Further, by the way of Board Resolution passed in meeting held on 30.09.2019, the Board of Directors of the borrower company authorized Shri Pawan Kumar Jain, another guarantor/suspended director of the borrower company, to attend SIDBI office in Jaipur on 30.09.2019 to deposit the documents of title deeds pertaining to the immovable properties proposed for mortgaged in favour of SIDBI.

21. At the time of creation of equitable mortgage by deposit of title deeds, the suspended director of the borrower company, Shri Pawan Kumar Jain affirmed a 'Declaration and Undertaking' dated 30.09.2019 in favour of SIDBI, affirming thereby that the property proposed to be mortgaged and charged to SIDBI is free from all sorts of charges and encumbrances and that the borrower company has not created any charges or encourages on or in respect of the said immovable property. It was further undertaken that the borrower company is seized and possessed of and otherwise well and sufficiently entitled to the land and other immovable properties proposed for mortgage. It was further affirmed and undertaken by that no mortgage, charge, lien, tenancy, or other encumbrances whatsoever will be created on the properties comprised in mortgage security, save and except with the permission of SIDBI.

22. The borrower company committed defaults in making the repayments in terms of the agreed terms & conditions and consequently its accounts were classified as NPA, on 08.10.2021, in compliance with the extent RBI Guidelines and accordingly the financial facilities granted to the borrower company were recalled by SIDBI vide Recall Notice dated 13.12.2021. The personal guarantee extended by Shri Mohnish Jain in favour of SIDBI was also invoked vide guarantee invocation notice dated 05.07.2022.

23. Thereafter, the SIDBI carried out the additional due diligence majors and engaged a law firm i.e. M/s S.K. Singhi & Partners LLP, Kolkata for verifying the existing leases/tenancies on the mortgaged properties. The said law firm submitted a report to the SIDBI on 13.02.2024 wherein it was pointed out the various encumbrances concerning the said mortgaged properties. The report clearly shows that the borrower company had already created encumbrances by entering into long term leases in respect of the said properties.

24. It is alleged by the borrower company and its suspended directors/guarantors concealed the material facts about the encumbrances on the mortgaged property by submitting false declaration and undertaking in the year 2019 prior to the creation of mortgaged with a malafide intention to cheat SIDBI and avail credit facilities from SIDBI. Thus, the aforesaid fraudulent act of the borrower company and its suspended directors/guarantors in offering the encumbered property for mortgaged resulted into financial loss of SIDBI. Thus, the borrower company committed the offence of fraud, cheating, misrepresentation and criminal breach of trust by offering and creating mortgage over an encumbered immovable property.

25. It is submitted that during the course of the instant PIRP pending against Shri Mohnish Jain (the guarantor, who is also the suspended director of the borrower company); SIDBI, submitted its Claim Form-B on 16.04.2024 with Shri Debashis Nanda, the Resolution Professional appointed in the said case. The SIDBI filed a claim of Rs. 14,78,69,394/- against the guarantor Shri Mohnish Jain.

26. It is submitted that the SIDBI issued a Show Cause Notice (SCN) dated 19.04.2024 in terms of RBI's Previous Guidelines on Fraud calling upon the borrower company, its suspended directors/guarantors to submit their

representation/explanation to SIDBI within 10 days of receipt of such notice, as to why the borrowers account should not be classified as fraud in terms of then extant RBI guidelines, on account of creation of mortgage in favour of SIDBI in respect of the immovable property which was already encumbered with long term leases.

27. It is submitted that in accordance with RBI's Previous Guidelines on Fraud; SIDBI classified the accounts of the said borrower company as "Suspected Fraud" on 25.06.2024 and thereafter, the same was reported to RBI as 'Fraud' vide letter dated 01/07/2024. It is further submitted that SIDBI passed a reasoned order on 19/08/2024 and intimated the borrower company and its suspended directors/guarantors about its well-considered decision to classify the accounts of the borrower company as fraud and its reporting to RBI on 01.07.2024.

28. Thereafter, SIDBI filed a complaint before Central Bureau of Investigation (CBI) on 29.08.2024 and thereafter on 23.10.2024 (modified) in term of Chapter VI, Clause 6.1 & Clause 8.11 of the RBI's Old Guidelines on Fraud, against the borrower company its director/personal guarantors. RP admitted claim of SIDBI amounting to Rs.14,78,69,394/- and subsequently SIDBI, found its place in the List of Creditors of Shri Mohnish Jain which is clearly depicted in the minutes of 1st meeting of the creditors of Shri Mohnish Jain held on 24.05.2024 read under the head *"Item No.3 (b) To take note on the list of creditors prepared by Resolution Professional alongwith voting shares."*

29. It is also submitted that under the head "*Item No. 6 – To discuss and consider Joint Repayment Plan submitted by all 3 Personal guarantors – Mohnish Jain, Pawan Jain and Siddarth Jain"* SIDBI had, during the 3rd meeting of the Creditors of Personal Guarantor Sh. Mohnish Jain, held on 16.08.2024 drawn attention of the participants of the said meeting on Clause 6 of the Repayment Plan which reads as follows:

> *"Show Cause Notice Issued against Guarantors by the SIDBI*
> *SIDBI has issued show cause notice dated 19.04.2024 for seeking explanation regarding why account of guarantors shall not be classified as "FRAUD" in terms of RBI Guidelines.*
>
> *It is pertinent to note that once the repayment plan is approved by the Adjudicating Authority and successfully implemented, any notice*

issued by SIDBI will be deemed withdrawn, all such proceedings under the show cause notice dated 19.04.2024 shall stand abated."

30. It is submitted that the 3rd meeting of Creditors was held on 16.08.2024. But by that time, SIDBI had already taken action against the said borrower company and had declared its accounts as 'Fraud' on 25.06.2024 and reported the same to the RBI on 07.07.2024 in terms of its Previous Guidelines on Fraud dated 01.07.2016 as updated on 03.07.2017. During the discussion held on 19.08.2024, in continuation of the foresaid 3rd meeting, SIDBI, had basically objected to insertion of clause 6 of the Repayment Plan which dealt with withdrawal of SIDBI's Show Cause Notice dated 19.04.2024 and consequent abatement of legal proceedings initiated under it, if the Repayment Plan is approved by the Adjudicating Authority'.

31. Further, as recorded in the minutes of the 3rd meeting, SIDBI had also clarified to the R.P and others participants of the meeting that the account of the borrower company was declared as 'Fraud' by SIDBI on 25.06.2024 and reported as such to RBI on 01.07.2024 in terms of its guidelines. SIDBI also clarified that it cannot accept any Repayment Plan which envisages abatement of criminal proceedings initiated against the borrower company and its suspended directors with regard to fraudulent acts committed by them with regard to creation of mortgage on property with existing encumbrances at the time of availing the financial assistance form SIDBI. SIDBI had also clarified, as noted in the minutes of the 3rd meeting that SIDBI representative never pointed out that the RBI guidelines override provisions of the IBC, 2016 and has instead pointed out that the Hon'ble NCLT in one of the cases beforehand has held that there is no possibility of conflict between RBI master circulars and IBC guidelines and there is no provision of one prevailing over another.

32. It is further submitted that objection of SIDBI pertaining to Clause 6 of THE EFFECTS OF THE REPAYMENT PLAN was governed by Clause 8.12 of the RBI's Previous Guidelines on Fraud more particularly in terms of its Clause 8.12.2 & Clause 8.12.3, which deal with the penal measures for fraudulent borrowers and are reproduced herein:

"8.12 Penal measures for fraudulent borrowers:

> ***8.12.2-** No restructuring or grant of additional facilities may be made in the case of RFA or fraud accounts. However, in cases of fraud/malfeasance where the existing promoters are replaced by new promoters and the borrower company totally delinked from such erstwhile promoters/management, banks and JLF may take a view on restructuring of such accounts based on their viability, without prejudice to the continuance of criminal action against the erstwhile promoters/management.*
>
> ***8.12.3**- No compromise settlement involving a fraudulent borrower is allowed unless the conditions stipulate that the criminal complaint will be continued."*

33. It is submitted that the objection taken by SIDBI is also in consonance with the RBI's Latest Guidelines on Fraud, wherein Clause 4.4 deals with Penal measures for fraudulent borrowers, more particularly: -

> *"4.4.1 Persons/Entities classified and reported as fraud by banks and also Entities and Persons associated with such Entities, shall be debarred from raising of funds and/or seeking additional credit facilities from financial entities regulated by RBI, for a period of five years from the date of full repayment of the defrauded amount/settlement amount agreed upon in case of a compromise settlement."*
>
> ***"4.5 Treatment of accounts under Resolution***
>
> *4.5.1 In case an entity classified as fraud has subsequently undergone a resolution either under IBC or under the resolution framework of RB122 resulting in a change in the management and control of the entity/business enterprise, the bank shall examine whether the entity shall continue to remain classified as fraud or the classification as fraud could be removed after implementation of the Resolution Plan under IBC or aforesaid prudential framework. This would, however, be without prejudice to the continuance of criminal action against erstwhile promoter(s)/director(s)/person(s) who were in charge and responsible for the management of the affairs of the entity/business enterprise.*
>
> *4.5.2 The penal measures as detailed in Para 4.4 shall not be applicable to entities / business enterprises after implementation of the Resolution Plan under IBC or aforesaid prudential framework.*
>
> *4.5.3 The penal measures detailed in Para 4.4 shall continue to apply to the erstwhile promoter(s) /director(s) / persons who were in charge*

and responsible for the management of the affairs of the entity/business enterprise."

Foot Notes-

"21(a) - If it is an entity, another entity will be deemed to be associated with it, if that entity is (i) a subsidiary company as defined under clause 2 (87) of the Companies Act, 2013 or (ii) falls within the definition of a 'joint venture' or an 'associate company' under clause (6) of section 2 of the Companies Act, 2013.

(b) in case of a natural person, all entities in which she / he is associated as promoter, or director, or as one in charge and responsible for the management of the affairs of the entity shall be deemed to be associated.

22- Prudential Framework for Resolution of Stressed Assets dated June 7, 2019 (as amended from time to time) issued by the RBI."

34. It is further submitted that 4th meeting of the Creditors was held on 03.10.2024 – **To approve Resolution No.5 i.e. The Individual Repayment Plan submitted by Personal Guarantor - Sh. Mohnish Jain;** during which, SIDBI voted against the said Resolution with 8.83% of vote share. The Resolution got passed neglecting the provisions of RBI guidelines pertaining to fraudulent borrowers, only on the basis of brute majority of other participants of the meeting. The basis of SIDBI's objection and vote was however the same, as in the 3rd meeting held on 16.08.2024 & 19.08.2024. SIDBI, had objection to insertion of Clause 6 of the Repayment Plan which dealt with withdrawal of SIDBI's Show Cause Notice dated 19.04.2024 and consequent abatement of legal proceedings initiated under it, if the Repayment Plan is approved by the Adjudicating Authority.

35. ANALYSIS AND FINDINGS:

i. We have heard the submissions of Mr. Gaurav Mitra, Ld. Counsel appearing on behalf of Resolution Professional as well as Mr. Mohd. Moonis Abbasi, Ld. Counsel appearing on behalf of SIDBI.

ii. It is submitted on behalf of the Resolution Professional that the total admitted claim amount against the Personal Guarantor is Rs. 1,68,30,21,468/-. There are four creditors namely State Bank of India, Punjab National Bank, Small Industrial Development Bank of India (SIDBI) and ICICI Bank of the Personal Guarantor whose claims have been verified and admitted by the Resolution Professional. The details of those claims are mentioned hereinunder:

S. No.	Name of the Creditor	Amount Claimed (INR)	Amount Admitted (INR)	Voting Share (%)	Security Interest
1	State Bank of India	1,34,90,89,451	1,34,90,89,451	80.16%	Nil
2	Punjab National Bank	17,83,87,260	17,83,87,260	10.60%	Nil
3	Small Industrial Development Bank of India (SIDBI)	14,78,69,394	14,78,69,394	8.79%	Nil
4	ICICI Bank	76,75,363	76,75,363	0.46%	—
	Total	**1,68,30,21,468**	**1,68,30,21,468**	**100%**	

iii. It is also submitted that a total sum of Rs. 1,50,00,000/- is proposed to be paid towards full and final settlement of all the unsecured creditors, in terms of the Addendum to the Repayment Plan dated 04.09.2024. It is also submitted that the aforesaid amount of Rs. 1,50,00,000/- shall be distributed amongst the respective lenders strictly in proportion to their admitted claims and voting share, as reflected in the following table:

S. No.	Creditor	Amount Admitted (INR in Cr.)	Voting Share (%)	Amount Proposed (INR in Cr.)	Timeline
1.	State Bank of India	134.90	80.53	1.20	T+90
2.	Punjab National Bank	17.83	10.65	0.16	
3.	Small Industrial	14.78	8.83	0.14	

	Development Bank of India (SIDBI)				
	TOTAL	**168.30**	**100**	**1.50**	

iv. Further, Resolution Process Costs shall be paid in full as per actuals, over and above the amount of Rs. 1,50,00,000/-. In order to safeguards, the interest of the creditors who have not lodged their claims before the Resolution Professional, a sum of Rs. 1,50,000/- shall be reserved towards contingency and in case no additional claim is received till implementation of the Repayment Plan, the contingency amount shall be distributed amongst the unsecured financial creditors in proportion to their respective voting shares.

v. It is also submitted that the total settlement amount of Rs. 1.50 cr. as proposed under the Repayment Plan read with the Addendum dated 04.09.2024, shall be paid within a period of 90 days from the date of approval of the Repayment Plan by this Hon'ble Adjudicating Authority. It is also submitted that the funds for implementation of the Repayment Plan shall be arranged through unsecured loans from friends and relatives, for which comfort letters have been obtained and placed on record. It is also submitted that the aforesaid Repayment Plan was put for e-voting and was approved by a voting share of 91.17%. Accordingly, below are the voting results casted by the creditors on the present resolution.

S.No.	**Name of the Creditors**	**Voting Share (%)**	**Voted for/Not Voted/Abstain**
1	State Bank of India	80.53	Voted for
2	Punjab National Bank	10.65	Voted for
3	Small Industrial Development Bank of India (SIDBI)	8.83	Voted Against
	Total	**100**	

vi. With reference to the objections raised by the SIDBI, the Ld. Counsel appearing on behalf of Resolution Professional has submitted as under:

a. The Repayment Plan submitted by the Personal Guarantor has been approved by creditors holding 91.17% of the voting share, demonstrating its acceptance by the Creditors in their commercial wisdom. The sole dissenting creditor, SIDBI, has not challenged the commercial terms of the Plan, and its objection is limited to the provision deeming withdrawal of a show cause notice issued against the Personal Guarantor.

b. An approved Repayment Plan is binding on all creditors, including dissenting ones as Section 115 of the Code is similar to Section 31 of the Code. The Repayment Plan in its entirety, including the impugned clause, is essential for the Personal Guarantors to start afresh with their affairs.

c. Public banks who have approved the repayment plan are deemed to be mindful of the importance of all existing disputes between the Personal Guarantors, including the cause for the show cause notice which is stipulated to be withdrawn in the impugned clause of the Plan. Despite the same, being well aware of the implications, the Creditors have, with a substantial majority, approved the Repayment Plan without any demur. It is therefore not permissible to challenge such commercial wisdom of the creditors at this stage.

d. Till date there has been no adjudication on the allegations of SIDBI and, without prejudice to the arguments of the Personal Guarantor on merits with respect to the legality of the issuance of such show cause notice, no party stands to suffer any prejudice if the same is deemed withdrawn. On the other hand, the Personal Guarantor stands to suffer irreparable prejudice and harm if the same is not withdrawn.

e. Without prejudice, even if it is assumed that the RBI guidelines restrict withdrawal or settlement, Section 238 of the IBC gives the Code overriding effect over any inconsistent law or guideline.

f. SIDBI has not raised any objection with respect to amount being offered by the Personal Guarantor under the repayment plan, the objection is limited to the clause 6 of the proposed repayment plan.

g. It is pertinent to note that SIDBI has voted in favour of the Resolution Plan in I.A. (Plan)-25/2024 in IB-761/2022, i.e., State Bank of India Vs. M/s Kotsons Private Limited, having same provision as contained in clause 6 of the present repayment plan, which was approved and implemented in the CIRP process of Kotson's Pvt Ltd i.e. the main borrower/corporate debtor. Such Resolution plan being completely implemented, therefore, SIDBI is barred from objecting to the repayment plan in the present proceedings on the doctrine of estoppel. The pari materia clause of Resolution Plan of main corporate debtor reads as under:

> *"All enquiries, investigations, notices, causes of action, suits, claims, liabilities, demand, obligations, penalties, disputes, litigations, arbitrations or other judicial, regulatory or administrative proceedings against the CD or the affairs of the CD, pending or threatened, present or future, (including without limitation, any investigation by Central Bureau of Investigation or the Serious Fraud Investigation Office), whether or not on account of acts or omissions in breach of Applicable Law (including but not limited to environmental laws, foreign exchange laws and regulations, labour and employment laws, and laws relating to anti-corruption and prevention of money laundering) and including but not limited to the proceedings specifically under this Plan in relation to any period prior to the Effective Date shall stand extinguished and accordingly, all such proceedings, inquires, investigations, etc. shall be disposed of and all liabilities or obligations in relation thereto, whether or not set out in the Provisional Balance Sheet, the balance sheet of the CD or the profit and loss account statements of the CD or the List of Creditors, shall, in accordance with Regulation 37 of the CIRP Regulations, be deemed to have been written off in full and permanently extinguished by virtue of the order of NCLT approving this Plan and the RA, shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. By virtue of the order of the NCLT approving this Resolution Plan, all new inquiries, investigations, notices, suits, claims, disputes,*

litigations, arbitration or other judicial, regulatory or administrative proceedings will not be initiated or admitted if these relate to any period prior to the Effective Date or on account of the acquisition of control by RA over the CD pursuant to this Resolution Plan, against the CD or any of its employees or directors who are appointed or who remain in employment or directorship after the Effective Date or pursuant to the implementation of the Resolution Plan"

vii. On analysis of facts and submissions made by the parties, it is clear that the SIDBI has not raised any objection insofar as the amount offered by the Personal Guarantor under the repayment plan.

viii. The SIDBI's objection is limited to the clause 6 proposed under the repayment plan which stipulates that the show cause notice dated 19.04.2024 issued against the guarantors by the SIDBI seeking explanation as to why the account of guarantor shall not be classified as fraud in terms of RBI guidelines, will be withdrawn and all proceedings under the said show cause notice shall stands awaited. However, it is also borne out of record that the SIDBI has voted on the resolution plan submitted by the Kotson's Pvt Ltd having the same provision as contained in clause 6 and the said resolution plan has been approved and fully implemented in the CIRP process of Kotson's Pvt Ltd which is main borrower/corporate Debtor.

ix. Further, the SIDBI has also accepted and appropriated all the proceeds received approval of the said resolution plan. Therefore, in our considered view, the SIDBI's objection with respect to clause 6 cannot be sustained at this stage and SIDBI is estopped from raising the objections in the present proceedings because of the simple reason that they have already accepted the said clause in the resolution plan, and therefore, the objections cannot be sustained and, the repayment plan submitted by the personal guarantor which has been approved by the creditors by 91.17% votes ought to be approved. We, therefore, pass the following directions:

a. The delay of 25 days in filing the application is condoned.

b. The report filed under Section 112 is taken on record.

c. The repayment plan submitted by Shri Mohnish Jain is approved.

Order :

x. Thus, this IA-119/2025, which is for the approval of the Repayment Plan is allowed.

xi. Accordingly, the Repayment Plan of Rs. 1.50 crores is approved with effect from the date of this Order, with the following directions: -

a) The Resolution Professional shall supervise the implementation of the Repayment Plan as per the terms and conditions mentioned therein, including opening and operation of escrow account in the name of the Personal Guarantor, receive funds from sources earmarked under the repayment plan in the escrow account and distribute the funds to the creditors therefrom.

b) The Resolution Professional shall file his final report soon after the implementation of the plan or upon completion of the timelines mentioned in the plan, whichever is earlier.

c) Upon completion of the Repayment Plan, the Resolution Professional shall comply with the provisions stated in Section 117 of the Code.

d) On full implementation of the Repayment Plan, the Personal Guarantees given by the Personal Guarantor shall be released by the Financial Creditors.

e) The Debtor is permitted to share a certified copy of this repayment plan and order of this Tribunal approving this repayment plan with third parties including statutory/government authorities wherever needed.

f) The approval of the Repayment Plan shall not be construed as waiver of excluded debts as defined U/s 79(15) if any. Nevertheless, we specifically record that if any liability arises in the future, they shall be strictly dealt with by Personal Guarantor in accordance with law.

g) It is clarified that the approval of the Repayment Plan submitted by the Personal Guarantor under this Order shall not, under any circumstances, operate as a bar, waiver, or immunity against any criminal proceedings, investigations, or prosecutions. The sanction of this Repayment Plan does not absolve, discharge, or release any Director, Promoter, or Personal Guarantor from their personal liability regarding any criminal offence, fraud, or misfeasance committed by them.

h) The Resolution Professional, the Applicant herein shall forward all the records pertaining to the Insolvency Resolution Process against the Personal Guarantor to IBBI.

i) The Registry is hereby directed to send copies of the order forthwith to the IBBI, all the parties and their Ld. Counsel for information and for taking necessary steps.

j) Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Sd/-	**Sd/-**
(REENA SINHA PURI) **MEMBER (TECHNICAL)**	**(BACHU VENKAT BALARAM DAS)** **MEMBER (JUDICIAL)**