IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH - I

C.P. (IB)/916(MB)2020 along with **I.A. (I.B.C)/5420(MB)2025** in

C.P. (IB)/916(MB)2020

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

In the matter of;

C.P. (IB)/916(MB)2020

STATE BANK OF INDIA

A Banking Corporation constituted under the
State Bank of India Act, 1955 (23 of 1955),
Having its registered office at
State Bank Bhavan, Madam Cama Road,
Fort, Mumbai-400 021.
And having branch at:
Stressed Assets Reconstruction Group,
Commercial III Branch, Tulsiani Chambers,
1st Floor, Free Press Journal Marg,
Nariman Point, Mumbai-400 021.

..... Applicant/ Financial Creditor

Versus

ANIL DHIRAJLAL AMBANI

39, Sea Wind, Cuffe Parade,

Near Hotel President,

Colaba, Mumbai-400 005

..... Respondent/Personal Guarantor

and

In the matter of;

IA(I.B.C)/5420(MB)2025

ANIL DHIRAJLAL AMBANI

…..…... Applicant

1. **Mr. Prashant Jain (Resolution Professional)**

…….Respondent No.1

2. **STATE BANK OF INDIA**

……Respondent No. 2

Order pronounced on ***11.06.2026***

Coram:

Shri Prabhat Kumar	**Shri Sushil Mahadeorao Kochey**
Hon'ble Member (Technical)	Hon'ble Member (Judicial)

Appearances:

In **C.P. (IB) No. 916 (MB) 2020-**

For the Financial Creditor	:	Sr. Adv. Zal Andhyarjina, Adv. Nirav Shah a/w Adv. Jash Shah, Adv. Astha Ojha, Adv. Prateek Kumar i/b DSK Legal
For the Resolution Professional	:	Senior Adv. Chetan Kapadia a/w Adv. Shlok Parekh, Adv. Rohan Agarwal, Adv. Anuya Pathare
For the Personal Guarantor	:	Sr. Adv. Prateek Seksaria a/w D.J. Kakalia, Adv. Rohit Gupta, Ms. Ragini Sharma

In **I.A.(I.B.C)5420(MB)2025**-

For the Applicant	:	Adv. Rohit Gupta, a/w Adv. Ayaan Zariwalla,

Adv. Bhakti Chandan

For the Respondent no. 2(SBI) : Sr. Adv. Zal Andhyarujina,
a/w Adv. Nirav Shah, Adv. Jash Shah,
Adv. Astha Ojha, Adv. Prateek Kumar

ORDER

Per: Coram

Background facts of the case

1. The present Company Petition is filed under section 95(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC, 2016/Code") 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 by **STATE BANK OF INDIA** ("hereinafter referred to as SBI/Financial Creditor/FC") for the purpose of initiating Insolvency Resolution Process against **ANIL DHIRAJLAL AMBANI** ("hereinafter referred to as Personal Guarantor/Respondent"), who stood guarantor to the credit facilities extended by the Applicant to Reliance Communication Limited ("hereinafter referred to as RCOM") and Reliance Infratel Limited ("hereinafter referred to as RITL") for default of **Rs.853,25,31,824.21/-** (Rupees Eight Hundred and Fifty-Three Crores, Twenty-Five Lakhs, Thirty-One thousand, Eight Hundred and Twenty-Four and Twenty-One Paise Only) as on **01.03.2019**. The Date of Default, as specified in Part-III of the present petition is **31.01.2019** for the Personal Guarantor.

2. It is stated by the Financial Creditor that the Personal Guarantor i.e. Mr. Anil Dhirajlal Ambani was the Chairman of the Reliance ADA Group, the umbrella organization under which RCOM and RITL

functioned. RCOM has 96% shareholding in RITL. RCOM is a telecommunication company, providing services of GSM (Voice; 2G, 3G, 4G), fixed line broadband and voice, and Direct-To-Home (DTH) in India. Whereas, RITL is a subsidiary of RCOM and operated as an independent wireless tower company. RCOM in or around 2015-16 approached the Project Finance Strategic Business Unit of State Bank of India, SBI i.e. the Financial Creditor seeking credit facilities to the tune of Rs. 565,00,00,000/- (Rupees Five Hundred Sixty-five Crores) for the purpose of repayment of certain existing financial indebtedness. Similarly, another Company viz. Reliance Infratel Limited (RITL) one of its sister concerns also approached the Financial Creditor for the credit facilities of Rs. 635,00,00,000/- (Rupees Six Hundred Thirty-five Crores) for the repayment of existing financial indebtedness. The Financial Creditor under the Rupee Loan Facilities Agreement dated 29.08.2016, as amended and restated on 08.09.2016 provided the aforesaid amounts as loan respectively to RCOM and RITL. The Respondent, along with other securities, provided personal guarantee under a Personal Guarantee Deed dated 23.09.2016 in favour of the Financial Creditor in respect of these credit facilities.

3. It is stated by the Financial Creditor that, undisputedly, that both the RCOM and RITL committed defaults in repayment in and around January 2017. The accounts were retrospectively declared as Non-Performing Account (NPA) with effect from 26.08.2016 pursuant to the Risk Based Supervision during the year 2017. This Tribunal *vide* order dated 15.05.2018/17.05.2018 admitted the batch of Company Petitions filed by Ericsson India Private Limited under section 9 of the Code initiating Corporate Insolvency Resolution Process (CIRP) against RITL (Company Petition No. 1385 of 2017) and RCOM

(Company Petition No. 1387 of 2017). Although this Adjudicating Authority had admitted the CIRP of RCOM by order dated 15.05.2018, the said admission was stayed by the Hon'ble NCLAT on 30.05.2018. The appeal was later dismissed as withdrawn on 13.04.2019, following which this Authority, by order dated 07.05.2019, directed continuation of the CIRP proceedings. Further, by order dated 21.06.2019, Mr. Aneesh N. Nanavati was appointed as the Resolution Professional ('RP') for the RCOM entities. The period between 30.05.2018 and 30.04.2019 spent before the NCLAT was excluded from the CIRP period by order dated 09.05.2019 in MA 1766/2019.

4. It is submitted by the Financial Creditor that, in view of the default in payment of the credit facilities, the Applicant invoked the personal guarantee on 31.01.2019 and issued an Invocation Notice (hereinafter referred to as "the Invocation Notice") of the even date upon the Respondent. It is noted that under the Invocation Notice, the Financial Creditor inter alia, stated that in view of the payment default committed by RCOM under the Facility Agreement, the Personal Guarantor is liable under Clause 2.1 of the Personal Guarantee to make payment of Rs. 692,19,55,531.62/-. Despite various correspondence between the Financial Creditor and the Personal Guarantor (Respondent) no repayment was made on behalf of the Respondent or the principal borrower.

5. It is further stated by the Financial creditor that, even after the invocation notice was issued, the Advocates of the RCOM stated that the Financial Creditor herein shall not demand the payment of the outstanding amounts to ensure the implementation of the settlement of all dues to all the lenders according to the proposed Asset Monetisation Scheme. As a response, Axis Trustee Services Limited

(ATSL), the Security Trustee appointed under the Facility Agreement issued a letter dated 20.02.2019, to inter alia RCOM, and stated that the Invocation Notice still remains in force. The Financial Creditor state that on 13.03.2019, the Advocates of the Personal Guarantor responded to the Invocation Notice that it should be withdrawn by Financial Creditor.

6. Consequent to the default, SBI filed an Original Application bearing no. 130 of 2019 ('OA') under the Recovery of Debt and Bankruptcy Tribunal, 1993 before the Debt Recovery Tribunal, Mumbai ('DRT') seeking recovery of Rs. 1428,05,80,961.25/- against RCOM entities, the present Respondent, and others. The demand notice was issued dated 24.02.2020 in Form-B to the Respondent demanding payment. After there was no payment received by the Respondent, SBI accordingly filed the Petitions under Section 95 of the Code against the Respondent before this Tribunal on 12.03.2020.

7. During the CIRP, UV Asset Reconstruction Company Limited submitted a Resolution Plan for RCOM, while Reliance Digital Platform & Project Services Limited submitted a Resolution Plan for RITL. The Resolution Professional thereafter filed IA No. 883/2020 seeking approval of the Resolution Plan submitted by UV Asset Reconstruction Company, which had been approved by the Committee of Creditors ('CoC') with 100% voting share, wherein the Applicant Creditor itself was a major constituent of the CoC.

8. The Applicant Creditor specifically brought to the notice of the Tribunal that the Respondent had furnished personal guarantees not only in favour of the present Financial Creditor, but also in favour of several Chinese Banks, namely the Industrial and Commercial Bank of China Limited, China Development Bank, and Exim Bank of China, in

relation to credit facilities availed by group companies of Reliance ADA Limited. According to the Applicant, these guarantees had allegedly been furnished without obtaining the consent of the present Financial Creditor. Upon defaults in repayment of the facilities extended by the Chinese Banks, the said banks initiated recovery and enforcement proceedings against the Respondent before the courts in the United Kingdom ('UK'). The proceedings culminated in an order dated 22.05.2020 passed by the Commercial Division of the Hon'ble High Court of England and Wales, whereby the Respondent was directed to pay an amount of USD 717 million, equivalent to approximately Rs. 5,447,53,29,750/- as on 24.05.2020, within a period of 21 days. The order of the UK Court further contemplated that, in the event of failure by the Respondent to comply with the payment directions within the stipulated time, the Chinese Banks would be entitled to pursue all available modes of enforcement available under law. This included the possibility of initiating enforcement and execution proceedings against the Respondent's movable and immovable assets situated both within India and abroad.

9. The Applicant Creditor expressed a serious apprehension before the Tribunal that the Chinese Banks, armed with the decree/order of the UK Court, might attempt attachment, restraint, or enforcement proceedings against the assets of the Personal Guarantor in India as well as overseas jurisdictions. According to the Applicant Creditor, if such coercive proceedings were permitted to continue independently, it could materially prejudice and adversely affect the recovery rights of the present Financial Creditor, particularly in relation to the assets available for satisfaction of debts under the insolvency framework.

10. The Applicant Creditor emphasized the importance of the interim

moratorium contemplated under Section 96 of the Insolvency and Bankruptcy Code, 2016. The Applicant Creditor argued that immediately upon filing of an application under Sections 94 or 95 of the Code, an interim moratorium automatically commences, staying all legal actions and debt recovery proceedings against the Personal Guarantor. Therefore, the Applicant Creditor submitted that urgent appointment of a Resolution Professional under Section 97 was necessary and critical not only for protecting the interests of the Applicant Financial Creditor, but also for safeguarding and preserving the assets of the Personal Guarantor from parallel enforcement actions by the Chinese Banks pursuant to the UK Court's order.

11. This Tribunal by order dated 20.08.2020, appointed Mr. Jitender Kothari as the Resolution Professional under Section 97(4) of the Code, who submitted his report u/s 99 of the IBC on 31.08.2020. However, being aggrieved by the initiation of the Insolvency Proceedings, the Applicant filed a *Writ Petition (C) 5720 of 2020* before the Hon'ble Delhi High Court and the Hon'ble Delhi High Court passed the following order on 27.08.2020:

> *"In the meantime, the proceedings would continue in relation to the Corporate Debtor and while dealing with those proceedings, the liability of the petitioner may also be examined by the IRP. However, the proceedings against the petitioner under Part-III of the IBC shall remain stayed. We restrain the petitioner from transferring, alienating, encumbering, or dealing with, or disposing of any of his assets, or his rights, or beneficial interest therein till the next date."*

12. The Insolvency and Bankruptcy Board of India subsequently filed transfer petitions, resulting in all pending petitions before the Hon'ble

Delhi High Court, which challenged the IBC provisions on personal insolvency, being transferred to the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India heard these matters and, in its decision in ***Lalit Kumar Jain v. Union of India [9 Supreme Court Cases 321]*** on 21.05.2021, upheld the constitutional validity of the IBC provisions that were challenged by the Personal Guarantor. Consequently, the stay was vacated.

13. On 11.07.2022, the Personal Guarantor filed *Civil Writ Petition No. 519 of 2022* before the Hon'ble Supreme Court, challenging the notification dated 15.11.2019, issued under the IBC and the constitutional validity of Part III of the IBC. However, on 09.11.2023, the Hon'ble Supreme Court upheld the constitutional validity of the provisions concerning the insolvency of the Personal Guarantor in ***Dilip B. Jiwrajka v. Union of India [2023 SCC OnLine SC 1530]***. The Civil Writ Petition No. 519 of 2022, filed by the Personal Guarantor, was also tagged in with this matter.

14. In the interim, on 11.11.2022, Reliance Communication Ltd. the original borrower, disclosed to the stock exchange that it had received notice from Axis Trustee Services Ltd. ('ATSL'), the debenture trustee and pledgee of 20,99,994 equity shares of Globalcom IDC Ltd. ("GIDC") held by Reliance Webstore Ltd., a wholly owned subsidiary of RCOM, regarding invocation and sale of the pledged shares. On 26.09.2023, ATSL issued an invitation for Expression of Interest ('EOI') for the sale of the pledged shares. The Financial Creditor states that the sale process initiated by ATSL in respect of the pledged shares of GIDC has not concluded as on date. No offers have been received in the said Sale process and Respondent No. 2 has not received any communication indicating completion or progress of such sale.

15. Thereafter on 16.01.2024, the Personal Guarantor filed an Interlocutory Application (IA) no. 1773 of 2023 seeking inter alia, rejection of the Report filed by the Resolution Professional and replacement of Mr. Jitender Kothari as the Resolution Professional. The Personal Guarantor also filed IA No. 5635 of 2024 on 16.10.2024, seeking directions to hold the hearing of the Company Petition in abeyance until completion of the sale process of the said pledged shares. This Application was filed a day before the final hearing scheduled for IA No. 1773 of 2023 and the captioned Company Petition.

16. This Tribunal passed an order appointing Mr. Prashant Jain as the Resolution Professional replacing the erstwhile RP, Mr. Jitender Kothari, in terms of order dated 15.07.2025 passed in Interlocutory Application No. 1773 of 2024, requiring him to furnish the fresh report u/s 99 of IBC after providing an opportunity to the personal guarantor herein.

Resolution Professional (Mr. Prashant Jain)'s Report under section 99 in IA No. 4725 of 2025 :

17. As per the provisions of the law Mr. Prashant Jain (the Resolution Professional) filed a report under section 99 of the Code dated 06.12.2025. It is submitted that he communicated through a letter to the Personal Guarantor for the purpose of providing the proof of repayment of the debt due from the Personal Guarantor. However, since the Personal Guarantor replied to that letter challenging the validity of the Guarantee Deed, the required information could not be sought.

18. Later, the personal guarantor pleaded that the premises has been

raided by the Enforcement Directorate, accordingly they sought time in filing their detailed reply, however, the Personal Guarantor continued to challenge the validity of the Deed of Guarantee. Later on, the matter was referred to the Financial Creditor and the contention by the Personal Guarantor were refuted by the Financial Creditor themselves. The Resolution Professional ("RP") in his report examined whether there existed a valid debt, default, and enforceable personal guarantee against the Personal Guarantor. The RP observed that the Financial Creditor had produced all relevant loan documents, statements of accounts, demand notices, and the Deed of Personal Guarantee to establish that the Corporate Debtors had defaulted in repayment of their dues. The RP therefore concluded that the existence of debt and default stood established.

19. The RP further stated that he had sought information and explanations from the Financial Creditor, the Personal Guarantor, and the erstwhile Resolution Professional, and after receiving the necessary details, he collated and examined the materials placed before him. The resolution professional also called upon the Personal Guarantor to provide proof of repayment, such as evidence of electronic transfers, encashment of cheques, acknowledgements of payment, or any other documents showing discharge of liability. However, no material was produced to demonstrate that the debt had been repaid. The RP noted that although the Personal Guarantor had challenged the validity of the Deed of Guarantee on several legal grounds, such disputes required adjudication by the Adjudicating Authority under Section 100 of the Insolvency and Bankruptcy Code and were beyond the RP's limited scope of examination. Therefore, the RP confined himself to examining the clauses of the guarantee deed only for the purpose of determining whether liability under the

guarantee continued to subsist. The relevant part of the Guarantee Deed has been reproduced as under:

> *Clause 4:*
>
> *"Continuing Guarantee-This Guarantee shall be a continuing one and shall be valid and in full force until the obligations of the Borrowers have been discharged in full. If any discharge, release or arrangement (whether in respect of the obligations of the Borrowers or any security for those obligations or otherwise) is made by the Rupee lender in whole or in part on the basis of any payment, security or other disposition that is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Guarantor under this Guarantee shall continue or be reinstated as if the discharge, release or arrangement had not occurred."*

20. After analyzing the relevant clauses of the Deed of Guarantee, the RP observed that the guarantee was a "*continuing guarantee*" and the lender's rights against the guarantor would continue irrespective of any arrangement with borrowers, release of other guarantors, restructuring, merger, winding up, or changes in management of the borrower companies.

21. The RP particularly relied on clauses stating that the guarantor's liability would continue until the entire obligations of the borrowers were fully discharged. The RP further observed that even if a resolution plan had been approved by the Committee of Creditors in the CIRP of the Corporate Debtors, no actual payment had yet been made pursuant to such approved plans. Since the borrowers' default still continued and remained unpaid, the RP concluded that the rights

of the Financial Creditor against the Personal Guarantor remained enforceable and had not been extinguished.

22. Accordingly, the RP recommended acceptance of the application and initiation of insolvency resolution proceedings against the Personal Guarantor on the ground that a valid debt existed, default had occurred, and the liability under the personal guarantee continued to remain in force.

SBI's Rejoinder to the RP's Report in IA 4725 of 2025:

23. SBI responded to the report of the Resolution Professional through the reply filed by them and stated as follows:

23.1. SBI contended that the Response filed by the Personal Guarantor was completely misconceived and contrary to the limited scope of proceedings under Section 99 of the Code. According to SBI, the Personal Guarantor had attempted to convert the recommendatory exercise under Section 99 into a full-fledged trial on disputed questions of fact and law, which is impermissible under the statutory framework of the IBC whereas section 99 only requires to examine whether the application under Section 95 is complete and whether a prima facie debt and default exist.

23.2. SBI further argued that merely because the Resolution Professional did not accept the defenses of the Personal Guarantor or declined to adjudicate disputed legal issues, it can not amount to violation of principles of natural justice. According to SBI, natural justice does not require the Resolution Professional to accept the version put forward by the Personal Guarantor, nor does it permit the Personal

Guarantor to dictate the scope of the RP's statutory mandate.

23.3. SBI contended that the allegation that the Resolution Professional failed to discharge his statutory obligations or that the Report was inconclusive, was wholly misleading and contrary to record. SBI submitted that the Resolution Professional had acted strictly in accordance with Section 99 by examining the Section 95 application, considering all materials placed before him, and forming a prima facie opinion regarding existence of debt and default.

23.4. According to SBI, the Personal Guarantor was deliberately attempting to conflate the limited recommendatory role of the Resolution Professional with the adjudicatory role of the Tribunal. SBI emphasized that Section 99 does not require the RP to adjudicate upon complex disputes relating to extinguishment of liability under the resolution plan, validity or enforceability of the guarantee, accounting treatment of debt, or alleged violations of RBI guidelines. SBI further submitted that the Report could not be branded as "inconclusive" merely because the Resolution Professional correctly refrained from adjudicating disputed legal issues.

23.5. SBI contended that the argument of the Personal Guarantor that approval of the resolution plan of RCOM extinguished or discharged the personal guarantee was legally untenable. SBI argued that a personal guarantee is an independent and distinct contract, and the liability of the guarantor does not automatically stand discharged merely because a resolution plan has been approved in respect of the principal borrower. Relying upon the judgment of the Hon'ble Supreme Court in

Lalit Kumar Jain v. Union of India (supra), SBI submitted that discharge of a corporate debtor by operation of law does not absolve the personal guarantor of his contractual obligations. SBI further contended that the RCOM Resolution Plan did not contain any provision by which SBI had waived, relinquished, or extinguished its rights against the Personal Guarantor. In absence of express consent by the Financial Creditor, no such discharge could be inferred or implied.

23.6. SBI contended that the elaborate submissions of the Personal Guarantor regarding conversion of debt into equity, issuance of optionally convertible debentures, assignment of debt, and accounting write-back were wholly irrelevant for determination of debt and default under Section 99 proceedings. SBI argued that accounting treatment cannot override the legal character of the underlying financial obligation and cannot be used to defeat insolvency proceedings. SBI submitted that despite restructuring or modification under the proposed resolution plans, the debt owed to SBI and the default committed by the Personal Guarantor continued to subsist. SBI explained that the RCOM Facility of Rs. 565 Crores and the RITL Facility of Rs. 635 Crores had been personally guaranteed by the Personal Guarantor through the Deed of Personal Guarantee dated 23.09.2016. Upon repayment defaults committed by RCOM, the accounts were classified as NPA strictly in accordance with RBI IRAC norms.

23.7. SBI further submitted that the guarantee had been lawfully invoked on 31.01.2019 and that the Personal Guarantor had

failed to produce any evidence of repayment, discharge, or extinguishment of liability. SBI argued that the UVARC Resolution Plan merely proposed capital restructuring through issuance of Zero Coupon Optionally Convertible Debentures and equity instruments instead of meaningful cash recovery.

23.8. It is submitted by Applicant Creditor that "*More importantly, SBI relied upon Clauses 5.18.12 of the RCOM Resolution Plan and 5.17.12 of the RTL Resolution Plan, which expressly preserved the rights of lenders to enforce personal guarantees notwithstanding approval or implementation of the resolution plans. SBI therefore argued that pendency or implementation of the UVARC Resolution Plan did not in any manner bar proceedings against the Personal Guarantor under Part III of the IBC. SBI also alleged that the Personal Guarantor deliberately failed to cooperate with the erstwhile Resolution Professional by refusing to provide basic statutory information and documents required under Sections 99(2) and 99(4) of the Code, solely to obstruct and delay progression of the proceedings to the Section 100 stage."*

23.9. SBI argued that the Resolution Professional was fully justified in not embarking upon such an enquiry while preparing the RP Report. It was further contended that the Personal Guarantor was attempting to improperly compel the Resolution Professional to return findings on disputed legal questions, thereby bypassing the statutory framework contemplated under the IBC.

23.10. SBI submitted that it was an admitted position that the Financial Creditor had invoked the Personal Guarantee through demand notice dated 31.01.2019 and had thereafter initiated

proceedings under Section 95 of the Code. SBI emphasized that the existence of default had never been denied by the Personal Guarantor.

23.11. SBI also pointed out that, since 2020, the Personal Guarantor had filed multiple frivolous applications, including IA No. 1051 of 2020 seeking abatement of proceedings till disposal of the RCOM resolution plan. SBI submitted that the Company Petition had remained pending since March 2020 despite diligent prosecution by the Financial Creditor, which had already incurred substantial costs and expenses.

23.12. Further, the classification of RCOM's loan account as NPA with retrospective effect from August 26, 2016, was undertaken strictly in accordance with the Reserve Bank of India ("RBI") Income Recognition and Asset Classification ("IRAC") norms. Under the IRAC framework, once an account exhibits irregularity for more than 90 days, the lender is mandated to classify the account as NPA with effect from the date on which the irregularity first occurred. The retrospective classification was therefore a statutory obligation under the IRAC norms and not a discretionary act. Neither has the Personal Guarantor disputed the existence of such irregularity, nor has he produced any material to suggest that the retrospective classification was incorrect.

Interlocutory Application No. 5420 of 2025 filed by the Personal Guarantor:

24. An Interlocutory Application No. 5420 of 2025 was filed by the Personal Guarantor (the Respondent in the captioned Company

Petition) under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 challenging the Report under section 99 of the Code dated 04.10.2025 submitted by Mr. Prashant Jain, the Resolution Professional. The Personal Guarantor has prayed in its IA the following:

a. *Reject the Report dated 04.10.2025 filed by Respondent No.1 under section 99 of the IBC, as the same is inconclusive and non-speaking, and contrary to law;*

b. *Hold that the Resolution Professional has failed to properly consider and address the issues and objections raised by the Applicant, and in particular that the personal guarantee dated 23.09.2016 post approval of the Resolution Plan stands discharged, and consequently set aside the said report and accordingly direct the Resolution Professional to submit the fresh report after considering the objection raised by the Applicant;*

c. *That this Hon'ble Tribunal be pleased to declare that the Persona Guarantee dated 23.09.2016 stands discharged post approval of the Resolution Plan.*

24.1. The Applicant Guarantor contended that the RP had wrongly recommended initiation of insolvency resolution proceedings against him without complying with the statutory procedure contemplated under Section 99 of the IBC.

24.2. According to the Applicant Guarantor, the Report was liable to be rejected as it was prepared in gross violation of principles of natural justice, without proper inquiry, without fair opportunity, and solely on the basis of the version and documents supplied by SBI. The Applicant Guarantor asserted that the RP acted

mechanically and failed to independently examine the substantial factual and legal disputes raised by him.

24.3. The Applicant contended that this Tribunal, by order dated 15.07.2025 in IA No. 1773 of 2024, had replaced the earlier Resolution Professional and specifically directed the newly appointed RP, Mr. Prashant Jain, to independently submit his Report under Section 99 of the IBC.

24.4. However, according to the Applicant Guarantor, despite such directions, the RP failed to undertake an independent examination and instead proceeded substantially on the basis of information supplied by SBI. The Applicant Guarantor asserted that the very purpose behind replacement of the earlier RP stood frustrated because the newly appointed RP also failed to conduct a proper, neutral, and independent inquiry into the alleged liability of the Applicant Guarantor.

24.5. The Applicant Guarantor contended that immediately upon receipt of the RP's communication dated 21.07.2025 calling for documents and information, he through his advocates replied on 28.07.2025 stating that the matter involved complex factual and legal issues requiring detailed examination and collation of documents.

24.6. The Applicant Guarantor specifically informed the RP that the disputes involved the CIRP and approved Resolution Plan of Reliance Communications Limited ("RCOM"), the effect of discharge of debt under the Resolution Plan, the legality of invocation of the guarantee, and several other intertwined issues which could not be summarily examined within a few days. The

Applicant Guarantor therefore sought reasonable time of four weeks to submit a comprehensive reply and requested the RP to obtain relevant papers and records from the Resolution Professional of RCOM before proceeding further. The Applicant Guarantor strongly contended that despite being informed about the complexity of the matter, the RP acted in undue haste and demonstrated a pre-determined approach. By email dated 01.08.2025, the RP informed the Applicant Guarantor that he intended to finalise and file his report substantially on the basis of information furnished by SBI and granted only three days' time to the Applicant Guarantor to furnish proof of repayment.

24.7. The Applicant Guarantor contended that the issues involved in the proceedings were directly connected with the approved Resolution Plan of RCOM and the treatment of SBI's debt under the said plan. Therefore, according to the Applicant Guarantor, the RP was duty-bound to examine the relevant documents available with the RCOM Resolution Professional in order to ascertain whether any enforceable liability continued to survive against the Applicant Guarantor. The Applicant Guarantor further pointed out that although the RP initially acknowledged that the matter required detailed collation and fair opportunity, the RP subsequently took the erroneous position through email dated 09.08.2025 that he had no locus or authority to seek documents from the Resolution Professional of RCOM. According to the Applicant Guarantor, this stand was legally incorrect and resulted in an incomplete and defective inquiry.

24.8. According to the Applicant Guarantor, SBI by email dated 14.08.2025 furnished a detailed response to the Applicant

Guarantor's objections along with documents relating to the RCOM facility. However, this email and the enclosed documents were never shared with the Applicant Guarantor. The Applicant Guarantor asserted that he came to know about the said communications only later upon service of IA No. 4725 of 2025 filed by the RP.

24.9. The Applicant Guarantor further pointed out that SBI subsequently furnished additional documents and replies on 10.09.2025, including copies of the approved Resolution Plan of RCOM, sanction letters, term sheets dated 29.08.2016, modified sanction letters, facility agreements, loan correspondence, and other supporting materials relied upon by SBI in support of its claim. These documents too were never supplied to the Applicant Guarantor before the RP finalized his Report.

24.10. The Applicant Guarantor contended that detailed submissions and supporting documents were furnished through letters dated 26.08.2025 and 28.08.2025 demonstrating that no enforceable liability survived against the Applicant Guarantor.

25. On the basis of the aforesaid grounds, the Applicant Guarantor prayed that this Tribunal to reject the Report dated 04.10.2025 filed by the RP in IA No. 4725 of 2025. The Applicant Guarantor contended that the Report had been prepared without due compliance with Section 99 of the IBC, in violation of principles of natural justice, without fair opportunity, and without proper examination of the Applicant Guarantor's defense and supporting materials.

SBI's reply to the objections raised by the Personal Guarantor:

26. The financial creditor submitted in reply to the IA 5420 of 2025 on

06.01.2026 that, under the UV Asset Reconstruction Company Limited ('UVARC') Resolution Plan, the settlement of the claims of SBI and other Financial Creditors is proposed not by way of cash recovery, but primarily through a capital restructuring mechanism including (i) issuance of Zero Coupon Optionally Convertible Debentures ("ZOCDs") to the Verified Financial Creditors, and (ii) issuance/allotment of equity shares to the Verified Financial Creditors, in lieu of a substantial portion of their admitted claims. The Resolution Plan therefore does not provide for any meaningful monetary recovery and instead mandates a deep restructuring of the creditors' recovery into ZOCDs and equity instruments.

27. The Financial Creditor state that the pendency, approval, or implementation of the UVARC Resolution Plan in respect of RCOM, RTL does not, in any manner, prevent or bar the Financial Creditor from pursuing its independent statutory remedies against the Personal Guarantor under Part III of IBC. The relevant part of reply reads as under :

> *More importantly, Clause 5.18.12 of the RCOM Resolution Plan and Clause 5.17.12 of RTL Resolution Plan expressly preserves the rights of lenders, including SBI, to pursue enforcement of personal guarantees, notwithstanding the approval or implementation of the Resolution Plan. The clause unequivocally states that no rights under any personal guarantee shall be deemed to be extinguished, impaired, or assigned by virtue of the plan. The said Clause states that:*
>
> > *"It is clarified that nothing contained in this Resolution Plan shall in any manner prejudice or impair the rights of any lender to enforce its rights under any personal*

guarantee, corporate guarantee or security provided by any third party ("Third Party Security") that has been issued for the benefit of such lender. It is further clarified for abundant caution and clarity, that nothing contained in this Resolution Plan shall be construed as any lender having assigned or transferred its rights under any Third Party Security, which will continue to vest in and ensure for the benefit of such lender. For the purposes of enforcement of such rights, if required under the Applicable Law, the Resolution Applicant shall be deemed to have irrevocably assigned such enforcement rights to the applicable lender. For the purpose of the enforcement of the Third Party Security, no Verified Financial Debt shall be deemed to have been extinguished by virtue of the implementation or approval of this Resolution Plan. It is further clarified that the terms of hereof shall not in any manner prejudice the rights of the Financial Creditors that are available to them under Applicable Law to recover the balance amounts from any third party which may be the principal borrower (and for whose benefit the Corporate Debtor may be the corporate guarantor)."

28. SBI alleges that Mr. Jitender Kothari's ability to discharge his statutory duties was substantially frustrated by the Applicant Guarantor's refusal to furnish documents and his incessant litigative objections, and it is a *mala fide* attempt of the Personal Guarantor to divert, delay and derail the proceedings to avoid the inevitable scrutiny under Section 100 of the Code. The present IA is thus an impermissible attempt to reopen settled matters, distort the scope of Section 99, and again frustrate the statutory timeline. The IA is thus hit by the

principles of res judicata, constructive res judicata or principles analogous to the res judicata.

29. It is submitted by the Financial Creditor that despite repeated opportunities, he has failed to provide even basic documents such as proof of repayment, bank statements, financial statements, tax returns, or any material demonstrating discharge or limitation which are not optional disclosures but mandatory requirements under Section 99(2) and 99(4).

30. Accordingly, SBI has alleged it to be a frivolous substantive allegations seeking to question the validity of the guarantee, the effect of the UVARC Resolution Plan, the alleged discharge of the guarantor, and other substantive legal issues. It is stated that these contentions are irrelevant at the Section 99 stage and are part of the Applicant's larger strategy to derail the statutory process.

Analysis and Findings of the Tribunal

31. Heard the Learned Counsel for the Financial Creditor, Personal Guarantor and the Resolution Professional.

31.1. Certain specific contentions by the Personal Guarantor were that

- the Deed of Guarantee itself was void because the guarantee was executed on a day which falls after date of classification of the facility as a Non-Performing Asset (NPA), which was done by Applicant Creditor by retrospective effect;
- the alleged debt stood discharged pursuant to the approved Resolution Plan of RCOM; and
- no subsisting liability remained enforceable against the

Applicant Guarantor after implementation of the Resolution Plan.

32. It is held in the matter of ***Dilip B. Jiwrajka v. Union of India & Ors.,*** ***(2023) ibclaw.in 147 SC***, the Hon'ble Supreme Court said that "*We are not inclined to accept this assertion. The principles articulated in* ***Swiss Ribbons Private Limited v Union of India (2019) 4 SCC 17*** *elucidate that the resolution professional's functions are administrative, not adjudicatory.* ***Essar Steel India Limited v Satish Kumar Gupta (2020) 8 SCC 531, Para 48,*** *underscores the non-adjudicatory nature of the resolution professional's role. Further support for the administrative role of the resolution professional is drawn from the BLRC's drafting instructions, affirming that the resolution professional's role is primarily administrative for information and documentation collation and verification of the creditor's claim under Section 95 of the IBC (The Report of the Bankruptcy Laws Reforms Committee, Volume I, 4 November 2015, at 115-118)".*

33. It is further held in *Dilip B. Jiwrajka (supra)* at para 74 that **"***The true adjudicatory function of the authority commences under Section 100 after the submission of the report. Another reason why we are not inclined to accept the submission is that what is described as a jurisdictional question by the petitioners may not be a simple matter to be decided as a question of law. The jurisdictional questions of the nature which have been suggested by the petitioners, namely, on whether there is a subsisting debt or whether the relationship of debtor and creditor subsists, would involve a decision on mixed questions of law and fact. The entire scheme of Sections 99 and 100 implicates time lines which have been laid down by Parliament. The entire process of*

implementing these time lines would be rendered nugatory if an adjudicatory role were to be read into the provisions of Section 97(5). The final reason which would militate against accepting the submission is that the provisions of Section 99 do not as such implicate any adverse civil consequences particularly if those provisions are read in the manner in which we now propose to elucidate."

34. It is further held in *Dilip B. Jiwrajka (supra)* at Para 78 that "*Sub-section (3) of Section 99 provides that where a debt for which an application has been filed by the creditor is registered with an information utility, the debtor shall not be entitled to dispute the validity of the debt. This provision in sub-section (3) operates only in relation to the recommendatory function of the resolution professional. That provision cannot operate to bind the adjudicatory function of the adjudicating authority when it exercises its jurisdiction under Section 100.*"

35. It is noted that the Resolution Professional has found the debt due from the personal guarantor payable after taking into consideration the material before him leaving the issue of extinguishment of guarantee to this Tribunal for adjudication, and the report of the Resolution Professional is only recommendatory in nature, hence, it cannot be said that the Resolution Professional, having non-adjudicatory role while submitting his report u/s 99 of IBC, it can not be said that the Resolution Professional has failed to form a prima facie opinion on whether the debt is legally payable, and to discharge this statutory duty by declining to examine the Applicant's core objections on the ground that they involve questions of law and that adjudication may be done by this Tribunal. Accordingly, we do not find any substance in the contention of the Personal Guarantor that

the report per se is defective and without considering objection of the Applicant raised as preliminary issue.

36. It is further stated by the Personal Guarantor that the Resolution Professional has relied upon communications and material furnished by the Respondent No. 2 which were not disclosed to the Applicant, including emails dated 14 August 2025 and 10 September 2025 rendering the Report contrary to law and principles of natural justice and in teeth of binding law as laid down by the Hon'ble Supreme Court in Jiwrajka (Supra).

37. It is noted that the aforesaid two emails are forming part of the application IA (IB) 4725 of 2025 filed by the Resolution Professional along with the email dated 08.08.2025, in response to which the financial creditor had sent aforesaid communications. The relevant part of the email dated 8.8.2025 sent by the Resolution Professional to the applicant creditor reads as under :

"Pursuant to the above, we wish to bring to your attention that the undersigned has received the following communications from the advocates for the Personal Guarantor:

1. Letter dated 28th July 2025;

2. Email dated 05th August 2025 &

3. Letter dated 06th August 2025.

The above communications raise the following points which require further information and supporting documentation from your end in order to enable us to submit the report under Section 99 of the IBC:

The contentions raised by the counsel for the personal guarantor through

email dated 05th August 2025 is reproduced hereinbelow,

Quote

Paragraph-6

In that regard we state that our Client is challenging the alleged debt claimed in the Petition inter alia on the following grounds in the alternative and without prejudice to one another:

a. That no cause of action subsists and/or survives and/or has otherwise ceased in favour of the creditor to initiate and/or continue any proceedings on the basis of the purported deed of guarantee.

b. That the Petition is filed in relation to alleged defaults committed in discharging the alleged debt arising out of the purported deed of guarantee purportedly issued in favour of the creditor to secure the dues of Reliance Communications Limited ("RCOM") (Principal Borrower), which has undergone Corporate Insolvency Resolution Process ("CIRP") culminating into a unanimous approval of resolution plan, which has resulted in the repayment and discharge of the entire alleged debt forming subject matter of this Petition by the creditor agreeing to accept part satisfaction of the debt in cash and part satisfaction of the debt by securities (within the meaning of Securities Contract (Regulation) Act, 1956) in lieu of the debt.

c. That the purported deed of guarantee forming the subject matter of the Petition is void on grounds of the same being obtained by the creditor on the basis of gross misrepresentation and there being a complete failure of legal consideration inasmuch as the guarantee was obtained for an ante dated NPA account and debt rendering the purported deed of

guarantee as unenforceable in law. Hence, there can never be said to be a valid legal guarantee existing under the provisions of the Indian Contract Act 1872 much less a guarantee binding on the debtor, and no proceedings can even be initiated by the creditor in respect of the same.

Unquote

In view of the above, we request you to kindly provide documents in relation to the following at the earliest:

1. Your response to the contentions raised by the Personal Guarantor along with supporting documents.

2. All documents relating to the facilities availed by Reliance Communications Limited; and

3. More specifically any reply of the Personal Guarantor on Demand Notice (Form B) dated 24th February 2020.

The personal guarantor, vide his email dated 05th August 2025, has sought a period of three weeks to furnish the requisite documents. It is pertinent to note that the undersigned's report was already prepared based on the information and documents available on record. However, in the interest of fairness and completeness, the requested time is being considered. In adherence to the principles of natural justice, the requested time may be granted. In the meantime, we request you to kindly provide the relevant details at the earliest, as the same may necessitate seeking additional information from the personal guarantor."

38. Vide aforesaid email dated 14 August 2025 and 10 September 2025, the Financial Creditor clarified its position in relation to the issues raised by the Personal Guarantor, and also submitted that "*As*

requested, we have attached the final sanction alongwith Term Sheet dated 29.08.2016 acknowledged by borrower and guarantor. Further, we also attached modified sanction letter dated 07.09.2016 acknowledged by borrower and guarantor. Rupee Loan Facilities Agreement is executed in Delhi and presently is in the custody of Axis Trustee at Delhi. We request you to visit Delhi for verification of Rupee Loan Facilities Agreements (executed version). However, we have already shared with you the copy of executable version of the Rupee Loan Facilities Agreement."

39. It is noted that the documents submitted by the Financial Creditors, alleged to be not provided by the Resolution Professional to the Personal Guarantor before finalising the repot u/s 99, do not constitute any additional information, which the personal guarantor had no knowledge of, instead these documents pertain to the personal guarantor, having been executed/signed by him. Further, the explanation of the financial creditor to the contentions raised by the Personal Guarantor furnished by aforesaid emails do not constitute any additional information, which the Personal Guarantor was obligated to make available to the Personal Guarantor, as the Resolution Professional's role, as is trite, is non-adjudicatory in nature and no adjudication takes place at the time of submission of Report requiring strict adherence to the principle of natural justice. Further, the Hon'ble Supreme Court in *Dilip B. Jiwrajka (supra)* at Para 76 also held that "……..*However, a crucial distinction is made here, signifying that the circumstances of this case are distinct from those considered in* ***Rajesh Agarwal (supra)****. The classification of the borrowers account as fraud without giving any opportunity of being head entailed significant material consequences, including the disability on accessing institutional finance. That may be contra-*

distinguished with the procedure under Section 95 to Section 99. In this, a person is not deemed a debtor but a resolution professional is appointed to ascertain whether the facts substantiate the application for an IRP. An interim-moratorium is placed on legal proceedings concerning the debt to safeguard the debtor from further legal action. However, the interim-moratorium does not act to freeze the assets and legal rights and title of the debtor. Once a recommendation is made, it is not binding on the adjudicating authority. The authority would only decide after looking at the recommendation of the resolution professional and affording full opportunity of hearing to the debtor or the personal guarantor, as the case may be. Consequently, the petitioners' argument lacks merit when assessed against these established legal principles."

40. It is pertinent to note that the Resolution Professional is required to furnish the report u/s 99 on the basis of material before him, and he may seek information which cannot be of roving nature but must be relatable to the application before him. It is also stated in the matter of *Dilip B. Jiwrajka (Supra)* that "*The creditor who fills up Form C would have to furnish such information as lies within the knowledge of the creditor who is the applicant under Section 95(4). When the resolution professional is empowered to seek information or an explanation in connection with the application, such information or explanation must be relevant to and bearing a connection with the nature of the application itself.*" The explanation sought by the Resolution Professional from the financial creditor is only in relation to the existence of debt, which was disputed by the personal guarantor. In our considered view, the Resolution Professional, in exercise of his non-adjudicatory function, can not be required to provide the information, supplied by the financial creditor and personal

guarantor, to the other side under the principles of *audi alteram partem*, as the Resolution Professional's report is not final in nature and does not prejudice either of party, as both the parties have opportunity to make their submissions objecting to the conclusions as well as the material, which is basis of such opinion. It is not disputed that such material is already made available to both the parties by the Resolution Professional by serving a copy of report as well as the application filed before this tribunal for placing such report on record of this Tribunal.

41. In the matter of ***State Bank of India and Ors. v. Doha Bank Q.P.S.C. and Anr.,*** ***(2026) ibclaw.in 234 SC***, the issue in relation to execution of corporate guarantee after the date of first default was considered. The relevant extracts of this decision is as follows :

> "***4.*** *The appellants, as members of a consortium of Banks, extended the rupee loan facilities of ₹6,015 crores to Reliance Communications Limited (RCOM) and ₹735 crores to Reliance Telecom Limited (RTL). On 20.02.2015, a deed of hypothecation was executed by the CD, in the favour of Security Trustee to secure the consortium lending pursuant to which a charge was created and duly registered.*
>
> ***5.*** *On 26.08.2016, the accounts of RCOM, RTL and CD were classified as Non-Performing Assets (NPA) indicating default in repayment obligations. Subsequently, on 05.09.2016 and 04.12.2016, Reinstatement Agreements were executed between Doha Bank and the CD, restructuring the repayment obligations and extending repayment schedule ultimately up to 05.06.2017.*
>
> ***6.*** *On 03.03.2017, the CD executed Corporate guarantees in*

favour of consortium lenders to secure loans extended to its group entities, namely RCOM & RTL. On 22.12.2017, the account of RITL was declared as NPA with retrospective effect from 26.08.2016.

………

24. *So far as timing of execution of the corporate guarantee is concerned, the account of the CD was first declared NPA on 22.08.2016. However, the same was subsequently restructured by the consortium of banks, in lieu thereof, the CD executed the corporate guarantee on 03.03.2017. However, despite such restructuring, the account once again became NPA on 20.12.2017. The Reserve Bank of India has issued a master circular dated 01.07.2015, which provides for prudential norms on income recognition or NPA Classification, and provisioning pertaining to advances. Clause 17.2.6 of the said circular reads as under:*

> ***17.2.6*** *If a restructured asset, which is a standard asset on restructuring in terms of para 20.2, is subjected to restructuring on a subsequent occasion, it should be classified as substandard. If the restructured asset is a sub-standard or a doubtful asset and is subjected to restructuring, on a subsequent occasion, its asset classification will be reckoned from the date when it became NPA on the first occasion. However, such advances restructured on second or more occasion may be allowed to be upgraded to standard category after the specified period (Annexure-5) in terms of the current restructuring package, subject to satisfactory performance."*

The said master circular mandates that in case of restructured assets, its asset classification will be reckoned from the date it became NPA on the first occasion. The appellants, therefore, declared the account of the CD as NPA w.e.f. 26.08.2016. Thus, it is evident that the corporate guarantees were executed before declaration of account of the CD as NPA and, therefore, the timing and manner of the corporate guarantees could not be questioned on the ground that the CD and the holding company were already in default.

……"

42. In view of the aforesaid, we do not find any merit in the contention of the Personal Guarantor that he executed guarantee on 23.09.2016 in favor of applicant creditor, when the principal borrower was already in default on 26.8.2016, because the principal borrower was classified as NPA in January, 2017 with retrospective effect after the execution of the guarantee, and the earlier default committed by the Principal Borrower had, for the time being, eclipsed in view of restructuring arrangement and the lender was obligated to classify the account of principal borrower as NPA relatable to original date of default (which was earlier to the execution of guarantee by the personal guarantor) in terms of RBI guidelines mandating classification w.r.t. original date of default in case of failure of restructuring.

43. It is also argued by the Personal Guarantor that, under section 23 of the Indian Contract Act, 1872, the consideration or object of an agreement becomes unlawful if it is forbidden by law, defeats the provisions of law, or is fraudulent, and any such agreement is void. Further, under Section 24 of the Contract Act, where any part of the consideration or object is unlawful, the entire agreement becomes

void. Accordingly, it is submitted by the Personal Guarantor that the consideration for execution of the Guarantee was the grant of financial facilities by SBI to RCOM and RITL under the Facilities Agreement dated 29 August 2016, as amended on 8 September 2016, and once RCOM had become an NPA, SBI was legally prohibited from granting any fresh financial facilities to RCOM unless the account was first restored to a standard asset category. Consequently, the very consideration underlying the Guarantee was unlawful within the meaning of Sections 23 and 24 of the Contract Act, thereby rendering the Guarantee void.

44. It is noted that RBI, as regulator, prohibits the lender(s) to advance further money to the borrowers, whose credit facility has been classified as NPA, however, such prohibition is administrative in nature and entails consequences for the contravention, but does not make such lending as illegal or fraudulent. The fact that the money was advanced to the principal borrower is not disputed. Accordingly, we are of considered view that section 23 and 24 of the Contract Act has no application to the present facts of the case.

45. Further, we do not find any case of misrepresentation qua personal guarantor, who was in de-facto control of the affairs of RCOM group companies as its director having stepped down only in November, 2019, hence, could have found the factum of default committed by the principal borrower prior to execution of guarantee by acting diligently, even if it is accepted that he had no ready knowledge of such default at the time of execution of guarantee. We do not find that the applicant creditor can be imputed with any false assertion, breach of duty causing advantage by misleading Personal Guarantor, or inducing a mistake regarding the subject matter of the agreement,

because, the money was disbursed to the principal borrower only after execution of guarantee by the personal guarantor in terms of sanction letter. Accordingly, the said guarantee agreement can not held to be hit by Section 142 or Section 143 of the Contract Act.

46. The personal guarantor has also contended that the applicant creditor, having agreed under the Resolution Plan to assign and resolve its debt exposure, loses its locus to continue enforcing the same debt against the Applicant in its original form. Any clause in the Resolution Plan purporting to preserve the guarantee despite assignment or transfer of debt is inconsistent with settled principles of law and liable to be challenged.

47. In the matter of ***BRS Ventures Investments Limited v. Srei Infrastructure Finance Limited*** ***(2024) ibclaw.in 170 SC***, the Hon'ble Supreme Court took note of decision in case of ***Lalit Kumar Jain vs. Union of India (2021) 9 SCC 321*** where in it was held at Para 125 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", and observed that "*This Court dealt with a situation where a resolution plan for the principal borrower was approved in CIRP, and the principal borrower was discharged from the debt by operation of law through an involuntary process. It was held that the contract between the creditor and the surety is independent; therefore, the approval of the resolution plan of the principal borrower*

will not amount to the discharge of the surety."

48. ***In the matter of Mr. Vikas Aggarwal v. Asian Colour Coated Ispat Ltd. and Ors.,*** ***(2024) ibclaw.in 127 NCLAT***, it is held that "***68.*** *We are of the opinion that the intent of the legislature behind the provisions of the Code is for resolution of the Corporate Debtor and not of the Personal Guarantors of the Corporate Debtor. The financial creditors have a right to proceed against the personal guarantors of the Corporate Debtor, and further, that the personal guarantors, in terms of section 31 of the Code are duty bound by the terms of the Resolution Plan approved by the Adjudicating Authority. We also feel that a Resolution Plan itself can vary and modify the rights of the creditors and guarantors of the corporate debtor and provide for continuation of personal guarantees which do not need any confirmation from Personal Guarantor to the Corporate Debtor.*" The Hon'ble Supreme Court dismissed appeal against this decision in the matter ***Sapna Aggarwal v. Asian Colour Coated Ispat Ltd. and Ors., (2024) ibclaw.in 118 SC*** holding that "*We find no error in the order of the National Company Law Appellate Tribunal dated 01 March 2024 in Company Appeal (AT) (Ins) No 1105 of 2020*".

49. It is also held in ***Electrosteel Castings Ltd. v. UV Asset Reconstruction Company Ltd.,*** ***(2026) ibclaw.in 07 SC*** that "***24.*** *It is well settled that approval of the Resolution Plan does not ipso facto discharge a security provider of her or his liabilities under the contract of security. Clause 3.2 (x) of the Resolution Plan explicitly reserves the rights of financial creditors against such third parties, including security providers/existing promoters, in relation to the unsustainable debt.*" In the present case, clauses 5.18.11, 6.8.8 and 6.8.9 in the approved resolution plan of RCOM, expressly preserves

the rights of lenders, including SBI, to enforce personal guarantees executed by the promoters or guarantors. The plan clarifies that while creditors may receive OCDs or other instruments under the resolution mechanism, their rights under third-party securities and guarantees are not waived, compromised, or extinguished.

50. The Personal Guarantor's contention that the debt stands fully discharged by conversion of debt into equity, optionally convertible debentures ("OCDs"), or assignment under the resolution plan is misconceived. In RCOM, the plan is an asset monetization construct. The Successful Resolution Applicant ("SRA") proposes to issue zero-coupon OCDs to creditors, including SBI, with redemption dependent on future asset sales, spectrum monetization and litigation outcomes. The most valuable asset is spectrum, and multiple litigations on spectrum dues have delayed plan approval and implementation. There is no clarity on either the quantum or the timeline of any recovery to SBI, and no cash has been received by SBI till date. Even after receiving certain amounts under the RCOM resolution plan, SBI has had to take a substantial haircut, and the debt remains largely unsatisfied.

51. It is not disputed that no money has so far been realized from the Resolution Plan(s) approved in case of RCOM and RITL by the applicant creditor, and the allocation of money in the resolution plan remain merely a financials proposal entitling the applicant creditor to certain amounts against the outstanding debt. Thus, the debt is still due and the same is in default.

ORDER

52. Considering the above facts and circumstances and upon perusal of the documents on record, the C.P. (IB)/916/MB/2020 filed under

Section 95 of the Code, hereby **admitted** and the Insolvency Resolution Process stands initiated against Mr. Anil Dhirajlal Ambani viz. the Personal Guarantor herein. We hereby direct as hereinafter:

I. Initiate Insolvency Resolution Process against the Personal Guarantor and 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 Section 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 Corporate 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 **Mr. Prashant Jain** having his IBBI Registered No. IBBI/IPA-001/IP-P01368/2018-2019/12131, Address: A501, Shanti Heights, Plot No. 2,3,9B/10, Sector 11, Koparkhairne, Thane, Navi Mumbai, Maharashtra, 400709, email id: ipprashantjain@gmail.com ; Phone no. 9322743902, as 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 Mumbai Bench, inviting claims from all Creditors, within 21 days of such publication. The Resolution Professional shall discharge the functions/duties casted upon him under the provisions of the Code in this relation within time bound manner and shall be empowered to exercise the powers vested in him for discharge of such functions/duties.

III. The Resolution Professional shall submit his periodic reports before this Tribunal as required under the I&B Code or Regulations made thereunder.

IV. The Applicant Creditor is directed to deposit **INR 75,000/-** (Indian Rupees Seventy Five Thousand only) or such lesser amount as is mutually agreed between the Resolution Professional and the Applicant Bank, to the bank account of the Resolution Professional within **1 week**, towards his fees and out of pocket expenses to be incurred in relation to the process, however, the fees and such out of pocket expenses shall be such as is mutually agreed with the Creditor. Needless to say, this shall be subjected to the rules and regulations under the provisions of the Insolvency and Bankruptcy Code, 2016.

V. The Registry is directed to communicate a copy of order to the Resolution Professional immediately after the pronouncement of order, and upload the same on the website within **7** working days after the pronouncement of order.

53. Hence, **C.P. (IB)/916/MB/2020**, is hereby **admitted** and **IA (IBC) 5420 of 2025** is **dismissed**.

54. Ordered accordingly.

Sd/-	Sd/-
Prabhat Kumar	**Sushil Mahadeorao Kochey**
Member (Technical)	Member (Judicial)

Vaishnavi B