

SPECIAL BENCH

ITEM NO. 3

**NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH
PRAYAGRAJ**

(Application filed under Section 123 read with sec 115(2) & 121 of the insolvency and bankruptcy Code, 2016.)

IN THE MATTER OF:

CANARA BANK

Asset Recovery Management Branch,
Gomti Nagar, Lucknow, U.P.
cb5248 @ canarabank.com

..... FINANCIAL CREDITOR/PETITIONER

Versus

SMT. MITHLESH MISHRA

Guarantor(s): M/s K.C. Infrabuild Private Limited

.....PERSONAL GUARANTOR/RESPONDENT

Coram:

Ms. Reeta Kohli : Member (Judicial)
Mr. Ashish Verma : Member (Technical)

Appearances:

Sh. Ankur Gupta, Adv. : For the Canara Bank

ORDER

1. The Applicant/Financial Creditor has filed this application on 05.05.2026 under Section 123 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the IBC/Code) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtor) Rules, 2019 to initiate Bankruptcy Process against the Respondent/ Personal Guarantor Smt. Mithlesh Mishra for a total outstanding debt of Rs. 67,54,31,888/- as

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on 31.03.2026 along with interest, charge etc.

2. It is stated that M/s K.C. Infra Build Private Limited (hereinafter referred to as “Corporate Debtor”) availed credit facilities from the Applicant/ Financial Creditor, which were secured by the present Personal Guarantor/Respondent vide Deed of Guarantee dated 31.12.2014 and 04.03.2015 and 31.03.2015.
3. However, the Corporate Debtor committed default in repayment of the loan and was consequently classified as a Non-Performing Asset on 29.09.2015. Upon continuation of such persistent defaults, the Applicant issued a notice under Section 13(2) of the SARFAESI Act, 2002 and thereafter instituted Original Application No. 668 of 2016 under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 before the Debts Recovery Tribunal, Lucknow.
4. Subsequently, the Applicant issued a Demand Notice dated 20.08.2024 under Section 95(4)(b) of the Code read with Rule 7(1) of the IBBI (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors) Rules, 2019 to the Personal Guarantor; however, no payment was made in discharge of the outstanding dues. Consequently, the Applicant preferred an application under Section 95 of the Code, registered as CP (IB) No. 96/ALD/2024, seeking initiation of the insolvency resolution process against the Personal Guarantor. Thereafter, this Tribunal, vide order dated 29.11.2024, appointed Ms Teena Saraswat Pandey as Resolution Professional under Section 97(5) of the Code, who has since submitted her report under Section 99 of the Code through IA No. 652 of 2024 in CP (IB) No. 96/ALD/2024.
5. Thereafter, this Tribunal vide its order dated 27.05.2025 admitted (in terms of Section 100 of the Code) the CP (IB) No. 96/ALD/2024 filed under section 95 of the Code, 2016 and initiated Insolvency Resolution Process

against the Respondent Personal Guarantor for submitting the repayment plan.

6. Since no repayment plan was submitted by the Respondent Personal Guarantor, the Resolution Professional filed an application bearing IA No. 87/2026 under Section 112 of the IBC before this Tribunal. Upon consideration of the said I.A, this Tribunal, vide order dated 06.04.2026 passed under Section 114 read with Section 115(2) of the IBC, permitted the Applicant to file an application for bankruptcy under Chapter IV in accordance with the provisions of the Code and the Rules and Regulations framed thereunder.
7. In view of the aforesaid facts and circumstances and order dated 06.04.2026 passed by this Tribunal, the Applicant, being State Bank of India, submits that as the Respondent /Debtor/Personal Guarantor failed to repay its outstanding debts even during personal insolvency, the instant application u/s 123 for appointment of bankruptcy trustee and initiation of bankruptcy process ought to be allowed by this Tribunal.
8. We have heard the Ld. Counsel for the Applicant Bank and perused the records, exhibits/annexures, and also considered the arguments advanced by the Ld. Counsel.
9. We have taken note of the fact that as the resolution process initiated against the Respondent Debtor/Personal Guarantor in terms of Section 95 of the Insolvency and Bankruptcy Code, 2016 has failed because of non-submission of any repayment plan by the Personal Guarantor despite sufficient opportunity given, the present application for starting bankruptcy process against the Debtor/Personal Guarantor has been filed as per the provisions of the Code.
10. Accordingly, after thorough analysis and examination of the documents and materials submitted on record, we find that the Applicant, in its present

application, has attached all the requisite documents in terms of section 123 of the Code and filed the application within a period of three months of the date of passing of order by this Adjudicating Authority under Section 114 read with Section 115(2), and also proposes an Insolvency Professional to be appointed as the Bankruptcy Trustee for carrying out the bankruptcy process against the Respondent Debtor/ Personal Guarantor.

11. Therefore, considering the facts and circumstances of the case, we hereby pass the bankruptcy order against the Personal Guarantor Smt. Mithlesh Mishra , R/o at House No. 289, Naya Maharaj Nagar, Bahadur Nagar-3, Tehsil Lakhimpur U.P., in terms of section 126 read with section 79(3) of IBC and pass the following order for the appoint of Bankruptcy Trustee u/s 125 to carry out bankruptcy process against the personal guarantor/debtor: -

- i.** The Applicant has proposed the Resolution Professional, Ms Teena Saraswat Pandey, Insolvency Resolution Professional, having Registration No. IBBI/IPA-001/IP-P00652/2017-18/11126 having her address at 387F 114 Scheme Part 1 Behind Diksha Boys hostel Sant Nagar, Indore, Madhya Pradesh-452010 [E-Mail: teenasaraswat@yahoo.co.in], to be appointed as Bankruptcy Trustee under Section 125 of the Code. AFA is valid till 31.12.2026. The said resolution professional has also given a declaration in Part-IV of the Application and written consent in Form-A dated 17.04.2026 has also been filed. The LRA of this Tribunal, Ms. Kriti Kaushal has checked the credentials of the proposed resolution professional and found that no disciplinary proceedings are pending against her and also there is nothing adverse against her. Therefore, the Resolution Professional, Ms Teena Saraswat Pandey, is hereby appointed as Bankruptcy Trustee.
- ii.** The Registry is directed to provide the copy of this bankruptcy order

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and copy of the bankruptcy petition to the Bankrupt, Creditors and Bankruptcy Trustee within a week as provided under Section 126 (2) of IBC, 2016.

- iii. This order of bankruptcy shall continue to have the effect till the Debtor is discharged under section 138 of IBC, 2016.
- iv. The Bankrupt shall submit his statement of financial position to the Bankruptcy Trustee in the prescribed Form within seven days from the date of the order.
- v. The estate of the Bankrupt excluding the assets mentioned in Section 155(2) of Code r/w Rule 5 of Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtor) Rules, 2019 vest with the bankruptcy trustee in pursuance of this order, the Bankruptcy Trustee is directed to forthwith take into his custody all the assets, properties, and actionable claims of the Bankrupt and take necessary steps to ensure preservation, protection security and maintenance of those properties as provided under section 128 and 154 of IBC, 2016.
- vi. The Bankruptcy Trustee is directed to adhere to Section 128, 129 (4), 132 133, 134, 136 and 137 of IBC, 2016 and discharge his powers and duties as specified and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
- vii. The Bankruptcy Trustee shall send notices as provided under section 130(a) of IBC, 2016 within ten days from the date of this order to the creditors mentioned in statement of affairs submitted by the Bankrupt under section 129 of IBC, 2016.
- viii. The Public Notice inviting claims from the creditors as contemplated under section 130 (2) of the Code shall be issued in English daily and in one vernacular regional language newspapers having wide circulation where the Bankrupt resides.
- ix. On passing of this bankruptcy order u/s 126 of IBC but subject to

sub-section (2) of 128 of the Code, any creditor of Bankrupt shall not initiate any action against the property of the Bankrupt in respect of debt and no suit or other legal proceeding shall be initiated against the Bankrupt, save and except with the leave of the Adjudicating Authority as provided in section 128 (ii) of the Code.

- x. The Bankruptcy Trustee shall conduct the administration of distribution of estate of Bankrupt under chapter V as provided in section 136 of the Code.
- xi. The Bankrupt shall from the date of the order be subject to such disqualifications and restrictions as prescribed under section 140 and 141 of the code.
- xii. The Bankruptcy Trustee may seek such further information or explanation in connection with bankruptcy process as may be required from the debtor or the creditor or any other person who in the opinion of the Bankruptcy Trustee, may provide such information. The persons from whom information or explanation is sought shall furnish such information or explanation within seven days of receipt of the request.
- xiii. The Bankruptcy Trustee shall exercise all the powers as enumerated under the Code read with Rules and Regulations made thereunder.
- xiv. The Bankruptcy Trustee shall submit to this Adjudicating Authority and committee a preliminary report within ninety days from this date of bankruptcy order after serving copy of the report on Bankrupt as provided in Regulation 8 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulation, 2019.
- xv. The Bankruptcy Trustee shall submit to this Authority periodical progress report within fifteen days after the end of every quarter after serving copy of the report to the Bankrupt provided under

Regulation 10 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulation, 2019.

- xvi. The fee of Bankruptcy Trustee to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulation, 2019 and accordingly, paid by the Committee of Creditors.
12. The Registry is directed to send e-mail attaching copies of the order forthwith to all the parties and their Ld. Counsels for information and for taking necessary steps.
13. A certified copy of the order is to be issued upon compliance with the requisite formalities.

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(Ashish Verma)
Member (Technical)

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(Reeta Kohli)
Member (Judicial)

Date: 25.05.2026

Avaneesh Kumar Singh
(Stenographer)