

IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

IA 458/2025

In

CP No.: IB 789 (PB)/2024

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

IN THE MATTER OF:

**IDBI BANK,
THROUGH ITS RESOLUTION PROFESSIONAL
SHRI RAHUL JINDAL**

...PETITIONER/FINANCIAL CREDITOR

VERSUS

SHRI SUDHIR NARAYAN RAO MODAK

**...RESPONDENT/PERSONAL GUARANTOR
AND**

In

IA-458/2025

IN THE MATTER OF:

RAHUL JINDAL

...APPLICANT/RESOLUTION PROFESSIONAL

VERSUS

SHRI SUDHIR NARAYAN RAO MODAK

...RESPONDENT/PERSONAL GUARANTOR

Order Reserved on: 08.06.2026

Order Pronounced on: 12.06.2026

CORAM:

**JUSTICE ANUPINDER SINGH GREWAL
HON'BLE PRESIDENT**

**SHRI RAVINDRA CHATURVEDI
HON'BLE MEMBER (TECHNICAL)**

Present:

For the : Mr. Harshit Gupta, Adv.
Petitioner/FC

For the : Mr. Varun Garg, Ms. Komal Bihani, Adv.
Respondent

For the RP : Mr. Karan Gandhi, Ms. Vidhika Kapoor, Mr. Shikhar
Tiwari and Ms. Riya Jain, Adv.

ORDER

1. The main petition is filed under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 (**IBC/Code**) read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 ("**Personal Guarantor Rules 2019**") by **IDBI Bank Limited ("Petitioner" / "Financial Creditor")** seeking to initiate Personal Insolvency Resolution Process ("**PIRP**") against Shri Sudhir Narayan Rao Modak ("**Respondent**" / "**Personal Guarantor**" / "**PG**"), personal guarantor in the loan account of M/s SMS Paryavaran Ltd. ("**Corporate Debtor**" / "**CD**" / "**Principal Borrower**").
2. This Adjudicating Authority, vide order dated 13.12.2024, appointed Mr. Rahul Jindal, bearing Registration No. IBBI/IPA-001/IP- P- 02649/2021-2022/14048, email ID: jindalrahul60@gmail.com ("**Resolution Professional**" / "**RP**"), as the Resolution Professional to submit a report as per Section 99 of the Code.

3. The Resolution Professional submitted a report under Section 99 of the Code through **IA-458/2025**, which also forms a part of the subject matter under consideration in the present adjudication.

Brief facts of the case:

As submitted by the parties in the pleadings and submissions made in the court, the following are the relevant facts of the case: -

4. The Petitioner/Financial Creditor sanctioned a Working Capital Limit of Rs. 20,00,00,000/- (Rupees Twenty Crores only) in favour of the Corporate Debtor vide Sanction Letter dated 21.08.2010. In order to secure the said financial facilities, the Promoters/Directors of the Corporate Debtor, namely, Shri Sudhir Narayan Rao Modak (one of the Promoter/Director of the Corporate Debtor and the “Respondent/Personal Guarantor herein”), Shri Munendra Kumar Singh, Shri Manimay Sengupta, Smt. Uma Singh, Smt. Sucheta Sudhir Modak, and Smt. Parbati Sengupta (other Promoters/Directors of the Corporate Debtor), executed various Deeds of Personal Guarantee, providing irrevocable and continuing guarantees in favour of the Petitioner. The Corporate Debtor also executed a Loan cum Hypothecation Agreement dated 23.09.2010 in favour of the Petitioner/Financial Creditor.
5. In furtherance thereof, the Respondent/Personal Guarantor executed a Personal Guarantee Agreement dated 12.10.2010 in favour of the Petitioner, thereby securing the financial assistance availed by the Corporate Debtor. The Respondent/Personal Guarantor additionally mortgaged his immovable properties in favour of the Petitioner, being:

- i. Flat no. 96, Raja Enclave, Road No. 44, Pitampura, Delhi-110034 on 07.04.2011.
 - ii. Unit No. 262 and 263, 2nd floor, Vardhman Grand Plaza, Plot No. 7. District Centre, Manglam Place, Sector 3, Rohini, Delhi 110085 (owned jointly with Shri Manimay Sengupta, Shri Munendra Kumar Singh) on 07.04.2011.
 - iii. Plot No. 4. Block E, Pocket 1, Sector 7, Rohini, Delhi-110085 (owned jointly with Shri Manimay Sengupta, Shri Munendra Kumar Singh, Smt. Sucheta Sudhir Modak., Smt. Parbati Sengupta and Smt. Uma Singh) on 11.04.2011.
6. Subsequently, vide Sanction Letter dated 03.03.2012, the Petitioner renewed the existing Working Capital Limit of Rs. 20,00,00,000/- (Rupees Twenty Crores only). Thereafter, upon the request of the Corporate Debtor, the Petitioner further enhanced the Working Capital Facilities from Rs. 20,00,00,000/- (Rupees Twenty Crores only) to Rs. 33,00,00,000/- (Rupees Thirty-Three Crores only) vide Sanction Letter dated 20.05.2013. In connection with the said enhanced facilities, the Corporate Debtor executed a Facility Agreement, Deed of Hypothecation, and Loan Agreement on 20.05.2013.
 7. The Respondent/Personal Guarantor executed a fresh Personal Guarantee on 20.05.2013 and extended the mortgage over his immovable properties to cover the enhanced financial assistance,.
 8. The Petitioner/Financial Creditor thereafter agreed to participate in a Consortium of Lenders vide letter dated 31.10.2013. The Corporate Debtor accordingly executed a Working Capital Consortium Agreement and a Deed of Hypothecation dated 08.05.2014 in favour of the consortium lenders, including the Petitioner herein, for a total Working Capital Limit of Rs. 1,49,00,00,000/- (Rupees One Hundred and Forty-Nine Crores only). The Respondent/Personal Guarantor executed a

further Personal Guarantee dated 08.05.2014 in favour of the Financial Creditor, thereby extending his liability to encompass the consortium facilities. The financial assistance of Rs. 33,00,00,000/- (Rupees Thirty-Three Crores only) was subsequently renewed vide Sanction Letter dated 26.06.2014.

9. Upon the request of the Corporate Debtor, the Petitioner restructured the existing Working Capital Facilities to Rs. 35,25,00,000/- (Thirty-Five Crore Twenty-Five Lakhs only) vide letter dated 29.06.2015. In connection therewith, the Corporate Debtor executed a Loan Agreement, Deed of Hypothecation, and Facilities Agreement on 03.07.2015, and the Respondent/Personal Guarantor executed Personal Guarantees dated 03.07.2015 and 01.08.2015 respectively, thereby continuing and affirming his liability in respect of the restructured financial assistance.
10. On 05.04.2016, a Master Restructuring Agreement (“**MRA**”) was executed between the Corporate Debtor and the consortium of lenders, including IDBI Bank, SBI, ICICI Bank, Canara Bank, HDFC, and SIDBI, along with a Deed of Hypothecation and a Trust and Retention Account Agreement, for restructured facilities aggregating Rs. 1,25,51,00,000/- (Rupees One Hundred and Twenty-Five Crores and Fifty-One Lakhs only). Simultaneously, the Respondent/Personal Guarantor executed a Personal Guarantee on 05.04.2016 in favour of the Financial Creditor and the other consortium banks, covering the restructured facilities including IDBI Bank’s share of Rs. 35,25,00,000/- (Rupees Thirty-Five Crores and Twenty-Five Lakhs only), and created/extended mortgage over his immovable properties, which additionally included the agricultural property situated at Khewat/Khatoni No. 198 min/2005 min, Mustalil No. 46, Killa Nos. 19 (7-0), 22/2 (3-0), 22/1 (4-0), 21/2 (6-0), 21/1/2 (1-8) and Khewat/Khatoni No. 199/206, Mustalil No. 45,

Killa No. 25 (6-8) and Mustalil No. 46, Killa No. 21/1/1 (1-12), situated at Village Silana, Tehsil Jhajjar, District Rohtak, Haryana, mortgaged on 14.06.2016.

11. On the same date, i.e., 05.04.2016, the Respondent, along with the other Promoters/Directors of the Corporate Debtor, executed a Pledge Agreement for the pledge of dematerialised shares held in the Corporate Debtor, in favour of the Financial Creditor.
12. The Corporate Debtor failed to repay the outstanding dues and was classified as a **Non-Performing Asset (“NPA”)** on **28.02.2018**.
13. The Financial Creditor thereafter issued a Recall Notice dated 24.05.2018 to the Corporate Debtor and all Personal Guarantors, recalling the entire outstanding dues, followed by a Corrigendum dated 09.10.2018. Guarantee Invocation Notices dated 15.06.2018 were thereafter issued to all Personal Guarantors, including the Respondent, with Corrigendums thereto issued on 16.10.2018, calling upon them to discharge their obligations under the respective guarantees.
14. A Notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (**“SARFAESI Act”**) was also issued to the Respondent on 27.06.2018, with a Corrigendum thereto on 31.10.2018.
15. In the meantime, a Company Petition filed by ICICI Bank Limited under Section 7 of the Code, seeking initiation of CIRP against the Corporate Debtor, was admitted by this Adjudicating Authority vide order dated 03.01.2020 in CP (IB) No. 1935 (PB) of 2019. Shri Sajeve Bhushan Deora was appointed as the Interim Resolution Professional, who was subsequently confirmed as the Resolution Professional vide order dated 05.03.2020.

16. The Resolution Plan was ultimately approved vide order dated 21.02.2023, pursuant to which the Financial Creditor received Rs. 4,30,00,000/- (Rupees Four Crores and Thirty Lakhs only) towards its share. It is pertinent to note that the said amount constitutes only a partial satisfaction of the dues owed by the Corporate Debtor and does not operate to extinguish the liability of the Personal Guarantors.
17. The Respondent/Personal Guarantor, along with the Corporate Debtor, submitted several One-Time Settlement (“OTS”) proposals between the years 2020 and 2023, none of which were accepted by the consortium lenders, including the Financial Creditor. Further, SBI, acting on behalf of the consortium lenders, conducted an e-auction on 05.01.2023 and sold the property situated at B-104, First Floor, Anant CGHS Ltd., Plot No. 25-A, Sector-4, Dwarka, New Delhi, jointly owned by Shri Munendra Kumar Singh and Smt. Uma Singh.
18. A Demand Notice under Rule 7(1) of the Personal Guarantor Rules, 2019, dated 15.06.2024, was issued to the Respondent for an outstanding amount of Rs. 67,70,47,092.82/- (Rupees Sixty-Seven Crores Seventy Lakhs Forty-Seven Thousand Ninety-Two Rupees and Eighty-Two Paise only) as on 05.06.2024.
19. Despite service of the aforesaid Demand Notice, the Personal Guarantor failed to make payment of the outstanding dues within the statutory period of 14 days. Accordingly, the Financial Creditor filed the present Petition under Section 95(1) of the Code seeking initiation of PIRP against the Respondent.
20. This Petition was listed for hearing on 13.12.2024, wherein Mr. Rahul Jindal, bearing IBBI Registration Number IBBI/IPA-001/IP-P-02649/2021-2022/14048, email id: jindalrahul60@gmail.com, was appointed as the Resolution Professional (“**RP**”) under Section 97 of the

Code, and was directed to submit a report under Section 99 of the Code. The relevant portion of the order dated 13.12.2024 is extracted below:

4. The Petitioner Bank has proposed the name of Mr. Rahul Jindal, IP as the RP. His details have been filed with the application. Accordingly, this Bench appoints Mr. Rahul Jindal as Resolution Professional, whose details are given below:

IBBI Registration No : **IBBI/IPA-001/IP-P-02649/2021-2022/14048**
Address : **52/24, Ramjas Road, Karol Bagh, New Delhi, National Capital Territory of Delhi, 110005**
Email-id : **jindalrahul60@gmail.com**

21. In compliance with the order dated 13.12.2024 the Resolution Professional submitted a report under Section 99 of the Code *vide* IA-458/2025. The submissions of the Resolution Professional regarding the present application are as extracted below:

RECOMMENDATION BY RESOLUTION PROFESSIONAL U/S 99(1 & 7) OF IB CODE.

I, Rahul Jindal an Insolvency Professional having IP reg. no. IBBI/IPA-001/IP-P-02649/2021-2022/14048, appointed as Resolution Professional under sub section (5) of Section 97 vide order dated 13.12.2024, (which was received on 21.12.2024) in connection with the insolvency resolution process of Mr. Sudhir Narayan Rao Modak (Personal Guarantor), hereby, on the basis of the gathered facts and figure is of the view that the application of creditor (IDBI Bank) satisfies all the requirement u/s 95 of IB Code read with PG Rules, 2019.

In such premises it is just and equitable that insolvency resolution process be initiated against the Respondent / Personal Guarantor under the orders and direction of this Hon'ble Adjudicating Authority.

Therefore, I hereby recommend that present application be admitted by this Hon'ble Adjudicating Authority.

22. The Resolution Professional has opined that, in view of the foregoing facts and circumstances, and considering that the petition filed by the Creditor satisfies the requirements stipulated under Section 95 of the Code, and that the Personal Guarantor has failed to establish repayment of the debt in question, it is accordingly recommended by the RP that the petition filed by the Creditor be admitted under the provisions of Section 100 of the Code.
23. This report of the RP was listed for hearing on 12.02.2025, wherein the following order was passed by this Adjudicating Authority:

ORDER

IA-458/2025

Ld. Counsels for the parties appeared.

Let the copy of the report be served on the Personal Guarantor.

At request and with consent of the parties, list the matter **on 17.03.2025.**

In compliance of the aforesaid order, an Affidavit of Service dated 07.04.2025 was uploaded on DMS-e portal on 16.04.2025.

24. On 17.03.2025, the following order was passed by the Adjudicating Authority:

ORDER

IA-458/2025

Ld. Counsel appeared on behalf Resolution Professional is present.
Ld. Counsel appeared on behalf of the Personal Guarantor and submitted that they have filed their response. However, the same is not available on the e-portal. Steps may be taken to bring the same on record list the matter on **16.04.2025.**

In compliance of the aforesaid order, on 15.03.2025, a reply dated 15.03.2025 was uploaded by the Respondent/PG on the DMS-e portal.

25. On 16.04.2025, the following order was passed by the Adjudicating Authority:

ORDER

IA-458/2025

Ld. Counsel Mr. Harshit Gupta appeared for the applicant.

Ld. Sr. Counsel, Ms. Pooja M. Saigal appeared for the Respondent/PG appeared and stated that reply has been filed. The same is available on record.

Mr. Karan Gandhi, appeared for the Resolution Professional.

At request and with consent, list the matter on **22.05.2025**.

26. On 22.05.2025, the following order was passed by the Adjudicating Authority:

ORDER

IA-458/2025

1. Today, Resolution Professional Mr. Rahul Jindal is absent. However, Ld. Counsel, Mr. Karan Gandhi appears on behalf of RP, states that the arguing counsel is otherwise engaged so, he requests an adjournment.
2. Ld. Counsel Mr. Harshit Gupta appears on behalf of the IDBI Bank.
3. Ld. Sr. Counsel Ms. Pooja Mehra Sehgal, appears on behalf of the respondent.
4. At request and with consent, list the matter on **10.07.2025**.

27. On 10.07.2025, the following order was passed by the Adjudicating Authority:

ORDER

IA-458/2025

Ld. Counsel Mr. Harshit Gupta for the Applicant appeared.
Ld. Sr. Counsel Ms. Pooja M. Saigal for the Respondent/PG also appeared.

Ld. Counsel for the RP appeared and sought time to get instruction from IDBI Bank on the amount received pursuant to the approval of plan and file a report.

At the request and with the consent of both sides, list the matter **on 25.08.2025.**

An affidavit in compliance with the aforesaid order was uploaded by the RP on 22.08.2025 on the DMS e-portal.

28. On 29.09.2025, the following order was passed by the Adjudicating Authority:

IA-458/2025

Ms. Pooja M. Saigal, Ld. Sr. Counsel appeared physically on behalf of the Personal Guarantor. Ms. Vidhika Kapoor, Ld. Counsel for the RP appeared through VC.

Ld. Counsel for the RP submits that the affidavit in compliance of order dated 10.07.2025 has been filed and the copy of the same has already been supplied to the Personal Guarantor.

Ld. Counsel appearing for the Personal Guarantor submits that some new facts are disclosed in the affidavit, hence, time to file counter affidavit may be granted.

Personal Guarantor may file its counter affidavit within two weeks. At request, list the matter on **04.11.2025.**

In compliance of the aforesaid order, a counter affidavit dated 28.10.2025 was uploaded on the DMS-e portal by the Respondent/PG on 31.10.2025.

29. On 11.02.2026, the following order was passed by the Adjudicating Authority:

ORDER

IA-458/2025

Ld. Counsels for the parties appeared.

This matter was argued at length from time to time. Both sides have sought an adjournment, and the same is granted.

At request and with consent of the parties, list the matter **on 11.03.2026.**

30. On 11.03.2026, the following order was passed by the Adjudicating Authority:

ORDER

IA-458/2025

1. Ld. Counsel Mr. Karan Gandhi appeared on behalf of the RP and is directed to file short notes along with a list of dates & events, and a convenience compilation before the next date of hearing.
2. Ld. Sr. Counsel Ms. Pooja Mehra Sehgal appeared on behalf of the Respondent and submitted that she has no objections to this application. However, Ld. Sr. Counsel sought permission to file an affidavit. She is permitted to do so well before the next date of hearing.
3. List the matter **on 30.03.2026** for further consideration.

In compliance of the aforesaid order, on 27.03.2026, a brief list of dates and events along with compliance and objections on Applications filed under Section 95 was uploaded by the RP on the DMS-e portal.

Further, on 27.03.2026, an affidavit was filed by the Respondent/PG on the DMS-e portal, wherein the Respondent/PG submitted that the Respondent/PG has no objection with the initiation of the insolvency process against him, and that in terms of the approved Resolution Plan of the Corporate Debtor, which is presently under implementation, four instalments have been successfully paid by the Successful Resolution Applicant (“SRA”) without any default, and the final instalment is due on 22.02.2030 (sic).

31. On 08.06.2026, the following order was passed by the Adjudicating Authority:

ORDER

IA-458/2025

1. This application has been filed by the Resolution Professional under Section 99 of the IBC, 2016 seeking to initiate the Personal Insolvency Resolution Process (PIRP) against the Respondent/Personal Guarantor.
2. Ld. Counsel Mr. Varun Garg for the Respondent/Personal Guarantor submit that the Personal Guarantor has no objection to initiation of Insolvency proceedings against him. He has also filed affidavit in that regard on 28.03.2026.
3. Heard.
4. **Order Reserved.**

ANALYSIS:

32. We have carefully considered the submissions and pleadings advanced by the parties and have perused the material available on record, including the Report submitted by the Resolution Professional, the Affidavit and Counter-Affidavit filed by the Respondent/Personal Guarantor, and the Written Submissions filed on behalf of the RP. Despite filing a detailed reply raising various objections, the Respondent/Personal Guarantor has ultimately stated that he has no objection to the initiation of PIRP against him and has filed an Affidavit

to that effect on 28.03.2026. In view of the submissions raised, the following issues fall for determination:

1. Whether the present Petition filed under Section 95(1) of the Code is filed within the prescribed limitation?
 2. Whether the Guarantee deeds stood validly invoked against the Respondent/PG and whether default on his part has been established?
 3. Whether the invocation of guarantee by the Petitioner is premature, due to the ongoing implementation of the approved Resolution Plan?
33. On the **first issue**, the record shows that the Corporate Debtor and the Respondent/Personal Guarantor, actively engaged with the Financial Creditor and the consortium lenders by submitting numerous One-Time Settlement (“**OTS**”) proposals spanning the period from January 2020 to November 2023. The last OTS proposal on record was submitted as recently as 06.11.2023. Each such proposal constitutes an implied acknowledgement of the existence of the outstanding liability and operates as a fresh acknowledgement within the meaning of Section 18 of the Limitation Act, 1963, thereby extending the limitation period from the date of each such acknowledgement.
34. Furthermore, the Guarantee Deed dated 05.04.2016 executed by the Respondent contains an express provision under Clause 1(f) thereof, which stipulates that any admission or acknowledgement in writing made by the Corporate Debtor/Borrower regarding its indebtedness shall be deemed to be an acknowledgement by the Personal Guarantor and shall be binding and conclusive upon him. The said clause further provides that the Borrower shall be treated as the duly authorised agent of the Guarantor in making any such acknowledgement or part-payment. An identical provision is contained in the earlier Guarantee Deeds dated 03.07.2015 and 01.08.2015 executed by the Respondent

in favour of the Financial Creditor, wherein Clause 17 expressly provides that any acknowledgement or admission in writing signed by the Borrower shall be binding on the Guarantors for the purposes of Sections 18 and 19 of the Limitation Act, 1963. Given the series of OTS proposals submitted by the Corporate Debtor and its Promoters, including the Respondent, the limitation period stood refreshed on each occasion.

35. Additionally, it is relevant to note that the CIRP against the Corporate Debtor M/s SMS Paryavaran Limited was admitted by this Adjudicating Authority vide order dated 03.01.2020 in CP (IB) No. 1935(PB)/2019. The Resolution Plan in respect of the Corporate Debtor was approved vide order dated 21.02.2023 and the approved Resolution Plan itself, at Para 2.7(e)(vii), expressly stipulates that the personal guarantees shall continue to be held by the Financial Creditors and that the liability of the Personal Guarantors shall subsist until complete implementation of the Resolution Plan and full payment to the Financial Creditors as contemplated thereunder. The inclusion of this specific provision in the Resolution Plan approved by this Adjudicating Authority constitutes a formal and binding acknowledgement of the subsisting liability of the Personal Guarantors and precludes any plea of limitation based on the original date of NPA.
36. Furthermore, the Demand Notice under Rule 7(1) of the Personal Guarantors Rules, 2019 was issued on 15.06.2024, and the present Petition under Section 95(1) of the Code was filed on 26.07.2024, which is well within three years from the last OTS proposal dated 06.11.2023 and indeed within the limitation period computed from any of the preceding acknowledgements on record.

37. On the **second issue**, the documents on record establish that the Respondent executed multiple Personal Guarantee Deeds in favour of the Financial Creditor, commencing with the Personal Guarantee dated 12.10.2010, followed by successive guarantees dated 20.05.2013, 08.05.2014, 03.07.2015, 01.08.2015, and culminating in the Personal Guarantee dated 05.04.2016, which was executed in the context of the Master Restructuring Agreement (“**MRA**”) entered into between the Corporate Debtor and the Consortium of Lenders on the same date for restructured facilities aggregating Rs. 1,25,51,00,000/- (Rupees One Hundred and Twenty-Five Crores and Fifty-One Lakhs only), including IDBI Bank’s share of Rs. 35,25,00,000/- (Rupees Thirty-Five Crores and Twenty-Five Lakhs only). Each of the said guarantees is expressed to be irrevocable and continuing in nature. The Respondent also executed a Pledge Agreement dated 05.04.2016 in respect of dematerialised shares held in the Corporate Debtor and mortgaged multiple immovable properties in favour of the Financial Creditor as security for the said facilities.
38. It is undisputed that the Corporate Debtor failed to honour its repayment obligations and its account was consequently classified as a Non-Performing Asset on 28.02.2018. Upon such default, the Financial Creditor issued a Recall Notice dated 24.05.2018 to the Corporate Debtor and all Personal Guarantors, recalling the entire outstanding dues, followed by a Corrigendum dated 09.10.2018. Guarantee Invocation Notices were issued to all Personal Guarantors, including the Respondent, on 15.06.2018, with a Corrigendum thereto dated 16.10.2018, calling upon them to discharge their obligations under the respective guarantees. A Notice under Section 13(2) of the SARFAESI Act, 2002 was also issued to the Respondent on 27.06.2018, with a Corrigendum dated 31.10.2018.

39. Thereafter, the Demand Notice under Rule 7(1) of the Personal Guarantors Rules, 2019, in Form-B, was issued to the Respondent on 15.06.2024 for the outstanding amount of Rs. 67,70,47,092.82/- as on 05.06.2024. The Respondent filed a reply to the said Demand Notice on 11.07.2024, taking the position that the proceedings are not maintainable in view of the approved Resolution Plan and asserting that the personal guarantees stood covered and released under the terms thereof. The Respondent having failed to make payment of the outstanding dues within the statutory period of fourteen days from receipt of the Demand Notice, the Petition under Section 95(1) of the Code was filed.
40. A plain reading of Para 2.7(e)(vii) of the approved Resolution Plan makes it abundantly clear that the personal guarantees shall continue to be held by the Financial Creditors and shall remain in force until complete implementation of the Resolution Plan, including all payments to the Financial Creditors as contemplated thereunder. The release of the personal guarantees is expressly conditioned upon complete implementation of the plan and/or payment of the settlement amounts. The Respondent has not demonstrated that all conditions precedent to the release of the personal guarantee have been fulfilled.
41. On the **third issue**, it is submitted that the Resolution Plan does not contain any clause empowering the Banks to invoke the personal guarantees. Rather, it stipulates that the personal guarantees shall continue to subsist only until all payments under both the Resolution Plan and the OTS are fully discharged, that is till 22.02.2030. It is stated that clause 2.7(e) of the Resolution Plan under the head “Other Terms” merely stipulates that the Personal Guarantees shall continue to be held by the Financial Creditors until all payments under both the Resolution Plan and the OTS are fully discharged, it does not

contemplate invocation. The non-consideration of the OTS is entirely on account of the Banks' own failure to reach unanimity, and such inaction cannot entitle them to invoke the guarantees.

42. In opposition to the aforesaid, it is submitted that the personal guarantees executed by the Respondent in favour of the Financial Creditor on various occasions are continuing in nature and independent of the approved Resolution Plan of the Corporate Debtor and that, there is no unconditional or automatic extinguishment of the guarantee obligations by virtue of the approval of the Resolution Plan.
43. Having heard the Ld. Counsel for the parties and having perused the record, we are of the considered view that the personal guarantees executed by the Respondent are continuing guarantees in nature and operate independently of the approved Resolution Plan of the Corporate Debtor. The Resolution Plan neither restricts nor obstructs the right of the Financial Creditor to invoke the personal guarantees upon default. The approved Resolution Plan itself expressly provides that the personal guarantees shall continue to subsist and that the personal guarantors shall continue to remain liable towards the Financial Creditors. The release of personal guarantees is contingent upon complete implementation of both the Resolution Plan and the OTS/settlement, and in the absence of a successful OTS, no such release can be claimed.
44. The OTS proposals submitted by the Respondent having been repeatedly rejected by the Financial Creditor and the Consortium of lenders, the Financial Creditor was well within its rights to invoke the personal guarantees. The subsisting implementation of the Resolution Plan of the Corporate Debtor has no bearing on, and does not in any manner impede or restrict, the invocation of the personal guarantees by the Financial Creditor. The personal guarantees have thus been validly invoked against the Respondent.

45. The Resolution Professional, in his report submitted pursuant to Section 99 of the Code, has carefully examined the application and has recommended its admission, recording that all statutory requirements under Section 95 read with the Personal Guarantors Rules, 2019 are satisfied, that the guarantee has been duly invoked, that the default in payment is established, and that no material has been placed on record to demonstrate repayment, discharge, or satisfaction of the outstanding liability.
46. We find no infirmity in the findings and recommendation of the Resolution Professional. The Financial Creditor has established a clear case of default by the Corporate Debtor; the guarantee executed by the Respondent has been validly invoked through a series of formal notices; the Demand Notice under Rule 7(1) of the Personal Guarantors Rules has been duly served; and the outstanding debt remains unpaid. Further, the Respondent, in his affidavit dated 25.03.2026, has stated that he has no objection to the initiation of the insolvency process against him.
47. Thus, in terms of Section 100(1) of the Code, for admitting an application for insolvency resolution of a personal guarantor, the Adjudicating Authority must be satisfied that:
- a) the application under Section 95 is complete;
 - b) the debt is due and payable by the guarantor; and
 - c) the guarantor has not repaid the debt.
48. In the present case, the petition is found to be complete in all respects. The debt arises from the Working Capital and other financial facilities availed by the Corporate Debtor, M/s SMS Paryavaran Limited, from IDBI Bank Limited as part of a Consortium of Lenders, which were restructured and consolidated under the Master Restructuring

Agreement dated 05.04.2016 for an aggregate restructured facility of Rs. 1,25,51,00,000/- (Rupees One Hundred and Twenty-Five Crores and Fifty-One Lakhs only), including IDBI Bank's share of Rs. 35,25,00,000/- (Rupees Thirty-Five Crores and Twenty-Five Lakhs only), and was secured, inter alia, by the Personal Guarantee executed by the Respondent on 05.04.2016, as well as by the antecedent Personal Guarantees executed from time to time commencing 12.10.2010. There has been no assignment of debt in the present case, the Financial Creditor being the original lender whose claim subsists.

49. The debt has become due and payable and remains unpaid, as evidenced by the repeated defaults in repayment, the classification of the Corporate Debtor's account as a Non-Performing Asset on 28.02.2018, the issuance of the Recall Notice dated 24.05.2018 and the Guarantee Invocation Notices dated 15.06.2018, the initiation and conclusion of CIRP proceedings against the Corporate Debtor, admitted vide order dated 03.01.2020 and culminating in the approval of the Resolution Plan on 21.02.2023 under which the Financial Creditor received Rs. 4,30,00,000/- (Rupees Four Crores and Thirty Lakhs only) constituting a mere partial satisfaction of its dues. The Personal Guarantee executed by the Respondent is irrevocable, unconditional, and continuing in nature, and the Respondent has neither discharged the outstanding dues nor established any valid ground for release from his obligations thereunder. Accordingly, all conditions stipulated under Section 100(1) of the Code stand satisfied. The present Petition under Section 95 of the Insolvency and Bankruptcy Code, 2016, is accordingly liable to be admitted.

Accordingly, we order as under

50. The petition under Section 95(1) is **admitted**, and the **Insolvency Resolution Process** against the Personal Guarantor is hereby **initiated**. Interim Moratorium, which came into effect in terms of Section 96(1) as on the date of filing the petition, shall cease to have effect. A fresh **moratorium under Section 101 is declared from today, to be in effect for 180 days or until an order under Section 114 is passed, whichever is earlier**. During the moratorium period:
- a) Any pending legal action or proceeding in respect of any debt shall be deemed to have been stayed; and
 - b) The creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt; and
 - c) The debtor shall not transfer, alienate, encumber, or dispose of any of his assets or his legal rights or beneficial interest therein; and
 - 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.
51. The Resolution Professional, **Mr. Rahul Jindal**, who was appointed by this Adjudicating Authority vide order dated 13.12.2024, is hereby directed to take all further steps in accordance with Part III, Chapter-III of the Code including to publish a public notice on behalf of the Adjudicating Authority within 7 days of uploading of this Order on the website of the NCLT Delhi, inviting claims from all Creditors, who shall register their claims as provided under Section 103 within 21 days of such notice. The notice shall contain the necessary information as provided under Section 102 (2) of IBC, 2016. The publication of notice shall be made in newspapers, one in English and the other in the Vernacular Languages, which have wide circulation in the State where the Personal Guarantor resides.

52. The Resolution Professional, in exercise of the powers conferred under Section 104 of IBC, 2016, shall prepare a list of creditors within 30 days from the date of the notice. The debtor shall prepare a Repayment Plan in consultation with the Resolution Professional as provided under Section 105, which shall include the provisions for payment of a fee to the Resolution Professional. The Resolution Professional shall submit the Repayment Plan along with his report on the plan to this Adjudicating Authority within a period of 21 days from the last date of submission of claims, as provided under Section 106 of IBC, 2016.
53. In case the Resolution Professional recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons thereof. If the Resolution Professional is of the opinion that the meeting of the creditors should be summoned, he shall specify the details as provided under Section 106(3). The date of the meeting should not be less than 14 days or more than 28 days from the date of submission of the Report under Sub-section (1) of Section 106 of the IBC, 2016, for which at least 14 days' notice to the creditors shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107 of the IBC, 2016.
54. The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 & 111 of the IBC, 2016. The Resolution Professional shall prepare a report of the meeting of the creditors on the Repayment Plan with all details as provided under Section 112 of the IBC, 2016, and submit the same to this Adjudicating Authority, copies of which shall be provided to the debtor and the creditors. It is made clear that the Resolution Professional shall perform his functions and duties in compliance with the Code of Conduct provided under Section 208 of the IBC, 2016.

55. The Financial Creditor shall deposit a sum of Rs. 1,00,000/- (Rupees One Lakh Only) with the RP to meet the expenses arising out of issuing public notice and inviting claims. This amount shall be adjusted towards the fees and expenses payable to the RP.
56. RP shall submit a **status report** every 30 days before this Tribunal.
57. The Personal Guarantor/Respondent, **Shri Sudhir Narayan Rao Modak**, is directed to cooperate with the Resolution Professional and provide all requisite information for the purpose of carrying out his duties. He is further directed to submit to the Resolution Professional, within two weeks from the date of this order, complete details specifically disclosing his assets and liabilities as on the date of this order, as well as on 31.03.2024 and 31.03.2025, duly supported by copies of the corresponding Income Tax Returns for the said two years. Further, in case any assets have been sold during the last two years, complete details thereof, including the nature of the asset, date of sale, consideration received, and mode of transfer, shall also be disclosed.
58. Registry shall communicate a copy of this order, the report, and the petition to all concerned, including the Financial Creditor, RP and the PG, within 7 working days and upload the same immediately.
59. A copy of this order be sent to IBBI by the Registry.
60. Accordingly, **IA No. 458/2025** is **allowed** and **disposed of**, and the Insolvency Resolution Process has been initiated against the Personal Guarantor / Respondent.

61. List the matter for **status report** by RP within four weeks on **05.08.2026**.

Sd/-
(ANUPINDER SINGH GREWAL)
(PRESIDENT)

Sd/-
(RAVINDRA CHATURVEDI)
MEMBER (TECHNICAL)