

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 646 of 2025

[Arising out of the Common Order dated 24.02.2025, passed by the 'Adjudicating Authority' (National Company Law Tribunal, Ahmedabad Bench in Company Petition No. (IB)-76/AHM/2025]

IN THE MATTER OF:

Deepti Pankaj Chugh

Near Sangini Tower, City Light
Surat, SVR College, Gujarat, India

...Appellant

Versus

The State Bank of India

Stressed Assets Management Branch
"Paramsiddhi" Complex, 2nd Floor
Opp. V.S. Hospital, Ellisbridge
Ahmedabad – 380006, Gujarat

...Respondent

Present:

For Appellant : Mr. Dhiren R. Dave, Advocate

For Respondent : Mr. Siddharth Sangal, Ms. Richa Mishra, Ms. Kashish and Ms. Mrinalini, Advocates

J U D G M E N T
(Hybrid Mode)

[Per: Arun Baroka, Member (Technical)]

This is an Appeal, under Section 61 of the Insolvency & Bankruptcy Code, 2016 ("Code"), filed by the Appellant - Deepti Pankaj Chugh, who is a personal guarantor for loans availed by M/s. Aditya Prints Pvt. Ltd. (Corporate Debtor) from the Respondent Bank i.e. State Bank of India, against the Order dated 24th February 2025 ("Impugned Order") passed by the Hon'ble National Company Law Tribunal at Ahmedabad ("Adjudicating Authority").

Brief facts of the case

2. The Appellant contends that it filed a petition under Section 94 of the Code seeking initiation of CIRP as the personal guarantor. However, the Adjudicating Authority rejected the Appellant's petition on 24.02.2025 with exorbitant cost of ₹1 lakh, without addressing the merits of the petition.

Submissions of the Appellant

3. The Appellant – Deepti Pankaj Chugh is the personal guarantor for the Corporate Debtor - M/s. Aditya Prints Pvt. Ltd. which availed loans from State Bank of India. Somewhere in 2002 M/s. Aditya Prints Pvt. Ltd. was put under Corporate Insolvency Resolution Process and is currently under liquidation.

4. It is claimed by the Appellant that on 27.01.2022, the Respondent i.e. State Bank of India issued a notice under Section 13(4) of the SARFAESI Act, 2002 to the Appellant as the personal guarantor and to the Corporate Debtor - M/s. Aditya Prints Pvt. Ltd. On 11.01.2024, the Appellant filed CP (IB) No. 55/2024 before NCLT seeking initiation of PIRP under Section 94 of the Code. However, NCLT dismissed the Company Petition granting the Appellant liberty to file a fresh petition with proper declarations. Accordingly, the Appellant filed another CP (IB) No. 76/2025 before the NCLT on 31.01.2025 seeking initiation of PIRP against herself under Section 94 of the Code. But the NCLT, Ahmedabad Bench rejected the petition on 24.02.2025 imposing a cost of ₹1 lakh for filing the petition.

5. It is also claimed by the Appellant that the Respondent Bank – State Bank of India had issued a notice under Section 13(2) of the SARFAESI Act, 2002 on 20.03.2017 but it had never invoked personal guarantee till date. It

claims that mere issuance of notice under Section 13(2) of the SARFAESI Act, is insufficient to invoke the personal guarantee. It relies on the judgment passed by this Appellate Tribunal in **Amarjyot Singh v. Navneet Kumar Jain & Ors** (Company Appeal No. 961 of 2022) and claims that the Respondent Bank should have taken further steps such as issuing a formal notice to the Appellant for invoking the personal guarantee. In the absence of such action the invocation of the guarantee cannot be considered valid and the limitation period for initiating proceedings would not commence. It claims that the notice Section 13(4) of the SARFAESI Act, was issued by the Respondent Bank – State Bank of India on 27.01.2022 only and it is from this notice that the limitation for filing a petition under Section 94 of the Code commences.

6. It claims that the issue before this Tribunal is whether the limitation period for filing an application under the Code should be calculated from the date of issuance of the notices under Section 13(2) of the SARFAESI Act, 2002 to the Corporate Debtor or from the actual invocation of the personal guarantee under Section 13(4) of the SARFAESI Act, 2002.

Submissions of the Respondent

7. Respondent vehemently opposes the appeal and contends that the Appeal is devoid of any merits and has been filed by the Appellant / Personal Guarantor only to scuttle the process of realisation of security interest by the Respondent – State Bank of India from the secured asset(s) as mortgaged with the bank for credit facilities advanced to the borrower M/s. Aditya Prints Pvt. Ltd.

8. The main ground by the Appellant is that NCLT should have taken issuance of possession notice dated 27.01.2022 issued by the Respondent Bank – SBI under Section 13(4) of the SARFAESI Act as the notice for invocation of personal guarantee for initiating Section 94(1) of the Code.

9. The Respondent – SBI brings to our notice that apart from the notice under Section 13(2) of the SARFAESI Act issued to the Corporate Debtor, a notice to the personal guarantor was also issued on 20.03.2017, which is brought on record and his placed in the reply affidavit @ page 12.

10. Respondent – SBI also brings to our notice that a perusal of order dated 17.09.2025 of this Appellate Tribunal would show that the case of the Appellant before this Appellate Tribunal was that the Appellant had earlier filed a Section 94 petition i.e. [CP (IB) No. 55/2024] which was dismissed by NCLT owing to certain defects granting liberty to the Appellant to file a fresh petition, and that is how the CP (IB) No. 76/2025 in the present case was filed on 31.01.2025 before the NCLT – which as per the Respondent-Bank is an incorrect statement and ought to be taken seriously in view of the fact that after the earlier CP (IB) No. 55/2024 of the Appellant was dismissed with liberty to file a fresh one, the Appellant filed a fresh Section 94 IBC Petition [CP (IB) No. 147/2024] before the NCLT on 19.03.2024, which was dismissed by the Ld. NCLT by its Order dated 01.05.2024 holding the said petition to be barred by limitation being filed beyond the period of 3 years from 20.03.2017 when Demand Notice was issued to the Appellant by the Respondent-SBI. Thus, in other words, the Section 94 IBC Petition in the present case [CP (IB)

No. 76/2025] is not the petition which was filed with liberty to file fresh one, but is another identical petition filed by the Appellant only to scuttle the sale of the mortgaged property and scuttle the recovery process of the Bank-and is also not-maintainable being hit by the principle of res-judicata.

11. Respondent also brings to our notice that another Personal Guarantor-Saurabh Premprakash Chugh also filed a Section 94 IBC Petition [CP (IB) No. 56/2024] before the Ld. NCLT on 11.01.2024 which was dismissed being defective with liberty to file fresh petition by the NCLT on 01.02.2024, which was followed by filing another Section 94 IBC Petition [CP (IB) No. 7/2025] before the NCLT on 14.12.2024, which was dismissed by the NCLT by its Order dated 09.01.2025, inter-alia, on the ground of limitation, and was filed without enclosing the demand notices but only the possession notices. Notwithstanding the said dismissal dated 09.01.2025, the Personal Guarantor-Saurabh Premprakash Chugh filed one more Section 94 IBC Petition [CP (IB) No. 75/2025] before the NCLT, which came to be rejected by the Ld. NCLT by its Order dated 24.02.2025 holding that the Personal Guarantor has been filing petition after petition only to gain interim moratorium-this Order dated 24.02.2025 came to be challenged before this Appellate Tribunal in Company Appeal (AT) (INS.) No. 718/2025, which appeal has been dismissed on 23.07.2025 holding that the Order dated 09.01.2025 was passed on merits and the fresh application post this Order dated 09.01.2025 was clearly barred by principle of Res-judicata.

12. With respect to the present appeal it has also been filed by the Appellant on the identical facts, as were present in the case of the other Personal Guarantor-Saurabh Premprakash Chugh. Thus, it should be dismissed with exemplary costs on the ground of 'Res-judicata', as also playing a fraud on the court by not placing true and complete facts and documents on record.

13. The Respondent-SBI contends that the Appellant and the other Personal Guarantors have been filing Section 94 IBC Petitions, one after the other, only to scuttle the recovery process initiated by the Respondent-Bank under the SARFAESI Act, 2002 by taking advantage of the interim moratorium", thereby precluding the Respondent-Bank from auctioning the mortgaged property and recover the public money, as under: -

28.07.2026	The credit facilities advanced to the CD/borrower: M/s Aditya Prints Pvt. Ltd. by the Respondent No. 1-SBI were classified as Non-performing Asset (NPA) on 28.07.2016 w.e.f. 28.10.2013. The said credit facilities, admittedly, were secured, also, by the personal guarantee of the Appellant: Deepti Pankaj Chugh.
20.03.2017	The Respondent-SBI issued Demand Notice dated 20.03.2017 under Section 13 (2) of the SARFAESI Act, 2002 to the borrower/CD as also separately to the Personal Guarantor-Appellant calling upon to make payment of the outstanding dues of ₹49,76,13,119,38/- as on 20.03.2017 within 60 days.

27.01.2022	The Respondent-SBI issued Possession Notice dated 27.01.2022 under Section 13 (4) of the SARFAESI Act, 2002.
10.05.2022 20.07.2023	Meanwhile, the IBC Proceedings were initiated for resolution of the CD: M/s Aditya Prints Pvt. Ltd. in the year 2021 culminating into an Admission Order dated 10.05.2022, followed by the Liquidation Order dated 20.07.2023.
11.01.2024	Since the Respondent-SBI was proceeding to take physical possession of the mortgaged property to recover its dues under the SARFAESI Act, 2002-the Appellant filed Section 94 IBC Petition [CP (IB) No. 55/2024] before the NCLT, Ahmedabad on 11.01.2024. Also, the other Personal Guarantor-Saurabh Premprakash Chugh filed the Section 94 IBC Petition [CP (IB) No. 56/2024] on the same date.
01.02.2024	Both the above Section 94 IBC Petitions i.e. CP (IB) No. 55/2024 and CP (IB) No. 56/2024 were dismissed, being defective, by the Ld. NCLT vide separate orders dated 01.02.2024, while granting liberty to file a fresh petition.
19.03.2024 09.01.2025	The Appellant herein filed a fresh Section 94 IBC Petition [CP (IB) No. 147/2024] before the Ld. NCLT, Ahmedabad on 19.03.2024, which came to be dismissed by the Ld. NCLT on 01.05.2024 on the ground of being barred by limitation.
14.12.2024 09.01.2025	Similarly, the other Personal Guarantor-Saurabh Premprakash Chugh filed a fresh Section 94 IBC Petition [CP (IB) No. 7/2025] before the Ld. NCLT, Ahmedabad on 14.12.2024, which came to be dismissed by the Ld. NCLT

	on 09.01.2025, inter-alia, on the ground of being barred by limitation.
31.01.2025	Despite the above Section 94 IBC Petitions i.e. CP (IB) No. 147/2024 & CP (IB) No. 7/2025 being dismissed on merits by the Ld. NCLT, the Appellant-Deepti Pankaj Chugh as also the other personal guarantor-Saurabh Premprakash Chugh filed two separate Section 94 IBC Petitions [CP (IB) No. 76/2025 & CP (IB) No. 75/2025] before the Ld. NCLT, Ahmedabad on 31.01.2025.
24.02.2025	Both the above Section 94 IBC Petitions of the Appellant-Deepti Pankaj Chugh as also the other Personal Guarantor-Saurabh Premprakash Chugh i.e. [CP (IB) No. 76/2025 & CP (IB) No. 75/2025] were dismissed by separate Orders dated 24.02.2025 by the Ld. NCLT, Ahmedabad on the ground of being not-maintainable since the Personal Guarantors were filing petition after petition even after rejection of the earlier petition.
23.07.2025	The above Order dated 24.02.2025, as passed in CP (IB) No. 75/2025 of the other Personal Guarantor-Saurabh Premprakash Chugh, come to be challenged before this Appellate Tribunal in Company Appeal (AT) (INS.) No. 718/2025, which appeal has been dismissed by this Appellate Tribunal on 23.07.2025 holding that the Order dated 09.01.2025 was passed on merits and the fresh application post this Order dated 09.01.2025 was clearly barred by principle of Res-judicata.
17.11.2025	By Order dated 14.10.2025 this Hon. NCLAT directed the Appellant to pay process fee for fresh issuance of Notice to the Respondent-Bank, whereafter, the Respondent-Bank

	appeared through counsel before this NCLAT on 17.11.2025 and sought time to file its Reply, hence, the present Reply is being filed herewith to assist this Hon. Appellate Tribunal.
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14. The Respondent-SBI contends that the present appeal shall be dismissed on the ground of 'Res-judicata' since the earlier CP (IB) No. 147/2024 of the Appellant-Deepti Pankaj Chugh has already been dismissed by the Ld. NCLT by its Order dated 01.05.2024 on merits, yet the present appeal has been filed impugning the Order dated 24.02.2025 dismissing the subsequent Section 94 IBC Petition of the Appellant i.e. CP (IB) No. 76/2025 as not-maintainable.

15. In identical facts, this Appellate Tribunal has already dismissed the Company Appeal (AT) (INS.) No. 718/2025 of the other Personal Guarantor-Saurabh Premprakash Chugh on 23.07.2025 holding that the Order dated 09.01.2025 in his earlier Section 94 IBC Petition was passed on merits and the fresh application post this Order dated 09.01.2025 was clearly barred by principle of Res-judicata.

16. Even otherwise, the present appeal deserves to be dismissed with exorbitant costs since the appellant has not approached this NCLAT with clean hands and the present appeal is an abuse of the process of law because in the appeal, the appellant admits that the Respondent-State Bank of India issued Notice dated 20.03.2017 under Section 13 (2) of the SARFAESI Act, 2002, however, claims that the Respondent has never invoked the personal guarantee till date. To buttress this argument, the Appellant subsequently,

on the directions of this Appellate Tribunal, filed copy of the Notice dated 20.03.2017 under Section 13 (2) of the SARFAESI Act, 2002 as issued by the Bank to the borrower/CD: M/s Aditya Prints Pvt. Ltd. to show that the said Notice was only issued to the CD-however, dubiously, deliberately and intentionally, the Appellant did not disclose to this Hon. Appellate Tribunal that the Respondent-Bank had also issued a separate and independent Demand Notice dated 20.03.2017 under Section 13 (2) of the SARFAESI Act, 2002 to the Appellant herein in her capacity as the Personal Guarantor to the credit facilities advanced by the Bank to the borrower/CD. Thus, the Appellant has not come to the Court with clean hands and has tried to intentionally play fraud on this Hon. Court.

17. With respect, once the Demand Notice dated 20.03.2017 was duly issued to the Appellant-Personal Guarantor, the Appellant cannot turn back and say that she will not rely on the said Demand Notice dated 20.03.2017 but will rely only on the Possession Notice dated 27.01.2022 which was never issued to the Appellant-Personal Guarantor in her capacity as the Personal Guarantor of the CD.

18. In any case, both the earlier Section 94 IBC Petitions of the Appellant i.e. CP (IB) No. 55/2024 and CP (IB) No. 147/2024 were filed by the Appellant much after the Demand Notice dated 20.03.2017 and Possession Notice dated 27.01.2022 were already issued, therefore, no reason or new cause of action had arisen in favour of the Appellant

19. The above sequence of filing six (6) Section 94 IBC Petitions by the Appellant and the other Personal Guarantor, post the CIRP and Liquidation Order of the CD goes to show that these petitions were filed simply to obtain the 'interim Moratorium' to scuttle the recovery process initiated by the Respondent-Bank to sell the mortgaged property and recover the outstanding dues.

20. The reliance placed by the Appellant on the judgment dated 05.01.2023 of this Hon. NCLAT in **Amanjot Singh v. Navneet Kumar Jain, Company Appeal (AT) (INS.) No. 961/2022** is completely misplaced and is not applicable to the facts of the present case.

21. Respondent-SBI relies on the judgment of this Appellate Tribunal in **Syed Sirajis Salikin Khadri v. Edelweiss Asset Reconstruction Co. Ltd. & Anr., Company Appeal (AT) (Ins.) No. 455/2025**.

22. The above submissions clearly go to show that the Appellant had approached the Ld. NCLT by filing the Section 94 IBC Petition with an intent other than insolvency resolution, thus, has been rightly dismissed by the Ld. NCLT by its impugned Order dated 24.02.2025.

23. The NCLT has also recorded that the Demand Notice under Section 13 (2) of SARFAESI Act, 2002 was issued on 20.03.2017, yet the Section 94 IBC Petition has been filed beyond the limitation period of 3 years and thus, has rightly dismissed the Section 94 IBC Petition on this ground too.

24. In the facts and circumstances of this case, the entire objective of filing the Section 94 IBC Petition, one after the other, by the Appellant-Personal Guarantor was not seeking actual resolution but to somehow take the benefit of moratorium and refrain the Respondent-Bank from realizing the security interest under the SARFAESI Act, 2002. Hence, the Section 94 IBC Petition has been rightly dismissed by the Ld. NCLT.

25. The above facts and grounds clearly show that the Section 94 IBC Petition of the Appellant was neither bona-fide nor sufficient or proper and has been filed by withholding crucial facts and documents, which can be termed as playing a 'fraud' on this Hon. Appellate Tribunal, thus, shall be dismissed with exorbitant costs.

Appraisal

26. We have heard both sides and also perused material placed on record.

27. We note that the Appellant claims that the Respondent Bank – State Bank of India had issued a notice under Section 13(2) of the SARFAESI Act, 2002 on 20.03.2017 but it had never invoked personal guarantee till date and mere issuance of notice under Section 13(2) of the SARFAESI Act, is insufficient to invoke the personal guarantee. Appellant claims that the Respondent Bank should have taken further steps, such as issuing a formal notice to the Appellant for invoking the personal guarantee. In the absence of such action the invocation of the guarantee cannot be considered valid and the limitation period for initiating proceedings would not commence. It claims that the notice Section 13(4) of the SARFAESI Act, was issued by the

Respondent Bank – State Bank of India on 27.01.2022 only and it is from this notice that the limitation for filing a petition under Section 94 of the Code commences. However, we find that apart from the notice under Section 13(2) of the SARFAESI Act issued to the Corporate Debtor, a notice to the Personal Guarantor was also issued on 20.03.2017.

28. We find that the Appellant has not brought out all the facts before us. We find that the Appellant had taken up various appeals which are listed as below:

- a) CP (IB) No. 55 of 2024
- b) CP (IB) No. 147 of 2024
- c) CP (IB) No. 76 of 2025

All the three Appeals were dismissed. The present Appeal is against the dismissal in CP (IB) No. 76 of 2025.

29. We find that after [CP (IB) No. 55/2024], which was dismissed by NCLT owing to certain defects, granting liberty to the Appellant to file a fresh petition, it is the claim of the Appellant that this is how the CP (IB) No. 76/2025 in the present case was filed on 31.01.2025 before the NCLT. However, this is an incorrect statement, as after the earlier CP (IB) No. 55/2024 of the Appellant was dismissed with liberty to file a fresh one, the Appellant filed a fresh Section 94 IBC Petition [CP (IB) No. 147/2024] before the NCLT on 19.03.2024, which was dismissed by the Ld. NCLT by its Order dated 01.05.2024 holding the said petition to be barred by limitation being filed beyond the period of 3 years from 20.03.2017, when the Demand Notice

was issued to the Appellant by the Respondent-SBI. Thus, we find that the Section 94 IBC Petition in the present case [CP (IB) No. 76/2025] is not the petition which was filed with liberty to file fresh one, but is another identical petition filed by the Appellant. We are convinced by the argument of the Respondent-SBI that it is only to scuttle the sale of the mortgaged property and scuttle the recovery process of the Bank-and thus we find that it is also not-maintainable being hit by the principle of res-judicata.

30. Perusal of the dismissal order in CP (IB) No. 147 of 2024, which is placed at page 18 on the Reply, and not brought on record by the Appellant clearly shows the Adjudicating Authority has dismissed the CP on the ground that the application is barred by limitation. The details of the order is as follows:

“1. The Present Application is filed under Section 94(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC, 2016") r/w Rule 6 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for IRP for Personal Guarantors to Corporate Debtor) Rules, 2019.

2. Respondent no. 2 i.e., State Bank of India has issued Demand Notice to the guarantor on 20.03.2017. The date of default is shown as 28.07.2016. Thereafter, they have not initiated any proceedings against the guarantor under IBC. While the Demand Notice was issued in the 20.03.2017, this application is filed on 19.03.2024, which is barred by limitation under Sec 238 A of IBC 2016. The applicant e-filed an additional affidavit on 29.04.2024 but failed to establish how the application is still within the period of limitation even though he has mentioned that he had initiated parallel proceedings before DRT on 6.5.2021 and has not enclosed any

document as proof that the application is filed within the limitation period prescribed and hence no relief can be granted under Sec 14 of limitation Act. Even though the application is barred by limitation, the applicant who is the RP himself on behalf of personal guarantor has failed to establish the maintainability of this application.

3. Considering the date of default as well as date of demand notice by the applicant to respondents, the application is filed after the limitation period. Hence, the application is barred by limitation.

4. In view of the above CP(IB) 147 of 2024 is rejected.”

31. We thus find that the Appellant has not brought out all the facts before us and thus has not come out with clean hands before this appellate tribunal and is trying to play a fraud on the tribunal.

32. We find that the Appellant has filed three petitions before the Adjudicating Authority, and another Personal Guarantor of the same corporate debtor had filed another three company petitions post the CIRP and the liquidation order of the CD. This shows that petitions were filed simply to obtain the interim moratorium to scuttle the recovery process initiated by the Respondent Bank for selling the mortgage property and recovering the outstanding dues.

33. It is also brought to our notice that the other Personal Guarantor, namely Shri Sorabh Preem Prakash Chugh, had filed an Appeal before this Appellate Tribunal in CA (AT) (Ins) No. 718/2025, which was dismissed by this Tribunal on merits. The facts in the present appeal are similar, and therefore the appellant deserves the same treatment.

34. The Appellant has placed reliance **on Amanjot Singh versus Navneet Kumar Jain, C.A.AT.INS number 961/2022**, but the facts in that case are completely different and are not applicable in the present case. Therefore, the Appellant doesn't get any assistance from that judgment.

35. Moreover, this Appellate Tribunal had noted in its judgment in **Syed Sirajis Salikin Khadri v. Edelweiss Asset Reconstruction Co. Ltd. & Anr., Company Appeal (AT) (Ins.) No. 455/2025**, dated 25.04.2025 that: -

"...Section 94 proceedings have been initiated by the Appellant more or less coinciding with the issue of possession notice dated 11.11.2022 by Respondent No.1. The present Section 94 application is clearly yet another salvo on the part of the Appellant to stall the recovery by taking advantage of moratorium. This clearly shows that the Appellant has been ceaselessly orchestrating litigative proceedings and embroiled the Respondent No.1 in these proceedings clearly to subvert the recovery proceedings initiated against them and not for the purpose of the insolvency resolution. In the given fact situation, we are inclined to agree with the findings returned by the Adjudicating Authority that the Appellant had approached the Adjudicating Authority by filing the Section 94 application with an intent other than insolvency resolution."

36. The present facts are similar as in the facts of the cited judgement and useful in deciding the present case. We note that Personal Guarantor is trying to abuse the process of PIRP and use the provisions of Section 94 for other than insolvency resolution.

37. In the facts and circumstances of the case we find it to be a serious matter for which sufficient cost should be imposed upon the Appellant.

Accordingly, we impose a cost of ₹2 lakhs on the Appellant to be deposited within one month in the Prime Minister's National Relief Fund.

Order

38. We don't find any infirmity in the order of the Adjudicating Authority. Accordingly, we uphold these orders. The Appeal is therefore dismissed and all related IAs are disposed of. Parties to bear their own cost.

[Justice Mohd. Faiz Alam Khan]
Member (Judicial)

[Arun Baroka]
Member (Technical)

New Delhi.
July 03, 2026.

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