

DIVISION BENCH

ITEM NO. 3

**NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH
PRAYAGRAJ**

CP (IB) No.72/ALD/2026

CORAM:

- 1. SH. PRAVEEN GUPTA,
HON'BLE MEMBER (JUDICIAL)**
- 2. SH. ASHISH VERMA,
HON'BLE MEMBER (TECHNICAL)**

Date of Order: 10th June, 2026

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	CANARA BANK V/S DIVYJ AHUJA (PERSONAL GUARANTOR OF M/S. SHIVOM DAYAL ENERGIES (HARIDWAR) PVT. LTD.)
UNDER SECTION	95 (1) IBC

COUNSEL APPEARED THROUGH PHYSICAL/ VIRTUAL HEARING:

Sh. Brijesh Kumar Tamber with : *For the Financial Creditor*
Sh. Yashu Rustagi & Sh. Vinay Singh Bist, Advs.

ORDER

- 1.** The applicant has filed this application under Section 95(1) of the Insolvency and Bankruptcy Code, 2016 ("IBC") for initiating the Insolvency Resolution Process against the Personal Guarantor/ Respondent, namely Mr. Divyj Ahuja for the Corporate Debtor, M/s Shivom Dayal Energies (Haridwar) Pvt. Ltd., at this stage, only the appointment of Resolution Professional (*hereinafter referred to as RP*) is to be made to submit the report as per Section 99 of the Code.
- 2.** As per the averments made in the application, M/s Shivom Dayal Energies (Haridwar) Pvt. Ltd. CIN: IN No. U67190KA1906PLC001069 had taken credit facilities from the Applicant Financial Creditor. The respondent herein had given personal guarantee to the said loan. The Corporate Debtor failed to repay the debt which made the Applicant to initiate Personal Insolvency Resolution Process (PIRP) against the Personal Guarantor.

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3. In Part-III of the application, the Applicant has given the particulars of debt as on 30.12.2025 being the amount of default is Rs. 34,04,13,534.04/- and date of default is 10.11.2025.
4. The Demand Notice issued under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 to the Personal Guarantor dated 17.03.2026 is placed as Annexure No. A-3 at Page 57 of the typed set filed along with the application.
5. We have heard Learned Counsel for the Applicant.
6. Section 95 of IBC provides that a creditor may apply either by himself, or jointly with other creditors, or through a Resolution Professional to the Adjudicating Authority for initiating PIRP against the Personal Guarantor by submitting an application. The application shall be accompanied with details and documents relating to the debts or by the debtor to the creditor as on the date of application, failure by the debtor to pay the debt within a period of 14 days of the service of the Notice of Demand and the relevant evidence of such default or non-payment of debt. It also provides that "the creditor shall provide a copy of the application to the debtor and the application shall be in such form and manner.
7. Hon'ble Supreme Court in the matter of Dilip B Jiwrajka-Vs- Union of India & Ors. in *Writ Petition (Civil) No 1281 of 2021* while dealing with the jurisdiction of NCLT in relation to adjudication of cases filed under Section 94 and 95 of IBC 2016 has summarized in para-86 as follows:

86. We summarise the conclusion of this judgment below:

- (i) No judicial adjudication is involved at the stages envisaged in Sections 95 to Section 99 of the IBC;*
- (ii) The resolution professional appointed under Section 97 serves a facilitative role of collating all the facts relevant to the examination of the application for the commencement of the insolvency resolution process which has been preferred under Section 94 or*

Section 95. The report to be submitted to the adjudicatory authority is recommendatory in nature on whether to accept or reject the application;

- (iii) The submission that a hearing should be conducted by the adjudicatory authority for the purpose of determining 'jurisdictional facts' at the stage when it appoints a resolution professional under Section 97(5) of the IBC is rejected. No such adjudicatory function is contemplated at that stage. To read in such a requirement at that stage would be to rewrite the statute which is impermissible in the exercise of judicial review;*
- (iv) The resolution professional may exercise the powers vested under Section 99(4) of the IBC for the purpose of examining the application for insolvency resolution and to seek information on matters relevant to the application in order to facilitate the submission of the report recommending the acceptance or rejection of the application;*
- (v) There is no violation of natural justice under Section 95 to Section 100 of the IBC as the debtor is not deprived of an opportunity to participate in the process of the examination of the application by the resolution professional;*
- (vi) No judicial determination takes place until the adjudicating authority decides under Section 100 whether to accept or reject the application. The report of the resolution professional is only recommendatory in nature and hence does not bind the*

adjudicatory authority when it exercises its jurisdiction under Section 100;

- (vii) The adjudicatory authority must observe the principles of natural justice when it exercises jurisdiction under Section 100 for the purpose of determining whether to accept or reject the application;*
- (viii) The purpose of the interim-moratorium under Section 96 is to protect the debtor from further legal proceedings; and*
- (ix) The provisions of Section 95 to Section 100 of the IBC are not unconstitutional as they do not violate Article 14 and Article 21 of the Constitution.*

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8. The Hon'ble Supreme Court has held that no judicial adjudication is involved at the stages envisaged in Sections 95 to Section 99 of the IBC and also there is no violation of natural justice under Section 95 to Section 100 of the IBC as the debtor is not deprived of an opportunity to participate in the process of the examination of the application by the resolution professional. The Respondent/Personal Guarantor will be given an opportunity to file a reply once the RP has filed his Report under Section 99 of IBC, 2016.
9. Considering the above facts and the case supra, we pass this order to appoint the RP who will collate all the facts relevant to the examination of the application for the commencement of the PIRP in respect of the Personal Guarantor.
10. In the instant case, the Applicant has not proposed the name of any Insolvency Professional to be appointed as the Resolution Professional (hereinafter referred to as "RP"), therefore we hereby consider the appointment of Ms. Shalini Bhatnagar (IBBI No.: IBBI/IPA-001/IP-P-02878/2024-2025/14403), the Insolvency Professional as RP, as per the provision of Section 97(3) read with Section 97(5) for preparation of report u/s 99 of the Code.
11. On filing of this application by the Applicant, the interim moratorium commences in terms of section 96(1)(a) of IBC, 2016. It is settled law in view of above decision of Hon'ble Supreme Court, that on filing of Application, RP is appointed for submission of Report u/s 99 and at this stage, no judicial adjudication is involved in dealing with Section 95 and Section 99 of IBC, 2016.
12. In view of the above, without going into the merits at this point of time, while considering the prayer made in the petition as well as the submissions made by the Ld. Counsel representing the Petitioner, we only deem it appropriate to appoint Ms. Shalini Bhatnagar (IBBI No.: IBBI/IPA-001/IP-P-02878/2024-2025/14403) as RP. The Ld. LRA Mr. Aishwary Narayan has made verification of disciplinary status with IBBI portal in respect of above Insolvency Professional and no disciplinary proceedings is found to have been initiated by IBBI against him. His AFA is valid until 30th June, 2027. Therefore, we appoint Ms. Shalini Bhatnagar

as Resolution Professional in respect of the personal guarantor/respondent in this matter as per the provision of Section 97(3) read with Section 97(5) of Code. Her address is C-51 1st Floor Corporation Bank Building, Awas Vikas Nainital Road, Udham Singh Nagar, Uttarakhand, 263153 & e-mail ID is cashalinisrivastava@gmail.com.

13. The RP is directed to file his consent and declaration within seven days from the date of receiving of this order to the effect that he fulfils all the requirements for being appointed as Resolution Professional in the matter.
14. The Resolution Professional is directed to examine the application as set out in Section 99(6) of IBC, 2016 who after examining, may recommend for the acceptance / rejection of the application as provided under Section 99(7) of INC, 2016, within a period of 10 days as contemplated under Section 99(1) of IBC, 2016.
15. The Applicant is directed to serve copy of the application and the order on the Interim Resolution Professional.
16. List this application for report / hearing on 29th July, 2026.

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**(Ashish Verma)
Member (Technical)**

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**(Praveen Gupta)
Member (Judicial)**

10th June, 2026

*Avaneesh Kumar Singh
(Stenographer)*