



IN THE NATIONAL COMPANY LAW TRIBUNAL

INDORE BENCH

Item No. 205
CP(IB) No. 76 of 2022

Order under Section 94 IBC

IN THE MATTER OF:

Ramdhari MittalApplicant
Vs.
M/s Omkara Assets Reconstruction PrivateRespondents
Limited through Assistant Vice President and
Others

CORAM:

Shri. Brajendra Mani Tripathi, HON'BLE MEMBER (JUDICIAL)

Shri. Man Mohan Gupta, HON'BLE MEMBER (TECHNICAL)

PRONOUNCEMENT OF ORDER

Delivered on 25/02/2026

The case is fixed for pronouncement of the order. The order is pronounced in open Court vide separate sheet.

Sd/-

Sd/-

**MAN MOHAN GUPTA
MEMBER (TECHNICAL)**
Chandni-LRA

**BRAJENDRA MANI TRIPATHI
MEMBER(JUDICIAL)**



IN THE NATIONAL COMPANY LAW TRIBUNAL

INDORE BENCH

CP(IB) No. 76 of 2022

[This is an application under section 94 of Insolvency and Bankruptcy Code 2016, read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules 2019]

IN THE MATTER OF:

Ramdhari Mittal

.....Applicant

S/o Shrinavas Mittal

Address: House No.19/20, Ward No.42,
Vijaynagar, Ruikr Ward, Lalbagh,
Burhanpur, Madhya Pradesh - 450331, India

Vs.

**M/s Omkara Assets Reconstruction
Private Limited through Assistant Vice
President**

Address: 47th Floor, Kohinoor Square, N.C.
Kelkar Marg, R.G. Gadkari Chowk, Shivaji
Park, Dadar (W), Mumbai - 400028

**.....Respondent
No. 1**

Bank of India

Through Authorized Officer Burhanpur
Branch Shanwara Road Burhanpur (M.P)-
450331

**.....Respondent
No. 2**

CORAM:

Shri. Brajendra Mani Tripathi, HON'BLE MEMBER (JUDICIAL)

Shri. Man Mohan Gupta, HON'BLE MEMBER (TECHNICAL)



APPEARANCE:

For the Applicant: Mr. Akshat Agrawal, Adv (Online)

For the Bank of India: Ms. Darshana Baghel, Adv (Online)

For the RP: Mr. Rajesh Lohia (RP-in-Person) (Online)

For the Omkara ARC Mr. Aditya S. Mishra, Adv (Online)

JUDGEMENT

Delivered on: 25.02.2026

1. The present application has been filed by **Mr. Ramdhari Mittal** (Personal Guarantor) on 14.10.2022 under section 94 of the Insolvency and Bankruptcy Code, 2016, (hereinafter IBC, 2016), read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules 2019) seeking initiation of the Insolvency resolution process against himself being the Personal Guarantor to the Corporate Debtor - **M/s Shree Geeta Textile Mills Private Limited.**
2. The brief facts of the case are that the Corporate Debtor – M/s Shree Geeta Textile Mills Private Limited (Principal Borrower) – had availed various credit facilities from Bank of India and Bank of Baroda under a consortium arrangement, comprising working capital facilities, term loans, and bank guarantee limits. Pursuant to the said consortium arrangement, an aggregate amount of



₹58,71,00,000/- was disbursed to the Corporate Debtor. The applicant **Mr. Ramdhari Mittal**, stood as Personal Guarantor for the above loans sanctioned to the corporate debtor and in consideration of the said facility, on 05.06.2015 a deed of guarantee was executed by the Applicant/Personal Guarantor, jointly and severally, in favour of the Bank of India and Bank of Baroda for the aforesaid credit facilities availed by the Corporate Debtor. A copy of the guarantee deed has been placed on record (Annexure P/3).

3. From the particulars furnished on record, it is observed that a default occurred in respect of the credit facilities extended by Bank of India, pursuant to which the loan account of the Corporate Debtor was classified as a Non-Performing Asset (NPA) on 31.03.2019. Thereafter, in relation to the aforesaid credit facilities, Bank of Baroda also classified the account of the Corporate Debtor as NPA with effect from 23.11.2019. It is further seen from the record that the first demand notice under Section 13(2) of the SARFAESI Act was issued on 09.04.2019 which was subsequently followed by a joint demand notice dated 11.09.2020 issued by the consortium of lenders.
4. The Applicant has placed on record copies of the Income-tax return acknowledgement for the assessment years (2016-17, 2017-18, 2018-19, 2019-20, 2020-21) annexed as (annexure



P/4) and List of particulars of debt creditor wise annexed as (annexure P/6).

Appointment of Resolution Professional:

5. On presentation of the application by the Applicant, this Adjudicating Authority Vide order dated 22.03.2024 appointed the proposed Insolvency Professional, Mr. Rajesh Lohia having Registration No. (IBBI/IPA-002/IP-N00049/2016-17/10093), to examine the application filed by the Personal Guarantor and submit a report under section 99 of the code. The order of the appointment was received by the Resolution Professional on 05.04.2024 and pursuant thereto he had filed his report on 14.04.2024 recommending admission of the application under section 94 of IBC, 2016. The written consent of Mr. Rajesh Lohia to act as the Resolution Professional, in Form-A, has been placed on record separately and is dated 12.03.2024.

Report of Resolution professional:

- i. The corporate debtor – M/s Shree Geeta Textile Mills Private Limited has availed various credit facilities from Bank of India (Lead Bank) and Bank of Baroda (Member Bank) the applicant has stood as personal guarantor in respect of the facilities extended by consortium lenders.



- ii. The corporate debtor has defaulted in the repayment of the aforesaid facilities and a Demand Notice was issued under Section 13(2) of SARFAESI Act, 2002, dated 11.09.2020, addressed to the Personal Guarantor by Bank of India, Consortium Lead Bank, on behalf of all member Banks.
- iii. Upon his appointment, the Resolution Professional sought information and clarification from the Personal Guarantor, the Corporate Debtor, and the Financial Creditor. While the Personal Guarantor furnished the information sought and the Financial Creditor (Bank of India) confirmed the outstanding debt, the Corporate Debtor failed to respond to the communications or provide the requisite information.
- iv. The Resolution Professional has further recorded, that the debts in question are not excluded debts, that the applicant is not an undischarged bankrupt, not undergoing a fresh start, insolvency resolution or bankruptcy process, and that no application has been admitted in respect of the Applicant during the twelve months preceding the present application. It is also recorded that, despite invocation of the personal guarantees and issuance of demand notices, the amounts under default remain unpaid by the Corporate Debtor as well as the Personal Guarantor, thereby satisfying Section 99(6)(a).



- v. In view of the above, the Resolution Professional has opined that the application CP(IB) No. 76 (MP)/2022 filed by the Personal Guarantor satisfies the statutory requirements, and has recommended acceptance of the application under Section 94 and initiation of Insolvency Resolution Process against Mr. Ramdhari Mittal, Personal Guarantor to M/s Shree Geeta Textile Private Limited, under Section 100 of the Code.

Objection raised by the creditor – Bank of India (Lead Member – Consortium Arrangement)

6. An Intervention Petition being Inv.P/10(MP)2024 was filed by Bank of India, one of the Financial Creditors, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, seeking permission to place on record its objections to the Section 99 Report dated 14.04.2024 submitted by the Resolution Professional, as well as to oppose the main petition bearing CP(IB)/76 (MP)2022 filed under Section 94 of the Code by the Personal Guarantor. Vide order dated 08.09.2025, this Hon'ble Tribunal allowed the said intervention application and the objections raised by financial creditor were taken on record.
7. Pursuant thereto, the Financial Creditor filed the following objections to the report submitted by the Resolution Professional:



i. Objection regarding quantum of outstanding dues:

The Report proceeds on the amount disclosed by the Personal Guarantor in the Section 94 application, namely ₹44,24,16,487/-, which is incomplete and incorrect. The total outstanding dues as on 04.08.2024 amount to ₹6,459.27 lakhs, inclusive of ledger outstanding, amounts due under invoked bank guarantees, and accrued contractual interest. The Section 99 Report fails to take into account the full and correct liability owed.

Observation:

It is observed that the amount disclosed by the Applicant in the Section 94 application pertains to the position as on the date of filing of the application, i.e., 14.10.2022. The amount now stated by the Financial Creditor reflects the outstanding as on 04.08.2024. The difference, therefore, appears to be due to the accrual of interest and other charges over time. It is noted that the default amount is above the threshold limit and further the exact quantification of the claim is subject to verification in accordance with law.

ii. Objection regarding date of demand notice:

Further, the Report records that the demand notice under Section 13(2) of the SARFAESI Act was issued on



11.09.2020, which is factually incorrect. The first demand notice under Section 13(2) was issued on 09.04.2019 to the Corporate Debtor and the Personal Guarantor, followed by a subsequent joint notice dated 11.09.2020 issued by the consortium of lenders. The initial demand notice dated 09.04.2019 already forms part of the record and has been annexed by the respondent himself in the main petition.

Observation:

It is observed that the record reflects issuance of notice dated 09.04.2019, followed by the subsequent notice dated 11.09.2020. The discrepancy in recording the earlier notice in the Section 99 Report does not, by itself, alter the existence of debt or the status of default, which are matters to be examined on the basis of the material placed on record.

iii. Objection regarding prior recovery proceedings:

That, the Financial Creditor is a secured creditor of the Corporate Debtor, Shree Geeta Textile Mills Private Limited, and Respondent No.1 is the Personal Guarantor to the credit facilities extended to the Corporate Debtor. Recovery proceedings were initiated by the Financial Creditor well prior to the filing of the insolvency application. An Original Application was filed before the Debt Recovery Tribunal in



the year 2021 for recovery of its lawful dues, which continues to remain pending. In furtherance of its statutory rights, the Financial Creditor invoked the provisions of the SARFAESI Act, 2002 and conducted an e-auction on 27.12.2021, wherein two secured properties were successfully sold, while one property could not be concluded on account of pending litigation. Consequently, upon the concluded auction proceedings, Sale Certificates dated 25.01.2022 were duly issued in favour of the successful auction purchasers. Thus, by early 2022, the recovery proceedings had already reached a substantive and irreversible stage.

That, after the recovery actions undertaken by the Financial Creditor progressed as aforesaid, the Personal Guarantor filed Securitisation Application No. 539 of 2021 on 20.12.2021 before the Debts Recovery Tribunal challenging the recovery measures initiated under SARFAESI. Much thereafter, and only on 14.10.2022, the Personal Guarantor chose to file the present application under Section 94 of the Insolvency and Bankruptcy Code, 2016. Subsequently, by order dated 21.12.2022, the Debts Recovery Tribunal stayed further proceedings in S.A. No. 539 of 2021 expressly on account of the moratorium under Section 96 of the Code



having come into operation due to the filing of the Section 94 application. The chronology clearly establishes a direct nexus between the filing of the Section 94 application and the stalling of recovery proceedings which had been lawfully initiated and substantially progressed much prior in time.

Observation:

The pendency or initiation of recovery proceedings under the SARFAESI Act or before the Debts Recovery Tribunal does not, ipso facto, bar an application under Section 94 of the Code, which provides an independent statutory remedy to a Personal Guarantor, subject to satisfaction of the statutory requirements.

Objection raised by the creditor - Omkara Assets Reconstruction Private Limited

8. During the course of hearing dated 15.04.2025, learned counsel appearing on behalf of Omkara Assets Reconstruction Private Limited submitted that they had not been informed about the present proceedings and that no copy of the Company Petition or the Report filed under Section 99 of the Insolvency and Bankruptcy Code, 2016 by the Resolution Professional had been served upon them, despite their being one of the creditors of the



Personal Guarantor. It was submitted that in absence of service of the Petition along with all annexures and the Section 99 Report, they were deprived of an opportunity to file an appropriate reply.

9. In this regard, Omkara ARC had also filed I.A. No. 271 of 2025 seeking service of the complete set of documents to enable it to place its objections on record. Upon service of the Petition and the Section 99 Report, the said Interlocutory Application was withdrawn.
10. It is submitted that the financial debt originally advanced by Khamgaon Urban Co-operative Bank stood validly assigned in its favour by way of an Assignment Deed dated 28.09.2021. It was submitted that despite such assignment having taken place prior to filing of the present application, the Applicant failed to disclose the same and continued to reflect the original lender as the creditor. According to Omkara ARC, such non-disclosure amounts to suppression of material facts and misrepresentation before this Adjudicating Authority.
11. It was further contended that the timeline of events clearly shows that a Demand Notice under Section 13(2) of the SARFAESI Act dated 11.09.2020, calling upon the Personal Guarantor and Corporate Debtor to repay the outstanding dues. Thereafter, proceedings under the Recovery of Debts and Bankruptcy Act



were also initiated. The present Company Petition was filed on 14.10.2022 two years after SARFAESI demand and after debt assignment suggesting a calculated and delayed attempt to pre-empt lawful enforcement.

12. Omkara ARC also raised an objection on limitation, submitting that the loan account was classified as Non-Performing Asset in 2019 and that the present application, having been filed in 2022, is barred by limitation. It was contended that no acknowledgment of debt or part-payment extending limitation has been placed on record.
13. Additionally, it was argued that the application does not clearly set out the precise date of default, the exact outstanding amount, or the status of liability subsequent to assignment, and that the disclosures made are vague and incomplete. Omkara ARC further submitted that the Applicant has failed to annex valuation reports, title documents, or encumbrance details in support of asset disclosure, thereby not making full and complete disclosure as contemplated under Section 94.
14. Omkara ARC also challenged the Report submitted by the Resolution Professional under Section 99, contending that the Resolution Professional failed to properly examine the issue of limitation, did not seek clarification from Omkara ARC as the



assignee creditor, and mechanically recommended admission of the application without adequate reasoning.

15. This Adjudicating Authority has carefully considered the submissions advanced by Omkara ARC and perused the material available on record. Insofar as the objection regarding assignment of debt is concerned, assignment results in substitution of the creditor and does not extinguish the underlying liability. The existence and subsistence of the debt are not shown to have been extinguished. The alleged non-disclosure of assignment, in the facts of the present case, does not alter the factum of liability. Insofar as the status of the real creditor is concerned, the claim may be filed before the Resolution Professional and shall be dealt with in accordance with law.
16. With respect to the contention that the present application has been filed to stall the recovery proceedings that have been lawfully initiated before the Hon'ble Debt Recovery Tribunal, Mumbai and under the SARFAESI Act, 2002, it is observed that the mere pendency of recovery proceedings does not operate as a statutory bar to initiation of proceedings under Section 94 of the Code.
17. On the issue of limitation, the determination of the same requires examination of the date of default and relevant material. From the record presently available, it cannot be held that the application is *Ex facie* barred by limitation.



18. In relation to the objection concerning the Section 99 Report, it is noted that the report of the Resolution Professional is recommendatory in nature, and the ultimate satisfaction regarding admission rests with this Adjudicating Authority under Section 100 of the Code. Alleged inadequacies in the report do not, by themselves, invalidate the proceedings.

Analysis and observations:

19. Upon consideration of the pleadings, objections and material placed on record, the following issues arise for determination before this Adjudicating Authority:

- i. Whether there exists a legally enforceable debt and default in respect of the Personal Guarantor?
- ii. Whether the pendency of proceedings under the SARFAESI Act and before the Debts Recovery Tribunal bars initiation of proceedings under Section 94 of the Insolvency and Bankruptcy Code, 2016?
- iii. Whether the present application is barred by limitation?

20. Issue No. (i): Existence of Debt and Default

From the record, it is evident that the Corporate Debtor availed credit facilities from the consortium lenders and that the



Applicant executed a Deed of Guarantee dated 05.06.2015 in favour of the said lenders. The loan accounts were classified as Non-Performing Assets in the year 2019. The personal guarantee was duly invoked and demand notices under Section 13(2) of the SARFAESI Act, including the joint demand notice dated 11.09.2020, were issued to the Personal Guarantor. Despite invocation of the guarantee, the outstanding dues remain unpaid. Accordingly, the existence of debt and default stands established.

21. Issue No. (ii): Effect of SARFAESI and DRT Proceedings

The pendency of recovery proceedings under the SARFAESI Act or before the Debts Recovery Tribunal does not constitute a statutory bar to initiation of proceedings under Section 94 of the Code. Insolvency proceedings operate in a distinct field and are not rendered non-maintainable merely on account of parallel recovery actions.

22. Issue No. (iii): Limitation

The joint demand notice dated 11.09.2020 granted sixty days time to the Personal Guarantor to discharge the liability, failing which the Financial Creditor was entitled to proceed in accordance with law. The present application having been filed on 14.10.2022 is within a period of three years therefrom. From the material placed on record, the application cannot be said to be ex facie barred by limitation.



23. This Adjudicating Authority has perused the material placed on record, including the Report submitted by the Resolution Professional under Section 99 of the Code. The Resolution Professional has recorded that the Corporate Debtor committed default in repayment of the credit facilities for which the present Applicant stood as Personal Guarantor and that, despite invocation of the guarantee, the outstanding amounts remain unpaid. The requirement under Section 99(6)(a) therefore stands satisfied.
24. The Report further records that the debts in question do not fall within the category of “excluded debts” and that the Applicant is neither an undischarged bankrupt nor undergoing a fresh start process, insolvency resolution process or bankruptcy process. It is also noted that no such application has been admitted in respect of the Applicant during the twelve months preceding the filing of the present application.
25. The objections raised by the Financial Creditors have been duly considered and dealt with hereinabove.
26. On an overall consideration of the record and the Report of the Resolution Professional, this Adjudicating Authority is satisfied that the application fulfils the requirements of Section 94 read with Section 100 of the Insolvency and Bankruptcy Code, 2016, and that there exists no legal impediment to initiation of the



Insolvency Resolution Process against the Applicant/Personal Guarantor.

27. In view of the foregoing **CP (IB) No.76 of 2022** filed under Section 94 of the Insolvency and Bankruptcy Code, 2016 is **admitted** Consequently, we pass the following directions.

- i. Insolvency Resolution process is initiated against the applicant/personal guarantor - under section 100.
- ii. In terms of Section 101 of the Code, a moratorium is hereby declared in respect of all debts from the date of this Order, which shall cease to have effect on expiry of 180 days or passing of an order on the Repayment Plan under Section 114, 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.
 - b. No creditor shall initiate any legal action or proceeding in respect of any debt.
 - c. The Personal Guarantor shall not transfer, alienate, encumber or dispose of any of his assets or legal/beneficial rights therein.
- iii. The moratorium shall not apply to transactions notified by the Central Government.
- iv. Mr. Rajesh Lohia, who was appointed earlier under Section 97 of the Code, having registration no. Registration No. No.



(IBBI/IPA-002/IP-N00049/2016-17/10093) (AFA valid till 31.12.2026) is appointed as Resolution Professional for conducting the Insolvency Resolution Process of the Personal Guarantor.

- v. RP 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 Indore Bench, inviting claims from all Creditors, within 21 days of such Issue. The notice under Sub Section (1) of Section 102(2) shall include:
 - a. details of the order admitting the application;
 - b. particulars of the resolution professional with whom the claims are to be registered; and
 - c. the last date for submission of claims.
- vi. The publication of notice shall be made in two newspapers, one in English and other in Vernacular which have wide circulation in the State where the Corporate Debtor and Personal Guarantor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry for the record.
- vii. The Resolution Professional shall prepare a list of creditors under Section 104 of the Code on the basis of:
 - a. information disclosed in the Application filed under Section 94, and



- b. claims received under Section 102, within 30 days
from the date of publication of notice.
- viii. The Personal Guarantor shall prepare a Repayment Plan under Section 105, in consultation with the Resolution Professional, containing a proposal for restructuring of his debts.
- ix. The Repayment Plan may authorize or require the Resolution Professional to:
 - a. carry on the debtor's business or trade on his behalf or in his name; or
 - b. realize the assets of the debtor; or
 - c. administer or dispose of any funds of the debtor.

The Plan shall include:

- a. justification for preparation of such plan;
 - b. payment of fee to the Resolution Professional;
 - c. any other matter as may be specified.
- x. The Resolution Professional shall submit the Repayment Plan to this Authority along with his report within 21 days from the last date of submission of claims, in terms of Section 106 of the Code.
- xi. In case the Resolution Professional recommends that a meeting of the creditors is not required to be called, he shall record the reasons therefor. If the Resolution Professional



is of the opinion that a meeting of the creditors should be summoned, he shall specify the details as provided under Section 106(3) of IBC, 2016. The date of meeting should not be less than 14 day or more than 28 days from the date of submission of the Report under sub- section (1) of Section 106 of IBC, 2016, for which at least 14 days notice to the creditors as per the list prepared and the debtor shall be issued by all modes. Such notice must contain the details as provided under the provisions of Section 107 of IBC, 2016.

- xii. The meeting of the creditors shall be conducted in accordance with Sections 108, 109, 110 & 111 of IBC, 2016. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 of IBC, 2016 and submit the same to this Tribunal, 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 IBC, 2016, including maintaining independence, confidentiality, and impartiality in all actions.



xiii. The Resolution Professional shall submit his periodic reports before this Tribunal every 30 days.

28. Accordingly, CP(IB) 76/(MP)/2022 filed under section 94 of IBC, 2016 is admitted and the Insolvency Resolution process stands initiated against the Applicant/Personal Guarantor – **Mr. Ramdhari Mittal.**

Sd/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)
Chandni-LRA

Sd/-

BRAJENDRA MANI TRIPATHI
MEMBER(JUDICIAL)