

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
COURT-IV

C.P. (IB) 4/ND/2026

IN THE MATTER OF:

Viveck Goel

...Applicant/Personal Guarantor

Versus

Federal Bank

...Respondent No. 1

Axis Bank

...Respondent No. 2

Kotak Mahindra Bank Ltd.

...Respondent No. 3

Income Tax Department

...Respondent No. 4

Principal Commissioner, Central Goods and Services Tax

...Respondent No. 5

IDFC First Bank Ltd.

...Respondent No. 6

HDFC Bank

...Respondent No. 7

M/s Valo Automotive Pvt. Ltd.

...Respondent No. 8

Under Section 94 of the Insolvency & Bankruptcy Code, 2016 and Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM
HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

Order delivered on: 09.03.2026



PRESENT:

For the Applicant: Mr. Aalok Jagga, Mr. Nipun Gautam, Mr. Harkirat Singh,
Mr. APS Madaan, Advocates

ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)

1. The present application C.P. (IB) No. 4/ND/2026 dated 10.12.2025 was filed on 30.12.2025 under section 94 of the Insolvency and Bankruptcy Code, 2016 (“Code/IBC”) read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 by Mr. Viveck Goel (“Applicant/Personal Guarantor”) to M/s Aristo Motors Private Limited (“Corporate Debtor”).
2. The Applicant has prayed for the following:
 - a. To admit the present application under Section 100 and initiate Insolvency Resolution Process against the Applicant being a Personal Guarantor to the Corporate Debtor; and/or
 - b. To Appoint Resolution Professional as described in Part IV of the Application; and/or
 - c. To pass such other orders as are necessary for the proper and effective adjudication of the instant case, in the interest of justice.



3. The Corporate Debtor i.e., M/s Aristo Motors Pvt. Ltd. on whose behalf the Applicant has given the personal guarantee is having its registered office at E1/4, Pandav Nagar, above Hero Motorcorp Showroom, Patparganj, Delhi-110092. Since the registered office of the Corporate Debtor is in New Delhi, this Adjudicating Authority having territorial jurisdiction over the NCT of Delhi is the Adjudicating Authority in relation to the prayer for initiation of Insolvency Resolution Process in respect of the Personal Guarantor under sub-section (1) of Section 60 of the Code.
4. The Applicant is a Personal Guarantor of the Corporate Debtor and has filed the present application under section 94 of the Code to initiate insolvency resolution process against himself owing to his inability to repay the debts amounting to Rs. 3,13,21,711.96/- (Rupees three crore thirteen lakh twenty-one thousand seven hundred eleven and paise ninety-six only). This amount being the total amount of debt and default committed by the Corporate Debtor which it failed to repay claimed by the Creditor Federal Bank (Respondent No. 1) as due on 31.05.2018.

FACTS OF THE CASE

5. The brief facts of the case relevant to the instant application, are as follows:



- i. The Corporate Debtor i.e. M/s Aristo Motors Pvt. Ltd. was a Limited Company, incorporated on 27.05.2013 under the provisions of the Companies Act, 1956 (CIN: U50100DL2013PTC252888). The Corporate Debtor was an MSME Enterprise and predominantly into the business of sales of motor vehicles.
- ii. That on account of working capital requirements, the Corporate Debtor approached the Financial Creditor i.e., Federal Bank (Respondent No. 1) and had availed Over draft limit of Rs. 4,50,00,000/- (Rupees Four Crores Fifty Lakhs Only) from the Respondent No. 1 in the year 2014. The said limit was renewed on 06.10.2016 for Rs. 3,30,00,000/- (Three Crore Thirty Lakhs Only). To secure these credit facilities, the Applicant and other guarantors had given their personal guarantees by executing Guarantee deeds.
- iii. The Respondent No. 1 issued a demand notice under section 13(2) of the SARFAESI Act, 2002 on 27.06.2018 claiming Rs. 3,13,21,711.96/- (Rupees three crore thirteen lakh twenty-one thousand seven hundred eleven and paise ninety-six only) and the said notice was issued to the Applicant also, invoking the guarantee. The Applicant has filed the Guarantee Deed along with



other documents and the same is placed on record before this Adjudicating Authority.

- iv. The Applicant is being claimed by the Financial Creditor to be Personal Guarantor to the Corporate Debtor (M/s Aristo Motors Pvt. Limited). Section 13(4) Notice under the SARFAESI Act, 2002 has also been issued. The said loan account has been declared as NPA and the Financial Creditor has initiated recovery proceedings as well as Securitization proceedings against the Corporate Debtor as well as the guarantors.
- v. In addition to being the Personal Guarantor for M/s Aristo Motors Pvt. Ltd. (Corporate Debtor), the Applicant is also a director of the Corporate Debtor, the proprietor of one M/s Auto Needs and director of M/s V Go Motors Pvt. Ltd., Apex Automobiles Pvt. Ltd. and also M/s Autoneeds (India) Pvt. Ltd. (suspended director). The Applicant is also a personal guarantor for M/s V Go Motors Pvt. Ltd and M/s Autoneeds (India) Pvt. Ltd.
- vi. The particulars of the debts due and payable by the Applicant, as reflected in Part III of Form A (Particulars of Debt), are detailed herein below:
 - a) Rs. 2,98,05,798/- (Rupees Two Crore Ninety-Eight Lakhs Five Thousand Seven Hundred and Ninety-Eight Only) with interest @13.62% per annum with monthly rests from



29.01.2021 till date of payment is due against the applicant in favour of Respondent No. 1. This loan is due as Personal Guarantee given to secure the loan account of Corporate Debtor. This loan account was declared as NPA on 31.05.2018 and the Respondent No. 1 had also issued demand notice dated 27.06.2018 under section 13(2) of the SARFAESI Act, 2002 claiming Rs. 3,13,21,711/- (Rupees Three Crore Thirteen Lakhs Twenty-One Thousand Seven Hundred Eleven Only). Section 13(4) notice under SARFAESI Act was also issued. The Applicant has submitted that the Respondent No. 1 had also filed recovery suit under section 19 of the Recovery of Debts and Bankruptcy Act, 1993 before DRT-II, Chandigarh bearing OA No.1098 of 2021 claiming Rs. 2,98,05,798/- (Rupees Two Crore Ninety-Eight Lakhs Five Thousand Seven Hundred and Ninety-Eight Only). The said OA was decreed on 19.05.2025.

b) Rs. 1,99,67,636/- (Rupees One Crore Ninety-Nine Lakhs Sixty-Seven Thousand Six Hundred and Thirty-Six Only) as on 31.12.2021 with further interest as per the demand notice dated 09.02.2022 issued under Section 13(2) of SARFAESI Act, 2002 is due to Axis Bank (Respondent No.



2). M/s Autoneeds (India) Pvt. Ltd. had availed working capital facilities from Respondent No. 2. The account was declared as NPA and Financial Creditor issued a final demand notice under Section 13(2) of Securitisation Act, 2002 dated 31.12.2021 and the guarantee was invoked against the applicant, Applicant being Personal Guarantor and Director of M/s Autoneeds (India) Pvt. Ltd. Section 13(4) notice under SARFAESI Act, 2002 was also issued. Respondent No. 2 had also approached the DRT under section 19 of the Recovery of Debts and Bankruptcy Act, 1993 by way of filing OA no.147 of 2022 before DRT-II, New Delhi. The same is pending for 30.03.2026.

M/s Autoneeds (India) Pvt. Ltd. was directed to be liquidated vide order dated 27.10.2025 after no resolution plan came up in insolvency proceedings. M/s Autoneeds (India) Pvt. Ltd. and the applicant filed a Writ Petition bearing CWP no. 20579 of 2022 seeking restructuring of the loan account. The said case was disposed of on 15.01.2024 to avail alternate remedy before the DRT. The Financial Creditor had also filed an application under section 14 of the SARFAESI Act, 2002 before the Chief Judicial Magistrate, Gurugram seeking possession of the



mortgaged property belonging to applicant. The said application was allowed on 06.03.2025 and extension of time to creditor for execution of the order was also granted on 28.11.2025.

The Financial Creditor had entered into OTS with the Corporate Debtor and the proprietorship firm of the Applicant for Rs. 5,50,00,000/- (Rupees Five Crores Fifty Lakhs Only) vide sanction letter dated 15.01.2024 however the Applicant could only pay the amount of Rs. 2,63,00,000/- (Rupees Two Crores and Sixty-Three Lakhs Only).

- c) Rs. 2,89,29,779/- (Rupees Two Crores Eighty-Nine Lakhs Twenty-Nine Thousand Seven Hundred Seventy-Nine Only) as due on 31.08.2019 as per the demand notice under section 13(2) of the SARFAESI Act, 2002. This loan is due against the Applicant in capacity of being Proprietor of M/s Auto Needs. The Creditor had also issued possession notice under section 13(4) of the Act, 2002 on 17.01.2020 and thereafter again on 22.06.2020.

The Applicant approached the Hon'ble High Court by filing CWP No. 17085 of 2020 in which applicant prayed that the Creditor be directed to constitute the Rehabilitation



Committee and place the matter for consideration of its proposal being an MSME. The said petition was allowed by the Hon'ble High Court vide order dated 21.12.2020. Thereafter, the Creditor without considering the documents rejected the restructuring proposal against which the applicant again filed one CWP no. 17579 of 2021. The said petition was disposed of by the Hon'ble High Court vide order dated 15.01.2024 relegating the applicant to avail alternative remedy before the DRT.

- d) Rs. 13,50,24,146/- (Rupees Thirteen Crores Fifty Lakhs Twenty-Four Thousand One Hundred Forty-Six Only) as due to Kotak Mahindra Bank (Respondent No. 3) and against M/s V Go Motors Pvt. Ltd. and the Applicant, being the director and personal guarantor of this company. Credit Facilities were availed due to working capital requirements. The Applicant has submitted that this loan facility was declared as NPA and the bank had also filed OA no. 674 of 2024 for recovery of Rs. 13,50,24,146/- before Ld. DRT, Delhi which is pending for 19.03.2026.
- e) Rs. 11,00,67,163/- (Rupees Eleven Crores Sixty-Seven Thousand and One Hundred Sixty-Three Only) due to the Income Tax Department against the Applicant as per



demand notice dated 18.03.2025 for the Assessment Year 2020-21. The Income Tax Department had also issued show cause notices to the applicant qua non-payment of tax of Rs. 4,17,440/- (Four Lakhs Seventeen Thousand Four Hundred and Forty Only) and Rs. 4,04,27,270/- (Rupees Four Crores Four Lakhs Twenty-Seven Thousand Two Hundred Seventy Only) for the Assessment Year 2022-23.

- f) Rs. 2,71,87,897/- (Rupees Two Crores Seventy-One Lakhs Eighty-Seven Thousand and Eight Hundred Ninety-Seven Only) as on 21.12.2023 payable to the Principal Commissioner, Central Goods and Services Tax, Gurugram including Central GST, State GST and Integrated GST for the FY 2017- 18 till 2021-22.
- g) The Applicant has three other creditors which are unsecured. The Applicant owes Rs. 2,24,00,000/- (Rupees Two Crores Twenty-Four Lakhs Only) to IDFC First Bank Ltd.-Respondent No. 6, Rs. 75,00,000/- (Seventy-Five Lakhs Only) to HDFC Bank-Respondent No. 7 and Rs. 21,02,139/- (Rupees Twenty-One Lakh Two Thousand and One Hundred Thirty-Nine Only) to M/s Valo Automotive Pvt. Ltd -Respondent No. 8.



ANALYSIS AND FINDINGS

6. Heard the Learned Counsel appearing for the Applicant/Personal Guarantor and perused the case records/documents on record.
7. The present application dated 10.12.2025 has been filed on 30.12.2025 under Section 94 of the Code by Mr. Viveck Goel, Personal Guarantor to Corporate Debtor M/s Aristo Motors Pvt. Ltd. for initiation of Insolvency Resolution proceedings against himself after guarantee was invoked by Respondent No. 1 due to the inability of the Corporate Debtor to pay off the liability of Rs. 3,13,21,711.96/- (Rupees three crore thirteen lakh twenty-one thousand seven hundred eleven and paise ninety-six only).
8. Since this Adjudicating Authority has territorial jurisdiction over the NCT of Delhi, it is the Adjudicating Authority in relation to the prayer for initiation of Insolvency Resolution Process in respect of the Personal Guarantor under sub-section (1) of Section 60 of the Code in this case as the registered office of the Corporate Debtor is in Delhi.
9. On perusal of the documents and case records on board it is seen that the loan due to Respondent No. 1 was availed in the year 2014 by way of Overdraft Limit of Rs. 4,50,00,000/- (Rupees Four Crores Fifty Lakhs Only) which was renewed in 2016 for Rs. 3,30,00,000 (Rupees Three



Crores Thirty Lakhs Only). Personal Guarantees by the Applicant and other guarantors were given in respect of these loan facilities both in the year 2014 and 2016, guarantee deeds of which have been filed with the present application.

10. The loan was declared as NPA and Respondent No. 1 had issued notice under Section 13(2) of SARFAESI Act, 2002 on 27.08.2018. Respondent No. 1 had also approached DRT-II Chandigarh under section 19 of Recovery of Debts and Bankruptcy Act for recovery of Rs. 2,98,05,798/- (Rupees Two Crore Ninety-Eight Lakhs Five Thousand Seven Hundred and Ninety-Eight Only). The said OA was proceeded ex-parte and decreed on 19.05.2025.
11. Respondent No. 2 had also issued notices under Section 13(2) and 13(4) of the SARFAESI Act, 2002 dated 09.02.2022 and 09.06.2022 respectively against the Applicant with respect to loans availed by the Corporate Debtor and personal guarantee against the Applicant was invoked. Respondent No. 2 had also provided loan facilities to the proprietorship firm of the Applicant i.e. M/s Auto Needs for which the Section 13(2) and 13(4) notices under the SARFAESI Act, 2002 were issued on 05.10.2019 and 17.01.2020 and subsequently again on 22.06.2020.
12. It is noted that an application under section 14 of SARFAESI Act, 2002 was filed by Respondent No. 2 before the Chief Judicial Magistrate,



Gurugram for possession of the mortgaged property, the application was allowed vide order dated 06.03.2025 and the extension for execution of this order was granted on 28.11.2025.

13. We also note that the Applicant along with the Corporate Debtor had entered into an OTS for Rs. 5,50,00,000/- (Five Crores Fifty Lakhs Only) with Respondent No. 2 vide sanction letter dated 15.01.2024. However, the applicant failed to comply with the settlement and could only fulfil the settlement to the extent of repayment of Rs. 2,63,00,000/- (Rupees Two Crores Sixty-Three Lakhs Only). It is also a pertinent fact here that the Applicant had attempted to acquire relief by filing Writ Petitions before the Hon'ble High Court but failed in doing so as the applications were disposed of by the Hon'ble High Court directing to avail alternate remedy before the DRT.
14. The Applicant also owes Rs. 13,50,24,146/- (Rupees Thirteen Crores Fifty Lakhs Twenty-Four Thousand One Hundred Forty-Six Only) as due to Respondent No. 3 for which OA is pending before the Ld. DRT, Delhi and the applicant also owes a significant amount of Rs. 11,00,67,163/- and Rs. 2,71,87,897/- to the Income Tax Department and Principal Commissioner Central Goods and Service Tax, Gurugram respectively and to other unsecured creditors as well as is revealed by Part III of the Application.



15. We are of the view that these various proceedings against the Applicant under the SARFAESI Act, 2002 and the OA's pending before Ld. DRT are at an advanced stage. OA filed before Ld. DRT-II Chandigarh filed by Respondent No. 1 proceeded ex-parte and was disposed of. Moreover, extension of execution for possession order given by the Chief Judicial Magistrate, Gurugram was granted recently to the filing of instant application i.e. on 28.11.2025 and the Applicant even failed to fulfil the OTS and even to obtain remedy before other forums such as the Writ Petitions filed by the Applicant which were disposed of to seek alternate remedy from Ld. DRT. Hence, it is of our considered view that this application was filed with an objective to take advantage of the interim moratorium under Section 96 of the Code which gets triggered on filing Section 94 Application before the Tribunal and to thwart the recovery processes that have been initiated against the Applicant.

16. Reliance is placed on the Order of the Hon'ble NCLAT in **Syed Sirajis Salikin Khadri Vs. Edelweiss Asset Reconstruction Company Ltd. and Anr. [CA (AT) (Ins.) No. 455 of 2025]**, where the Hon'ble NCLAT held that a Section 94 application cannot be used to stall recovery proceedings under SARFAESI Act, 2002 by taking advantage of the moratorium under IBC and in such cases **Getz Cables Pvt. Ltd. Vs State Bank of India and Anr. [CA(AT)(Ins.) No. 1953 of 2024]** is not applicable wherein it was held that the right under Section 94 given to a personal



guarantor/individual cannot be taken away only on the ground that SARFAESI proceedings have been initiated prior to filing of Section 94 application. The Adjudicating Authority has to decide each case depending on the specific and individual facts of each case.

17. The provisions of the Code cannot be allowed to be misused in a manner as to impede the process and steps taken under the SARFAESI Act, 2002 or to prolong the recovery actions taken against the Applicant by the Creditor. The Applicant has purposely attempted to misuse the statutory provisions under the Code by taking advantage of the interim moratorium which automatically gets triggered at the filing of this Application. The interim moratorium, in actuality, is a temporary protective mechanism intended to facilitate an orderly insolvency resolution and not a tool to obstruct lawful recovery proceedings. We cannot permit this abuse of process of law. The timing of filing this application coupled with the various recovery proceedings that are pending against the applicant demonstrates that this application is not a *bona fide* attempt at insolvency resolution but a tactical device to gain benefit under Section 96 of the Code. Hence this application is a fit case for dismissal.

18. Accordingly, based on the reasons discussed in the above Paras, this petition i.e. **C.P. (IB) No. 615/ND/2025** filed under Section 94 of the



Code and Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 is hereby **dismissed**.

Sd/-

Sd/-

(ATUL CHATURVEDI)

(MANNI SANKARIAH SHANMUGA SUNDARAM)

MEMBER (TECHNICAL)

MEMBER (JUDICIAL)