



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
SPECIAL BENCH, COURT – I**

I.A. (I.B.C.)/1077/KB/2025
IN
C.P. (IB)/117/KB/2025

***An application under Section 99 and Section 60(5) of
Insolvency and Bankruptcy Code, 2016, read with
applicable Regulation of the Insolvency and Bankruptcy
Board of India (Insolvency Resolution process for Personal
Guarantors to Corporate Debtors) 2016 as amended***

In the matter of:

UCO Bank

.....Financial Creditor

Versus

Mr. Souvanik Mal

.....Personal Guarantor

And

Mr. Debdas Chakraborty

.....Resolution Professional/Applicant

Date of pronouncement: 16.04.2026

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

MS. REKHA KANTILAL SHAH, HON'BLE MEMBER (TECHNICAL)

Appearance:

Mr. S.K. Ray, Adv.]	For Financial Creditor
Ms. Ashmita Lohia, Adv.]	
Ms. Utkarshika, Adv.]	
Ms. Varsha Khowala, Adv.]	

Mr. Snehasish Chakraborty, Adv.]	For Resolution Professional
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**IN THE NATIONAL COMPANY LAW TRIBUNAL
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I.A.(I.B.)/1077/KB/2025
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ORDER

PER: BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

1. The Court convened in a hybrid mode.
2. This I.A.(IB)No. 1077/KB/2025 in C.P.(IB)/117(KB)2025 has been preferred by the Financial Creditor to seek initiation of Insolvency Regulation Process against the Respondent Personal Guarantor to Corporate Debtor Rule, 2019 (“Personal Guarantors Rules”) and Regulation 4(2) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (“Personal Guarantors Regulations”) in terms of Section 99 (1) of the Insolvency and Bankruptcy Code, 2016 read with applicable Regulation of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2016 and in terms of Section 60(5) of the Insolvency and Bankruptcy Code, 2016 to condone the delay in filing the instant Application.
3. The amount in debt and default is Rs. 10,27,15,000/- (Rupees Ten Crores Twenty-Seven Lakhs Fifteen Thousand Only) with further interest and incidental expenses, costs in the accounts as on 31.12.2024.
4. On 22.11.2021, the Financial creditor has issued a demand notice to the Corporate Debtor as well as the personal guarantors demanding Rs. 7,58,81,655.06/- (Rupees Seven Crores Fifty-Eight Lacs Eighty-one Thousand Six Hundred Fifty-Five and Six Paise Only), asking them to clear the outstanding balance within 30.11.2021.
5. On 06.12.2021, the Financial Creditor has sent another notices under Section 13(2) of the SARFAESI Act, 2002 to the Corporate Debtor along with the Personal Guarantor of Corporate Debtor demanding an amount of Rs. 7,60,89,574.06/- (Rupees Seven Crores Sixty Lacs Eighty-Nine Thousand Five Hundred Seventy-Four and Six Paise only)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
SPECIAL BENCH, COURT – I**

I.A.(I.B.)/1077/KB/2025
IN
C.P.(IB)/117/KB/2025



inclusive of Interest till 10.11.2021, within 60 days from the date of the notice.


6. On 06.09.2024, the Financial Creditor has issued a Preliminary Notice to the CD and Guarantors asking them to regularize the loan amount, within 15 days from the receipt of notice.
7. The **personal guarantee was invoked on by Financial Creditor on 22.11.2021**, and Personal Guarantor was asked to clear the outstanding amount **within 30.11.2021**. Thus, **the date of default is 30.11.2021 and the application was filed on 04.04.2025. Hence, this application is filed beyond the period of limitation of 3 years.**
8. The Financial Creditor had proposed the name of the Insolvency Professional for appointment as Resolution Professional. In view of the above, **Mr. Debdas Chakraborty, IBBI Registration No. IBBI/IPA-001/IP- P-01794/2019-2020/12758, email ID: ipddc2019@rediffmail.com**; was appointed as Resolution Professional, subject to his possessing a valid AFA, in exercise of the power conferred under Section 97 of the IBC, 2016 on this Authority.
9. The Resolution Professional was directed to file declaration within seven days to the effect that he fulfils all the requirements for being appointed as Resolution Professional in the matter which he has given, and to file his report in terms of Section 99 within 10 days.
10. The Resolution Professional Mr. Debdas Chakraborty, in I.A. (IB) 1077/KB/2025 has vide his report dated 1st July, 2025 suggested/stated as extracted as hereunder:

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
SPECIAL BENCH, COURT - I**

I.A.(I.B.)/1077/KB/2025
IN
C.P.(IB)/117/KB/2025



23

Report under Section 99 of the IBC	
Particulars of Applicant/Financial Creditor	UCO Bank, a body corporate constituted under the Banking Companies (Acquisition and Transfer undertakings) Act, 1970 having its office at Salt lake, Sector 1, Branch at Bidhan Nagar Sector- I, AB14, Salt Lake sector- I Kolkata- 700064. Email id- saltla@ucobank.co.in
Particulars of Corporate Debtor under CIRP	The Corporate Debtor is Bevkart Industries Limited a Company incorporated under the provisions of the Companies Act, 1956 and having its CIN: U55100WB2018PLC228379. The Master Data of Corporate Debtor is attached as " ANNEXURE M ".
Date of Commencement of CIRP of Corporate Debtor	N/A
Details of personal guarantee given to Applicant by Personal Guarantor	Mr. Souvanik Mal, the Personal Guarantor had executed and delivered a Deed of Guarantee in favour of UCO Bank on 26.09.2019 against credit facilities of Rs 80 lakhs for future indebtedness and liabilities of the Corporate Debtor and keep the bank indemnified from and against all claims, demands, losses, costs, charges, expenses whatsoever the bank may sustain or incurred by the Bank.
Date of invocation of personal guarantee by Financial Creditor	 CA IP Debdas Chakraborty Insolvency Professional No. 2021PA-001/IP-F01794/2019-20/12753

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
SPECIAL BENCH, COURT - I**

I.A.(I.B.)/1077/KB/2025
IN
C.P.(IB)/117/KB/2025



34

Date of filing Petition under section 94/95 of IBC	04.04.2025
Amount in default by Corporate Debtor to the Applicant at the time of commencement of CIRP	As per the Section 95 Application, the amount of Default is Rs. 10,27,15,000/- (Rupees Ten Crores Twenty-Seven Lakhs Fifteen Thousand Only) with further interest and incidental expenses, costs in the accounts as on 31.12.2024.
Amount provided in the resolution plan, if any, against the claim of the applicant.	N/A
Balance due from personal guarantor	10,27,15,000/- (Rupees Ten Crores Twenty-Seven Lakhs Fifteen Thousand Only) with further interest and incidental expenses, costs in the accounts as on 31.12.2024.
Net worth of personal guarantor as on date of the report	Not Available
Copies of past 5 years balance sheet and Income Tax Return of personal guarantor	Not Available
Details of actions taken by Applicant or any other Financial Creditor against Personal Guarantor	The FC has issued a demand notice dated 22.11.2021 to the corporate debtor as well as the personal guarantors demanding Rs. 7,58,81,655.06/- (Rupees Seven Crores Fifty-Eight Lacs Eighty-One Thousand Six Hundred



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
SPECIAL BENCH, COURT - I**

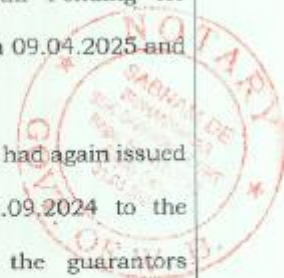
I.A.(I.B.)/1077/KB/2025
IN
C.P.(IB)/117/KB/2025



35

under any other Act in respect of debt owed by Corporate Debtor.	<p>Fifty-Five and Six Paise Only) along with interest, additional penalty interest and other lawful charges, cost, expenses, and all other monies payable by the FC.</p> <p>It is pertinent to mention that the FC has sent another notice dated 06.12.2021 and another demand notice dated 21.12.2021 under section 13(2) of SARFAESI Act, 2002 to the corporate debtor along with the guarantors demanding an amount of Rs 7,60,89,574.06/- (Rupees Seven Crores Sixty Lacs Eighty-Nine Thousand Five Hundred Seventy-Four and Six Paise only) inclusive of Interest till 10.11.2021.</p> <p>The undersigned further submits that the Financial Creditor had filed an application against the corporate debtor and its guarantor under section 19 of Recovery of Debts and Bankruptcy Act being OA no 41 of 2022 Before the Learned Debts recovery Tribunal-III, Kolkata on 14.01.2022. The matter is still Pending for adjudication. It was last listed on 09.04.2025 and next listed on 22.07.2025.</p> <p>Thereafter the Financial Creditor had again issued a preliminary notice dated 06.09.2024 to the corporate debtor along with the guarantors requesting them to regularize the loan account within 15 days from the receipt of the said notice. But no reply received from the Guarantor.</p> <p>Lastly finding no other options left, the financial Creditor had issued demand notice dated 21.01.2025 in "Form B" under Rule 7(1) of the</p>
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CA IP Debdas Chakraborty
Insolvency Professional
Reg. No. IB/004-051/P-PU/174/2019-202758



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
SPECIAL BENCH, COURT - I**

I.A.(I.B.)/1077/KB/2025
IN
C.P.(IB)/117/KB/2025



36

		Insolvency & Bankruptcy Board of India (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to the Corporate Debtor) Rules, 2019 to the corporate debtor along with the Guarantors demanding 10,27,15,000/- (Rupees Ten Crores Twenty-Seven Lacs Fifteen Thousand only).
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11. However, **the RP has not written the date of invocation of personal guarantee by Financial Creditor and kept it blank.**
12. The Resolution Professional Mr. Debdas Chakraborty, in I.A. (IB) 1077/KB/2025 has vide his report dated 1st July, 2025 recommended admission of the personal guarantor into Insolvency resolution process. The relevant portion of his report has been extracted and appended below for the sake of convenience.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
SPECIAL BENCH, COURT – I**

I.A.(I.B.)/1077/KB/2025
IN
C.P.(IB)/117/KB/2025



Recommendation (Admit/Reject)	In the opinion of the RP, the application made by M/s Bevkart Industries Limited before the Hon'ble National Company Law Tribunal, Kolkata to initiate Insolvency Resolution Process against Mr. Souvanik Mal, the personal guarantor of the Corporate Debtor, M/s Bevkart Industries Limited . u/s 95 of the Insolvency and Bankruptcy Code, 2016 is ADMISSIBLE AS THE DEBT HAS BECOME DUE AND PAYABLE BUT NOT PAID BY THE PERSONAL GUARANTOR . The Hon'ble NCLT may pass appropriate order u/s 100 of IBC, 2016 in C.P.(IB)/117(KB)2025 for admission of the application.
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13. We rely on the judgment of the Hon'ble Supreme Court, in Civil Appeal No. 6894 of 1997 (**Syndicate Bank vs. Channaverappa Beleri & Ors.**), by an order dated 10.04.2006, held that **the limitation period of three years for proceedings against a guarantor begins from the date of invocation of the bank guarantee and not from the date of default of the corporate debtor. It provides that the limitation starts on expiry of 15 days from the date the demand is made by the bank, and a suit filed within three years from such demand is timely.** This principle has been consistently followed by several NCLTs and NCLATs.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
SPECIAL BENCH, COURT – I**

I.A.(I.B.)/1077/KB/2025
IN
C.P.(IB)/117/KB/2025



14. The Hon'ble NCLAT in **Pooja Ramesh Singh vs. SBI** Company Appeal (AT)(insolvency)No. 329 of 2023, wherein Appellate Tribunal has held that the **date of Notice to guarantor for repayment has to be treated as notice of default on receipt of such notice the date of default is established.** In this case, considering the above judgement of Hon'ble NCLAT this application has been filed beyond the 3 years from date of the notice and hence is barred by limitation.

(Emphasis added)

15. It has also been held in the case of **Laxmi Pat Surana, Babulal Vardharji Gurjar , B.K Educational Services Pvt. Ltd. and Jignesh Shah** that the period of limitation would be attracted from the date when the default occurs and not from the date of declaration of NPA.

16. The RP Report did not consider the date of invocation of guarantee and limitation period required for the admission of the Application.

17. It is to be noted that Hon'ble Supreme Court in the judgment of **Dilip B. Jiwrajka vs. Union of India & Ors. In W.P. (Civil) No. 1281 of 2021 dated 09.11.2023 has upheld the Constitutional Validity of the Sections 94 to 100 and inter alia held :**

“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

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
SPECIAL BENCH, COURT – I**

I.A.(I.B.)/1077/KB/2025
IN
C.P.(IB)/117/KB/2025

*nature and hence does not bind the
adjudicatory authority when it exercises
its jurisdiction under Section 100”*

18. As the nature of the RP Report is only recommendatory, we fail to concur with the RP’s recommendation.
19. Thus, we hold that the petition is not maintainable as the same is filed beyond the period of limitation.
20. In terms of the above, C.P (IB) 117/KB/2025 is thus dismissed, I.A. (IBC) 1077/KB/2025 shall stand disposed of.

**REKHA KANTILAL SHAH
MEMBER (TECHNICAL)**

**BIDISHA BANERJEE
MEMBER (JUDICIAL)**

This Order is signed on this, the 16th Day of April, 2026.

Sagar M. (LRA)