NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.203
CP(IB)/40(MP)2025

Order under Section 95 IBC

IN THE MATTER OF:

The COSMOS Co-Op. Bank Ltd. Through RP MVK IPE LLP **........Applicant**
V/s
Rajendra Singhal **........Respondent**

Coram:

Hon'ble Shri Brajendra Mani Tripathi, Member (J)
Hon'ble Shri Man Mohan Gupta Member (T)

PRONOUNCEMENT OF ORDER
Delivered on 09/09/2026

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)

Sd/-

BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)

Tomar

THE NATIONAL COMPANY LAW TRIBUNAL

INDORE BENCH

CP(IB) 40 (MP) OF 2025

(Under Section 95 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7(2) 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:

THE COSMOS CO-OPERATIVE BANK LTD., A Multi-State Scheduled Co-operative Bank, having its Registered Office at Cosmos Tower, Plot No. 6, ICS Colony, University Road, Ganeshkhind, Pune – 411 007, through Resolution Professional MVK IPE LLP	**.... Applicant / Financial Creditor**

Versus

MR. RAJENDRA SINGHAL, S/o Shri Babulal Singhal, 3, Prakash Nagar, Bhramakundi, Dhar (M.P.) – 454 001.(Personal Guarantor of M/s Labhanshi Multitrade Private Limited)	**...... Respondent / Personal Guarantor**

CORAM:

Shri Brajendra Mani Tripathi, HON'BLE MEMBER (J)

Shri Man Mohan Gupta, HON'BLE MEMBER (T)

APPEARANCE:

For the Applicant: Ms. Ayushi Patidar PCA

For the Respondent Adv. Rohit Dubey

Order pronounced on:09.09.2026

JUDGEMENT

1) The present application has been filed under Section 95 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "Code") read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 (hereinafter referred to as the "Rules") by the Applicant/Financial Creditor, through its proposed Resolution Professional, for initiating the insolvency resolution process against **Mr. Rajendra Singhal** (hereinafter referred to as the **"Respondent/Personal Guarantor"),** Personal Guarantor of M/s Labhanshi Multitrade Private Limited (hereinafter referred to as the "Corporate Debtor") having Corporate Identification Number (CIN) U93000MP2017PTC044465, for default of an amount of

Rs. **23,97,60,717.00/-** (of which Rs. **22,88,37,876.00/-** is the amount in default) as on 04.04.2025. The date of default occurred as stated in Part-III of Form C is **25.12.2024.**

Submissions made by the Applicant/Financial Creditor:

2) The averments made by the Applicant/Financial Creditor in its application and written submissions, and as argued by the learned counsel for the Applicant, are summarized hereunder:

3) The Applicant is a Multi-State Scheduled Co-operative Bank. It sanctioned to the Corporate Debtor a cash credit facility of Rs. 2,150.00 lakh and five term loans aggregating Rs. 530.00 lakh, sanctioned and reviewed from time to time vide sanction letters dated 24.10.2019, 16.12.2020 and 28.11.2022, and reviewed on 23.01.2024, upon execution of the loan documents by the Corporate Debtor.

4) For the due repayment of the said facilities, the Respondent, along with the other guarantors, executed Deeds of Guarantee dated 25.10.2019, 21.01.2021 and 16.12.2022 in favour of the Applicant, undertaking to be liable, jointly and severally with the Corporate Debtor, for repayment of the

facilities. The said guarantees are continuing guarantees payable on demand; by Clause 4 thereof, the obligations of the guarantor are not conditional on the receipt of any prior notice, and any demand or notice by the Bank for payment is sufficient notice to or demand on the guarantor.

5) The account of the Corporate Debtor was classified as a Non-Performing Asset on 12.09.2024. The Applicant thereafter issued a notice dated 25.10.2024 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the "SARFAESI Act") to the Corporate Debtor and to the guarantors, including the Respondent, who was named therein as Addressee No. 4 in his capacity as guarantor. By Clause 8 of the said notice the Applicant invoked the guarantee, and by Clause 7 called upon the addressees to pay the outstanding dues within 60 days. The Respondent having failed to pay within the stipulated period, the default qua the guarantor occurred on 25.12.2024.

6) The Applicant thereafter issued a demand notice in Form B dated 02.05.2025 under Rule 7(1) of the Rules upon the Respondent/Personal Guarantor, calling upon him to pay the

debt in default of Rs. 22,88,37,876.29/-. The said notice was duly served upon the Respondent and, despite service, no payment having been made, the present application under Section 95 of the Code came to be filed. The total debt and the amount in default, as on 04.04.2025, is Rs. 23,97,60,717.01/- and Rs. 22,88,37,876.29/- respectively, as borne out by the statements of account placed on record.

Submissions in the Resolution Professional's Report:

7) This Tribunal, vide order dated 04.07.2025 passed under sub-section (3) of Section 97 of the Code in CP(IB) 40 (MP) of 2025, appointed MVK IPE LLP (Registration No. IBBI/IPE-0134/IPA-1/2022-23/50028) as the Resolution Professional and directed it to examine the application and submit a report under Section 99 of the Code, and to address, in particular, the aspects of debt, default, invocation of guarantee and limitation. The said order was communicated to the Resolution Professional on 10.07.2025. The Resolution Professional has filed its report dated 22.07.2025 under Section 99 of the Code. The submissions made in the report are summarized as under:

(i) RP intimated its appointment to the Financial Creditor by email dated 15.07.2025, apprised it of the interim moratorium then in force, and sought information relevant to the filing of the report and sent an intimation letter dated 14.07.2025 to the postal address of the Respondent, intimating the appointment of the Resolution Professional, apprising him of the moratorium, and seeking the information mentioned in Section 99(2) of the Code; the said letter was delivered on 15.07.2025 seeking information relevant to the filing of the report;

(ii) no reply having been received, it sent a reminder letter to the Respondent on 19.07.2025,by the aforesaid communications, the Resolution Professional called upon the Respondent to furnish, in particular: **(a)** the details of the personal guarantees furnished by him to secure the debt due to any bank or financial institution; **(b)** the reasons, if any, why the application filed under Section 95 should not be recommended for admission; **(c)** whether the guarantee furnished by him had been invoked; **(d)** whether any payment had been made against such invocation of the personal guarantee; **(e)** if so, the details of the payment made; **(f)** if not, the amount of the default; **(g)** the details of his personal assets and liabilities as on the date of the order dated 04.07.2025, or his latest net-worth certificate; and **(h)** the details of the assets mortgaged with the Financial Creditor; and

(iii) Despite successful delivery of the intimations at the postal address of the Respondent, the Respondent neither responded nor furnished any information till the date of the report. On a perusal of the record and the sanction letters forming part of the application, and on the confirmation furnished by the Financial Creditor, the Resolution Professional recorded the following:

i. That the Corporate Debtor had, since October 2019, availed from the Financial Creditor a cash credit facility, enhanced from time to time and standing at Rs. 2,150.00 lakh, and five term loans aggregating Rs. 530.00 lakh, namely term loans of Rs. 70.00 lakh, Rs. 80.00 lakh and Rs. 100.00 lakh sanctioned on 24.10.2019 and term loans of Rs. 70.00 lakh and Rs. 210.00 lakh sanctioned thereafter in December 2020;

ii. That the Respondent, along with the other guarantors, executed the Deeds of Guarantee dated 25.10.2019, 21.01.2021 and 16.12.2022 in favour of the Financial Creditor for the said facilities;

iii. that the Corporate Debtor defaulted in repayment and its account was classified as a **Non-Performing Asset** on **12.09.2024** and that the Financial Creditor issued the notice dated 25.10.2024 under Section 13(2) of the SARFAESI Act upon the Corporate Debtor as well as the guarantors, calling upon them to repay the dues within 60 days and invoking the personal guarantee;

iv. That, the debt remaining unpaid, the Financial Creditor issued the demand notice dated 02.05.2025 in Form B under Rule 7(1) of the Rules upon the Respondent for the total unpaid debt of Rs. 23,97,60,717.01/- due as on 04.04.2025, inclusive of interest, charges and expenses; and

v. that the Financial Creditor confirmed that no repayment had been made by the Corporate Debtor or the guarantors after the filing of the petition, and furnished statements of account reflecting the same.

8) On an examination of the application and the documents available on record, the Resolution Professional is of the opinion that the application filed by the Financial Creditor satisfies the requirements set out in Section 95 of the Code, and has recommended its acceptance and the initiation of the insolvency resolution process against the Respondent under Section 100 of the Code, for the following reasons:

(a) that the application filed by the Financial Creditor satisfies the requirements set out in Section 95 of the Code;

(b) that the Corporate Debtor, M/s Labhanshi Multitrade Private Limited, has committed default in repayment of the credit facilities granted by the Financial Creditor;

(c) that the Respondent had provided his guarantee for the facilities availed by the Corporate Debtor, as evident from the Deeds of Guarantee, and the guarantee has been duly invoked vide the notice dated 25.10.2024;

(d) that the Corporate Debtor as well as the Respondent failed to repay the amount in default despite invocation of the guarantee and demand, the demand notice dated 02.05.2025 in Form B under Rule 7(1) of the Rules having been issued upon the Respondent and duly delivered;

(e) that the Respondent has neither replied nor produced any document to substantiate repayment of the entire debt to the Financial Creditor;

(f) that the debt is not barred by limitation, the guarantee having been invoked in the year 2024 and the guarantor having also defaulted in repayment.

9) In view of the personal guarantee furnished by the Respondent and the existence of a default, the Resolution Professional concluded that the application satisfies the requirements of Section 95 of the Code and recommended that the same deserves to be ADMITTED under Section 100 of the Code and that the personal insolvency resolution process be initiated against the Respondent/Personal Guarantor.

Objections/Reply filed by the Respondent:

10. The Respondent filed a reply dated 08.08.2026 objecting to the admission of the application and raising the following contentions:

11. That the application is premature and unmaintainable in-limine, inasmuch as the guarantee was never validly invoked. A personal guarantor becomes a "debtor" only upon contractual invocation of the guarantee under Section 126 of the Indian Contract Act, 1872. A notice under Section 13(2) of the SARFAESI Act pertains solely to the enforcement of security interest against secured assets and does not constitute invocation of the personal guarantee, and the demand notice in Form B under Rule 7(1) is a mere procedural step which cannot substitute for such invocation. In the absence of a valid invocation, no "debt in default" within the meaning of Sections 3(11) and 3(12) of the Code existed against the Respondent on the date of filing. The Respondent relies upon the order of this Tribunal in *Canara Bank v. Ramgopal Agrawal*.

12. That the Respondent signed the guarantee documents solely to facilitate a commercial arrangement between the Applicant and the Corporate Debtor, and did not, at any point, personally receive, avail or derive any personal or pecuniary benefit from the facilities.

13. That the Applicant has failed to establish, with cogent proof, the exact and correct quantum of the debt due and payable by the Respondent in his capacity as Personal Guarantor, and that the application is accordingly liable to be dismissed with costs.

Written Submissions filed by the Applicant in reply to the objections:

14. In answer to the objections raised by the Respondent, the Applicant filed written submissions, the contentions whereof are summarized hereunder:

15. That the notice dated 25.10.2024 under Section 13(2) of the SARFAESI Act was addressed to the Respondent in his capacity as guarantor, being Addressee No. 4 therein; that Clause 8 of the said notice expressly invokes the guarantee and Clause 7 demands payment within 60 days; and that the

Deeds of Guarantee, being guarantees payable on demand, by Clause 4 dispense with any requirement of a prior or separate notice of invocation, a demand by the Bank being sufficient notice to and demand upon the guarantor. The guarantee was therefore validly invoked and the debt in default came into existence.

16. That the objection of prematurity is concluded against the Respondent by the decision of the Hon'ble National Company Law Appellate Tribunal in *Asha Basantilal Surana v. State Bank of India*, Company Appeal (AT)(Insolvency) No. 84 of 2025, decided on 15.05.2025, wherein it was held that a notice under Section 13(2) of the SARFAESI Act which makes a demand in terms of the guarantee agreement operates as a notice of invocation of the guarantee, and that an application founded upon such a notice is not premature or without cause of action; and that the decision in *Canara Bank v. Ramgopal Agrawal*, relied upon by the Respondent, does not survive the said pronouncement. The Applicant accordingly prays that the objections be rejected, the application admitted, and the insolvency resolution process commenced against the Respondent.

OBSERVATION & ANALYSIS:

17. We have heard the learned counsel for the parties, considered the report of the Resolution Professional, and perused the record.

18. The controversy in the present case lies within a narrow compass. It is not in dispute that the Respondent executed the Deeds of Guarantee, that the Corporate Debtor defaulted and its account was classified as a Non-Performing Asset, or that the notice under Section 13(2) of the SARFAESI Act and the demand notice in Form B were issued to and received by the Respondent. The single question is whether the guarantee stood validly invoked, so that a "debt in default" existed against the Respondent when the application was filed. Upon that question turns the maintainability of the application.

19. The law on this question is settled by the Hon'ble Appellate Tribunal. In *Asha Basantilal Surana v. State Bank of India*, Company Appeal (AT)(Insolvency) No. 84 of 2025, decided on 15.05.2025, the Hon'ble National Company Law Appellate Tribunal held that where a notice under Section 13(2) of the SARFAESI Act makes a demand upon the guarantor as per the

guarantee agreement between the parties, the notice has to be treated as a notice for invocation of the personal guarantee, and that an application founded upon such a notice is neither premature nor without cause of action. It was clarified that whether a notice under Section 13(2) invokes the guarantee in a given case depends upon the words and intent of the notice, that no particular form is prescribed for invocation, and that a clear demand for payment made upon the guarantor in terms of the guarantee suffices. This view accords with the earlier decisions of the Hon'ble Appellate Tribunal in *Mavjibhai Nagarbhai Patel v. State Bank of India* and *Shantanu Jagdish Prakash v. State Bank of India*.

20. The order of this Tribunal in *Canara Bank v. Ramgopal Agrawal*, relied upon by the Respondent, is of no assistance to him. To the extent that it may be read as laying down that a notice under Section 13(2) of the SARFAESI Act can never amount to invocation of a personal guarantee, it does not survive the binding pronouncement of the Hon'ble Appellate Tribunal in *Asha Basantilal Surana* (supra). In any event, that order turned on its own facts, where the notice in question was found to be one of enforcement of security interest alone, and

is distinguishable from the present case, where, as noticed below, the notice contains an express invocation of the guarantee. The enquiry being fact-specific, the words of the notice and of the guarantee fall to be examined.

21. The Deeds of Guarantee executed by the Respondent are continuing guarantees payable on demand. By Clause 4 thereof, the guarantee is irrevocable, the obligations of the guarantor are not conditional on the receipt of any prior notice by the guarantor or the borrower, and a demand or notice by the Bank for payment is expressly made "sufficient notice to or demand on the Guarantor/s." The guarantee thus prescribes no particular mode or form of invocation; a demand made by the Bank is, by the terms of the contract itself, sufficient notice to and demand upon the guarantor.

22. The notice dated 25.10.2024 under Section 13(2) of the SARFAESI Act was addressed, among others, to the Respondent as "Mr. Rajendrakumar Babulal Singhal (Guarantor)", being Addressee No. 4 therein. By Clause 7, the notice calls upon the addressees to pay and discharge their liability to the Bank, aggregating Rs. 22,88,37,876.29/-, within 60 days from the date of the notice. By Clause 8, the

notice records that the addressees who are guarantors are those "whose liability is co-extensive with the Principal Borrower and Bank is hereby invoking your guarantee and has called upon you to repay the outstanding amount." The notice therefore does not merely enforce a security interest; it expressly invokes the guarantee of the Respondent and makes a demand upon him as guarantor, in terms consistent with the Deeds of Guarantee. Read with Clause 4 of the Deeds, which required no separate or antecedent invocation, the guarantee stood validly invoked by the said notice.

23. It follows that, upon the Respondent's failure to pay within the period stipulated, the default qua the guarantor occurred, and a "debt in default" within the meaning of Sections 3(11) and 3(12) of the Code came into existence and subsisted on the date of filing of the application. The demand notice dated 02.05.2025 in Form B under Rule 7(1) of the Rules was validly issued thereafter, and the Respondent's failure to comply with it led to the filing of the present application. The objection of prematurity is, accordingly, without merit and is rejected.

24. The contention of the Respondent that he derived no personal or pecuniary benefit from the facilities does not assist him.

Under Section 128 of the Indian Contract Act, 1872, the liability of a surety is co-extensive with that of the principal debtor, and under Section 127, anything done, or any promise made, for the benefit of the principal debtor is sufficient consideration to the surety for giving the guarantee. Whether the guarantor personally derived a benefit is immaterial to the enforceability of the guarantee. The Respondent having admittedly executed the Deeds of Guarantee, his liability thereunder is not diminished by the circumstance that the facilities were availed by the Corporate Debtor.

25. The contention that the quantum of the debt has not been proved is equally untenable at this stage. The debt and the amount in default are borne out by the statements of account and the demand notice on record, which reflect a total outstanding of Rs. 23,97,60,717.01/- and an amount in default of Rs. 22,88,37,876.29/-, an amount far exceeding the minimum threshold prescribed under the Code for initiation of proceedings against a personal guarantor. The Respondent has produced no material to show any repayment or to displace the said figures. For the purposes of an order under Section 100 of the Code, the existence of a debt and of a default

stands established. No question of limitation arises, the default qua the guarantor having occurred on 25.12.2024 and the application having been filed on 20.06.2025, well within the period of limitation.

26. For the reasons aforesaid, we are satisfied that the debt is due and payable and remains unpaid, that the guarantee was validly invoked and a default has occurred, and that the application satisfies the requirements of Section 95 of the Code. The recommendation of the Resolution Professional to accept the application is well founded and is accepted. The application deserves to be admitted.

ORDER

27. In view of the above, the petition deserves admission, and we pass the following order:

i. The present Application **CP(IB) 40 (MP) of 2025**, filed under Section 95(1) of the Code, is **admitted,** and the insolvency resolution process is initiated against the Respondent, **Mr. Rajendra Singhal**, **Personal Guarantor of the Corporate Debtor** M/s Labhanshi Multitrade Private Limited.

ii. The moratorium begun on the date of admission of the application shall cease to have effect at the end of the period of 180 days from the date of this order. During the moratorium period, the following provisions shall be in effect:

iii. Any pending legal action or proceeding in respect of any debt be deemed to have been stayed; and

iv. The creditors of the Personal Guarantor shall not initiate any legal action or proceedings in respect of any debt; and

v. The Personal Guarantor shall not transfer, alienate, encumber, or dispose of any of his assets or his legal rights or beneficial interest therein;

vi. The provisions of this Section shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

vii. The Resolution Professional **MVK IPE LLP (Registration No. IBBI/IPE-0134/IPA-1/2022-23/50028),** acting through its Designated Partner Mr. Mangesh Vitthal Kekre, is to continue as the Resolution Professional.

viii. The Resolution Professional is directed to cause a public notice published on behalf of the Adjudicating Authority within 7 days of uploading of this Order on the website of the

NCLT, inviting claims from all Creditors, who shall register their claims as provided under Section 103 within 21 days of such issuance. The notice shall contain the necessary information as provided under Section 102 (2) of IBC, 2016. The publication of notice shall be made in newspapers, one in English and other in Vernacular which have wide circulation in the State where the Personal Guarantor resides. The Resolution Professional shall furnish two spare copies of the notice to the Registry. One shall be placed by the Registry on our website and the other shall be affixed in the premises of this Authority.

ix. 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 95, and

   b. claims received under Section 102, within 30 days from the date of publication of notice.

x. 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.

xi. 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.

xii. 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.

xiii. In case the Resolution Professional recommends that a meeting of the creditors is not required to be summoned, he shall record the reasons thereof. If the resolution professional is of the opinion that the meeting of the creditors should be summoned, he shall specify the details as provided under Section 106(3). The date of meeting should not be less than 14 days or more than 28 days from the date of submission of the report under sub-section (1) of Section 106, for which at least 14 days' notice to the creditors (as per the list prepared) shall be issued by all relevant/feasible modes. Such notice must contain the details as provided under the provisions of Section 107.

xiv. The meeting of the creditors shall be conducted in accordance with sections 108, 109, 110 & 111. The Resolution Professional shall prepare a report of the meeting of the creditors on repayment plan with all details as provided under Section 112 and submit the same to this Authority, copies of which shall be provided to the Personal Guarantor and the creditors. It is made clear that the resolution professional shall perform his function and duties in compliance with the code of Conduct provided undersection 208 of the Code.

xv. The Applicant/financial creditor is directed to deposit Rs. 50,000/- (Rupees Fifty Thousand Only) to the bank account of Resolution Professional within one week, from the date of this order towards his fees. This shall be subjected to the Rules and Regulations under the provisions of IBC, 2016, including maintaining independence, confidentiality, and impartiality in all actions.

xvi. The Resolution Professional is directed to strictly abide by the provisions of IBC 2016 and complete the process of insolvency in a time bound manner after constitution of the committee of creditors.

28. Accordingly, **CP(IB)/40 (MP)/2025** filed under Section 95 of the IBC, 2016 is **admitted** and the Insolvency Resolution Process stands initiated against the Respondent/ Personal Guarantor.

Sd/-	**Sd/-**
MAN MOHAN GUPTA	**BRAJENDRA MANI TRIPATHI**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

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