

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – II
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL
COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 16.10.2026 AT
10.30 A.M. THROUGH VIDEO CONFERENCING:**

**CORAM: SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)
SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)**

APPLICATION NUMBER : --
PETITION NUMBER : CP(IBC)/5/CHE/2026
NAME OF THE PETITIONER : Indian Bank
NAME OF THE RESPONDENT(S) : Kamalaben D. Patel
UNDER SECTION : Sec 7 Rule 4 of IBC, 2016

ORDER

Vide separate order pronounced in open court, **CP(IBC)/5/CHE/2026** is
Allowed.

Sd/-
RAVICHANDRAN RAMASAMY
Member (Technical)

Sd/-
JYOTI KUMAR TRIPATHI
Member (Judicial)

jp

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – II, CHENNAI
CP (IB) /5 (CHE)/ 2026**

(Under Section 123 of Insolvency and Bankruptcy Code, 2016, read with Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019)

In the matter of Guarantor **Mrs. Kamalaben D. Patel**

INDIAN BANK,
Stressed Assets Management Branch,
No.55, 2nd Floor, Zonal Office Building,
Ethiraj Salai, Egmore, Chennai -600 008.

... Financial Creditor

V/s

MRS. KAMALABEN D. PATEL,
Residential Address at: No.16,
II Street, Kannan Avenue Extn,
Perungalathur, Chennai-63.
(Factory Address at: 93-135,
Pondur Road, Aranery, V Cross Road,
SIPCOT Indi Park, Sriperumbudur-602105)

... Personal Guarantor

Order pronounced on 16.10.2026

CORAM

SHRI. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

SHRI. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present;

For Financial creditor: Ld.counsels Pranava Charan, M.G. Veerabathran, Prasanth.

For Personal Guarantor: Ld.counsels G. Vairava Subramanian, B. Raghupathy, A. Kandhan, M. Sunil Zahariah, R. Omprakash, Varsha Velmurugan & K Monica.

ORDER

(Hearing through hybrid mode)

This Application has been filed under Section 123 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with the applicable Rules and Regulations, seeking initiation of the Bankruptcy Process against **Kamalaben D. Patel**, the Personal Guarantor of the Corporate Debtor, Evershine Wood Packaging Private Limited.

2. Briefly, the facts are that the Corporate Debtor, Evershine Wood Packaging Private Limited, had availed various credit facilities from the Applicant Bank which included Rs.33.50 Crores of OCC, Rs.27.50 Crores towards ILC/FLC and Rs.6 Crores towards GECLS/ Term Loan. In consideration thereof, the Respondent, Kamalaben D. Patel, executed Deeds of Guarantee dated 29.12.2017, undertaking personal liability for repayment of the dues of the Corporate Debtor.

3. Upon default in repayment, the account of the Corporate Debtor was declared a Non-Performing Asset on 31.03.2021, with effect from 23.12.2020, strictly in accordance with the RBI Prudential Norms and in compliance with the orders of the *Hon'ble Supreme Court in Small Scale Industrial Manufacturers Association v. Union of India (W.P.(C) No. 476 of 2020)*. The Applicant Financial Creditor issued Demand notice under Section 13(2) of SARFAESI Act, 2002 on 10.11.2021, Possession notice under Section 13(4) of SARFAESI Act, 2002 on 02.02.2022, Sale Notice on 25.08.2022 and Demand notice (Form B) on 17.07.2023. The Applicant initiated CIRP C.P.(IB)/12(CHE)/2023 against the main Borrowers "Evershine Wood Packing Private Limited" was admitted by the NCLT

vide order dated 23.06.2023 and then the Section 95 application CP(IBC)/35/CHE/2024 was admitted by this Tribunal on 27.06.2025.

4. Following the conclusion of the Personal Insolvency Resolution Process initiated under Chapter III of Part III of the Code, IA(IBC)/1524(CHE)/2024 was filed seeking closure of the said proceedings on the ground that the repayment plan stood rejected by the Financial Creditor. This Tribunal, vide order dated 26.09.2025, closed the personal insolvency resolution process and granted liberty to the Applicant to initiate bankruptcy proceedings against the Personal Guarantor. Pursuant thereto, the present application has been filed seeking initiation of the bankruptcy process.

5. Respondent has opposed the present petition, primarily on the following grounds:

a. The person who signed the verifying affidavit is one Mr. Kaushal Kishor who is the AGM of the Applicant. However, the attached authorisation shows that one Mr. Brammanandan S, AGM is fully authorized to sign on behalf of bank.

b. It is to be noted that the Applicant in Sec 7 application, in the Demand Notice dated 10-11-2021, and in Form-B demand notice dated 17-07-2023 maintained the date of default as 23-12-2020. However, fearing backlash, the Applicant altered the date of default as 31-03-2021 to bring the application within the limitation period.

c. Further, the Applicant claimed in the Application in Form-C that LCs devolved in March 2020, they are essentially admitting the default occurred during the Section 10A period (March 25, 2020 -March 24, 2021).

d. Here, in this case, the personal guarantee has not been invoked prior to the issuance of demand notice in Form-B.

e. Despite the TEV report in march 2021, the competent Authority declined it on 25.06.2021. The Zonal Office explicitly recommended approving an appropriate restructuring plan to "nurse back the unit to productive health". By rejecting this despite internal and expert advice, the Bank prioritized liquidation over revival, effectively destroying the Corporate Debtor's (CD) ability to eventually revive the company.

f. On 11.06.2025, the Bank's Fraud Examination Committee classified the account as Fraud. The Bank presented the 2025 Fraud classification to the Tribunal to paint the Respondent as a "wilful defaulter" or "fraudster," but they suppressed the fact that their own internal audit had already cleared the Respondent of fraud in 2021 & in 2023 when the default actually occurred.

6. We have heard the Learned Counsel appearing for the Applicant and perused the record.

Analysis and Conclusion

7. The Applicant/ Financial Creditor has filed this Application against the Personal Guarantor of the Corporate Debtor, who had defaulted in repayment of credit facilities. The Respondent stood as a guarantor to the loan vide Deed of Guarantee dated 29.12.2017 and the debt stands established, alongside the record of default registered with the Information Utility (NeSL). Following the rejection of the repayment plan in the personal insolvency resolution process, this Tribunal, by order dated 26.09.2025, closed the process and granted liberty to initiate bankruptcy proceedings.

8. With regard to the objection raised by the Respondent concerning the variance and attribution of the date of default as 23.12.2020 across the Section 7 petition, the Demand Notice dated 10.11.2021, and the Form-B notice dated 17.07.2023 and personal guarantee has not been revoked,

Default occurred during the Section 10A period (March 25, 2020 - March 24, 2021). The Applicant stated that the classification of the Corporate Debtor's account as a Non-Performing Asset (NPA) on 31.03.2021, with retrospective effect from 23.12.2020, was mandated strictly by the prudential norms of the Reserve Bank of India and in scrupulous adherence to the judicial directives of the Hon'ble Supreme Court in *Small Scale Industrial Manufacturers Association v. Union of India* (W.P.(C) No. 476 of 2020), whereby an interim judicial injunction restraining banks from declaring accounts as NPA operated until its vacatur on 23.03.2021. More fundamentally, this Tribunal observes that the Respondent never placed the above objections either in the order *CP(IB)/35/CHE/2024* dated 27.06.2025 admitting the Personal Insolvency Resolution Process (PIRP), or in the Resolution Professional's Report dated 15.08.2025, and in the consequential order dated 26.09.2025 in *IA(IBC)/1524(CHE)/2025* granting leave to initiate bankruptcy proceedings. Having permitted each of these anterior statutory orders to attain judicial finality without demurrer, the Respondent is precluded by the doctrine of estoppel and acquiescence from belatedly collateral-attacking the crystallised default at this stage, and cannot now be heard to resist the bankruptcy application on grounds already settled in the preceding resolution phase.

9. With regard to the objection raised by the Respondent Concerning defective verification and lack of proper authorisation to institute the petition, the Petitioner in its rejoinder stated that the Power of Attorney in favour of Mr. Brammanandan was inadvertently annexed due to a clerical oversight by the office of the counsel on record during compilation. The Petitioner has rectified this inadvertent error by placing

on record the valid authorisation issued in favour of Mr. Kaushal Kishor along with the rejoinder as Annexure-1. Upon considering the submissions and the material on record, this Tribunal is of the considered view that an irregularity or defect in the authority to sign, verify, or institute pleadings is purely a procedural and curable defect. Such an imperfection does not render the petition non est and can be cured at any stage, including by subsequent ratification, in terms of the law laid down by the Hon'ble Supreme Court in *United Bank of India v. Naresh Kumar & Ors* 1996) 6 SCC 660. Accordingly this Tribunal finds no merit in the Respondent's objection.

10. Regarding the other objections raised by the Respondent, this Tribunal observes that the Hon'ble Supreme Court in *Pratap Technocrats (P) Ltd. v. Monitoring Committee of Reliance Infratel Ltd. (Civil Appeal No. 676 of 2021)* held that the Adjudicating Authority possesses no residual equity-based jurisdiction and is bound to strictly adhere to the provisions of the IBC. Consequently, it is not permissible for the Respondent to raise extraneous issues such as the classification of the account as a wilful default or fraud, or the alleged conduct of the Petitioner regarding debt restructuring. These matters fall entirely beyond the summary jurisdiction of this Tribunal under the Code. Accordingly this Tribunal finds no merit in the Respondent's objection.

11. Considering the facts and circumstances, **we admit this Petition and declare the Respondent/ Personal Guarantor, Mr. Kamalaben D. Patel , as Bankrupt. We order the initiation of the Bankruptcy Process against the Personal Guarantor of the Corporate Debtor.**

12. The Petitioner has proposed **R. Sugumaran**, Insolvency Professional, as the Bankruptcy Trustee. **Hence after verifying the AFA validity, we appoint Mr. R Sugumaran, IBBI/IPA-001/IP-P00677/2017-2018/11147, (AFA valid upto 30-06-2027) (Email id : rsmaran@yahoo.co.in) as the Bankruptcy Trustee shall be appointed under Section 125 of the Code. The Applicant is directed to deposit Rs.1,00,000/- (Rupees One Lakh Only) into the bank account of the Bankruptcy Trustee within one week of the appointment order towards fees and expenses, subject to the rules and regulations under the Code.**

13. This order of Bankruptcy shall continue to have effect until the debtor is discharged under Section 138 of the Code.

14. The Bankrupt shall submit his statement of financial position to the Bankruptcy Trustee in the prescribed Form within seven (7) days from the date of the order, as per Section 129 of the Code.

15. The estate of the Bankrupt, excluding the assets mentioned in Section 155(2) of the Code read with Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019, vests with the Bankruptcy Trustee in pursuance of this order. The Bankruptcy Trustee is directed to forthwith take into custody all assets, properties, and actionable claims of the Bankrupt and take necessary steps to ensure preservation, protection, security, and maintenance of those properties as provided under Sections 128 and 154 of the Code.

16. The Bankruptcy Trustee is directed to adhere to Sections 128, 129(4), 132, 133, 134, 136, and 137 of the Code and discharge all powers

and duties as specified, meticulously adhering to the Rules and Regulations issued by the IBBI in this regard from time to time.

17. The Bankruptcy Trustee shall send notices as provided under Section 130(1)(a) of the Code within ten (10) days from the date of this order to the creditors mentioned in the statement of affairs submitted by the Bankrupt under Section 129 of the Code.

18. The Public Notice inviting claims from creditors as contemplated under Section 130(2) of the Code shall be issued in an English daily and in a vernacular regional language newspaper having wide circulation where the Bankrupt resides.

19. On passing of the Bankruptcy Order, and subject to sub-section (2) of Section 128 of the Code, no creditor shall initiate any action against the property of the Bankrupt in respect of any debt. Further, no suit or other legal proceeding shall be instituted or continued against the Bankrupt, save and except with the leave of the Adjudicating Authority, as provided under Section 128(1)(c)(ii) of the Code.

20. The Bankruptcy Trustee shall conduct the administration and distribution of the estate of the Bankrupt under Chapter V, as provided in Section 136 of the Code.

21. The Bankrupt shall, from the date of this order, be subject to such disqualifications and restrictions as prescribed under Sections 140 and 141 of the Code.

22. The Bankruptcy Trustee may seek such further information or explanation in connection with the bankruptcy process as may be required from the debtor, the creditor, or any other person who, in the

opinion of the Bankruptcy Trustee, may provide such information. The persons from whom information or explanation is sought shall furnish such information or explanation within seven (7) days of receipt of the request.

23. The Bankruptcy Trustee shall exercise all powers as enumerated under the Code read with Rules and Regulations made thereunder.

24. The Bankruptcy Trustee shall submit a Preliminary Report to this Adjudicating Authority within ninety (90) days from the date of the Bankruptcy Order after serving a copy of the report on the Bankrupt, as provided in Regulation 8 of the IBBI (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.

25. The Bankruptcy Trustee shall submit periodical progress reports to this Authority within fifteen (15) days after the end of every quarter, after serving a copy of the report on the Bankrupt, as provided under Regulation 10 of the IBBI (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.

26. The fee of the Bankruptcy Trustee is to be determined as provided under Regulation 4 of the IBBI (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.

27. The Registry is directed to send email copies of this order forthwith to all parties and their Learned Counsel for information and for taking necessary steps.

28. *The Registry is directed to provide a copy of this Bankruptcy Order and a copy of the Bankruptcy Petition to the Bankrupt, the*

creditors, and the Bankruptcy Trustee within a week, as provided under Section 126(2) of the Code.

29. A certified copy of the order is to be issued upon compliance with requisite formalities.

-Sd-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-Sd-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)