NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

COMPANY APPEAL (AT) (INS) NO.1175/2026

(*Arising out of judgement and order dated 19.06.2026 passed by National Company Law Tribunal, Mumbai Bench, Mumbai in CP No. CP (IB)No.640(MB)/2026*)

In the matter of:

VINOD DOULATANI
C-1301, Eternity CHS Ltd.,
Kanakia Spaces, LBS Marg,
Behind Eternity Mall,
Teen Hath Naka, Thane (W) - 400 604
Email: vinod@stgrealtv.in **Appellant**

Vs.

1) **IIFL ONE VALUE FUND- SERIES B**
(A SCHEME UNDERR IIFL ALTERNATIVE PE FUND)
THROUGH IIFL MANAGEMENT SERVICES LTD

having address at IIFL House, Sun Infotech Park,
Road No.-16V, Plot No. B-23, MIDC, Thane,
Industrial Area, Wagle Estate,
Thane, Maharashtra – 400604
also at
Ground Floor, Hubtown Solaris,
Vijay Nagar, Teli Gali, Andheri - 400069.
Email: secretarial@iifl.com

2) **MS. NAMRATA AMOL RANDERI**,

Resolution Professional
215, Laxmi Plaza, Laxmi Industrial;
Estate; New Link Road, Andheri West,
Mumbai- 400053
Email: namrataranderi@gmail.com and pg.vinoddoulatani@gmail.com

Respondents

For Appellant: Mr Neeraj Malhotra, Sr Advocate, with Mr Aditya Bharat Manubarwala, Mr. Harsh Gurbani, Mr. Shamant Sethiya, Mr Karshil Shah, , Ms Tanishka Grover, Mr Mohit Sadan, Advocates.

For Respondent: Mr Gopal Jain, Sr Advocate with Mr Priyanka Vora, Ms Aratrika Brahmachari, Advocates for R1.

WITH

COMPANY APPEAL (AT) (INS) NO.1176/2026

(*Arising out of judgement and order dated 19.06.2026 passed by National Company Law Tribunal, Mumbai Bench, Mumbai in CP No. CP(IB)No.641(MB)/2026*)

In the matter of:

HARESH DOULATANI
1101 - 1102 Tower - 2A, Siddhachal Phase 6
Co-operative Housing Society Limited,
Poldiam Road No.2, Apna Bazar, Thane (West) - 400610
Email: haresh@stgrealty.in **Appellant**

Vs.

1) **IIFL ONE VALUE FUND- SERIES B**
(A SCHEME UNDERR IIFL ALTERNATIVE PE FUND)
THROUGH IIFL MANAGEMENT SERVICES LTD
(INVESTMENT MANAGER)
having address at IIFL House, Sun Infotech Park,
Road No.-16V, Plot No. B-23, MIDC, Thane,
Industrial Area, Wagle Estate,
Thane, Maharashtra – 400604

2) **MS. NAMRATA AMOL RANDERI**,
Resolution Professional
215, Laxmi Plaza, Laxmi Industrial;
Estate; New Link Road, Andheri West,
Mumbai- 400053
Email: namrataranderi@gmail.com and pg.vinoddoulatani@gmail.com

Respondents

For Appellant: Mr Neeraj Malhotra, Sr Advocate, with Mr Aditya Bharat Manubarwala, Mr. Harsh Gurbani, Mr. Shamant Sethiya, Mr Karshil Shah, Ms Tanishka Grover, Mr Mohit Sadan, Advocates.

For Respondent: Mr Gopal Jain, Sr Advocate with Mr Priyanka Vora, Ms Aratrika Brahmachari, Advocates for R1.

JUDGEMENT

JUSTICE YOGESH KHANNA, OFFICIATING CHAIRPERSON

This Company Appeal (At)(Ins) No.*1175/2026* is filed under Section 61 of IBC challenging the order dated 19.06.2026 passed by Ld. NCLT, Mumbai Bench, Mumbai in CP(IB)/640(MB)/2026 whereby in an application under Section *95* of the Code filed by Respondent No.1, the Adjudicating Authority has appointed Resolution Professional under Section 97, issued the interim moratorium under Section 96, and has directed the Resolution Professional to examine the application, including limitation and invocation of the personal guarantee and to submit a report under Section 99(I).

2. It was argued by the learned senior counsel for appellant the Respondent No.1 has no locus to file the proceedings under Section *95* of the Code as there was no contract of guarantee executed by the appellant and Respondent No.1 and the personal guarantee was furnished only in favour of the Debenture Trustee (IDBI Trustiship Services Ltd) for the benefit of all debenture holders and under the Debenture Trust Deed, the power to declare an event of default, accelerate, invoke the guarantee and initiate proceedings vest exclusively in the Debenture Trustee, acting only on the written instructions of the majority debenture holders representing not less than *75%* outstanding debentures.

3. Respondent No. 1 (IIFL One Value Fund - Series B) is, on the admitted record of the TDPL Committee of Creditors, only a minority debenture holder - its voting share is *24.51%* (claims as on commencement tabulated at the 20th CoC Meeting dated 13.06.2026), whereas Rare Asset Reconstruction Ltd. holds

65.77% and Renaissance Fiscal Services Pyt. Ltd. *4.49%,* the TDPL debentures having been assigned to Rare ARC (30.03.2024) and to Renaissance (29.06.2024). Respondent No. 1 thus cannot constitute and has not obtained the instructions of, the Majority Debenture Holders, and the Debenture Trustee has neither authorised nor filed the Petition. The invocation and the Petition are therefore without authority and non-est.

4. It was argued this very objection was raised before the Ld. Adjudicating Authority, which by its Order dated 12.06.2026, the Bench recorded that counsel for the Personal Guarantor had taken it through the stipulations of the Debenture Trust Deed and contended the petition is not maintainable for non-compliance with those stipulations and reserved the matter. Yet by the Impugned Order dated 19.06.2026 the Adjudicating Authority appointed the Resolution Professional without deciding that threshold question of locus, instead remitting the issue of "invocation" to the Resolution Professional's examination.

5. It was argued the recitals to the Supplementary Debenture Trust Deed confirm this scheme, wherein* Recital *(C)* records even the amendment of the Principal DTD was effected by the Debenture Trustee acting on the instructions of the Majority Debenture Holders a fortiori, the graver steps of default, invocation and the initiation of insolvency proceedings could not be taken by a minority holder acting *unilaterally.*

6. The Appellant submits the Adjudicating Authority ought to have determined the threshold question of locus before setting the Section 99

machinery in motion, and the Impugned Order is causing serious and irreparable prejudice.

7. Thus the issue raised by the learned senior counsel for the appellant is whether a minority debenture holder without instructions of the Debenture Trustee, in the manner as is given in Debenture Trust Deed, could initiate the proceedings under Section *95* of the Code.

8. Let us see what the Ld. NCLT has to say on it. The Adjudicating Authority *vide* its impugned order dated 19.06.2026 has held as under:-

> *3.Further, Respondent m h1s capacity as Guarantor, executed a Personal Guarantee Deed dated 14.l0,2021 m favour of the Debenture Trustee, namely IDBI Truatecsh1p Services Limited A copy of the said Personal Guarantee Deed dated 14.10.2021 is annexed hereto and marked as ExJ11bit- V. Thereafter, Respondent executed another Personal Guarantee Deed dated 12.05.2022 in favour of the Debenture Trustee, IDBI Trusteeship Services Limited. A copy of the said Personal Guarantee Deed 1 annexed hereto and marked as Exhibit- NN.*
>
> *4. It is submitted by the Financial Creditor that a letter dated 23.12.2024 was issued to the Respondent, calling upon the Respondent to repay the outstanding amount due and payable. Thereafter, the Financial Creditor invoked the personal guarantee dated 12.05.2022, executed by the Respondent pursuant to the terms of the Debenture Trust Deed, vide invocation notice dated 17.03.2026. A copy of Letter dated 23.12.2024 and a copy of the Notice of Invocation of Guarantee dated 17.03.2026 are annexed hereto and marked as Exhibit - EE and Exhibit- E, respectively.*
>
> *5.Thereafter, the Financial Creditor issued a Demand Notice in Form B dated 05.05.2026 under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019. The Respondent, through its advocate, replied to the said Demand Notice vide reply dated 20.05.2026. A copy of the Demand Notice in Form B dated 05.05.2026 is annexed hereto and marked as Exhibit-F, and a*

copy of the reply dated 20.05.2026 is annexed hereto and marked as Exhibit-Fl.

6. The Financial Creditor submits that the total outstanding debt as on 31.03.2026 is Rs. 206,42,01,875/- (including ·interest, penal interest and Redemption Premium) from 22.03.201

7. In view of the aforesaid, the present Petition has been filed on 09.06.2026 under Section 95 of the Insolvency and Bankruptcy Code, 2016, seeking initiation of the Insolvency resolution process against the Respondent m his capacity as a Personal Guarantor to the Corporate Debtor.

8. The matter had come up for consideration on 12.06.2026, where the following order was passed:

> *"Heard Learned Counsel for the Petitioner. Counsel for the Personal Guarantor was also present and has taken us through certain stipulation in the debenture trustee and has put forward his point that present petition is not maintainable as the stipulation provide in the debenture trustee have not been complied with. Matter is Reserved for orders"*

9. Though the Counsel for Personal Guarantor tried to make his case for non-maintainability of the Petition, however, the same cannot be gone into and adjudicated at this stage. In this regard, we refer to judgement of the Hon'ble Supreme Court, in Dilip B Jiwrajka Vs. Union of India & Ors. (Writ Petition (Civil) No. 1281 of 2021) dated 09.11.2023, wherein the constitutional validity of Sections 94 to 100 of the Code was upheld and, inter alia, held as follows:

> *"(i) No judicial adjudication is involved at the stages envisaged in Section 95 to Section 99 of the !BC;*
>
> *(ii) The Resolution Professional appointed under Section 97 serves a facilitative role of collating all the facts relevant to the examination of the application for the commencement of the insolvency resolution process which has been preferred under Section 94 or Section 95. The report to be submitted to the Adjudicating Authority is recommendatory in nature on whether to accept or reject the application."*

10.Accordmgly, having regard to the facts and circumstances of the present ca e, and considering that at this stage only the appointment of a Resolution Professional under Section 97 of the Code is required, no adjudication of the merits of the matter

and contentions raised by the Respondent can be dealt, at this stage.

9. Now the learned senior counsel for the appellant has referred to Annexure H Volume III, a recall notice dated 23.12.2024 by IIFL One Value Fund, Series B. There are two other similar notice of the same date issued by the Respondent No.1. Para *3* and *4* of the said notice are quoted as under: -

> *3. Please. note that upon the occurrence of an Event of Default under Clause 9.1 of the Deed, the Debenture Trustee is inter alia entitled to enforce/ exercise all our rights incl1!ding but not limited to the rights under Clause 9.2 of the Deed:*
>
> > *(a) accelerate the redemption of the debentures and declare that all or part of the debentures, together with accrued coupon, additional interest (if any), and any other amounts accrued be immediately due and payable, whereupon they shall become immediately due and payable;*
> >
> > *(b) enforce or invoke security*
> >
> > *(c) invoke the personal guarantee and corporate guarantee*
> >
> > *(d) xxxxx*
> >
> > *e) xxx*
>
> *4. In light of the various Events of Default which are continuing, pursuant to Clause 11.2 of the Deed. the Debenture Trustee hereby declares all the amounts in respect of the Facilities to be due and payable immediately and calls upon the Issuer to make payment of all such amounts (the '~Amounts Due") in full immediately and in any event no later than 3 (Three) calendar days from (and including) the date of this letter by crediting the Amounts Due in the account mentioned below.*

10. It is argued the action is not initiated by the Debenture Trustee but by an individual Financial Creditor.

11. Reference was also made to the Debenture Trustiship Deed dated 22.03.2018 wherein the only exceptional clause is Clause *2.1* as under:-

2.1 Settlement of Trust

The Company has appointed the Debenture Trustee as trustee for the Debenture Holders ir,1 and the Company hereby settles in trust with the Debenture Trustee, a sum of Rs. 1,00 (Rupees One Thousand only). The Debenture Trustee hereby confirms receipt of and accepts the above amount of Rs. 1,000/- (Rupees One Thousand only) in trust hereby declared and hereby agrees to act in a fiduciary capacity as trustee for the sole and exclusive benefit of the Debenture Holders and tts transferees and assignees from time to time, in accordance with the terms and conditions of this Deed. The Debenture Trustee in such capacity as a trustee agrees:

(a) to execute and deliver all documents, agreements, instruments and certificates contemplated by this Deed to be executed and delivered by the Debenture Trustee or as the Debenture Trustee shall deem advisable and in the best interest of the Debenture Holders;

(b) to take whatever action shall be required to be taken by the Debenture Trustee by the terms and provisions of this Deed and / or other Transaction Documents, to exercise its rights and perform its duties and obligations under such documents, and enforce rights therein for the benefit of Debenture Holders;

(c) subject to the terms and provisions of this Deed, to take such other actions in connection with the foregoing as the Debenture Holders' Nominee may from time to time direct.

PROVIDED that before initiating any action or exercising any right or performing any duty under this Deed or any of the other Transaction Documents, the Debenture Trustee shall, unless otherwise provided for in the Transaction Documents, seek written instructions from the Debenture Holders' Nominee and only upon receipt of relevant instructions from the Debenture Holders' Nominee shall the Debenture Trustee exercise such rights and perform such duties and obligations referred to herein. Notwithstanding such requirement for instructions ·in writing the Debenture Trustee shall not take any action inconsistent with the instructions of the Debenture Holders' Nominee, and in the absence of such instructions, actions inconsistent with the best interests of the Debenture Holders.

For abundant caution it is clarified that, to the fullest extent permitted by applicable Laws, the Debenture Holders shall be entitled to proceed directly against the Company and/or the Security Providers to enforce the performance of any of the provisions of this Deed and/or any other Transaction Document in the event:

(a) no agreement can be reached on the form of indemnification of the Debenture Trustee within a reasonable period as required in terms of Clause 6.12(h) of this Deed·
(b) if the Debenture Trustee fails to act on the written instructions of the Debenture Holder/ Debenture Holders' Nominee within a reasonable period and such failure to act is continuing;
(c) if in the reasonable opinion of the Debenture Holders/ Debenture Holders' Nominee, the Debenture Trustee will only be able to act on the written instructions of the Debenture Holders by incurring unreasonable costs and expenses ~- (including its legal and other expenses); and
(d) the Debenture Trustee or Successor Trustee (as the case may be) has resigned or is removed and no Successor Trustee has been appointed in its place.

and the Company and the Debenture Trustee (or Successor Trustee, as the case may be) (if applicable) shall be bound to treat the Debenture Holders as the absolute owner of the Debentures for the purpose of such enforcement.

12. It is argued none of the above i.e. *(a)* to *(d)* were pleaded in the petition and none of the conditions *(a)* to *(d)* as stated in later portion of Clause *2.1* are applicable. Further he referred to Clause *9.2(a) (ii)* as under: -

9.2 Consequences of an Event of Default

{a) On and at any time after the occurrence of an Event of Default or the occurrence of any event which, after the notice, or lapse of time, or both, would constitute an Event of Default, then, unless such Event of Default at the request of the Company is expressly waived by the Debenture Trustee {acting on the instructions of the Debenture Holders' Nominee), the Debenture Trustee {acting on the instructions of the Debenture Holders' Nominee) shall be entitled to exercise any of the powers mentioned below:

(i) xxx

(ii)exercise any other right that the Debenture Trustee and/or Debenture Holders may have under the Transaction Documents or under the Law;

13. Further he referred to Schedule 3 of the Debenture Trustee Deed which reads: -

The following provisions shall apply to the meetings of the Debenture Holder(s):

1. The Debenture Trustee or the Company may, at anytime, and the Debenture Trustee shall at the request in writing of the Holders of Debentures representing not less than 1/10th {One Tenth) of the Debentures for time being outstanding, convene a meeting of the Holders of Debentures or the happening of arry event, which constitutes a breach, default or which in the opinion of the Debenture Trustee affects the interest of the Debenture Holders. Art; such meeting shall be held at such place in the city where the registered office of the Company is situated or at such other place as the Debenture Trustee shall determine.

Xxxxx

6(i) A minimum of Debenture Holder(s) holding an aggregate amount representing not less than 51% (Fifty One Percent) of the value of the nominal amount of the Debentures for the time being outstanding, personally present shall be the quorum for the meeting of the Debenture Holders. Provided however it is clarified that if any Debenture Holder is a Person fanning part of the Company's group/ Related Party of the Company and for any Related Party of the Promoters, the Debentures held by such Debenture Holder shall not carry any right to vote.

Xxx

21.A meeting of the Debenture Holder(s) shall be entitled to discuss matters and arrive at decisions in respect of all such items for which the consent of the Debenture l¾lder(s) would be required in terms of the Transaction Documents.

22. The powers set out in Clause 21 hereof shall be exercisable by a resolution passed at a meeting of the Debenture Holder(s) duly convened and held in accordance with the provisions herein contained and carried by the Debenture Holder(s) by a majority representing not less than 75% (seventy Five Percent)

or such higher percentage as maybe required under law in value of the votes cast on such poll.

3.10 Meeting of Debenture Holders

In the event that any meeting of the Debenture Holders is to be held, the provisions set out in Schedule 3 (Meetings of Debenture Holders shall be followed with respect to such meeting.

3.11 Actions by Debenture Holders

As per the terms of the Transaction Documents, in the event that any instructions/consent is to be provided by the Debenture Holders or any action is to be taken which requires the approval of the Debenture Holders, such instructions/consent/approval shall be obtained from such number of Debenture Holders representing a specified percentage of the prescribed therefor in such Transaction Document. Provided however it is clarified that any Debenture held by any Person forming part of the Company's Group/Affiliates/associate4s/Related Party of the Company and any Related Party/Affiliates/associates of the Promoters, the Debentures held by such Debenture Holders shall not carry any right to vote and also shall not be, in any manner whatsoever, considered for calculation of any specified percentage of the Debenture Holders as may be required under this Deed or under any other Transaction Documents in relation to any instruction or consent required to be provided by the Debenture Holders or any action required to be taken by the Debenture Holders.

14. Thus it was argued before invoking the personal guarantee the meeting of debenture holders ought to have been called for and its quorum ought to have been *51%* in value and thereafter a Resolution ought to have been passed in such meeting for invocation of the guarantee by majority of *75%* or more in value, which was never been done in this case.

15. The Ld. Counsel for the appellant argued in Dilip B Jiwrajka Vs Union of India & Ors Writ Petition No.*1281/2021*, the questions which were before the Court were whether any debt or whether relationship of debtor and creditor could

be examined by the Insolvency Professional at the threshold and it was only in these two circumstances; those being mixed question of facts and law, the Court held it cannot be dealt with at this stage and has to be seen at the stage under Section *100* of IBC.

16. It is further the submission of the learned senior counsel for the appellant he is not arguing about merits and rather is challenging the *locus* of the Respondent to initiate the proceedings under Section *95* since the appellant has not given any personal guarantee to the Respondent but has given the personal guarantee to Debenture Trustee. Hence these proceedings ought not to have been initiated at the first instance and the issue of *locus* and *limitation* can be very well be looked into at the *initial stage* itself.

17. The learned senior counsel for the appellant then referred to the judgement Pawan Gupta Vs Charm Investments Pvt Ltd & Ors, Company Appeal (AT) (Insolvency) NO.374/2026 decided on 29.05.2026 to support this view.

18. Further, the Ld. Sr. Counsel for the appellant referred to the judgement in Prabhaben Ravjibhai Harkani Vs Bank of Baroda & Ors Company Appeal (AT)(Insolvency) No. 1002 decided on 7th August, 2026 which held:

> *"45. The above decision shows that appointment of a Resolution Professional is not an essential requirement in every case under section 94. The Adjudicating Authority, where it finds, on the admitted facts and the applicable law, that the application is not maintainable, it can reject an application under Section 94 before appointing the RP. The order cannot be said to be invalid merely because a Resolution Professional was not appointed. The validity of such an order has to be examined in the facts of each case.*
>
> *49. In view of the above findings, we are of the view that the Adjudicating Authority has rightly rejected the application filed by the Appellant under*

Section 94 of the Insolvency and Bankruptcy Code, 2016. We do not find any factual or legal infirmity in the Impugned Order dated 21.04.2025 calling for interference by this Appellate Tribunal. Accordingly, the appeal is dismissed. There is no order as to costs. Pending IA's if any are also disposed of."

19. To suggest his argument the learned senior counsel for the appellant even referred to Supplementary Trust Deed dated 24.06.2021 which contains the following clauses:

"c) The definition and all references to the "Debenture Holders' Nominee" in the Principal Debenture Trust Deed shall hereby stand deleted and replaced and be deemed to mean "Majority Debenture Holders' (as defined hereinafter).

e) Any determination under the Debenture Documents including with respect to the materiality or reasonableness of any matter, proof or the occurrence of any event, circumstance, change, fact, information, document, authorization, proceedings, act, omission, claims, breach, default or the satisfaction of any conditions or otherwise shall be made by the Debenture Trustee (acting on the instructions of Majority Debenture Holders) which determination shall be final and binding on the Obligors."

20. And to the definition of Majority Debenture Holder as under:-

"Majority Debenture Holders shall mean Debenture Holders holding an aggregate amount expressing not less than 75% (Seventy five percent) of the nominal value of the Debentures outstanding for the time being."

21. Thus he argued in the recall notice dated 23.12.2024 though it was mentioned the debenture trustee is enforcing the right to invoke the present guarantee but in fact it was invoked by the Financial Creditor viz the Respondent herein and not by the debenture trustee. He further referred to Malvika Hegde Vs IDBI Trusteeship Services Limited and Another 2025 SCC OnLine NCLAT 422 wherein this Tribunal had dismissed the petition under Section 7 of the IBC only on the ground it was not filed in accordance with the terms as contained in the Debenture Trust Deed.

22. Heard

23. We have also heard the learned senior counsel for the Respondent also and we are of the considered view the issue of *locus* and *maintainability* cannot be adjudicated *prior* to the stage of Section *100* of the IBC and our this view is supported by the law laid down in Dilip B Jiwarajka V. Union of India & Ors (2024) 5 SCC 435, wherein the Hon'ble Supreme Court held:-

> *"Para 86.6 No adjudication is involved at the stages envisaged in Section 95 to Section 99 of the IBC" and "no judicial determination takes place until the adjudicating authority decides under Section 100 whether to accept or reject the application."*

24. Further in Bank of Baroda Vs Farooq Ali Khan (2025) SCC OnLine 374 it was held:-

> *9. The Adjudicating Authority, by its order dated 16.02.2024, has followed the procedure envisaged under Sections 95 to 100 of the IBC, and has also relied on the afore-stated principles in Jiwrajka (supra). It specifically observed that respondent no. 1's objections regarding limitation and waiver of the guarantee will be considered once the resolution professional submits his report. This is the correct approach as the appointment of a resolution professional at the very threshold is statutorily mandated under Section 97 of the IBC. As has been held by this Court in Jiwarajka (Supra) the Adjudicating Authority does not adjudicate any point at this stage and need not decide jurisdictional questions regarding existence of the debt before appointing the resolution professional.*

25. In Canara BANK Vs Uma Kumari Singh 2025 SCC OnLine NCLAT 1514 decided by three judges bench, this Tribunal held:

> "*Para 9-11. We have heard Counsel for the Parties and after examining the record, are of the considered opinion that there is an error committed by the Ld. Tribunal in dismissing the application, in all the three cases, filed by the Bank on the first the date of hearing on the ground of limitation because it has been concluded by the Hon'ble Supreme Court in the case of Dilip B Jiwrajka (Supra) that no judicial adjudication is involved at the stages in Section 95 and 99 of the Code.*
>
> *10.Thus in view of the aforesaid facts and circumstances the present appeals succeeds and the impugned order passed in all three appeals are hereby set aside. The application filed under Section 95 are hereby restored to its original number. The matter(s) are remanded back to the Learned Tribunal to decide the same in*

accordance with the law. The parties are directed to appear before the Tribunal on 23.09.2025.

11.Before parting, we would also like to add that the Respondents shall have a right to raise the issue of limitation when the Tribunal would exercise its adjudicatory jurisdiction.

26. In CL Sharma V Bank of Maharashtra 2024 SCVC OnLine NCLAT 279 this Tribunal held:-

"11.The law declared by the Hon'ble Supreme Court in the above judgement (Jiwrajka) is very clear. The Adjudicating Authority should consider the issue pertaining to jurisdictional fact at the stage of Section 100 and there is no adjudication contemplated at the stage when RP is appointed under Section 97 sub-section (5). The conclusion recorded in paragraph 86(iii) clearly lays down the aforesaid. The submission of the Appellant(s) that applications were barred by time, ought to have been considered at the time when Adjudicating Authority appointed the RP, thus, cannot be accepted.

27. In Central Bank of India Vs Deepen Arun Parekh, this Tribunal held as under:-

36. We are of the considered opinion that Adjudicating Authority committed error in considering the objection raised by the Respondent on the merits of the application under Section 95 filed by the Central Bank of India at the stage when RP was not even appointed. The Adjudicating Authority proceeded to enter into adjudicatory issues, which can be taken by the Adjudicating Authority only at the time of hearing of Section 95 application under Section 100, as is now the law declared by the Hon'ble Supreme Court in Dilip B Jiwrajka's case, as noted above.

28. Further in Prabhaben Ravjibhai Harkani Vs Bank of Baroda, Company Appeal (AT) (Ins) No.1002/2025 decided on 07.08.2026 this Tribunal held:-

This judgement applies to applications filed under Section 94 of the IBC i.e. applications filed by the debtor itself. It will not apply to applications filed under Section 95 of the IBC i.e. applications filed by creditors/personal guarantors.

This judgement itself recognizes that different procedures apply to proceeddings under Section 94 and Section 95.

39. The learned counsel for the appellant has also relied upon the judgement of the Hon'ble Supreme Court in Di8lip Jiwrajka V Union of India (2024) 5 SCC 435 to contend that once an application under Section 94 is filed, the Adjudicating Authority is required to appoint a Resolution Professional before examining the application on merits. It is, therefore, necessary to consider whether the said judgment has an application to the facts of the present case.

29. Thus in view of the law laid down by the Hon'ble Supreme Court and also three judges bench of this Tribunal, we are not inclined to interfere with

impugned order of the Ld. NCLT and dismiss the appeal filed by the appellant as per settled law *viz* the adjudicatory process shall start only after the report is filed by the Resolution Professional *per* Section *100* of the IBC.

30. The appeals are accordingly dismissed. Pending applications are also disposed of.

(Justice Yogesh Khanna)
Member (Judicial)

(Mr. Barun Mitra)
Member (Technical)

(Mr. Ajai Das Mehrotra)
Member (Technical)

Dated:02-11-2026
BM