



IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
SPECIAL BENCH (COURT – II)

Item No.225
IB-631/ND/2023
IA-2819/ND/2025

IN THE MATTER OF:

Mr. Radha Raman Gupta

... Applicant/Personal Guarantor

Versus

Union Bank of India

... Respondent/Financial Creditor

AND IN THE MATTER IA-2819/ND/2025:

Mr. Deepak Thukral

House No. 237/1, 44-A, Chandigarh,
Haryana & Punjab-160047

... Applicant/Resolution Professional

Under Section: 99 r/w 94 of IBC, 2016

Order delivered on 17.10.2025

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

SHRI RAVINDRA CHATURVEDI, HON'BLE MEMBER (T)

PRESENT:

For the Applicant :

For Respondent :

Hearing Through: VC and Physical (Hybrid) Mode

ORAL ORDER

IA-2819/ND/2025: The captioned application is preferred for commencement of insolvency resolution process of Mr. Radha Raman Gupta who stood as Personal Guarantor qua the same financial facility extended by Union Bank of India to M/s Greenworld International Pvt. Ltd. (Principal Debtor) qua which his



wife Mrs. Sneh Raman Gupta also stood as a PG against whom a separate petition has been preferred under Section 95 of the IBC, 2016.

2. In terms of order dated 17.04.2025 passed by this Tribunal, Mr. Deepak Thukral was appointed as Resolution Professional. He has filed separate report under Section 99 of the IBC, 2016 which is placed on record at Annexure B to IA-2819/2025. It is stated in the report that requirement of Section 94 of IBC, 2016 has been met. The report also indicates that no requisite information and documents sought by the RP could be made available to him in terms of provisions of Section 99(4). The relevant excerpt of the report of Resolution Professional to the effect reads thus:-

“27. It is submitted that the RP has tried his best and used all means to gather the information available for the preparation of the Report under Section 99 of the Code. It is further submitted that due diligence has been carried out by the RP with utmost diligence and sincerity.

III. REPORT IN COMPLIANCE TO TERMS OF SECTION 94 OF THE CODE READ WITH SECTION 99(6) OF THE CODE

Pursuant to the provisions of Section 99(6) of the Code, the Resolution Professional shall examine the application and ascertain that

a) The application satisfies the requirement set out in Section 94 of the Code;

That the Personal Guarantor has not furnished any information till date. The present report has been prepared by the Resolution Professional based on the documents annexed to the petition filed by the Creditor and the documents/information provided by the Financial Creditor.”



PROVISIONS	COMPLIANCES
<p>Section 94(1) of the Code:</p> <p>A debtor who commits a default may apply, either personally or through a resolution professional to the Adjudicating Authority for initiating insolvency resolution process, by submitting an application.</p>	<p>Following the comprehensive due diligence conducted by the Resolution Professional (RP), it is established that the amount of the guaranteed obligation has persisted as unpaid, accumulating to Rs. 9,85,41,628.10 (Rupees Nine Crore Eighty-Five Lakhs Forty-One Thousand Six Hundred and Twenty-Eight and ten paise only) as per the Petition. It is evident that the personal guarantor has defaulted within the purview of Section 3(12) of the IBC, 2016, and the default amount exceeds Rs. 1000/-. Therefore, the Applicant is eligible to initiate the insolvency resolution process.</p> <p>An application in this regard was filed on 12.10.2023 by the Debtor/Personal Guarantor under section 94 of the Code.</p>
<p>Section 94(2) of the Code:</p> <p>Where the debtor is a partner of a firm, such debtor shall not apply under this Chapter to the Adjudicating Authority in respect of the firm unless all or a majority of the partners of the firm file the application jointly</p>	<p>The Personal Guarantor is not a partner in any such firm.</p>
<p>Section 94(3) of the Code:</p> <p>An application under Section 94 shall be submitted in respect of debts which are not excluded debts.</p>	<p>For the purpose of examining the criteria of total debt, the definition of excluded debts under Section 79 Clause 15 of the Code is given as under:</p> <p><i>"Excluded debt" means –</i></p> <ul style="list-style-type: none"><i>(a) liability to pay fine imposed by a court or tribunal;</i><i>(b) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation;</i><i>(c) liability to pay maintenance to any person under any law for the time being in force;</i><i>(d) liability in relation to a student loan;</i><i>(e) any other debt as may be prescribed;</i>



	<p>Pursuant to the petition filed by personal guarantor u/s 94 of the IBC, 2016 and information mentioned in the PART III of the petition, it is submitted that the total debt of the Personal Guarantor does not comprise of any excluded debt.</p>
<p>Section 94(4) of the Code: A debtor shall not be entitled to make an application if he is-</p> <p>a) That the Personal Guarantor is not an undischarged insolvent.</p>	<p>Following the information provided in the petition filed u/s 94 of the IBC, 2016, further confirmed by the Personal Guarantor in the meeting held on 15.05.2025, and after thorough verification through the IBBI Portal, it has been ascertained that no order discharging the Applicant as insolvent has been issued by the Hon'ble Adjudicating Authority.</p> <p><u>Therefore, the Personal Guarantor is not classified as an undischarged insolvent.</u></p>
<p>b) That the Personal Guarantor is not undergoing a fresh start process.</p>	<p>Following the information provided in the petition filed u/s 94 of the IBC, 2016, further confirmed by the Personal Guarantor in the meeting held on 15.05.2025, and after thorough verification through the IBBI Portal, it has been ascertained that no application for fresh start process has been filed before the Adjudicating Authority. Further no such order has been passed by the Hon'ble tribunal.</p> <p><u>Therefore, the Applicant is not undergoing a fresh start process as on the date of present report.</u></p>
<p>c) That the Personal Guarantor is not undergoing an Insolvency Resolution Process.</p>	<p>Based on the details furnished by the Applicant in the petition filed u/s 94 of the IBC, 2016, further confirmed by the Personal Guarantor in the meeting held on 15.05.2025, and a meticulous examination through the IBBI Portal, it has been confirmed that no applications, apart from the current application under Section 94 of the IBC, have been submitted by the</p>



<p>d) That the Personal Guarantor is not undergoing Bankruptcy Process.</p>	<p>applicant for the insolvency resolution process. Additionally, no admission order under Section 100 of the IBC, 2016, has been issued by the Hon'ble tribunal in relation to any such applications.</p> <p><u>Therefore, it can be affirmed that the Applicant is not presently undergoing an Insolvency Resolution Process.</u></p> <p>Based on the details furnished by the Applicant in the petition filed u/s 94 of the IBC, 2016, further confirmed by the Personal Guarantor in the meeting held on 15.05.2025, and a meticulous examination through the IBBI Portal, it has been confirmed that no orders for initiation of Bankruptcy process have been passed by Hon'ble Tribunal.</p> <p>Further, an application under Section 94 of the Code is under consideration by Hon'ble NCLT which was filed by the Personal Guarantor on 12.10.2023 and the interim moratorium has been commenced under Section 96 (1) (a) of the Code.</p> <p><u>Therefore, Applicant is not undergoing any Bankruptcy Process.</u></p>
<p>Section 94(5) of the Code:</p> <p>A debtor shall not be eligible to apply under Section 94(1) if an application has been admitted in respect of the debtor during the period of 12 months preceding the date of submission of the application under Section 94 of the Code.</p>	<p>Based on verification from the IBBI portal further confirmed by the Personal Guarantor in the meeting held on 15.05.2025, no other application under this chapter has been admitted during the preceding 12 months of the date of submission of the present application u/s 94 of the code.</p> <p><u>Hence Applicant is eligible to apply under Section 94(1) of the Code, for initiating insolvency resolution process by submitting an application.</u></p>



IV. COMPLIANCE OF TERMS OF SECTION 99 OF THE CODE

PROVISIONS	COMPLIANCE
<p><u>Section 99(1) of the Code:</u></p> <p>The resolution professional shall examine the application referred to in section 94 or section 95, as the case may be, within ten days of his appointment, and submit a report to the Adjudicating Authority recommending for approval or rejection of the application.</p>	<p>The Resolution Professional in compliance of order dated 17.04.2025 (uploaded on 29.04.2025) has examined the Application filed u/s 94 of the code and after conducting due diligence, has submitted the present report under Section 99 of the IBC, 2016. As per the provisions of Section 99 of the IBC, 2016 & directions of Hon'ble Adjudicating Authority vide order dated 17.04.2025, the 10-day timeframe for filing the report under Section 99 has already lapsed on 09.05.2025; It is submitted that the RP has been communicating with the creditor and the Personal Guarantor through emails and calls, requesting them to furnish the requisite information and documents to facilitate the preparation of the RP's report and ensure the timely conduct of the process. However, no requisite information/ documents have been received till date from the Personal Guarantor, whereas the Financial Creditor has shared the relevant information on 23.05.2025. Therefore, due to delay in obtaining the requisite information/ documents, the RP was unable to file the report within the directed timeframe.</p>
<p><u>Section 99(2) of the Code:</u></p> <p>Where the application has been filed under Section 95, the resolution professional may require the debtor to prove repayment of the debt claimed as unpaid by the creditor by furnishing—</p>	<p>The present Application has been filed by the Personal Guarantor under Section 94 of the IBC, 2016.</p>



<p>(a) evidence of electronic transfer of the unpaid amount from the bank account of the debtor;</p> <p>(b) evidence of encashment of a cheque issued by the debtor; or</p> <p>(c) a signed acknowledgment by the creditor accepting receipt of dues.</p>	
<p>Section 99 (3) of the Code:</p> <p>Where the debt for which an application has been filed by a creditor is registered with the information utility, the debtor shall not be entitled to dispute the validity of such debt.</p>	<p>The present Application has been filed by the Personal Guarantor under Section 94 of the IBC, 2016.</p>
<p>Section 99(4) of the Code read</p> <p>For the purposes of examining an application, the resolution professional may seek such further information or explanation in connection with the application as may be required from the debtor or the creditor or any other person who, in the opinion of the resolution professional, may provide such information.</p>	<p>The Resolution Professional vide email dated 24.04.2025 sent an email to the personal guarantor, financial creditor and erstwhile resolution professional of the PG intimating them regarding the replacement of the resolution professional and requested for provision of requisite information and documents required for the preparation of report followed by multiple reminders dated 29.04.2025, 06.05.2025, 07.05.2025 and 22.05.2025. However, despite the issuance of multiple reminders the Personal Guarantor failed to furnish the requisite information and documents sought by the Resolution Professional.</p>
<p>Section 99(5) of the Code:</p> <p>The person from whom information or explanation is sought under sub-section (4) shall furnish such information or explanation within seven days of receipt of the request.</p>	<p>Information received from PG</p> <p>As on date, no information or documents have been provided either by the Personal Guarantor or the Financial Creditor, whereas the Financial Creditor has shared the relevant information on 23.05.2025.</p>



<p>Section 99(6) of the Code:</p> <p>The resolution professional shall examine the application and ascertain that—</p> <p>(a) the application satisfies the requirements set out in section 94 or 95;</p> <p>(b) the applicant has provided information and given explanation sought by the resolution professional under sub-section (4).</p>	<p>The Resolution Professional has complied with this provision and same has not been repeated for the sake of brevity.</p>
<p>Section 99(7) of the Code:</p> <p>After examination of the application under sub-section (6), he may recommend acceptance or rejection of the application in his report.</p>	<p>The Resolution Professional has recommended the Acceptance of the present Application filed by the debtor/Personal Guarantor.</p>
<p>Section 99(8) of the Code:</p> <p>Where the resolution professional finds that the debtor is eligible for a fresh start under Chapter II, the resolution professional shall submit a report recommending that the application by the debtor under Section 94 be treated as an application under section 81 by the Adjudicating Authority.</p>	<p>The fresh start process under Chapter II has not yet been notified.</p>
<p>Section 99(9) of the Code:</p> <p>The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report under sub-section (7).</p>	<p>Upon thorough examination of the petition submitted in Form A under Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, along with the accompanying documents, it is evident that the Personal Guarantor has furnished a personal guarantee for the debt of the Corporate Debtor, M/s Greenworld International Private Limited. The outstanding debt, as claimed by the financial creditor in the Notice issued u/s 13(2) of SARFAESI Act, 2002 dated 29.02.2016 amounting to Rs. 9,85,41,628.10 (Rupees Nine Crore Eighty-five Lakhs Forty-One Thousand Six Hundred Twenty-Eight and ten paisa only). The financial creditor has duly invoked the</p>



	<p>guarantee through a notice issued under Section 13(2) of the SARFAESI Act, 2002, and the outstanding amount remains unpaid as of the present date. <u>Therefore, the Personal Guarantor has committed a default in accordance with Section 94 of the IBC.</u> <u>Copy of guarantee deed is attached herewith and marked as an ANNEXURE B-10.</u></p> <p>It is submitted that a team member of the Resolution Professional held a meeting with Mr. Ujjawal Gupta, son of Mr. Radha Raman Gupta (Personal Guarantor), at the Delhi office of the Resolution Professional located at Office No. 207, 2nd Floor, Mercantile House, K. G. Marg, Barakhamba Road, New Delhi – 110001. During the said meeting, Mr. Ujjawal Gupta disclosed that a property situated at House No. I-61, South City – 1, Phase – 1, Gurgaon, Haryana, is jointly owned—50% by Mr. Radha Raman Gupta and 50% by Mrs. Sneh Lata—and is presently mortgaged with Union Bank of India as security for a loan availed by the Corporate Debtor. Mr. Ujjawal Gupta further conveyed the willingness of the Personal Guarantor to submit a repayment plan for resolution of his outstanding liabilities. Therefore, the Hon'ble Adjudicating Authority is respectfully requested to grant the opportunity to address the insolvency by admitting this application. This consideration will enable Mr. Radha Raman Gupta to responsibly resolve his financial obligations and embark on a new phase in his life.</p>
<p><u>Section 99(10) of the Code:</u> The resolution professional shall give a copy of the report under sub-section (7) to the debtor or the creditor, as the case may be.</p>	<p>Copy of the Report prepared by the Resolution Professional shall be served to the debtor and creditor in compliance of Section 99(10) of the Code and in compliance of the Circular No. <u>IBBI/II/66/2024</u> dated 12.02.2024 issued by the Insolvency and Bankruptcy Board of India.</p>



3. With reference to the aforementioned, the Resolution Professional has made a recommendation that the petition preferred under Section 94 of IBC, 2016 may be admitted. The recommendation reads thus:-

“RECOMMENDATIONS:

1. *In pursuance to the provisions of Section 99(7) of the Insolvency and Bankruptcy Code, 2016 the Resolution Professional, upon examining the application and ascertaining the satisfaction of the requirement set out in Section 94 of the Insolvency and Bankruptcy Code, 2016 has to recommend the acceptance or the rejection of the application filed by the Creditor for triggering Insolvency Resolution Process under Chapter III of the Code.*
2. *That on perusing the application filed by the Applicant/ Personal Guarantor under Section 94 of the Code along with documents attached thereto, it is evident that the present petition under Section 94 maintainable and meets the criteria as laid down under the provisions of the Code.*
3. *That in view of the above-stated facts and circumstances, and on examining the documents available on record and based on the information provided by the CFM ARC, Financial Creditor; the Resolution Professional submits that the Application filed by the Creditor bearing CP (IB) No. 631/ND/2021 satisfies the requirement as stipulated under Section 94 of the Code. In the present matter there is one property situated at House No. I-61, South City - 1, Phase- 1, Gurgaon, Haryana, is jointly owned-50% by Mr. Radha Raman Gupta and 50% by Mrs. Sneh Lata-and is presently mortgaged with Union Bank of India as security for a loan availed by the Corporate Debtor also the Personal Guarantor is willing to submit a repayment plan to settle all of his outstanding liabilities.*

In the view of the above, Mr. Deepak Thukral, the Resolution Professional appointed by this Hon'ble Adjudicating Authority, National Company Law Tribunal, New Delhi vide order dated 17.04.2025 in CP (IB) No. 631/ND/2025, hereby recommends the admission of the application to initiate the Insolvency Resolution Process. Furthermore, it is suggested that directions under Section 100 of the IBC, 2016 be issued,



facilitating negotiations between the Personal Guarantor and the creditors for the meticulous preparation of a comprehensive repayment plan.”

4. As can be seen from the provisions of Section 100 of IBC, 2016 this Tribunal need to pass an order qua the Application preferred under Section 94(1) of IBC, 2016, with reference to the recommendation made by the Resolution Professional. In the present case, since the petition under Section 94 of IBC, 2016 has been preferred by the Personal Guarantors/Debtor himself, apparently there is admission of non-payment of debt by them. The applications preferred under Section 94 of IBC, 2016 satisfy the requirement of sub-section (4) & (5) of Section 94 of IBC, 2016. We find no reason to nix the recommendation made by the RP for admission of the captioned application.

5. In the wake, **we allow IA-2819/ND/2025 and admit CP(IB)-631/ND/2023.** Ordered accordingly.

6. It goes without saying that during the Insolvency Resolution Process, the RP shall give an opportunity to personal guarantor to submit his repayment plan. Nevertheless, before that the RP shall also carry the exercise in terms of the provisions of Section 100(2) of IBC 2016. For such purpose it would be open to the Respondent to appear before RP within 1 week from today.

7. There is no request by the RP for the purpose of conducting negotiation between the debtor and the creditors. As a sequel of admission of the present application, a moratorium shall commence in relation to all the debts of the



Respondent. During the moratorium period – (a) any pending legal action or proceedings in respect of any debt qua the Respondent shall be deemed to have been stayed; (b) the creditors shall not initiate any legal action or legal proceedings in respect of any debt qua the Respondent; and (c) the debtors shall not transfer, alienate, encumber or dispose of any of the assets or his legal right or beneficiary interest therein. The moratorium shall cease to have effect at the end of period of 180 days.

8. A public notice shall be issued by the RP within seven days of passing of this order, inviting claim from all creditors within 21 days of such notice. The notice shall include details of the present order, particulars of the Resolution Professional with whom the claims have to be registered and the last date for the submission of the claims. The notice shall be – (a) published in two National Newspapers, one in English and other one Vernacular Language, in circulation in the State where the debtor resides; (b) affixed in the premises of this Adjudicating Authority; and (c) placed on the website of the Adjudicating Authority.

9. We are sanguine that the RP shall discharge all such duties as are incumbent upon him in terms of the provisions of Sections 102, 103, 104, 105, 106, 107, 108, 112 and 113 of IBC, 2016, with the due deference of the procedure enshrined in Regulations 5, 7, 8, 9, 11, 12, 13, 14, 15 and 17 of IBBI (Insolvency Resolution Process for Personal Guarantor to Corporate Debtors) Regulations, 2019 and also in terms of the other extent provisions of the



aforementioned code/ regulations and/or any other provisions of law applicable to him, in discharge of his duties as RP.

10. A copy of this order along with the copy of the application as also the report of Resolution Professional shall be provided to the Personal Guarantor (Applicant), Creditor (Respondent) and IBBI, by the Registry/Court Master within 7 days from today by email.

11. IA-2819/ND/2025 stands disposed of accordingly. To come up for consideration of Status Report to be filed by RP, within 8 weeks.

12. It goes without saying that whatever amount is paid to the creditor by the principal borrower (corporate debtor) and other guarantors would be deducted from the liability of the Applicant/Personal Guarantor to repay.

**Sd/-
(RAVINDRA CHATURVEDI)
MEMBER (T)**

**Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)**

Iqraa/Ruchita