NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1804 of 2026

IN THE MATTER OF:

Sangeeta Aggarwal (Personal Guarantor) ...Appellant(s)

Versus

Equentia Financial Services Pvt. Ltd. & Anr. ...Respondent(s)

Present:

For Appellant(s) : Mr. Rahul Gupta, Mr. Rahul Dadhich, Ms. Garima Malhotra, Advocates.

For Respondent(s) : Mr. Ashutosh Gupta, Mr. Ajitesh Kumar, Ms. Kritika Mehrotra, Advocates for R-2/RP.
Mr. Vishal K. Malhotra, Mr. Vishisht Singh, Advocates for R-1.

With
Comp. App. (AT) (Ins) No. 1805 of 2026

IN THE MATTER OF:

Sri Narain Aggarwal (Personal Guarantor) ...Appellant(s)

Versus

Equentia Financial Services Pvt. Ltd. & Anr. ...Respondent(s)

Present:

For Appellant(s) : Mr. Rahul Gupta, Mr. Rahul Dadhich, Ms. Garima Malhotra, Advocates.

For Respondent(s) : Mr. Ashutosh Gupta, Mr. Ajitesh Kumar, Ms. Kritika Mehrotra, Advocates for R-2/RP.
Mr. Vishal K. Malhotra, Mr. Vishisht Singh, Advocates for R-1.

O R D E R
(Hybrid Mode)

[Per: Justice Mohd. Faiz Alam Khan, Member (Judicial)]

Com. App. (AT) (Ins) No. 1804 OF 2026 has been preferred under Section 61 of the Insolvency and Bankruptcy Code, 2016 ("Code") by Ms. Sangeeta Aggarwal ("Appellant") challenging the order dated 31.08.2026 passed by the Ld. National Company Law Tribunal, New Delhi, Bench - II ("Ld. Adjudicating Authority") in I.A. (IBC) No. 798 filed under Company Petition (IB) No. 651 of 2025.

2. The relevant facts with regard to this appeal are that on 06 December 2024, Canara Bank instituted proceedings against the Appellant Ms. Sangeeta Aggarwal under Section 95 of the Code, being CP (IB) No. 23 (AHM) of 2024, before the Ld. National Company Law Tribunal, Ahmedabad Bench ("Ld. Adjudicating Authority"). Mr. Sunil Kumar Kabra was appointed as the Resolution Professional in the said proceedings on 22 January 2025.

3. It is further reflected that the Corporate Insolvency Resolution Process against the Corporate Debtor was also initiated vide order dated 01 April 2025, passed by the Ld. National Company Law Tribunal, New Delhi, Bench V, in CP (IB) No. 413 (ND) of 2025 and Respondent No.1, Equentia filed its claim in Form C, for INR 13.40 crores, in the CIRP of the Corporate Debtor.

4. It is further evident that on 05 November 2025, Respondent No. 1- Equentia instituted a fresh proceeding under Section 95 against the Appellant, being CP (IB) No. 651 of 2025, before the Ld. Adjudicating Authority and vide order dated 29 January 2026, the Ld. Adjudicating Authority appointed Mr. Loveneet Handa ("Respondent No. 2") as the RP, who submitted report on 17 February 2026, bearing I.A. No. 798 of 2026 under Section 99 of the Code, recommending initiation of the personal insolvency resolution process against the Appellant. The Adjudicating

Authority by passing impugned Order initiated personal insolvency process against Appellant Sangeeta Aggarwal.

5. It is further reflected that on 21 November 2025, i.e., subsequent to the filing of Equentia's petition, Canara Bank withdrew its proceedings pending before the Adjudicating Authority, Ahmedabad Bench.

6. Com. App. (AT) (Ins.) No. 1805 OF 2026 has been preferred under Section 61 of the Insolvency and Bankruptcy Code, 2016 ("Code") by Sri Narain Aggarwal ("Appellant") challenging the order dated 31.08.2026 passed by the Ld. National Company Law Tribunal, New Delhi, Bench - II ("Ld. Adjudicating Authority") in I.A. (IBC) No. 972 filed under Company Petition (IB) No. 653 of 2025.

7. The relevant facts with regard to this appeal are that on 06 December 2024, Canara Bank instituted proceedings against the Appellant under Section 95 of the Code, being CP (IB) No. 22 (AHM) of 2024, before the Ld. National Company Law Tribunal, Ahmedabad Bench ("Ld. Adjudicating Authority, Ahmedabad") and Mr. Sunil Kumar Kabra was appointed as the Resolution Professional in the said proceedings. The Corporate Insolvency Resolution Process against the Corporate Debtor was also initiated vide order dated 01 April 2025, passed by the Ld. National Company Law Tribunal, New Delhi, Bench V, in CP (IB) No. 413 (ND) of 2025 and on 15 April 2025, respondent No.1-Equentia filed its claim in Form C, for INR 13.40 crores, in the CIRP of the Corporate Debtor.

8. It is further reflected that on 07 November 2025 Respondent No.1-Equentia instituted a fresh proceeding under Section 95 against the Appellant, being CP (IB) No. 653 of 2025, before the Ld. Adjudicating Authority. On 21 November 2025, i.e., subsequent to the filing of Equentia's petition, Canara Bank withdrew its proceedings pending before the Hon'ble Adjudicating Authority, Ahmedabad Bench. However, on 19 December 2025, Canara Bank filed a fresh petition, being CP (IB) No. 704 of 2025,

under Section 95 against the Appellant before the Hon'ble National Company Law Tribunal, Bench V, at New Delhi, which is stated to be pending.

9. Ld. Adjudicating Authority vide order dated 19 December 2025 appointed Mr. Amit Talwar, as the Resolution Professional in the Equentia's petition. However, vide order dated 10 February 2026, Ld. Adjudicating Authority, replaced Mr. Amit Talwar and appointed Mr. Loveneet Handa (Respondent No. 2) as the Resolution Professional, who submitted his report on 27 February 2026, bearing I.A. No. 972 of 2026 under Section 99 of the Code, recommending initiation of the personal insolvency resolution process against the Appellant. The Adjudicating Authority by passing impugned Order initiated personal insolvency process against Appellant Sri Narain Aggarwal.

10. Aggrieved by the aforesaid impugned orders the appellants/ Personal Guarantors have filed the above appeals. Keeping in view the identical issues involved, both Appeals are being disposed of passing this common judgment.

11. Learned Counsel for the Appellant submit that admitted facts are that, on 6.12.2024, the Canara Bank has instituted proceedings against the Appellant under Section 95 of the Code, and an interim moratorium in pursuance of Section 96 of the Code commenced on this date. The respondent No. 1, Equentia, has filed a petition under Section 95 of the Code on 5.11.2025 during the existence of the moratorium initiated by the proceedings instituted by the Canara Bank on 6.12.2024. Therefore, the proceedings initiated by Equentia are non-est.

12. It is further submitted that the fact that Canara Bank has withdrawn its petition on 21.11.2025 and filed a fresh petition on 19.12.2025 is of no consequence as on 5.11.2025. The interim moratorium commenced on 6.12.2024 by the filing of the proceedings by the Canara Bank was in force.

13. It is further submitted that the learned adjudicating authority has taken shelter of the amendment made under Section 96 of the Code. However, the said

amendment is not retrospective and would not be applicable to the facts of the instant case. Therefore, the proceedings filed within the course of moratorium initiated by proceedings instituted earlier are nullity. Reliance in this regard is placed on Alchemist Asset Reconstruction Company Limited versus Hotel Gaudavan Private Limited, 2018 (16) SCC 94 which has been followed in ***Sushant Chhabra versus Catalyst Trusteeship Limited (Company Appeal (AT) (Ins) No. 443 of 2026)***. Learned Counsel for the Appellant have also cited ***Union Bank of India versus P.K. Balasubramanian, Company Appeal (AT) (CH) (Ins) No. 293 of 2022***.

14. The Learned Counsel for the Appellant further submits that the main controversy in this appeal is pertaining to the impact of Section 96(4), which was introduced on 26 May 2026. It says that the provisions of this section shall not apply where an application is filed for initiating an insolvency resolution process in respect of a personal guarantor to a corporate debtor. It is submitted that the reliance of the learned adjudicating authority on Tata Capital Financial Services Limited versus Neel Motors LLP, Commercial Arbitration Petition No. 620 of 2021 is not correct in view of the explanation given by the Hon'ble Bombay High Court in paragraph number 14 of the report, as it is verified that the amendment is retroactive and is not retrospective, and therefore would apply prospectively to existing facts such as the existing arbitration petition.

15. Elaborating further, it is submitted that a retroactive amendment applies prospectively to events that have happened earlier. If Section 96(4) had been a pure prospective amendment, the result would be that 96(4) would only apply to those 95 petitions filed after 26 May 2026. The import of retroactivity is merely that, even in cases where the Section 95 petition was filed before 26 May 2026, the interim moratorium was in force prior to the amendment.

16. It is further submitted that the judgment of the Hon'ble Delhi High Court in IDBI Trusteeship Services Limited versus Manish Jain is merely a judgment deciding

an application under Order VII, Rule 11. In fact, it explicitly states in paragraph number 21 that it has not considered whether the defendant number 2 is deprived of the interim moratorium enjoyed by it. Therefore, it cannot be relied upon by the respondent in the instant case.

17. It is further submitted that the IBBI circular dated 21 September 2026, issued under Section 196 of the Code, has been issued in contravention of paragraph number 13 of the judgment of Sundaresh Bhat, Liquidator of ABG Shipyard Limited Company Appeal (AT) (INS) No. 398 of 2021. Therefore, the petition filed by the respondent No. 1 during the interim moratorium initiated by the filing of the petition by the Canara Bank on 06 December 2024 is non-est and therefore the impugned order may kindly be set aside.

18. Learned Counsel for the Respondent No. 1 and RP submits that the Appeal rests on a single premise that the application under Section 95 of the Code filed by Equentia Financial Services Private Limited (the "Financial Creditor") on 05.11.2025 was barred by the interim moratorium under Section 96 of the Code, and thereby became non-est for all time, however, the said premise no longer survives after the Insolvency and Bankruptcy Code (Amendment) Act, 2026, as sub-section (4) was inserted in Section 96, which expressly provides that Section 96 shall not apply where an application is filed for initiating an insolvency resolution process in respect of a personal guarantor to a corporate debtor.

19. It is further submitted that the Hon'ble Bombay High Court in Tata Capital Financial Services Ltd. v. Neel Motors LLP & Ors., IBC Law 4165 and the Hon'ble Delhi High Court in IDBI Trusteeship Services Ltd. v. Manish Jain & Ors., CS(COMM) 800/2025 have held that Section 96(4) applies to pending proceedings. The Insolvency and Bankruptcy Board of India ("IBBI") has, by Circular No. IBBI/II/106/2026 dated 21.09.2026 has also clarified the effect of these judgments.

Thus, there was no interim moratorium when the petition was filed by the Respondent No. 1.

20. It is further submitted that Section 96 of the Code was amended by Section 51 of the Insolvency and Bankruptcy Code (Amendment) Act, 2026, whereby, after sub-section (3), the following sub-section was inserted:

> *"51. In section 96 of the principal Act, after sub-section (3). the following sub-section shall be inserted, namely: —*
>
> *"(4) The provisions of this section shall not apply where an application is filed for initiating an insolvency resolution process in respect of a personal guarantor to a corporate debtor."*

21. Therefore, the Appellants are admittedly personal guarantors to a corporate debtor, and the proceedings against them are proceedings of the very kind to which Section 96 now longer applies. The Appellant's contention regarding the interim moratorium under Section 96 is, therefore, untenable in view of the express statutory exclusion. The said amendment came into force with effect from 26.05.2026, and from that date the interim moratorium ceased to operate in respect of applications concerning personal guarantors to corporate debtors. The Impugned Order dated 31.08.2026 was passed after the said date.

22. It is further submitted that the ratio of the above cases is directly applicable to the facts of this case. The application of Section 96(4) to the pending Section 95 proceedings is a prospective application of a newly introduced provision to facts that continue to exist, and does not become retrospective merely because the application was filed earlier. The IBBI, vide Circular No. IBBI/II/106/2026 dated 21.09.2026. has clarified the effect of the judgments of the Hon'ble Bombay High Court and the Hon'ble Delhi High Court regarding the cessation of the interim moratorium in respect of personal guarantors to corporate debtor.

23. It is also submitted that the reliance placed by the Appellant on the judgment of this Hon'ble Tribunal in Sushant Chhabra v. Catalyst Trusteeship Limited,

Company Appeal (AT) (Insolvency) No. 443 of 2026, is misplaced and that judgment cannot be read to mean that a provision subsequently enacted by the Legislature, expressly excluding personal guarantors to corporate debtors from Section 96, can have no application to pending proceedings. The subsequent amendment has materially altered the statutory position. Similarly, the reliance placed by the Appellant on Union Bank of India v. P.K. Balasubramanian, Comp. App. (AT) (CH) (Ins.) No. 293 of 2022, is also misplaced, and cannot override the express exclusion now contained in Section 96(4) of the Code as interpreted by the Hon'ble Bombay High Court and the Hon'ble Delhi High Court.

24. It is further submitted by the Counsel for the RP that the RP filed their Reports under Section 99 of the Code, after satisfying the requirements of Section 95 read with Section 78 and Rule 7(1) of the Personal Guarantors Rules, and complied with Sections 99(1), 99(2), 99(3), 99(4) and 99(7) of the Code. However, the Appellants deliberately concealed the material facts that an application under Section 95 of the Code was earlier pending before the Hon'ble NCLT, Ahmedabad Bench, which was subsequently withdrawn. Despite having withdrawn it, the Appellant has sought to rely upon the pendency of the earlier proceedings as a ground to derail the present proceedings and has thereafter filed an application before the Hon'ble NCLT, Bench-V, bearing C.P. (IB) No. 707 of 2025. The Appellant also failed to intimate the RP of any ongoing litigation or any pending Section 95 application. Such conduct is misleading and amounts to suppression of material facts.

25. It is also submitted that the Adjudicating Authority has considered all the facts and material on record as well as the impact of the amended Section 96 and the judgments of the Hon'ble Bombay High Court, and rightly allowed the application under Section 95 and the Appellant has failed to point out any error of law or jurisdictional infirmity in the Impugned Order. Therefore, the Appeals are misconceived, devoid of merit and liable to be dismissed.

26. Having heard learned counsel for the parties and having perused the record, it is reflected that there are certain facts which are not disputed by the parties. It is admitted to the parties that on 6/12/2024, the Canara Bank has instituted proceedings against the Appellants, being CP (IB) No. 22 and 23 of 2024 under Section 95 of the Code before the NCLT, Ahmedabad, and the interim moratorium in view of Section 96 of the code commences and on 22-1-2025, the adjudicating authority, Ahmedabad, appointed Mr. Sunil Kumar Kabra as the resolution professional in the aforesaid proceedings.

27. It is also admitted to the parties that respondent No. 1, Equentia, instituted proceedings under Section 95 of the Code on 5.11.2025, CP (IB) No. 651 of 2025, and on 7.11.2025, CP (IB) No. 653 of 2025, against the Appellants before the NCLT, New Delhi, admittedly, after the institution of the proceedings by the Canara Bank against the Appellant on 06.12.2024 and after commencement of the Interim Moratorium and also that Mr. Loveneet Handa was appointed as the resolution professional on 29/1/2026. Reports under Section 99 of the Code was accordingly filed by the RP, being IA No. 798 and 972 of 2026, on 17.02.2026 and 27.02.2026, respectively.

28. It is also admitted to the parties that on 21.11.2025, the Canara Bank withdraw the proceedings instituted against the Appellant at NCLT Ahmedabad and on 19.12.2025, Canara Bank filed its fresh petitions under Section 95 of the Code against the Appellants before NCLT, New Delhi.

29. It is also admitted to the parties that on 26 May 2026, Section 96 of the Code, as amended by the Insolvency and Bankruptcy Code Amendment Act, 2026, came into force, whereby a new subsection i.e. subsection (4), was inserted therein.

30. It is also an admitted fact that on 31st August 2026, the impugned orders were passed whereby the petitions filed under Section 95 of the Code by the respondent No. 1, Equentia Financial Services Private Limited, were accepted, and a

personal insolvency resolution process was initiated against the appellant under Section 95 of the Code.

31. The main contention of the Appellant before us is that, since the petitions under Section 95 of the Code were filed by the Canara Bank against the Appellants on 06/12/2024, well before the coming into force of the Amendment under Section 96 of the Code (i.e., on 26 May 2026) and the Interim moratorium as provided under Section 96 of the Code commences and the petitions under Section 95 of the Code have been filed by the Respondent Equentia on 05/11/2025, during the interim moratorium commenced by the filing of the petitions under Section 95 of the Code by the Canara Bank on 06.12.2024, the same having regard to the law laid down by the Honourable Supreme Court in Alchemist Asset Reconstruction Company Limited (supra) and by this Appellate Tribunal in Sushant Chhabra and Union Bank of India vs. P.K. Balasubramanian (supra) are non-est proceedings and therefore, the impugned orders are liable to be set aside.

32. It is also the case of the appellant that the amendment made under Section 96 of the Code, with effect from 26 May 2026, is not retrospective. Therefore, it cannot be implemented and taken into compliance with regard to the proceedings already pending before the amendment came into existence.

33. Ld. counsel for the Respondent No. 1 and Resolution Professional on the other hand, submits that, as held by the Hon'ble Bombay High Court in Tata Capital Financial Services Limited (supra) and by the Hon'ble Delhi High Court in IDBI Trusteeship Services Limited (Supra), the amendment made under Section 96 of the Code with effect from 26 May 2026 is a retroactive amendment and is applicable to the proceedings pending before any forum. By the insertion of subsection 4, it has been clarified that the provisions of this section shall not apply where an application is filed for initiating an insolvency resolution process in respect of a personal

guarantor to a corporate debtor. Thus, there was no interim moratorium in effect when impugned orders were passed by the Learned Adjudicating Authority.

34. Ld. counsel for the respondents have also relied on a circular issued by the IBBI on 21/09/2026 in pursuance of the law laid down by the Hon'ble Bombay High Court and Hon'ble Delhi High Court in Tata Capital Financial Services Limited (supra) and IDBI Trusteeship Services Limited (supra), respectively.

35. In response to the submissions made by the learned counsel for the respondents, the learned counsel for the appellant, in rebuttal, submits that the cases of Tata Capital Financial Services Limited and IDBI Trusteeship Services Limited (supra) are, on their own facts and circumstances, and may not be used as a precedent with regard to the case at hand. Further, it is also submitted that the IBBI was not having any power to issue the circular relied on by the appellant, as the same has been issued in contravention of the law laid down by this Appellate Tribunal in Sundaresh Bhat (supra).

36. Perusal of the impugned judgments would reveal that the learned adjudicating authority has relied on the law laid down by the Hon Bombay High Court in Tata Capital Financial Services Limited (Supra) and came to the conclusion that the petitions filed by the respondent Equentia are not hit by the interim moratorium. Thus, the sole issue before this Appellate Tribunal is as to whether the amendment made in Section 96 (vide Amendment Act, 2026), whereby Subsection 4 has been inserted in Section 96 (whereby the provision of interim moratorium with regard to the personal guarantors of the corporate debtor has been abolished), would apply to the proceedings, wherein the impugned orders have been passed by the adjudicating authority.

37. We notice that before the amendment made in Section 96 of the Code with effect from 26 May 2026, Section 96 stood as under:

"96. Interim-moratorium.

(1) When an application is filed under section 94 or section 95-

(a) an interim-moratorium shall commence on the date of the application in relation to all the debts and shall cease to have effect on the date of admission of such application; and

(b) during the interim-moratorium period—

(i) any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and

(ii) the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt.

(2) Where the application has been made in relation to a firm, the interim-moratorium under sub-section (1) shall operate against all the partners of the firm as on the date of the application.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator."

Following Amendment has been made w.e.f. 26.05.2026;

"(4) The provisions of this section shall not apply where an application is filed for initiating an insolvency resolution process in respect of a personal guarantor to a corporate debtor."

38. In Union Bank of India vs. P.K. Balasubramanian decided on 29.03.2023 (Supra), relied on by the Appellants, following was held:

"12. Section 96(1)(a) provides that an interim-moratorium, shall commence on the date of the `Application', in relation to all the debts. Section 96(1)(b) of the `Code', also specifies that during the `Moratorium' period (i) any legal action or proceeding pending in respect of any `debt' shall be deemed to have been stayed; and (ii) the `Creditors of the Debtor', shall not initiate any legal action or proceedings in respect of any `debt'. The use of expression 'Creditors of the Debtor', means that all other `Creditors of the Debtor', apart from the `Creditor', on whose `Application', `interim Moratorium', has commenced. Once `Application' under Section 100 is admitted, `Moratorium', commences with respect to all `Debts', under Section 101 and thereafter `Public Notice', is issued and 'Claims' from `Creditors', are invited under Section 102. Section 103 provides for registering of `Claims' by Creditors. Section 104 provides for preparation of list of Creditors and thereafter repayment Plan is contemplated under Section 105. Thus, when an `Insolvency Resolution Process', commences against the `Personal Guarantor', all `Creditors' of the 'Personal Guarantor', are taken care of in the proceedings under Chapter-III. The Code does not contemplate multiplicity of `Applications', against the same `Personal Guarantor'. This `Tribunal', is of the earnest view that when the `Insolvency Resolution Process', commences against a `Personal Guarantor', `Claims of all

`Creditors', are taken care of under the scheme of the I & B Code, 2016."

39. In Civil Appeal No.16929 of 2017, ***Alchemist Asset Reconstruction Company Ltd. vs. M/s. Hotel Gaudavan Pvt. Ltd. & Ors. decided on 23.10.2017 (Supra)***, another case relied by the Appellants, Hon'ble Supreme Court considered the effect of moratorium under Section 14 of the IBC with respect to an arbitration proceeding. The Hon'ble Supreme Court held that the effect of Section 14(1)(a) is that the arbitration proceedings instituted after the aforesaid moratorium is non est in law and set aside the order of the District Judge dated 06.07.2017 and further state that the effect of Section 14(1)(a) is that the arbitration that has been instituted after the aforesaid moratorium is non-est in law.

40. Ld. Counsel for the Appellants have also relied on Sushant Chhabra (Supra) decided on 27.03.2026 wherein this Appellate Tribunal again considered the effect of interim moratorium commences vide section 96 of the Code. This Appellate Tribunal captured the facts of the case in para no. 9 and 10 of the judgment, as under: -

"9. The only submission, which has been raised by the Appellants challenging the order dated 17.02.2026 is admitting Section 95 application filed by Catalyst Trusteeship Ltd. against the Appellants during the period when interim moratorium had already been triggered on Section 95 applications filed by Canara Bank and was subsisting on the date of filing of Section 95 application by Catalyst Trusteeship Ltd. The applications under Section 95 sub-section (1) were filed by Canara Bank against both the Appellants, which were CP(IB)122/ND/2025 and CP(IB)121/ND/2025, which were filed on 12.01.2025. Section 96 of the IBC contemplates issuance of interim moratorium when application is filed under Section 94 or Section 95.

10. There is no dispute between the parties that on filing of Section 95 application by Canara Bank, interim moratorium was triggered on 12.01.2025 and on the date when applications were filed by Catalyst Trusteeship Ltd. against the Appellants, i.e. CP(IB)450/ND/2025 and CP(IB)446/ND/2025 on 05.08.2025, interim moratorium was in operation. The submission, which has been made by learned Counsel for the Respondent to meet the argument of the Appellant is that in view of withdrawal of Section 95 application filed by Canara Bank on 10.11.2025, the

proceedings stood obliterated and, on the date, when admission order was passed on 17.02.2026, interim moratorium was no longer continuing. Hence, there was no prohibition in admitting Section 95 application filed by Catalyst Trusteeship Ltd. (Financial Creditor).”

Thereafter this Appellate Tribunal after considering various authorities opined as under: -

“23. From the facts noted above, it is clear that although on the date when Section 95 application was filed by the Catalyst Trusteeship Ltd. against the Appellant herein on 05.08.2025, interim moratorium was already operating in Section 95 application filed Canara Bank against the Appellant. The judgment referred above, clearly prohibit any such institution. The distinguishing feature, which Respondent is contending herein is that even though application was filed by Canara Bank, prior in time and moratorium had triggered, but the application having been withdrawn on 10.11.2025, there was no inhibition in admitting Section 95 application filed by Financial Creditor against the Appellants herein. The real question to be considered and answered is whether due to withdrawal of Section 95 application by Canara Bank, the prohibition which triggered due to interim moratorium shall come to an end. When application under Section 95 filed by Canara Bank was withdrawn on 10.11.2025, admittedly moratorium came to an end and there was no prohibition and the interim moratorium no longer existed, but what is the consequence of withdrawal of Section 95 application on 10.11.2025 on the moratorium, which was in operation on 05.08.2025, when Section 95 application filed by Catalyst Trusteeship Ltd. against the Appellants.

24. The statutory moratorium which has triggered on 12.01.2025, continued to operate till 10.11.2025 when application filed by Canara Bank was withdrawn. Section 101 of the IBC provides that when application under Section 100 is admitted, a moratorium shall commence, which shall cease to have effect at the end of period of 180 days. Thus, moratorium comes to an end on the day when application is admitted or rejected. The interim moratorium which commences on filing an application, is a statutory moratorium provided by enactment. During the interim moratorium various actions are prohibited as enumerated in Section 96, sub-section (1). The statutory interim moratorium which triggered in Section 96, shall come to an end only when application under Section 95 is either rejected or admitted. The interim moratorium in Section 96 has statutory consequences, which interim moratorium although shall come to an end when application is either dismissed or admitted or withdrawn, but during the period when interim moratorium is operating, any initiation of proceeding shall be non-est in law. The Hon’ble Supreme Court in Alchemist Asset Reconstruction Company Ltd. in Paragraph-6 has clearly held that after enforcement of

moratorium under Section 14 of the IBC, any arbitration proceeding initiated is non-est in law. Thus, the proceeding, which was initiated by Financial Creditor during the currency of interim moratorium, were non-est from the very beginning, cannot become legal proceeding after interim moratorium is withdrawn on 10.11.2025. Personal Guarantors before the Adjudicating Authority has raised the issue that application is not maintainable. In the reply filed to Section 95 application, the Personal Guarantors has relied on Section 95 application filed by the Canara Bank. The Adjudicating Authority observed that Personal Guarantors has not filed reply to the report under Section 99, and they have only filed reply to Section 95 application. When the Personal Guarantors has raised objection to the application and has pointed out that earlier application under Section 95 by the Canara Bank has already been filed, which was noticed by Adjudicating Authority to be withdrawn on 10.11.2025, the Adjudicating Authority committed error in not considering the effect and consequences of triggering of interim moratorium on filing of the application by the Canara Bank and the effect of the said moratorium on the application filed by Catalyst Trusteeship Ltd. on 05.08.2025. We, thus, are of the view that order of the Adjudicating Authority admitting Section 95 application cannot be sustained."

41. Perusal of the above cases would reveal that all these cases have been decided before the amendment made under Section 96 of the Code, with effect from 26 May 2026, while in the facts of the case the impugned orders have been passed on 31.08.2026, however, the earlier petitions under Section 95 of the Code were filed by the Canara Bank against the Appellants on 6/12/2024, well before coming into force of the Amendment under Section 96 of the Code (i.e., on 26 May 2026) and the petitions under Section 95 of the Code, on which the impugned orders have been passed, were filed by the Respondent No. 1, Equentia, on 05/11/2025, during the interim moratorium commenced by the filing of the petitions under Section 95 of the Code by the Canara Bank on 06/12/2024. Thus, it is evident that the petitions were filed by the Respondent No. 1, Equentia, against the appellant under Section 95 of the Code during the commencement of the moratorium initiated by the filing of the petitions by the Canara Bank on 06.12.2024.

42. In the facts of Tata Capital Financial Services Ltd. vs Neel Motors LLP and Ors. (supra) Petition filed under Section 9 of the Arbitration and Conciliation Act,

1996 was filed, pursuant to arbitration agreements contained in a Channel Finance Agreement by which financial assistance was extended by the Petitioner to Respondent No. 1, in respect of which Respondent Nos. 2 to 5 therein were guarantors. The Guarantee Deed contains an arbitration clause with the seat of arbitration being Mumbai. Subsequent facts as captured in the judgment is as under;

> *"4. While this Petition had been filed way back in 2021, it is noteworthy that just about a month prior to this Petition being filed, the very same Petitioner also initiated Corporate Insolvency Resolution Process ("CIRP") against Respondent No. 1, which led to a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 ("IBC") taking effect. The CIRP having failed, it is common ground that Respondent No. 1 is now subject to liquidation proceedings pursuant to liquidation order dated April 1, 2022 passed by the adjudicating authority namely, the National Company Law Tribunal, Mumbai ("NCLT").*
>
> *5. Thereafter, the very same Petitioner also filed proceedings invoking Section 95 of the IBC against each of Respondent Nos. 2, 3 and 4 in June 2022. In terms of Section 96 of the IBC, the very filing of resolution proceedings under Section 95 of the IBC automatically triggers an interim moratorium preventing the continuation of proceedings against such individuals in respect of whom insolvency proceedings have been applied for. Such moratorium commences on the date of Application made in relation to the debts of the individuals. Therefore, by the Petitioner's own action, the interim moratorium under Section 95 also got triggered and there was no scope for entertaining this Petition which has remained pending since then."*

43. Hon'ble Bombay High Court after discussing the law laid down by the Hon'ble Supreme Court in Rajkumar Nagpal, (2022) ibclaw.in 105 SC and Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1 held as under: -

> *"11. Having heard the parties and having examined the record and the provisions of law with their assistance, in my opinion, the phrase "where an application is filed" would bring within its sweep anything that is filed and is pending with the Adjudicating Authority as of that date. If the intention had been to bring within the sweep of Section 96(4) only filings made after the introduction of the provision, the legislature would have consciously used language to that effect. Equally, while it is arguable that the legislature has not used clarificatory language in the provision to*

indicate that it covers applications already filed and to be filed, in my opinion, this provision would squarely fit within the ambit of a retroactive application. The reading of the words "is filed" as including those that have been filed and are pending, will not give retrospective effect, but will have prospective effect from the date on which the provision takes effect. Therefore, in my opinion, any Application that is filed for initiating an insolvency resolution process in respect of a personal guarantor to a corporate debtor would not fall within the ambit of Section 96(1) and related provisions with effect from May 26, 2026. In other words, anything that "is filed" would include within its sweep anything that has been filed and is continuing to remain under adjudication under the IBC."

12. In Rajkumar Nagpal [(2022) ibclaw.in 105 SC]1, in near-identical circumstances, the Supreme Court considered the introduction of a condition in relation to restructuring of debentures by issuance of a circular. The Supreme Court quoted from Principles of Statutory Interpretation by Justice G.P. Singh (14th Edn., 2016 at p. 583) as follows:

"The rule against retrospective construction is not applicable to a statute merely because "a part of the requisites for its action is drawn from a time antecedent to its passing". If that were not so, every statute will be presumed to apply only to persons born and things which come into existence after its operation and the rule may well result in virtual nullification of most of the statutes."

[Emphasis Supplied]

13. Analysing the meaning of "retrospective", "retroactive" and "prospective", the Supreme Court declared the law in the following words: -

(iv) The SEBI Circular has retroactive application

98. Mr N. Venkataraman, learned Senior Counsel and Additional Solicitor General has argued that the SEBI Circular is retroactive in nature as it does not take away or impair any vested rights. It operates in the future, based on events that arose prior to its issuance. Mr Darius Khambata, learned Senior Counsel appearing for RCFL argued that the effect of applying the SEBI Circular to the present case will render it retrospective and not retroactive. According to him, Clauses 22 and 23 of the Fifth Schedule to the Debenture Trust Deed(s) vested debenture-holders with the right to authorise debenture trustees "to sanction any compromise or arrangement proposed to be made between the company and the beneficial owner(s)/debenture-holder(s)". This sanction could be authorised by a majority of "not less than three-fourths of the persons voting … or if a poll is demanded … not less than three-fourths in value of the votes cast on such poll". The SEBI Circular, it has been urged, changed the nature of the special majority required to sanction a compromise by introducing the requirement of a majority of 60% of ISIN level votes."

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100. In Vineeta Sharma v. Rakesh Sharma [Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1: (2021) 1 SCC (Civ) 119] this Court described the nature of prospective, retrospective, and retroactive laws: (SCC p. 53, para 61)

"61. The prospective statute operates from the date of its enactment conferring new rights. The retrospective statute operates backwards and takes away or impairs vested rights acquired under existing laws. A retroactive statute is the one that does not operate retrospectively. It operates in futuro. However, its operation is based upon the character or status that arose earlier. Characteristic or event which happened in the past or requisites which had been drawn from antecedent events."

101. The terms "retrospective" and "retroactive" are often used interchangeably. However, their meanings are distinct. This Court succinctly appreciated the difference between these concepts in State Bank's Staff Union (Madras Circle) v. Union of India [State Bank's Staff Union (Madras Circle) v. Union of India, (2005) 7 SCC 584: 2005 SCC (L&S) 994]:

"Retroactivity" is a term often used by lawyers but rarely defined. On analysis it soon becomes apparent, moreover, that it is used to cover at least two distinct concepts. The first, which may be called "true retroactivity", consists in the application of a new rule of law to an act or transaction which was completed before the rule was promulgated. The second concept, which will be referred to as "quasi-retroactivity", occurs when a new rule of law is applied to an act or transaction in the process of completion…. The foundation of these concepts is the distinction between completed and pending transactions…." [T.C. Hartley, The Foundations of European Community Law 129 (1981).]"

Tata Capital Financial Services Ltd. v. Neel Motors LLP and Ors., (2026) ibclaw.in 4165 HC

"102. Many decisions of this Court define "retroactivity" to mean laws which destroy or impair vested rights. In real terms, this is the definition of "retrospectivity" or "true retroactivity". "Quasi-retroactivity" or simply "retroactivity" on the other hand is a law which is applicable to an act or transaction that is still underway. Such an act or transaction has not been completed and is in the process of completion. Retroactive laws also apply where the status or character of a thing or situation arose prior to the passage of the law. Merely because a law operates on certain circumstances which are antecedent to its passing does not mean that it is retrospective.

103. In the present case, RCFL issued the debentures and defaulted on the payments to the debenture-holders prior to the issuance of the SEBI Circular. However, as of 13-10-2020 (the date on which the SEBI Circular came into force), a compromise or agreement on the restructuring of the debt owed by RCFL did not exist. The debenture-holders were not vested with any rights with respect to the resolution of RCFL's debt. The existence of the debt and the subsequent default by RCFL was the status of

events, which existed prior to 13-10-2020. Once it came into force, the SEBI Circular applied to the manner of resolution of debt, as specified therein."

[Emphasis Supplied]"

14. A plain reading of the foregoing would make it clear that the term "retroactive", while being used differently in different judgements is actually a prospective application of a newly introduced requirement of a law to facts existing as of the date of the introduction of the requirement. The mere reason that some facts may have already been into existence but continue to exist would not mean that the application becomes retrospective.

15. Applying the same principles to Section 96(4) of the IBC, in my opinion, a moratorium insofar as it operated in respect of Respondent Nos. 2, 3 and 4 until May 25, 2026 ceased to operate with effect from May 26, 2026, in respect of applications filed under Section 95 of the IBC. In this view of the matter, in my opinion, the Petition would need to be considered as not being barred by the moratorium under IBC."

44. Hon'ble Delhi High Court in ***IDBI Trusteeship Services Limited (Supra) IDBI Trusteeship Services, decided on 19-Aug-26*** while considering Amendment in Section 96 of the Code and ***Vineeta Sharma (supra)*** and ***State Bank's Staff Union (Madras Circle) vs. Union of India, (2005) 7 SCC 584"*** held as under: -

"7. An interesting issue has arisen in this suit by way of an application under Order VII Rule 11, CPC filed by the defendant no.2. In that, whether a benefit granted upon a party by way of a provision in an enactment can be taken away by way of an amendment under the Amending Act without expressly being retrospective. Particularly, while a proceeding is pending in a court of law. Ordinarily, amendments are construed to be prospective, unless retrospectivity is expressed or implied.

15. It needs emphasis to examine as to whether the amendment brought to Section 96(4) of the IBC would be "retrospective" or "prospective" or as postulated in the aforementioned judgements, "retroactive". Before the said issue is examined, it may be pertinent to consider as to what transpired in the minds of the Select Committee on Insolvency & Bankruptcy Code (Amendment) Bill, 2025 while recommending amendment to Section 96 of IBC, which was proposed under Clause 47 of the said Bill. The relevant provisions like Clauses 47.1, 47.2, 47.3, 47.4, 47.5, 47.5.1, 47.5.2, 47.5.3 and 47.6 are reproduced hereunder:"

47.6 Observations/Recommendations of the Committee:

The Committee note that Clause 47 seeks to amend Section 96 to exclude personal guarantors to corporate debtors from the scope of the interim moratorium. The Committee observe that this amendment is aimed at addressing a persistent concern flagged

by the Adjudicating Authority and insolvency practitioners namely, the misuse of interim moratorium by personal guarantors who file applications solely to obstruct or delay legitimate recovery proceedings, a major loophole confirmed by NCLT members to be responsible for significant value erosion. The Committee, having considered detail submissions of the Ministry and IBBI, underscore that removing this unnecessary pre-admission shield is essential. The Committee observe that the law, consistent with SARFAESI Act and Supreme Court judgements, treats the borrower and the guarantor on the same footing upon default, and the proposed amendment does not deprive personal guarantors of the right to seek insolvency resolution or bankruptcy under Part III of the Code. In view of the above, and recognising the need to curb strategic filings and strengthen the integrity of the insolvency process, the Committee find the proposed amendment under Clause 47 to be appropriate and recommend its acceptance in its present form."

16. The recommendation brooks no ambiguity. It is apparent that the amendment, by insertion of sub-section (4) to Section 96 of the IBC, was brought in only to rectify the "mischief" and the misuse/abuse of the sub-sections (1) to (3) of Section 96 of IBC. By way of the amendment, it was sought to ensure that the provisions of Section 96 would not apply where an application to initiate an Insolvency Resolution Process in respect of a PG to CD is filed by the creditor or the debtor itself.

17. It is significant to note that the Committee was sensitive and acutely aware of the fact that though such interim protection is critical to the resolution process, yet some other important and critical issues which have arisen in practise, have not been addressed. After having heard and considered the issues and concerns of various stakeholders including the Ministry of Corporate Affairs which voiced its concern and stated that the removal of interim moratorium for PG is primarily intended to prevent misuse, the Committee formed an opinion that ".....this amendment is aimed at addressing a persistent concern flagged by the Adjudicating Authority and the insolvency practitioners namely, the misuse of interim moratorium by personal guarantors who file applications solely to obstruct or delay legitimate recovery proceedings, a major loophole confirmed by NCLT members to be responsible for significant value erosion". And that, "The Committee, having considered detailed submissions of the Ministry and IBBI, underscore that removing this unnecessary pre-admission shield is essential". Consequently, the amendment to Section 96 by addition and insertion of sub-section (4) was recommended in terms of Clause 47 of the IBC Bill, 2025.

18. Aptly, this Court is of the considered opinion that the Committee having noted the misuse and abuse of the provisions in Section 96 of the IBC clearly accepted the proposal in Clause 47 of the aforesaid Bill and recommended the amendment to Section 96 by addition and insertion of sub-section (4) solely to rectify and remove the "abuse", even if not the "mischief" that

was being caused, and noted with great alacrity by the stakeholders, and appreciated by the Committee."

19. Learned single Judge of the Bombay High Court in Tata Capital Financial [(2026) ibclaw.in 4165 HC] (supra) having examined the aforenoted judgements of the Supreme Court read the words "is filed" occurring in sub-section (4) to mean even those which were filed prior in time but are still pending adjudication as on 26.05.2026, when the amendments were brought into force. This view, and the view taken by this Court are well aligned.

20. Apropos the above, read conjointly, the aforesaid amendment to Section 96 of IBC by addition and insertion of sub-section (4), and the principles of "retroactive" legislation laid down by the Supreme Court, leave no doubt in the mind of this Court that the provisions of sub-section (4) of Section 96 of IBC by way of the amendment dated 06.04.2026, are "retroactive", even though the Amending Act did not expressly state so. If that be so, then the import, purport and impact of such retroactive legislation would amount to "quasi retroactivity" and would be applicable to pending applications. It is not denied in the present case that the defendant no.2 is the PG to the CD (defendant no.3). It is also admitted that the application under Section 95 of the IBC has been filed by the plaintiff (creditor) and is still pending adjudication before the National Company Law Tribunal. Thus, as a sequitor, the provisions of sub-section (4) of Section 96 of IBC shall apply to the pending application of the plaintiff, and the interim moratorium enjoyed hitherto before by the defendant no.2 (PG to CD), would be deemed to have been vacated."

45. A Division Bench of Bombay High Court has also considered the amendment made in Section 96 of the Code in, (2026) ibclaw.in 5435 HC, Indian Bank vs Shabbir Abbas Patel & Ors. and held as under: -

"The question that arises for consideration in these writ petitions is as to whether sub-section (4) of Section 96 of the Insolvency and Bankruptcy Code 2016 (IBC) introduced by way of amendment with effect from 26.05.2026 operates retroactively? In other words, whether Section 96(4) of the IBC, stating that the said provision shall not apply where an application is filed under Sections 94 or 95 thereof for initiating an insolvency resolution process in respect of a personal guarantor to a corporate debtor, applies to such applications already filed and pending or that it would apply only to applications filed after the aforesaid sub-section (4) is added by way of amendment to Section 96 of the IBC."

"2. The parties in support of the proposition that the amendment applies retroactively emphasize that the amendment was brought about to address the mischief of rampant misuse of the interim moratorium under Section 96 of the IBC triggered upon filing of

applications under Sections 94 and 95 thereof. The parties resisting such an interpretation insist that sub-section (4) of Section 96 of the IBC introduced by way of amendment with effect from 26.05.2026 applies prospectively i.e. to applications filed under Sections 94 and 95 of the IBC after the amendment has come into force."

40. We are of the opinion that the aforesaid material, particularly the report of the Select Committee brought to our notice, clearly indicates that the very purpose of bringing about the amendment for adding sub-section 4 to Section 96 of the IBC, was to address the mischief of rampant and deliberate misuse of the interim moratorium triggered under Section 96 of the IBC, merely by filing of applications under Sections 95 and/or 96 of the IBC.

41. As a matter of fact, judicial notice of such gross misuse was also taken by the Courts. It was found that the route of filing applications under Sections 94 and/or 95 of the IBC, was being taken, not with the purpose of triggering the procedure for examination of applications and preparation of report by the resolution professional, for the applications to be considered for admission or rejection by the adjudicating authority, but only with the sole intention of triggering and enjoying interim moratorium under Section 96 of the IBC. It was found that the applications under Section 94 and 95 were being indiscriminately filed, certain papers being collected and eventually thrown into the Registry of the NCLT, to claim that the moment such applications were filed, interim moratorium was triggered under Section 96 of the IBC. It came to notice that creditors had started adopting this path at stages, when the creditors were on the verge of completion of lawful methods undertaken for realization of their dues."

"47. It is crucial that the resolve of the legislature for remedying the mischief is given its full effect, so that the mischief is suppressed and the remedy is advanced. The Courts must interpret such amendments to add life and force to the cure and remedy, rather than adopting an interpretation that fails to take forward the cure and remedy in its true spirit. The said Mischief Rule/Heydon's Rule has been applied consistently in our legal system and hence, it is an accepted Rule of interpretation. We find that the said Rule applies in the facts of the present case, to advance the proposition that sub-section 4 to Section 96 of the IBC introduced by way of amendment, must apply retroactively to pending proceedings also. This would advance the cure and remedy of addressing the mischief and it would not be appropriate to apply the same only prospectively, in the context of applications filed on or after 26.05.2026.

48. In this context, an attempt was made on behalf of the parties in these cases, advancing the proposition that the amendment ought to be applied prospectively, to claim that the applications filed bona fide, under Sections 94 or 95 of the IBC for insolvency resolution of personal guarantors to a corporate debtor, should not be adversely affected and painted in the same brush as mischievously initiated applications. We are of the opinion that

when the legislature has acted, specifically taking note of the rampant mischief and misuse of the said provisions and larger and considerable public interest is involved in bringing about the said amendment, it ought to be applied in such a manner that it takes forward the dominant intention and purpose of the amendment.

49. The parties whose proceedings are still pending, cannot claim that the amendment should not apply and in the process, call upon the Courts to go into the question as to whether such applications for insolvency process of personal guarantors to secured creditors, have been filed mischievously or not. As noted hereinabove, in the context of the procedural nature of the mechanism between Sections 94 to 99 of the IBC, such parties cannot claim a vested right to such interim moratorium under Section 96 of the IBC."

"54. We find that the contentions raised by the creditors/petitioners in these petitions, concern retroactive operation of amendment and hence, the said contention that literal reading would show that the amendment cannot apply retrospectively, is without any substance. The said submission made on the basis that use of the words 'is filed' must necessarily mean that the amendment can only apply prospectively, is found to be without any substance. There is nothing to indicate that use of the words in sub-section 4 of Section 96 of the IBC, would necessarily mean that it would apply to the applications to be filed in future. If that was the case, the legislature would have used words such as 'to be filed' or other such similar phrases. In our opinion, a proper and even literal reading of the said provision added by way of amendment, in the backdrop in which it has been inserted, clearly demonstrates that the words 'is filed' necessarily include applications / proceedings under Sections 94 or 95 of the IBC, that were pending on the date on which the amendment was brought into effect. Hence, we do not find any substance in reliance placed on behalf of the respondents on the judgment in the case of B. Premanand Vs. Mohan Koikal (supra)."

"60. At this stage, it would be relevant to note that Section 96(1)(b)(ii) of the IBC provides that the creditors of the debtor shall not initiate any legal action or proceeding in respect of any debt. Initiation of legal action or proceeding in respect of any debt does not mean that the creditor cannot even file a proceeding. The effect of the said provision would be that any such proceeding would remain inchoate and ineffective. We find that Section 96(1)(b)(ii) of the IBC cannot be read to oust the jurisdiction of a Court or tribunal which would otherwise have jurisdiction. It only prevents a proceeding filed to have any effect during the interim moratorium and obviously such a proceeding if filed cannot be labelled as void ab initio."

CONCLUSION & ANSWER TO THE QUESTION

64. In view of the above, we answer the question framed at the outset in this judgment by holding that sub-section (4) of Section 96 of the IBC added by way of amendment with effect from 26.05.2026, applies retroactively and hence, even to pending

proceedings. Although it operates from the said date in futuro, its effect is equally on proceedings pending on the said date under Sections 94 and/or 95 of the IBC.

65. In the light of the conclusion rendered hereinabove, we are in agreement with the findings rendered by the learned Single Judge of this Court in the judgment in the case of Tata Capital Financial Services Limited Vs. Neel Motors LLP and others [(2026) ibclaw.in 4165 HC] (supra) and order of the learned Single Judge of Delhi High Court in the case of IDBI Trusteeship Services Limited vs. Manish Jain & Ors. [(2026) ibclaw.in 4732 HC] (supra).”

46. We also notice that Hon’ble Supreme Court in ***Special Leave to Appeal (C) No(s). 33658/2026, order dated 28.10.2026 in Chitrasen Nagnath Gulave vs. Apna Sahakari Bank Ltd. & Ors.,*** also upheld the Judgment passed by the Hon’ble Bombay High Court with regard to the retroactivity of the amendment made under Section 96 of the IBC. The relevant part of the said judgment passed by the Hon’ble Supreme Court is also reproduced as under:

“2.The question of law that fell for the consideration of the High Court in a batch of writ petitions was whether Sub-Section 4 of Section 96 of the Insolvency and Bankruptcy Code, 2016 (for short, ‘the IBC’) introduced by way of amendment with effect from 26.05.2026 would operate retroactively or not. In other words, whether Section 96 (4) of the IBC would apply where an application is filed under Sections 94 or 95, respectively thereof for initiating an insolvency resolution process in respect of a personal guarantor to a corporate debtor to applications already filed and pending or that it would apply only to applications filed after the aforesaid Sub-Section 4 came to be added by way of amendment to Section 96 of the IBC.

3.The High Court, after due consideration of all the relevant aspects of the matter thought fit to answer the question in the following terms: -

“64. In view of the above, we answer the question framed at the outset in this judgment by holding that sub-section (4) of Section 96 of the IBC added by way of amendment with effect from 26.05.2026, applies retroactively and hence, even to pending proceedings. Although it operates from the said date in future, its effect is equally on proceedings pending on the said date under Sections 94 and/or 95 of the IBC.

65. In the light of the conclusion rendered hereinabove, we are in agreement with the findings rendered by the learned Single Judge of this Court in the judgment in the case of ***Tata Capital Financial Services Ltd. vs. Neel Motor LLP and***

> ***Ors.*** ***(****supra) and order of the learned Single Judge of Delhi High Court in the case of* ***IDBI Trusteeship Services Ltd. vs. Manish Jain & Ors. (supra).”***
>
> *4. We are of the view that no error, not to speak of any error of law could be said to have been committed by the High Court in passing the impugned judgment and order.*
>
> *5.The petitions fail and are accordingly, dismissed.*

47. We also notice that the IBBI has also issued a circular, being Circular No. IBBI/II/106/2026, dated 21 September 2026, whereby, in pursuance of the law laid down by the Hon'ble Bombay High Court in Tata Capital Financial Services Limited and by the Hon'ble Delhi High Court in IDBI Trusteeship Services Limited, it has been directed that the interim moratorium under Section 96 of the Code in respect of a personal guarantor to a corporate debtor has ceased to operate with effect from 26 May 2026 in respect of applications pending before the adjudicating authority as on that date. The instant circular has been issued in exercise of the powers conferred on the IBBI under Section 196 of the Code.

48. We also notice that in Shabbir Abbas Patel Supra) Hon’ble Bombay High Court has considered the relevant part of the Report of the Select Committee on the IBC (Amendment) Bill, 2025 in order to assess the purpose of the amendment and observed that the purpose for which the amendment was introduced can be gathered from the material that triggered the legislature to introduce sub-section 4 in Section 96 of the IBC. The reasons and justification given by the Ministry for the proposed Amendment in para 47.3 reveals that the interim moratorium under section 96 provides that upon the filing of an application, all legal actions or proceedings pending in respect of the concerned debt shall remain stayed, and creditors shall not initiate any legal action or proceeding in respect of such debt. The Adjudicating Authority (AA) has, on occasion, expressed concerns regarding the misuse of initiation of the individual insolvency resolution process by personal guarantors to take advantage of the interim moratorium. Clause 47 therefore seeks to insert a new

sub-section (4) to section 96 of the Code to provide that provisions of section 96 of the Code will not apply where an application to initiate an insolvency resolution process in respect of a personal guarantor to a corporate debtor is filed by a creditor or the debtor itself.

49. In the report it is highlighted that the Bill seeks to introduce a new sub-section excluding application of interim moratorium in respect of personal guarantor to a CD to prevent wrongful disposal of assets by PG as the interim moratorium under section 96 provides that upon the filing of an application, all legal actions or proceedings pending in respect of the concerned debt shall remain stayed, and creditors shall not initiate any legal action or proceeding in respect of such debt. Concerns have also been expressed regarding the misuse of initiation of the individual insolvency resolution process (IIRP)by PGs to take advantage of the interim moratorium. To remove any perverse incentives to initiate IIRP, the proposed amendment seeks to dispense with the concept of interim moratorium for the insolvency of PG to CD.

50. We are also of the considered view and may say with our experience that whenever recovery proceedings begin against a personal guarantor, the guarantor rushes to file an application before the Adjudicating Authority, invoking interim moratorium and this provision has been widely misused and this Appellate Tribunal has also flagged the issue in many of its judgments.

51. Thus, it is evident that in the aforesaid case law, it has been held that the amendment incorporated under Section 96 of the Code, with effect from 26 May 2026, would apply retroactively, i.e. to the proceedings which were pending even before the amendment was made under Section 96 of the Code and it is also crystal clear that by virtue of the aforesaid amendment made under Section 96 of the Code, there was no moratorium after the effective date, i.e., 26 May 2026. The impugned orders are admittedly passed on 31st August 2026, when there was no moratorium in operation.

52. Therefore, having regard to the law placed hereinbefore and the reasons given, we are of the considered view that the amending provisions made under Section 96 of the Code would apply retroactively, and also to the pending proceedings. Since the impugned order has been passed on 31st August 2026, when there was no interim moratorium, in our considered opinion, no illegality has been committed by the adjudicating authority in passing impugned orders. For the reasons aforesaid, the appeals, in our considered opinion, lack merit and are **dismissed** as such.

53. There is no order as to costs.

54. Pending I.A.s, if any, are also disposed of.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

New Delhi
06.11.2026
sr