

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL PRINCIPAL BENCH,**  
**NEW DELHI**

**Comp. App. (AT) (Ins) No. 660 of 2022**  
**& I.A. No. 1808, 1809 of 2022**

**IN THE MATTER OF:**

**Tejinder Singh Saini**

**...Appellant**

**Versus**

**State Bank of India & Anr.**

**...Respondents**

**Present:**

**For Appellant : Mr. Gaurav Mitra, Mr. Utsav Mukherjee & Mr. Vikalp Wange, Advocates.**

**For Respondents : None.**

**With**

**Comp. App. (AT) (Ins) No. 1021 of 2022**  
**I.A. No. 2941, 2942, 2943 of 2022**

**IN THE MATTER OF:**

**Amardeep Singh Dhanjal**

**...Appellant**

**Versus**

**State Bank of India**

**...Respondent**

**Present:**

**For Appellant : Mr. Gaurav Mitra, Mr. Utsav Mukherjee & Mr. Vikalp Wange, Advocates.**

**For Respondent : None.**

**O R D E R**

**[Per Justice Rakesh Kumar Jain (Oral)]**

**08.12.2023**      This order shall disposed off two appeals bearing Comp. app. (AT) (Ins.) No. 660 of 2022 titled as Tejinder Singh Saini Vs. State Bank of

India & Anr. (herein after referred to as first appeal) and Comp. app. (AT) (Ins.) No. 1021 of 2022 titled as Amardeep Singh Dhanjal Vs. State Bank of India, (herein after referred to as the second appeal) as the issue involved in both the appeals is common.

2. In both the cases, the petition is filed under Section 95(1) of the Insolvency & Bankruptcy Code, 2016 (**'Code'**) r/w Regulation 4(2) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (**'Regulations'**) by the State Bank of India, Stressed Asset Management Branch-I for initiation of Insolvency Resolution Process against the Appellants herein/ Personal Guarantors of M/s Modern India Con-Cast Limited (**'Corporate Debtor'**). Both the applications have been admitted by the Impugned Order dated 11.02.2022, the moratorium imposed and the Resolution Professional has been appointed. In so far as Appeal No. 2 is concerned, the Impugned Order was passed on 22.04.2022.

3. In these appeals, the Appellants raised the issue that since the vires of Section 95 of the Code is under challenge in the Hon'ble Supreme Court in Writ Petition (Civil) No. 1281 of 2021 and many of such cases which are tagged alongwith it and the stay has also been granted in those Writ Petitions, therefore, these matters may wait for the decision of the Hon'ble Supreme Court.

4. Today, Counsel for Appellants has fairly submitted that the Writ Petition (Civil) No. 1281 of 2021 titled as ***Dilip B. Jiwarajka Vs. Union of India & Ors.***

has been dismissed on 09.11.2023. Therefore, the provisions of Section 95 are held to be intra-vires.

5. In such a situation, we do not find any reason to interfere in these appeals with the Impugned Orders. With these observations, the present appeals are hereby dismissed.

**[Justice Rakesh Kumar Jain]**  
**Member (Judicial)**

**[Mr. Naresh Salecha]**  
**Member (Technical)**

*Sim/Ravi*