

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1997 of 2024

&

I.A. No. 7359, 7471 of 2024

IN THE MATTER OF:

Nilay R. Shah

...Appellant

Versus

State Bank of India & Anr.

...Respondents

Present:

For Appellant : Present but appearance not marked.

**For Respondents : Mr. Siddharth Sangal and Mr. Chirag Sharma,
Advocates for R-1/SBI.**

**Mr. Atul Sharma and Mr. Vikram Choudhary,
Advocates for R-2/IRP.**

WITH

Company Appeal (AT) (Insolvency) No. 2009 of 2024

&

I.A. No. 7408, 7528 of 2024

IN THE MATTER OF:

Bhumika Nilay Shah

...Appellant

Versus

State Bank of India & Anr.

...Respondents

Present:

For Appellant : Present but appearance not marked.

**For Respondents : Mr. Siddharth Sangal and Mr. Chirag Sharma,
Advocates for R-1/SBI.**

**Mr. Atul Sharma and Mr. Vikram Choudhary,
Advocates for R-2/IRP.**

WITH

Company Appeal (AT) (Insolvency) No. 1956 of 2024

IN THE MATTER OF:

Anjana Sunil Mishra

...Appellant

Versus

State Bank of India & Anr.

...Respondents

Present:

For Appellant : Present but appearance not marked.

**For Respondents : Mr. Siddharth Sangal and Mr. Chirag Sharma,
Advocates for R-1/SBI.**

**Mr. Atul Sharma and Mr. Vikram Choudhary,
Advocates for R-2/IRP.**

WITH

Company Appeal (AT) (Insolvency) No. 1957 of 2024

IN THE MATTER OF:

Sunil Mishra

...Appellant

Versus

State Bank of India & Anr.

...Respondents

Present:

For Appellant : Present but appearance not marked.

**For Respondents : Mr. Siddharth Sangal and Mr. Chirag Sharma,
Advocates for R-1/SBI.**

**Mr. Atul Sharma and Mr. Vikram Choudhary,
Advocates for R-2/IRP.**

O R D E R
(Hybrid Mode)

29.10.2024: These Appeals have been filed challenging the Order dated 05.08.2024 passed by the Learned Adjudicating Authority (National Company

Law Tribunal, Ahmedabad, Division Bench, Court – 1), admitting Section 95 Application filed by the State Bank of India.

2. Appellants before us are the Personal Guarantors. On the Application under Section 95, Resolution Professional (RP) was appointed who submitted the Report. Appellant also filed objection to the Report which after consideration under Section 100 has been admitted.

3. Learned Counsel for the Appellant challenging the Order contends that the Guarantee which was given by the Personal Guarantor was only limited Guarantee as per Clause 24 of the Deed of Guarantee. It is submitted that in view of the limited Guarantee, the amount claim under Section 95 was not payable.

4. Learned Counsel for the Respondent replying the submission of the Appellant contends that the issue of the extent of Guarantee given by the Personal Guarantor is to be examined and decided at the time of finalisation of the payment Plan and the said cannot be a ground for challenging the Order admitting Section 95 Application. He further submits that the DRT in its Order has already crystallised the dues.

5. We have considered the submissions of Counsel for the Parties and perused the record.

6. The submission on which Appellant is challenging the Order of Section 95 is the ground of limited Guarantee. The Application has only been admitted and the payments Plan have yet to be finalised. The said question

is to be looked into by the Adjudicating Authority at the time of finalisation of the payment Plan.

With these observations, we dismiss the Appeal.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

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