

Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, Connaught Place, New Delhi - 110001

13th September, 2022

Subject: Judgment¹ dated 6th September, 2022 of the Hon'ble SC in the matter of K. Paramasivam Vs. The Karur Vysya Bank Ltd. & Anr. [Civil Appeal No. 9286 of 2019].

The Hon'ble Supreme Court vide its order dated 6th September, 2022, held that the liability of the guarantor is co-extensive with that of the principal borrower and, it is open to the financial creditor to proceed against the guarantor without first proceeding against the principal borrower. The Hon'ble SC made some important findings and observations as under:

Sl. No.	Subject / Issue	Ruling	Para / Page No.
1	Whether an action under section 7 of the Code can be initiated by a financial creditor, against a corporate person, in relation to a corporate guarantee, given in respect of a loan advanced to the principal borrower, who is not a corporate person?	<p>(a) Under section 7 of the IBC, CIRP can be initiated against a corporate entity who has given a guarantee to secure the dues of a non-corporate entity as a financial debt accrues to the corporate person, in respect of the guarantee given by it once the borrower commits default. The guarantor is then, the corporate debtor.</p> <p>(b) Relying on its decision in <i>Laxmi Pat Surana vs. Union Bank of India and Another</i>, held that the liability of the guarantor is co-extensive with that of the Principal Borrower. It is open to the financial creditor to proceed against the guarantor without first suing the Principal Borrower.</p>	<p>13/5</p> <p>16/10</p>

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