

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

**Company Appeal (AT) (Insolvency) No. 509 of 2024**

[Arising out of order dated 28.02.2024 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III in Company Petition IB-1038(ND)2020]

**IN THE MATTER OF:**

**Mr. Arvind Dham**

R/o B-7, Geetanjali Enclave,  
New Delhi – 110017.  
Email: [Arvind.dham@amzen.in](mailto:Arvind.dham@amzen.in)

**...Appellant**

**Versus**

**1. State Bank of India**

Having its Registered Office at:  
State Bank Bhavan, Madame Cama Road,  
Nariman Point, Mumbai, Maharashtra – 400021.  
Email: [sbi.04109@sbi.co.in](mailto:sbi.04109@sbi.co.in)

**2. Gian Chand Narnag**

Resolution Professional,  
B-23, Friends Tower, Sector-9,  
Rohini, New Delhi – 110085.  
Email: [narange58@gmail.com](mailto:narange58@gmail.com)

**...Respondents**

**Present:**

**For Appellant: Mr. Alok Dhir, Ms. Udit Singh, Advocates.**

**For Respondents: Mr. Krishnendu Datta, Sr. Advocate with Mr. Anoop Rawat, Mr. Siddhant Kant, Mr. Vimal Asthana, Ms. Charu Bansal, Mr. Prithviraj Oberoi, Advocates for R-1.**

**Mr. Abhishek Anand, Ms. Sakshi Chahar, Mr. Karan Kohli, Advocates for R-2.**

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## **J U D G M E N T**

### **ASHOK BHUSHAN, J.**

This Appeal by Personal Guarantor of the Corporate Debtor – Stride Auto Parts Ltd. has been filed challenging order dated 28.02.2024 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III by which order Section 95(1) application filed by the State Bank of India has been admitted under Section 100 of the I&B Code. The Appellant – Personal Guarantor aggrieved by admission of Section 95 application has come up in this Appeal. Brief facts of the case necessary for deciding this appeal are:

- (i) The Appellant has given personal guarantee to the two Corporate Debtors namely Castex Technologies Pvt. Ltd. and Stride Auto Parts Ltd.
- (ii) The Appellant has given Deed of Guarantee on 24.09.2015 in favour of L&T Finance Ltd. to secure the debt of Castex Technologies Pvt. Ltd.
- (iii) On 13.01.2016 and 14.01.2016, the Appellant executed a Deed of Guarantee in favour of State Bank of India to secure the debt of Stride Auto Parts Ltd., the Corporate Debtor.
- (iv) An application under Section 7 was filed by the State Bank of India before the NCLT, Chandigarh praying initiation of CIRP against the Corporate Debtor- Castex Technologies Pvt. Ltd.

NCLT vide order dated 20.12.2017 admitted Section 7 application filed by the State Bank of India. CIRP was initiated against Castex Technologies Pvt. Ltd.

- (v) On 08.01.2019, a Section 9 application filed against Corporate Debtor- Stride Auto Parts Ltd. has been admitted by the NCLT, New Delhi.
- (vi) On 24.09.2018, State Bank of India issued notice under Section 13(2) to the Appellant for payment of outstanding dues payable by the Corporate Debtor.
- (vii) On 23.01.2020, Section 95 application was filed against the Appellant by L&T Finance Ltd before the NCLT, New Delhi, in which notices were issued.
- (viii) State Bank of India issued Demand Notice under Section 95 to the Appellant on 19.08.2020 for payment of outstanding dues as per the guarantee given by the Appellant to the loan of the Corporate Debtor.
- (ix) On 21.10.2020, the State Bank of India filed Section 95 application before the Adjudicating Authority on which IB-1038(ND)2020 was registered.
- (x) On 23.11.2020, NCLT, New Delhi appointed Resolution Professional in Section 95 application filed by the State Bank of India.
- (xi) Appellant filed I.A. No.5378 of 2020 praying for recall of order dated 23.11.2020.

- (xii) Order dated 23.11.2020 was also challenged by the Appellant before this Tribunal by filing Company Appeal (AT) (Ins.) No.18 of 2021 which was disposed of by this Tribunal on 18.01.2021 while observing that the Appellant may pursue his I.A. No.5378 of 2020.
- (xiii) On 06.04.2022, L&T's application under Section 95(1) filed before NCLT, New Delhi was dismissed as withdrawn.
- (xiv) On 12.01.2024, I.A. No.5378 of 2020 was dismissed and on 28.02.2024, Section 95 application filed by the State Bank of India has been admitted after considering the Report submitted by the Resolution Professional and objections raised by the Appellant thereon. Aggrieved by the order dated 28.02.2024, this Appeal has been filed by the Appellant.

2. We have heard Shri Alok Dhir, learned counsel for the Appellant and Shri Krishnendu Datta, learned senior counsel appearing for the Respondent No.1 – State Bank of India and Shri Abhishek Anand, learned counsel appearing for Respondent No.2 – Resolution Professional.

3. Shri Alok Dhir, learned counsel for the Appellant challenging the order dated 28.02.2024 submits that the order passed by NCLT, New Delhi is without jurisdiction. It is submitted that an application was filed by L&T Finance Ltd. against the Appellant under Section 95 before the NCLT, New Delhi on 23.01.2020 and on filing of said application interim moratorium has been kicked in as contemplated under Section 96 of the I&B Code.

When interim moratorium has been commenced, no creditor had jurisdiction to file any proceeding including an application under Section 95. The application filed by State Bank of India on 20.10.2020 before the NCLT, New Delhi is without jurisdiction which being hit by interim moratorium which commenced on filing of application by L&T Finance Ltd. It is further submitted that the application which was filed by the State Bank of India was barred by limitation. The Corporate Debtor had defaulted in repayment w.e.f. 29.12.2016 and the application has been filed on 20.10.2020 being after a period of 3 years is barred by time.

4. Shri Krishnendu Datta, learned senior counsel appearing for the State Bank of India refuting the submission of learned counsel for the Appellant submits that the Adjudicating Authority has rightly admitted Section 95 application filed by the State Bank of India. It is submitted that application filed by L&T Finance Ltd. under Section 95(1) before the NCLT, Delhi on 23.01.2020 was without jurisdiction. Proceeding under Section 7 has already been filed by the State Bank of India against Castex Technologies Pvt. Ltd. which application was admitted on 20.12.2017. The application filed by the L&T Finance Ltd., on which CP (IB) No.499/ND/2020 was registered was with regard to guarantee given by the Appellant in the debt of Castex Technologies Ltd. Learned counsel for the Respondent has referred to the application filed by the L&T Finance Ltd. which is part of the Appeal at page 180. It is submitted that when Section 7 application was already pending before the NCLT, Chandigarh, Section 95 application against the Personal Guarantor could have been filed only

before NCLT, Chandigarh as per Section 60(1) and Section 60(2). It is submitted that filing of the application by L&T Finance under Section 95 with regard to another Corporate Debtor – Castex Technologies Pvt. Ltd. at NCLT, New Delhi was without jurisdiction and on an application filed without jurisdiction interim moratorium shall not kick-in, hence, there is no invalidity in filing Section 95 application by the State Bank of India against the Appellant on 20.10.2020 before NCLT, New Delhi. It is submitted that it is admitted after for Section 95 application filed by the L&T Finance has already been dismissed as withdrawn on 06.04.2022 which clearly indicate that application being without jurisdiction has been dismissed as withdrawn. It is submitted that submission of the Appellant that application filed by State Bank of India is barred by time is not correct. Notices against the Appellant was issued on 24.09.2018, which is within three years from date of default of the Corporate Debtor i.e. 29.09.2016. The application under Section 95 could have been filed only after invoking the guarantee. The application is well within time.

5. Learned counsel for the parties in support of their submissions have relied on various judgments of Hon'ble Supreme Court and this tribunal which shall be referred to while considering the submissions in detail.

6. The ground which has been pressed by learned counsel for the Appellant challenging the admission order passed by NCLT, New Delhi on an application filed by the State Bank of India under Section 95(1) is that the ground that initiation of proceeding under Section 95 was without

jurisdiction as well as appointment of Resolution Professional since L&T Finance has already filed an application under Section 95 at NCLT, New Delhi on 23.01.2020 and by filing application interim moratorium has commenced, hence, no other application under Section 95 by any other creditor against the Appellant could have been filed. Learned counsel for the Appellant in support of his submission has relied on judgment of this Tribunal in **“Bhavesh Gandhi vs. Central Bank of India, Company Appeal (AT) (Ins.) No.923 of 2022”** where this Tribunal noticing the fact that in Section 95 application filed by State Bank of India interim moratorium has commenced and thereafter an application was filed by Central Bank of India on which Resolution Professional was appointed and the order appointing the Resolution Professional in the application filed by Central Bank of India was challenged, this Tribunal took view that when interim moratorium has commenced, there shall be prohibition on the creditors of the debtor from initiating any legal action in respect of any debt. In Para 14 and 15 following has been laid down:

*“14. As noted above, by order dated 21.06.2021, interim moratorium was commenced from the date of application. Section 96(1)(a) provides that an interim-moratorium shall commence on the date of the application in relation **to all the debts**. Further, Section 96(1)(b) provides 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**' obviously refers to other creditors of the debtor apart from the creditor on whose application interim moratorium has commenced. In the present case, the date on which application was filed by the Central Bank of India under Section 95 is 12.04.2021 i.e. after the commencement of the interim moratorium, as noted in the order dated 21.06.2021. The interim moratorium under Section 96 (1)(b)(ii) creates a prohibition on the creditors of the debtor from initiating any legal action in respect of any debt. The use of expression '**any debt**' also clearly indicate that debt on basis of which moratorium has commenced is not contemplated by the expression 'any debt'. With regard to all debts of debtor i.e. Personal Guarantor in the present case, no proceeding can be initiated by virtue of Section 96(1)(b). The application filed by the Central Bank of India on 12.10.2021, thus, was clearly hit by Section 96(1)(b)(ii) and the Adjudicating Authority could not have proceeded with the said application and appointed the Resolution Professional. The order dated 13.06.2022 impugned in this Appeal is clearly unsustainable.

15. Our above view is further fortified by the scheme of Code under Chapter-III. After admission of application under Section 100, moratorium commences in relation to all the 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 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 scheme of Code does not contemplate manifold applications against same Personal Guarantor by different lenders. Multiplicity of applications against same Personal Guarantor is not contemplated under Chapter III. When the insolvency resolution process commences against a Personal Guarantor, claims of all creditors are taken care of under the scheme of the Code.”*

7. The law thus is well settled that interim moratorium is kicked-in against the Personal Guarantor on an application under Section 95 by a creditor and appointment of Resolution Professional on an application by another creditor is unsustainable. The above submission of the Appellant with regard to legal position as contemplated by Section 95 and 96 is fully supported by the above judgment of this Tribunal.

8. Shri Krishnendu Datta, learned senior counsel to meet the above contention submits that filing of application by L&T before NCLT, New Delhi against the Appellant on 23.01.2020 was without jurisdiction. It is submitted that Section 7 application was filed by the State Bank of India against the Castex Technologies Pvt. Ltd. before NCLT, Chandigarh which application was admitted on 20.12.2017, which is an admitted fact. In the

‘List of Dates and Events’ given by the Appellant against date 20.12.2017 following has been mentioned:

20.12.2017	<i>the Ld. Adjudicating Authority, Chandigarh Bench, vide its order dated 20.12.2017 was pleased to initiate the Corporate Insolvency Resolution Process (CIRP) of Castex in CP(IB) No. 116/Chd/Hry/2017.</i>
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9. It is further relevant to notice that L&T Finance Ltd. has issued notice to the Appellant for debt owed by Castex Technologies Pvt. and in pursuance to Demand Notice dated 20.12.2019 by L&T Finance, Section 95 application was filed against the Appellant on 23.01.2020. In the ‘List of Dates and Events’, the Appellant has itself mentioned following against dates 20.12.2019 and 23.01.2020:

20.12.2019	<i>L&amp;T issued a demand notice dated 20.12.2019 upon the Applicant for an alleged outstanding demand of INR 92,19,11,974 against the dues owed by Castex</i>
23.01.2020	<i>pursuant to the Demand Notice dated 20.12.2019, L&amp;T filed application being IB-499/ND/2020, under Section 95 of the Code before the Ld. Adjudicating Authority, New Delhi against the</i>

	<i>Appellant on 23.01.2020, thereby seeking initiation of Insolvency Proceedings against the Appellant. Therefore, by virtue of Section 96 of the Code, interim moratorium was automatically imposed with effect from 23.01.2020 with respect to all debts owed by the Appellant to any Creditor and thus, there was a complete prohibition on initiation of continuation of any proceedings for recovery of any debt, from the Appellant herein.</i>
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10. The submission of Shri Krishnendu Datta is that Section 7 application has been initiated against Castex Technologies Pvt. Ltd. at NCLT, Chandigarh, therefore, application under Section 95 for initiation proceeding against the Personal Guarantor has to be filed before NCLT, Chandigarh. Learned counsel for the Respondent has relied on Section 60(1) and Section 60(2) of the Code, which is as follows:

***“60. Adjudicating Authority for corporate persons. – (1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located.***

*(2) Without prejudice to sub-section (1) and notwithstanding anything to the contrary contained in this Code, where a corporate insolvency resolution process or liquidation proceeding of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution or <sup>1</sup> [liquidation or bankruptcy of a corporate guarantor or personal guarantor, as the case may be, of such corporate debtor] shall be filed before such National Company Law Tribunal.”*

11. Sub-section (2) of Section 60 clearly mandates, when CIRP proceeding of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution of a Corporate Guarantor or Personal Guarantor of such Corporate Debtor shall be filed before such National Company Law Tribunal. As noted above, the application under Section 7 was filed before NCLT, Chandigarh by State Bank of India against Castex Technologies Pvt. Ltd. on 20.12.2017, hence, the application filed by L&T Finance under Section 95 against the Personal Guarantor i.e. the Appellant had to mandatorily filed before NCLT, Chandigarh as per Section 60(2). This clearly indicate that application filed by L&T Finance at NCLT, New Delhi was filed in jurisdiction of that NCLT which had no jurisdiction to entertain the application or pass an order. It is further relevant to notice that application filed by L&T Finance was subsequently dismissed as withdrawn on 06.04.2022. Withdrawal of the application by order of the Court clearly indicate that the application could not have proceeded at NCLT, New Delhi, hence, the same has been

withdrawn. The question to be considered is as to whether Section 95(1) empowers the creditor to apply either by himself, or jointly with other creditors, or through a resolution professional for initiating an insolvency resolution process under this section by submitting an application to the Adjudicating Authority. Section 95(1) is as follows:

**“95. Application by creditor to initiate insolvency resolution process.** – (1) *A creditor may apply either by himself, or jointly with other creditors, or through a resolution professional to the Adjudicating Authority for initiating an insolvency resolution process under this section by submitting an application.*”

12. Section 96(1) with regard to interim moratorium provides as follows:

**“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.”*

13. Filing of Section 95 application before the Adjudicating Authority has to be as per Section 60(1) and 60(2). The Adjudicating Authority referred to in Section 95(1) is the Adjudicating Authority which has jurisdiction to entertain the application under Section 95. In the present case, the application filed by the L&T Finance under Section 95, which was filed before NCLT, New Delhi was clearly not maintainable since as per Section 60(2) of the Code application under Section 95 by L&T Finance ought to have been filed before the Adjudicating Authority where insolvency resolution process against the Corporate Debtor is pending. Section 7 application filed by State Bank of India against Castex Technologies Pvt. Ltd. on 20.12.2017 being pending before NCLT, Chandigarh, no application filed against Personal Guarantor was maintainable at NCLT, New Delhi and the application filed by L&T Finance on 23.01.2020 under Section 95 was not filed before the Adjudicating Authority who was competent to entertain the application, hence, the interim moratorium under Section 96 shall also not kick-in since the application was not filed before jurisdictional NCLT. In event, the submission of the Appellant is accepted that on application filed before the Adjudicating Authority which has no jurisdiction to entertain the application against Personal Guarantor interim moratorium may kick-in that will be against the statutory scheme under the I&B Code.

14. Learned counsel for the Appellant in support of his submission that order passed by the Adjudicating Authority which has no jurisdiction is nullity has placed reliance on judgment of Hon'ble Supreme Court in **"Kiran Singh vs. Chaman Paswan, AIR 1954 SC 340"** and judgment of

Hon'ble Supreme Court in **"Foreshore Cooperative Housing Society Ltd. vs. Praveen D. Desai, AIR 2015 SC 2006"**. To support his submission that when Court has no jurisdiction it cannot confer upon it by consent or waiver of the parties, Appellant has relied on Para 45, 46 and 47 of the judgement, where following has been laid down:

*"45. The term 'jurisdiction' is a term of art; it is an expression used in a variety of senses and draws colour from its context. Therefore, to confine the d term 'jurisdiction' to its conventional and narrow meaning would be contrary to the well-settled interpretation of the term. The expression 'jurisdiction', as stated in Halsbury's Laws of England, 4th Edn., Vol. 10, Para 715, is as follows:*

*"715. Meaning of 'jurisdiction'. By 'jurisdiction is meant the authority which a court has to decide matters that are litigated before it or to take cognisance of matters presented in a formal way for its decision. The limits of this authority are imposed by the statute, charter or commission under which the court is constituted, and may be extended or restricted by similar means.*

*If no restriction or limit is imposed the jurisdiction is said to be unlimited. A limitation may be either as to the kind and nature of the claims and matters of which the particular court has cognisance, or as to the area over which the jurisdiction extends, or it may partake of both these characteristics."*

*46. In American Jurisprudence, Vol. 32-A, Para 581, it is said that:*

*"Jurisdiction is the authority to decide a given case one way or the other. Without jurisdiction, a court cannot proceed at all in any case;*

*jurisdiction is the power to declare law, and when it ceases to exist, the only function remaining to a court is that of announcing the fact and dismissing the cause."*

*Further, in Para 588, it is said that lack of jurisdiction cannot be waived, consented to, or overcome by agreement of the parties.*

*47. It is well settled that essentially jurisdiction is an authority to decide a given case one way or the other. Further, even though no party has raised objection with regard to jurisdiction of the court, the court has power to determine its own jurisdiction. In other words, in a case where the court has no jurisdiction it cannot confer upon it by consent or waiver of the parties."*

15. Learned counsel for the Respondent has relied on judgment of Hon'ble Supreme Court reported in **"(2004) 8 SCC 706, Balvant N. Viswamitra & Ors. Vs. Yadav Sadashiv Mule through Lrs. And Ors."** where Hon'ble Supreme Court held that where a court lacks inherent jurisdiction in passing a decree or making an order, a decree or order passed by such court would be without jurisdiction, *non est* and *void ab initio*. In Para 9 and 10 of the judgment following has been held:

*"9. The main question which arises for our consideration is whether the decree passed by the trial court can be said to be "null" and "void". In our opinion, the law on the point is well settled. The distinction between a decree which is void and a decree which is wrong, incorrect, irregular or not in accordance with law cannot be overlooked or*



*ignored. Where a court lacks inherent jurisdiction in passing a decree or making an order, a decree or order passed by such court would be without jurisdiction, non est and void ab initio. A defect of jurisdiction of the court goes to the root of the matter and strikes at the very authority of the court to pass a decree or make an order. Such defect has always been treated as basic and fundamental and a decree or order passed by a court or an authority having no jurisdiction is a nullity. Validity of such decree or order can be challenged at any stage, even in execution or collateral proceedings.*

*10. Five decades ago, in Kiran Singh v. Chaman Paswan this Court declared: (SCR p. 121)*

*"It is a fundamental principle well established that a decree passed by a court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, d even at the stage of execution and even in collateral proceedings. A defect of jurisdiction, strikes at the very authority of the court to pass any decree, and such a defect cannot be cured even by consent of parties."*

*(emphasis supplied)"*

16. There is no dispute to the proposition of law laid down by the Hon'ble Supreme Court in judgment relied by learned counsel for the parties that the order passed by the Court without jurisdiction is nullity. In the present case it is not the case of the Appellant that the NCLT, New Delhi has no jurisdiction to pass order on Section 95(1) or it lacks jurisdiction. The submission of the Appellant is that in view of the interim moratorium

kicked-in on the basis of application filed by L&T Finance, application was not maintainable. We have already noticed that application filed by L&T Finance was filed without jurisdiction before NCLT, New Delhi.

17. Learned counsel for the Respondent has placed reliance on judgment of Hon'ble Supreme Court in **"State Bank of India vs. V. Ramakrishnan, (2018) 17 SCC 394"** where the Hon'ble Supreme Court has occasion to notice Section 60(1) and 60(3) of the Code. In Para 24 of the judgment following has been held:

*"24. The scheme of Sections 60(2) and (3) is thus clear – the moment there is a proceeding against the corporate debtor pending under the 2016 Code, any bankruptcy proceeding against the individual personal guarantor will, if already initiated before the proceeding against the corporate debtor, be transferred to the National Company Law Tribunal or, if initiated after such proceedings had been commenced against the corporate debtor, be filed only in the National Company Law Tribunal. However, the Tribunal is to decide such proceedings only in accordance with the Presidency Towns Insolvency Act, 1909 or the Provincial Insolvency Act, 1920, as the case may be. It is clear that sub-section (4), which states that the Tribunal shall be vested with all the powers of the Debts Recovery Tribunal, as contemplated under Part III of this Code, for the purposes of sub-section (2), would not take effect, as the Debts Recovery Tribunal has not yet been empowered to hear bankruptcy*

*proceedings against individuals under Section 179 of the Code, as the said Section has not yet been brought into force. Also, we have seen that Section 249, dealing with the consequential amendment of the Recovery of Debts Act to empower Debts Recovery Tribunals to try such proceedings, has also not been brought into force. It is thus clear that Section 2(e), which was brought into force on 23-11-2017 would, when it refers to the application of the Code to a personal guarantor of a corporate debtor, apply only for the limited purpose contained in Sections 60(2) and (3), as stated hereinabove. This is what is meant by strengthening the Corporate Insolvency Resolution Process in the Statement of Objects of the Amendment Act, 2018.”*

18. The above was the case where the proceeding was pending against the Corporate Debtor. It was held that the moment there is a proceeding against the corporate debtor pending, if any bankruptcy proceeding against the individual personal guarantor already initiated, same shall stand transferred. The ratio of said judgment will also clearly apply where the proceedings against the Corporate Debtor is pending before Adjudicating Authority, any application under Section 95 against the Personal Guarantor has to be filed in the same Adjudicating Authority. As noted above, application filed by L&T Finance subsequently on 06.04.2022 was dismissed as withdrawn.

19. The second submission which was pressed by learned counsel for the Appellant is that application filed by State Bank of India was barred by

limitation. It is submitted that the Corporate Debtor defaulted in repayment of debt w.e.f. 29.12.2016 on which date account of the Corporate Debtor was declared as NPA and the application was filed on 23.11.2020 after period of three years. Learned counsel for the Bank refuting the submission submits that the notice was issued against the Personal Guarantor only on 24.09.2018. Copy of the notice has been brought on record as Annexure A-11 to the Appeal. Demand Notice dated 19.08.2020 issued to the Appellant referring the Appellant as Personal Guarantor to the Corporate Debtor. Notice stated that amount of Rs.177,89,34,838/- is due as on 18.08.2020 payable by the Personal Guarantor. The Personal Guarantor was requested to pay the amount within 14 days from receipt of notice. It is thus clear that Personal Guarantee was invoked under the Deed of Guarantee by issuing notice on 18.08.2020. We may also refer to the notice issued under Section 13(2) of the SARFAESI Act, 2002, which was issued on 24.09.2018. Even if the, limitation is counted by date of issuance of notice under Section 13(2) of the SARFAESI Act, application filed in the year 2020 by State Bank of India under Section 95 was well within time. Thus, we do not find any substance in submission of the Appellant that the Application filed by State Bank of India was barred by time.

20. In view of the foregoing discussion and our conclusions, we do not find any merit in the submissions raised by learned counsel for the Appellant challenging the order of admission passed by the Adjudicating Authority under Section 100 of the I&B Code. It is relevant to notice that

there is no denial of debt and default by the Appellant. We do not find any merit in the Appeal. Appeal is dismissed.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Barun Mitra]**  
**Member (Technical)**

**[Arun Baroka]**  
**Member (Technical)**

**NEW DELHI**

***16<sup>th</sup> April, 2024***

*Archana*