A personal guarantee expressly drafted as a continuing and irrevocable guarantee does not stand discharged merely because the guarantor resigns as director of the corporate debtor. Revocation of such guarantee under Section 130 of the Contract Act requires notice to the creditor and operates only prospectively

The **New Delhi National Company Law Appellate Tribunal (NCLAT)** in the case of **Nakul Gupta vs State Bank of India [Company Appeal (AT) (Insolvency) No. 494 of 2024] dated July 06, 2026**, has held that a personal guarantee expressly drafted as a continuing and irrevocable guarantee does not stand discharged merely because the guarantor resigns as director of the corporate debtor. Revocation of such guarantee under Section 130 of the Contract Act requires notice to the creditor and operates only prospectively.

The Tribunal also reinforced that where the creditor's claim and debt trace back to the original loan and guarantee documents, the guarantor cannot avoid insolvency proceedings by arguing that later renewals automatically extinguished the original guarantee, especially when the guarantee itself states that future variations do not affect liability.

The Tribunal examined the nature of the 2017 deed of guarantee and accepted SBI's submission that the guarantee was continuing and irrevocable. The Tribunal noted that under the guarantee, the guarantor's liability was payable on demand, the guarantor was deemed to be principal debtor for enforcement purposes, and the guarantee was expressly stated to continue notwithstanding disputes between the bank and borrower. The Tribunal further held that, renewal of the working capital facilities by SBI did not amount to novation or such variance as would discharge the guarantor under Sections 62 or 133 of the Contract Act. Even otherwise, Section 133 discharges the surety only as to transactions subsequent to the variance, while liability for earlier debt continues.

On the resignation point, NCLAT held that merely stepping down as director did not discharge Nakul Gupta from his obligations under the guarantee. The Tribunal emphasised that a continuing guarantee under Section 129 extends to a series of transactions and that revocation under Section 130 can operate only for future transactions and only upon notice to the creditor. It found that no such notice of revocation had been issued to SBI.

The Tribunal also agreed with the Adjudicating Authority's view that even if there was an increase in sanction limits without the guarantor's consent, the guarantor would still remain liable for the debt existing prior to such variance.

While discussing Section 133 of the Contract Act, NCLAT reiterated the legal principle that variance without the surety's consent discharges the surety only for transactions subsequent to the variance, and not for transactions already covered. It added that the debt registered with the Information Utility flowed from the loan and guarantee documents of Oct 17, 2017, and the NeSL material did not show any fresh debt arising from a separate unguaranteed facility under the Jan 01, 2019 renewal.