The liability of the guarantor is co-extensive with that of the Principal Borrower, and that an acknowledgment of liability by the Principal Borrower extends the limitation period for initiating proceedings against the Personal Guarantor as well

The **Kolkata Special Bench of the National Company Law Tribunal (NCLT)** in the case of **Indian Bank vs Santosh Jhawar, Personal Guarantor of Burgundy Life Style Pvt Ltd [I.A. (IB) No. 1690/KB/2024] dated June 18, 2026**, has held that where the guarantee is payable on demand, limitation against the personal guarantor begins to run when demand is made and the guarantor commits breach by not complying with the demand within the stipulated period. Further, where, before expiry of such limitation period, the Principal Borrower acknowledges the debt in writing, including through OTS proposals and audited balance sheets, a fresh period of limitation is computed under Section 18 of the Limitation Act, 1963, which also enures for proceedings against the Personal Guarantor because the guarantor's liability is co-extensive with that of the Principal Borrower.

The NCLT held that service of notice at the last known address is valid and effective service in law, and that a Financial Creditor may directly maintain proceedings under Section 95 of the IBC against the Personal Guarantor without first initiating or simultaneously pursuing CIRP against the Principal Borrower.

The Tribunal observed that the liability of the guarantor is co-extensive with that of the Principal Borrower, and that an acknowledgment of liability by the Principal Borrower extends the limitation period for initiating proceedings against the Personal Guarantor as well. It further held that, under the terms of the Deed of Guarantee, the demand notice dated May 04, 2016 issued under Section 13(2) of the SARFAESI Act served as invocation of the guarantee, and since the notice granted 60 days' time, limitation commenced from July 04, 2016 upon expiry of that period without repayment.

The Tribunal noted that the OTS letter dated May 21, 2019 was within three years from July 04, 2016 and therefore attracted Section 18 of the Limitation Act, 1963; the subsequent OTS letters and audited balance sheets were also issued before expiry of the prescribed period. The objection that no acknowledgment existed in the books of account was rejected, and the Tribunal observed that even though the Financial Creditor's name was not disclosed in the financial statements placed on record, the debt stood sufficiently acknowledged.

The Tribunal also rejected the challenge to the demand notice on the ground of lack of authority for want of supporting material, held that service at the last known address constituted valid service in law, and held that maintainability of a Section 95 application is not conditioned upon prior or parallel CIRP against the Principal Borrower.