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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
PAMIDIGHANTAM SRI NARASIMHA; J., ALOK ARADHE; J.
CIVIL APPEAL No. 8527 OF 2022; APRIL 28, 2026
STATE BANK OF INDIA & ORS. *versus* **DOHA BANK Q.P.S.C. & ANR.**

Insolvency and Bankruptcy Code, 2016 – Section 5(8) – Financial Debt – Corporate Guarantee - A liability arising from a corporate guarantee squarely falls within the ambit of "financial debt" under Section 5(8) of the Code - The amount of any liability in respect of a guarantee for money borrowed against the payment of interest constitutes a financial debt, making the beneficiary lenders eligible to be recognized as "financial creditors" - A guarantor incurs a coextensive liability with that of the principal borrower, which is fully enforceable in law. *[Paras 22 – 31]*

Insolvency and Bankruptcy Code, 2016 – Non-Disclosure of Guarantee in Financial Statements - Mere non-disclosure of a corporate guarantee in the financial statements or annual reports of the Corporate Debtor cannot deprive the beneficiary lenders from asserting their claim on the basis of such a guarantee - At the very highest, such an omission can only be treated as a default committed by the Corporate Debtor under company law, but it cannot legitimately defeat the recognition of a financial debt or status of a financial creditor under the Code. *[Para 25]*

Insolvency and Bankruptcy Code, 2016 – Production of Documents at Appellate Stage - An appeal is a continuation of the original proceeding - Documents relevant to deciding the lis (dispute)—such as corporate guarantees can be produced at the appellate stage before the NCLAT - Merely because such documents were not produced before the NCLT does not allow for any adverse inference to be drawn regarding their genuineness, provided their execution is otherwise established. *[Para 27]*

Indian Stamp Act, 1899 / Maharashtra Stamp Act, 1958 – Insufficient Stamping – Effect on Insolvency Claims - The defect of insufficient stamping of a document is curable in nature and does not go to the root of the validity of the instrument or render it void or unenforceable - The Stamp Act is a fiscal measure enacted to secure revenue for the State and is not intended to be used as a weapon by a litigant to defeat the cause of opponents - an insolvency claim cannot be rejected or negated merely because the underlying corporate guarantee is alleged to be insufficiently stamped or lacks payment under a specific state stamp legislation when executed in another jurisdiction. *[Paras 28 - 32]*

Insolvency and Bankruptcy Code, 2016 – Section 62 – Interference with Concurrent Findings - While the Supreme Court does not routinely re-appreciate facts when the NCLT and NCLAT have recorded concurrent findings, an exception is carved out where the findings of fact are shown to be glaringly and manifestly perverse - Where the tribunals reject valid claims of a consortium of lenders by misinterpreting asset classification norms or ignoring established statutory verifications, the findings warrant interference under Section 62. *[Relied on Interplay Between Arbitration Agreements under Arbitration & Conciliation Act, 1996 and Stamp Act, 1899, IN RE, (2024) 6 SCC 1; Hindustan Steel Ltd. v. Dilip Construction Company, (1969) 1 SCC 597; China Development Bank v. Doha Bank Q.P.S.C. & Ors., (2025) 7 SCC 729; Para 15 - 26, 30]*

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J U D G M E N T

ALOK ARADHE, J.

1. This appeal under Section 62 of the Insolvency and Bankruptcy Code, 2016 (Code) has been preferred by SBI Consortium comprising State Bank of India, Bank of India, UCO Bank, Syndicate Bank, Oriental Bank of Commerce and Indian Overseas Bank. The appeal arises from the order dated 14.10.2022 passed by the National Company Law Appellate Tribunal (NCLAT), whereby the order dated 02.03.2021 passed by National Company Law Tribunal (NCLT) was affirmed and the appeal was dismissed.

2. This appeal raises important question regarding validity and enforceability of corporate guarantees within the framework of the Code. The challenge mounted by respondents to the validity of the said corporate guarantees has been made on several grounds, namely, the timing and circumstances of the execution of guarantee, the alleged absence of proper disclosure in financial statements, the manner of their verification, the corporate insolvency resolution process and to their alleged insufficiency of stamping. These objections call for careful scrutiny to determine whether such grounds can legitimately defeat the recognition of a “financial debt” and status of a “financial creditor” under the Code.

FACTUAL BACKGROUND

3. The material facts giving rise to filing of this appeal, are as follows:

On 19.03.2010, a Facility Agreement was executed between Respondent No. 1, Doha Bank and Reliance Infratel Limited (RITL), namely Corporate Debtor (CD), whereby a foreign currency loan of USD 250 million was extended. Thereafter, on 04.03.2011, a Security Trustee Agreement was executed between the Consortium Lenders and Axis Trustee Services Ltd., appointing it as Security Trustee in respect of loan to Reliance Communications Ltd., (RCOM) and Reliance Telecom Ltd., (RTL).

4. The appellants, as members of a consortium of Banks, extended the rupee loan facilities of ₹6,015 crores to Reliance Communications Limited (RCOM) and ₹735 crores to Reliance Telecom Limited (RTL). On 20.02.2015, a deed of hypothecation was executed by the CD, in the favour of Security Trustee to secure the consortium lending pursuant to which a charge was created and duly registered.

5. On 26.08.2016, the accounts of RCOM, RTL and CD were classified as Non-Performing Assets (NPA) indicating default in repayment obligations. Subsequently, on 05.09.2016 and 04.12.2016, Reinstatement Agreements were executed between Doha Bank and the CD, restructuring the repayment obligations and extending repayment schedule ultimately up to 05.06.2017.

6. On 03.03.2017, the CD executed Corporate guarantees in favour of consortium lenders to secure loans extended to its group entities, namely RCOM & RTL. On 22.12.2017, the account of RITL was declared as NPA with retrospective effect from 26.08.2016.

INSOLVENCY PROCEEDINGS

7. On 15.05.2018, NCLT Mumbai initiated Corporate Insolvency Resolution Process (CIRP) against the CD. An Interim Resolution Professional (IRP) was appointed on 18.05.2018 to take over the management and invite claims from creditors. A public announcement was issued on 21.05.2018. The Security Trustee invoked the Corporate Guarantee executed by CD.

8. On 28.02.2019, Doha Bank disputed existence of such guarantees and called upon Security Trustee to withdraw the invocation. By communications dated 06.03.2019 and 18.03.2019, the Security Trustee asserted the existence and validity of the guarantees and declined interference by External Commercial Borrowings (ECB) lenders.

9. The Security Trustee, by a communication dated 18.03.2019, informed the ECB lenders that they should pursue their grievance with the borrowers and had no right to question rights of SBI consortium. The Advocates for the RITL advised the counsel of Doha Bank admitting the execution of the guarantees and stating that the existence of such guarantees had been disclosed by RCOM in their financial statements/annual reports.

10. On 30.04.2019, the NCLAT allowed the withdrawal of the appeal and directed NCLT to proceed with CIRP. On 07.05.2019, the IRP issued fresh public announcement inviting claims.

CLAIMS AND PROCEEDINGS BEFORE NCLT

11. On 17.05.2019, the appellant submitted a claim to IRP in Form 'C' for ₹3,628.67 crores. On 24.05.2019, the IRP issued notices to financial creditors and members of the suspended Board of Directors of CD to attend the first meeting of Committee of Creditors (CoC) scheduled on 30.05.2019.

12. By a communication dated 28.05.2019, Doha Bank sought a declaration from IRP that the corporate guarantees were preferential, undervalued and fraudulent as contemplated under Sections 43, 45 and 66 of the Code and requested derecognition of consortium as financial creditors. On 29.05.2019, the IRP rejected the objections, stating that claims have been verified based on legally valid documents.

13. Doha Bank filed an interlocutory application before NCLT seeking similar declarations. The appellants filed a reply on 10.06.2019 relying on the letter dated 19.03.2019 of the Advocates from CD admitting execution of corporate guarantees. On 12.08.2020, an additional affidavit was filed stating that the CD's account has been classified as NPA on 22.12.2017 with effect from 26.08.2016, as per the RBI circular and that the corporate guarantees are kept in safe custody of security trustee who has certified the same.

14. By an order dated 02.03.2021, the NCLT *inter alia* held that (i) there was no material to show submission of proof of claims with corporate guarantees (ii) verification by Resolution Professional at New Delhi did not satisfy the statutory requirements (iii) that claims were admitted without proper documentation and (iv) consortium lenders were not financial creditors. Consequently, the Committee of Creditors was directed to be reconstituted.

PROCEEDINGS BEFORE NCLAT

15. The appellants preferred an appeal before the NCLAT. By an order dated 14.10.2022, NCLAT held as follows: (i) the corporate guarantees were executed when CD was in default of his obligation and was suffering from severe financial constraints; (ii) there is no documentary evidence to show that there was disclosure regarding the guarantees by the beneficiary lenders of the related party of the CD during restructuring of the debt of corporate debtor; (iii) the guarantees were not reflected in the financial statements of CD for financial year 2016-17 and 201718 or were produced before the NCLT; (iv) there is no pleading on record to establish that the guarantees were verified at New Delhi by the IRP/RP apart from brief reply affidavit of the RP; (v) the CD was declared NPA on 22.12.2017 w.e.f. from 26.08.2016 indicating that CD was in default for at least 90 days prior to 26.08.2016; (vi) it was obligatory under the law to produce a document duly stamped in accordance with provisions of Maharashtra Stamp Act, 1958; (vii) the timing and manner of the corporate guarantees were questionable as corporate debtor and holding companies were already in default. Accordingly, the appeal was dismissed. In the aforesaid factual background, this appeal arises for our consideration.

SUBMISSIONS

16. Learned senior counsel for the appellant submitted that the appellants are financial creditors of the CD on the basis of Corporate Guarantees and a Deed of Hypothecation. It is contended that liabilities arising from the guarantees constitute financial debt under Section 5(8) of the IBC and the claims of the appellant were verified by the Financial Creditors leading to formation of Committee of Creditors (CoC). It is pointed out that counsel for CD has admitted execution of the Corporate Guarantee and that disclosures have been made by them in their financial statements on an ongoing basis. It is contended that the present corporate guarantee is not covered under Section 85 of the Companies Act.

17. It is pointed out that as per RBI Circular dated 01.07.2015, relating to asset classification and provisioning pertains to advances, in case of restructuring, the asset classification will be reckoned from the date, it became NPA on the first occasion. It is submitted that the Corporate Guarantees were executed in the New Delhi office of the Security Trustee and stamp duty at applicable rates in New Delhi has duly been paid. It is submitted that the concurrent finding of the tribunals are perverse and the issue involved in the appeal is no longer *res integra* and is covered by the decision of this Court[1]. In support of the aforesaid submissions, reliance has been placed on the decisions of this Court[2].

18. On the other hand, learned senior counsel for the respondents submitted that the alleged corporate guarantees are nonexistent, invalid and unenforceable in law. It is submitted that the corporate guarantees executed on 02.03.2017 are highly suspicious,

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[1] China Development Bank v. Doha Bank Q.P.S.C. & Ors., (2025) 7 SCC 729.

[2] Interplay Between Arbitration Agreements under Arbitration & Conciliation Act, 1996 and Stamp Act, 1899, IN RE, (2024) 6 SCC 1; Union of India v. M/s. Chaturbhai M. Patel & Co., (1976) 1 SCC 747; Dhirajlal Girdharlal v. Commissioner of Income Tax, Bombay, (1954) 2 SCC 557; Omar Salay Mohamed Sait v. Commissioner of Income Tax, Madras, (1959) SCC OnLine SC 71; Avantha Holdings Ltd. & Anr. v. Abhilash Lal, Resolution Professional for Jhabua Power Ltd. & Ors.; 2022 SCC OnLine NCLAT 4352; UOI v. M/s Chaturbhai M. Patel & Co. (1976) 1 SCC 747; Interplay between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899 in Re, (2024) 6 SCC 1; Hindustan Steel Ltd. v. Dilip Construction Company, (1969) 1 SCC 597; Dena Bank v. C. Shivakumar Reddy & Anr. (2021) 10 SCC 330; Axis Bank Ltd. v. Naren Shet & Anr., (2024) 1 SCC 679

due to their timing and manner of execution, as the corporate debtor and its group companies were already classified as NPA on 26.08.2016.

19. It is contented that the corporate guarantees were not disclosed in the financial statements for financial year 2016-17 and 201718 and were deliberately withheld before the NCLT and introduced only at the appellate stage which is impermissible in law. It is contended that the corporate guarantees are insufficiently stamped and are inadmissible. It is argued that the alleged corporate guarantees were created in breach of the facility agreement and Section 186 of the Companies Act, 2013 as no special resolution was passed despite the large value of guarantee. It is contended that the concurrent findings of facts have been recorded by the Tribunals which do not call for any interference in this appeal. In support of the aforesaid submissions reliance has been placed on the decisions of Rajasthan High Court and the decision of NCLAT[3].

ISSUES

20. We have considered the rival submissions made on both sides and have perused the record.

21. The following issues arise for consideration:

(i) whether the Corporate Guarantees executed by the Corporate Debtor constitute "financial debt" within the meaning of Section 5(8) of the Code.

(ii) Whether the claims of the appellants were liable to be rejected for non-submission or improper verification of documents.

(iii) Whether the findings recorded by the tribunals warrant interference under Section 62 of the Code.

ANALYSIS

22. At the outset, it is apposite to note that for a debt to become "financial debt" for the purpose of Part II of the Code, the essential elements of disbursal, and that too against the consideration for time value of money, needs to be found in the genesis of any debt before it may be treated as "financial debt" within the meaning of Section 5(8) of the Code. This debt may be of any nature but a part of it is always required to be carried, or corresponding to, or at least having some traces of disbursal against consideration for the time value of money[4]. Under Section 5(7) of the Code, a person can be categorized as a financial creditor if a financial debt is owed to it. Section 5(8) of the Code stipulates that the essential ingredient of a financial debt is disbursal against consideration for the time value of money[5]. A liability arising from the corporate guarantee squarely falls within the ambit of financial debt as defined under Section 5(8) of the Code. The amount of any liability in respect of any of the guarantees for money borrowed against the payment of interest is a "financial debt" within Section 5(8) of the Code[6]. It is well settled legal proposition that a guarantor incurs a coextensive liability with that of a principal borrower and such liability is enforceable in law.

23. In the present case, the execution of the corporate guarantee executed by CD in favour of Security Trustee for and on behalf of the appellants has not been disputed by the CD which is evident from the communication dated 19.03.2019 sent by the counsel of

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[3] Ram Narain v. Lt. Col. Hari Singh; 1963 SCC OnLine Raj 55 and Dr. Anupam Jain v. CS Chhaya Gupta and Another; 2025 SCC OnLine NCLAT 1629

[4] Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Ltd. & Ors.; (2020) 8 SCC 401

[5] Phoenix ARC (P) Ltd. v. Spade Financial Services Ltd. & Ors.; (2021) 3 SCC 475 [6] China Development Bank (supra)

the CD. Paras 2 and 4 of the said communication are extracted below for the facility of reference:

"2. At the outset our clients deny all allegations made by you in the letter with respect to the alleged conspiracy and defrauding of Emirates NBD Bank PJSC, Industrial and Commercial Bank of China Limited, Doha Bank Q.P.S.C. and VTB Capital Plc (collectively, the "**ECB Lenders**"). The information regarding the Guarantees (as defined in the Letter) has always been available to the public including the ECB Lenders and adequate disclosures have been made on an ongoing basis under the financial statements and annual reports of the borrower group.

4. As the Information of the Guarantees have always been publicly available, the ECB Lenders had full access to such information and the allegations are therefore false and denied. In light of the above submission and classification, we request you to look into the supporting documents provided under Annexure A and withdrew your allegations made under the Letter."

Thus, the execution of the guarantees is beyond any pale of doubt.

24. So far as timing of execution of the corporate guarantee is concerned, the account of the CD was first declared NPA on 22.08.2016. However, the same was subsequently restructured by the consortium of banks, in lieu thereof, the CD executed the corporate guarantee on 03.03.2017. However, despite such restructuring, the account once again became NPA on 20.12.2017. The Reserve Bank of India has issued a master circular dated 01.07.2015, which provides for prudential norms on income recognition or NPA Classification, and provisioning pertaining to advances. Clause 17.2.6 of the said circular reads as under:

"**17.2.6** If a restructured asset, which is a standard asset on restructuring in terms of para 20.2, is subjected to restructuring on a subsequent occasion, it should be classified as substandard. If the restructured asset is a sub-standard or a doubtful asset and is subjected to restructuring, on a subsequent occasion, its asset classification will be reckoned from the date when it became NPA on the first occasion. However, such advances restructured on second or more occasion may be allowed to be upgraded to standard category after the specified period (Annexure-5) in terms of the current restructuring package, subject to satisfactory performance."

The said master circular mandates that in case of restructured assets, its asset classification will be reckoned from the date it became NPA on the first occasion. The appellants, therefore, declared the account of the CD as NPA w.e.f. 26.08.2016. Thus, it is evident that the corporate guarantees were executed before declaration of account of the CD as NPA and, therefore, the timing and manner of the corporate guarantees could not be questioned on the ground that the CD and the holding company were already in default.

25. It is pertinent to note that in the communication dated 19.03.2019 sent by the counsel of the CD, it is stated that disclosures about the corporate guarantees have been made by the CD in their financial statements on an ongoing basis. In any case, mere non-disclosure of corporate guarantee in the financial statements of CD for financial years 2016-17 and 2017-18, cannot deprive the appellants from making a claim on the basis of the said guarantees. At best, it could be treated as default committed by the CD.

26. In exercise of the powers conferred under the Code, the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 have been framed. Regulation 10 of the Regulations deals with substantiation of claims, whereas Regulation 13 provides for verification of the claims. Regulation 10 of the said Regulations provides that IRP or RP may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim. The corporate debtor has admitted execution of the corporate guarantee. The appellant had produced a

letter dated 06.03.2019 before the NCLT issued by the security trustee wherein the said trustee confirmed that the executed and stamped version of corporate guarantees is in their custody in New Delhi. The RP inspected the aforesaid guarantees and verified the same by visiting the office of Security Trustee in New Delhi. Therefore, the finding recorded by the NCLAT that there is no pleading on record to establish that guarantees were verified by IRP/RP is perverse.

27. It is well-settled that an appeal is a continuation of original proceeding. The documents which are relevant to deciding the *lis* can be produced at the stage of appeal. The corporate guarantees were produced before the NCLAT. Therefore, merely because they were not produced before the NCLT, no adverse inference can be drawn with regard to the genuineness of the corporate guarantees.

28. The corporate guarantees were executed in the New Delhi office of Security Trustee and the Stamp Duty as per applicable rates in New Delhi has been paid. The same were produced before the NCLAT, Principal Bench at New Delhi. The production of corporate guarantees in a proceeding in New Delhi, does not attract the provisions of Maharashtra Stamp Duty Act, 1958. In any case, the legal position governing the effect of insufficiently stamped document is no longer *res integra* and the same does not become void or unenforceable merely on that account[6]. The defect of insufficient stamping of the document is curable in nature and does not go to the root of validity of the instrument. Even otherwise, the Stamp Act is a fiscal measure enacted to secure revenue for the State on certain classes of instrument. It is not intended to be used as a weapon by a litigant to defeat the cause of the opponent[7]. A Constitution Bench of this Court[8] has held that "Non stamping or improper stamping does not result in the instrument becoming invalid. The Stamp Act does not render such an instrument void. The non-payment of stamp duty is accurately characterized as a curable defect." Therefore, the contention that the corporate guarantees were not duly stamped as Stamp Duty under the Maharashtra Stamp Duty Act, 1958 was not paid is sans substance.

29. For the aforementioned reasons, issue no.(i) is answered in the affirmative where as issue no (ii) is answered in the negative.

30. It is well-settled legal proposition that this Court would not choose to re-appreciate a matter on facts when jurisdictional NCLT and in appeal NCLAT have recorded concurrent findings of fact. The exception to this self-imposed rule is where findings of fact are shown to be perverse[9]. It is pertinent to note that NCLT had rejected the plea of respondents with regard to preferential transactions and fraud under Sections 43 and 66 of the Code respectively. Merely because the corporate guarantees were not filed along with Form-C, the claim of the appellants could not have been negated. The tribunals at the instance of a lender grossly erred in rejecting the claim raised by the consortium of lenders. For the reasons already assigned by us, in our considered opinion, the perversity of the findings of the tribunals are glaring and manifest, beseeching interference by this Court in second appellate jurisdiction. Accordingly, issue no. (iii) is answered in the affirmative.

CONCLUSION

31. For the reasons aforesaid, it is held that :-

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[6] Hindustan Steel Ltd. (supra)
[7] NN Global Mercantile (P) Ltd. v. Indo Unique Flame Ltd. & Ors.; (2023) 7 SCC 1
[8] Interplay Between Arbitration Agreements under Arbitration & Conciliation Act, 1996 and Stamp Act, 1899 (supra)
[9] Catalyst Trysteeship Ltd. v. Ecstasy Realt (P) Ltd.; (2026) SCC OnLine SC 300 and SBI & Ors. v. The Consortium of Mr. Murari Lal Jalan and Mr. Florian Fritsch & Anr.; 2024 INSC 852

(i) the corporate guarantees executed by the corporate debtor constitute "financial debt" within the meaning of Section 5(8) of the Code. The appellants are entitled to be recognized as financial creditors.

(ii) The rejection of claims of the appellants, by the NCLT and NCLAT are legally unsustainable.

(iii) The impugned orders suffer from perversity and warrant interference by this Court.

OPERATIVE DIRECTIONS

32. The judgments dated 14.10.2022 and 02.03.2021 passed by NCLAT and NCLT are quashed and set aside. All consequential actions taken in pursuance of impugned orders are set aside. The appellants are recognised as "financial creditors" of the Corporate Debtor. The Resolution Professional is directed to reconstitute the committee of creditors by including the appellants and to proceed with the corporate insolvency resolution process in accordance with law.

33. In the result, the appeal is allowed. However, there shall be no order as to costs.