



2025 INSC 253

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2759/2025
ARISING OUT OF SLP (C) NO. 18062 OF 2024

BANK OF BARODA

...APPELLANT(S)

VERSUS

FAROOQ ALI KHAN & ORS.

...RESPONDENT(S)

INSOLVENCY & BANKRUPTCY

The Hon'ble Supreme Court reaffirmed that the power of judicial review should not be invoked to circumvent the statutory process prescribed under specialized legislations like the Insolvency and Bankruptcy Code.

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In a landmark ruling, the Hon'ble Supreme Court of India, in *Bank of Baroda v. Farooq Ali Khan & Ors.* (2025 INSC 253),^[i] vide Judgment dated 20.02.2025 reaffirmed the sanctity of the statutory process under the Insolvency and Bankruptcy Code, 2016 (IBC). The Apex Court held that the High Court erred in intervening in proceedings initiated under Section 95 of the IBC, emphasizing that the Resolution Professional (RP) and the Adjudicating Authority must be allowed to carry out their functions without judicial interference.

FACTS:

The Respondent No.1 i.e., Mr. Farooq Ali Khan was a promoter and director of the Corporate Debtor, Associate Décor Limited. The Corporate Debtor availed credit facilities from the consortium of banks including the Appellant, Bank of Baroda, Respondent Nos. 3 and Respondent No. 4. The Respondent No.1 had executed a deed of personal guarantee dated 10.07.2014 for securing the loans availed by the Corporate Debtor.

Following defaults by the Corporate Debtor regarding the payments, the Appellant invoked the deed of personal guarantee and called upon the Respondent no.1 to make a payment of Rs. 244 crores vide demand notice dated 11.08.2020. The Respondent No.1 and the guarantors vide a letter dated 14.12.2020 offered Rs. 25 crores as a one-time settlement amount.

The Appellant issued a Demand Notice dated 22.02.2021 in Form B under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 and further initiated personal insolvency proceedings under Section 95(1) of the IBC.

The Hon'ble NCLT Bengaluru (Adjudicating Authority) vide Order dated 16.02.2024 appointed a RP and directed him to file a Report under Section 99 of the Code. The Adjudicating Authority drew upon the landmark judgment of the Hon'ble Supreme Court in *Dilip B. Jiwrajka vs. Union of India*,^[ii] and emphasized that once the RP submits their report and the Personal Guarantor files their reply, the Personal Guarantor is entitled to raise objections.

The Respondent No.1 preferred a writ petition before the Hon'ble Karnataka High Court under Article 226 of the Constitution of India challenging the RP appointment Order dated 16.02.2024, on the grounds that his liability as a personal guarantor had been waived and discharged, thereby rendering the insolvency proceedings against him untenable. The Hon'ble High Court allowed the writ petition, and held that the personal insolvency proceedings could not be maintained as Respondent No. 1's liability as a guarantor had indeed been extinguished. Following which, the Adjudicating Authority disposed of the insolvency proceedings against Respondent No. 1 on 19.06.2024, in compliance with the High Court's order.

Aggrieved by the said Order, the Appellant approached the Hon'ble Supreme Court by way of the present appeal.

DECISION OF THE SUPREME COURT

The Hon'ble Supreme Court, while adjudicating the present appeal, framed one central issue for determination, whether the Karnataka High Court had rightly exercised its writ jurisdiction to interdict the personal insolvency proceedings initiated under the IBC against Respondent No.1?

In rendering its decision, the Apex Court placed strong reliance on the landmark ruling in *Dilip B. Jiwrajka*. The Court underscored the pivotal role of the RP, clarifying that the Adjudicating Authority's adjudicatory functions only commence upon submission of the RP's report under Section 99 of the IBC. It is at this juncture that the Adjudicating Authority evaluates whether to admit or reject the Section 94 or 95 Application under Section 100 of the IBC.

The Supreme Court observed that the report submitted by the RP is inherently recommendatory in nature and does not wield binding authority over the Adjudicating Authority when it exercises its jurisdiction under Section 100 of the IBC. It was further pointed out that the Adjudicating Authority specifically noted that Respondent no. 1's objections regarding limitation and waiver of the guarantee will be considered once the resolution professional submits his report. The Supreme Court opined that this was the correct approach, as the appointment of a resolution professional, at the very threshold, is statutorily mandated under Section 97 of the IBC.

In light of the statutory framework under the IBC, which the Adjudicating Authority carefully adhered to, the Hon'ble High Court overstepped its writ jurisdiction by intervening in the matter, even prior to the RP submitting his report. The Supreme Court remarked that this interdiction thereby disrupts the statutory mechanism and procedure envisaged under the IBC, thus preventing it from running its course. Further, the High Court examined determining the existence of the debt, which being a mixed question

of law and fact, squarely falls within the ambit of the Adjudicating Authority under Section 100 of the IBC.

The Supreme Court, drawing upon the principle established in *Mohammed Enterprises (Tanzania) Ltd v. Farooq Ali Khan & Ors.*,^[ii] reaffirmed that the IBC functions as a self-contained and comprehensive code. Further, as has been held by the Supreme Court in *Jiwrajka*, the Adjudicating Authority need not decide any questions regarding existence of the debt before appointing the resolution professional.

Accordingly, the Hon'ble Supreme Court allowed the appeal and directed the restoration of the company petition filed before the NCLT Bengaluru.

CONCLUSION

By restoring the insolvency proceedings against the Respondent No.1, the Supreme Court reinforced the principle that judicial review should not be exercised to pre-empt the due process prescribed under specialized legislation like the IBC.

This decision reinforces the autonomy of the IBC's statutory procedure and shows the need for allowing its specialized mechanisms to operate unimpeded.

[i] CIVIL APPEAL NO. 2759/2025 ARISING OUT OF SLP (C) NO. 18062 OF 2024

[ii] (2024) 5 SCC 435.

[iii] 2025 SCC OnLine SC 23.

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