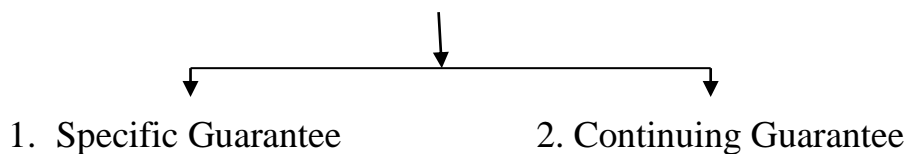


Continuing Guarantee : Meaning and Revocation

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To know about continuing guarantee we shall have to know kinds of guarantees. Guaranteed may be



1. Specific guarantee- A guarantee which is given for specific transaction or for only one transaction or debt called specific guarantee. When loan is duly paid or transaction is duly performed the specific guarantee comes to an end.

For Example: A, borrowed Rs. 20000 from UCO Bank. Guarantee was given by C for repayment of loan. As soon as A repays the amount of loan to Bank liability of C comes to an end.

2. Continuing Guarantee –

Meaning [S.129] – A guarantee which is given for more than one transaction or series of transaction is called continuing guidance. S. 129 states the meaning of continuing guarantee. According to S. 129- A guarantee which extends to a series of transactions, is called a "continuing guarantee"

Examples: - (a) A, in consideration that B will employ C in collecting the rent of B's zamindari, promises B to be responsible, to the amount of 5,000 rupees, for the due collection and payment by C of those rents. This is a continuing guarantee.

(b) A guarantees payment to B, a tea-dealer, to the amount of Rs. 100, for any tea he may from time to time supply to C. B supplies C with tea to above the value of Rs. 100, and C pays B for it. Afterwards, B supplies C with tea to

the value of Rs. 200. C fails to pay. The guarantee given by A was a continuing guarantee, and he is accordingly liable to B to the extent of Rs. 100.

(c) A guarantees payment to B of the price of five sacks of flour to be delivered by B to C and to be paid for in a month. B delivers five sacks to C. C pays for them. Afterwards B delivers four sacks to C, which C does not pay for. The guarantee given by A was not a continuing guarantee, and accordingly he is not liable for the price of the four sacks.

Some points are notably regarding continuing guarantee-

- (i) After discharge of single promise or repayment of single debt continuing guarantee does not come to an end.
- (ii) Liability regarding time or amount can be limited by surety.
- (iii) Under this guarantee surety is liable for unpaid balance at the end of the guarantee.
- (iv) Such Guarantee may be prospective or retrospective
- (v) Prospective guarantee is given for a future debt whereas retrospective guarantee is given for an existing debt.

Revocation of continuing guarantee

A continuing guarantee may be revoked by the any one of the following mode:

- (1) **By notice: [S.130]:-** S. 130 provides that a continuing guarantee may at any time be revoked by the surety, as to future transactions, by notice to the creditor.

Thus, This guarantee may be revoked-

- (i) by the surety at any time;
- (ii) by giving notice
- (iii) notice can be given by surety to creditor
- (iv) for future transactions only.

Examples:

(a) A, in consideration of B's discounting, at A's request, bills of exchange for, C, guarantees to B, for twelve months, the due payment of all such bills to the extent of 5,000 rupees. B discounts bills for C to the extent of 2,000 rupees. Afterwards, at the end of three months, A revokes the guarantee. This revocation discharges A from all liability to B for any subsequent discount But A is liable to B for the 2,000 rupees, on default of C.

(b) A guarantees to B, to the extent of 10,000 rupees, that C shall pay all the bills that B shall draw upon him. B draws upon C. C accepts the bill. A gives notice of revocation. C dishonours the bill at maturity. A is liable upon his guarantee.

2. **By Death [S.131]**- According to S. 131 The death of the surety operates, in the absence of any contract to the contrary, as a revocation of a continuing guarantee, so far as regards future transactions.

Thus, in the absence of any contract to the contrary-

- (i) the continuing guarantee is revoked from date of the death of the surety
- (ii) guarantee is revoked automatically and no notice is required for death.
- (iii) transactions held before the death of the surety, transaction remains effective. In such cases legal heirs of surety remains liable.