

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Comp. App. (AT) (Ins) No. 839 of 2025**

**&**

**I.A. No. 3272 of 2025**

**IN THE MATTER OF:**

**Siemens Financial Services Pvt. Ltd.**

**...Appellant(s)**

**Versus**

**Segastar Impact Pvt. Ltd.**

**...Respondent(s)**

**Present:**

**For Appellant** : Mr. Asav Rajan, Mr. Devang Shrotriya, Mr. Kashish Chadha, Advocates.

**For Respondents** : Ex-Parte

**O R D E R**  
**(Hybrid Mode)**

**[Per: Justice Mohd. Faiz Alam Khan, (Oral)]**

**12.05.2026:** Heard Shri Asav Rajan, Ld. Counsel for the Appellant. Nobody is present for the Respondent and vide order dated 27.02.2026 the proceedings of this appeal were directed to be proceeded ex-parte against the sole Respondent/CD as despite being sufficiently served nobody is/was present before this Appellate Tribunal on its behalf.

2. The instant appeal has been preferred by the appellant against the impugned judgement dated 13.03.2025 passed by the National Company Law Tribunal, New Delhi Bench (Court-II) (Adjudicating Authority) in CP IB No. 33/ND/2025 filed by the Appellant under Section 7 of the Code whereby the petition filed by the appellant has been dismissed for want of taking the steps to serve the Respondent.

3. The factual matrix relevant for the purpose of disposal of this appeal appears to be that appellant has filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (Code) for initiation of CIRP against the Respondent/CD and the petition was for the very first time came before the Ld. Adjudicating Authority on 28.01.2025 and on the request of the applicant/appellant the hearing of the petition was deferred to 31.01.2025 and on 31.01.2025 there was some power failure and the DMS was not working and in this background Ld. Adjudicating Authority has deferred the hearing of the petition to 17.02.2025 and on 17.02.2025 the order was passed by Ld. Adjudicating Authority to serve the Respondent through all modes i.e. by registered post, speed post, courier service and e-mail and also to file the affidavit of service and the matter was next listed on 28.02.2025.

4. It is further reflected that on 28.02.2025, Ld. Counsel for the applicant/appellant made a submission before the Ld. Adjudicating Authority that the order dated 17.02.2025 could not be uploaded on DMS and therefore no steps to serve notice upon the CD/Respondent would be taken.

5. Keeping in view the submissions made by Ld. Counsel for the applicant/appellant before the Ld. Adjudicating Authority, the Ld. Adjudicating Authority has directed to issue fresh notice to the Respondent by way of e-mail on the registered e-mail of the CD which is available with the petitioner and also on the e-mail of the CD which is registered with the MCA and also by hand i.e. Dasti and the next date of hearing was fixed as 13.03.2025.

6. It is further reflected that on 13.03.2025 the Ld. Adjudicating Authority has passed the impugned order whereby the petition filed by the Appellant/Applicant under Section 7 of the Code was dismissed on the ground that the steps have not been taken by the Appellant/Applicant to serve notice upon the Respondents.

7. Ld. Counsel for the appellant while drawing our attention towards the dates of listing of the petition before the Ld. Adjudicating Authority i.e. 28.01.2025, 31.01.2025, 17.02.2025, 28.02.2025 and 13.03.2025 submits that admittedly on 28.01.2025 the petition was first presented before the Ld. Adjudicating Authority and it was adjourned at the behest of the appellant and on 31.01.2025 the DMS was not working and therefore the Ld. Adjudicating Authority was compelled to adjourn the proceedings of the case and the next date of the hearing was fixed on 17.02.2025 and direction was given to the appellant to take steps to serve the Respondent.

8. It is further submitted that the order dated 17.02.2025 was in fact uploaded on 28.02.2025 and on the submissions made by the Counsel for applicant/appellant before the Ld. Adjudicating Authority that the order has not been uploaded the direction was given to issue the fresh notice.

9. It is next submitted that the order dated 28.02.2025 was also uploaded on 17.03.2025 when the next date of the listing of the petition was 13.03.2025 and therefore the impugned order has been passed by the Ld. Adjudicating Authority without noticing that the order dated 28.02.2025 has not been uploaded, even till the date of passing of impugned order.

10. While drawing our attention towards the case history of this petition placed at page no. 85 and 86 of the appeal paper book it is submitted that the submissions made on behalf of the appellant are substantiated by this case history. It is vehemently submitted that since there was no order uploaded and was not available with the Registry, therefore the applicant/appellant was not in a position to take steps and this important aspect of the matter has not been considered by the Ld. Adjudicating Authority and the petition filed by the appellant/applicant has been dismissed without any basis.

11. It is further submitted that the observations of the Ld. Adjudicating Authority in paragraph no. 9 of the impugned order are not finding corroboration from the case history and the applicant/appellant was not at all at fault in taking the steps because ultimately when the order of the Ld. Adjudicating Authority was not available with the Registry of the NCLT the steps could be received by the office and notice could not be issued and therefore the Ld. Adjudicating Authority has not considered the case of the applicant in right perspective and has passed the impugned order without considering the factual aspect of the matter in right perspective. Thus the impugned order may kindly be set aside.

12. We have heard Ld. Counsel for the appellant and have perused the record.

13. We find substance in the submissions made by Ld. Counsel for the appellant and it is conspicuously reflected from the case history which has been placed by the appellant at page no. 85 and 86 of the appeal paper book

that on 17.02.2025 the next date in the petition was fixed as 28.02.2025 and a direction was given to the appellant to take steps within three days. However, the order of date 17.02.2025 could only be uploaded on 28.02.2025 i.e. on the date when the next date of the listing was fixed.

14. It is further reflected that when the petition was taken up on 28.02.2025 it was directed to be listed on 13.03.2025 and the submission of Ld. Counsel for the applicant that the order dated 17.02.2025 has not been uploaded till 28.02.2025 was taken into consideration by Ld. Adjudicating Authority and on this score fresh steps were directed to be taken in the manner contained in the order dated 28.02.2025. However, it is also reflected that the order dated 28.02.2025 could only be uploaded on 17.03.2025 and on the next date of listing which was fixed by the Ld. Adjudicating Authority as 13.03.2025 the case was taken up and has been rejected on the ground that steps have not been taken by the appellant.

15. We are of the considered opinion that when the orders passed by the Ld. Adjudicating Authority on 17.02.2025 and 28.02.2025 were not uploaded till the next date of listing of the petition, the petitioner/appellant was not under any obligation to take steps for the reason that in absence of any order available to the Registry in black and white, the steps taken by the appellant/applicant may not be received by the Registry of the NCLT.

16. We are also aware of the principle '*Actus Curiae Neminem Gravabit*' that no litigant should suffer any prejudice harm, loss due to the fault, negligence or delays of the court and therefore we are constrained to observe that the impugned order has been passed by Ld. Adjudicating Authority

without any fault of the appellant and in our considered opinion the same may not with stand the test of law and procedure both and is liable to be set aside.

17. Keeping in view the aforesaid facts and circumstances and for the reasons given by us herein before the impugned order passed by the Ld. Adjudicating Authority is set aside. The appeal filed by the appellant is **allowed**. The matter is remanded back to the Ld. Adjudicating Authority to dispose it of strictly in accordance with law after providing opportunity of being heard to the parties.

18. For this purpose, the petition no. CP (IB)-33/ND/2025 is restored/revived on the board of the Ld. Adjudicating Authority.

19. The parties will appear before the Ld. Adjudicating Authority on 25.05.2026.

**[Justice Mohammad Faiz Alam Khan]**  
**Member (Judicial)**

**[Naresh Salecha]**  
**Member (Technical)**

*sr/mr*