

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1425 of 2026

IN THE MATTER OF:

Pulkit Sharma, Suspended Director of Daulat Ram Engineering Services Pvt. Ltd.

...Appellant(s)

Versus

**Hangzhou Sword Elevator Co. Ltd.
Through Constituted Attorney Sahil Bhatia & Anr.
Present:**

...Respondent(s)

For Appellant : Mr. Krishnendu Datta, Mr. Abhijeet Sinha, Sr. Advocates with Mr. Pankaj Aggarwal, Mr. Jaskaran S. Bhatia, Mr. Shaurya Shyam, Mr. Shashwat Srivastava, Ms. Alina Merin Mathew, Mr. Vatsal Srivastava, Ms. Mrigangi Parul, Ms. Pragati Srivastava, Mr. Rachit Mittal, Mr. Aarish Mishra, Mr. Abhishek Sinha, Ms. Srishti Agarwal, Ms. Aayushi Kiran, Mr. Shivansh Bansal, Advocates.

For Respondents :

O R D E R
(Hybrid Mode)

07.08.2026: Heard Shri Krishnendu Datta, Ld. Sr. Counsel as well as Shri Abhijeet Sinha Ld. Sr. Counsel for the appellant and perused the record.

2. Ld. Counsels appearing for the Appellant submits that the appellant is the Suspended Director of CD i.e. Daulat Ram Engineering Services Pvt. Ltd. which is a solvent company however by virtue of the impugned order has been subjected to the Insolvency Process without any fault.

3. It is further submitted that the petition filed by the Respondent No. 1/Operational Creditor was barred by limitation and this aspect of the matter has not been considered in right perspective by the Ld. Adjudicating Authority. Elaborating further it is submitted that in Part-IV of Form V the

default date has been pleaded as 18.09.2017 however it was contended that by virtue of emails sent by the Corporate Debtor of date 28.08.2017, 19.01.2018, 26.12.2020, 27.03.2021 and 02.06.2021 the debt has been acknowledged giving a fresh cause of action of three years, however this contention of the operational creditor is patently wrong.

4. Ld. Counsel for the Appellant has drawn our attention towards the email dated 27.03.2021 and 02.06.2021 and submits that at first these emails may not be termed as acknowledgment of payment of debt and even if for the sake of arguments, these emails are treated as acknowledgment then these emails cannot be deemed to be an acknowledgment of the whole of the debt as the email dated 27.03.2021 is only pertaining to invoice no. SWD70542 of date 07.04.2017 and in email dated 02.06.2021 the amount of USD 10,000 has been mentioned, thus it appears that at the most this acknowledgment may only relate with invoice no. SWD70542 and for USD 10,000, however this aspect of the matter has not been considered by Ld. Adjudicating Authority.

5. It is further submitted that the point of limitation has also not been considered by the Ld. Adjudicating Authority in correct perspective as according to the Respondent Operational Creditor the last date of default was 18.09.2017 and the petition has been instituted on 24.02.2025 and even if the period exempted by the Hon'ble Supreme Court vide order dated 10.01.2022 in Re: Cognizance for extension of limitation case is taken into consideration the petition of the Appellant is/was time barred. Reliance has been placed on ***Malavika Hegde vs. IDBI Trusteeship Services Ltd. and Anr., (2025) SCC Online NCLAT 422, decided on 27.02.2025, Arif Azim Co. Ltd. vs. Aptech Ltd., (2024) 5 SCC 313, decided on 01.03.2024,***

Korea Trade Insurance Corporation (Ksure) vs. Amrit Polychem Pvt. Ltd. CA (AT) (Ins) No. 1383 of 2023, decided on 15.10.2025.

6. It is further submitted that neither the operational creditor has specified the limitation with regard to each invoice nor the same has been considered by the Ld. Adjudicating Authority. Reliance has been placed in this regard on the law laid down by the Hon'ble Supreme Court in Civil Appeal ***1775 of 2021 M/s Next Education India Pvt. Ltd. vs. M/s K 12 Techno services Pvt. Ltd.*** decided on ***27.03.2023.***

7. It is vehemently submitted that at the most, the operational creditor may claim, which is not admitted to the appellant, the amount shown in the email dated 27.03.2021 and 02.06.2021 i.e. USD 10, 000 and the appellant, though is not admitting the liability of payment, however to shield its solvency, is ready to deposit this amount corresponding to the Indian Rupees with this Appellate Tribunal.

8. It is requested that the impugned order passed by the Ld. Adjudicating Authority may kindly be stayed.

9. We have heard Ld. Counsel for the Appellant and have perused the record and we notice that in Part-IV of the application moved by the Operational creditor before the Ld. Adjudicating Authority, various invoices has been mentioned ranging from 15.03.2017 to 17.06.2017 for total amount of USD 10,30,300. Bills of lading of different dates have also been mentioned therein showing that the delivery of the escalators has been accepted by the CD. Various part payments are also shown to have been made by the CD from 17.10.2017 to 19.08.2019 and it is stated that thereafter even after follow up no money has been paid.

10. The emails dated 27.03.2021 and 02.06.2021 are also mentioned in order to show that acknowledgment has been made by the CD for payment of the debt and the other emails of date 28.08.2017, 19.01.2018, 26.12.2020 have also been stated in order to show the acknowledgment and non-payment by the CD.

11. Perusal of the impugned judgment would show that keeping in view the order passed by the Hon'ble Supreme Court in Suo Moto Petition pertaining to exclusion of time from 15.03.2020 till 28.02.2022 and in view of acknowledgments of the CD the petition filed by the appellant is found within limitation.

12. Ld. Adjudicating Authority has also found that there is no prior dispute as there is no material on record which may suggest any defect found in the escalators supplied by the OC.

13. We are conscious of the Principles that to get an interim or ad interim stay the party must have a prima facie case along with balance of convenience in his favour and also that by the non-grant of stay it will suffer an irreparable injury.

14. Keeping in view all the facts and circumstances of the case and the reasoning given by the Ld. Adjudicating Authority in the impugned judgment for admission of the application moved by the operational creditor under Section 9 of the Code we are not inclined to issue any ad interim stay with regard to the impugned order without providing an opportunity of being heard to the Respondents, specifically to the operational creditor.

15. Issue notice to the Respondents with regard to the appeal and stay application.

16. Steps along with process fee as well as requisites be taken within 48 hrs.
17. Liberty is also granted to the Appellant to serve the Respondents by hand i.e. *Dasti* and to file an affidavit of service.
18. List on **19.08.2026**.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Arun Baroka]
Member (Technical)

sr/mr