NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1859 of 2026

IN THE MATTER OF:

Ramen Deka **...Appellant(s)**

Versus

UCO Bank & Anr. **...Respondent(s)**

Present:

For Appellant(s) : Mr. Rakesh Dubey, Adv.
For Respondent(s) : None

O R D E R
(Hybrid Mode)

[Per: Justice Mohd. Faiz Alam Khan, Member (Judicial)]

30.10.2026: The Present Appeal has been filed by the Appellant, who is the suspended Director of the Corporate debtor (CD) under Section 61(1) of the Insolvency and Bankruptcy Code, 2016, (Code) challenging the order dated 21.08.2026 (Impugned Order), passed by the NCLT at Guwahati (Adjudicating Authority) whereby the Application of Respondent No. 1 filed under Section 7 of the IB Code, 2016 being CP (IB) No. 26/GB/2025, is allowed and Corporate Insolvency Resolution Process ("CIRP") was initiated against the Corporate Debtor.

2. Learned Counsel for the Appellant, at the outset, submits that the Learned Adjudicating Authority has committed a manifest illegality in deciding the application filed by the Respondent Bank under Section 7 of the Code without first disposing of an application (being IA No. 127 of 2026) filed by the Appellant, which has raised serious questions with regard to the

quantum of debt, adjustment of payments, sale proceeds, and the validity of the default, and also the pendency of proceedings before the Debt Recovery Tribunal (DRT).

3. It is further submitted that the Corporate Debtor has taken credit facilities from the Respondent Bank over a period of time. The Respondent Bank has filed the application under Section 7 of the Code, claiming an amount of Rs. 20,300,950.93/- as on 31 July 2025, including principal, interest, and penal interest under different loan accounts, however, the case of the Appellant is that the amount claimed by the Respondent Bank was neither verified nor properly reconciled, as the bank failed to file a complete and verifiable statement of account showing the correct principal debt, interest, penal interest, and other charges. The bank also failed to set off the payments received and amounts realized from secured assets. The claim was therefore disputed on account of substantial discrepancies which went to the root of the alleged debt and default, and therefore the Ld. Adjudicating Authority should not have accepted the application moved by the Respondent Bank.

4. It is further submitted that it is the specific case of the Appellant that the Respondent Bank had sold the mortgage property and realized about Rs. 13,000,000/-. Despite such realization, the said amount was not properly reconciled/adjusted against the alleged outstanding debt, and this fact was brought to the notice of the Learned Adjudicating Authority. Moreover, the Respondent Bank has also realized about Rs. 4,000,000/- from the property situated at Chindarai Nagar, Bhangagarh, Guwahati, and approximately Rs. 50 lakhs from the property situated at Village Digheli, District Nalbari, Assam.

5. It is further submitted that if the aforesaid amount is deducted from the default amount, the balance would not be more than Rs. 23 lakhs and thus was below the threshold as provided under Section 4 of the Code.

6. It is further submitted that the Appellant has also disputed the Record of Default issued through the National e-Governance Services Limited ("NeSL") as the same was neither authenticated nor acknowledged by the Corporate Debtor and therefore the same should not have treated as conclusive proof of the amount of debt or default, particularly when the amount was disputed and the accounts were not reconciled. The pendency of SARFAESI proceedings before the Debts Recovery Tribunal, Guwahati Bench was also highlighted, wherein the possession, valuation and sale of the secured assets was challenged and stay was granted by the DRT.

7. It is further submitted that the Respondent Bank had used the IBC as a recovery mechanism, as the Appellant had submitted several One-Time Settlement proposals, including proposals offering Rs. 8.20 crores and Rs. 9.75 crores, which were rejected by Respondent No. 1 on the ground that the amount offered was "on the lower side", without providing a reasoned response, objective assessment or counter-proposal.

8. It is further submitted that, while keeping the application filed by the Appellant pending, the Learned Adjudicating Authority reserved the order with regard to the Section 7 application on 21.07.2026. The same was challenged by the Appellant before this Appellate Tribunal by filing an appeal and when the debt and default were disputed and it was on the face of the record that the threshold was not met, there was no reason for the Learned

Adjudicating Authority to have initiated CIRP against the CD. Thus, the impugned order may kindly be stayed.

9. Having heard learned counsel for the Appellant, we have perused the impugned judgment only for the purpose of ascertaining whether there is a prima facie case in favour of the Appellant (so that any ad interim direction may be granted or the impugned order may be stayed without providing any opportunity of being heard to the respondents).

10. We notice that the Ld. Adjudicating Authority has divided the impugned judgment under the following heads:

(i) Whether the Petition is liable to be dismissed for want of valid authorisation in favour of the signatory of Form-I?

(ii) Whether non-compliance with the Bankers' Books Evidence Act, 1891 and the Information Technology Act, 2000 is fatal to the Petition at the stage of admission?

(iii) Whether the alleged pendency of disputes under the SARFAESI Act before the DRT constitutes a bar to the maintainability of an application under Section 7 of the Code?

(iv) Whether the NeSL Record of Default is indispensable to establish default under Section 7?

(v) Whether the default amount, on a true computation, meets the threshold of Rs. 1,00,00,000/- prescribed under Section 4 of the Code?

(vi) Whether the Financial Creditor has established the existence of default in terms of Sections 3(11), 5(8) and 7 of the Code?

(vii) Whether the proposed Resolution Professional is qualified under the Code?

11. We further notice that on issue No.(V), which has been raised by the Appellant with considerable force, Learned Adjudicating Authority observed as under: -

> *"The Corporate Debtor's contention that Rs. 1,30,00,000/- realized from the sale of secured assets ought to be adjusted against the claimed default of Rs. 2,03,00,950.93/-, thereby bringing the residual default (approximately Rs. 73,00,950.93/-) below the statutory threshold of Rs. 1,00,00,000/-, turns entirely on whether the realization can, at this stage, be treated as a final and appropriated credit against the loan accounts. Firstly, the Corporate Debtor has not placed on record the date on which the alleged sum of Rs. 1,30,00,000/- was realized. The threshold under section 4 of the Code, read with the definition of "default" under Section 3(12) falls to be assessed with reference to the debt due and payable as on the date of default, i.e. 15.03.2024 being the date of NPA classification. It is not assessed with reference to sums realized, if at all, at some indeterminate later point in time. In the absence of any pleaded or evidenced date of sale or realization, the Corporate Debtor has failed to demonstrate that the sum of Rs. 1,30,00,000/- even if realized, was realized prior to the date of default and for this reason, the adjustment claimed cannot be countenanced at the threshold stage. Even if the realization were shown to arise from the Hotel Rialto sale and to predate the relevant date, the Corporate Debtor's own case, as pleaded in the very same IA, is that the underlying SARFAESI sale is void ab initio for non-compliance with Section 13(2) and 13(4) of the SARFAESI Act. A sale whose validity is under challenge at the instance of the Corporate Debtor cannot simultaneously be treated by the very same party as a concluded realization available for set-off against its liability as the two positions are mutually destructive. Until the SARFAESI proceedings before the DRT attain finality, any such realization remains sub judice and cannot be treated as appropriated towards the loan accounts for the purpose of computing default under Section 4. The threshold must therefore be assessed on the sum pleaded and evidenced in the Petition, Rs. 2,03,00,950.93/-, which is well in excess of the threshold of Rs. 1,00,00,000/-. Thus, the present objection to maintainability is rejected."*

12. It is also reflected that Ld. Adjudicating Authority, after deliberating on all the issues, came to the conclusion that there is a debt, default, and the amount of default is above the threshold. Therefore, it initiated the process of CIRP against the CD.

13. We also notice that the Learned Adjudicating Authority has discussed the objections taken by the Appellant. Prima facie, it reflects that the objections which have been raised by the Appellant have been considered by the adjudicating authority and has been disposed of by passing a reasoned order. The veracity of the findings given by the adjudicating authority and also of the reasons given in their support, in our considered opinion, could be deliberated and verified after providing an opportunity of being heard to the Respondents.

14. In our considered opinion, it is not a case where any ad interim injunction could be granted in favour of the Appellant, without providing any opportunity of being heard to the Respondents.

15. Thus, issue notice to the Respondents with regard to appeal as well as stay application.

16. Steps in this regard, along with requisites will be taken by Learned Counsel for the Appellant within three working days from today.

17. List on **26th November 2026** under the caption 'For Admission (After Notice)'.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

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