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

**Company Appeal (AT) (Ins.) No. 1015 of 2025**

(Arising out of order dated 11.07.2025 passed by the National Company Law Tribunal, New Delhi Bench-IV in CP (IB) No. 36/ND/2024)

**In the matter of:**

**KAVISH GUPTA,**
**SUSPENDED DIRECTOR OF KKSPUN INDIA LIMITED**
R/o 86, Anand Lok, August Kranti Marg,
New Delhi – 110049

**...Appellant**

**Vs.**

1. **YES BANK LTD.**
   Having its Registered Office at:
   Yes Bank House Off Western Express Highway
   Santacruz East, Mumbai – 400055

2. **INTERIM RESOLUTION PROFESSIONAL OF KKSPUN INDIA LIMITED**
   Mr. Harvinder Singh
   IBBI/IPA 001/IPP00463/2017-2018/10806
   11 CSC DDA Market A Block Saraswati Vihar,
   New Delhi, National Capital Territory of Delhi, 110034

3. **STATE BANK OF INDIA**
   Having its concerned Brach Office at:
   State Bank of India, SAMB-II,
   11th Floor, Jawahar Vyapar Bhavan,
   1, Tolstoy Marg, New Delhi – 110001
   Through its Authorised officer

4. **IndusInd Bank Ltd.**
   Registered office:
   2401 Gen., Thimmayya Road,
   Pune- 411001

**...Respondents**

**Present:**

**For Appellant:** Mr. Kartik Malhotra and Mr. Anindit Mandal, Advocates.

**For Respondents:** Mr. Hasmat Nabi, Ms. Farah Naaz and Mr. Toshib Ahmed, Advocates for Yes Bank.

Ms. Rashi Gupta, Adv. for IRP.

Mr. Siddharth Sangal, Ms. Richa Mishra, Ms. Kashish Tewatia, Ms. Mrinalini Tandon, Advocates for SBI.

**WITH**
**Company Appeal (AT) (Ins.) No. 812 of 2025**

(Arising out of order dated 14.05.2025 passed by the National Company Law Tribunal, New Delhi Bench-IV in CP (IB) No. 326/ND/2024)

**In the matter of:**

**KKSPUN INDIA LIMITED**
(CIN:U29199DL2006PLC144590)
A company incorporated under Companies Act, 1956
Regd. Office: DSIIDC Shed No. 103,
Scheme - I, Okhla Industrial Area,
Phase-II, New Delhi – 110 020

**ALSO AT:**
Having its Corporate Office at: 10th Floor,
Tower A, Vatika Mindscapes, 12/3,
Sarai Khwaja, Mathura Rd, Sector 27,
Faridabad, Haryana 121003

**...Appellant**

**Vs.**

**STATE BANK OF INDIA**
Having its concerned Brach Office at:
State Bank of India, SAMB-II,
11th Floor, Jawahar Vyapar Bhavan,
1, Tolstoy Marg, New Delhi – 110001
Through its Authorised officer

**...Respondent**

**Present:**

**For Appellant:** Mr. Kartik Malhotra and Mr. Anindit Mandal, Advocates.

**For Respondents:** Mr. Siddharth Sangal, Ms. Richa Mishra, Ms. Kashish Tewatia, Ms. Mrinalini Tandon, Advocates for SBI.

**WITH**
**Company Appeal (AT) (Ins.) No. 813 of 2025**

(Arising out of order dated 28.04.2025 passed by the National Company Law Tribunal, New Delhi Bench-IV in CP (IB) No. 326/ND/2024)

**In the matter of:**

**KKSPUN INDIA LIMITED**
(CIN:U29199DL2006PLC144590)
A company incorporated under Companies Act, 1956
Regd. Office: DSIIDC Shed No. 103,
Scheme - I, Okhla Industrial Area,
Phase-II, New Delhi – 110 020

**ALSO AT:**
Having its Corporate Office at: 10th Floor,
Tower A, Vatika Mindscapes, 12/3,
Sarai Khwaja, Mathura Rd, Sector 27,
Faridabad, Haryana 121003

**...Appellant**

**Vs.**

**STATE BANK OF INDIA**
Having its concerned Brach Office at:
State Bank of India, SAMB-II,
11th Floor, Jawahar Vyapar Bhavan,
1, Tolstoy Marg, New Delhi – 110001
Through its Authorised officer

**...Respondent**

**Present:**

**For Appellant:** Mr. Kartik Malhotra and Mr. Anindit Mandal, Advocates.

**For Respondents:** Mr. Siddharth Sangal, Ms. Richa Mishra, Ms. Kashish Tewatia, Ms. Mrinalini Tandon, Advocates for SBI.

**WITH**
**Company Appeal (AT) (Ins.) No. 815 of 2025**

(Arising out of order dated 28.04.2025 passed by the National Company Law Tribunal, New Delhi Bench-IV in CP (IB) No. 36/ND/2024)

**In the matter of:**

**KKSPUN INDIA LIMITED**
(CIN:U29199DL2006PLC144590)
A company incorporated under Companies Act, 1956
Regd. Office: DSIIDC Shed No. 103,
Scheme - I, Okhla Industrial Area,
Phase-II, New Delhi – 110 020

**ALSO AT:**
Having its Corporate Office at: $10^{th}$ Floor,
Tower A, Vatika Mindscapes, 12/3,
Sarai Khwaja, Mathura Rd, Sector 27,
Faridabad, Haryana 121003

**...Appellant**

**Vs.**

**YES BANK LIMITED**
Having its Registered Office at:
Yes Bank House
Off Western Express Highway Santacruz East,
Mumbai – 400055

And a Branch Office at:
Yes Bank Limited, Max Towers 4th Floor,
Sector – 16B Noida - 201301
Through its Authorised officer

**...Respondent**

**Present:**

**For Appellant:** Mr. Kartik Malhotra and Mr. Anindit Mandal, Advocates.

**For Respondents:** Mr. Hasmat Nabi, Ms. Farah Naaz and Mr. Toshib Ahmed, Advocates for Yes Bank.

**WITH**
**Company Appeal (AT) (Ins.) No. 816 of 2025**

(Arising out of order dated 14.05.2025 passed by the National Company Law Tribunal, New Delhi Bench-IV in CP (IB) No. 36/ND/2024)

**In the matter of:**

**KKSPUN INDIA LIMITED**
(CIN:U29199DL2006PLC144590)
A company incorporated under Companies Act, 1956
Regd. Office: DSIIDC Shed No. 103,
Scheme - I, Okhla Industrial Area,
Phase-II, New Delhi – 110 020

**ALSO AT:**
Having its Corporate Office at: 10th Floor,
Tower A, Vatika Mindscapes, 12/3,
Sarai Khwaja, Mathura Rd, Sector 27,
Faridabad, Haryana 121003

**...Appellant**

**Vs.**

**YES BANK LIMITED**
Having its Registered Office at:
Yes Bank House
Off Western Express Highway Santacruz East,
Mumbai – 400055

And a Branch Office at:
Yes Bank Limited, Max Towers 4th Floor,
Sector – 16B Noida - 201301
Through its Authorised officer

**...Respondent**

**Present:**

**For Appellant:** Mr. Kartik Malhotra and Mr. Anindit Mandal, Advocates.

**For Respondents:** Mr. Hasmat Nabi, Ms. Farah Naaz and Mr. Toshib Ahmed, Advocates for Yes Bank.

**J U D G M E N T**
**(17th July, 2026)**

**INDEVAR PANDEY, MEMBER (T)**

This appeal CA (AT) (Ins.) No. 1015 of 2025 has been preferred under Section 61 of the Code by **Mr. Kavish Gupta, Suspended Director of KKSPUN India Limited,** and it arises from the judgment and order dated 11.07.2025 passed by the National Company Law Tribunal, New Delhi Bench-IV (**Adjudicating Authority**), in **CP (IB) No. 36/ND/2024**. The Adjudicating Authority vide the impugned order admitted the application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as '**Code**') by **Yes Bank Limited/ Respondent No.1** and **Financial Creditor,** against **KKSPUN India Limited/Corporate Debtor** and initiated the Corporate Insolvency Resolution Process (CIRP). Mr. Harvinder Singh, was appointed as the **Interim Resolution Professional (IRP)** of KKSPUN India Limited/Corporate Debtor, by the Adjudicating Authority and he is the **Respondent No.2** here. The **State Bank of India (SBI)**, which is the lead bank of consortium of lenders, who have extended credit facilities to CD has been arrayed as **Respondent No.3** and **IndusInd Bank** another member of the same consortium is the **Respondent No.4**. This appeal would henceforth be referred to as **First Appeal/Main Appeal**.

2. The Appellant contends that the impugned order was passed without affording an effective opportunity of hearing; without considering the pending applications seeking deferment of the proceedings; and despite the fact that a comprehensive settlement and compromise scheme under Sections 230-232 of the Companies Act, 2013 had reached an advanced stage of approval before the consortium of lenders. According to the Appellant, the admission of the Section 7 application rendered the ongoing settlement process infructuous and caused irreparable prejudice to an otherwise commercially viable MSME company.

**Company Appeal (AT) (Ins.) No. 812 of 2025**

3. The CA (AT) (Ins.) No. 812 of 2025 (hereinafter referred to as '**Second Appeal'**) has been preferred by **KKSPUN India Limited (Corporate Debtor/Appellant)** against **State Bank of India (Respondent/Financial Creditor)** challenging the order dated **14.05.2025** passed by the Ld. Adjudicating Authority in **CP (IB) No. 326/ND/2024**. The appeal arises from the dismissal of the **New Restoration Application bearing RA No. 36/ND/2025**, which was filed by the Corporate Debtor seeking restoration of its earlier **Recall Application bearing IA No. 1916/ND/2025**. The said Recall Application was preferred for recalling the orders dated **19.03.2025 and 02.04.2025**, whereby the Corporate Debtor contended that vide order dated 19.03.2025 the Ld. Adjudicating Authority closed its right to advance arguments in the Section 7 proceedings filed by State Bank of India and further vide the order dated 02.04.2025 the Ld. AA reserved the orders in Sec 7 petition, without granting it an effective opportunity of hearing. The

Corporate Debtor has challenged the said order on the ground that the Adjudicating Authority ought to have restored the Recall Application and considered its submissions on merits.

**Company Appeal (AT) (Ins.) No. 813 of 2025**

4. The CA (AT) (Ins.) No. 813 of 2025 (hereinafter referred to as '**Third Appeal'**) has been preferred by **KKSPUN India Limited (Corporate Debtor/Appellant)** against **State Bank of India (Respondent/Financial Creditor)** challenging the order dated **28.04.2025** passed by the Ld. Adjudicating Authority in **CP (IB) No. 326/ND/2024**. The appeal arises from the dismissal of the Corporate Debtor's **Recall Application bearing IA No. 1916/ND/2025**, which was filed seeking recall of the orders dated **19.03.2025 and 02.04.2025** passed in the Section 7 proceedings initiated by State Bank of India. The IA No. 1916/ND/2025 was dismissed by the Ld. Adjudicating Authority for 'want of prosecution' by the Appellant. The grievance raised by the Corporate Debtor is that while the settlement process between the Corporate Debtor and consortium lenders was progressing and the application seeking abeyance of the Section 7 proceedings was pending, the Adjudicating Authority closed the Corporate Debtor's right to argue on **19.03.2025** and thereafter reserved the Company Petition for final orders on **02.04.2025**. The present appeal, therefore, primarily concerns the issue of denial of opportunity of hearing and the refusal to recall the procedural orders passed during the pendency of the insolvency proceedings.

**Company Appeal (AT) (Ins.) No. 815 of 2025**

5. The CA (AT) (Ins.) No. 815 of 2025 (hereinafter referred to as '**Fourth Appeal'**) has been preferred by **KKSPUN India Limited (Corporate Debtor/Appellant)** against **Yes Bank Limited (Respondent/Financial Creditor)** challenging the order dated **28.04.2025** passed by the Ld. Adjudicating Authority in **CP (IB) No. 36/ND/2024**. The present appeal arises from the dismissal of the Corporate Debtor's **Recall Application bearing IA No. 1913/ND/2025**, which sought recall of the orders dated **19.03.2025 and 02.04.2025** passed during the pendency of the Section 7 application filed by Yes Bank Limited, for 'want of prosecution'. The Corporate Debtor submitted that the order dated **19.03.2025** resulted in closure of its right to advance oral arguments and the subsequent order dated **02.04.2025** resulted in the Section 7 Petition being reserved for final orders, despite the pendency of its application seeking deferment of proceedings due to the ongoing settlement discussions and the Scheme of Compromise and Arrangement under Sections 230-232 of the Companies Act, 2013. The appeal has accordingly been preferred seeking restoration of the opportunity to address arguments and contest the Section 7 proceedings on merits before any final adjudication.

**<u>Company Appeal (AT) (Ins.) No. 816 of 2025</u>**

6. The CA (AT) (Ins.) No. 816 of 2025 (hereinafter referred to as '**Fifth Appeal'**) has been preferred by **KKSPUN India Limited/Corporate Debtor** against **Yes Bank Limited (Respondent/Financial Creditor)** challenging the order dated **14.05.2025** passed by the Ld. Adjudicating Authority in **CP (IB) No. 36/ND/2024**. The appeal arises from the dismissal of the **New**

**Restoration Application bearing RA No. 37/ND/2025**, filed by the Corporate Debtor for restoration of its earlier **Recall Application bearing IA No. 1913/ND/2025**. The Recall Application sought recall of the orders dated **19.03.2025 and 02.04.2025**, whereby the Corporate Debtor's right to argue the Section 7 Petition filed by Yes Bank Limited was closed and the matter was reserved for final orders. According to the Corporate Debtor, dismissal of the Restoration Application prevented consideration of its grievance regarding lack of effective hearing. The present appeal therefore seeks restoration of the Recall Application and an opportunity to place its submissions before adjudication of the insolvency proceedings.

7. The First appeal is the **Main Appeal** among the five connected appeals arising out of the same insolvency proceeding i.e. CP (IB) No. 36/ND/2024, vide which the CD was admitted in CIRP. The other 4 appeals are challenges to procedural orders passed by Ld. Adjudicating Authority during the CIRP proceedings of the same Corporate Debtor. Since all the appeals arise from the same set of facts and interconnected proceedings, before the Ld. Adjudicating Authority, they are being considered together. The First appeal challenges the final order dated 11.07.2025 passed in CP (IB) No. 36/ND/2024, whereby the Adjudicating Authority admitted the application under Section 7 of the Code and initiated the Corporate Insolvency Resolution Process against the Corporate Debtor.

**Facts of the Case**

8. The brief facts of the case relevant to the disposal of these appeals are as follows: -

i. The Corporate Debtor, KKSPUN India Limited, is engaged in the business of manufacturing precast concrete products and supplying the same to large Engineering, Procurement and Construction (EPC) companies, particularly Larsen & Toubro. The company is registered as a **Micro, Small and Medium Enterprise (MSME)** and claims to be a commercially solvent, profit-making concern employing more than 235 persons. Being an EPC contractor, its principal commercial assets consist of ongoing work orders, skilled manpower and engineering expertise rather than tangible immovable assets.

ii. The Yes Bank Limited/ Respondent No.1 Bank sanctioned various credit facilities to the Corporate Debtor over a period of time since 2016. The Corporate Debtor failed to maintained financial discipline and defaulted in payment to the Financial Creditor. Subsequently, the loan account of the Appellant/ Corporate Debtor was classified as NPA w.e.f. 05.08.2022. Yes Bank also recorded the default of the Appellant with the NeSL portal on 05.08.2022. The Respondent No.1, thereafter on 07.03.2023 issued loan recall notice to Corporate Debtor for the entire outstanding amount of all facilities, amounting to Rs.32.13 crores, which was due as on 01.03.2023, together with interest and other charges etc. and requested the payment within seven days of receipt of the loan recall notice.

iii. As the Corporate Debtor did not make outstanding payment, the Respondent No.1/Yes Bank filed application under Section 7 of the Code for total outstanding dues of Rs.32.57 cr. on 14.12.2023. The same was registered on 24.01.2024 as CP (IB) No.36/ND/2024. The Corporate Debtor filed its detailed reply on 09.05.2024.

iv. Parallelly, The CD had also availed credit facilities from Respondent No.3/SBI, which were granted way back in 2011 amounting to Rs.69.50 cr. These facilities were subsequently enhanced/ renewed/ modified over a period of time. The last such renewal took place on 18.02.2022 for Rs.169.88 cr. The CD also committed default in repayment of SBI Loan Account also and it was declared as NPA w.e.f. 10.08.2022. SBI also filed its own Section 7 petition, which was listed as CP (IB) No. 326/2024 for a default of Rs.190.49 cr. Later on, several banks, which had provided credit facilities to the CD, formed a consortium of which SBI was the lead member. The CD filed its Reply dated 28.08.2024 to the Section 7 IBC Petition of the SBI.

v. The Ld. NCLT on 18.12.2024 heard the Ld. Counsel for the SBI and asked the Respondent to come forth for arguments, as the present application had been pending for long. However, as the Debt and default was crystal clear, the CD sought an opportunity to get the matter settled. Therefore, the Ld. NCLT, on 06.01.2025, 20.02.2025 and on 30.01.2025 granted several opportunities to the CD to settle the matter with the Applicant and also to argue the matter on merits, but in vain.

vi. A Joint Lenders Meeting (JLM) was conducted on 10.02.2025 to discuss the revised Settlement Proposal dated 30.01.2025 of Rs. 83.00 Crores of the CD, however, the CD did not make payment of any upfront amount, thus, the said Settlement Proposal could not proceed at all even for consideration of the lenders, hence, was deemed as failed.

vii. The above fact of non-consideration of the Settlement Proposal of the CD was informed to the Ld. NCLT during hearing on 19.03.2025, whereafter, the Ld. NCLT re-heard the arguments on behalf of the Applicant-Bank, and on failure to argue the matter, the respondent's right to argue was closed, while the Ld. NCLT granted liberty to both the parties to file a brief note and listed the matter for compliance to 02.04.2025. The brief notes were duly filed by all concerned, and on 02.04.2025 the Ld. NCLT reserved the matter for orders.

viii. The CD filed an LA. No. 1916/2025 seeking recall of Orders dated 19.03.2025 and 02.04.2025, however, the CD did not appear before the Ld. NCLT to prosecute the said LA. No. 1916/2025 on 28.04.2025, thus, on the 2nd call, the said I.A. was dismissed for 'want of prosecution'. The Restoration Application No. 36/2025 of the CD seeking to restore LA. No. 1916/2025 was also dismissed by the Ld. NCLT by its Order dated 14.05.2025 holding that the appellant failed to point out any valid reasons for restoration.

ix. The CD filed CA (AT) (INS.) Nos. 812/2025 and 813/2025 challenging the Orders dated 14.05.2025 and 28.04.2025 which was listed for hearing on 27.05.2025, however, no interim relief was granted in favour of the CD. Having failed to obtain any interim Order from the NCLAT on 27.05.2025, the CD again moved the Ld. NCLT by filing LA. No. 3136/2025 seeking abeyance of pronouncement of Order in the

Section 7 IBC Petition, This IA. No. 3136/2025 was dismissed by the Ld. NCLT by its Order dated 04.07.2025.

x. During the pendency of the Section 7 proceedings, the Corporate Debtor, on 07.12.2024, initiated an independent process under Sections 230-232 of the Companies Act, 2013 by filing CA (CAA) No.114/ND/2024, proposing a comprehensive Scheme of Compromise and Arrangement before the consortium of lenders with the objective of settling the outstanding debts outside insolvency proceedings. The proposed scheme envisaged a negotiated restructuring with all consortium banks, including Yes Bank.

xi. The Corporate Debtor thereafter filed IA No.5985/ND/2024 on 16.12.2024 under Rule 11 of the NCLT Rules, requesting the Adjudicating Authority to keep the Section 7 proceedings in abeyance, until consideration of the compromise scheme under Sections 230-232. The said application was ultimately dismissed as infructuous simultaneously with the admission of the Section 7 petition on 11.07.2025.

xii. While these negotiations continued, the first motion application filed under Sections 230-232 came to be reserved for orders on 11.02.2025, and thereafter, on 20.02.2025, the Corporate Debtor placed before the Adjudicating Authority the minutes of the Joint Lenders Meeting reflecting that the settlement proposal was proposed to be put to voting on 10.03.2025. In view thereof, the Section 7 proceedings were adjourned to 19.03.2025 for reporting the status of settlement or for hearing arguments.

xiii. Shortly thereafter, on 20.03.2025, the Adjudicating Authority allowed the first motion application in CA (CAA) No.114/ND/2024, thereby approving the initial stage of the proposed Scheme of Compromise and Arrangement under Sections 230-232 of the Companies Act.

xiv. When the matter again came up on 02.04.2025, the Corporate Debtor had engaged a Senior Counsel to argue the Section 7 petition. However, the Adjudicating Authority reserved orders without hearing arguments either on the pending Rule 11 application, on the merits of the Section 7 petition, or on the progress of the compromise scheme and the Joint Lenders Meetings. Aggrieved thereby, the Corporate Debtor filed IA No.1913/ND/2025 on 16.04.2025 seeking recall of the orders dated 19.03.2025 and 02.04.2025, alleging that those orders had been obtained due to serious misrepresentations made by Yes Bank before the Adjudicating Authority. The recall application, however, came to be dismissed on 28.04.2025 for non-appearance of counsel.

xv. Finally, while the clarification applications came up before this Appellate Tribunal on 11.07.2025, the Adjudicating Authority pronounced the impugned order on the very same day admitting the Section 7 petition and initiating CIRP against the Corporate Debtor. Ld. Adjudicating Authority took a view that the loan account(s) of the CD having turned NPA on 10.08.2022 and the debts and default being clear in view of the NESL Certificates as also the CD having admitted the debts and defaults in the Letter dated 24.11.2021; Balance Sheet as at 2022 & 2023; and the Settlement Proposals dated 08.01.2024, 06.07.2024, 24.09.2024 and 30.01.2025; it was a fit case for admission in CIRP.

xvi. Both the CP (IB) No. 36/2024 of the Yes Bank Ltd. and the CP (IB) No. 326/2024 of the SBI were listed for pronouncement of Orders on 11.07.2025. However, since the Section 7 IBC Petition of the Yes Bank Ltd. was filed prior in time, the Ld. NCLT passed the Admission Order in CP (IB) No. 36/2024 of Yes Bank Ltd., while the CP (IB) No. 326/2024 of the Respondent No.3/SBI was disposed of in view of Admission Order and Appointment of the RP in Yes Bank's CP (IB) No. 36/2024. This appeal arises from the aforesaid impugned order dated 11.07.2025.

**Submissions of Appellant**

9. Ld. Counsel submitted that the Corporate Debtor is a long-standing infrastructure company engaged in the manufacture of spun concrete pipes and execution of infrastructure projects across the country. Respondent No.1, Yes Bank, claims an exposure of approximately Rs.60.94 Crores, whereas Respondent No.3, State Bank of India, claims dues exceeding Rs.190 Crores. However, the alleged financial distress was not attributable to any deliberate default on the part of the Corporate Debtor. Rather, the Respondent Banks themselves had precipitated the liquidity crisis by unilaterally curtailing sanctioned credit facilities, despite the Corporate Debtor continuing to execute several public infrastructure projects. It was further submitted that

this conduct of the Banks forms the subject matter of a Counterclaim of approximately Rs.817 Crores pending before the Debts Recovery Tribunal-III, New Delhi.

10. He submitted that even on the date of admission of the Section 7 application, the Corporate Debtor remained a genuine going concern. It continued to execute Government projects, maintain operational activities and function under the supervision of an Agency for Specialised Monitoring appointed by State Bank of India itself. According to the Appellant, these circumstances clearly demonstrated that the Corporate Debtor was commercially viable and capable of revival, making the admission of CIRP wholly unwarranted.

11. He further submitted that the impugned Admission Order is founded entirely upon two earlier orders dated 19.03.2025 and 02.04.2025, by which the Corporate Debtor's right to address arguments was closed and the matter was reserved for orders. It was contended that these foundational orders were procured by the Respondent Banks through material suppression of facts and misrepresentation regarding the ongoing settlement process and, therefore, the very foundation of the admission order stands vitiated.

12. He submitted that the Corporate Debtor had promptly filed Recall and Restoration Applications specifically pointing out the suppression and misrepresentation practised by the Respondent Banks. However, those applications were dismissed, without examining the allegations on merits or calling upon the Banks to rebut the assertions made therein. The said

dismissal orders have already been challenged before this Hon'ble Tribunal in Company Appeals (AT) (Ins.) Nos. 812, 813, 815 and 816 of 2025, which are pending consideration along with the present Appeal.

13. Relying upon the settled principle of *sublato fundamento cadit opus*, Learned Counsel submitted that once the foundational orders themselves are under challenge for having been procured by suppression and material misrepresentation, every consequential proceeding flowing therefrom, including the Admission Order and the CIRP initiated pursuant thereto, necessarily falls. It was therefore submitted that the impugned Admission Order cannot be sustained in law as it rests upon proceedings that stand fundamentally vitiated by denial of fairness and suppression of material facts.

14. Learned Counsel submitted that the Corporate Debtor was effectively denied a meaningful opportunity of being heard before the Section 7 petition came to be admitted. It was submitted that after the arguments on behalf of Yes Bank concluded on 14.10.2024, the Corporate Debtor was deprived of its right to advance arguments owing to a sequence of procedural events, despite the existence of ongoing settlement negotiations between the parties. According to the Appellant, the cumulative effect of these events resulted in a grave violation of the principles of natural justice.

15. It was submitted that on 13.11.2024, an adjournment was granted as the arguing counsel for the Corporate Debtor was engaged before the Delhi High Court. Thereafter, on 13.12.2024, when IA No.5985/ND/2024 seeking adjournment of the Section 7 proceedings in view of the ongoing settlement

process was listed for the first time, the Corporate Debtor requested that the said interlocutory application be heard before the main petition. However, instead of adjudicating the application on merits, the Learned Adjudicating Authority proceeded to close the Corporate Debtor's right to advance arguments on the ground that it was not coming forward to argue. It was contended that the application raising the existence of an active settlement process remained undecided for several months and was ultimately dismissed as infructuous only after the Section 7 petition itself stood admitted.

16. He further submitted that even thereafter, on 09.01.2025 and 30.01.2025, the matter continued to be adjourned without adjudicating the said application. Subsequently, on 20.02.2025, the Corporate Debtor placed before the Learned Adjudicating Authority the Minutes of the Joint Lender Meeting dated 10.02.2025 demonstrating that One Time Settlement (OTS) negotiations were actively continuing. The Respondent Banks themselves informed the Tribunal that the settlement proposal would be considered on 10.03.2025, thereby acknowledging the subsistence of settlement discussions.

17. It was further submitted that immediately before the hearing dated 19.03.2025, State Bank of India had addressed a communication dated 18.03.2025 to the Corporate Debtor actively engaging with the OTS proposal. Nevertheless, on 19.03.2025, after a change in the composition of the Bench, fresh arguments were heard on behalf of Yes Bank, whereas the Corporate Debtor's right to argue was once again closed, when only its junior counsel was present. According to the Appellant, the Respondent Banks failed to

disclose before the Learned Adjudicating Authority that settlement negotiations remained alive, that an OTS communication had been issued only a day earlier, and that proceedings under Section 230 of the Companies Act were listed on the very next day. These material facts, according to the Appellant, were deliberately withheld despite being directly relevant to the exercise of jurisdiction by the Adjudicating Authority.

18. Learned Counsel submitted that when the matter was next listed on 02.04.2025, the Corporate Debtor appeared through a Senior Counsel who was fully prepared to address arguments on merits and had also filed written submissions in compliance with the earlier directions. However, without affording any oral hearing whatsoever, the Learned Adjudicating Authority simply reserved the matter for orders on the basis that the earlier order had already extinguished the Corporate Debtor's right to argue. It was therefore contended that the impugned admission order was rendered without granting the Corporate Debtor an effective opportunity of hearing, thereby violating the principles of natural justice and rendering the proceedings fundamentally unfair.

19. Ld Counsel submitted that the conduct of the Respondent Banks squarely attracted the doctrine of approbation and reprobation. It was contended that while the Banks represented before the Learned Adjudicating Authority that there existed no meaningful settlement process warranting deferment of the Section 7 proceedings, they were simultaneously participating in active OTS negotiations with the Corporate Debtor through

Joint Lender Meetings, correspondence and consideration of settlement proposals under the Section 230 Scheme.

20. He further submitted that this suppression also forms the very basis of the Recall Applications filed before the Learned Adjudicating Authority. Since the foundational orders dated 19.03.2025 and 02.04.2025 were passed without disclosure of these material developments, the Respondent Banks cannot now seek to sustain the consequential Admission Order which itself stands vitiated by such suppression and misrepresentation.

21. Learned Counsel submitted that this Hon'ble Tribunal, by its order dated 29.05.2025, had expressly permitted the settlement process and the Section 7 proceedings to continue simultaneously. He contended that the order dated 29.05.2025 ought to be understood as protecting the ongoing settlement process and ensuring that it received a genuine opportunity to succeed. If, despite such protection, the Section 7 petition is admitted before the settlement process could conclude, the very purpose of permitting parallel proceedings would stand frustrated. According to the Appellant, this could never have been the intention behind the order passed by this Hon'ble Tribunal.

22. Learned Counsel further submitted that when the impugned Admission Order was passed on 11.07.2025, proceedings under Section 230 of the Companies Act continued to remain pending before the Learned Adjudicating Authority itself and several orders had already been passed therein on 02.04.2025, 28.04.2025 and 14.05.2025. He contended that admitting the

Corporate Debtor into CIRP despite an active Court-supervised settlement process was contrary both to the spirit of the Insolvency and Bankruptcy Code and to the earlier directions issued by this Hon'ble Tribunal.

23. Ld. Counsel further submitted that the Corporate Debtor has a substantial Counterclaim of approximately Rs.817 Crores pending before the Debts Recovery Tribunal-III, New Delhi, wherein it has specifically alleged that the Respondent Banks' unilateral curtailment of sanctioned credit facilities caused the liquidity crisis faced by the Corporate Debtor. It was pointed out that this Counterclaim had already been instituted on 13.10.2023, much prior to the filing of the present Section 7 application by Yes Bank, and even the Learned Adjudicating Authority had taken note of this chronology in its order dated 23.05.2025.

24. The Appellant contends that the Committee of Creditors consists exclusively of the very Banks against whom the Counterclaim has been instituted. Consequently, the failure of the Interim Resolution Professional to actively pursue the Counterclaim has directly benefited those creditors who stand to gain if the claim is abandoned. It was submitted that a Counterclaim of Rs.817 Crores constitutes a valuable asset of the Corporate Debtor and the Interim Resolution Professional is under a statutory obligation to preserve and protect such asset instead of permitting it to perish through inaction.

25. Ld. Counsel also submitted that apart from the Counterclaim, the Corporate Debtor possesses genuine arbitral claims of nearly Rs. 1200 Crores against various Government authorities, of which approximately Rs.450

Crores have already been recognised as receivables in its books of account. According to the Appellant, these significant recoverable assets were completely ignored by the Learned Adjudicating Authority while passing the impugned Admission Order.

26. He submitted that instead of facilitating resolution, the initiation of CIRP has caused serious and irreversible prejudice to the Corporate Debtor. Bank Guarantees amounting to approximately Rs.1.5 Crores have already been invoked and encashed, while additional guarantees worth nearly Rs.3.5 Crores face imminent invocation. Salaries of employees and CIRP expenses have also not been released, except for a limited period, despite enjoying statutory priority under the Insolvency and Bankruptcy Code. According to the Appellant, the CIRP has therefore resulted in destruction of the Corporate Debtor's business rather than its preservation.

27. Learned Counsel finally submitted that the Insolvency and Bankruptcy Code is intended to serve as a mechanism for resolution of genuine insolvency and not as an instrument for debt recovery. In the present case, the Respondent Banks initiated insolvency proceedings, despite the pendency of substantial Counterclaims against them and while actively pursuing settlement negotiations. Once the Corporate Debtor entered CIRP, the same creditors against whom the Counterclaim was pending assumed complete control over the Committee of Creditors, thereby creating an inherent conflict of interest. It was therefore submitted that the impugned Admission Order facilitates precisely the kind of recovery-oriented process which the Code was never intended to encourage and accordingly deserves to be set aside.

**Submission of Respondent No.1/YES BANK**

28. Learned Counsel submitted that the present appeal filed by the Suspended Director of the Corporate Debtor is devoid of merit and has been preferred only to delay the CIRP proceedigs initiated pursuant to the order dated 11.07.2025 passed by the Learned Adjudicating Authority. It was submitted that the impugned order has been passed after due consideration of the existence of financial debt and default and after granting sufficient opportunity to the Corporate Debtor to contest the proceedings.

29. He submitted that the Corporate Debtor had availed various credit facilities from YES Bank. After availing the facilities to the maximum extent, the Corporate Debtor failed to maintain financial discipline and committed continuous defaults in repayment of its outstanding obligations despite repeated demands made by the Financial Creditor. Consequently, the loan account of the Corporate Debtor was classified as Non-Performing Asset (NPA) with effect from 05.08.2022 in accordance with the applicable RBI guidelines.

30. It was further submitted that, owing to the persistent default, YES Bank issued a Loan Recall Notice dated 07.03.2023 calling upon the Corporate Debtor to clear the outstanding liability under the Cash Credit Facility, Bank Guarantee Facility and GECL Facility. The Corporate Debtor was called upon to deposit 100% cash margin against the outstanding uninvoked Bank Guarantees amounting to approximately Rs.21.85 Crores and to repay the outstanding amount of approximately Rs.32.13 Crores under the remaining

facilities along with applicable interest and charges. However, despite service of the said notice, the Corporate Debtor failed to discharge its liabilities.

31. Ld. Counsel submitted that, upon failure of the Corporate Debtor to clear the dues, YES Bank also invoked the guarantees furnished by the guarantors and called upon them to make payment of the outstanding amounts. However, neither the Corporate Debtor nor the guarantors came forward to liquidate the admitted dues, thereby confirming the continuing default committed towards the Financial Creditor.

32. Ld. Counsel further submitted that YES Bank was constrained to initiate recovery proceedings by filing O.A. No.571/2023 before the Debt Recovery Tribunal-I, Delhi for recovery of its outstanding dues. The said proceedings were independent recovery measures and do not affect the maintainability of proceedings under Section 7 of the Code, since the scope of enquiry under Section 7 is confined only to the existence of financial debt and occurrence of default.

33. He submitted that the default committed by the Corporate Debtor was also duly recorded with National E-Governance Services Limited (NeSL) on 05.08.2022 in respect of the loan accounts maintained by the Corporate Debtor. At the time of filing the Section 7 Application, the total outstanding liability payable by the Corporate Debtor was Rs.32,57,29,534.01 as on 01.06.2023, comprising dues under Cash Credit/BG Invoked Loan facilities and GECL Facility. Thus, the existence of financial debt as well as default stood clearly established through documentary evidence and authenticated records.

34. Ld. Counsel submitted that the Corporate Debtor, in its reply before the Ld. Adjudicating Authority, never disputed the factum of availing the credit facilities from YES Bank. Once the financial facilities, disbursement and default were established, the statutory requirements under Section 7 of the Code stood satisfied. The objections subsequently raised by the Corporate Debtor were only an attempt to divert attention from the admitted default and delay the commencement of CIRP.

35. He submitted that sufficient opportunities were granted to the Corporate Debtor before the Learned Adjudicating Authority. Arguments on behalf of YES Bank were heard, and repeated opportunities were granted to the Corporate Debtor to advance its submissions. However, despite several adjournments, the Corporate Debtor failed to proceed with arguments, resulting in closure of its right to argue. Even thereafter, written submissions were permitted to be filed. Therefore, the allegation that the impugned order was passed without granting adequate opportunity of hearing is factually incorrect and contrary to the record.

36. Ld. Counsel submitted that the Corporate Debtor also attempted to delay the Section 7 proceedings by filing applications seeking abeyance of the final hearing on the ground of pendency of proceedings under Sections 230-232 of the Companies Act, 2013. However, such pendency cannot defeat the statutory right of a Financial Creditor under the Code, once debt and default are established, proceedings under Section 7 cannot be indefinitely stalled merely on the basis of a proposed scheme.

37. He further submitted that the Appellant has sought to rely upon the pendency of the counterclaim filed before the Debt Recovery Tribunal to contend that the Section 7 proceedings ought not to have been admitted. The said contention is wholly misconceived. The counterclaim filed by the Corporate Debtor does not extinguish the admitted financial debt owed to YES Bank, nor does it alter the fact that the Corporate Debtor had defaulted in repayment of the credit facilities availed by it. The proceedings before the DRT are independent recovery proceedings, whereas the limited enquiry before the Adjudicating Authority under Section 7 of the Code is only with respect to the existence of debt and default. Once the same stood established through loan documents, NeSL record of default and admitted availment of facilities, the pendency of any counterclaim could not have prevented admission of the Section 7 Application.

38. It was submitted that the Corporate Debtor's reliance on its alleged counterclaim of approximately Rs.817 Crores before the DRT was merely an attempt to create an artificial dispute and delay the insolvency proceedings. He submitted that unlike proceedings under Section 9 of the Code, where pre-existing disputes are relevant, no such considerations arise under Section 7 proceedings filed by a Financial Creditor. The Corporate Debtor cannot avoid CIRP merely by raising monetary claims against the Financial Creditor after committing default.

39. Ld. Counsel further submitted that the reliance placed by the Corporate Debtor upon pending proceedings under Sections 230-232 of the Companies Act, 2013 was also untenable. The existence of a proposed scheme of

arrangement cannot override the statutory scheme of the Code. The Code provides an independent mechanism for resolution of a Corporate Debtor upon establishment of debt and default, and therefore the pendency of any proposed scheme cannot be used as a ground to indefinitely keep Section 7 proceedings in abeyance.

40. He submitted that the Corporate Debtor was attempting to rely upon the judgment of the Hon'ble Supreme Court in *Vidarbha Industries Power Ltd. v. Axis Bank Ltd.* to contend that admission of a Section 7 application is discretionary. However, the said judgment was rendered in its peculiar facts and has no application to the present case. In the present matter, there is clear evidence of disbursement of financial facilities, continuous default since 05.08.2022, admission of facilities by the Corporate Debtor, NeSL record of default and outstanding dues exceeding Rs.32 Crores. Therefore, there existed no exceptional circumstance requiring the Adjudicating Authority to defer admission of the petition.

41. Ld. Counsel submitted that the settled position of law, as laid down in "*Innoventive Industries Ltd. v. ICICI Bank Ltd.*, *E.S. Krishnamurthy v. Bharath Hi Tech Builders Pvt. Ltd.*" and subsequently reaffirmed in *M. Suresh Kumar Reddy v. Canara Bank*, is that once the Adjudicating Authority is satisfied regarding the existence of financial debt and occurrence of default, the application under Section 7 of the Code is required to be admitted. In the present case, all statutory requirements were duly fulfilled by YES Bank and no legal ground existed for rejection or deferment of the proceedings.

42. Summing up, Ld. Counsel submitted that the Corporate Debtor had been granted sufficient opportunity before the Ld. Adjudicating Authority. The record demonstrates that the Corporate Debtor participated in the proceedings, filed its reply and was also permitted to file written submissions. The inability or failure of the Corporate Debtor to advance arguments despite repeated opportunities cannot subsequently be projected as violation of natural justice. Therefore, the impugned order dated 11.07.2025 admitting the Section 7 Application was passed after due consideration of the record and warrants no interference by this Hon'ble Tribunal.

**Submissions of Respondent No. 3/SBI**

43. Ld. Counsel for SBI submitted that the law is now well settled that the pendency of proceedings under Section 230 of the Companies Act does not create any legal embargo upon initiation or continuation of proceedings under Section 7 of the Insolvency and Bankruptcy Code. In support of this proposition, reliance was placed upon the judgment of this Hon'ble Tribunal in ***Grand Developers Pvt. Ltd. v. Nitin Batra & Ors., Company Appeal (AT) (Insolvency) No. 899 of 2024***, wherein this Appellate Tribunal categorically held that proceedings relating to a Scheme under Section 230 of Companies Act are entirely independent of insolvency proceedings under the Code. The mere filing of such a Scheme cannot be used as a device to stall, obstruct or indefinitely delay the consideration of an otherwise maintainable application under Section 7. He submitted that this judgment squarely applies to the facts of the present case. The repeated attempts made by the

Corporate Debtor to rely upon the proposed Scheme were nothing but an endeavour to postpone the inevitable consequences of its admitted financial default. Such attempts cannot override the statutory mandate of the Insolvency and Bankruptcy Code or defeat the rights of the financial creditors to seek resolution of the Corporate Debtor through the mechanism provided under the Code.

44. Ld. Counsel further submitted that the conduct of the Corporate Debtor throughout the proceedings unequivocally establishes its acknowledgment of the outstanding financial liability. It was pointed out that the Corporate Debtor repeatedly approached the consortium lenders with One-Time Settlement proposals, including those dated 08.01.2024, 06.07.2024 and 24.09.2024, offering to settle the admitted dues for substantially reduced amounts. Every one of these proposals was rejected by the lenders as being commercially unacceptable. Nevertheless, the significance of these proposals lies not in their rejection, but in the fact that they constitute repeated and unequivocal admissions by the Corporate Debtor of the existence of the outstanding financial debt. A party genuinely disputing either the debt or the default would never seek repeated settlements with its lenders. The repeated settlement proposals therefore completely belie the Appellant's attempt to question the existence of debt and default before this Hon'ble Tribunal and furnish yet another independent acknowledgment of liability.

45. Ld. Counsel thereafter addressed the Appellant's reliance upon the alleged counterclaim pending before the Debt Recovery Tribunal. It was submitted that the existence of a counterclaim, cross-demand or even an

independent money suit has absolutely no bearing upon the jurisdiction exercised by the Adjudicating Authority under Section 7 of the Insolvency and Bankruptcy Code. The limited enquiry under Section 7 is confined to determining whether a financial debt exists and whether a default has occurred. Once these jurisdictional facts are established from the material placed on record, the pendency of collateral proceedings elsewhere cannot defeat or postpone admission of the insolvency proceedings. In the present case, the alleged counterclaim raised by the Corporate Debtor does not erase the admitted financial liability owed to SBI, nor does it displace the overwhelming documentary evidence establishing default. Therefore, the Appellant's reliance upon such proceedings is wholly misconceived.

46. In support of the above proposition, Ld. Counsel placed reliance upon the judgment of this Hon'ble Tribunal in ***Vijay Kumar Singhania v. Bank of Baroda & Ors., Company Appeal (AT) (Insolvency) No. 1058 of 2023***, wherein it was categorically held that the mere filing of a counterclaim or money suit by the Corporate Debtor cannot negate the existence of debt and default, when the Financial Creditor has established the same through the loan documents, statements of account and other relevant evidence. He submitted that the principle laid down therein squarely governs the present controversy. Here also, SBI has produced the sanction letters, executed loan documents, authenticated statements of account, NeSL record of default, acknowledgments of liability contained in the Corporate Debtor's own balance sheets and correspondence, and several settlement proposals made by the Corporate Debtor itself. In the face of such overwhelming evidence, the alleged

counterclaim cannot be permitted to cloud or postpone the commencement of insolvency proceedings. It was further submitted that the aforesaid judgment has also been affirmed by the Hon'ble Supreme Court in Civil Appeal (Diary) No. 5768 of 2024 by order dated 14.08.2024, thereby lending finality to the legal position that pendency of a counterclaim is no defence to a Section 7 application once debt and default stand established.

47. Ld. Counsel thereafter submitted that the Appellant has also sought to contend that the Corporate Insolvency Resolution Process ought to be kept in abeyance on considerations such as the necessity of making payments to suppliers, preserving business operations and maintaining the Corporate Debtor as a going concern. It was submitted that such submissions are contrary to the express provisions of the Code and have been expressly rejected by this Hon'ble Tribunal. Once an application under Section 7 has been admitted and the statutory consequences under the Code come into operation, including the declaration of moratorium under Section 14, neither the suspended management nor any other stakeholder can seek suspension or dilution of the statutory process merely on equitable considerations. Commercial inconvenience or business exigencies cannot override the mandatory statutory framework enacted by Parliament.

48. In this regard, Ld. Counsel relied upon the judgment of this Appellate Tribunal in ***Sunil Gutte v. Avil Menezes & Ors., Company Appeal (AT) (Insolvency) No. 515 of 2025,*** wherein this Tribunal categorically held that once moratorium has been declared, the suspended management is bound by the statutory mandate of the Code and cannot seek to suspend, keep in

abeyance or render inoperative the declaration of moratorium merely by contending that payments to suppliers or other operational creditors are necessary for running the Corporate Debtor as a going concern. The judgment makes it abundantly clear that equitable considerations cannot prevail over the express provisions of Section 14 of the Code. Learned Counsel submitted that the Appellant's prayer seeking suspension or postponement of the CIRP is therefore directly contrary to the law declared by this Hon'ble Tribunal and deserves outright rejection.

49. Ld. Counsel then dealt with the Appellant's reliance upon the judgment of the Hon'ble Supreme Court in ***Vidarbha Industries Power Limited v. Axis Bank Limited, (2022) 8 SCC 352,*** wherein the Appellant has attempted to contend that, since certain arbitration proceedings are pending and the Corporate Debtor may ultimately receive certain amounts therefrom, the initiation of the Corporate Insolvency Resolution Process ought to be deferred. It was submitted that such reliance is wholly misplaced. The factual matrix of Vidarbha Industries was entirely exceptional and cannot be mechanically applied to every case arising under Section 7 of the Code. The present case is fundamentally different. Here, there is overwhelming documentary evidence establishing debt and default, repeated acknowledgments of liability by the Corporate Debtor itself, unsuccessful settlement proposals and a continuing inability to discharge the admitted dues. The mere possibility that the Corporate Debtor may, at some future point of time, succeed in unrelated arbitral proceedings cannot extinguish the present default or postpone the operation of the Insolvency and Bankruptcy Code.

50. Ld. Counsel further submitted that even the legal position emerging from Vidarbha Industries stands subsequently clarified by the Hon'ble Supreme Court itself. It was pointed out that while disposing of the Review Petition filed by Axis Bank Limited on 22.09.2022, the Hon'ble Supreme Court expressly clarified that the decision rendered in Vidarbha Industries was confined to the peculiar facts of that case and should not be understood as laying down any principle contrary to the earlier binding decisions of the Hon'ble Supreme Court in Innoventive Industries Ltd. v. ICICI Bank and E.S. Krishnamurthy v. Bharath Hi Tech Builders Pvt. Ltd. Both these judgments continue to hold the field and unequivocally declare that once the Adjudicating Authority is satisfied regarding the existence of a financial debt and the occurrence of default, admission of the application under Section 7 necessarily follows. The discretion contemplated under Section 7 cannot be exercised in a manner that defeats the very object of the Insolvency and Bankruptcy Code.

51. Ld. Counsel also relied upon the subsequent judgment of the Hon'ble Supreme Court in ***M. Suresh Kumar Reddy v. Canara Bank & Ors., Civil Appeal No. 7121 of 2022***, decided on 11.05.2023, wherein the Hon'ble Supreme Court clarified the limited scope of the decision in Vidarbha Industries and reaffirmed the ratio laid down in Innoventive Industries and E.S. Krishnamurthy. It was reiterated therein that once the jurisdictional facts of debt and default are established, the Adjudicating Authority is ordinarily bound to admit the application under Section 7. He submitted that the present case is fully governed by these binding precedents, since the

existence of financial debt and continuing default is established not merely through the records of the Financial Creditor but also through repeated acknowledgments made by the Corporate Debtor itself. Consequently, the reliance placed by the Appellant upon Vidarbha Industries is entirely misconceived and liable to be rejected.

52. Lastly, Ld. Counsel submitted that this Appellate Tribunal has, by order dated 26.09.2025, already directed the Resolution Professional to take charge of the affairs of the Corporate Debtor. The insolvency process has thus progressed in accordance with the statutory framework prescribed under the Code. At this stage, it would neither be in the interest of the Corporate Debtor nor in the interest of the financial creditors, operational creditors or any other stakeholder to interrupt the CIRP. Rather, the larger objective of the Code would be best served by permitting the CIRP to proceed to its logical conclusion so that a viable and value-maximising resolution of the Corporate Debtor may be achieved in the interests of all concerned.

**Analysis and Findings**

53. We have gone through the documents on record and have heard the parties at length.

54. The Appellant's challenge in the present appeal is mainly on two grounds. Firstly, it has been argued that the Corporate Debtor was denied an effective opportunity of hearing and that the Adjudicating Authority ought to have deferred the proceedings in the interest of revival of the Corporate Debtor. The applications filed by Appellant at various stages were not decided or summarily rejected by the Adjudicating Authority and the Section 7 petition

was admitted. Further the Appellant's lawyer was not allowed to argue his case before the Adjudicating Authority. These events are clear violation of Principles of Natural Justice and based on this ground alone the impugned order needs to be set aside. Secondly, he challenges the admission of the Section 7 Application by contending that the Adjudicating Authority ought not to have initiated the Corporate Insolvency Resolution Process, when the Corporate Debtor was pursuing a Scheme of Compromise under Section 230 of the Companies Act, 2013 and negotiations for a One-Time Settlement ("OTS") were actively underway with the Consortium of Lenders.

55. On the other hand, the Respondents contend that the financial debt and default stand admitted and duly established; that the requirements of Section 7 of the Code stood fully satisfied; and that neither the pendency of a proposed settlement nor the existence of a Scheme under Section 230 could prevent the Adjudicating Authority from exercising its jurisdiction under the Code. The Respondents further submit that the Corporate Debtor had been afforded sufficient opportunity during the proceedings and that the Impugned Order does not suffer from any legal or factual infirmity.

56. We have carefully considered the record in this regard in light of the proceedings before the Adjudicating Authority. The record indicates that the Corporate Debtor was granted several opportunities to place its case and advance submissions. The Section 7 Application was first listed before the Adjudicating Authority on 05.04.2024, when notice was issued to the Corporate Debtor. Thereafter, vide order dated 19.04.2024, the Corporate Debtor was granted time to file its reply. On 10.05.2024, when further time

was sought on account of delay in filing, the Adjudicating Authority directed the Corporate Debtor to upload its reply on the DMS portal, thereby providing an opportunity to bring its defence on record.

57. The proceedings further demonstrate that the matter remained pending for a considerable period thereafter. The arguments on behalf of the Financial Creditor were heard on 14.10.2024. Subsequently, on 13.11.2024, the Corporate Debtor again sought an adjournment on the ground that its counsel was engaged before the Hon'ble Delhi High Court. The Adjudicating Authority, while granting the said opportunity, specifically recorded that the Corporate Debtor should address arguments on the next date, failing which the matter would proceed on the basis of the material already available on record.

58. Despite the aforesaid opportunity, on 13.12.2024, the Corporate Debtor again sought deferment of the proceedings on the ground that IA/5985/ND/2024 had been filed on 11.12.2024 and was listed on the same day. The Adjudicating Authority noticed that sufficient opportunities had already been granted and that the Financial Creditor had already concluded its arguments. Accordingly, the Adjudicating Authority declined further adjournment and closed the opportunity of the Corporate Debtor to advance arguments.

59. It is also significant that even thereafter, the Corporate Debtor was afforded another opportunity. On 19.03.2025, considering the change in the composition of the Bench, the Adjudicating Authority again called upon the

Corporate Debtor to advance its submissions. However, the counsel appearing for the Corporate Debtor expressed inability to argue the matter. It was only thereafter that the right to advance oral arguments was closed. The Adjudicating Authority took the written submissions filed by the appellant on record.

60. The above sequence of proceedings shows that the Corporate Debtor was not denied an opportunity to present its case. The record reflects that the Corporate Debtor participated in the proceedings, filed its pleadings, placed its defence before the Adjudicating Authority and was repeatedly granted opportunities to advance submissions. The closure of the right to argue was not an immediate consequence but followed only after several opportunities had already been provided.

61. Further, even after reserving the matter, the Adjudicating Authority continued to seek necessary clarifications. On 23.05.2025, directions were issued to both parties to file status reports indicating the stage of proceedings in OA No.571/2023 and the Counter Claim. Further directions were also issued regarding submission of a valid Authorisation for Assignment (AFA), declaration regarding non-initiation of disciplinary proceedings and details of assignments undertaken by the proposed Resolution Professional. This further indicates that the Adjudicating Authority proceeded after examining the relevant material and ensuring procedural compliance.

62. The principles of natural justice require a fair and reasonable opportunity of hearing. They cannot be interpreted to mean that proceedings must continue indefinitely despite repeated opportunities being granted. A

party which has participated in the proceedings and has been provided sufficient opportunity to place its case cannot subsequently contend that there has been denial of natural justice merely because further adjournment was not granted.

63. It is also pertinent to note that the Corporate Debtor had sufficient opportunity to place its case before the Adjudicating Authority. The pleadings, documents, replies, applications and written submissions filed by the parties were already available on record. The Corporate Debtor had also placed its objections regarding the Section 7 Application, proposed Scheme under Section 230 of the Companies Act, settlement discussions and pending DRT proceedings before the Adjudicating Authority. Therefore, it cannot be said that the Corporate Debtor was deprived of an opportunity to present its case.

64. In view of the above factual position, we find that the proceedings before the Adjudicating Authority do not suffer from violation of principles of natural justice. The Corporate Debtor had adequate opportunity to present its defence, and the Adjudicating Authority committed no error in proceeding to decide the Section 7 Application on the basis of the pleadings, documents and material available on record. We are also cognizant of the fact that the proceedings under the Code are summary proceedings and need to be finalized in a time bound manner. The appellant was given several opportunities for making its submissions before the Adjudicating authority which it failed to utilize. In spite of that, Adjudicating Authority did not decide the matter ex-parte but passed the order after considering the reply filed by the appellant as well as its written submissions.

65. The Appellant has also sought to contend that the orders dated 19.03.2025 and 02.04.2025 were illegal and therefore the admission order based upon those proceedings must automatically fail. This contention is equally without merit. As noted earlier, we did not find any irregularity in the procedure adopted by the Adjudicating Authority. The matter was decided on merit based on the documents submitted by the appellant and respondents including their written submissions. Once the main petition has been decided on merits by the Adjudicating Authority, those procedural orders become part of the decision in the main appeal. Mere pendency of such proceedings cannot automatically invalidate the admission order passed by the Adjudicating Authority.

66. We are also unable to accept the submission that the Adjudicating Authority ought to have exercised its inherent powers to postpone the decision on the Section 7 Application. Inherent powers are intended to advance the cause of justice and cannot be exercised in a manner that defeats the statutory scheme of the Code. Once debt and default stood established, the Adjudicating Authority was justified in proceeding to decide the application in accordance with law. Accepting the Appellant's submission would virtually permit insolvency proceedings to remain pending for an indefinite period on the basis of negotiations which may or may not ultimately succeed.

67. In addition to that, it is necessary to examine the scope of jurisdiction of the Adjudicating Authority while dealing with an application under Section 7 of the Code. The jurisdiction under Section 7 is limited. The Adjudicating Authority is required to examine whether a financial debt exists, whether a

default has occurred and whether the application is otherwise complete in terms of the Code. Once these requirements are satisfied, the Adjudicating Authority is ordinarily required to admit the application. The insolvency process under the Code is triggered by the occurrence of default and not by the commercial strength or future prospects of the Corporate Debtor.

68. In the present case, the existence of financial facilities extended by the lenders to the Corporate Debtor is not in dispute. The material placed on record shows that substantial credit facilities had been sanctioned by the consortium of banks from time to time. The loan accounts were classified as Non-Performing Assets and recall notices were issued. The Banks have specifically pointed out that the Corporate Debtor committed default in repayment of the financial facilities and that the outstanding dues exceeded Rs.190 Crores. These facts form part of the record and have not been effectively disputed by the Appellant. Instead, the challenge is primarily directed against the timing of the admission of the Section 7 petition rather than the existence of debt or default itself.

69. It is an admitted position that several OTS proposals were submitted by the appellant on 08.01.2024, 06.07.2024 and 24.09.2024, which were all rejected by the lenders. This itself is an admission and acknowledgment of 'debt' and 'default' on its part.

70. The principal argument advanced by the Appellant is that the Adjudicating Authority ought to have deferred the Section 7 proceedings because the Corporate Debtor had initiated a Scheme of Compromise under Section 230 of the Companies Act, 2013 and the Consortium of Lenders was

considering the same. According to the Appellant, the proposed Scheme had reached an advanced stage and the Consortium had resolved to vote upon the proposal during the period from 14.07.2025 to 14.08.2025. It has also been argued that the Corporate Debtor had agreed to deposit a portion of the settlement amount to demonstrate its bona fides.

71. The Respondent banks, on the contrary, have submitted that in the Joint Lenders Meeting conducted on 10.02.2025, a revised settlement proposal of the CD for Rs.83 crores was considered. However, the CD did not make payment of any upfront amount due to which settlement proposal could not reach the consideration stage by the lending banks. Consequent to the non-consideration of the settlement proposal of the CD, the lending banks informed the Adjudicating Authority during the hearing on 19.03.2025 that the settlement proposal could not be considered by the banks. Thereafter, the Adjudicating Authority re-heard the arguments on behalf of Applicant banks. The respondent failed to argue the matter on the said date and its right to argue was closed. At the same time, Ld. Adjudicating Authority granted liberty to both the parties to file written submissions. Matter was listed for compliance on 02.04.2025 and as the notes of submission were filed by the parties, the Ld. Adjudicating Authority reserved the matter for orders.

72. The submission of appellant that the orders under section 7 should not have been passed during the pendency of a Scheme under Section 230 of the Companies Act, in our view, does not prevent the Adjudicating Authority from exercising its jurisdiction under Section 7 of the IBC. Until such Scheme under section 230 is approved in accordance with law and becomes binding

upon all stakeholders, it remains only a proposal. The Court cannot refuse to admit a Section 7 application merely because settlement negotiations are taking place or because there exists a possibility that the parties may arrive at a future settlement. Judicial decisions must be based on existing legal rights and obligations and not on uncertain future events. We have already noted that the settlement proposal had failed and banks had duly informed the Ld. Adjudicating Authority about such failure. It's only after the failure of settlement that the Ld. Adjudicating Authority decided the matter on merits.

73. The Appellant has repeatedly emphasised that the Corporate Debtor is a commercially viable company executing public infrastructure projects, that it possesses substantial receivables, and that admission into CIRP would adversely affect its business operations and future contracts. The facts on the contrary show that CD failed repeatedly to make payments to its Financial Creditors. In case of OTS proposals, it failed to deposit even earnest money. Which commercially viable and solvent company would not be able to pay even working capital loan? We find no merit in this submission of CD. While these submissions may indicate that the Corporate Debtor intended to revive its business, they do not alter the legal position under the Code. The object of the IBC is itself the resolution of financially distressed companies. Admission into CIRP does not amount to liquidation, on the contrary, the Code provides a structured mechanism for resolution, while preserving the Corporate Debtor as a going concern. Therefore, the possibility of commercial hardship cannot by itself constitute a legal ground to refuse admission under Section 7.

74. The Appellant has also relied upon the observations made by this Appellate Tribunal in the earlier proceedings that settlement negotiations may continue in parallel with the pending insolvency proceedings. In our view, the said observation has been correctly understood by the Adjudicating Authority. The observation merely recognised that parties were free to continue negotiations, even while the statutory proceedings remained pending. It did not direct the Adjudicating Authority to indefinitely postpone the adjudication of the Section 7 petition until the settlement discussions concluded. It,s only after all efforts at settlement failed and the Banks reported the same to the Ld. Adjudicating Authority the AA moved ahead with Sec 7 proceedings. Had such an interpretation been accepted, every Corporate Debtor could indefinitely delay insolvency proceedings merely by initiating negotiations with its lenders. Such an interpretation would be contrary to the scheme and timelines prescribed under the Code.

75. The Appellant has further argued that the Section 7 petition was filed only as a recovery mechanism and therefore ought not to have been entertained. This contention also deserves to be rejected. It is well settled that a Financial Creditor is entitled to invoke the provisions of Section 7 once the statutory requirements are fulfilled. Merely because the Financial Creditor seeks recovery of its legitimate dues cannot lead to the conclusion that the insolvency process has been misused. In the absence of any material demonstrating abuse of process or lack of jurisdiction, such a contention cannot invalidate the proceedings initiated under the Code.

76. It is further relevant to notice that the Corporate Debtor had relied upon the pendency of proceedings before the Debt Recovery Tribunal, including OA No.571/2023 and the Counter Claim filed by it, to seek deferment of the Section 7 proceedings. The Adjudicating Authority, before passing the Impugned Order, had also sought clarification from the parties regarding the status of the said proceedings. From the status placed on record, it was noticed that the matter before the DRT was still pending and the Corporate Debtor had not filed its written submissions therein. Therefore, the Counter Claim was yet to be adjudicated and no determination had been made in favour of the Corporate Debtor which could have any bearing on the proceedings under Section 7 of the Code.

77. It is also pertinent to note that the Counter Claim relied upon by the Corporate Debtor arose at a later stage during the pendency of proceedings. The same remained pending adjudication before the DRT and no final determination had been made in favour of the Corporate Debtor. Therefore, the mere filing of the Counter Claim could not be treated as a ground to defer adjudication of the Section 7 Application.

78. In these circumstances, the Adjudicating Authority proceeded to consider the Section 7 Application on the basis of the financial debt and default placed before it and did not find it appropriate to await the outcome of the pending DRT proceedings. We find no error in the approach adopted by the Adjudicating Authority.

79. The Appellant has relied upon **Vidarbha Industries Power Limited v. Axis Bank Limited, (2022) 8 SCC 352**. However, the said judgment was rendered in exceptional facts where the Corporate Debtor had a crystallised and enforceable claim in its favour. In the present case, the proposed Scheme under Section 230, the settlement discussions and the pending Counter Claim before the DRT had not attained finality and did not displace the established financial debt and default. The decision in *Vidarbha Industries* is applicable only in specific circumstances and not universally. Therefore, it does not assist the Appellant.

80. The Respondents have also relied upon the judgment of this Appellate Tribunal in **Grand Developers Pvt. Ltd. v. Nitin Batra & Ors., Company Appeal (AT) (Insolvency) No. 899 of 2024**, wherein it was held that proceedings under Section 230 of the Companies Act, 2013 are independent of proceedings under the Insolvency and Bankruptcy Code. The said principle squarely applies to the present case. The mere pendency of the proposed Scheme under Section 230 did not create any legal bar to the admission of the Section 7 Application.

81. They have also relied upon **Vijay Kumar Singhania v. Bank of Baroda & Ors., Company Appeal (AT) (Insolvency) No. 1058 of 2023**, wherein this Appellate Tribunal held that the mere filing of a counterclaim or money suit does not negate the existence of financial debt and default. In the present case also, the pendency of OA No. 571/2023 and the Counter Claim before the DRT did not affect the Financial Creditor's right to maintain the application under Section 7.

82. Reliance has further been placed on **Sunil Gutte v. Avil Menezes & Ors., Company Appeal (AT) (Insolvency) No. 515 of 2025**, wherein this Appellate Tribunal held that equitable considerations cannot override the statutory mandate of the Code. The Appellant's reliance on the Corporate Debtor's ongoing projects, payments to suppliers and commercial viability cannot, therefore, constitute valid grounds to postpone the insolvency proceedings once the requirements of Section 7 stand satisfied.

83. It is equally important to note that the Appellate jurisdiction under Section 61 of the Code is limited. We do not sit in appeal over every finding merely because another view may also be possible. Interference is warranted only when the impugned order suffers from patent illegality, material irregularity, perversity or jurisdictional error. After carefully examining the Impugned Order as well as the material placed on record, we find that the Adjudicating Authority correctly examined the requirements of Section 7, considered the relevant material and admitted the application only after recording its satisfaction regarding the existence of financial debt and default. No material has been shown before this Court to establish that the findings recorded by the Adjudicating Authority are contrary to law or unsupported by the record.

84. In view of our findings recorded hereinabove, we find no legal or factual infirmity in the Impugned Order dated 11.07.2025 passed by the Adjudicating Authority admitting the application under Section 7 of the Insolvency and Bankruptcy Code, 2016. The admission of the Corporate Debtor into

Corporate Insolvency Resolution Process has been found to be in accordance with law.

85. Consequently, **Company Appeal (AT) (Ins.) No. 1015 of 2025** is dismissed. **Company Appeal (AT) (Ins.) Nos. 815 of 2025 and 816 of 2025** are also dismissed as they arise out of procedural orders passed during the same proceedings. The **Company Appeal (AT) (Ins.) Nos. 812 of 2025 and 813 of 2025,** which arise out of **CP (IB) No. 326 of 2025**, which has been disposed of by the Adjudicating Authority in view of the admission of CP (IB) No. 36 of 2024 and accordingly are dismissed being infructuous. All pending Interlocutory Applications, if any, also stand disposed of. There shall be no order as to costs.

**Justice N. Seshasayee**
**Member (Judicial)**

**Arun Baroka**
**Member (Technical)**

**Indevar Pandey**
**Member (Technical)**

**Place: New Delhi**

Harleen/
Pragya (LRA)