
(2026) 06 NCLAT CK 0804

In the National Company Law Appellate Tribunal, Pricipal Bench, New Delhi

Case No : Contempt Case (AT) No.16 of 2026 and I.A. No.3619 of 2026 in
Company Appeal (AT) (Ins) No.1948 of 2025 and I.A. No. 2328 of 2026

1. Ashok Dattatray Atre 2. Ajit Ulhas Apte 3. Haridas Narayan 4. Chintamani Shridhar Vaidya **APPELLANT**

Vs

Mr. Vijendra Kumar Jain **RESPONDENT**

Date of Decision : 30-06-2026

Acts Referred:

Citation : (2026) 06 NCLAT CK 0804

Hon'ble Judges : Justice N. Seshasayee, Member (Judicial);Indevar Pandey, Member (Technical)

Bench : Division Bench

Advocate : For Appellant: Mr. Pankaj Jain, Mr. Yuvraj Singh, Mr. Nitin Sikarwar, Advocates For Respondent: Mr. Arun Kathpalia, Sr. Advocate with Ms. Udit Singh, Ms. Soumya Sai Kumar, Ms. Diksha Gupta, Advocates for R-1 Mr. Harshit Khare, Mr. Prafful Saini, Mr. Ayuj Agarwal, Advocates for SBI

Final Decision : Dismissed

Judgement

Per Justice N. Seshasayee, Member (Judicial)

1. The facts, and the quintessential aspects of the arguments on either side have been captured by us in our order dated 20.04.2026, and to avoid duplication of our efforts, the said order is reproduced below:

"This contempt application is taken out to initiate an action for contempt against Liquidator for breach of an order of this Tribunal, dated 11.03.2026. A short background of this petition may be provided:

(a) The Corporate debtor was drawn into liquidation and the appellant herein was the Successful Resolution Applicant. However, the implementation of the said plan could not be completed within the timeline and hence on 04.01.2024 an order of liquidation of the corporate debtor came to be passed. This was challenged by the appellant in Company Appeal (AT) (Insolvency) No. 221-222 of 2024 and this Tribunal vide its order dated

08.04.2024 set aside the order of the Adjudicating Authority, and set fresh timeline for implementation of the plan. This order of the NCLAT is now pending adjudication before the Hon'ble Supreme Court in Civil Appeal No. 6164 -6165 of 2024.

(b) Be that as it may during the pendency of above Civil Appeal, second order of liquidation came to be passed by the Adjudicating Authority vide its order dated 30.10.2025. This is challenged by the SRA in the pending appeal. On 05.01.2026 this court passed an order whose operating portion reads as below:-

"7. In facts of the present case, especially when Civil Appeal before the Hon'ble Supreme Court is pending and Appellant has filed an application for interim relief, we are of the view that any action taken in the liquidation in pursuance of the impugned order shall abide by the result of this appeal as well as any order passed by the Hon'ble Supreme Court."

2. According to the Liquidator, since the Liquidator was not restrained from proceeding with the liquidation process, he had sold the property which the appellant had bid through his resolution plan. This sale was completed and according to the liquidator, on 16.02.2026 he had received the money which he made over to State Bank of India on 17.02.2026 after adjusting the liquidation costs and fees and other related cost. In this backdrop, on 11.03.2026 when the matter came before a coordinate bench of this Tribunal both sides had agreed that this matter was taken-up by the Bench at about 01:30 p.m., shortly before the court rose for lunch and the Tribunal had passed following order on 11.03.2026 :

"11.03.2026" List this appeal on 01.04.2026. It is submitted by the appellant that Liquidator has sold one of the asset. The amount received shall be kept in the interest bearing account. According to Ld. Counsel for the Contemnor/ the Liquidator, the amount has been disbursed on 17.02.2026, a few weeks before this Tribunal passed the order on 11.03.2026. Therefore, the order passed on 11.03.2026 may not fit in with the factual aspect of the matter. It is to clarify this order based on the fact that Liquidator had already sold property and disbursed the sum so realised, he had taken out IA No. 2328 of 2026. Even as this application was filed, the appellant on his part has preferred the present application for initiating contempt alleging that the order of this Tribunal dated 11.03.2026 was not complied with.

3. The Ld. Counsel for the contempt application/ appellant vehemently argued that what the Liquidator had done was breach of propriety. However, we are still looking for a specific order which has been breached. Here is a scenario where the specific order which the appellant relies on is dated 11.03.2026, but according to the contemnor by the time the money has already been disbursed. Therefore, what the required to be considered is IA No. 2328/2026 before any decision can be taken in Contempt Case No. 16 of 2026.

The only issue we required to ascertain is whether the liquidator has disbursed the amount realised through the auction of the asset of the corporate debtor on any date before 11.03.2026. The liquidator is required to provide proof thereof."

2. Pursuant to the direction given by us on 20.04.2026, the liquidator has filed its affidavit along with the bank statement of the CD for 16.02.2026 and 17.02.2026. The same shows that the liquidator has transferred amounts from the CD's account even on 17.02.2026. When the factum of disbursement of the amount on 17.02.2026 is shown to be indisputable, it is evident that when on 11.03.2026, this Tribunal passed the aforesaid Order, the said fact of disbursement of the amount by the liquidator has not been brought before it.

Here it should also be underscored that this Order of 11.03.2026 was passed at the stroke of lunch break, and not after any elaborate arguments on either side. It is hence I.A. No. 2328 of 2026 which the liquidator filed has become relevant for deciding this contempt petition.

3. The short issue is, whether the liquidator has wilfully disobeyed the Order of this tribunal dated 11.03.2026 which directed him not to disburse the amounts realised through the sale of the asset of the corporate debtor. Our answer is an uncomplicated No, and the reasons are:

a) Firstly, to constitute contempt, the Order which is alleged to have been disobeyed must be first capable of being obeyed. The Order in question apparently has been made on a mistaken impression by the tribunal that the sale proceeds of the asset of the CD was still with the liquidator, when factually it is not. It is doubtful if this tribunal would have passed the kind of Order that it has passed on 11.03.2026, if it had been informed about the disbursement of funds by the liquidator even earlier. The Order passed on a mistaken impression about the existence of a fact, therefore, can neither be understood as a direction to restore a certain status quo ante, nor can it be construed as capable of being obeyed. After all *actus curiae neminem gravabit*.

b) Secondly, by virtue of the contempt petition, the petitioner herein very apparently intends to restore status quo ante and require both SBI and the liquidator to transfer the funds back to the account of the CD, but the Order dated 11.03.2026 has not given any such direction. As has been explained, when there is no Order which is capable of being violated, we cannot direct the respondents to replace the funds back to the account of the corporate debtor.

c) Thirdly, an action for contempt is not akin to an execution proceeding, and the role of the petitioner initiating an action for contempt of court stops with bringing to the notice of the Court about the perceived violation of any judicial Order passed by it. Once so informed, it will be an issue between the court and the alleged contemnor, where the court will assume the role of the prosecutor, a role which the Court assumes not by virtue of any arrogance of its authority but by its sense of duty to preserve its own dignity, since any act of contempt erodes the public confidence in judicial institutions. In that sense, a proceeding for contempt is not an adversarial proceeding in character. It is for the Court and up to the Court to decide what constitutes contempt and how to deal with it. In the present case, inasmuch as the Order passed on 11.03.2026 was contrary to the facts which existed as on that date, very apparently the Order is erroneous and the petitioner cannot take advantage of.

4. Turning to I.A.2328 of 2026, we merely record the fact that the sale proceeds obtained by the liquidator has been disbursed even on 17.02.2026, which makes the Order dated 11.03.2026 unworkable and unenforceable.

5. We find no merit in the present petition for initiating contempt and the same is dismissed. So far as I.A. No. 2328 of 2026 is concerned, it is decided in the

manner indicated in paragraph 4 above. No costs.

I.A. No.3619 of 2026 also stands disposed of.