
(2026) 06 NCLAT CK 0802

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

Case No : Restoration Application No. 6 of 2025 in Company Appeal (AT) (Ins.)
No. 463 of 2024

Axis Bank Ltd.

APPELLANT

Vs

M/s. Chintamani's Jewellery Arcade Private Limited, Mr.
Chintamani Kaigaonkar

RESPONDENT

Date of Decision : 30-06-2026

Acts Referred:

NCLAT Rules, 2016 — Rule 11
Insolvency and Bankruptcy Code, 2016 — Section 7
Recovery of Debts and Bankruptcy Act, 1993
SARFAESI Act, 2002

Citation : (2026) 06 NCLAT CK 0802

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

Bench : Full Bench

Advocate : For Appellant: Ms. Bandana Kaur Grover and Mr. Akash Chatterjee,
Advocates. For Respondent: Mr. Arvind Nayar, Sr. Advocate, Mr. Shivam Chanana,
Mr. Akshay Joshi, Advocates for Intervener.

Final Decision : Allowed

Judgement

INDEVAR PANDEY, MEMBER (T)

The present Application is being filed by Axis Bank Ltd. (**Financial Creditor/ Applicant**) under Rule 11 of the NCLAT Rules, 2016. The Applicant seeks the restoration of **Company Appeal (AT) (Insolvency) No. 463 of 2024** which was disposed of by this Appellate Tribunal's vide order dated 09th May 2024. This restoration is sought on account of a deliberate and material breach of the court-recorded Consent Terms dated 27th April 2024 by the Respondents.

2. The brief facts of the case are as given below:

i. The applicant, Axis Bank Limited (hereinafter referred to as the '**Financial**

Creditor'), extended various credit facilities to Respondent No. 1, M/s. Chintamani's Jewellery Arcade Private Limited (hereinafter referred to as the '**Corporate Debtor'**'), which defaulted in its payments.

ii. Aggrieved by the default, subsequently on April 28, 2023, the Financial Creditor filed an application on 28.04.2023 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the '**Code'**'), for initiating Corporate Insolvency Resolution Process (CIRP) against the Corporate debtor by filing Company Petition [CP (IBC) No. 508/MB/2023] before the National Company Law Tribunal, Mumbai (Adjudicating Authority).

iii. The Adjudicating Authority, admitted the Section 7 petition via order dated February 23, 2024. Mr. Prashant Jain was appointed as the Interim Resolution Professional (IRP).

iv. Assailing the admission order dated February 23, 2024, **Chintamani Arun Kaigaonkar**, Suspended Director of the Corporate Debtor/**Respondent No. 2**, preferred an appeal before this Tribunal, registered as Company Appeal (AT) (Insolvency) No. 463 of 2024. Concurrently, the Financial Creditor lodged its formal financial claim amounting to Rs. 11,86,51,305.50/- with the newly appointed IRP.

v. During the pendency of the appellate proceedings, the suspended management of the Corporate Debtor approached the Financial Creditor to explore an amicable resolution. Following mutual discussions, the credit facilities were restructured, culminating in the execution of formal **Consent Terms dated April 27, 2024**, which incorporated the stipulations laid down in an interim settlement letter dated April 17, 2024. Under these structured terms, the Corporate Debtor cleared an upfront payment of Rs. 1.50 Crores prior to execution, and agreed to repay the remaining Working Capital Term Loan in 13 monthly installments along with a floating interest rate pegged at the 3-month Repo Rate + 4.30% p.a. (effectively 10.80 % p.a.), while interest on both the term loan and demand Cash Credit facilities was mandated to be serviced at strict monthly intervals.

vi. Respondent No. 2 thereafter moved an Interlocutory Application (IA No.

3348 of 2024) before this Tribunal, placing the Consent Terms on record and praying for the withdrawal of the appeal. Taking cognizance of the settlement, this Tribunal, vide its order dated May 9, 2024, set aside the Adjudicating Authority's CIRP admission order and closed the insolvency process. Crucially, this Tribunal explicitly reserved a regulatory safeguard, granting absolute liberty to the Financial Creditor to revive the captioned appeal if any occasion or default arose. Based upon the order, the Company Petition [CP (IBC) No. 508/MB/2023] pending before the Adjudicating Authority was also formally withdrawn as disposed of on June 3, 2024

vii. However, the Respondents failed to adhere to the consent terms and after

making partial payments up to July 2024 had persistently defaulted on payments. Relying upon the express liberty clause reserved in the operational order of this Tribunal dated May 9, 2024, the Financial Creditor has preferred the instant Restoration Application under Rule 11 of the NCLAT Rules, 2016, praying for the recall of the disposal order and the immediate revival of Company Appeal (AT) (Insolvency) No. 463 of 2024.

3. Ld. Counsel for the Applicant submits that the Respondent No.1/ Corporate Debtor has acted in complete derogation and willful breach of the mutual contract, namely the Consent Terms dated 27th April 2024, which were solemnly executed and placed on record before this Hon'ble Tribunal. He drew attention to the structured repayment matrix, pointing out that out of a total fallen-due commitment of Rs. 3.30 crores spanning between July 2024 and December 2024, the Corporate Debtor has miserably failed to honor its obligations, remitting a meager sum of Rs. 0.70 crores. He submits that even the instalment due on 10th July 2024, amounting to Rs. 0.55 crores, was paid in a highly irregular, piecemeal manner through eight delayed tranches, concluding as late as 14th November 2024.

4. Ld. Counsel further submits that for the subsequent consecutive four months, i.e., from September 2024 to December 2024, there was no payment, resulting in an undisputed principal overdue sum of Rs. 2.60 crores, exclusive of the unserviced monthly interest.

5. Ld. Counsel argued that the entire conduct of the Respondents post the disposal of the appeal reveals a calculated, malafide maneuver. The settlement mechanism was deployed by the suspended management merely as a tactical shield to stall the CIRP, secure the vacation of the Adjudicating Authority's admission order, and subsequently evade the crystallized and admitted liability arising out of the financial debts.

6. Ld. Counsel further submits that having successfully brought about the disposal of the Appeal on 09th May 2024 and the withdrawal of the Section 7 Company Petition before the Hon'ble NCLT on 03rd June 2024, the Respondents completely abandoned their commitment to the court-recorded settlement, thereby attempting to leave the Financial Creditor remediless.

7. The Applicant places heavy reliance on Clause 8 of the Consent Terms, wherein the Corporate Debtor explicitly acknowledged and agreed that any event of default would automatically entitle the Financial Creditor to revive the insolvency proceedings without requiring any further notice or demand.

8. Ld. Counsel submits that the interim letter dated 17th April 2024 was accepted by the Respondents subject to strict compliance with the repayment schedules, failing which the contract stood self-terminated. This material breach compelled the Financial Creditor to formally issue a Revocation Letter on 17th December 2024, reference No. AXISB/SAG/PRK/2024-25/411.

9. Ld. Counsel emphasized that this Hon'ble Tribunal, while putting its imprimatur on the settlement via the order dated 09th May 2024, consciously armed the Financial Creditor with an absolute, explicit liberty to revive the captioned appeal if an occasion arose. It is urged that the consecutive defaults have directly triggered this conditional liberty clause, making the restoration an axiomatic consequence of the default.

10. Ld. Counsel further submits that a *prima facie* irrefutable case on merits exists in favor of the Applicant. If the settlement order dated 09th May 2024 is not recalled and the appeal is not restored alongside the original admission order dated 23rd February 2024 passed by the Hon'ble NCLT, Mumbai, it would cause irreversible financial loss, deep prejudice, and irreparable injury to the public banking institution.

Submission of Respondent No. 1/Corporate Debtor

11. Ld. Counsel for the Respondent No. 1 submits that the restoration sought by the Applicant is neither warranted in law nor justified on facts. The Applicant has failed to disclose the complete sequence of events demonstrating the bona fide efforts undertaken by Respondent No. 1 towards settlement of the outstanding dues.

12. Ld. Counsel reiterated that the record reveals that Respondent No. 1 was continuously engaged in arranging funds for liquidation of the outstanding liability. Owing to unavoidable financial constraints and circumstances beyond his control, the payments could not be made within the timelines contemplated by the Applicant. However, mere delay in payment cannot be construed as absence of intention to settle the dues.

13. Ld. Counsel further submits that It is an admitted position that in March 2025, Respondent No. 1 initiated the process of sale of his residential property situated at Blue Ridge, Hinjewadi, Pune, with the sole objective of liquidating the outstanding dues payable to the Applicant Bank. The correspondence exchanged between the parties demonstrates that vide email dated 06.03.2025, Respondent No. 1 informed the Applicant Bank that a prospective purchaser had been identified and that an amount of Rs.15,00,000/- would be paid immediately as a gesture of commitment towards settlement.

14. Ld. Counsel submits that the Applicant Bank accepted the said proposal via email dated 07.03.2025 and directed Respondent No. 1 to deposit Rs.15,00,000/-, which amount was duly remitted by Respondent No.1. Acceptance of the proposal and receipt of the payment unequivocally establish that the parties were actively pursuing an amicable settlement.

15. He further submits that it is undisputed that the Applicant Bank issued a Provisional No Objection Certificate on 18.03.2025 to facilitate the sale of the mortgaged property. The issuance of such NOC itself evidences the Bank's acknowledgment that the proposed sale transaction was a genuine mechanism

for recovery of its dues.

16. Ld. Counsel submits that the material placed on record shows that the proposed purchaser, Ms. Swati Satish Takle, remained interested in purchasing the property and communicated her willingness to complete the transaction. The delay occurred solely on account of unavoidable circumstances attributable to the purchaser and not because of any default or lack of diligence on the part of Respondent No.1. He submits that the purchaser subsequently reaffirmed her commitment to complete the transaction and additionally paid Rs.10,00,000/- to demonstrate her bona fides. Such conduct reinforces the genuineness of the proposed sale transaction and the realistic possibility of complete discharge of the outstanding dues. The Applicant Bank, however, withdrew the Provisional NOC and forfeited the amount of Rs.15,00,000/- despite being fully aware that the sale transaction was in progress and that Respondent No.1 was making earnest efforts to complete the same.

17. Ld. Counsel reiterated that this Appellate Tribunal has consistently held that where parties are pursuing a genuine settlement and there exists a reasonable prospect of satisfaction of the debt, insolvency proceedings ought not to be invoked as a substitute for debt recovery. The object of the Insolvency and Bankruptcy Code is resolution and value maximisation and not punitive recovery against a debtor who is actively attempting to discharge his obligations.

18. He submits that the conduct of Respondent No.1 throughout the relevant period reflects bona fide intention, continuous engagement with the Applicant Bank, and positive steps towards liquidation of the debt. There is no material on record to suggest any deliberate avoidance, malafide conduct, or unwillingness to settle the outstanding dues.

19. Ld. Counsel further submits that the Restoration of the appeal and revival of CIRP in the facts of the present case would defeat the very purpose of the settlement process already underway and would cause irreparable prejudice to Respondent No.1, particularly when substantial efforts have been undertaken to generate funds through sale of the mortgaged asset.

20. Ld. Counsel submits that the Applicant has failed to establish any exceptional circumstance warranting exercise of the discretionary jurisdiction of this Hon'ble Appellate Tribunal for restoration of the proceedings. On the contrary, the balance of equities lies in favour of permitting the settlement process to attain fruition. In view of the aforesaid facts and circumstances, this Hon'ble Appellate Tribunal may be pleased to hold that the restoration application is devoid of merit and does not warrant interference.

Analysis and findings

21. We have heard the Learned Counsel appearing for the Applicant/Financial Creditor and the Learned Counsel appearing for Respondent No.1/Corporate Debtor. We have also perused the pleadings, documents placed on record, the

Consent Terms dated 27.04.2024 and the order passed by this Tribunal on 09.05.2024.

22. The short issue which arises for consideration is whether, in the facts of the present case, the Applicant has made out a case for restoration of Company Appeal (AT) (Ins.) No. 463 of 2024 and consequential revival of the proceedings in terms of the liberty expressly reserved by this Tribunal in its order dated 09.05.2024.

23. On 09.05.2024 this Appellate Tribunal passed the following order :-

"This appeal has been filed against the order dated 23.02.2024 by which Section 7 application filed by Axis Bank Ltd. have been admitted by National Company Law Tribunal, Mumbai Bench, Court No. V. An I.A. 3348 of 2024 has been filed by the Appellant bringing on record the consent terms dated 27.04.2024. Ld. Counsel for the Financial Creditor also appears and submits that parties have entered into consent terms and the CIRP be not proceeded any further. Taking the consent terms on the record, we close the CIRP, set aside the order dated 23.02.2024. The Ld. Counsel for the Appellant shall make the payment of Rs.5,00,000/- to IRP towards initial cost and fee as already directed by the Adjudicating Authority. The amount shall be paid by the Appellant within two weeks from today, if not already paid. The appeal is disposed of. The Financial Creditor shall liberty to revive this appeal if any occasion arises."

(Emphasis supplied)

24. It is clear from the order that the parties entered into Consent Terms dated 27.04.2024 which was taken on record by this Appellate Tribunal vide its order dated 09.05.2024. Pursuant to which the appeal was disposed of by this Tribunal and the CIRP initiated against the Corporate Debtor was set aside. Liberty was granted to the Financial Creditor to seek revival of the appeal in the event of any default or occasion arising under the settlement. Thus, the disposal of the appeal was not unconditional, but was founded upon faithful compliance with the settlement terms by the Respondents.

25. The Applicant sent a letter dated 17.04.2024 to the Respondent which included the consent terms and the same became part of Consent Terms dated 27.04.2024 which was taken on record by this Tribunal. The same is extracted below:

[An exhibit is reproduced here in the original judgment.]

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[An exhibit is reproduced here in the original judgment.]

26. We have observed from the above Consent Terms dated 27.04.2024, 8(b) is extracted below for our convenience.

"8. Consent Terms and Undertaking before honorable DRT 8b. *The Borrower shall be duly bound to fully co-operate and sign all necessary application affidavits. petitions etc. and make necessary statements for the purpose of withdrawal of Company Appeal No. 463 of 2024 filed before Hon'ble National Company Law Appellate Tribunal, New Delhi ("NCLAT") in terms of present letter, The Bank will file an Application seeking withdrawal*

of the said Company Petition No. 508(IB)/MB-V/2023 admitted by the Hon'ble National Company Law Tribunal Mumbai Bench {"NCLT"}. The Borrower will make a submission before the DRT, NCLT and NCLT acknowledging the acceptance of the present letter and Consent Terms. The Financial Creditor shall be entitled to revive the said Company Petition No. 508/IB (MB) 2023 in the event of any default of the present letter on the part of the Borrower."

It is clear from the above consent terms in the letter dated 17.04.2024 which was part of consent terms placed on record before this Tribunal, that if any default was made regarding the above consent terms by the Respondent No.1/ CD, the applicant/financial creditor would be at liberty to revive the Company Petition No. 508/IB (MB) 2023 before NCLT, Mumbai. The repayment schedule forming part of the Consent Terms required strict adherence to the timelines agreed between the parties. The Applicant has placed on record details of the payments due and payments actually received.

27. Due to repeated failure on the part of the Respondent No.1, the Financial Creditor sent a letter dated 17.12.2024 to the Corporate Debtor/Respondent No.1 revoking the restructuring letter. The same is extracted below:-

[An exhibit is reproduced here in the original judgment.]

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28. The letter clearly shows that between July 2024 and December 2024, an amount of Rs.3.30 crores was to be paid by the Respondent No.1 against which only an amount of Rs.0.70 Crores was paid. The record further reveals that even the payments which were made were substantially delayed and were not in conformity with the schedule contemplated under the settlement. In view of the continuing default the bank revoked the restructuring of credit facility which was allowed through the restructuring letter. The Financial Creditor also stated its intention to take appropriate legal action under the Recovery of Debts and Bankruptcy Act, 1993 (RDB Act); SARFAESI Act, 2002; and under IBC, 2016 in CP (IB)/508(MB)/2023 revival or any other legal action.

29. Significantly, the Respondents have not disputed the occurrence of defaults under the Consent Terms. Their defence is primarily founded upon subsequent events, namely, the proposed sale of a residential property in Pune, negotiations with a prospective purchaser and the efforts allegedly undertaken for arranging funds to clear the outstanding dues.

30. While we do not doubt that Respondent No. 1 may have made attempts to arrange finances, the question before this Tribunal is not whether efforts were made, but whether the obligations undertaken under the Consent Terms were complied with. A settlement recorded before a judicial forum cannot be permitted to remain contingent upon future possibilities, proposed transactions or anticipated receipts. Once the settlement formed the very basis for setting aside the CIRP admission order, strict compliance with the terms thereof became obligatory.

31. The reliance placed by Respondent No.1 upon the correspondence exchanged in March 2025 also does not advance its case. The admitted defaults had already occurred much prior thereto. The issuance of a provisional NOC by the Applicant Bank or its participation in discussions relating to sale of the mortgaged property cannot be construed as a waiver of the earlier defaults or as a relinquishment of the rights expressly reserved under the order dated 09.05.2024. At best, such correspondence demonstrates that the Applicant was willing to explore an amicable resolution despite the defaults committed by the Respondents.

32. The contention that the delay occurred on account of the proposed purchaser and was beyond the control of Respondent No.1 is equally unpersuasive. The obligations under the Consent Terms were personal obligations undertaken by the Respondents before this Tribunal. The failure of a third-party purchaser to complete a proposed transaction cannot dilute or extinguish those obligations.

33. We are also unable to accept the submission that restoration of the appeal would convert the insolvency process into a recovery mechanism. The present proceedings arise not from a fresh invocation of insolvency jurisdiction but from a breach of court-recorded settlement terms pursuant to which the original CIRP admission order had been set aside. The liberty granted by this Tribunal to revive the proceedings in the event of default was consciously incorporated to safeguard the interests of the Financial Creditor and to ensure compliance with the settlement.

34. The record, therefore, clearly establishes that the Respondents failed to adhere to the repayment schedule forming part of the Consent Terms. The breach is neither technical nor insignificant but substantial and continuing. The very foundation on which the appeal came to be disposed of having failed, the Applicant is entitled to invoke the liberty expressly reserved by this Tribunal.

35. In view of the foregoing discussion, we are satisfied that sufficient grounds exist for exercise of our inherent powers under Rule 11 of the NCLAT Rules, 2016. The Applicant has established a material and undisputed breach of the Consent Terms dated 27.04.2024. Consequently, the order dated 09.05.2024 disposing of Company Appeal (AT) (Ins.) No. 463 of 2024 deserves to be recalled and the appeal restored to its original position.

36. In view of the above, the order dated 09.05.2024 passed in CA (AT) (Ins.) No.463 of 2024 is recalled. Company Appeal (AT) (Ins.) No.463 of 2024 stands restored to its original number. Consequently, CIRP proceedings against the corporate debtor in CP (IB) No.508/MB/2023, which were earlier disposed of in accordance with consent terms and this Tribunal order dated 09.05.2024 by the Adjudicating Authority (NCLT Mumbai Bench,Court-V) would also stand revived. The Restoration Application is allowed in above terms. No order as to costs.