
(2025) 10 NCLAT CK 0047

In the National Company Law Appellate Tribunal

Case No : I.A. No. 6437 of 2025 in Comp. App. (AT) (Ins) No. 1216 of 2024

Chemical Suppliers India Pvt. Ltd.

APPELLANT

Vs

Girdhari Lal Khandelwal & Ors.

RESPONDENT

Date of Decision : 28-10-2025

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 94, 96, 99

Citation : (2025) 10 NCLAT CK 0047

Hon'ble Judges : Faiz Alam Khan, Member; Naresh Salecha, Member

Bench : Division Bench

Advocate : Nikhil Verma, Mahak Agarwal , Kapil Sharma

Final Decision : Dismissed

Judgement

28.10.2025 Heard Shri Adarsh Rai, Learned Counsel appearing for Applicant No. 1 i.e., Girdhari Lal Khandelwal of the Corporate Debtor as well as Shri Nikhil Verma, Learned Counsel appearing for Applicant No. 2 i.e., Operational Creditor

2. This joint application has been moved by the above mentioned Applicants with multiple prayers stated in the relief clause of the application.

3. During the course of submissions, Learned Counsels for the Parties jointly submits that they are restricting their prayers only in terms that the appeal filed by the Applicant No. 2 which has been restored vide order dated 25.09.2025 passed in Restoration Application bearing RA No. 33 of 2024 be dismissed as withdrawn.

4. It is reflected that the CIRP was initiated against the CD i.e., M/s Rasik Products Pvt. Ltd. on an application moved by the Applicant No. 1 Chemical Suppliers India Pvt. Ltd. vide order dated 14.06.2024 passed under Section 9 of the Insolvency & Bankruptcy Code, 2016 ('Code') by the NCLT, Prayagraj.

5. Aggrieved by the same, the instant appeal was filed by the Applicant No. 2 before this Appellate Tribunal bearing Comp. App. (AT) (Ins.) No. 1216 of 2024.

6. However, on account of the settlement arrived between the parties, the appeal was disposed of by coordinate bench of this Appellate Tribunal vide order 05.07.2024. The said order is reproduced as under :- vide order 05.07.2024. The said order is reproduced as under :-

"This appeal has been filed against order dated 14.06.2024 by which order the Adjudicating Authority has admitted Section 9 application filed by the Operational Creditor (Respondent herein). The order was passed on 14.06.2024 and this Tribunal on 01.07.2024 passed following order:

"ORDER

(Hybrid Mode)

1.7.2024- Learned Counsel for the Appellant submits that settlement has already been entered with the Operational Creditor and he seeks three days' time to bring the settlement on record.

List on 5th July, 2024.

In the meantime, Committee of Creditors shall not be constituted and the Order impugned shall remain stayed."

2. Appellant has brought on record Memorandum of Understanding dated 02.07.2024 under which the settlement has been entered between the Operational Creditor and the Corporate Debtor. Learned counsel for the Respondent submits that they have already settled and CIRP need not be continued.

3. In view of the Memorandum of Understanding on record, we close the CIRP and set aside order dated 14.06.2024.

4. Learned counsel for the IRP submits that he has not been paid any amount although the Adjudicating Authority has directed for payment of Rs.1 Lakhs. He further submits that IRP has also incurred certain expenses in the CIRP.

5. In facts of the present case, we are of the view that amount of Rs.2 Lakhs be paid to the IRP, which may be paid by way of a Bank Draft or RTGS within two weeks from today.

6. Appeal is disposed of accordingly."

7. It is also reflected that as the terms of the settlement were allegedly not honoured by the Applicant No. 2, a restoration application bearing RA No. 33 of 2024 was moved by the Applicant No. 1 (Respondent in Comp. App. (AT) (Ins.) No. 1216 of 2024) and vide order dated 25.09.2025, the appeal was restored to its original number. The said order is also reproduced as under :-

"Restoration Application (AT) No. 33 of 2024

Chemical Suppliers India Pvt. Ltd. filed the application under Section 9 of the

Code against Rasik Products Pvt. Ltd./CD for the resolution of its debt of Rs. 3,43,81,409/-which was admitted and Mr. Amit Goyal was appointed as the IRP. Aggrieved by the order of admission the Suspended Director of the Corporate Debtor filed CA (AT) (Ins) No. 1216 of 2024.

2. At the time of preliminary hearing, on 01.07.2024, Counsel appearing on behalf of the Appellant/Suspended Director made a statement to the court that a settlement has already been entered into with the OC and requested for three days' time to bring the settlement on record. On the basis of the statement, court granted the stay to the effect that "Committee of Creditors shall not be constituted and the Order impugned shall remain stayed".

3. On the next date of hearing i.e. 05.07.2024, this court, in the main appeal, passed the following order:

"This appeal has been filed against order dated 14.06.2024 by which order the Adjudicating Authority has admitted Section 9 application filed by the Operational Creditor (Respondent herein). The order was passed on 14.06.2024 and this Tribunal on 01.07.2024 passed following order:

"ORDER

(Hybrid Mode)

1.7.2024- Learned Counsel for the Appellant submits that settlement has already been entered with the Operational Creditor and he seeks three days' time to bring the settlement on record.

List on 5th July, 2024.

In the meantime, Committee of Creditors shall not be constituted and the Order impugned shall remain stayed."

2. Appellant has brought on record Memorandum of Understanding dated 02.07.2024 under which the settlement has been entered between the Operational Creditor and the Corporate Debtor. Learned counsel for the Respondent submits that they have already settled and CIRP need not be continued.

3. In view of the Memorandum of Understanding on record, we close the CIRP and set aside order dated 14.06.2024.

4. Learned counsel for the IRP submits that he has not been paid any amount although the Adjudicating Authority has directed for payment of Rs.1 Lakhs. He further submits that IRP has also incurred certain expenses in the CIRP.

5. In facts of the present case, we are of the view that amount of Rs.2 Lakhs be paid to the IRP, which may be paid by way of a Bank Draft or RTGS within two weeks from today.

6. Appeal is disposed of accordingly."

4. The aforesaid order was passed in view of the Memorandum of Understanding, dated 02.07.2024 as per which the CD undertook to pay Rs. 3.5 Crore.

5. After the disposal of the appeal the CD failed to make the entire payment and was in arrear of Rs. 67 lakhs. The OC has thus filed the application for restoration by recalling of the order dated 05.07.2024 and decision of the appeal on merits.

6. Notice in the application was issued and reply was filed.

7. This court passed the following order on 11.08.2025 in this application.

"Restoration Application (AT) No. 33 of 2024: - This application is filed by the appellant invoking Rule 11 of the NCLT Rules, 2016 for restoration of the Comp. App. (AT) (Ins) No. 1216 of 2024 which is stated to have been disposed of vide order dated 05.07.2024 on the basis of a settlement agreement between the parties. In paragraph 6 of the application, the appellant has averred that the full and final settlement between the parties was arrived at Rs. 3.5 crores but so far, the Corporate Debtor has paid only Rs.2.5 crores.

Counsel appearing on behalf of Corporate Debtor has submitted that he has filed reply to the application but the said reply is not on record. At the same time Counsel appearing on behalf of the RP has submitted that in terms of the order passed by this Court on 14.02.2025, the appellant/ Operational Creditor was supposed to pay Rs. 2 lacs to him within a period of 15 days but the said amount has not been paid.

Counsel for the parties have requested for an adjournment to argue the appeal by physically present in court.

The appellant is directed to abide by the order dated 14.02.2025 by making payment of Rs. 2 lacs to the IRP within a period of 15 days as

directed otherwise contempt proceedings may be initiated against the Operational Creditor, if the order passed today is not duly complied with.

The Reply if any, stated to have been filed by the Corporate Debtor to this application be also attached with the record.

Adjourned to 28.08.2025".

8. Apropos, the order, the OC has submitted that the amount of Rs. 2 lakhs has been paid to the RP. It is submitted that Rs. 1.25 lakhs had already been credited to the account of the RP and the remaining Rs. 75,000/-has been paid by cheque. The Counsel for the RP has accepted this statement.

9. Counsel for the OC has submitted that the main appeal was disposed of by this court on the basis of MoU but the CD has backed out from the said settlement therefore the main appeal filed by the Suspended Director has to be revived in which the stay has been granted by this court and was disposed of as a result of which the CIRP initiated against the CD was closed.

10. On the other hand, Counsel appearing on behalf of the Suspended Director has submitted that at the time when the main appeal was disposed of by this court no liberty was obtained by the OC to seek revival of the appeal in case of non-payment of the entire amount.

11. He has relied upon two Judgments "SRLK Enterprises LLP vs. Jalan Transolutions (India) Ltd., CA (AT) (Ins) No. 294 of 2021 decided on 08.04.2021, and Krishna Garg and Anr. vs. Pioneer Fabricators Pvt. Ltd., CA (AT) (Ins) No. 92 of 2021 decided on 12.02.2021 and has also referred to Order 23, Rule 3 of the CPC.

12. Counsel for the OC has submitted that CD has acted dishonestly because he has not honoured its commitment which was made at the time when the MoU was entered into on the basis of which the main appeal filed by the Suspended Director was disposed of and the CIRP initiated against the CD was closed.

13. We have heard Counsel for the parties and perused the record.

14. From the aforesaid fact, it is clear that the Suspended Director, in order to wriggle out of the rigours of the CIRP, made the statement before this court that there is a settlement arrived at between the parties on the basis of which stay was granted against the operation of the impugned order.

15. The main appeal filed by the Suspended Director was also disposed of in his favour on the basis of the MoU in which the Suspended Director had undertaken to pay the entire amount to the OC and the CIRP was closed.

16. However, the CD/appellant did not honour its commitment and is still in arrears of Rs. 67 lakhs. The dishonest action on the part of the appellant/CD has to be deprecated and the application deserves to be allowed because in view of Rule 11 of the NCLAT Rules, 2016 which gives inherent power to this court to pass orders to meet the ends of justice or to prevent abuse of the process of the law.

17. The Judgment relied upon by the Suspended Director will not be of any support to him because the law is neither dormant nor static but dynamic and vibrant. This court cannot adopt a pedantic approach for condoning the dishonest action of the Suspended Director/CD for not honouring its own words and on the basis of which the

appeal filed by the Suspended Director for the purpose of closing CIRP on the basis of the MoU entered by the gullible operational creditor was closed.

18. In such circumstances, we are of the view that this is one such case in which the appellant should be saddled with the cost of Rs. 50,000/- so that it may give a message to the others who also thinks in the manner in which the present appellant/suspended director thinks and acts. It is made clear that if the cost is not paid as directed, the OC shall be at liberty to file a contempt petition for obtaining an appropriate order.

19. CA (AT) (Ins) No. 1216 of 2024- This appeal was disposed of by order dated 05.07.2024. However, in view of the order passed today in RA No. 33 of 2024, the main appeal is hereby restored to its original number.

20. Since we have not appreciated the conduct of the Suspended Director of the CD, who has not honoured its own words and the commitment, therefore, the order of stay dated 01.07.2024 is also hereby vacated.

21. List this appeal on 02.12.2025”

8. Now, it is submitted jointly by Learned Counsels the Applicants (Director of the Corporate Debtor and Operational Creditor) that a settlement has again arrived between the parties and the Appellant is not willing to pursue the appeal and therefore, the same be dismissed as withdrawn.

9. Thus, a joint request has been made by Learned Counsel for the Parties to dismiss the appeal simplicitor without reserving any liberty

10. In view of the joint request made by Learned Counsel for the Parties, the appeal is hereby dismissed as withdrawn, without reserving any liberty to the Appellant.

11. It is clarified that we have not opined anything on the fate of the CIRP proceedings pending before the Tribunal, which would be taken to its logical end, strictly in accordance with law.