(2026) 06 NCLAT CK 0757

In the National Company Law Appellate Tribunal, CHENNAI Bench

Case No : Company Appeal (AT) (CH) (Ins) No. 309/2026 (IA Nos. 874 & 875/2026)

Dr. Badri Prasad APPELLANT

Vs

Rajesh Ramnani RESPONDENT

Date of Decision : 24-06-2026

Acts Referred:
I & B Code, 2016-Part III Chapter IV, Section 121, 112, 115, 97, 100, 95, 105, 106, 102, 109, 108, 114 (3), 114, 114 (1), 115 (2), Part III Chapter III, Part III, Part IV
IBBI (Insolvency Resolution Process of Personal Guarantors to the Corporate Debtors) Regulations, 2019 — Regulation 17B

Citation : (2026) 06 NCLAT CK 0757

Hon'ble Judges : Justice Sharad Kumar Sharma, Member (Judicial);Jatindranath Swain, Member (Technical)

Bench : Division Bench

Advocate : For Appellants : Mr. Pawan Jhabakh, Advocate; For Respondent : Mr. Asher Revi Job, Advocate

Final Decision : Allowed

Judgement

(Hybrid Mode)

Oral: Justice Sharad Kumar Sharma, Member (Judicial)

In the instant company appeal, the issue under consideration would relate as to, whether the provisions contained under Part III Chapter IV of the I & B Code, 2016, for the purposes of entertaining an application of bankruptcy, as envisaged under Section 121 of the Code, could be rigidly construed and applied without enabling the Personal Guarantor to exhaust his remedies as admissible under law in form of availing one more chance to submit a revised repayment plan for consideration, of the creditors in their meeting, before the report of meeting of the creditors on repayment plan, as contemplated under Section 112 of the Code, is finalized.

2. The instant company appeal arises out of the order dated 13.04.2026, that

was passed in IA(IBC)/124/KOB/2026 preferred in CP(IB)/32/KOB/2023 by Ld. NCLT, Kochi Bench. The prayer as it was sought in the said application for was to pass an order under Section 115 of the I & B Code, 2016, that has been allowed. The facts that, engages consideration herein are that, the Appellant is facing the proceedings in his status of being a Personal Guarantor. Consequently, a Personal Insolvency Resolution Process (PIRP) was initiated against the Appellant. The Appellant contends that, vide order dated 14.08.2024 passed in CP(IB)/32/KOB/2023, the Resolution Professional (RP) was appointed under Section 97 of the Code and on 14.07.2025, an order under Section 100 was passed admitting the Application filed by the Respondent under Section 95 of the Code and that the said orders have been subjected to challenge in Company Appeal (AT) (CH) (Ins) No.401/2024 and Company Appeal (AT) (Ins) No.479/2026, respectively, which are pending before this Appellate Tribunal.

3. The Appellant had been consistently harping upon the fact that, the initiation of the PIRP should be set aside, owing to the fact that, the said PIRP process suffers from grave procedural infirmities and jurisdictional errors. He has further submitted that, despite the pendency of the above said Appeals, the Respondent had still proceeded with the invitation of the repayment plan, which it runs contrary to the scheme and object of the I & B Code, 2016. The Appellant's case is that, upon filing of an application under Section 95 of the Code, repayment plan was called for from him under Section 105 of the of the I & B Code, 2016. The said section prescribes for the debtor to prepare the repayment plan in consultation with the Resolution Professional which essentially is a proposal to the creditors for re-structuring of his debts. The Appellant contends that, he had submitted the repayment plan on 28.08.2025, but the Respondent (RP) failed to comply with the statutory procedure, and the timelines mandated under Part III Chapter IV of the I & B Code, 2016, and to adhere to the modalities that are to be adopted for the consideration and decision to be taken on the said repayment plan in the meeting of creditors.

4. The Appellant's case is that, though the repayment plan was submitted by him on 28.08.2025, as per Section 105 of the I & B Code, 2016, the Respondent / Resolution Professional failed to act upon the mandate contemplated under Section 106 of the I & B Code, 2016, of filing of the report on the repayment plan before the Ld. NCLT within 21 days from the last day of the submission of the claims under Section 102 of the I & B Code, 2016 and filed the same only on 13.02.2026, which effectively negated his efforts towards submitting an acceptable repayment plan and adversely affected the effectiveness of PIRP.

5. The facts that could be born out from the records are that, while disposing of the IA(IBC)/68/KOB/2026, preferred by the RP in CP(IB)/32/KOB/2023, filed under Section 106 of the I & B Code, 2016, by an order that was passed on 09.03.2026, the Ld. NCLT itself had observed that, the processing of the repayment plan itself was suffering from various procedural vices due to occurrence of serious lapses on part of the Respondent, which raised doubt on

the conduct of the Resolution Professional beside observing that there was lack of exercise of due diligence while considering the plan submitted by the Appellant on 28.08.2025.

6. It is contended by the Appellant that, once the Ld. Tribunal vide its order dated 09.03.2026, has come to a conclusion that, the processing of the repayment plan submitted by the Appellant on 28.08.2025, has not been done as per the procedures laid down in the Code, such irregularities should have entailed re-consideration of the repayment plan, after the procedures of the same being carried as per law, by voting of the creditors in accordance with Section 109 of the I & B Code, 2016.

7. He has further submitted that the creditors, in their first meeting held on 17.09.2025 under Section 108 of the I & B Code, 2016, had observed that the repayment plan as submitted by the Appellant on 28.08.2025, requires certain modifications in terms of enhancing the amount proposed to be repaid, which in a way granted a right to the Appellant to submit a revised proposal. Accordingly, the Appellant, as per his claim, communicated to the RP, by email dated 09.01.2026, the enhanced amount he proposed to repay, along with a request for extension of 7 days to submit an improved and enhanced repayment plan. Despite the request made by the Appellant, the creditors and the Respondent herein, proceeded with the voting on the repayment plan that was submitted on 28.08.2025 without permitting him to submit the revised repayment plan. He contends that there was no need for such hurry as the voting which was scheduled to commence on 12.01.2026 and conclude on 22.01.2026, was extended till 07.02.2026, during which he could have submitted his revised repayment plan and same could have been decided upon before 07.02.2026. Thus, denial of the opportunity to submit the revised repayment plan was prejudicial to him and it violates the principle of natural justice. Further, Ld. Adjudicating Authority could have, under provisions of Section 114 (3) of the I & B Code, 2016, directed reconsideration of the Repayment Plan by reconvening of the meeting of creditors, which was also not done, which is violative of the provisions of Section 114(3) of the Code.

8. The grievance of the Appellant is that, despite expressing his willingness to submit an improved repayment plan and despite the fact that, creditors themselves were seeking an improved offer, the Ld. Adjudicating Authority, did not exercise its jurisdiction as vested in it under Section 114 (3) of the I & B Code, 2016, directing the Resolution Professional to reconvene the meeting of the creditors for reconsidering the repayment plan which could have enabled him to submit the revised repayment plan. Non-compliance of Sub-Section (3) of Section 114 of the Code, itself is a deprivation to the Appellant to submit an improved repayment plan, which was sought to be submitted after 7 days extension, as prayed for by the Appellant vide his e-mail communication of 09.01.2026. Further, the proposal to reject the repayment plan was mechanically accepted by the Ld. Adjudicating Authority, without even considering the

provisions of Sub-Section (3) of Section 114 of the I & B Code, 2016, which reads as under: -

> "114. ***Order of Adjudicating Authority on repayment plan. –*** *(1) The Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of the report of the meeting of the creditors submitted by the resolution professional under section 112:*
>
> *Provided that where a meeting of creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under section 106.*
>
> (2) *The order of the Adjudicating Authority approving the repayment plan may also provide for directions for implementing the repayment plan.*
>
> (3) ***Where the Adjudicating Authority is of the opinion that the repayment plan requires modification, it may direct the resolution professional to re-convene a meeting of the creditors for reconsidering the repayment plan.****"*

9. There cannot be any iota of doubt that, before passing an order, under Section 114 of the I & B Code, 2016, of either rejecting or accepting the repayment plan, on basis of the report of the meeting of the creditors submitted by the Resolution Professional under Section 112 of the Code, Ld. Adjudicating Authority is required, as per Section 114(3) of the Code, to examine whether the repayment plan requires any modifications. There is no doubt, and apparent from the records too, that the Appellant vide his e-mail communication dated 09.01.2026, did pray for an opportunity to submit a modified repayment plan. However, Ld. Adjudicating Authority didn't consider the said prayer and instead, proceeded to pass order on the application IA(IBC)/124/KOB/2026 in CP(IB)/32/KOB/2023, by allowing the resolution of the creditors to reject the repayment plan under Section 114 of the Code. Though, Ld. Adjudicating Authority has recorded in the impugned order that the Appellant/Personal Guarantor had sought additional time to submit a revised repayment plan vide e-mail dated 09.01.2026, it has not adjudicated upon the same qua the implication of the Section 114(3) of the Code and instead, had merely accepted the explanation of Resolution Professional that the process under Part III Chapter III is a time bound process and hence no further time was given and the repayment plan, as originally submitted by the Appellant on 28.08.2025, was placed before the creditors for voting. However, Ld. Adjudicating Authority failed to note that the creditors took time from 09.01.2026 to 07.02.2026 to vote on the repayment plan, during which the Appellant could have submitted his modified plan and the creditors would have ample time to consider the same. So, the plea of the Creditors/RP of the need to adhere to the statutory timeline is not based on facts, as they themselves have taken such long time, much beyond the mandated time period to finalize their resolution on the repayment plan. It is apparent that the statutory timeline which was rigidly followed in case of the Appellant / Personal Guarantor was given a go-by when it came to the creditors.

10. Under these circumstances, when the Resolution Professional filed an IA(IBC)/124/KOB/2026, under Regulation 17B of IBBI (Insolvency Resolution

Process of Personal Guarantors to the Corporate Debtors) Regulations, 2019, submitting the report of the meeting of creditors under Section 112 & seeking an appropriate direction under Section 114 (1) to be read with Section 115 (2), Ld. Adjudicating Authority noted that despite the due process being followed, no viable repayment plan has been submitted by the Personal Guarantor within the statutory timeline prescribed under Section 106, that the plan submitted has been rejected by the creditors in their meeting dated 06.01.2026 following by voting which concluded on 07.02.2026, & that there is nothing to doubt the commercial wisdom of the creditors and accordingly rejected the repayment plan, giving liberty to the creditors and debtors to initiate bankruptcy proceedings against the Personal Guarantor in terms of Section 115(2) of the Code to be read with Section 121 of the Code.

11. There are no facts in dispute and the only disputed fact by the Appellant, is as to whether at all he would be entitled to avail the benefit of Section 114 (3) of the I & B Code, 2016, which could have enabled him to submit a revised and enhanced repayment plan, in the capacity of being the Personal Guarantor and whether he can be forced to face the bankruptcy process when his e-mail request for extension of 7 days with regards to time to submit a revised repayment plan vide email dated 09.01.2026, was not responded and no orders were passed on it and instead the creditors abruptly proceeded to vote on the repayment plan that was submitted by him on 28.08.2025, and to reject the same, and when Ld. Tribunal chose not to exercise its jurisdiction under Section 114 (3) of the Code, to call for a revised repayment plan for which the Appellant was agreeable and had prayed for extension of time of 7 days only, which was neither declined nor accepted by the creditors and the RP.

12. We are of the view that, as per the Preamble of the Code, read in consonance to the provisions of Part III and Part IV, initiation of the process of bankruptcy, against the Personal Guarantor is not the prime objective of the Code and that the object of the Code is to ensure resolution of insolvency of the Personal Guarantor in a time-bound manner to maximize the value of his assets, to promote entrepreneurship, availability of credit and to balance the interests of all the stakeholders. Accordingly, initiation of bankruptcy has to be the last resort, because once bankruptcy is initiated, credit availability is highly restricted, stifling entrepreneurship. In such a scenario, not taking a decision by the creditors and the Resolution Professional on the offer of the Appellant to submit a revised plan and not granting him a mere 7 days to do so on the plea that statutory timelines have been exceeded even while the creditors and Resolution Professional took their own time in deciding on the repayment plan submitted on 28.08.2025 and rejecting the same will be clearly against the objectives of the Code. Similarly, the impugned order of Ld. Adjudicating Authority, choosing not to invoke its jurisdiction under Section 114(3) of the Code to call for a modified plan, even when it had recorded that the Personal Guarantor has sought extension of 7 days time to submit a revised repayment plan and instead agreeing with the report of the creditors that the repayment

plan is liable to be rejected and as a consequence, giving liberty to the creditors to initiate Bankruptcy proceedings under Section 121 of the Code would not satisfy the objectives of the Code and accordingly would have to be held as bad in law.

13. In that eventuality, we proceed to quash the impugned order dated 13.04.2026, and allow the company appeal with the following liberty: -

(i) The Appellant would be permitted to submit a revised and enhanced repayment plan as per the offer extended by him on his e-mail dated 09.01.2026, within a period of three weeks from the date of the uploading of this order, and if the same is submitted by the Appellant, the revised repayment plan would be placed in the meeting of the CoC, for the purposes of its voting under Section 109 of the Code and thereafter it would be placed for its approval by the creditors, as well as before the Ld. Adjudicating Authority to pass an appropriate order on the Appellant's revised repayment plan.

(ii) If the Appellant complies with the aforesaid direction within the time as granted above, the CoC and the Ld. Adjudicating Authority to proceed accordingly as per law, and if there is any dereliction on part of the Appellant for non-submission of the revised and enhanced repayment plan within the time as granted above, the effect of the impugned order dated 13.04.2026 would revive back to take its own effect in accordance with law.

14. Subject to the above, the company appeal stands 'allowed'. All interlocutory applications would stand 'closed'.