
(2025) 03 NCLAT CK 0657

In the National Company Law Appellate Tribunal

Case No : Company Appeal (AT) (Insolvency) No. 320 of 2025 & I.A. No. 1090 of 2025

**Greater Noida Industrial Development Authority Through Its Manager
(Institution Vs Sandeep Gupta, Shalini Gupta & Anoop Kumar Mittal & Anr.**

Date of Decision : 10-03-2025

Acts Referred:

Citation : (2025) 03 NCLAT CK 0657

Hon'ble Judges : Ashok Bhushan, Chairperson; Arun Baroka, Member (T)

Bench : Division Bench

Advocate : U.N. Singh, Sumesh Dhawan, Vatsala Kak, Raghav Dembla, Iswar Mohopatra

Final Decision : Dismissed

Judgement

10.03.2025 : I.A. No. 1090/2025

1. This is an Application praying for condonation of 68 days delay in refiling of the Appeal.

2. Sufficient cause has been shown in Paragraphs 2 to 5, which is as follows:

"2. That the present Appeal was E-filed on 18.11.2024. However, the Registry pointed out certain defects on 29.11.2024 and the same was conveyed to the Appellant on the very same day and the Appellant was directed to cure the defects and to refile the Appeal on or before 7 days from date of receiving such information.

3. That accordingly the Applicant cured the defects pointed out by the Ld. Registry and e-filed the curated Appeal on 10.01.2025 and again on 15.01.2025 certain other defects were pointed out by the Ld. Registry which have been cured and refiled on 17.01.2025.

4. That again on 21.01.2025, the Registry has pointed out certain fresh defects which were cured on 22.01.2025 and the curated appeal was refiled on

22.01.2025.

5. That again on 10.02.2025, the Registry has pointed out certain fresh defects which have been cured today i.e. 10.02.2025 and the curated appeal has been refiled on 10.02.2025.”

3. Learned Counsel Mr. Sumesh Dhawan appears for the Respondent and submits that 68 days delay need no condonation.

4. We find sufficient cause has been shown in Paragraphs 2 to 5 as noticed above.
Refiling delay condoned.

Comp. App. (AT) (Ins.) No. 320/2025

1. Heard Learned Counsel Mr. U.N. Singh appearing for the Appellant.

2. This Appeal has been filed against an Order dated 03.10.2024 passed by the Adjudicating Authority in I.A. No. 3918/2024.

3. The Appellant has filed its claim in the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor, against the amount submitted of Rs.21 Crore and odd, the admission was made of only Rs.18 Crore by the Resolution Professional (RP). The objection was also raised by the Appellant by I.A. No. 2551/2023 questioning the admission of only Rs.18,24,96,973/- and other grounds. The Resolution Plan was approved by the Committee of Creditors (CoC) and thereafter the Application for approval of the Plan was filed being I.A. No. 6423(ND)/2022 as well as the Application filed by the Appellant I.A. No. 2551(ND)/2023 both the Applications came to be heard and decided by the Order dated 24.08.2023, by which Order, Adjudicating Authority has approved the Resolution Plan and disposed the I.A. No.2551/2023 also.

4. Aggrieved by the Order dated 24.08.2023 in Company Appeal 284/2024 was filed with delay. This Tribunal vide its Order dated 21.02.2024 has dismissed the Company Appeal filed by the Appellant as barred by time. In the Resolution Plan against the amount admitted, Rs.6.79 Crore was proposed to the Appellant as an Operational Creditor. An I.A. was filed by the Successful Resolution Applicant (SRA) seeking a direction to the Appellant to accept the said amount which has been proposed in the Plan being I.A. No.2233/2024. Appellant opposed the Application, however, the Adjudicating Authority disposed of the Application taking the view that the Order passed by the Adjudicating Authority dated 24.08.2023 has become final. The Order passed by the Adjudicating Authority on I.A. No. 2233/2024 is as follows:

“IA-2233/2024: The prayer made in the captioned application reads thus:-

a) Direct the Respondent No.1/GNIDA to comply with the Resolution Plan of the Applicant approved by this Hon'ble Adjudicating Authority vide Order dated 24.08.2023 and the Order dated 02.04.2024 passed by this Hon'ble Adjudicating Authority in I.A. No. 1454/2024 in CP (1B) No. 1035/2020.

- b) direct the Respondent No. 1 to issue a challan and accept the amount of Rs.6,79,07,777.00 (Rupees Six Crore Seventy-Nine Lakh Seven Thousand Seven Hundred and Seventy-Seven only) deposited by the Applicant in the escrow account bearing no. 307301010294690 in the name of "Consortium of Sandcep Gupta, Shalini Gupta and Anoop Kumar Mittal, in Union Bank of India, Khari Baoli, Delhi-110006, in terms of the Order dated 02.04.2024 as passed by this Ld. Adjudicating Authority in full and final satisfaction of its claim against the Corporate Debtor;
- c) direct the Respondent No.1 to cooperate, assist and support the Applicant for grant of various approvals and consents in terms of the approved Resolution Plan;
- d) pass any further order in favour of the Applicants that this Hon'ble Adjudicating Authority deems fit under the facts and circumstances of the present case.

Mr. U.N. Singh, Ld. Counsel for the Respondent i.e. Greater Noida Industrial Development Authority argued with vehemence that in terms of the judgment of Hon'ble Supreme Court in Greater Noida Industrial Development Authority v. Prabhjit Singh Soni & Anr. [Civil Appeal Nos. 7590-7591 of 2023], the Respondent need to be treated as secured creditor and the amount deposited by the SRA in escrow account is not in proportion to what is payable to the Respondent as per the law declared by Hon'ble Supreme Court in Greater Noida Industrial Development Authority v. Prabhjit Singh Soni & Anr. (Civil Appeal Nos. 7590-7591 of 2023]. It is also his submission that even in terms of the order passed by this Tribunal, approving the plan, reproduced in para 5 of the reply, the land/agency i.e. Greater Noida Industrial Development Authority is entitled to share in bid amount much more than the amount which has been deposited in escrow account. The plea is opposed by the Ld. Counsel for the Applicant. In any case, indubitably, the order dated 24.08.2023 in terms of which the resolution plan has been approved could not be interfered by the Hon'ble NCLAT, though on the ground of limitation. May be on any ground, once the order passed by this Tribunal is not disturbed by Hon'ble NCLAT, the same has attained finality. In any case, the present application is disposed of with the direction that the Greater Noida Industrial Development Authority would accept the amount deposited in escrow account without prejudice to its contention as espoused in para 5 of the reply. The application stands disposed of. The contention raised by Respondent cannot be adjudicated in the present application moved by the RP."

5. Learned Counsel for the Appellant submitted that it has been accepted by the Adjudicating Authority that Appellant is a Secured Operational Creditor, hence he was entitled for the payment as Secured Operational Creditor.

6. The amount which was proposed by the Appellant of Rs.7 and odd Crore has attained finality by approval of the Resolution Plan. Appellant having unsuccessfully challenged the said Order subsequent to the approval of the Resolution Plan which has become final, Appellant cannot be allowed to question

the pay out to the Appellant. Any question with regard to entitlement of the Appellant was subject matter of the Order by which the Plan was approved.

7. Plan approval on 24.08.2023 having attained finality, we do not find any error in the view taken by the Adjudicating Authority that the said Order has become final and the amount which has been deposited as per the Resolution Plan is entitled to be received by the Appellant.

8. We thus do not find any error in the Impugned Order passed by the Adjudicating Authority.

Appeal dismissed.