(2025) 11 NCLAT CK 0062

In the National Company Law Appellate Tribunal

Case No : I.A. No. 3175 of 2025 in Company Appeal (AT) (Insolvency) No. 507 of 2023

Jaypee Infratech Ltd. Through its Implementation and Monitoring Committee	APPELLANT
Vs	
Jaiprakash Associates Ltd. Liquidator for SSMP Industries Ltd. & Anr.	RESPONDENT

Date of Decision : 04-11-2025

Acts Referred:

Citation : (2025) 11 NCLAT CK 0062

Hon'ble Judges : Ashok Bhushan, Chairperson;Barun Mitra, Member

Bench : Division Bench

Advocate : Sumant Batra, Sanjay Bhatt, Sarthak Bhandari, Riya Kaur Arora, Apoorv Kurup, Piyush Beriwal, Ruchita Srivastava, Nidhi Mittal, Vaijayant Paliwal, Nikhil Mathur

Final Decision : Dismissed

Judgement

This application (IA No.3175 of 2025) is filed by the Applicant (Appellant) praying for following directions:

"a. Allow the present Application;

b. Give suitable direction to the Respondent No.1 to release and disburse a sum of Rs. 15.15 crore (INR 9.37 Crores accrued on INR 277.41 Crores for the period from 07.03 .2023 to 20.10.2023 + INR 5. 78 Crores accrued on INR 265.21 Crores for the period from 07.03 .2023 up to 05.08.2023) into the bank account of the Applicant;

c. Alternatively, Issue necessary directions to the Ld. Adjudicating Authority to list and pass appropriate orders in IA No. 3625 of 2024;

d. Pass any other/further order(s) which may be deemed fit and proper in the fact and circumstances of the present case."

2. Brief facts necessary to be noticed for deciding the Application are:

(i) Jaypee Infratech Ltd. ("JIL") is a real estate company engaged in construction of various residential/ commercial projects. Jaiprakash Associated Ltd. ("JAL") is a holding company of Jaypee Infratech Ltd.

(ii) Various homebuyers of Jaypee Infratech Ltd. filed Writ Petitions under Article 32 of the Constitution of India in the Hon'ble Supreme Court namely Chitra Sharma and Ors. vs. Union of India and Ors. In the Writ Petition (Civil) No.744 of 2017, the Hon'ble Supreme Court passed an interim order directing JAL to deposit Rs.2000 crores in the registry of the Hon'ble Supreme Court. JAL, holding company of JIL deposited Rs.750 crores. The Hon'ble Supreme Court disposed of the writ petition by judgment dated 09.08.2018 directing that amount of Rs.750 crores deposited in the Court together with interest accrued thereon be transferred to NCLT and continue to remain invested and shall abide by such directions as may be issued by the NCLT.

(iii) The Corporate Insolvency Resolution Process ("CIRP") against the JIL had commenced on 09.08.2017 on an application filed by IDBI Bank. Before the NCLT, JIL and JAL filed applications seeking appropriation of the amount deposited in the NCLT, which was to be paid respectively to JIL and JAL. NCLT vide order dated 07.03.2023 decided the application filed by JIL and JAL directing for appropriation of Rs.750 crores. It is relevant to notice paragraphs 110-111 of order dated 07.03.2023, which are as follows:

"110. It is further objected by JAL that the Resolution plan interferes with the Reconciliation process of Rs 750 Crore, which has been conducted in terms of the Judgement of Hon'ble Supreme Court passed in the Jaypee Kensington and which is adjudicated by this Adjudicating Authority under IA-2593/2021. It is stated by JAL that the following clauses in the Resolution Plan interfere with the reconciliation process:

"Clause 34.5: Upon approval of this Resolution Plan by the Adjudicating Authority and payment as per treatment provided hereinabove under the Resolution Plan, all shareholder agreements, voting covenants, negative or affirmative rights of any person in relation to the operations and/or management of the Corporate Debtor, any right to appoint/ nominate/ terminate any director, management, employee of the Corporate Debtor, any option on the shares of the Corporate Debtor etc. shall become infructuous and the Claim with respect to the application monies received including Rs. 212 crores received from JAL for any securities shall stand forfeited, without any consequence on the Corporate Debtor or the Resolution Applicants."

(Emphasis supplied)

"Clause 35: Issue directions to JAL to make immediate payment of the outstanding amounts of Rs. 71 crore, as per the audited balance sheet of the Corporate Debtor dated March 31, 2021, payable by JAL to the Corporate Debtor, with respect to outstanding consideration for lands of the Corporate Debtor sub-leased to the lenders of JAL, as these funds also can be utilised for expediting the construction for Homebuyers. It is clarified that this relief is not linked to reconciliation directed by Hon'ble Supreme Court in Jaypee Kensington Judgement and is sought independently, in the interest of justice."

[Suraksha Plan, internal p. 137] (Emphasis supplied)

111. It is stated by JAL that the SRA has no right whatsoever to participate in the reconciliation process or to give treatment to the amount in the Resolution plan which is a subject matter of the Reconciliation Process. Further, the Hon'ble Supreme Court made it clear in the Jaypee Kensington (at para 224) that the reconciliation process and the approval of the resolution plan were to be kept separate and that the process of approval of the resolution plan was not to be made dependent on the outcome of the reconciliation process.”

(iv) Both, JAL and JIL filed Company Appeal (AT) (Ins.) Nos.302 and 507 of 2023 respectively, challenging order dated 07.03.2023 and this Tribunal vide its judgment and order dated 28.08.2023 decided both the Appeal(s) and directions issued by NCLT were modified. It is useful to notice paragraphs 51, 52 and 53 wherein following was held by this Tribunal:

“51. In Company Appeal (AT) (Ins.) No. 302 of 2023, we have taken the view that direction of the Adjudicating Authority in Para 111 for payment of proportionate interest to the JIL on its receivables is unsustainable. Company Appeal (AT) (Ins.) No. 302 of 2023 thus deserves to be partly allowed setting aside the direction of the Adjudicating Authority in Para 111 to make payment of proportionate interest on the receivables by JIL. Other prayers of the Appellant in Company Appeal (AT) (Ins.) No. 302 of 2023 are rejected.

52. Coming to Company Appeal (AT) (Ins.) No. 507 of 2023, we have taken the view that finding of issues no. (a), (d) and (e) (as contained in Para 13 of the impugned order) deciding issues in favour of JAL are unsustainable. The JAL was not entitled to adjust/deduct aforesaid amounts from the amount receivable by JIL. We notice that the Adjudicating Authority in operative portion of the order in Paras 109 to 111 has ultimately not deducted or adjusted the aforesaid amounts from the amount receivable by JIL. The direction issued by the Adjudicating Authority in Para 109, 110 and 111 are affirmed except the direction to proportionate interest, as indicated above. Company Appeal (AT) (Ins.) No. 507 of 2023 is thus disposed of holding that findings of Adjudicating Authority on Issues No. (a), (b), (d) and (e) are unsustainable.

53. We make it clear that our observations and findings in this order pertain only to appropriation from the amount of Rs.750 Crores deposited under the orders of Hon’ble Supreme Court in Chitra Sharma’s Case and they have no bearing on the CIRP process of the Corporate Debtor which has to be conducted in accordance with the I&B Code and Regulations framed thereunder.”

(v) In Company Appeal (AT) (Ins.) No.302 of 2023, an interim order was passed on 16.03.2023 wherein learned Senior Counsel for the JAL submitted that he does not have any dispute if the amount of Rs.265.21 crores be released to the Monitoring Committee. In paragraphs 4, 5 and 6 following was directed:

"4. Dr. Singhvi in support of the Appeal contended that the Adjudicating Authority by the impugned order dated 07.03.2023 which was passed in I.A. No. 2593 of 2021 and I.A. No. 631 of 2022 has not correctly interpreted the judgment of Hon'ble Supreme Court in "Jaypee Kensington Boulevard Apartments Welfare Association & Ors. vs. NBCC (India) Ltd. & Ors., Civil Appeal No. 3395/2020". Learned counsel for the Appellant submits that it was clearly held by the Hon'ble Supreme Court that Rs.750 Crore which was deposited by the Appellant with accrued interest is asset of the Appellant. It is submitted that insofar as amount of Rs.106.90 Crore which was towards Interest Free Maintenance Deposit, without prejudice to its contentions, the said amount may be released in an escrow account to be maintained by the Monitoring Committee. Dr. Singhvi further submitted that the order of the Hon'ble Supreme Court clearly intended for reconciliation of the amount between the Appellant and the JIL and the findings which were recorded in favour of the Appellant at paras 12, 40, 60, 72 and 77 have not been given effect in the impugned order in operative paras 109 to 111. However, he submits that as on date, he does not dispute that apart from the amount which was held in favour of the Appellant, the Appellant has no objection to release of the amount to the Monitoring Committee i.e. amount of Rs.265.21 Crore.

5. In view of the aforesaid, we issue notice in the Appeal. Let Reply be filed by the Respondents within two weeks. Rejoinder be filed within two weeks thereafter.

6. In the meantime, in pursuance of the impugned order passed by the Adjudicating Authority dated 07.03.2023, there shall be release of an amount of Rs.106.90 Crores on account of Interest Free Maintenance Deposit to be kept in an escrow account maintained by the Monitoring Committee and an amount of Rs.265.21 Crores to the Monitoring Committee (for J.I.L)."

(vi) After the interim order passed by this Tribunal on 16.03.2023, the Applicant wrote to the Deputy Registrar of the NCLT Allahabad (Prayagraj) with whom the amount was deposited, to release the amount. The amount of Rs.265.21 crores was released by the Registry of the NCLT on 05.08.2023. As noted above, the Appeal was finally decided by this Tribunal on 28.08.2023 and in the final decision the direction in the order of NCLT insofar as receivable by JIL was affirmed. However, the direction issued by the NCLT to pay the proportionate interest on the receivable by the JIL was set aside. It was held that Rs.750 crores and interest on the said amount were all assets of the JAL, who had deposited the amount and JIL was only entitled for amount as determined by the NCLT.

(vii) After the final order dated 28.08.2023, a letter was written to the Registry of NCLT Allahabad Bench on 18.10.2023 signed both by JIL and JAL, where they requested for release of the amount to JIL and JAL respectively. It was claimed in the letter that JAL and JIL have amicably resolved their outstanding dispute regarding Rs.750 crores and the amount payable to JIL along with interest accrued after the order dated 07.03.2023 till 05.08.2023 be given to JIL.

(viii) The present application has been filed by the Applicant praying for directions as noted above.

3. In the IA, notices were issued by this Tribunal on 30.05.2025. Respondent No.1 to the application i.e. Deputy Registrar, NCLT Allahabad Bench as well as JAL (Respondent No.2) filed their affidavits, to which a reply has also been filed by the Applicant.

4. We have heard Shri Sumant Batra, learned Counsel appearing for the Applicant; Shri Apoorv Kurup, learned Senior Counsel appearing for Respondent No.1; and Shri Vaijayant Paliwal and Shri Nikhil Mathur, learned Counsel appearing for Respondent No.2.

5. Shri Sumant Batra, learned Counsel for the Applicant submits that when interim order was passed on 16.03.2023 by this Tribunal in Company Appeal (AT) (Ins.) No.302 of 2023, the JIL became entitled to receive the amount of Rs.265.21 crores, which amount could be paid only on 05.08.2023, hence, the JIL was entitled to interest from 07.03.2023 to 05.08.2023. It is further submitted that after final decision in the Appeal on 28.08.2023, the Applicant could receive the amount only on 01.02.2024, hence, the Applicant was entitled for interest from 28.08.2023 till 01.02.2024, when it received the amount. It is submitted that the said amount of interest, which ought to have been paid to JIL has been released by the Registry of the NCLT in favour of JAL. It is submitted that although the amount, which was paid to the JIL as per order of NCLT and NCLAT as per entitlement of JIL, has been paid, but the amount of interest from the date of interim order as well as from the final judgment has not been paid to the Applicant. Hence, the application has been filed for seeking directions. It is submitted that amount has been paid by the Registry after taking indemnity from both the parties, hence the amount paid to JAL, which was entitlement of Applicant, should be directed to be refunded back to JIL.

6. Learned Counsel appearing for Respondent No.1 submitted that the amount deposited with NCLT as per order of the Hon'ble Supreme Court of Rs.750 crores with accrued interest was kept in Fixed Deposit ("FD") and the entire amount, which was deposited with the NCLT Allahabad Bench has been released in favour of JIL and JAL as per their entitlement. No amount is left with the NCLT Allahabad Bench and entire amount has been paid as per their entitlement and as per order of NCLT Allahabad Bench dated 07.03.2023 and as modified by this Tribunal vide its judgment dated 28.08.2023. It is submitted that after the order of NCLT dated 07.03.2023, the interim order passed in this Appeal by NCLAT and after asking for various details and information from JIL and JAL, the amount of Rs.265.21 crores as directed in the interim order by this Tribunal was released to

JIL on 05.08.2023. The time taken in releasing the amount was due to completing necessary formalities, including indemnity certificate etc. After the final judgment of this Tribunal on 28.08.2023, both JIL and JAL were asked to complete necessary formalities for releasing the amount and the balance amount as per their entitlement was released. The amount to which JAL was entitled was also released along with accrued interest. Since, as per order of this Tribunal dated 28.08.2023, JIL was not entitled for any interest, no interest was paid to JIL.

7. Learned Counsel appearing for Respondent No.2 (JAL) also submitted that JAL has received the amount, which was entitlement of the JAL as per order of the NCLT and NCLAT as noted above. In respect of the interest on amount of Rs.750 crores, which was deposited by JAL, the same was upheld by this Tribunal and JAL has received the amount along with interest accrued and there was no error in the respective payments to JIL and JAL.

8. We have considered the submissions of learned Counsel for the parties and have perused the record.

9. Company Appeal (AT) (Ins.) Nos. 302 and 507 of 2023, in which final judgment was delivered on 28.08.2023, the present IA has been filed. The issues in the application also involved intendment of the order with regard to entitlement of JIL and JAL. We have entertained the application, issued notice so that issues raised by the Applicant are decided. Shri Sumant Batra, learned Counsel for the Applicant submitted that Applicant is not claiming any interest on its entitlement out of Rs.750 crores, since it has already been held that amount of Rs.750 crores deposited by JAL, which amount along with accrued interest is the assets of the JAL. The submission of Shri Suman Batra is that after the NCLT determined the entitlement on 07.03.2023, the Applicant became entitled to receive the amount as determined by the NCLT and thereafter, an interim order was passed by this Tribunal in this Appeal and thereafter final judgment. The entitlement as per interim order passed in the Appeal, which is undisputed fact gave right to the Applicant to claim interest at least from the said date. After interim order, which was passed by this Tribunal on 16.03.2023, the Applicant could receive the amount on 05.08.2023, hence, interest from 16.03.2023 to 05.08.2023 was clear entitlement of the Applicant. Further, after final judgment on 28.08.2023, the balance amount could be paid only on 01.02.2024, hence, the Applicant is entitled to interest during the said period. It is submitted that the Applicant is not claiming any amount based on MoU dated 18.10.2023 entered between JIL and JAL for its entitlement, nor it is seeking interest from the Registry of NCLT on account of delay in receiving the payment, but claim of the Applicant is founded upon the entitlement as accrued by interim order dated 16.03.2023 and 28.08.2023. The Applicant has filed a rejoinder and reply to the affidavit filed by Respondent No.1 and in paragraph-4 of the reply dated 25.10.2025, the Applicant has clearly pleaded regarding its entitlement. Paragraph-4 of the Applicant’s reply to Respondent No.1 affidavit is as follows:

“4. At the outset, it is submitted that the Applicant is not claiming any amount based on the Memorandum of Understanding dated 18.10.2023 as seems to be suggested by the Ld. Registrar in his affidavit; the Applicant is seeking the interest on the amount it is entitled to receive as per the order dated 7.3.2023 passed by the Ld. NCLT and the order dated 28.08.2023 passed by this Hon'ble Tribunal. Read together, both orders entitle the Applicant to receive a sum of Rs. 542.62 crores out of Rs. 750 crore kept with the Registrar, NCLT (Allahabad Bench). This amount of Rs. 542.62 crores was however, released by the Registrar to Applicant on two tranches of Rs. 265.21 crores on 5.8.2023, and a sum of Rs. 277.41 crores on 1.02.2024. The Applicant is not seeking interest on account of delayed payment; it is seeking interest earned by the Registrar on the Fixed Deposit of this amount Rs. 265.21 crores and Rs.277.41 crores from date of NCLT order till date of release to it. The interest earned on this amount from the fixed deposit is the undisputed property of Applicant. The interest earned on this amount by Registrar is

(i) Rs.5.78 crores on Rs.265.21 crores for the period from 07.03.2023 (the date of the order of the Ld. Adjudicating Authority) till 05.08.2023 (the date of actual disbursement), and (ii) Rs. 13 .66 crore on Rs. Rs.277.41 crores for the period from 07.03.2023 to 01.02.2024. This amount could not have been released to Respondent No. 2, the Registrar's assertion that it has released the amount to Respondent No. 2 as per the order dated 7.3.2023 passed by the Ld. NCLT and the order dated 16.03.2023 passed by this Hon'ble Tribunal, is contrary to the orders dated 7.3.2023 and 28.08.2023.”

10. Thus, the question, which needs to be answered is as to whether the Applicant is entitled for interest from 16.03.2023, when the interim order was passed by this Tribunal in Company Appeal (AT) (Ins.) No.302 of 2023 directing for payment of Rs.265.21 crores to the Monitoring Committee. When we look into the interim order, paragraphs 4, 5 and 6 as noted above, the statement of JAL was recorded that the “Appellant has no objection to release the amount to the Monitoring Committee i.e. amount of Rs.265.21 crores” and consequently direction for release was issued. A perusal of the order indicates that no time-period was fixed by this Tribunal for release of the amount by the Registry of NCLT, nor there was any direction that amount, if not released in a particular time, the entitlement of JIL for receiving the amount with interest shall arise.

11. There is no dispute that in pursuance of the interim order dated 16.03.2023, the amount of Rs.265.21 crores was released to the applicant on 05.08.2023. The Applicant’s case that he became entitled for the interest on the aforesaid amount, which was directed to be released by order dated 16.03.2023 from the date when order was passed, cannot be accepted. This Tribunal did not fix any time limit for payment of the said amount, nor directed for payment of any interest on the said amount from any particular date. This Tribunal has already vide its judgment dated 28.08.2023 has finally decided that amount of Rs.750 crores along with interest accrued is the assets of JAL and the direction of NCLT

to give proportionate interest on the entitlement of JIL was set aside. The order of this Tribunal dated 28.08.2023 has become final. The entire basis of application of the Applicant is that delay in receiving the payment, which made the Applicant entitled for interest. It is submitted that after the final judgment dated 28.08.2023, the amount could be paid only on 01.02.2024. Hence, for the said period the Applicant is entitled to interest. In the final judgment dated 28.08.2023 also, this Tribunal while deciding the Appeal finally, did not fix any time for payment, either to JIL or JAL, nor issued any direction that JIL shall be paid interest in event the amount is not paid in a particular time. Thus, clearly the interim order dated 16.03.2023 as well as final order dated 28.08.2023 relied by the Applicant, did not direct for any payment of interest or any fixed time for payment to JIL. It is not disputed by the Applicant that Applicant has received all its entitlement as per order of NCLT and NCLAT out of the amount of Rs.750 crores. When there is no direction for payment of any interest in the orders dated 16.03.2023 and 28.03.2023, nor any period for payment having been fixed, we are not persuaded to accept the submission that JIL was entitled to payment along with accrued interest thereon, till the date when payment was received. The amount was deposited in the Registry of the NCLT and the steps taken by Respondent No.1 after receiving the order have been given in the affidavit filed by Respondent No.1. Certain queries were raised by Respondent No.1 and certain clarifications were asked and indemnities were asked for. Thus, the time of few months were taken in releasing of the amount.

12. Learned Counsel for the Applicant also submitted that it is not claiming interest from the Registry of NCLT, rather it is basing its claim on its entitlement of interest. It is also not disputed that entire balance amount along with accrued interest on the deposit has been released in favour of JAL. We, thus, are of the view that prayers made in IA No.3175 of 2025, cannot be accepted. The Applicant having already received the entire amount as determined by the NCLT and NCLAT out of the amount of Rs.750 crores, no further directions are required. IA No.3175 of 2025 is accordingly dismissed. There shall be no order as to costs.