(2026) 07 NCLAT CK 0015

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

Case No : Company Appeal (AT) (CH) (Ins) No.71/2023 (IA Nos.255 & 256/2023) WITH Company Appeal (AT) (CH) (Ins) No.175/2024 (IA No.474/2024)

Mr. E.M.Najeeb Ellias Mohammed APPELLANT

Vs

Union Bank Of India RESPONDENT

Date of Decision : 10-07-2026

Acts Referred:
I & B Code, 2016 — Section 61, 95, 7

Citation : (2026) 07 NCLAT CK 0015

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

Bench : Division Bench

Advocate : For Appellant: Dr. KS. Ravichandran, PCS & Ms. Mrs. S. Manjula Devi, Advocate, Mr. E. Om Prakash, Senior Advocate For Mr. Mayan H Jain & Ms. Reshmi Nair, Advocates; For Respondents: Mr. Varun Srinivasan, Advocate for R1

Final Decision : Allowed

Judgement

(Hybrid Mode)

[ORAL JUDGMENT: Justice Sharad Kumar Sharma, Member (Judicial)]

Company Appeal (AT) (CH) (Ins) No.175/2024

The Appellant / Personal Guarantor, has filed this instant appeal under Section 61 of the I & B Code, 2016, being aggrieved against the impugned order dated 04.04.2024 passed by Ld. NCLT Kochi Bench in IA(IBC)/176/KoB/2023 in CP(IBC)/55/KOB/2022, by virtue of which the application filed by the Financial Creditor/Respondent No. 2 herein under Section 95 of the I & B Code, was allowed and Mr. Kizhakkekara Kuriakose Jose the Resolution Professional for the Personal Guarantor Appellant herein was directed to take further steps in PIRP as per the provisions of the I & B Code. Challenging the same, the Appellant has filed the instant company appeal on 02.05.2024.

2. During the pendency of the proceedings, the Ld. Counsel for the Appellant has filed a memorandum, bringing certain new and additional facts on record. He has submitted therein that for the loan facility extended to the Corporate Debtor M/s. Green Gateway Leisure Limited, the Appellant stood a Personal Guarantor in M/s. Air Travel Enterprises India Ltd., the present company of the Corporate Debtor had given Corporate Guarantee. On account of default is loan repayment by the Corporate Debtor, the said Corporate Guarantee was also invoked and the Corporate Guarantee was also admitted into the Corporate Insolvency Resolution Process under Section 7 of IBC by the order dated 22.12.2023 in CP(IBC)/33/KoB/2023.

3. He has further submitted that, as against the said admission order, the Corporate Guarantor filed an appeal CA(AT)(Ins)8/2024 before this Appellate Tribunal which was dismissed on 26.02.2024.

4. The Corporate Guarantor took the matter to the Hon'ble Apex Court in Civil Appeal No. 4094/2024. The Hon'ble Apex Court by an order of 22.04.2024, ordered the stay of the CIRP process initiated against Corporate Guarantor subject to the condition of depositing of Rs. 18 Crores as per the schedule of payment given by the Hon'ble Apex Court. In compliance with the order of Hon'ble Apex Court, the said amount of Rs. 18.70 Crores were remitted in 6 installments on 23.04.2024, 13.05.2024, 01.06.2024, 08.07.2024, 05.08.2024 and 05.09.2024 which have been was acknowledged by the Union Bank of India.

5. Subsequently, the Appellant and the Corporate Guarantor approached the 1st Respondent Bank offering a One-Time Settlement (OTS) proposal dated 04.02.2025 offering to settle the case for Rs. 21.75 Crores, which was inclusive of Rs. 18.70 Crores already deposited pursuant to the order of the Hon'ble Apex Court and to establish his bona fide, he remitted a sum of Rs. 61,00,000/-, being 20% of the differential amount as proposed under the settlement. However, the said proposal was rejected by the Union Bank of India, on 18.06.2025. Thereafter, a fresh OTS proposal was submitted on 18.09.2025 enhancing the settlement amount to Rs. 22.25 Crores, which was again rejected by the union Bank of India on 19.09.2025. After several rounds of negotiations, the final settlement amount was fixed at Rs. 26.30 Crores comprising of Rs. 25 Crores towards the settlement of loan and Rs. 1.30 Crores towards the legal expenses incurred by the bank, on the conditions that 50% of the balance amount should be remitted as an upfront before the proposal could be processed. Consequent to this, the Appellant is said to have remitted an additional amount of Rs. 3.50 Crores on 18.11.2025. Thus, the total payments made by the Appellant stood as under: -

(a) *Rs. 18.70 Crores deposited pursuant to the Hon'ble Supreme Court's Order;*

(b) *Rs. 61 Lakhs paid on 18.11.2025.*

(c) *Rs. 3.50 Crores paid on 18.11.2025*

6. Owing to the above, and with the balance of Rs. 3.49 Crores remaining to be paid out of the finally agreed upon amount of Rs. 26.30 Crores, Union Bank of India issued an OTS sanction letter dated 12.06.2026, thereby formally sanctioning the One Time Settlement and, forwarding the sanction terms and the undertaking required to be executed by the Appellant.

7. Based upon the aforesaid sanction of the OTS Proposal, the Appellant has accepted the sanction by its letter of 15.06.2026 and furnished the undertaking that was sought by the bank and had confirmed the remittance of Rs. 3.84 Crores as the final payment towards the sanctioned OTS settlement on 03.07.2026.

8. Owing to the settlement that has been referred to in the memorandum filed by the Ld. Counsel for the Appellant on 10.07.2026 and the settlement certificate as issued on 09.07.2026, by the Respondent Bank, the Appellant has stated that the Respondent Bank has proposed withdrawal of the Personal Insolvency Resolution Process as communicated vide its correspondence of 04.07.2026, which has been accepted by the Ld. Counsel for the Respondent Bank before this Appellate Tribunal. Further since, full and final payment of the amount as per the terms of the OTS has already been made on 03.07.2026 and a settlement certificate has been issued on 09.07.2026, nothing remains to be done in the PIRP proceedings initiated against the Appellant under Section 95 of the I & B Code.

9. Accordingly, the instant company appeal as agreed between the parties in terms of the settlement would stand allowed, since the IRP process has been agreed to be withdrawn, and the order dated 04.04.2024 passed by the Ld. NCLT Kochi Bench in CP(IBC)/55/KOB/2022 would stand set aside. All pending interlocutory applications would stand closed.

Company Appeal (AT) (CH) (Ins) No.71/2023

10. In the connected company appeal, being Company Appeal (AT) (CH) (Ins) No.71/2023, the challenge is to the order of 25.01.2023 passed by the Ld. NCLT Kochi Bench in CP(IBC)/55/KOB/2022, wherein the Personal Guarantor questions the order of 25.01.2023 resulting into an admission of the Personal Insolvency Resolution Process of the Personal Guarantor under Section 95 of the Code and appointment of the IRP. Owing to the settlement that has been arrived and its implementation in full, leading to issue of settlement certificate which has been dealt in detail in Company Appeal (AT) (CH) (Ins) No.175/2024, the instant company appeal too would stand allowed, under the same terms and conditions and the impugned order would stand quashed. All interlocutory applications would stand closed.

