
(2025) 10 NCLAT CK 0025

In the National Company Law Appellate Tribunal

Case No : Company Appeal (AT) (Insolvency) No. 1596,1597 of 2025

Rishi Gupta & Anr. ,Ashok Kumar Gupta

APPELLANT

Vs

IDBI Trusteeship Services Ltd. & Ors.

RESPONDENT

Date of Decision : 30-10-2025

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 7

Citation : (2025) 10 NCLAT CK 0025

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

Bench : Division Bench

Advocate : Sumesh Dhawan, Rajat Joneja, Arpit Dwivedi, Sakshi Kapoor ,Tina Aneja, Krishnendu Dutta, Pranjit Bhattacharya, Salonee Shukla, Aashima Gautam, Yash Tandon , Sachin Jain,Abhirup Dasgupta, Rahul Gupta, Rahul Dadhich , Vagisha Tiwari, Rajat Joneja, Arpit Dwivedi, Sakshi Kapoor , Tina Aneja

Final Decision : Dismissed

Judgement

30.10.2025 : Heard learned counsel Mr. Sumesh Dhawan appearing for the appellant as well as learned Sr. counsel Mr. Krishnendu Dutta appearing for the R-1, R-3 & R-4 and learned counsel appearing for the RP.

2. These two appeals have been filed challenging the order dated 16.09.2025 passed by the adjudicating authority (National Company Law Tribunal, New Delhi Bench, Court IV) by which the I.A. Nos. 3699 & 3793/2024 filed by the appellant has been rejected.

3. Learned counsel for the appellant challenging the order submits that IAs were filed seeking a declaration that R-3 & R-4 are related parties and they should be ousted from the Committee of Creditors. It is submitted that adjudicating authority issued notice on the application on 29.07.2024 and asked the parties to file reply on maintainability within 7 days and thereafter the application was heard on 04.08.2025 and the orders were reserved on maintainability. It is submitted that by the impugned order, the application has been rejected on merits. The order does not hold that appellant has no locus to challenge the

order.

4. Learned Sr. counsel Mr. Krishnendu Dutta appearing for the respondent refuting the submissions of the appellant submits that the basis for declaring the R-3 & R-4 as maintainability were issues which was already raised by the appellant even before admission of Section 7 application and after the Section 7 application was admitted, in the appeal filed against the said order before this Tribunal and in view of the findings which were returned by this Tribunal in Comp. App. (AT) (Ins.) Nos. 1026 & 1055/2024 the issue that the R-3 & R-4 are related parties is already covered and the said judgment operate as res judicata and does not permit the appellant to raise the issue again and again. It is submitted that by the impugned order the adjudicating authority has held the application as not maintainable relying on the earlier determination by this Tribunal. Learned counsel for the respondent has referred to the impugned order of the adjudicating authority especially paragraph 5 (vi).

5. We have considered the submissions of the counsel for the parties and perused the records.

6. The applications I.A.3699/2024 was filed by the appellant making following prayers:

"(i) Delete Respondent No. 3 and Respondent No. 4 from the COC of the Corporate Debtor for being related parties to the Corporate Debtor;

(ii) Direct the Respondent No. 2 not to hold further COC meetings of the Corporate Debtor till the Hon'ble Supreme Court decide Civil Appeal No. 6288/2022 and Civil Appeal No. 6273/2022 filed against the decision of the Hon'ble National Company Law Appellate Tribunal in Company Appeal (AT) Insolvency No. 356 of 2022; or

(iii) Pass such other order(s), directions(s), relief(s) as deemed fit and proper by this Hon'ble Tribunal in the fact and circumstances of the present case and in the interest of justice."

7. Application came to be heard by the adjudicating authority on 29.07.2024 and following order was passed:

"New IA/3699/ND/2024

Learned Counsel for the applicant, Learned Counsel for the Resolution Professional, Learned Counsel for the CoC are present. Learned Counsel for the CoC has submitted that the present application i.e. IA/3699/ND/2024 is not maintainable. We have heard the submissions made by the parties. Respondents are directed to file reply on maintainability within seven days, with a copy in advance to the opposite side. Let this matter be posted to 09.08.2024."

8. Subsequently the application came to be heard by the adjudicating authority on 04.08.2025 and orders were reserved on maintainability. Order date 04.08.2025 is as follows:

This Adjudicating Authority vide order dated 04.04.2025, had heard the arguments on behalf of the parties on maintainability and Parties were directed to file short notes within a week's time. However, on 11.06.2025, The short notes on behalf of the applicant is available on e-portal of this Adjudicating Authority and the Learned Counsel for the respondent had submitted that they had filed the short notes, however, the same was not reflecting on e-portal of this Adjudicating Authority and directed the Respondent to approach the Registry and take steps for curing the defects, if any and upload the short note on e-portal of this Adjudicating Authority within three days. Today, the short notes on behalf of both the parties are available on e-portal of this Adjudicating Authority within three days.

Order stands reserved on maintainability."

9. The grievance of the appellant is that orders were reserved on the maintainability and the adjudicating authority in the impugned order has not proceeded to dismiss the application on merits. It has held that application is not maintainable and this is attempt to reopen already settled issues.

10. Learned counsel for the respondent has relied on the written submissions which were made by the appellant in Section 7 proceeding where the same issue was raised in the written submissions. It is further submitted that after Section 7 application was admitted, appeal was filed where appellants contended that financial creditors are in control of the project which submission was rejected by this Tribunal in its judgment delivered on 24.04.2025. The copy of the judgment of this Tribunal is annexed as Annexure 19 to the appeal. Reliance has been placed in paragraph 12 of the judgment, which is as follows:

"12. We thus do not find any substance in the submission that the project account was to be operated under the instruction of IDBI Trusteeship, hence the corporate debtor is not liable for its payment obligation. The present is a case where after receiving the amount by virtue of issuance of debentures in the year 2016 and again in 2021 no payment towards principal and interest have been made. The adjudicating authority has not committed any error in admitting Section 7 application against the principal borrower and the corporate guarantor by the impugned orders dated 29.04.2024 and 07.05.2024.

We thus do not find any merit in any of the appeals.

Both the appeals are dismissed."

11. In the appeal this Tribunal although has noted the submissions of the appellant that project was monitored by the financial creditor but however this Tribunal upheld the admission of Section 7 application holding that obligation of the corporate debtor still continues hence on the said ground no fault can be found for admission of Section 7 application.

12. In the facts of the present case, we are of the view that ends of justice be served in setting aside the order dated 16.09.2025 and reviving the applications I.A.3699 & 3793/2024 for fresh consideration. We make it clear that all contentions of both the parties are left open including locus and maintainability. We have not expressed any opinion on the merits of the application in this order. The adjudicating authority may consider and decide the application afresh both on merits and/or locus and maintainability.

Appeals disposed of accordingly.