
(2026) 07 NCLAT CK 0076

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

Case No : Comp. App. (AT) (Ins) No. 1104 of 2026

Vishal Kumar

APPELLANT

Vs

United Breweries Ltd. & Anr.

RESPONDENT

Date of Decision : 03-07-2026

Acts Referred:

IBC — Section 4, 4(1), 8, 9

Citation : (2026) 07 NCLAT CK 0076

Hon'ble Judges : Justice Ashok Bhushan, Chairperson; Barun Mitra, Member (Technical)

Bench : Division Bench

Advocate : For Appellant : Mr. Abhijeet Sinha, Sr. Adv. with Ashish Choudhury, Sulekha Agarwal, Anand Kamal, Adv.?? For Respondents : Mr. Ratnanko Banerjee, Sr. Adv. with Ashika Daga, S. Bhowmik, Adv. for R1

Final Decision : Allowed

Judgement

(Hybrid Mode)

Heard Mr. Abhijeet Sinha, Ld. Sr. Counsel for the Appellant and Mr. Ratnanko Banerjee, Ld. Sr. Counsel appearing for Respondent No. 1.

2. This appeal has been filed against the order dated 10.06.2026 passed by the Adjudicating Authority by which Section 9 application filed by United Breweries Ltd. has been admitted.

3. Ld. Counsel for the Appellant challenging the order submits that there are factual in accuracy in the order and figures noted by the Adjudicating Authority in paras 10, 13 and 14. It is submitted that present is the case where Section 8 notice were issued by both the Appellant and Respondent No. 1 and there was claim of the CD of Rs. 10,34,74,016/- against the OC and claim of the OC was Rs. 11,17,72,417/- and the Adjudicating Authority committed an error in observing that even after adjusting the amount of claim the threshold limit is

met, which is factually incorrect. Paras 10, 13 and 14 are as follows:-

"10. In the I.A (IB) No. 1414/KB/2023, the Applicant/Corporate Debtor has not annexed any documents in support of its claim of Rs 10,34,74,016/(Rupees Ten Crore Thirty-Four Lakh and Seventy-Four Thousand Sixteen Only) and from the Respondent/Operational Creditor. Further, even if it is assumed that the Applicant/Corporate Debtor has claim of Rs 10,34,74,016/-(Rupees Ten Crore Thirty-Four Lakh and Seventy-Four Thousand Sixteen Only) against the Respondent/Operational Creditor and it is set off, still the outstanding dues of the Respondent/Operational Creditor against Applicant/Corporate Debtor will be above the threshold limit as per section 4 of the IBC.

13. The Operational Creditor has granted additional credit of a sum of Rs 1,23,05,961.25/- (Rupees One Crore Twenty Three Lakh Five Thousand Nine Hundred Sixty-One and Twenty Five Paisa Only) to the Corporate Debtor on various accounts and Rs 50,00,000/- (Rupees Fifty Lakhs Only) towards refund of security deposit. Hence after adjusting these amounts the Corporate Debtor is liable to pay an amount of Rs 11,17,72,417.92/- (Rupees Eleven Crore Seventeen Lakh Seventy-Two Thousand Four Hundred Seventeen and Ninety-Two Paisa Only).

14. The total outstanding amount of Rs 11,17,72,417.92/-(Rupees Eleven Crore Seventeen Lakh Seventy-Two Thousand Four Hundred Seventeen And Ninety-Two Paisa Only) is payable by the Corporate Debtor and since amount involved in the present petition is above threshold limit, the present petition is in compliance with section 4(1). As the pre-requisite being debt, default and no dispute for section 9 petition are satisfied by the Operational Creditor this petition deserves to be admitted."

4. Present is a case where both OC and CD has issued Section 8 notice of their claims which have been also noted by the Adjudicating Authority. In event the claim of the CD is adjusted in the claim of the OC, threshold is not met, hence, on this ground alone itself the order impugned could not have been passed. In the appeal, we have also noted that after passing of the order, parties have also entered into settlement, however, we need not go into settlement entered into between the parties and order becomes unsustainable due to above reason.

5. Considering the aforesaid, we allow the appeal and set aside the impugned order. No costs.