



# INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

## IBC Case Law Capsule

No. 221

(April 28, 2025)



**Ajay Singhal v. IRP of GRJ Distributors & Developers Pvt. Ltd.**

**Company Appeal (AT) (Insolvency) No. 1285 of 2024 with No. 1472 of 2024 & I.A. No. 5354 of 2024**

**Date of NCLAT's Judgement: April 09, 2025**

### Facts of the Case

The present appeal was filed by Ajay Singal (Appellant), Director of GRJ Distributors & Developers Pvt. Ltd. (Corporate Debtor) against the impugned order of NCLT dated 10.05.2024 through which GRJ Distributors & Developers Pvt. Ltd (Corporate Debtor) was admitted under Corporate Insolvency Resolution Process (CIRP) on a Section 9 application filed by M/s Bajrang Fire Protection (Operational Creditor).

The Operational Creditor (OC) was engaged by the Corporate Debtor (CD) for supply and installation of a Ventilation, Fire Alarm and Fire Fighting System in one of the residential projects developed by the CD under the name of "Avalon Rangoli, Dharuhera", Rewari, Haryana. As CD did not make payment, the OC issued demand notices amounting ₹1,24,16,610 dated 05.02.2024. Before the NCLT, the CD alleged that the OC did not complete the work and demanded to dismiss the petition based on "pre-existing" dispute. However, the CD could not submit any evidence in support of the pre-existing dispute, the NCLT admitted the insolvency petition and ordered initiation of CIRP against the project "Avalon Rangoli, Dharuhera".

Meanwhile, three flat owners of "Avalon Rangoli, Dharuhera" filed an appeal before the NCLT informing that they were not provided possession of flats and State Consumer Disputes Redressal Commission, Haryana has ordered the Appellants to refund their invested amount along with the interest. This appeal was also joined by another flat owner who alleged that OC had filed insolvency petition at the behest of the CD to scuttle orders passed by the and State Consumer Disputes Redressal Commission.

**NCLAT's observations:** The Appellate Tribunal (NCLAT) observed that the issue of limitation was not raised as defense before the NCLT and was raised only before NCLAT for the first time.



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Therefore, the OC is fully justified in placing on record the letters dated 16.04.2018, 03.01.2019 and 22.12.2021 issued by the Corporate Debtor to the Operational Creditor acknowledging the debt and requesting for more time to make the payment. It was also observed that these letters were not disputed by the CD. The CD only objected to these letters as they were not produced before the NCLT. The counsel of the appellant submitted that the issue of limitation was not raised before the NCLT hence these letters were not submitted there. However, they are being submitted before the NCLAT in response to the issue of limitation raised by the CD. The court decided to consider these letters and noticed that the insolvency application was filed on 22.02.2024 which was well within the limitation period from the last written acknowledgement of the debt by CD. Furthermore, it is trite law that acknowledgment of debt in writing extends the limitation period per Section 18 of the Limitation Act. The Appellate Tribunal held that the application filed by the OC before the NCLT under Section 9 was within the limitation period.

The court also observed that no evidence was presented to established connivance between the CD and the OC. Besides, the Ex-Director of the CD has filed Company Appeal (AT) (Ins.) 1285 of 2024 challenging the order of admission under Section 9 of the IBC, 2016, passed by the NCLT.

**Order/Judgement:** NCLAT did not find a reason to interfere in the reasoned order of the NCLT in admitting the Corporate Debtor into CIRP. Accordingly, the Company Appeal (AT) (Ins.) 1285 of 2024 is dismissed. The Company Appeal (AT) (Ins.) 1472 of 2024 which was filed by flat owners also lacked merit. However, to protect the interest of the flat buyers, NCLAT directed the Resolution Professional to process their claims in CIRP of the CD and pursue them as per law.

**Case Review:** Appeal by promoter was dismissed but the appeal by flat buyers was disposed of with instructions to Resolution Professional.