



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

IBC Case Law Capsule

Number 239

(September 01, 2025)

**Anil Singh vs. SREI Equipment Finance Ltd. & Anr.
Company Appeal (AT) (Insolvency) No. 1069 of 2025
Date of NCLAT Judgement, 25 August 2025**

Facts of the Case: -

The present appeal, was filed by Anil Singh (hereinafter referred as "Appellant") challenging the order dated 10.06.2025 passed by the Adjudicating Authority whereby the Intervention Petition (IBC)/1/GB/2024, filed in Section 7 proceedings initiated by SREI Equipment Finance Ltd. (hereinafter referred as 'Respondent No.1') against Kitply Industries Ltd./CD (hereinafter referred as Respondent No.2) was rejected.

Respondent No.1 had filed a Section 7 application on 04.05.2024 against the CD, which had previously undergone CIRP initiated by IDBI Bank Ltd., wherein a Resolution Plan was approved on 01.05.2018. The CD was taken over by Plytinum Marketing Ltd., for this a Special Purpose Vehicle formed and owned by Respondent no. 1. The Appellant, representing 130 workers of CD, filed the Intervention Petition under Section 65 of the IBC read with Rule 11 of the NCLT Rules, 2016, seeking dismissal of the Section 7 application on grounds of fraudulent and collusive initiation of CIRP.

The Appellant alleged that the loan claimed to be availed by the CD from Respondent No.1 was a part of fraudulent circular transactions. It was contended that the loans shown as disbursed from SEFL and SIFL (both related to the same parent) were routed back to SIFL on the same day, and the Appellant relied on the pending Section 66 application filed by the Administrator of Respondent No.1 which sought avoidance of such transactions. The AA rejected the intervention stating that only the Financial Creditor and the CD are necessary parties at the admission stage under Section 7 and those third parties, including workmen, do not have locus standi to raise objections regarding the fraudulent nature of transactions. Consequently, the Intervention Petition was dismissed, prompting the Appellant to file this appeal before the NCLAT.

NCLAT's Observations:

The NCLAT observed that the Appellant's petition was not merely for intervention but specifically invoked Section 65 of the IBC, which deals with penalties for fraudulent or malicious initiation of proceedings. The Tribunal noted that although the AA had referenced the petition under Section 60(5) read with Rule 11 of the NCLT Rules, it failed to recognize that it was also squarely a Section 65 application.



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The Bench held that the AA erred in not adjudicating the serious allegations of fraudulent and collusive CIRP initiation on merits. The Appellant had submitted credible allegations and documentation supported by 129 other workmen of the CD, challenging the legitimacy of the financial debt claimed by Respondent No.1. The Appellant argued that transactions were circular in nature and only ₹1 crore was actually infused into CD, while the rest of the money was allegedly routed back fraudulently.

NCLAT distinguished the case from *Deb Kumar Majumdar v. SBI*, stating that while third-party interventions are generally not permitted at the admission stage, this rule does not apply when a stakeholder files an application under Section 65 citing fraudulent conduct. Citing *Beacon Trusteeship Ltd. v. Earthcon Infracon Pvt. Ltd.*, the Tribunal reaffirmed that any allegation of fraudulent CIRP initiation must be examined by the AA before admitting the application under Section 7.

The Appellate Tribunal also referred to its earlier judgments, including *Airwill Intellicity Social Welfare Society v. Ascot Projects Pvt. Ltd. and Hytone Merchants Pvt. Ltd. v. Satabadi Investment Consultants Pvt. Ltd.*, which emphasized that Section 65 applications can be entertained even before admission of Section 7/9 petitions and that stakeholders, including workmen, have locus if they raise bonafide allegations of fraud or collusion.

Order/Judgement: The NCLAT set aside the order dated 10.06.2025 passed by the AA. The Intervention Petition (IBC)/1/GB/2024 filed by the Appellant and 129 other workmen were revived with a direction to the AA to hear and decide it on merits. It further directed that the Section 65 application can be heard simultaneously with the main Section 7 petition. The Tribunal did not express any opinion on the merits of the allegations and clarified that the decision must be taken independently by the AA.

Case Review: The Appeal was disposed of.