

IBC Case Laws

Supreme Court of India

M/s Saraswati Wire and Cable Industries vs. Mohammad Moinuddin Khan & Ors Civil Appeal No. 12261 of 2024, Date of Supreme Court Judgement: 10th December 2025.

Facts of the Case

The appeal arose from a challenge to the judgment of the National Company Law Appellate Tribunal (“NCLAT”), which had set aside the admission of a Section 9 application filed by M/s. Saraswati Wire and Cable Industries (“the Appellant/Firm”) against Dhanlaxmi Electricals Pvt. Ltd. (“the Corporate Debtor/CD”). The National Company Law Tribunal (“NCLT”), Mumbai Bench, had earlier admitted the Appellant’s petition and initiated the Corporate Insolvency Resolution Process (“CIRP”) on the basis of unpaid operational dues arising from supply of pipes and cables pursuant to multiple purchase orders placed by the CD.

The record disclosed that the CD regularly made payments against invoices raised by the Appellant and maintained a running ledger account reflecting a debit balance of ₹1,79,93,690.80. On 25th August 2021, the firm issued a demand notice under Section 8 of the IBC, claiming the principal amount of ₹1,79,93,690.80 along with the interest aggregating to ₹2,65,20,800. Meanwhile, the CIRP was admitted against the CD in another case.

In reply to the demand notice, the suspended Technical Director of the CD alleged non-supply under two invoices, short supply, and substandard quality of material. However, these assertions were unsupported by contemporaneous records, lacked quantification, and were raised after CIRP had already commenced against the CD in another proceeding, during which the suspended director had no authority to represent the company. The Firm thereafter filed its own Section 9 CIRP application in February 2023, which the CD failed to contest, resulting in forfeiture of its right to file a reply. The NCLT admitted the petition, holding



that no genuine pre-existing dispute existed.

The suspended director challenged the admission order before the NCLAT, which accepted the plea of a pre-existing dispute by referring to historical correspondence from 2018–2019 and the time gap between the demand notice and the filing of the Section 9 petition. When the NCLAT allowed the appeal in favour of the CD, the Appellant therefore approached the Supreme Court.

Supreme Court’s Observations

After examining the factual record, the Supreme Court observed that the central issue was whether a “pre-existing dispute” existed on the date of issuance of the demand notice under Section 8 of IBC, and whether the NCLAT was justified in reversing the NCLT’s admission order.

The Court noted that the correspondence relied upon by CD from 2018–2019 did not interrupt the running account between the parties, nor did it stop further supplies or payments. The ledger maintained by the CD itself showed regular payments and reflected the admitted liability of ₹1.79 crore. Moreover, the CD paid ₹61 lakh after receipt of the Section 8 demand notice, which the Court held was wholly inconsistent with the existence of any real dispute. The Court further held that the reply dated 20.11.2021, which were heavily relied upon by the NCLAT, had no legal worth as it was issued by a suspended director at a time when CIRP against the CD had already commenced and

an Interim Resolution Professional had taken charge. Consequently, the purported objections in that reply were legally unauthorised and could not constitute a pre-existing dispute.

Reiterating the test in *Mobilox Innovations Private Limited vs Kirusa Software Private Limited (2018)*, the Court held that a dispute must be bona fide, not “spurious, hypothetical or illusory.” The defences raised by the CD pertaining to allegations of faulty supply, non-delivery under two invoices, inflated counterclaims, and an unsubstantiated blacklisting threat were found to be mere “moonshine,” unsupported by documents and contradicted by the CD’s own conduct. The Court concluded that the NCLAT erred by overlooking critical facts, ignoring the CD’s own ledger, and mischaracterising the delay in filing the Section 9 petition, which was actually explained by the pendency of an earlier CIRP. Consequently, the NCLT’s order admitting the Section 9 application was restored.

Order: The Supreme Court allowed the appeal, thereby setting aside the order of the NCLAT and restoring the order of the NCAT admitting the CD into CIRP.

Case Review: *Appeal Allowed.*

AA Estates Pvt. Ltd. & Anr. vs. Kher Nagar Sukhsadan Co-op. Housing Society Ltd. & Ors. SLP(C) No. 10758 of 2025, Date of Supreme Court Judgement: 28th November 2025

Facts of the Case

The present Civil Appeal arises from the judgment dated 11.09.2024 passed by the Bombay High Court in Writ Petition No. 3893 of 2024, by which the High Court directed the statutory authorities to grant requisite permissions to Kher Nagar Sukhsadan Co-operative Housing Society Ltd. (“the Society”) and its newly appointed developer, Respondent No. 8, for redevelopment of the Society’s building. The Corporate Debtor (“the AppellantDeveloper/CD”), and its Resolution Professional have challenged this direction before this Court.

The Society had originally executed a Development

Agreement (2005) and a subsequent Supplementary Development Agreement (2014) with the Appellant for the redevelopment of a plot, along with a dilapidated building, that it had obtained from the Maharashtra Housing & Area Development Authority (MHADA). Though certain approvals were obtained, the project did not progress because 41 members failed to vacate the premises and other disputes arose. In 2019, CIRP was initiated against Appellant No. 1 but was set aside. Subsequently, CIRP was again initiated against Appellant No. 1 at the instance of the State Bank of India, which was admitted by an order dated 12.06.2020.

Meanwhile, the Society issued notices alleging breach and subsequently terminated the Development Agreements with Appellant No. 1. A new developer (Respondent No. 8) was appointed in November 2021 to which MHADA granted permissions to proceed. It was alleged that despite the moratorium, the Society executed a fresh Development Agreement (10.12.2023) with the new developer, and redevelopment activities, including demolition, were commenced. On receiving objections from the Resolution Professional, MHADA revoked permissions due to the subsisting moratorium. Consequently, the Society approached the High Court seeking directions to authorities to grant redevelopment approvals.

By its impugned order, the High Court of Bombay, allowed the writ petition and directed the concerned authorities to issue permissions to Respondent No. 8. Aggrieved, the Appellants approached this Court contending, *inter alia*, violation of moratorium, extinguishment of valuable development rights, and improper exercise of writ jurisdiction in a matter governed by contractual remedies and the IBC framework.

Supreme Court’s Observations

After examining the factual matrix, the Supreme Court first addressed the core issue of whether the High Court’s directions facilitating redevelopment through the new developer violated the moratorium imposed under Section 14 of the Insolvency and Bankruptcy Code, 2016 (IBC). The Court noted that the CD’s

development agreements of 2005 and 2014 had already been terminated through resolutions of the Society in 2019, prior correspondence in 2021, and public notice of termination, all well before the second CIRP was initiated in December 2022. The Court held that once the agreements stood terminated, no subsisting or enforceable development rights survived in favour of the Corporate Debtor. Consequently, no “asset” existed which could fall within the protective ambit of the moratorium.

The Court further observed that Section 14(1)(d) protects only those properties that are in the actual occupation of the Corporate Debtor. The Supreme Court clarified that the CD never had physical possession of the land, nor did it enjoy any possessory rights akin to those recognised in the case of *Victory Iron Works Ltd. v. Jitendra Lohia and Another*. Thus, the moratorium could not be invoked to restrain the Society or the authorities from granting permissions to a fresh developer. The Supreme Court additionally emphasised that the High Court’s directions were not in the nature of proceedings “against” the Corporate Debtor and, therefore, did not attract the statutory bar under Section 14(1)(a). Rather, those directions were issued to statutory authorities to process redevelopment proposals of the Society and its newly appointed developer entities who were independent of the Corporate Debtor and against whom the reliefs were actually sought. Since the Corporate Debtor’s rights had already ceased to exist in law, the High Court’s mandamus could neither prejudice nor alter the CIRP estate. Finally, the Court underscored that redevelopment of a dangerous, dilapidated building housing low-income families could not be indefinitely stalled on the basis of extinguished and non-existent contractual rights. The Corporate Debtor’s prolonged non-performance, repeated delays, and failure to provide basic obligations such as transit rent reinforced that no equity or residual right survived in its favour. Accordingly, the appeal was dismissed.

Order: The Supreme Court dismissed the appeal and ordered for the compliance of the directions of the High Court within two months from the date of the order.

Case Review: *Appeal dismissed.*

AA Estates Pvt. Ltd. & Anr. vs. Kher Nagar Sukhsadan Co-op. Housing Society Ltd. & Ors. SLP(C) No. 10758 of 2025, Date of Supreme Court Judgement: 28th November 2025

Facts of the Case

The present Civil Appeal arises from the judgment dated 11.09.2024 passed by the Bombay High Court in Writ Petition No. 3893 of 2024, by which the High Court directed the statutory authorities to grant requisite permissions to Kher Nagar Sukhsadan Co-operative Housing Society Ltd. (“the Society”) and its newly appointed developer, Respondent No. 8, for redevelopment of the Society’s building. The Corporate Debtor (“the AppellantDeveloper/CD”), and its Resolution Professional have challenged this direction before this Court.

The Society had originally executed a Development Agreement (2005) and a subsequent Supplementary Development Agreement (2014) with the Appellant for the redevelopment of a plot, along with a dilapidated building, that it had obtained from the Maharashtra Housing & Area Development Authority (MHADA). Though certain approvals were obtained, the project did not progress because 41 members failed to vacate the premises and other disputes arose. In 2019, CIRP was initiated against Appellant No. 1 but was set aside. Subsequently, CIRP was again initiated against Appellant No. 1 at the instance of the State Bank of India, which was admitted by an order dated 12.06.2020.

Meanwhile, the Society issued notices alleging breach and subsequently terminated the Development Agreements with Appellant No. 1. A new developer (Respondent No. 8) was appointed in November 2021 to which MHADA granted permissions to proceed. It was alleged that despite the moratorium, the Society executed a fresh Development Agreement (10.12.2023) with the new developer, and redevelopment activities, including demolition, were commenced. On receiving objections from the Resolution Professional, MHADA revoked permissions due to the subsisting moratorium.

Consequently, the Society approached the High Court seeking directions to authorities to grant redevelopment approvals.

By its impugned order, the High Court of Bombay, allowed the writ petition and directed the concerned authorities to issue permissions to Respondent No. 8. Aggrieved, the Appellants approached this Court contending, *inter alia*, violation of moratorium, extinguishment of valuable development rights, and improper exercise of writ jurisdiction in a matter governed by contractual remedies and the IBC framework.

Supreme Court's Observations

After examining the factual matrix, the Supreme Court first addressed the core issue of whether the High Court's directions facilitating redevelopment through the new developer violated the moratorium imposed under Section 14 of the Insolvency and Bankruptcy Code, 2016 (IBC). The Court noted that the CD's development agreements of 2005 and 2014 had already been terminated through resolutions of the Society in 2019, prior correspondence in 2021, and public notice of termination, all well before the second CIRP was initiated in December 2022. The Court held that once the agreements stood terminated, no subsisting or enforceable development rights survived in favour of the Corporate Debtor. Consequently, no "asset" existed which could fall within the protective ambit of the moratorium.

The Court further observed that Section 14(1)(d) protects only those properties that are in the actual occupation of the Corporate Debtor. The Supreme Court clarified that the CD never had physical possession of the land, nor did it enjoy any possessory rights akin to those recognised in the case of *Victory Iron Works Ltd. v. Jitendra Lohia and Another*. Thus, the moratorium could not be invoked to restrain the Society or the authorities from granting permissions to a fresh developer. The Supreme Court additionally emphasised that the High Court's directions were not in the nature of proceedings "against" the Corporate Debtor and, therefore, did not attract the statutory bar under Section 14(1)(a). Rather, those directions

were issued to statutory authorities to process redevelopment proposals of the Society and its newly appointed developer entities who were independent of the Corporate Debtor and against whom the reliefs were actually sought. Since the Corporate Debtor's rights had already ceased to exist in law, the High Court's mandamus could neither prejudice nor alter the CIRP estate. Finally, the Court underscored that redevelopment of a dangerous, dilapidated building housing low-income families could not be indefinitely stalled on the basis of extinguished and non-existent contractual rights. The Corporate Debtor's prolonged non-performance, repeated delays, and failure to provide basic obligations such as transit rent reinforced that no equity or residual right survived in its favour. Accordingly, the appeal was dismissed.

Order: The Supreme Court dismissed the appeal and ordered for the compliance of the directions of the High Court within two months from the date of the order.

Case Review: *Appeal dismissed.*

EPC Constructions India Ltd. vs. Matix Fertilizers and Chemicals Ltd. Civil Appeal No. 11077 of 2025, Date of Supreme Court Judgement: 28th October 2025

Facts of the Case

The present appeal called in question the correctness of the judgment and order passed by the National Company Law Appellate Tribunal (NCLAT), which had confirmed the order passed by the Adjudicating Authority – National Company Law Tribunal, Kolkata (NCLT). The NCLAT had dismissed the application of EPC Constructions India Limited (Appellant) filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC).

The appellant had entered into an engineering and construction contract with M/s Matix Fertilizers and Chemicals Limited (Respondent), for setting up a fertilizer complex for ammonia and urea production at Panagarh Industrial Park, West Bengal. Owing to delay in project completion and funding constraints, the respondent proposed to convert part of the appellant's

outstanding amount of ₹400 crores into preference shares to meet lender requirements. Pursuant to this proposal, the appellant's board of directors approved the conversion of up to ₹400 crores of dues into Cumulative Redeemable Preference Shares (CRPS). Accordingly, the respondent allotted CRPS aggregating ₹250 crores, which they later unilaterally adjusted to ₹310 crores.

Later on, following the initiation of the Corporate Insolvency Resolution Process ("CIRP") against the appellant, its resolution professional demanded ₹632.71 crores from the respondent, including ₹310 crores towards redemption of CRPS. Matix denied the liability, leading to the appellant filing a Section 7 petition against the respondent before the NCLT. The appellant submitted that the financial statements of the respondents showed the liability towards CRPS as "unsecured loan" and "other financial liability". The petition was duly opposed by the respondent herein.

The NCLT dismissed the appeal citing that redemption could only occur out of profits or proceeds of fresh issue of shares under Section 55 of the Companies Act, 2013. Since the respondent had no such profits, the liability to redeem the CRPS had not arisen, and hence, no default existed under Section 7 of the IBC. Subsequently, on appeal before the NCLAT, the appellate tribunal also dismissed the appeal reiterating the NCLT's view that no debt became due to the appellant on account of the allotted preference shares since no dividends were declared.

Supreme Court's Observations

After taking note of the above-mentioned factual background, the question that arose before the Supreme Court for consideration is whether the NCLT and NCLAT were justified in dismissing the application of the appellant under Section 7 of the IBC, after holding that the appellant was not a financial creditor.

The Supreme Court observed that preference shares form part of a company's share capital and the amounts paid upon them are not loans. Section 55 of the Companies Act stipulates that preference shares shall be redeemed only out of the profits of the company

which would be otherwise available for dividends or out the proceeds of the fresh issue of shares made for the purpose of such redemption. Explaining the nuanced distinction between "debt" and "share" particularly in the context of a "preference shareholder", the Court noted that main difference between the two in such a case may then be that the dividend on a preference share is not payable unless profits are available for distribution, whereas the debt holder's interest entitlement is not subject to this constraint, and that the debt holder will rank before the preference holder in a winding-up.

The Court further clarified that entries in books of accounts or accounting standards (like AS-32) cannot override the legal character of preference shares as share capital. For a debt to qualify as 'financial debt' under Section 5(8) of the IBC, it must involve disbursal against consideration for time value of money, which is absent in this case. Accordingly, the Supreme Court held that the appellant, as a preference shareholder, was not a financial creditor and could not maintain a Section 7 application.

Order: The Supreme Court dismissed the appeal, upholding the findings of the NCLT and NCLAT that the Appellant was not a financial creditor under the IBC. It concluded that redeemable preference shares do not create a financial debt, and non-redemption thereof does not amount to default under the IBC.

Case Review: *Appeal dismissed.*

High Court(s)

Arrow Business Development Consultants Pvt. Ltd. vs. Union Bank of India & Ors. Writ Petition No. 11132 OF 2025, Date of Bombay High Court Judgement: 10th December 2025

Facts of the Case

The present writ petition was filed by Arrow Business Development Consultants Pvt. Ltd. ("the Petitioner"), the successful auction purchaser of a residential flat, seeking directions against Union Bank of India ("the Bank") for handing over physical possession of a residential flat that had been sold under the

Securitization And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“SARFAESI Act”). The dispute arose in the backdrop of parallel proceedings under the Insolvency and Bankruptcy Code, 2016 (“IBC”), initiated by the original borrowers, raising questions on the effect of an interim moratorium on an incomplete SARFAESI sale.

The Bank had extended financial facilities to the original borrowers, who were owners of the secured asset. Upon default, the loan account was classified as a non-performing asset, following which a demand notice under Section 13(2) of the SARFAESI Act was issued, and symbolic possession of the secured asset was taken under Section 13(4). Thereafter, the Bank initiated sale proceedings in accordance with the SARFAESI Rules.

An e-auction was conducted in which the Petitioner emerged as the highest bidder, and the sale was confirmed in its favour upon payment of the initial consideration. While the Petitioner proceeded to make further payments towards the sale consideration, one of the borrowers filed an application under Section 94 of the IBC seeking initiation of personal insolvency proceedings, triggering an interim moratorium under Section 96 of the Code. Notably, several tranches of payment were received by the Bank after the commencement of the interim moratorium.

Subsequently, the Bank issued a sale certificate in favour of the Petitioner. The borrowers challenged the sale before the Debts Recovery Tribunal (“DRT”) under Section 17 of the SARFAESI Act, contending that the continuation of the sale process violated the interim moratorium under the IBC. The DRT disposed of the application, holding that in view of the moratorium and pendency before the NCLT, no further orders were required. Aggrieved by the Bank’s refusal to hand over possession despite issuance of the sale certificate, the Petitioner approached the High Court by way of the present writ petition.

High Court's Observations

After examining the factual matrix of the case, the Court noted that the question that needs to be determined in the present Writ Petition is whether, post amendment to Section 13(8) of the SARFAESI Act,

the Borrowers’ ownership right in the secured asset, also stands extinguished, upon issuance of the sale notice under Rule 8(6) of the SARFAESI Rules.

The High Court examined the interplay between the SARFAESI Act, 2002 and the Insolvency and Bankruptcy Code, 2016, particularly in the context of an interim moratorium under Section 96 of the IBC and its effect on enforcement proceedings initiated by a secured creditor. The Court observed that the interim moratorium under Section 96 is markedly wider in scope than the moratorium under Section 14, as it operates “in relation to all the debts” of the individual debtor or personal guarantor, and not merely against the debtor as an entity. Consequently, once such interim moratorium comes into effect, all legal actions or proceedings in respect of any debt stand statutorily stayed. Relying on the decision of the Supreme Court in *Indian Overseas Bank v. RCM Infrastructure Ltd.*, the Court reiterated that a statutory sale under the SARFAESI framework is completed only upon full payment of the sale consideration and issuance of a sale certificate. The Court clarified that although the 2016 amendment to Section 13(8) curtails the borrower’s right of redemption upon publication of the auction notice, such extinguishment does not ipso facto result in transfer of ownership. Ownership continues to vest with the borrower until the sale is completed in accordance with Rule 9 of the SARFAESI Rules.

Applying these principles, the Court held that where the interim moratorium intervenes after confirmation of sale but prior to completion of payment and issuance of the sale certificate, the secured creditor is legally restrained from accepting further payments or proceeding with the transfer. Any such continuation would be in teeth of Section 96 of the IBC. The Court further observed that vested rights claimed by an auction purchaser remain contingent upon lawful completion of the sale and cannot override a statutory moratorium.

Order: The Court held that the petitioner is not the owner of the secured asset and therefore is not entitled to its possession.

Case Review: *Writ Petition dismissed.*

National Company Law Appellate Tribunal (NCLAT)

Astral Agro Ventures vs Mr. Vakati Balasubramanyam Reddy and Ors. Company Appeal (AT) (Ins.) No. 530 of 2025, Date of NCLAT Judgement: 18th November 2025.

Facts of the Case

The appeal was preferred by a Prospective Resolution Applicant (“PRA”) challenging an order of the Adjudicating Authority dismissing its application, which it had taken out for the rejection of the resolution plan submitted by the Successful Resolution Applicant (“SRA”), *inter alia* on the ground that the SRA is ineligible to participate in the resolution process as it a related party within the meaning of Section 29A of the IBC.

The Corporate Insolvency Resolution Process (“CIRP”) of Megi Agro Chem Ltd. (“Corporate Debtor/CD”) was initiated upon admission of the Section 7 petition, and the first respondent was appointed as the Resolution Professional (“RP”). Multiple attempts were made to revive the CD, with Form G being issued thrice after the first two rounds failed to yield a viable resolution plan. In each of these attempts, the appellant submitted its Expression of Interest (“EOI”) but did not follow through by submitting a resolution plan. After the Adjudicating Authority permitted a third issuance of Form G, both the Appellant and the third respondent were shortlisted as Prospective Resolution Applicants (“PRAs”) and invited to submit plans. The third respondent/SRA submitted its resolution plan within the stipulated deadline, while the appellant sought a 15-day extension on the last date of submission. Despite receiving additional time, the appellant again failed to submit a plan and instead continued sending emails expressing “interest” without any substantive compliance. The CoC thereafter convened its meetings, opened the sole plan submitted by the SRA, sought commercial improvements, and ultimately approved the SRA’s plan in its 12th meeting. Subsequently, the appellant filed an application seeking rejection of the approved plan, alleging that the SRA failed to

meet the prescribed net-worth criteria, was ineligible under Section 29A of the IBC due to alleged relation with a wilful defaulter, and that the RP had violated procedural mandates, including inadequate notice for CoC meetings and insufficient recording of deliberations. The appellant argued that these defects vitiated the approval granted by the CoC.

Conversely, the RP and the SRA opposed the application, asserting that the appellant lacked locus standi due to its repeated failure to submit a resolution plan, had been accommodated fairly, and could not challenge a process it had effectively abandoned. They defended the SRA’s eligibility and maintained that all actions were compliant with the IBC framework.

NCLAT’s Observations

The Tribunal observed that the central issue was whether the appellant, who did not submit any resolution plan despite being provided multiple opportunities, could maintain objections to the approval of the SRA’s plan. The NCLAT noted that the Appellant had filed its EOI and was included in the final list of PRAs, yet failed to place a compliant plan within the stipulated or extended timelines. In such circumstances, the appellant could not claim that the CIRP process or the approval of the plan caused any prejudice to it.

The Tribunal further noted that the timelines for submission were duly fixed and extended with the approval of the CoC, and the RP had acted strictly in accordance with the decisions taken therein. The appellant’s request for a further 15-day extension was considered by the CoC, and a shorter window of extension was even granted. The NCLAT held that a PRA who does not submit any plan cannot later question the process or evaluation, as it was never in the zone of consideration. It also held that locus standi cannot be claimed merely on the basis of having filed an EOI, and that the IBC does not envisage challenges by parties who have not participated in the submission stage.

On the allegations of ineligibility under Section 29A and non-fulfilment of net-worth criteria, the Tribunal observed that the CoC had examined the documents

submitted by the SRA, sought clarifications, and recorded its satisfaction in its meetings. The Tribunal reiterated that the commercial wisdom of the CoC cannot be supplanted unless the plan violates Section 30(2) or suffers from material irregularity, neither of which was shown in the present case.

Order: Accordingly, in light of the above facts and circumstances, the NCLAT dismissed the appeal and imposed a cost of ₹15 lakhs on the appellant for unnecessarily interfering with the resolution process. Further, the appellate tribunal ordered for the cost to be distributed equally to all the operational creditors of the CD, and in their absence, to be added to the asset of the CD but outside the resolution plan to be disbursed as per the waterfall mechanism to be disbursed as per the waterfall mechanism envisaged in Section 53 of the IBC.

Case Review: *Appeal dismissed with imposition of cost on the appellant.*

IFCI Ltd. vs Raju Palanikunnathil Kesavan, RP of Heera Construction Co Pvt Ltd and Anr. Company Appeal (AT) (Insolvency) No.740 of 2023, Date of NCLAT Judgement: 11 November 2025

Facts of the Case

The IFCI Ltd. (“Appellant”) filed two appeals under Section 61 of the Insolvency and Bankruptcy Code, 2016 (“IBC/the Code”) against the common order passed by the National Company Law Tribunal, Mumbai Bench (“NCLT”) whereby the NCLT dismissed the appellant’s applications and approved the Resolution Plan submitted by Royal Heights Projects Pvt. Ltd. (“the Successful Resolution Applicant/SRA”).

The Corporate Debtor, Heera Construction Company Pvt. Ltd. (“CD”), a real estate developer, had availed financial assistance of ₹50 crores from the appellant under a Corporate Loan Agreement, secured by mortgages over several immovable properties, including 5.46 acres of third-party land at Attipra Village (“Attipra Land”) and 0.60 acres owned by the CD at Poonithura Village (“Poonithura Land”). Upon default by the CD, the appellant initiated proceedings under Section 7 of the Code, upon which the CD was

admitted to the Corporate Insolvency Resolution Process (“CIRP”). Later, the Committee of Creditors (“CoC”) approved the Resolution Plan despite the Appellant’s dissent.

The appellant challenged the Resolution Plan, alleging that the Resolution Professional (“RP”) had wrongly included third-party assets in the CIRP, failed to properly value mortgaged properties, and unlawfully extinguished the appellant’s security interest. It was further contended that valuable assets were undervalued or assigned nil value and that several immovable properties were excluded from the Information Memorandum. During the proceedings, Enforcement Directorate investigations revealed additional properties worth over ₹23 crores that were not part of the CIRP.

Conversely, the Respondents, both the RP for the CD, and the SRA, averred that the Attipra land was a third-party asset over which the CD only held developmental rights, and the Poonithura land was not capitalized in the books. They further contended that lack of title deeds and pending litigations prevented valuation, and that the Resolution Plan, approved by a CoC majority, reflected its commercial wisdom, which cannot be interfered with merely on the objections of a dissenting creditor.

NCLAT’s Observations: After examining the facts, the question before the NCLAT was whether the Resolution Plan had been approved in compliance with the Code, and whether the RP had fulfilled his statutory obligation to identify, verify, and value all assets of the CD prior to placing the plan before the CoC.

The Tribunal observed that the RP had failed to include several immovable properties, later revealed through Enforcement Directorate search and attachment proceedings, in the Information Memorandum, thereby depriving the CoC and prospective resolution applicants of a complete picture of the CD’s asset base. It noted that assigning nil value to the Attipra land and omitting valuation of the Poonithura land ran contrary to the broad definition of “assets” under the Code and the requirements of Regulation 35 of the CIRP Regulations, which mandates valuation of

all assets. The NCLAT further held that extinguishing the Appellant's security interest over these mortgaged properties lacked any legal basis.

The Tribunal also underscored that commercial wisdom of the CoC cannot be exercised meaningfully if material information is withheld, and that a resolution plan containing illegal or irregular terms cannot be shielded merely because it has received majority approval. Placing reliance on *Masatya Technologies Pvt Ltd Vs Amit Agarwal, RP for Vistar Construction Pvt Ltd and Another (2023)*, the NCLAT held that the discovery of valuable unaccounted assets and inconsistent treatment of similarly situated properties constituted serious procedural irregularities that vitiated the resolution process.

Order: Accordingly, in light of the above facts and circumstances, the NCLAT directed issuance of a fresh Form G and mandated completion of the entire CIRP, including fresh consideration of resolution plans, within a prescribed timeframe of three months.

Case Review: *Appeal(s) disposed off in favour of the appellant.*

Amit Jain (Suspended Director of Mahagun (India) Pvt. Ltd.) vs. IDBI Trusteeship Services Ltd. & Anr. Company Appeal (AT) (Insolvency) No. 1186 of 2025 & I.A. No. 4981, 5133 of 2025, Date of NCLAT Judgement: 6 November 2025

Facts of the Case

The present appeal was filed against the order dated 05.08.2025 passed by National Company Law Tribunal, New Delhi, Court-III ("NCLT") in C.P. (IB) No. 112(ND)/2025. By the impugned order, the Adjudicating Authority had admitted Section 7 petition for default in redemption of Non-Convertible Debentures ("NCDs") aggregating to ₹256.48 crores filed by IDBI Trusteeship Services Ltd. ("financial creditor/respondent") against Mahagun (India) Pvt. Ltd. ("the Corporate Debtor/CD/appellant"). Aggrieved by the above order, the appeal(s) were filed.

Pursuant to the issuance of notice by the NCLT, the CD had sought time to file a detailed reply but submitted

only a short response contesting maintainability of the Section 7 petition. Thereafter, without granting further extension, the AA vide order dated 05.08.2025, admitted the Section 7 petition. Aggrieved by this, the suspended director and other stakeholders, including Aditya Birla Capital Ltd. and the Manorialle Social Welfare Society representing 195 homebuyers, challenged the order before the NCLAT, contending that the default pertained solely to the Mahagun Manorialle project financed under the Debenture Trust Deed, by which the CD has obtained NCDs from the debenture holder, and not to other independent, performing projects. The appellant argued that insolvency of real-estate project is to be held project-specific independent of other projects of CD, which were distinct in terms of financing and no defaults existing for lenders of those projects.

The respondent submitted that the Section 7 petition was filed on account of default committed by the CD with regard to redemption of debentures. However, after filing the present appeal, the CD approached the Financial Creditor and both parties entered into a settlement agreement. Additionally, multiple Interlocutory Applications ("IAs") were filed by various stakeholders, including homebuyers' associations and individual allottees from different Mahagun projects. While some applicants sought restriction of the CIRP solely to the Mahagun Manorialle project or supported the settlement between the CD and the Financial Creditor, others opposed any withdrawal, urging continuation of the CIRP to safeguard homebuyers' interests and ensure completion of pending projects.

NCLAT's Observations: After considering the factual position and submissions of all parties, the question that arose before the NCLAT was whether the Adjudicating Authority was justified in admitting the Section 7 application against the appellant without granting adequate opportunity to file a detailed reply, and whether the CIRP should extend to all projects or be confined to the defaulting Mahagun Manorialle project.

The Appellate Tribunal observed that while the Adjudicating Authority had granted one week's time

to file a reply, the real estate nature of the Corporate Debtor's business, involving multiple ongoing projects, warranted a more comprehensive consideration of the potential impact of insolvency on homebuyers and other secured lenders. Referring to the Supreme Court's ruling in *Mansi Brar Fernandes v. Shubha Sharma (2025)* and *Indiabulls Asset Reconstruction Co. Ltd. v. Ram Kishore Arora (2023)*, the NCLAT emphasized that insolvency proceedings in real estate companies should, as a rule, proceed on a project-specific basis rather than encompassing the entire corporate entity, unless exceptional circumstances exist.

Accordingly, the NCLAT noted that the financing by the respondent related exclusively to the Mahagun Manorialle project under the Debenture Trust Deed, and that solvent and performing projects should not be dragged into insolvency. The appellate tribunal thus remitted the matter to the Adjudicating Authority to reconsider the issue of project-specific CIRP, while also noting the subsequent settlement between the parties.

Order: The NCLAT remitted the matter back to the NCLT for fresh adjudication. Further, it also granted the CD a week's time to file a detailed reply to the Section 7 petition along with the status report before the NCLT. Similarly, all other applicants were also granted liberty to file fresh applications before the NCLT.

Case Review: *Appeal disposed off. Matter remitted back to NCLT for fresh adjudication.*

National Company Law Tribunal (NCLT)

Punjab National Bank Vs Damara Gold Private Limited C.P. (IB)/294(MB)/2025, Date of NCLT Judgement: 08 December 2025.

Facts of the Case

The present Company Petition was instituted by Punjab National Bank ("PNB"), the Financial Creditor ("FC"), under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC/the Code"), seeking initiation of the Corporate Insolvency Resolution Process ("CIRP") against Damara Gold Private Limited, the Corporate

Debtor ("CD"). The FC asserted that a financial debt had been disbursed to the CD and that a default had occurred, thereby satisfying the statutory requirements for admission of the petition under the IBC.

PNB had sanctioned various credit facilities to the CD, including a term loan of ₹5.70 crores and bank guarantees aggregating to ₹21.50 crores. These facilities were renewed and enhanced from time to time, with the last sanction being issued vide letter dated 17.03.2022. To secure the said facilities, the CD executed several loan and security documents such as deeds of hypothecation, counter-indemnities and other related instruments. Additionally, the directors of the CD executed personal guarantees in favour of the FC to further secure the repayment obligations.

Over time, the CD failed to service its liabilities regularly and did not rectify the irregularities in its cash credit account despite repeated reminders. Consequently, the account was classified as a Non-Performing Asset ("NPA") in accordance with RBI guidelines. As on the date of default, the FC claimed outstanding dues of ₹38.32 crores under the cash credit facility and ₹87.43 lakhs under the term loan facility, aggregating to approximately ₹39 crores.

Prior to filing the present petition, the FC initiated recovery proceedings under the SARFAESI Act, 2002 by issuing a demand notice under Section 13(2), followed by possession and sale notices in respect of the secured assets. Upon issuance of notice by the Adjudicating Authority ("AA/Tribunal"), the CD filed a reply raising objections relating to alleged absence of default, wrongful debit of bank guarantees, invalid classification of the account as NPA, excess charges, and misuse of the IBC as a recovery tool. The FC filed a rejoinder refuting these objections, asserting that the debt and default stood duly established and that the application was complete in all respects.

NCLT's Observations

The AA examined the material placed on record by the FC and noted that all essential loan and security documents had been duly produced. These included sanction letters, loan agreements, security

instruments, guarantees and authenticated statements of account, which collectively established the sanction, disbursement and subsistence of financial debt owed by the CD. The AA was satisfied that the documentary evidence sufficiently demonstrated the existence of a financial relationship between the parties and the occurrence of default. Significant reliance was placed on the authenticated record of default generated through the National e-Governance Services Ltd. (NeSL) platform.

The Tribunal held that the NeSL certificate constituted credible and statutorily recognised proof of default under Section 7 of the IBC. On this basis, it concluded that the default had been duly established in terms of the Code. The Tribunal rejected the CD's contention that the FC had wrongly debited the amounts arising from invocation of bank guarantees to the cash credit account. It observed that the cash credit account functioned as the operating account of the CD, and therefore such debit entries could not be faulted. Consequently, this objection was held to be untenable. Further, the AA declined to entertain disputes raised by the CD regarding interest rates, alleged excess charges, and interpretation of contractual terms. It held that such issues fall outside the limited scope of enquiry at the admission stage of a Section 7 application and cannot be adjudicated at this juncture.

Relying on the Supreme Court judgment in *Innoventive Industries Ltd. v. ICICI Bank & Anr. (2017)*, the Tribunal reiterated that once the existence of debt and default is established, admission of the application becomes mandatory. It concluded that the debt exceeded the statutory threshold of ₹1 crore, the application was filed within limitation, and all procedural requirements were duly satisfied.

Order: The National Company Law Tribunal admitted the petition under Section 7(5)(a) of the Code, directing commencement of CIRP against the CD.

Case Review: *CIRP application was admitted.*

State Bank Of India. Vs. Ushdev International Ltd. & Anr. IA No.33/MB/2024 in CP (IB) No.1790/MB/2017, Date of NCLT Judgement: 16 October 2025

Facts of the Case

The State Bank of India (hereinafter referred to as "the Applicant") filed an Interlocutory Application ("IA") under Section 33(3) read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("IBC/ the Code") against Taguda PTE Ltd., the Successful Resolution Applicant ("Respondent No.1/SRA") and Resolution Professional of Ushdev International Ltd. & Anr. ("Respondent No.2/RP") seeking order directing initiation of liquidation of Ushdev International Limited ("Corporate Debtor/CD") in accordance with Chapter III of Part II of the Code.

Pursuant to the admission of the CD into CIRP and the subsequent constitution of the CoC, the SRA submitted its resolution plan. However, the first resolution plan was not approved by the CoC due to the majority stakeholders voting against it. Thereafter, a liquidation application was filed before the NCLT, which was dismissed. Simultaneously, the Adjudicating Authority (AA) approved the first resolution plan. Aggrieved by this, the present Applicant filed an appeal before the NCLAT challenging the AA's order approving the first resolution plan. The Appellate Tribunal ordered stay on implementation of the first resolution plan. During the pendency of the said appeal, the SRA filed an application expressing its willingness to revise and improve the first resolution plan. The NCLAT granted six weeks' time to submit the revised/improved resolution plan. Pursuant to the said order, the updated resolution plan was placed before the CoC, deliberated upon, and approved by an overwhelming majority. Following this, the SRA furnished a performance bank guarantee of ₹11.50 crores and a bid bond guarantee of ₹5 crores, and an Interim Monitoring Agency ("IMA") was constituted to oversee the smooth implementation of the Resolution Plan. However, even after two years of approval and despite multiple extensions, the SRA failed to obtain the requisite statutory and regulatory approvals necessary for the implementation of the Plan.

The Applicant alleged that the prolonged delay in implementation under the revised resolution plan resulted in significant opportunity loss to the stakeholders of the CD and caused substantial opportunity loss to the financial creditors, thereby making liquidation inevitable. Conversely, while the SRA did not file a formal reply, it submitted a fresh proposal indicating willingness to infuse additional funds. However, when the Tribunal inquired whether the timeline could be expedited, no satisfactory or affirmative response was provided.

NCLT's Observations

After duly hearing both the parties, the point of consideration before the Tribunal was whether it is a fit case for initiation of Liquidation process of the CD. At the outset, the NCLT took note of the significant legal propositions and guiding principles laid down by the Supreme Court in State Bank of India and ors. Vs. The Consortium of Mr. Murari Lal Jalan and Mr. Florian Fritsch & Anr. The Tribunal observed that “time and speed are the essence for the working of the Code”, and to allow CIRP proceedings to lapse into an indefinite delay will plainly defeat the object of the statute also leading to the assets of the CD diminishing in value. Further, in scenarios such as the present, “timely liquidation” is indeed to be preferred over an “endless resolution process”. Such a view will prevent the likelihood of adversely affecting the interests of all the creditors who have been suffering due to no fault of their own and also securing the maximum value of the remaining assets. Regarding the role of the SRA, the Tribunal noted that regardless of the challenges that may arise, the SRA cannot treat its obligations as optional or conditional, nor can it abdicate its responsibility in the face of unforeseen obstacles.

In light of the above-mentioned legal position, the Tribunal noted that despite multiple extensions and directions of this Tribunal, the SRA has been seeking repeated adjournments citing pending RBI approvals and financing arrangements, leading to breach of obligations under the Resolution Plan. As a result of the delay, the initiation of liquidation of the CD has become inevitable.

Order: Accordingly, in light of the above facts and circumstances, the CD is ordered to be liquidated in terms of the provisions of Section 33(3) of the Code read with the relevant Regulations made thereunder which shall be effective from the date of the order.

Case Review: *Liquidation Application admitted.*

Lepton Software Export and Research Pvt. Ltd. vs Blu-Smart Mobility Tech Pvt. Ltd. C. P. (IB)/261 (AHM) 2025 Date of NCLT Judgement: 14 October 2025.

Facts of the Case

This Petition was filed by the Applicant, Lepton Software Export and Research Pvt. Ltd., (hereinafter referred to as ‘Operational Creditor’/OC), against the Respondent, Blu-Smart Mobility Tech Pvt. Ltd. (hereinafter referred to as ‘Corporate Debtor’/CD),, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC/Code) for initiation of Corporate Insolvency Resolution Process (CIRP) for having defaulted in payment of the outstanding operational debt of ₹5,84,43,201.76/- including interest arising from supply of goods/services. The OC alleged that the CD had approached them for obtaining the ‘On-demand Rides and Deliveries Solution’, offered under the ‘Google Maps Platform Services’ (Google – ODRD Services) for which the parties signed a Principal Agreement, and subsequently, a Renewal Agreement. Thereafter, the transaction continued on an ad-hoc basis. Accordingly, invoices were raised by the OC for FY 2024-25, duly shared with the CD, and the same remained either partially or completely unpaid even after numerous reminders. Constrained by the inaction of the CD to clear the outstanding invoices, the OC was forced to suspend the Google (ODRD) Services despite which the outstanding dues were not cleared. Therefore, the OC was compelled to send a Demand Notice under Section 8 of the Code to unconditionally repay the unpaid operational debt. As the amount remained unpaid, the OC filed the present application seeking initiation of CIRP against the CD. Conversely, the CD alleged that the present application is misconceived, an abuse of process, and a colorable debt recovery attempt highlighting the concerns that,

firstly, no acceptance/completion certificates were provided for the services rendered and the part payment were made as goodwill under protest. Secondly, there was no evidence of consent for services rendered by the OC on ad-hoc basis post-expiry of the Renewal Agreement, reducing the liability to roughly ₹30.34 lakhs, much below the ₹1 crore threshold stipulated under Section 4 of the Code. Thirdly, the petition was fraudulent/malicious as per Section 65 of the Code, for it was filed for recovery, not resolution. Fourthly, the CD filed an additional affidavit stating that the CD's holding company – comprising of four subsidiaries including the CD – is already undergoing CIRP with discussions for a holistic resolution of the entire Blu-Smart group for consolidated value maximization, and therefore the present application should not be admitted

NCLT's Observations

After duly hearing both the parties, the Tribunal decided to adjudicate the matter on three legal questions— whether the claimed amount qualifies as an operational debt, whether it exceeds the statutory threshold, and the existence of mala fide intent under Section 65 of the Code.

Firstly, regarding the existence of an operational debt, the Tribunal stated that the services rendered by the OC pertain to geospatial and mapping API usage, which squarely fall within the definition of 'good and services' under Section 5(21) of the Code, giving rise to an operational debt. Secondly, with respect to the claimed amount meeting the statutory threshold under Section 4 of the Code, the Tribunal observed that even

after expiry of the Renewal Agreement, the material on record suggests the continued usage of services by the CD without objection, requests for invoices, and admissions of liability. Such conduct implies an ad-hoc continuation of the arrangement on the same terms, akin to an implied contract under Section 70 of the Indian Contract Act, 1872, or quantum meruit for services rendered and accepted as affirmed in *Alopi Prashad & Sons Ltd. v. Union of India* [AIR 1960 SC 588]. Therefore, the total liability of the CD stands at ₹5,84,43,201.76, thereby exceeding the Section 4 threshold. Thirdly, regarding the existence of mala fide intent under Section 65, the Tribunal noted that the application was not a mere recovery mechanism but seeks resolution. Additionally, since the CD is a distinct legal entity from its holding company, the proceedings against it cannot be stayed merely on account of the parent's insolvency unless there is a specific order of consolidation under Section 60(5) of the Code. Therefore, for the above-mentioned reasons, the Tribunal was satisfied that the legal requirements and the statutory mandate was met for the CD's admission to CIRP.

Order: Accordingly, in light of the above facts and circumstances, the NCLT admitted the CD in CIRP as per Section 9(5) of the IBC. As a consequence, thereof, an Interim Resolution Professional (IRP) was appointed, and a moratorium issued under Section 14. The IRP so appointed shall make a public announcement for submissions of claims under section 15. The commencement of the CIRP shall be effective from the date of this order.

Case Review: *CIRP Application admitted.*

