



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

IBC Case Law Capsule

Number 265

(March 02, 2026)

Omkara Assets Reconstruction Pvt. Ltd. Vs Amit Chturvedi & Ors.

Civil Appeal No. 11417/2025

Date of Supreme Court's Judgment: 24th February 2026

Facts of the Case: -

The present appeal arises out of proceedings initiated under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC/the Code") at the instance of Omkara Assets Reconstruction Private Limited, assignee of a Stressed Assets Stabilisation Fund ("Financial Creditor/FC"), in respect of financial facilities extended to the respondent-Corporate Debtor (CD). Two term loans were sanctioned on 05.04.1999 and 12.12.2000 aggregating to ₹10,60,00,000/-. The Corporate Debtor committed default with effect from 01.01.2003. The outstanding liability, as claimed in the Section 7 application, was ₹154,33,12,274/- together with further interest.

As the CD failed to clear dues, an application under Section 7 of the IBC was filed before the Adjudicating Authority (AA) seeking initiation of Corporate Insolvency Resolution Process ("CIRP"). The CD opposed the maintainability of the application, *inter alia*, on the ground that a Scheme of Arrangement ("SOA") under Sections 391–394 of the Companies Act, 1956 had been sanctioned by the Punjab and Haryana High Court and that proceedings in relation thereto were pending. It was contended that in view of the subsisting scheme and proceedings before the High Court, initiation of CIRP was unwarranted and impermissible.

The AA, upon consideration of the material on record, held that the CD had failed to demonstrate compliance with the statutory requirements governing implementation of the sanctioned scheme. Noting that the scheme had not been brought into effect within the prescribed time and had, in substance, become redundant, the Authority invoked the overriding provision contained in Section 238 of the IBC and admitted the Section 7 application, thereby commencing CIRP and appointing an Interim Resolution Professional ("IRP").

Aggrieved thereby, the CD preferred an appeal before the National Company Law Appellate Tribunal ("NCLAT/Appellate Tribunal"), which directed that the Section 7 proceedings be kept in abeyance pending disposal of proceedings before the High Court. Challenging the said order, the Apex Court instituted the present appeal before the Supreme Court. In the present appeal, Supreme Court issued an interim order reviving the moratorium and permitting the IRP to resume charge of the Corporate Debtor.



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Supreme Court's Observations:

The principal issue considered by this Court was whether the existence or prior sanction of a Scheme of Arrangement under Sections 391–394 of the Companies Act, 1956 could operate as a legal impediment to the initiation or continuation of proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016. The Court observed that the mere sanction of a scheme does not, by itself, create a bar against insolvency proceedings, particularly where such scheme has not been implemented in accordance with statutory requirements.

In this backdrop, the Court examined the correctness of the Appellate Tribunal's direction to keep the Section 7 proceedings in abeyance and considered whether such deferment aligned with the legislative intent and the factual findings recorded by the AA. After examining the record, the Court noted that the AA had returned a clear finding that the sanctioned Scheme of Arrangement had not been brought into effect within the prescribed timelines and that the CD had failed to demonstrate compliance with the conditions necessary for its implementation. The continued pursuit of recovery proceedings by creditors under other statutory mechanisms further indicated that the scheme had not achieved practical efficacy. In such circumstances, the scheme could not be treated as a subsisting arrangement capable of overriding the remedy available under the IBC.

Reiterating the object and scheme of the IBC as a comprehensive and time-bound framework for insolvency resolution, the Court underscored the overriding effect of Section 238 of the Code. It held that once default is established and the statutory requirements under Section 7 are satisfied, the AA is obligated to admit the application, subject only to limited judicial scrutiny. Proceedings under the Companies Act cannot be invoked to stall or defeat the operation of the Code where the arrangement in question has, in effect, become redundant.

Order/Judgement: Considering the facts and circumstances of the case as highlighted above, the Supreme Court ruled that there was no reason to sustain the order of the Appellate Tribunal and accordingly set aside the same restoring the order of the AA which allowed the IRP to proceed in accordance with law.

Case Review: *Appeal allowed.*