



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH, COURT-III

IA-3511/2025
In
IB-589(PB)/2020

IN THE MATTER OF IB-589/2020:

Anil Syal

..... Petitioner

AND IN THE MATTER OF IA-3511/2025:

Ajay Gupta

S/o Shri Narinder Dev Gupta, B-7/45, 1st floor,
Safdarjung Enclave Extn.,
New Delhi- 110029

..... Applicant/Bankruptcy Trustee

Versus

Anil Syal,

117, First Floor, Uday Park
New Delhi-110049

..... Respondent No. 1

Union Bank Of India

Stressed Asset Management Branch
603B, Konnectus Tower, Bhav Bhuti Marg,
Ajmeri Gate, New Delhi-110001

..... Respondent No. 2

Arvind Jain

163B Lane W2, Sainik Farms,
New Delhi-110062

..... Respondent No. 3

Order Pronounced On: 22.04.2026

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE ACTING PRESIDENT
MS. REENA SINHA PURI, HON'BLE MEMBER (TECHNICAL)



PRESENT:

For Applicant/ : Mr. Milan Sing Negi, Mr. Nikhil Kumar Jha Ms.
Bankruptcy Trustee Katyayani, Advocates
For the Respondent : Ms. Prachi Johri, Adv for R-1
For the Union Bank of : Mr. Brijesh Kumar Tamber, Mr. Prateek
India kushwaha, Mr. Aryan Data, Adv.

ORDER

PER: MS. REENA SINHA PURI, MEMBER (TECHNICAL)

1. The present application has been filed by Shri Ajay Gupta, the bankruptcy trustee ('applicant') under section 138(1)(a) read with section 139 of the Insolvency and Bankruptcy Code, 2016 ('IBC') read with Rule 11 of the National Company Law Tribunal Rules, 2016 seeking the following prayers:
 - a) *“Allow the present application;*
 - b) *Take on record the order dated 08.07.2025 passed by the Hon'ble Appellate Tribunal in Company Appeal (AT) (INS) No. 523 of 2025;*
 - c) *Discharge Sh. Anil Syal, the bankrupt herein, in terms of section 138(1)(a) read with 139 of IBC;*
 - d) *Pass the necessary orders/ directions to the bankrupt, to provide all the necessary co-operation to the bankruptcy trustee, as may be required from time to time;*
 - e) *Pass any other and further order(s)/direction(s) that this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.”*

BRIEF BACKGROUND:

2. Vide order dated 30.09.2022, Bankruptcy process of Sh. Anil Syal (the bankrupt) was initiated, pursuant to the application filed by the bankrupt under section 121 read with section 122 of the Code. This Adjudicating Authority vide order dated 30.09.2022 appointed Sh. Ajay Gupta, the applicant herein as the bankruptcy trustee.



3. This Adjudicating Authority in exercise of power under Rule 11 of the NCLT Rules, 2016 vide order dated 20.12.2022 directed that the Bankruptcy Commencement date be treated as 23.12.2022 and also directed that Notice/Public Notice be issued to the Creditors inviting claims from creditors as provided under Section 130 of the Code.
4. Subsequently, the applicant received a claim of Union Bank of India ('UBI/ non-applicant no. 2 herein') on 16.03.2023, for an amount of Rs. 71.90 Crore, while relinquishing its security interest in the asset of the bankrupt i.e. 50% share in the flat bearing House No. 11, First Floor, Uday Park, New Delhi ('property').
5. The composition of CoC in the present case is as under:

Name of the Creditor	Amount claimed	Amount admitted	% voting share in the CoC
Union Bank of India	71,90,78,635	71,90,78,635	97.27% (UBI)
Arvind Jain	7,98,09,985	2,02,17,061	2.73%
Total	79,88,88,620	73,92,95,696	100%

6. On 02.06.2023 an e-auction notice was published by the applicant, for e-auction of the property of the bankrupt. E-auction was conducted on 27.06.2023, wherein one Shri Akshat Gupta was declared as the successful bidder and a sale certificate was also issued to him by the applicant on 05.07.2023.
7. Pursuant to such realisation, the applicant conducted a CoC meeting to update the creditors about the realisation process and published a notice dated 09.07.2023 in Delhi- NCR editions of the Financial Express (English) and Jansatta (Hindi) in terms of the provisions of section 176 (1) of the IBC read with rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019, thereby expressing his intention in accordance with sub-section (1) of section 176 of IBC to declare the final dividend. Accordingly, the final dividend was then distributed to the sole secured creditor viz. Union Bank of India on 08.08.2023.



8. Thereafter, Union Bank of India filed an IA 4421/2023 before this Adjudicating Authority and sought to set aside the said e-auction. In the meanwhile, the applicant filed an application being IA 5990/2023 seeking discharge of the bankrupt in accordance with section 138(1)(b) of the Code.
9. Vide order dated 04.07.2024, this Adjudicating Authority set aside the e-auction conducted by the applicant and directed a fresh auction based on valuations to be conducted separately by the Union Bank of India and Bankruptcy Trustee. The relevant part of the order dated 04.07.2024 is reproduced below:

“20. We direct the Bankruptcy Trustee to conduct the fresh valuation w.r.t. the sale of the property (50% undivided share in a residential flat which is indivisible) bearing H. No. 117, First Floor, Uday Park, New Delhi-110049. The Applicant Bank is also directed to conduct a fresh valuation w.r.t. the sale of the property (50% undivided share in a residential flat which is indivisible) bearing H. No. 117, First Floor, Uday Park, New Delhi-110049. Thereafter, the Average of both the Valuation will be considered for the fresh auction by the meeting of the Creditors.

21. We further direct the Bankruptcy Trustee to return the e-auction sale proceeds to Mr. Akshat Gupta, Auction Purchaser including EMD, if any and cancel the sale certificate issued to Mr. Akshat Gupta, Auction Purchaser.

22. Accordingly, the IA-4421/2023 is allowed by setting aside the e-auction dated 27.06.2023 conducted by the bankruptcy trustee by directing the bankruptcy trustee to conduct a fresh auction by maintaining at least 30 days' time between the paper publication and the e-auction so as to enable more bidders to participate in the auction for fetching high value of the property. The bankruptcy trustee shall also clearly mention the timings for the inspection of the property in the paper publication.”



10. IA 5990/2023 seeking discharge of the bankrupt was withdrawn on 06.08.2024.

11. The bankrupt filed an Appeal, being Company Appeal (AT) (Ins.) No.1437 of 2024 against the order dated 04.07.2024 before the Hon'ble Appellate Tribunal, which was disposed of by the Hon'ble Appellate vide order dated 30.07.20224 with liberty to the applicant to approach this Adjudicating Authority to raise the issue of discharge. The relevant part of order dated 30.07.2024 passed by Hon'ble Appellate Tribunal is reproduced below:

“5. In view of the aforesaid, we are of the view that in so far as present appeal, we do not find any ground to interfere with the order directing for re-auction of the property. We, however, give liberty to the Appellant to make appropriate application before the Adjudicating Authority for raising the issue of discharge of Appellant.

6. Learned counsel for the Appellant submits that although Appellant has no issue with regard to re-auction but the re-auction should be held by some other authority and he may be discharged in the meanwhile. We are unable to accept the submission of the Appellant that re-auction should be held by some other authority. It is the Bankruptcy Trustee who has to hold the auction as directed by the Adjudicating Authority. Appeal is disposed of accordingly.”

12. Submissions of the Applicant:

- i. It is submitted that the applicant conducted the 5th CoC meeting on 30.07.2024 and apprised the CoC about the order dated 04.07.2024 and requested Union Bank of India to appoint an IBBI Registered Valuer in compliance with the order dated 04.07.2024. Also, the applicant requested Union Bank of India to refund the final dividend amount so that the refund could be provided to the auction purchaser immediately, in accordance with directions issued by this Adjudicating Authority.
- ii. It is further submitted that in the 5th CoC meeting held on 30.07.2024, the applicant informed the CoC members, that the discharge application filed by him u/s 138(1)(b) will now be infructuous and an another application u/s 138(l)(a) is required to be filed for seeking discharge of



bankrupt since one year from bankruptcy commencement date has already passed. The members took note of the same and the representative of the Union Bank of India requested the applicant/bankruptcy trustee to defer this agenda to enable them to seek the instructions from their legal adviser in this regard.

- iii. It is submitted that in the 6th CoC meeting held on 30.08.2024, the applicant pointed out some factual differences (in built up area) in the valuation undertaken by the valuer appointed by the applicant and Union Bank of India. Therefore, the applicant requested Union Bank of India to provide the basis of assumptions so made by the valuers appointed by bank since the available records did not support the said assumption. After detailed deliberations, the bank officials took note of the same and requested the Bankruptcy Trustee to arrange for the site visit of the property by the Union Bank of India appointed valuers to reconcile the assumption.
- iv. It is submitted that, in the 6th CoC meeting held on 30.08.2024, the applicant informed the members about the receipt of refund of final dividend amount from Union Bank of India and the reply from the auction purchaser requesting the applicant herein/ bankruptcy trustee to wait for the decision of Hon'ble NCLAT before refunding the sale proceeds amount to him. Accordingly, after deliberations, it was decided that till auction purchaser furnishes the bank account details to enable the applicant to refund the sale proceeds, the amount be kept under FDR.
- v. It is submitted that in the 7th CoC meeting held on 29.10.2024, Union Bank of India informed that the area mentioned by their valuer in the draft report is correct and it shall provide the final report in this regard shortly. The applicant requested the member to share the final report so that steps can be taken in terms of order dated 04.07.2024 passed by this Adjudicating Authority.
- vi. It is submitted that in the 8th CoC meeting held on 29.11.2024, the fresh valuations obtained from registered valuers of both the applicant and UBI, were taken up for discussions, wherein the members were requested



to consider and approve the average of both the valuations for conducting fresh e-auction.

- vii. It is further submitted that after detailed discussion in the meeting of creditors, the representative of Union Bank of India requested the applicant to place the resolution for approval of the reserve price of Rs. 1,67,00,000/- (being average of fair value obtained by Union Bank of India and the realizable value obtained by the applicant) for the purpose of e-auction. However, the said resolution was rejected with 97.27% voting share by Union Bank of India.
- viii. It is submitted that, in the 9th CoC meeting held on 27.01.2025, the applicant again raised the issue of compliance of the order dated 04.07.2024, wherein Union Bank of India informed that in order to maximize the value of the assets and safeguard the interest of the bank, Union Bank of India has taken steps to file the application to seek withdrawal of its relinquishment in the bankruptcy estate/ said property. It is further submitted that Union Bank of India has filed an application being IA 873/2025 for seeking liberty to amend and modify its claim form dated 16.03.2023 submitted to the applicant/ bankruptcy trustee, to the extent of withdrawing the decision of the relinquishment of security interest on the property situated at H. No. 117, First floor, Uday Park, New Delhi 110049, which application is still pending before this Adjudicating Authority.
- ix. It is submitted that subsequent to the liberty granted by the Hon'ble Appellate Tribunal on 30.07.2024, an Interlocutory Application i.e. I.A. No. 3964 of 2024 was filed before this Adjudicating Authority by the bankrupt under section 138(1)(a) of IBC seeking his discharge, however the said application was dismissed vide order dated 11.02.2025.
- x. It is submitted that, the Bankrupt filed an appeal being Company Appeal (AT) (Insolvency) No. 523 of 2025 before the Hon'ble Appellate Tribunal against the order dated 11.02.2025 passed by this Adjudicating Authority.
- xi. It is further submitted that the Hon'ble Appellate Tribunal vide its order dated 08.07.2025, allowed the appeal filed by the bankrupt and further



passed directions to the applicant herein to file an application seeking discharge in terms of section 138(1)(a) of IBC. Relevant extract of the order dated 08.07.2025 passed by the Hon'ble Appellate Tribunal is reproduced below:

"29. We allow the appeal with following directions:

(1) The bankruptcy trustee is directed to file an application for discharge of the bankrupt under section 138(1)(a) of the IBC within 15 days from today.

(2) The Adjudicating Authority to consider the above application filed by the bankruptcy trustee and take a decision with regard to discharge within a period of three months from the date of filing the application."

- xii. It is submitted that in accordance with section 139 of IBC, such discharge, if granted by this Adjudicating Authority shall not
- a) affect the functions of the bankruptcy trustee or
 - b) affect the operation of provisions of Chapter IV & V of Part III or
 - c) release the bankrupt from any debt incurred by means of fraud or
 - d) Discharge the bankrupt from an excluded debt.
- xiii. It is humbly submitted that the applicant being the bankruptcy trustee is not averse to the legitimate rights of any of the parties and has conducted the present bankruptcy process of the bankrupt in bonafide manner complying with the provisions of IBC and the rules and regulations made thereunder.

13. ANALYSIS AND FINDINGS

- i. We have heard the submissions of learned counsel appearing for the parties and perused the material available on record.
- ii. The present application has being filed by the Applicant/Bankruptcy Trustee under section 138(1)(a) read with section 139 of the code read with Rule 11 of the National Company Law Tribunal Rules, 2016 ('NCLT Rules'), seeking the discharge of Sh. Anil Syal, the bankrupt in view of the expiry of one year from the date of bankruptcy commencement date and in terms of the directions passed by Hon'ble NCLAT, in its order



dated 08.07.2025, in Company Appeal (AT) (Insolvency) No. 523 of 2025 & I.A. No. 1993 of 2025.

- iii. Hon'ble NCLAT in its order dated 08.07.2025 in Company Appeal (AT) (Insolvency) No. 523 of 2025 has made the following observations:

“28. In the facts of the present case, we are of the view that the Adjudicating Authority has committed error in refusing to consider the application filed by the Appellant, which observation has been made in paragraph 35, as noted above. The order of discharge has to be passed by Adjudicating Authority. The Adjudicating Authority has also to ensure that timelines in the IBC are adhered to by all stakeholders, including the Bankruptcy Trustee. When it was clear that more than two years have expired and no application has been filed by the Bankruptcy Trustee as mandated by Section 138(1)(a), the Adjudicating Authority was not powerless to either issue directions to the Bankruptcy Trustee to file an application within the timeline, or to pass such orders as it may deem fit and proper. The impugned order is clearly an order, abdicating its jurisdiction by the Adjudicating Authority and to take proceedings as per timelines mandated in the IBC. We, thus, are fully satisfied that the impugned order passed by Adjudicating Authority is unsustainable and the same is set aside.

29. We allow the Appeal with following directions:

(1) The Bankruptcy Trustee is directed to file an application for discharge of the Bankrupt under Section 138(1)(a) of the IBC within 15 days from today.

(2) The Adjudicating Authority to consider the above application filed by the Bankruptcy Trustee and take a decision with regard to discharge, within a period of three months' from the date of filing of the application.”

- iv. The record reflects that the bankruptcy process against the bankrupt commenced vide order dated 30.09.2022, and subsequently, by order dated 20.12.2022, this Adjudicating Authority directed that the bankruptcy commencement date shall be treated as 23.12.2022. Thus, the statutory period of one year contemplated under Section 138(1)(a) of the Code had long expired.



- v. Section 138 of the Code contemplates that upon expiry of one year from the bankruptcy commencement date, the Bankruptcy Trustee shall apply to the Adjudicating Authority for a discharge order. However, the discharge does not follow automatically upon mere expiry of time or filing of such application. A formal order of discharge is required to be passed by the Adjudicating Authority under Section 138(2), and such order carries specific legal consequences as provided under Sections 139, 140(3)(b) and 141(2)(b) of the Code.
- vi. The discharge order is not intended to terminate the bankruptcy process itself, nor does it curtail the statutory powers and duties of the Bankruptcy Trustee. Section 139 of the Code expressly clarifies that discharge does not affect the functions of the Bankruptcy Trustee, nor does it affect the operation of Chapters IV and V of Part III of the Code dealing with bankruptcy administration and distribution of the estate.
- vii. Even after discharge, the bankrupt continues to remain under a statutory obligation to cooperate with the Bankruptcy Trustee. Section 150 of the Code casts a continuing duty upon the bankrupt to provide information relating to his affairs, attend upon the Bankruptcy Trustee when required, disclose acquisition or devolution of property, increase in income, and render all assistance necessary for effective administration of the bankruptcy estate.
- viii. Similarly, Section 149 requires the Bankruptcy Trustee to investigate the affairs of the bankrupt, while Sections 152, 157 and 159 empower the Bankruptcy Trustee to take possession and control of the estate, deal with actionable claims, realise assets, and even claim after-acquired property, subject to the limitations prescribed therein. Regulation 12 of the IBBI (Bankruptcy Process) Regulations, 2019 further mandates that the bankrupt and all relevant stakeholders shall extend full cooperation to enable completion of the bankruptcy process.
- ix. Thus, discharge under Section 138 is limited in its effect. It releases the bankrupt only to the extent contemplated by law and does not absolve him from continuing obligations towards the Bankruptcy Trustee in relation to administration of the estate.



- x. In the present case, it is also material to note that during the course of hearing, learned counsel appearing for Union Bank of India, which constitutes the principal creditor, fairly submitted that the Bank has no objection if the bankrupt is discharged in terms of the present application. No objections have been raised by any other stakeholder as well.
- xi. In view of the statutory scheme, the lapse of the prescribed period, the directions issued by the Hon'ble NCLAT, and the absence of any objection from the stakeholders, we are satisfied that the present case warrants grant of discharge to the bankrupt under Section 138(1)(a) read with Section 139 of the Code.

14. ORDER:

- a. The Bankrupt, Shri Anil Syal stands discharged in terms of Section 138(1)(a) read with Section 139 of the Insolvency and Bankruptcy Code, 2016.
- b. Such discharge shall not affect the operation of provisions of Chapter IV & V of Part III nor shall it release the Bankrupt from any debt incurred by means of fraud or discharge the Bankrupt from an excluded debt.
- c. It is, further clarified that such discharge shall not affect the powers, duties and functions of the Bankruptcy Trustee, nor shall it dilute the continuing obligation of the Bankrupt to extend full cooperation and assistance in terms of Section 150 of the Code read with Regulation 12 of the IBBI (Bankruptcy Process) Regulations, 2019 and other applicable provisions of law, so as to ensure effective administration and completion of the bankruptcy process.
- d. I.A. No. 3511/2025 is accordingly allowed.

-Sd/-

**(MS. REENA SINHA PURI)
MEMBER (TECHNICAL)**

-Sd/-

**(BACHU VENKAT BALARAM DAS)
(ACTING PRESIDENT)**