

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 679 of 2025**

**IN THE MATTER OF:**

**Nishit Sharma**

**...Appellant**

**Versus**

**Jana Small Finance Bank & Anr.**

**...Respondents**

**Present:**

**For Appellant:            Mr. Mohit Chaddha, Advocate.**

**For Respondents:        Mr. Abhijeet Sinha, Sr. Advocate with Mr. Kaustubh  
Prakash, Ms. Prachi Bhatia, Mr. Rishabh Chandra,  
Advocates for R-1.**

**Mr. Darshit Dave, Advocate with Mr. Divyesh Desai,  
IRP for R-2.**

**O R D E R**  
**(Hybrid Mode)**

**20.05.2025:**        Heard learned counsel for the Appellant as well as learned counsel appearing for the Respondent. This Appeal has been filed against order dated 24.04.2025 by which Section 7 application filed by the Financial Creditor – Respondent No.1 has been admitted. The financial facilities were extended to the Corporate Debtor – Brandscale Innovations Pvt. Ltd. Default being committed in making repayment, the Financial Creditor declared the account NPA and initiated proceeding for Principal Amount of Rs.11,07,23, 633/- plus interest. Corporate Debtor appeared and objected to the Section 7 application and the Adjudicating Authority by the impugned order finding debt and default has admitted the application.

2.        When the Appeal was taken by this Tribunal, Appellant sought adjournment to approach the Financial Creditor for settlement. Learned

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counsel for the Respondent submits that no settlement with the Financial Creditor has yet been achieved.

3. Learned counsel for the Appellant challenging the order submits that in view of the judgment of Hon'ble Supreme Court in ***"Vidarbha Industries Power Ltd. vs. Axis Bank Ltd., (2022) 8 SCC 352"***, the Adjudicating Authority has discretion to admit the application and the discretion has to be exercised in accordance with law. He further submits that the Financial Creditor has encashed the Fixed Deposit amount and further several objections were raised by the Corporate Debtor which has not been considered and only finding returned is of debt and default on which application has been admitted.

4. Shri Abhijeet Sinha, learned senior counsel appearing for the Respondent submits that the present is a case where debt and default is an admitted fact. The fact that Appellant is approaching the Financial Creditor for settlement itself indicate the debt and default is admitted.

5. Learned counsel for the Appellant submits that there were two more Financial Creditors with whom Appellant has settled but with respect to the Respondent settlement has not yet taken place. He further submitted that a FD was encashed.

6. We have considered the submissions of learned counsel for the parties and perused the record.

7. The Adjudicating Authority has noticed the submissions which has been advanced by the Appellant relying on the judgment of Hon'ble Supreme Court in ***Vidarbha Industries Power Ltd. (Supra)***. From the facts which have been brought on the record, it is clear that debt and default is not even questioned. Appellant's case is that he has approached the Financial Creditor for settlement which is not yet fructified, itself indicate that there is debt and default, which has not been disputed. Learned counsel for the IRP submits that the CoC has been constituted on 17.05.2025. In the facts of the present case, we are of the view that course open for the Appellant in event any settlement is entered with the Financial Creditor is to file Section 12A application as per law laid down by the Hon'ble Supreme Court in ***"GLAS Trust Company LLC vs. BYJU Raveendran & Ors., 2024 SCC OnLine SC 3032"***. We do not find any ground to interfere with the order impugned admitting Section 7 application. With liberty aforesaid, the Appeal is dismissed.

**[Justice Ashok Bhushan]  
Chairperson**

**[Barun Mitra]  
Member (Technical)**

**[Arun Baroka]  
Member (Technical)**

*Archana/nn*