

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 850 of 2025

IN THE MATTER OF:

Rajesh Kumar Dhingra

...Appellant

Versus

IDBI Trusteeship & Anr.

...Respondents

Present:

For Appellant : Mr. Arun Kathpalia, Mr. Krishnendu Datta, Mr. Anand Chhibbar, Sr. Advocates and Mr. Mahesh Agarwal, Mr. Ankur Saigal, Mr. Himanshu Satija, Ms. Geetika Sharma, Mr. Kaustubh Singh, Mr. Yash Tandon, Advocates.

For Respondents : Mr. Gopal Jain, Sr. Advocate, Ms. Surabhi Khattar, Mr. Shivansh Vishwakarma, Advocates.

O R D E R
(Hybrid Mode)

04.06.2025: This appeal is against an impugned order dated 30.05.2025 whereby an application under Section 9 of IBC, 2016 was admitted by the Ld. National Company Law Tribunal, Mumbai Bench in CP (IB) No. 624/MB/2022.

2. Ld. Sr. Counsel for the Appellant submits a demand notice was sent by the Respondents to the Appellant herein for an amount of Rs. 88,68,19,930/-. In the said demand notice it was clearly stated the Respondent reserved its rights in relation to any other liability for debt owned by the appellant other than as set out herein *including the interest on the default amount* as per the terms of the EPA and the amounts due and

payable by the appellant to the Respondent post 28.08.2018, *including the interest thereon.*

3. It is the submission of the Ld. Sr. Counsel for the Appellant this very paragraph of the demand notice was also inserted in the petition under Section 9 of the IBC wherein also petition was filed for a debt of Rs.88,68,19,930/- as noted at Page No. 75 and 88 of the Appeal Paper Book.

4. It is further the submission of the Ld. Sr. Counsel for the Appellant the appellant filed an affidavit dated 01.08.2024 wherein it offered to make payment of the debt due on or before 16.08.2024. However, the Respondent filed an affidavit dated 19.08.2024 wherein they added interest amount to the amount due as alleged in the demand notice for the first time, without amending the petition under Section 9 of the Code.

5. On perusal of both the above affidavits, the Ld. NCLT had passed an order dated 07.10.2024 stating the matter needs to be settled between the parties, especially when the CD is offering full principal amount to the Operational Creditor, without prejudice. Admittedly, thereafter on 11.10.2024 the Appellant had paid the entire amount of Rs. 88,68,19,930/- as was asked in the demand notice by way of demand draft (copy annexed at Page No. 466 of the appeal paper book). Thereafter on 30.05.2025 the impugned order was passed wherein petition under Section 9 of the IBC was

admitted on grounds of default in payment of interest but on that day itself, a submission was made to stay the operation of the impugned order since the appellant was willing to pay the entire alleged amount of interest too.

6. Admittedly, an amount of Rs. 81,97,85,191/- was paid as alleged interest on 30.05.2025 and thereafter on the alleged short fall of Rs. 9.39 crores, even that was paid on 02.06.2025 along with further Rs. 1.3 Crores, hence a request for stay.

7. The Ld. Sr. Counsel for the Respondent appears and submit the amount of Rs. 88,68,19,930/- paid earlier needs to be first adjusted towards interest and not towards principle. In any case, it is submitted reconciliation of the accounts needs to be done and for that some time is required.

8. In this circumstances, the matter be listed on **18.07.2025** for further orders and in the meanwhile, the impugned order shall remain suspended till the next date of hearing.

[Justice Yogesh Khanna]
Member (Judicial)

[Mr. Indavar Pandey]
Member (Technical)

SA/NN