

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1359 of 2025

&
I.A. No. 5309 of 2025

IN THE MATTER OF:

Small Industries Development Bank of India **...Appellant**

Versus

Sumit Sharma,
Erstwhile RP & Anr. **...Respondents**

Present:

For Appellant : **Mr. NPS Chawla, Mr. Abhinav Mishra and Mr. Ishaan Dhingra, Advocates.**

For Respondents : **Ms. Neha Agarwal, Advocate for R-1.**

Mr. Nitesh Shrivastava, Advocates for SRA.

O R D E R
(Hybrid Mode)

08.09.2025: Heard counsel for the appellant as well as learned counsel appearing on behalf of the respondent No. 1.

2. This appeal has been filed against an order dated 30.06.2025 passed by the adjudicating authority (National Company Law, Tribunal, Jaipur Bench) by which I.A. 637/JPR/2023 filed by the appellant has been rejected.

3. The appellant is a secured financial creditor who has 3.22% voting shares in the CoC, another financial creditor is Punjab National Bank (PNB) having 96.68% voting shares. The resolution plan came to be approved by the adjudicating authority on 12.03.2024 of the corporate debtor. The Committee of Creditors (CoC) has also vide resolution decided on distribution mechanism and CoC decided for distribution on the basis of vote shares of

the creditors. Appellant filed an I.A.637/JPR/2023 praying for following reliefs:

“i) Allow the present application

ii) Pass an order listing the present application along with CP (IB) No. 36/9/JPR/2022 pending before this Hon'ble Tribunal which is already scheduled to be listed on 06.12.2023

iii) Pass an order thereby declaring the resolutions No. 5A and 5B contained in the minutes of the 8th CDC meeting (Adjourned) held on 20.11.2023 as non-est and not maintainable in the eyes of law

iv) Pass any such other or further order(s) which this Hon'ble Tribunal may deem fit in the interest of justice.”

4. The application came to be dismissed by the impugned order against which order this appeal has been filed.

5. Counsel for the appellant submits that appellant has successful security interest on the plant and machinery and hence the distribution ought to have been on the basis of the security interest of the appellant.

6. An application was filed three months before the approval of the resolution plan which was not decided and there is no consideration of the claim raised by the appellant.

7. Counsel for the RP submits that distribution mechanism was already decided by the CoC on the basis of vote shares and thereafter the plan was approved which has now been implemented fully and the adjudicating authority did not commit any error in rejecting the application.

8. We have considered the submissions of counsel for the parties and perused the records.

9. It is not disputed that CoC has already taken a position to adopt voting shares for the distribution of the debt between the creditors, although the said was objected by the appellant in the application but application remain pending and resolution plan also stood approved on 12.03.2024.

10. The judgment of this Tribunal in [**Comp. App. (AT) (Ins.) No. 321/2024**] in '**State Bank of India' Vs. IDBI Bank Limited & Anr.**' decided on 28.01.2025 also fully supports the proposition for distribution on the basis of pro-rata basis. In paragraphs 19 to 21 of the judgment, following has been laid down:

“19.** In view of the forgoing discussions and our conclusions, we are of the view that Adjudicating Authority has not committed any error in directing distribution of sale proceeds as per the admitted claim of the Financial Creditor pro-rata basis and the directions issued by the Adjudicating Authority is in accordance with law as declared by the Hon'ble Supreme Court in '**Amit Metaliks Limited' (Supra).

***20.** We, thus do not find any good ground to interfere with the Impugned Order. Both the Appeals are dismissed. The amount as per re-distribution in pursuance of the Impugned Order shall be made over to the Secured Creditors, including the IDBI Bank Ltd., along with the interest as directed on 29.02.2024. Both the Appeals are dismissed accordingly.*

***21.** We make it clear that any distribution as directed by the Order of the Adjudicating Authority and affirmed in this Appeal shall always be subject to any Order passed by the Hon'ble Supreme Court and as per the law declared by the Hon'ble Supreme Court in Civil Appeal Diary No. 11060/2021.*

Parties shall bear their own costs.”

11. Admittedly, the appellant has vote shares of only 3.22 vote shares and the another creditor – PNB has 96.68% vote shares, the CoC having taken its decision by resolution regarding distribution which remains unaltered. We

do not find any substance in the submission of the appellant that distribution should be on the basis of the security interest.

12. Judgment of the Hon'ble Supreme Court in '**India Resurgence ARC Pvt. Ltd.**' Vs. '**Amit Metaliks Ltd. & Anr.**' reported in [(2021) 19 SCC 672] has already laid down the proposition with respect to distribution which has to be as per the decision of the CoC.

13. Learned counsel for the appellant submits that '**Amit Metaliks**' (*supra*) is under consideration by the Hon'ble Supreme Court in '**DBS Bank Ltd. Singapore**' Vs. '**Ruchi Soya Industries Ltd. & Anr.**' in [Civil Appeal No. 9133/2019]. In event, any judgment is delivered by the Hon'ble Supreme Court, it shall be always open for the appellant to take such remedy as available in the law.

We thus do not find any error in the order of the adjudicating authority.
Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

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