

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL No. 12367 of 2025

Electrosteel Castings Limited

... Appellant

Versus

**UV Asset Reconstruction
Company Limited**

... Respondent

J U D G M E N T

ALOK ARADHE, J.

INTRODUCTION

1. The present appeal, instituted under Section 62 of the Insolvency and Bankruptcy Code, 2016 (hereinafter, referred to as the 'Code') calls in question the judgment dated 24.01.2024 rendered by the National Company Law Appellate Tribunal (NCLAT), whereby, the NCLAT affirmed the order passed by the adjudicating authority (NCLT). The challenge in this appeal is confined to the findings recorded by NCLAT on Question No. (II), which are contained in paragraphs 48 to 59 of the impugned judgment.

2. For proper appreciation of the controversy involved, the material facts giving rise to the present appeal are set out hereinafter.

(ii) FACTUAL BACKGROUND

3. One Electrosteel Limited (ESL) had availed of financial assistance amounting to INR 500 crores from SREI Infrastructure Finance Limited (SREI), vide sanction letter dated 26.07.2011. SREI was the original creditor, which subsequently assigned all its rights and interest in favour of UV Asset Reconstruction Company Limited (ARC).
4. Under the sanction letter, the only security for the facility comprised a demand promissory note and post-dated cheques. The sanction letter did not stipulate any requirement for a personal or corporate guarantee from Electrosteel Castings Limited (ECL), the erstwhile promotor of ESL. However, ECL, being the promoter of ESL, was required to furnish an undertaking to arrange for the infusion of funds.
5. On the same day, an addendum to the sanction letter was issued by SERI, providing for an additional security for the facility in the form of subservient charge over movable and

project assets of ESL. On 26.07.2011 itself, SREI and ESL executed a Rupee Loan Agreement. Clause (d)(3) of schedule 4 to the loan agreement, required the ECL to furnish an undertaking to arrange for infusion of funds to enable ESL to comply with financial covenants.

- 6.** In pursuance thereof, ECL executed a Deed of Undertaking, warranty, and indemnity dated 27.07.2011 (undertaking) whereby it undertook a limited obligation to arrange for infusion of funds into ESL. Clause 2.2 of the aforesaid guarantee provides that ECL shall arrange for infusion of such amount of funds into the ESL, as may be necessary to enable ESL to comply with stipulated financial covenants.
- 7.** Subsequently on 21.11.2011, ESL, ECL and SREI entered into a Supplementary Agreement amending the facility agreement and the security package for the facility. As per Revised Term 3.1.6 in Schedule III to the aforesaid Supplementary Agreement dated 21.11.2011, ECL offered the first mortgage on its land admeasuring Acres 102.3 Cents, with a factory building, together with all benefits and advantages accruing thereon, situated at Elavur Village, Ponneri Taluk, Chinglepet District, Tamil Nadu, to SREI.

Pursuant thereto, Declaration dated 23.11.2011 was executed by ECL in favour of SREI, creating an equitable mortgage by deposit of the title deeds of the aforesaid property at Elavur Village. ECL recorded therein that the mortgage was to secure the due repayment, discharge and redemption by ESL to SREI of the financial assistance advanced or to be advanced by SREI to ESL.

(iii) CORPORATE INSOLVENCY RESOLUTION PROCESS OF ESL

8. On 27.06.2017, State Bank of India, one of the lenders of ESL, filed an application under Section 7 of the Code, before NCLT Kolkata, which was admitted on 20.07.2017. Thereafter, by an order dated 17.04.2018, passed under Section 31 (1) of the Code, the NCLT Kolkata, approved the Resolution Plan submitted by Vedanta for acquisition of ESL. Under the approved Resolution Plan, Vedanta was required to make a deposit of INR 5320 crores as upfront cash payment under the Resolution Plan in an escrow account to be distributed to the creditors of ESL towards 'Sustainable Debt'. The entire remaining financial debt amounting to INR 7399.13 crores was categorised as 'unsustainable debt' and was converted into 739,91,32,055

fully paid-up equity shares of ESL with face value of INR 10 each, as part of the Resolution Plan. SREI received INR 241.71 crores in cash and equity shares worth INR 336.19, crores in lieu of its total admitted claim of INR 577.90 crores.

9. Upon implementation of the Resolution Plan, SREI issued an unconditional 'no dues certificate' to ESL certifying full discharge of ESL's liability. However, SREI subsequently claimed that it was allotted reduced number of shares upon conversion of balance debt. On 30.06.2018, SREI executed a Deed of Assignment in favour of the ARC, purporting to assign the alleged residual debt.

(iv) PROCEEDING BEFORE THE ADJUDICATING AUTHORITY

10. The ARC thereafter filed an application under Section 7 of the Code before the NCLT, Cuttack, asserting that; (i) a residual debt, subsisted despite the implementation of the Resolution Plan, and (ii) ECL had furnished a corporate guarantee for the debt of ESL.
11. The NCLT, by an order dated 24.06.2022, *inter alia* held that the entire admitted debt of ESL stood repaid and discharged in full, pursuant to approval of the Resolution Plan, and that there was no surviving debt to be enforced against ECL. It

was further held that ECL was not a guarantor and that conversion of debt into equity resulted in extinguishment of liability. Accordingly, the application filed by ARC under Section 7 of the Code was dismissed.

(v) PROCEEDING BEFORE NCLAT

12. Aggrieved thereby, ARC preferred an appeal before the NCLAT. The NCLAT framed two issues for adjudication namely, (i) whether ECL was a guarantor to SREI for the financial facilities availed by ESL, and (ii) whether approval of Resolution Plan of ESL resulted in extinguishment of entire debt, barring any claim against ECL. The NCLAT answered the first issue in the negative, holding that ECL could not be construed as a guarantor under the Deed of Undertaking. While answering the second issue, NCLAT referred to Clause 3.2 (ix) of the Resolution Plan and minutes of the meeting of Committee of Creditors of ECL dated 29.03.2018, and held that it cannot be said that, after approval of the Resolution Plan, the entire debt stood extinguished and no recourse can be taken by the ARC against ECL. It was further held that finding recorded by the NCLAT that 'approval of Resolution Plan has led to

extinguishment and effacement of entire debt of ESL' has to be read as a finding *qua* ESL only and the said finding cannot be read to mean that approval of Resolution Plan has led to extinguishment and effacement of entire debt against third parties as clearly contemplated in Clause 3.2 of the Resolution Plan. Nevertheless, the appeal was dismissed as ECL was not a guarantor. Hence, the present appeal.

(vi) SUBMISSIONS ON BEHALF OF THE APPELLANT

- 13.** Learned senior counsel for the appellant confined the challenge in this appeal to the findings on issue No. (ii). It was contended that entire debt was recovered without any haircut through cash payment and conversion of debt into equity, and that conversion of debt into equity results in irrevocable discharge of the debt. It was submitted that the audited financial statement of ESL reflected no haircut, and subsequent reduction of share capital could not revive the debt.
- 14.** It was argued that there is no concept of debt subsisting only against a guarantor, once it is discharged against the principal borrower and that Clause 3.2 (ix) of the Resolution Plan would have no application where the debt stood fully

extinguished. It is urged that, it is a well settled position in law that once a debt is converted into equity, the debt is discharged and pursuant to conversion, the creditor ceases to be a creditor and transforms, into a shareholder of the issuing company. In support of aforesaid submissions, reliance has been placed on a decision of Delhi High Court¹.

- 15.** It is pointed out that there was no haircut to the financial creditors of ESL, as any haircut accepted by the lenders is a profit to the borrower which would have been recorded in the profit and loss account of ESL. It is submitted that capital reduction does not have the effect of reinstating the debt. It is pointed out that reduction of entire share capital of ESL and simultaneous consolidation of 50 equity shares of 20 paise into one equity share of Rs.10 occurred on 14.06.2018 i.e. eight days post conversion of debt to equity as a subsequent and independent step, and cannot be treated as a haircut or a diminution of receipts by the creditors through unpaid debt.

¹ Commissioner of Income Tax v. Rathi Graphics Technologies Ltd. – 2015 SCC Online Delhi 14470

16. It is also argued that NCLAT's reliance on its judgment² is misplaced. It is also contended that NCLAT's judgment in **Ushdev International Ltd.** is *per incuriam* and is contrary to the decision of this Court in **Lalit Kumar Jain**³. In support of aforesaid submissions, reliance has been placed on Indian Accounting Standard 109, and decisions of Privy Council and this Court⁴. Lastly, it is urged that appeal be allowed.

(vii) SUBMISSIONS ON BEHALF OF THE RESPONDENT

17. *Per contra*, learned Senior Counsel for the respondent submitted that approval of a Resolution Plan does not *ipso facto* discharge the liability of the guarantor/third party. It was contended that the financial creditor took a substantial haircut on unsustainable debt and that Clause 3.2 (ix) expressly preserves the rights against the third parties and security providers. It is submitted that the Resolution Plan

² Committee of Creditors of Ushdev International Ltd. through State Bank of India v. Mr. Subodh Kumar Agarwal, Resolution Professional of Ushdev International Ltd. & Ors., Company Appeal (AT) (Ins) No. 172-173 of 2022

³ Lalit Kumar Jain v. Union of India (2021) 9 SCC 321

⁴ Indian Accounting Standards 109, Relevant @ Clause 3.3., Forbes v. Git & Ors.-1921 SCC OnLine PC 102 (Relevant Paragraphs- 8 to 11), Radha Sundar Dutta v. Mohd. Jahadur Rahim, 1958 SCC OnLine SC 38 (Relevant Paragraphs- 11 to 13), Ramkishorelal and Another v. Kamal Narayan, 1962 SCC OnLine SC 113 (Relevant Paragraph-12,13), Delhi Development Authority v. Karamdeep Finance and Investment India Pvt. Ltd & Ors., (2020) 4 SCC 136 (Para 36), IFCI Limited v. Sutanu Sinha & Ors.- 2023 SCC OnLine SC 1529 : (2024) 248 Comp Cas 217, Disortho S.A.S. v. Meril Life Sciences Private Ltd., 2025 SCC OnLine SC 570 (Paras 26 to 28)

did not provide the financial creditors, including SREI, with full value of unsustainable debt of ESL and the same provided that the rights of financial creditors will not be extinguished. Lastly, it is contended that no interference in this appeal is called for.

(viii) ISSUE FOR CONSIDERATION

18. The sole issue which arises for consideration in this appeal is, whether approval of the Resolution Plan of ESL resulted in extinguishment of entire debt, so as to bar any claim against the ECL as a security provider/promoter.

(ix) ANALYSIS AND FINDINGS

19. We have given our thoughtful consideration to the rival submissions and have perused the records. In order to answer the issue, it is apposite to take note of the admitted facts which are evident from mandatory contents of the Resolution Plan. The total admitted debt of financial creditors was INR 13,395.25 crores. Out of the said amount, an amount of INR 5320 crores was classified as sustainable debt which was to be paid upfront to the financial creditors. After upfront payment of sustainable debt to all financial creditors, an amount of INR 7619.24 crores was treated as

unsustainable debt. The said amount of unsustainable debt was to be converted to new equity shares of ESL amounting to INR 7619.24 crores. As per the Resolution Plan, the share capital of INR 2409.24 crores was to be added to the new equity shares of INR 7619.24 crores. Thus, total issued, subscribed paid up equity share capital of ESL was to become INR 10,028.44 crores comprising 1002.84 crores shares of Rs.10 each fully paid up.

20. The Resolution Plan contemplated steps to be taken which constituted an integral part of the Resolution Plan. Step 2 which was an integral part of the Resolution Plan contemplated that face value of entire ESL share capital, including the newly allotted 761.92 crores shares, was to be reduced from INR 10 each fully paid up to INR .20 fully paid up. As a result of reduction in the face value of the shares, the paid-up share capital of ESL was to be reduced from 10,028.44 crores.

21. Thus, the number of shares reduced from 1002.84 crores of INR .20 each to 20.06 crores shares of INR 10 each. Clause 3.2 (vii)(B) of the Resolution Plan envisages that financial creditors were to hold shares worth INR 152.38 crores

comprising 7.60% of the equity share capital of ESL. Ultimately, in view of unsustainable debt of INR 7619.24 crores under the Resolution Plan, the financial creditors were to receive shares worth only INR 152.38 crores. Therefore, it is evident that difference between INR 7619.24 crores and INR 152.38 crores visited upon the financial creditors vide the approved Resolution Plan. This fact is also indicated in the communication dated 02.06.2018 addressed by Vedanta to the Committee of Creditors of ESL. Annexure-A to the said documents shows that while initially in lieu of conversion of Unsustainable Debt of ESL, the total number of shares initially allotted to financial creditors was 739,91,32,055, upon reduction in face value and consolidation, these became 14,79,82,641 shares. SREI which was initially allotted 33,61,85,524 shares of INR 10 each on or around 06.06.2018, was on reduction of face value of shares received 67,23,710 shares of INR 10 each on or around 14.08.2018. Thus, it is evident that the Resolution Plan did not provide the financial creditors, including SREI, with the full value of unsustainable debt of ESL.

22. At this stage, it is apposite to take note of relevant extract of Clause 3.2 (ix) of the Resolution Plan, which read as under: -

“...Furthermore, the company shall stand discharged of any default or event of default under any loan documents or other financing agreements or arrangements (including any aide letter, letter of comfort, letter of undertaking etc.) and all rights/remedies of the creditors shall stand permanently extinguished except any rights against any third party (including the Existing promoter) in relation to any portion of Unsustainable Debt secured or guaranteed by third parties. Furthermore, it is hereby clarified that upon approval of the Resolution Plan by the NCLT, no further consent of any creditor (Financial Creditor, Operational Creditor or otherwise) shall be required to implement the Resolution Plan. Notwithstanding anything contained in this Resolution Plan, if any third party guarantor or security provider (including the Existing Promoters) (who has guaranteed or secured any portion of that availed by the Company prior to Insolvency Commencement Date, including the Existing Promoters who have created pledge over shares of Electrosteel Castings Limited or the Company), makes any claim against the Company or Vedanta or the SPV on account of any invocation/enforcement of such guarantee or security provided, as the case may be (including the invocation of pledge over shares of Electrosteel Castings Limited or the Company) by the Financial Creditors of the Company in any circumstance (including on account of subrogation or equity), its Claim shall be settled at NIL value at par with the Claims of Operational

Creditors as set out in Section 3.4 ii of this Resolution Plan.”

- 23.** Thus, from perusal of the aforesaid Clause, it is evident that the Resolution Plan unequivocally provides that rights against any third party, including a security provider/existing promotor in relation to any portion of unsustainable debt, secured or guaranteed by such third parties, will not be extinguished. It further provides that, if any third-party security provider (including the Existing Promoter) who has guaranteed or secured any portion of debt availed by ESL prior to insolvency commencement date, including the Existing Promoter who have created pledge of shares of ECL or ESL, makes any claims against ESL or Vedanta or SPV on account of any invocation/enforcement of such guarantee or security provided, such claim should be settled at NIL value.
- 24.** It is well settled that approval of the Resolution Plan does not *ipso facto* discharge a security provider of her or his liabilities under the contract of security. Clause 3.2 (x) of the Resolution Plan explicitly reserves the rights of financial creditors against such third parties, including security providers/existing promoters, in relation to the unsustainable debt.

(x) CONCLUSION

- 25.** For the aforementioned reasons, the issue involved in the appeal is answered in the negative. The approval of the Resolution Plan of ESL does not result in extinguishment of entire debt, so as to bar any claim against the ECL as a security provider/third-party surety.
- 26.** In view of preceding analysis, we do not find any infirmity in the impugned judgment of the NCLAT. The appeal is accordingly dismissed. There shall be no order as to costs.

.....**J.**
[SANJAY KUMAR]

.....**J.**
[ALOK ARADHE]

NEW DELHI;
JANUARY 06, 2026.