

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 1192 of 2025 &
I.A. No. 4654, 4658 of 2025

IN THE MATTER OF:

Mukesh Goel

...Appellants

Versus

Santanu Brahma & Anr.

...Respondents

Present:

**For Appellant : Mr. Diwakar Maheshwari, Mr. Shreyas Edupuganti
and Mr. Karan B., Advocates.**

For Respondents : Mr. Dipankar Das, Advocate for Respondent no.2.

O R D E R
(Hybrid Mode)

11.08.2025: Ld. Counsel for the Appellant submits that this appeal has been filed limited to paragraph- 28 & 39 of the impugned order dated 27.03.2025. It is submitted that under the resolution plan there was already contemplation for release of all personal and corporate guarantees and third party assets provided in security for the debt on payment of the amount. The observations made in paragraph-28 & 39 have been made without looking into the said clause in the plan which has already been approved.

2. Heard counsel for the Appellant, Ld. Counsel appearing for Committee of Creditors and the Respondent no.2 who is contesting party in the matter.

3. This appeal has been filed limited to observations made by Adjudicating Authority paragraph- 28 & 39 in the impugned order dated 27.03.2025 by which the Resolution Plan submitted by the appellant has been approved. The challenge in the appeal is only two paragraphs, paragraph- 28 & 39 which are as follows:-

“28. Hence, we would infer that if there are any personal guarantors of the corporate debtor, the personal guarantees shall be invoked and an appropriate action against them, in accordance with law, be taken.

39. It is not on record that whether the Financial Creditors have invoked Personal Guarantees or not. It is essential for the purpose of maximization for wealth of the Corporate Debtor, personal guarantees need to be invoked. Therefore, we direct the Financial Creditors to invoke Personal Guarantees, if not already done.”

4. Ld. Counsel for the appellant submits that in the resolution plan there was contemplation of release of all personal and corporate guarantees and third party assets on payment of which he has referred to. He submits that in view of aforesaid there was no occasion for making any observation with regard to as has been made in paragraphs- 28 & 39. Ld. Counsel for the appellant also referred to the letter of the Committee of Creditors dated 03.07.2024 by which the CoC has already sent a communication clarifying to the CoC reiterating the same position in para-1. It is submitted that the resolution plan having been approved by the 100% CoC. The observations made in paragraphs- 28 & 39 are contrary to the terms of the plan and unsustainable. Ld. Counsel for the CoC also submits that in view of the plan which has been approved the observations made in paragraph- 28 & 39 are not necessary.

5. We have considered the submission of the counsel for the parties and perused the records.

6. The copy of the plan is the part of the record. Ld. Counsel for the appellant has referred to the Executive Summary at Page- 262 of the paper book which provides as follows:-

“1. EXECUTIVE SUMMARY

Mr. Mukesh Goel is acting as the Resolution Applicant ("RA") in this Resolution Plan for M/s Aanchal Ispat Limited ("AIL" or "Company" or "Corporate Debtor"). Mr. Goel is the erstwhile

promoter of the Company and is eligible to submit this Plan under Section 240A of the Insolvency and Bankruptcy Act, 2016 ("Code") as updated time to time.

It is to be noted that Section 240A(1) of the Code provides that provisions of Section 29A(c) and 29A(h) of the Code will not apply to a resolution applicant in respect of any micro, small and medium enterprises. The Corporate Debtor is a Medium Enterprise (copy of Udyam Certificate having Certificate No:-Udyam-WB-08-0007012 classifying that the Company qualifies as a Medium enterprise is also available on the web portal of the Corporate Debtor). Hence, RA is qualified to act as a resolution applicant of the Corporate Debtor.

The RA under this Plan proposes that the entire creditors whose Claims have been admitted on or prior to the NCLT Approval Date shall be settled by way of payment of Rs. 54.50 crores as per the break-up furnished in the table below. The completion of payment under the approved plan shall also serve to release all Personal and Corporate Guarantees and Third-Party Assets provided as security for the debt taken and defaulted by the Corporate Debtor:"

7. The Ld. Counsel for the appellant has also referred to page- 342 where specific undertaking has been recorded which is as follows:-

"Undertaking

Notwithstanding anything contained hereinabove

a) the securities and personal guarantees and corporate guarantees shall only be released after complete implementation of The Resolution Plan; and

b) the payment proposed to be made to the Secured Financial Creditor INR 47.25 Cr shall not get reduced under any circumstances and/or contingent event."

8. Ld. Counsel for the appellant has also referred to the letter of the CoC dated 03.07.2024 which is at page- 451 of the paper book, para-1 of the letter states that only after complete implementation and payment of resolution

plan amount personal and corporate guarantee shall stands released. Para-1 is as follows:-

“1. The Resolution Plan submitted by Mr. Mukesh Goel, Promoter of Aanchal Ispat Ltd. (in CIRP) include terms whereby all the guarantees (i.e. both personal and corporate guarantees) and security interest in respect of the credit facility extended to M/s. Aanchal Ispat Ltd. (in CIRP) be settled and released, only after complete implementation and payment of the resolution plan amount of INR 54.50 Crores.”

There was no question of invocation of personal guarantee as observed in paragraph-28 and 39. When personal guarantee were being released on payment after implementation of the plan invocation of personal guarantee was not even contemplated. The observations made in paragraphs- 28 & 39 of the impugned order are not in accordance with the clause of the resolution plan as noted above which was approved with 100% CoC. When the CoC itself has agreed to release the personal guarantees after receiving the payment under the plan question of invocation of personal guarantee does not arise. We thus are satisfied that observations made in paragraphs- 28 & 39 needs to be deleted from the impugned order. Order accordingly. Appeal is disposed of.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

harleen/NN