

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 642 - 644 of 2023 &
I.A. No. 2116 of 2025

IN THE MATTER OF:

Vir Jai Khosla

...Appellants

Versus

Nemo

...Respondents

Present:

For Appellant : Mr. Deepak Khosla, Advocate.

For Respondents : Dr. Abhishek Manu Singhvi, Sr. Advocate with Ms. Ruby Singh Ahuja, Mr. Ashim Sood, Mr. Vishal Gehrana, Ms. Aakriti Vohra, Mr. Devang Kumar, Mr. Amit Bhandari, Mr. Varun Khanna, Mr. Prateek Kundu, Ms. Isha Khurana, Advocates for AMNS.

ORDER
(Hybrid Mode)

IA No. 2116 of 2025 has been filed in Company Appeal (AT)(Ins.) No. 642-644 of 2023 by Mr. Vir Jai Khosla-Applicant under Rule 11 of the NCLAT Rules for video recording of the proceedings in the above appeals.

2. To put things in their chronological perspective, in the CIRP of Essar Steel India Ltd. (ESIL), the resolution plan of Arcelor Mittal India Pvt. Ltd. (AMIPL) (now merged with Arcelor Mittal Nippon Steel India Pvt. Ltd.) was approved by the Adjudicating Authority on 08.03.2019 and affirmed by this Tribunal on 04.07.2019. This plan was further upheld by the Hon'ble Supreme Court on 15.11.2019 in ***Committee of Creditors Vs Satish Kumar Gupta &***

Ors. (2020) 8 SCC 531. Another entity, Odisha Slurry Pipeline Infrastructure Ltd. (OSPIL) also came under the rigours of CIRP following which AMIPL in this case too submitted a resolution plan which was approved by the Adjudicating Authority on 02.03.2020; affirmed by this Tribunal on 18.01.2022 and further upheld by the Hon'ble Supreme Court on 10.11.2022.

3. Subsequently, IA No. 832 of 2022, was filed before the Adjudicating Authority by M/s Srei Multiple Asset Investment Trust (SMAIT) against several Respondents seeking to initiate proceedings under the provisions of IPC; Section 195 of CrPC and other provisions of law for abetting perjury for filing false affidavits making false declaration vesting the title of the slurry pipeline with ESIL though the dispute about the title of the said pipeline was still pending in Civil Court at Sealdah, West Bengal. The Adjudicating Authority on 21.02.2023 rejected IA No. 832 of 2022 after taking notice that the alleged dispute surrounding the title of the slurry pipeline was not raised by SMAIT before it when the resolution plan of ESIL was taken up for consideration. It is pertinent to note that until this stage, Mr. Vir Jai Khosla, the present Applicant was not a party to the proceedings.

4. Aggrieved by the above order of the Adjudicating Authority in IA No. 832 of 2022, a recall application vide IA No. 283 of 2022 was filed by SREI Infrastructure Finance Ltd. (SIFL) and present applicant, Mr. Vir Jai Khosla as a shareholder in SIFL under Section 44 of the Indian Evidence Act, 1872 seeking recall of the order dated 21.02.2023. After satisfying itself that the

order dated 21.02.2023 was not based on any fraudulent statement, this recall application was rejected by the Adjudicating Authority on 17.03.2023.

5. The present Applicant has now filed Company Appeal No. 642-644 of 2023 against the orders of the Adjudicating Authority dated 21.02.2023 and 17.03.2023 respectively in IA No. 832 of 2022 and IA No. 283 of 2023 in C.P.(IB) No. 40 of 2017. IA No. 2130 has been filed by the Applicant under Order-I (Rule 8A) of the CPC alongwith the Company Appeals praying for formal orders that the present appeal be heard and decided ex-parte.

6. However, when the Company Appeals came up for hearing before us on 15.04.2025, the Learned Counsel for the Applicant vehemently insisted that before the Company Appeals are considered, hearing should commence in the first instance on IA No. 2116 of 2025 which has been filed under Rule 11 of the NCLAT Rules for video recording of the proceedings in the above appeals.

7. During the hearing held on 15.04.2025, Learned Counsel for the Applicant dilated at length upon the rationale for insisting on capturing the proceedings by video recording and for this purpose relied on an order of the Hon'ble Supreme Court in ***Orbit Electricals Pvt. Ltd vs Deepak Kishan Chhabria & Ors. in Contempt Petition (C) No.1195/2023*** dated 30.10.2023 and order of this Tribunal in ***Standard Chartered Bank vs Satish Kumar Gupta*** in IA Nos 2853 and 2854 of 2023 of ***CA(AT)(Ins)No. 242 of 2019***. Attention was also adverted to the orders passed by the Hon'ble Delhi High Court on 03.07.2024 while disposing W.P.(C) 8580 of 2024 in ***Gujarat Operational Creditors Association Vs National Company Law Tribunal,***

New Delhi & Ors. and the consequential Administrative Order issued by this Tribunal on 22.11.2024 which provides scope for video-recording of proceedings. It was urged that the proceedings in the Company Appeals need to be recorded since the whole matter smacks of fraudulent statements made by certain entities/persons. It is the case of the Applicant that the impugned orders of 21.02.2023 and 17.03.2023 having been obtained by fraud, it is necessary to have video-recording to help in recording of arguments in a verifiable form with accuracy so as to ensure the accountability of all the actors in these proceedings.

8. At this juncture, it may be useful to refer to the relevant portions of the aforesaid Administrative Order in the context of recording of proceedings as envisaged under the extant Revised Standard Operating Procedure devised by this Tribunal for virtual mode hearing under its auspices which is as extracted below:

“15. We have already noticed Revised SOP issued by the NCLAT where recording and use in any manner of the proceedings of the hearing through VC is strictly prohibited. In view of what has been noted above, on viability of the directions sought in the writ petition concerning recordal of proceedings, following is directed:-

(i) The recordal of proceedings in an Appeal/ Application pending before the NCLAT is permissible only on prior order obtained by any of the parties to the proceedings from the Court concerned.

(ii) The permission for recording of the proceedings can be granted by Court concerned after looking into the special reason for recording as claimed by Applicant after giving an opportunity to other side.

(iii) On direction issued by the Court, as made above, Registry shall make all necessary arrangements for recording of the proceedings

which shall confine to the recording of the proceedings in the nature and manner as directed by the Court.

(iv) The proceedings recorded by the Registry as per the direction of the Court shall be separately kept and shall be used and provided to the parties in the manner as directed by the Court.”

9. From a plain reading of Para 15 of the above Administrative Order it becomes clear that recording of proceedings is not to be ordinarily resorted to but has to be permitted by the Court concerned, on a request so made, subject to meeting the criterion of “special reason” warranting such recording.

10. Given this backdrop and without commenting on the locus of the Applicant, we now like to dwell upon the request of the Applicant to allow video-recording of the proceedings. When we look back at the sequence of events, it is an undisputed fact that both the resolution plans of ESIL and OSPIL have met the approval of the Adjudicating Authority as also of this Tribunal and most importantly that of the Hon’ble Apex Court. Both the resolution plans of ESIL and OSPIL have also been fully implemented. It is also apparent from material on record that the present Applicant did not participate in the CIRP proceedings of ESIL or OSPIL not being a party therein. It would not be off the mark for us to take the view that till the stage of plan approval, this Applicant was nowhere in the picture. Therefore, the question of the Applicant having agitated their cause on account of their interests having been adversely touched or affected, either substantially or marginally, either at the stage of CIRP proceedings of ESIL or OSPIL or until approval of the plan clearly does not arise. The Applicant came into the lis directly for the first time as late as in 2023 when it filed a recall application vide IA No. 283 of 2022 seeking recall of

the order of Adjudicating Authority dated 22.02.2023. It is also pertinent to note that the Applicant has filed IA No. 2130 as mentioned at para 5 above in which IA a prayer has been made to the effect that the Company Appeal be adjudicated ex-parte without granting any opportunity of audience/hearing/reply to certain Respondents who have been classified by the Applicant as “Prospective Accused”. In such peculiar circumstances, this Bench was of the view that the Applicant ought to proceed with making its submissions in the Appeal to make good its request for recording of proceedings. The Applicant was also repeatedly persuaded to give up their misapprehensions and be rest assured that this Bench would take utmost care to take note of each and every argument canvassed and contentions raised. It was also explained that the Applicant will also have the liberty of filing written submissions wherein it can adequately and sufficiently highlight all questions of law and fact and other related contentions in the matter which would suffice for meeting the ends of justice. However, the Applicant insisted on hearing of IA No 2116 by reiterating in generalised terms that a colossal fraud had occurred in the events leading up to the approval of the resolution plans. The pre-requisite conditions of indicating “special reasons” required to be met under Para 15(ii) of the Administrative Order does not stand fulfilled. We, therefore, do not do not find any exceptional grounds or compelling consideration which warrants the need to record the proceedings.

11. In result, we are not in a position to accede to the request of the Applicant for video-recording of the hearing. IA No. 2116 of 2025 is disposed of in the above terms. No costs.

**[Justice Ashok Bhushan]
Chairperson**

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

**Place: New Delhi
Date: 14.07.2025**

Abdul/Harleen