

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 805 of 2025

IN THE MATTER OF:

**United Bank of India
(Now Punjab National Bank)**

...Appellant

Versus

Concast Morena Road Projects Pvt. Ltd.

...Respondent

Present:

For Appellant : Mr. Rajesh Kumar Gautam, Mr. Deepanjal Choudhary, Mr. Azal Aekram, Ms. Likivi Jakhalu, Advocates.

For Respondent :

ORDER
(Hybrid Mode)

07.10.2025: Heard learned counsel for the Appellant. This appeal has been filed against the order dated 19.12.2024 passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata by which Section 7 application filed by the Appellant has been rejected by the Adjudicating Authority on the ground that disbursement has not been proved and application is barred by limitation.

2. Brief facts necessary to be noticed to decide the appeal are:

2.1 The Appellant Bank claimed to have disbursed the amount to the Corporate Debtor of Rs.46.16 Crores in the year 2013. The default was committed by the Corporate Debtor on 19.09.2025.

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2.2 The proceedings were initiated by the Bank under Section 19 of Recovery of Debt and Bankruptcy Act, 1993 being OA No.609 of 2016 which is pending consideration.

2.3 Section 7 application was filed by the Appellant on 10.12.2019. Notices were issued in the application but no one appeared on behalf of the Corporate Debtor. The application has been dismissed by the Adjudicating Authority on two grounds as noted above.

3. Shri Rajesh Gautam, learned counsel appearing for the Appellant challenging the order submits that the Adjudicating Authority committed error in holding that no disbursement was made whereas the NeSL certificate clearly mentioned that the debt was not disputed and further relevant bank statements were filed proving disbursement. On application being barred by limitation, learned counsel for the Appellant submits that amounts were received in the account of the Corporate Debtor in the year 2015-16. He further submitted that the Appellant was entitled for benefit under Section 14 of the Limitation Act in view of the filing of OA under Section 19, which is still pending. He has placed reliance on the judgment of Hon'ble Supreme Court in **(2021) 7 SCC 313, Sesh Nath Singh & Anr. vs. Baidyabati Sheoraphuli Co-operative Bank Ltd. & Anr.**

4. We have considered the submissions of learned counsel for the appellant and perused the record.

5. In so far as submission of the Appellant that there was sufficient proof of disbursement, we are of the view that learned counsel for the Appellant has

rightly in his submissions has referred to NeSL Certificate, which was not disputed and bank statement which was on the record to prove disbursement. Moreso, the Corporate Debtor not appearing before the Adjudicating Authority and not disputing the disbursement, the Adjudicating Authority ought not to have returned that finding.

6. Coming to the submission of the Appellant regarding application being barred by limitation, the date of default is 19.09.2015 and Section 7 application was filed on 10.12.2019 i.e. beyond three years. Two submissions have been advanced to contend said argument. First is that the amounts were deposited in the account of the Corporate Debtor on two dates i.e. 25.11.2016 of Rs.89,11,116/- and Rs.1000/- on 17.12.2016. Coming to the amount which are shown in the bank statement, the deposit on 25.11.2016 does not give benefit to the Appellant since application was filed after three years after said date. Coming to the deposit of Rs.1000/- is claimed on 17.12.2016, it is clear that said amount shown is as cash deposit, there is nothing more on the record to come to the conclusion that Bank was entitled for benefit under Section 19 of the Limitation Act.

7. Now coming to the submission of the Appellant that Appellant has filed an OA in the year 2016, which OA is still pending, hence, Appellant is entitled for benefit of Section 14 of the Limitation Act. He has placed reliance on judgment of Hon'ble Supreme Court in **(2021) 7 SCC 313, Sesh Nath Singh & Anr. vs. Baidyabati Sheoraphuli Co-operative Bank Ltd. & Anr.** In the matter before the Hon'ble Supreme Court, the benefit of Section 14 of the Limitation Act was extended by the SARFAESI proceeding which was initiated

and subsequently stayed by the High Court on the ground that the proceedings were without jurisdiction. In the above background, the Hon'ble Supreme Court in Paras 85, 86 and 93 as well as in Para 100 laid down following:

“85. In our view, since the proceedings in the High Court were still pending on the date of filing of the application under Section 7 IBC in NCLT, the entire period after the initiation of proceedings under the SARFAESI Act could be excluded. If the period from the date of institution of the proceedings under the SARFAESI Act till the date of filing of the application under Section 7 IBC in NCLT is excluded, the application in NCLT is well within the limitation of three years. Even if the period between the date of the notice under Section 13(2) and date of the interim order [Debitech Fabtech (P) Ltd. v. Baidyabati Seoraphully Coop. Bank Ltd., 2017 SCC OnLine Cal 9738] of the High Court staying the proceedings under the SARFAESI Act, on the prima facie ground of want of jurisdiction is excluded, the proceedings under Section 7 IBC are still within limitation of three years.

86. An adjudicating authority under IBC is not a substitute forum for a collection of debt in the sense it cannot reopen debts which are barred by law, or debts, recovery whereof have become time-barred. The adjudicating authority does not resolve disputes, in the manner of suits, arbitrations and similar proceedings. However, the ultimate object of an application under Section 7 or 9 IBC is the realisation of a “debt” by invocation of the insolvency resolution process. In any case, since the cause of action for initiation of an

application, whether under Section 7 or under Section 9 IBC, is default on the part of the corporate debtor, and the provisions of the Limitation Act, 1963, as far as may be, have been applied to proceedings under the IBC, there is no reason why Section 14 or 18 of the Limitation Act would not apply for the purpose of computation of the period of limitation.

93. *If, in the context of proceedings under Section 7 or 9 IBC, Section 14 were to be interpreted with rigid and pedantic adherence to its literal meaning, to hold that only civil proceedings in court would enjoy exclusion, the result would be that an applicant would not even be entitled to exclusion of the period of time spent in bona fide invoking and diligently pursuing an earlier application under the same provision of the IBC, for the same relief, before an adjudicating authority, lacking territorial jurisdiction. This could not possibly have been the legislative intent.*

100. *In any case, Sections 5 and 14 of the Limitation Act are not mutually exclusive. Even in a case where Section 14 does not strictly apply, the principles of Section 14 can be invoked to grant relief to an applicant under Section 5 of the Limitation Act by purposively construing “sufficient cause”. It is well settled that omission to refer to the correct section of a statute does not vitiate an order. At the cost of repetition it is reiterated that delay can be condoned irrespective of whether there is any formal application, if there are sufficient materials on record disclosing sufficient cause for the delay.”*

8. Judgment of the Hon'ble Supreme Court was a case where SARFAESI proceeding were initiated which were prima facie without jurisdiction and on the said ground the High Court has already stayed the said proceedings that they are prima facie without jurisdiction, benefit of Section 14 of the Limitation Act was extended in the said background. Present is a case, where benefit of Section 14 of Limitation Act is claimed on the basis of proceedings initiated under Section 19 of the Recovery of Debt and Bankruptcy Act, 1993, which was filed for recovery. It is not case of the bank that the proceedings initiated before the DRT were without jurisdiction or there was any defect of jurisdiction or cause of like nature to extend benefit under Section 14 of the Limitation Act. The judgment of the Hon'ble Supreme Court in **Sesh Nath Singh & Anr.** is not applicable in the facts of the present case.

9. We, thus, are of the view that the Adjudicating Authority has rightly rejected the Section 7 application filed by the Appellant. There is no merit in the appeal. Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Arun Baroka]
Member (Technical)

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