

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 934 of 2025

[Arising out of Order dated 09.05.2025 passed by the Adjudicating Authority
(National Company Law Tribunal, New Delhi, Single Principal Bench), in TA
(IBC) – 16(PB)/2025]

IN THE MATTER OF:

Imbulle Realtors Pvt. Ltd.

...Appellant

Versus

**Sanjeev Kumar,
Director (Power Suspended) of
Realanchor Developers Pvt. Ltd. & Ors.**

...Respondents

Present:

**For Appellant : Mr. Suhail Dutt, Sr. Advocate with Mr. Vikas
Tiwari and Mr. Kumar Deepraj, Advocates.**

**For Respondents : Mr. Krishnendu Dutta, Sr. Advocate with Mr.
Palash S. Singhai, Mr. Harsh Gurbani and Mr.
Harshal Sareen, Advocates for R-1.**

**Mr. Abhishek Anand, Mr. Karan Kohli and Ms.
Ridhima Mehrotra, Advocates for R-2.**

J U D G M E N T

ASHOK BHUSHAN, J.

This appeal has been filed challenging the order dated 09.05.2025 passed by the adjudicating authority (National Company Law Tribunal, New Delhi, Single Principal Bench) in TA (IBC) – 16(PB)/2025, by which order, Learned President NCLT has allowed the Transfer Application filed by the respondent herein. Aggrieved by the order dated 09.05.2025, this appeal has been filed.

2. Brief background facts which are necessary to be noticed for deciding the appeal are:

- i. On an application filed under Section 7 by the financial creditor in a class, Corporate Insolvency Resolution Process (CIRP) against the corporate debtor M/s. Real Anchors Developers Private Limited commenced vide order dated 16.10.2023 passed by the NCLT New Delhi Bench – V.
- ii. In the CIRP of the corporate debtor, appellant filed its claim on 31.10.2023. Against the order admitting Section 7 application, the respondent suspended director of the corporate debtor has filed Comp. App. (AT) (Ins.) No.1404/2023.
- iii. In the appeal on 22.10.2023 an interim order was passed directing the IRP to collate the claims received but was not to constitute Committee of Creditors (CoC) till the next date of hearing.
- iv. The suspended directors entered into settlement with the original Section 7 applicants. Appellant also filed an application before the NCLT seeking direction before the Interim Resolution Professional (IRP) for adjudication of the claim of the appellant.
- v. The Comp. App. AT (Ins.) No.1404/2023 filed by respondent – Sanjeev Kumar was disposed of by this Tribunal on 12.11.2024 giving liberty to the IRP to move an application under 12A read with Regulation 30-A. This Tribunal also observed that NCLT is to act in accordance with the law laid down by ‘Glass Trust Company LLC’ Vs. BYJU Raveendran &

Ors.’ in Civil Appeal No.9986/2024. After the order of this Tribunal dated 12.11.2024 an application under Section 12A was filed by IRP. The 12A application as well as other pending applications were being heard by NCLT, New Delhi Bench V.

- vi. On 02.12.2024, NCLT, New Delhi Court – V passed an order issuing notice to remaining allottees who had not filed their consent, 12A application and other applications including applications filed by the appellant was listed before Court – V from time to time.
- vii. On 25.02.2025, all applications were heard by NCLT. Adjudicating authority directed all sides to file their written submissions along with judicial decisions and matter was fixed for 18.03.2023 for compliance. After 25.02.2025, new Members were appointed in NCLT, Delhi and the bench which heard the application was reconstituted with a new Technical Member. The matter after 25.02.2025 was listed before newly constituted Bench of Court – V on 18.03.2025, 25.04.2025 and on 27.05.2025, but the matter was not heard due to paucity of time.
- viii. The Respondent No. 1 – suspended director of the corporate debtor filed an application being TA (IBC) – 16(PB)/2025 seeking transfer of the company petition to a bench which had heard the matter on 25.02.2025.
- ix. In the Transfer Application only IRP was made a party. Transfer Application was heard by President and by an order dated 09.05.2025

Transfer Application was allowed, transferring the matter to the bench which had heard the matter earlier on 25.02.2025.

x. Aggrieved by the order dated 09.05.2025, this appeal has been filed.

3. We have heard learned counsel for the appellant as well as learned counsel appearing for Respondent No. 1 and learned counsel appearing for Respondent No. 2/IRP.

4. Learned counsel for the appellant challenging the order dated 09.05.2025 passed by the President of NCLT submits that order has been passed in violation of principle of natural justice since the appellant who was one of the stakeholders was neither heard nor was made party by the Respondent No. 1. It is submitted that Respondent No. 1 filed the application for transfer without impleading necessary parties to the Transfer Application. Respondent No. 1 has impleaded the only IRP in Transfer Application and order of transfer was passed. It is submitted that the bench which heard the matter on 25.05.2025 did not reserve the judgment and has only directed the parties to file their written submissions hence, there was no necessity of transferring the matter to the bench which had heard on 25.02.2025. It is submitted that Regular Bench of Court – V proceeded with the matter, which was fully competent to hear and decide the matter. It is submitted that appellant who has already filed the claim has filed an application before the adjudicating authority seeking a direction to consider his claim and in view of the law laid down by the Hon'ble Supreme Court in '**Glass Trust Company LLC' (Supra)**, appellant was also a stakeholder who was required to be heard

by President before transferring the matter. It is submitted that the procedure adopted in deciding the Transfer Application is not in accordance with law. Learned counsel for the appellant further submits that after the transfer of the proceeding to the bench which heard on 25.02.2025, the matter was taken by the bench on 30.06.2025 and without giving any further opportunity, the orders have been reserved.

5. Learned counsel appearing for the Respondent No. 1 submitted that appeal filed by the appellant under Section 61 of the Insolvency and Bankruptcy Code, 2016 (for short the 'Code' or the 'IBC') is not maintainable. Appeal under Section 61 of the IBC can be filed only against an order passed under Part II of the IBC. The present order has been passed under Rule 16(d) of the NCLT Rules, 2016 hence, appeal filed by the appellant under Section 61 of the IBC is not maintainable. It is submitted that the all applications including the application filed by the appellant were heard on 25.02.2025 and the parties were directed to file the written submissions and date was fixed for the compliance. It is submitted that hearing was completed on 25.02.2025 to which no grievance was raised, due to appointment of new Members, the bench was reconstituted with adding a new Technical Member hence, the application of transfer was filed by Respondent No. 1 seeking transfer to the bench which has heard the matter on 25.02.2025. It is submitted that as per the practice followed in the NCLT Bench which had heard the matter need to decide and hence the Transfer Application has rightly been allowed. It is submitted that appellant being not a party to the proceeding, whose claim has not yet been admitted, cannot claim that appellant could have been heard

before passing order on the Transfer Application. It is submitted that there is no error in the order passed by President exercising jurisdiction under Rule 16(d). It is submitted that no ground having been made out to interfere with the order of the President.

6. Learned counsel for the IRP submits that IRP was party to the Transfer Application. IRP being appointed by the NCLT, it is bound to follow the orders passed by the NCLT and the President. It is a prerogative of the President to direct for hearing of a matter by any bench. Learned counsel, Mr Abhishek Anand appearing for the IRP submits that even if the appeal filed by appellant may not be maintainable under Section 61, however, against an order passed by President as NCLT, appeal is contemplated under Section 421 of the Companies Act 2013, (hereinafter referred to as the 'Act'). The President exercises power of the NCLT and the order passed by the President is the order of the NCLT, which is appealable under Section 421 of the Act.

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

8. The first question which need to be considered is as to whether appeal against the order dated 09.05.2025 passed by the President in exercise of jurisdiction under Rule 16(d) of the NCLT Rules, 2016 is maintainable under Section 61. Section 61 of the IBC provides as follows:

“61. Appeals and Appellate Authority.

(1) Notwithstanding anything to the contrary contained under the Companies Act 2013, any person aggrieved by the order of the Adjudicating Authority under this

part may prefer an appeal to the National Company Law Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be filed within thirty days¹ before the National Company Law Appellate Tribunal:

Provided that the National Company Law Appellate Tribunal may allow an appeal to be filed after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed fifteen days.

(3) An appeal against an order approving a resolution plan under [section 31](#) may be filed on the following grounds, namely:—

(i) the approved resolution plan is in contravention of the provisions of any law for the time being in force;

(ii) there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period;

(iii) the debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board;

(iv) the insolvency resolution process costs have not been provided for repayment in priority to all other debts; or

(v) the resolution plan does not comply with any other criteria specified by the Board.

(4) An appeal against a liquidation order passed under [section 33](#), or sub-section (4) of [section 54L](#), or sub-section (4) of [section 54N](#), may be filed on grounds of material irregularity or fraud committed in relation to such a liquidation order.

(5) An appeal against an order for initiation of corporate insolvency resolution process passed under sub-section (2) of [section 54-O](#) may be filed on grounds of material irregularity or fraud committed in relation to such an order.”

9. The NCLT Rules 2016 provides for function of the president. Rule 16(d), which is relevant is as follows:

“16. Functions of the President.- In addition to the general powers provided in the Act and in these rules the President shall exercise the following powers, namely:-

(d) transfer any case from one Bench to other Bench when the circumstances so warrant”

10. Section 2(90) of the Companies Act defines Tribunal means NCLT constituted under Section 408 of the Act. Section 408 of the Act provides for constitution of NCLT. Section 419 of the Act provides for benches of the Tribunal. Section 419(3) is as follows:

“419. Benches of Tribunal.

(3) The powers of the Tribunal shall be exercisable by Benches consisting of two Members out of whom one shall be a Judicial Member and the other shall be a Technical Member:

Provided that it shall be competent for the Members of the Tribunal authorised in this behalf to function as a Bench consisting of a single Judicial Member and exercise the powers of the Tribunal in respect of such class of cases or such matters pertaining to such class of cases, as the President may, by general or special order, specify:

Provided further that if at any stage of the hearing of any such case or matter, it appears to the Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the President, or, as the case may be, referred to him for transfer, to such Bench as the President may deem fit.”

11. By virtue of Section 419(3) read with Rule 16(d), President in passing an order under Rule 16(d) exercises the power of the NCLT. Section 421 provides for appeal from orders of Tribunal. Section 421 of the Act is as follows:

“421. Appeal from orders of Tribunal –

(1) Any person aggrieved by an order of the Tribunal may prefer an appeal to the Appellate Tribunal.

(2) No appeal shall lie to the Appellate Tribunal from an order made by the Tribunal with the consent of parties.

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order of the Tribunal is made available to the person aggrieved and shall be in such form, and accompanied by such fees, as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days from the date aforesaid, but within a further period not exceeding forty-five days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period.

(4) On the receipt of an appeal under sub-section (1), the Appellate Tribunal shall, after giving the parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the Tribunal and the parties to appeal.”

12. Section 61 of the IBC as noticed above provides for an appeal against order passed by adjudicating authority under Part II of the IBC. Order passed by President under Rule 16(d) cannot be said to be an order passed under Part II of the IBC, however, in view of the provisions of Section 421 as noticed above the appeal against an order passed by President under 16(d) is fully maintainable under Section 421 of the Companies Act, 2013. We, thus accept the submission of the Respondent No. 1 that appeal against an order of the Tribunal is not maintainable under Section 61. However, appeal being maintainable under Section 421 of the Act and the present appeal has also been filed within the time as allowed under Section 421 of the Act, we proceed to consider the submission of the parties on merits.

13. The submission which has been much pressed by the appellant is that in the Transfer Application, appellant being also a stakeholder was required to be heard and the order passed by President which is in violation of the principle of natural justice since the appellant was not given an opportunity.

14. As per the NCLT Rules, 2016, Rule 23 provides for presentation of petition or appeal. Rule 37 provides for notice to opposite party. In the Transfer Application, only respondent mentioned was IRP. IRP was heard while passing the order by the President. The question is as to whether the appellant was necessary party in the Transfer Application and was required to be heard by the President. In the appeal which has been filed by the appellant, appellant in paragraph 7(a) and 7(b) has given the facts which are as follows:

“7. Facts of the case:

The facts of the case are given below:

a) The Corporate Debtor - Real Anchor Developers Private Limited, went into Corporate Insolvency Resolution Process (“CIRP”) by the Hon’ble National Company Law Tribunal (hereinafter referred to as the “Hon’ble NCLT”) on 16.10.2023. The Appellant filed its claim on 31.10.2023, which was undoubtedly was within time; however, despite the above, the learned IRP did not decide the claim of Appellant, either way in a complete departure to the NCLT Rules, in a bid to facilitate the settlement between the suspended board and the original applicants, before this Hon’ble Tribunal in an Appeal filed by the Respondent No. 01 (Company Appeal (AT) (Ins.) No. 1404 of 2022). Since, the claim of the Appellant was much higher, i.e., more than, Rs. 5 Crores, hence, this modus operandi was adopted by the Respondent No. 02, in collusion with Respondent No. 01.

b) As per Regulation 13 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations,

2016, it was obligated upon the IRP to decide the claim of the Appellant Company within 7 days and, when the Appellant Company realized that the IRP with the suspended management, is settling the matter with the original applicants and the IRP was deliberately sitting over the claim of the Appellant Company, the Appellant filed an intervention application/ impleadment before this Hon'ble Tribunal, wherein vide order dated 16.07.2024, this Hon'ble Tribunal was pleased to dismiss the same on the ground that the Appellant was not the original applicant and therefore, cannot come in the way of settlement. The Appellant Company by that time had also filed an application under Section 60(5) of the IBC 2016, before the Hon'ble NCLT seeking an order accepting the claim of the Appellant, which is currently pending."

15. According to own pleadings of the appellant, appellant was not party to the proceedings. Appellant has filed an application for accepting its claim which according to the appellant is currently pending. Appellant being not party to the proceeding before the adjudicating authority, we see no substance in the submission that appellant ought have been impleaded in the Transfer Application filed by the Respondent No. 1.

16. Learned counsel for the appellant has also contended that Respondent No. 1 who is the suspended director of the corporate debtor has no right to file any Transfer Application. Learned counsel for the appellant has relied on the judgment of the Hon'ble Supreme Court in **'Glass Trust Company LLC' (Supra)**. The judgment of the Hon'ble Supreme Court in **'Glass Trust Company LLC (Supra)** was a judgment which laid down the law with respect to procedure and manner of withdrawal of company petition under Section 12A read with Regulation 30A of the CIRP Regulations, 2016. The copy of the judgment of this Tribunal passed on 12.11.2024 in Comp. App. (AT) (Ins.) No.1404/2023 was also placed before us, which was an appeal filed by

Respondent No. 1 challenging the order of admission of CIRP. This Tribunal in the said judgment has clearly held that 12A application need to be heard in accordance with the law laid down by the Hon'ble Supreme Court in '**Glass Trust Company LLC (Supra)**', while disposing the appeal following was observed:

"In the circumstances, to enable the IRP to move an appropriate application under Section 12A read with Regulation 30A of the CIRP Regulations, 2016 before the learned NCLT, the present Appeal be listed on 27.02.2025. On moving of such application, the learned NCLT to act in accordance with the law laid down in GLAS Trust Company LLC vs. BYJU Raveendran and Ors. (supra). The application, if so moved, may be decided within eight weeks from today.

I.A. No.6610 of 2024 is also disposed of in terms of the above."

17. The judgment of the Hon'ble Supreme Court in '**Glass Trust Company LLC (Supra)**', thus lays down the law deciding application under 12A. In the present appeal the issue is with regard to only transfer order dated 09.05.2025 passed by President allowing the Transfer Application filed by Respondent No. 1.

18. Learned counsel for the appellant has submitted that even subsequent to the order of transfer, adjudicating authority was required to give a fresh hearing and has reserved the order on 30.06.2025, are the submissions which needs no consideration in the present appeal, said being submissions on 12A application are not subject matter of this appeal.

19. We, thus are satisfied that the order dated 09.05.2025 cannot be faulted on the ground that appellant was not given any hearing by the

President while passing the order. Insofar as the applicants who had initiated Section 7 proceeding, the appeal is not filed by any applicant who was applicant in Section 7 application.

20. Learned counsel for the respondent has relied on the two judgments of this Tribunal in Comp. App. (AT) (Ins.) No.555/2025, in the matter of **‘Hiren Anand Agarwal & Ors.’ Vs. ‘National Company Law Tribunal & Ors.’** decided on 03.04.2025, where while considering Rule 16(d) that is the power of the President, following was observed in paragraph 5:

“5. Rule 16(d) provides that President in exercise of his power transfer any case from one Bench to other Bench when the circumstances so warrant. There is no dispute that exercising the said power President has passed an order which is communicated by the Registrar by letter dated 13.02.2025. Appellant’s case is that the matter was in Court IV where substantial hearing took place and hence, not required to be transferred in another court and earlier the application for transfer was rejected by order dated 02.02.2024. The power vested under Rule 16(1)(d) is exercised by the President from time to time. The President is a master of roaster and he can assign the case from one Bench to another Bench when the circumstances so warrant. There is no dispute that power has been exercised which has been communicated. The submission of the Appellant that the Appellant is entitled to know the circumstances under which the order has been passed does not appeal to us. Exercise of administrative power insofar as transfer of cases is concerned by the President arises in different circumstances including the constitution of Benches, transfer of the Members, re-constitution of the Benches. When President has passed an order for transferring one matter to another Court, we are of the view that the said order does not warrant any interference in exercise of the Appellate Jurisdiction.”

21. To the similar effect, another judgment of this Tribunal in Comp. App. (AT) (Ins.) No.365/2022 in the matter of **‘Anuj Kumar Jain, Ex-Director,**

M/s. P.K. Industries Pvt. Ltd.’ Vs. ‘Rakesh Bhatia (Liquidator of M/s. P.K. Industries Pvt. Ltd.)’ decided on 05.04.2022, where after considering Rule 16 of the NCLT Rules, 2016, following was held by this Tribunal in paragraphs 5 & 6:

“5. The power which has been exercised by the President is under Rule 16 (d) of the NCLT Rules, 2016. Rule 16 of the NCLT Rules provides as follows:-

“Functions of the President.- *In addition to the general powers provided in the Act and in these rules the President shall exercise the following powers, namely:-*

(a) preside over the consideration of cases by the Tribunal;

(b) direct the Registry in the performance of its functions;

(c) prepare an annual report on the activities of the Tribunal;

(d) transfer any case from one Bench to other Bench when the circumstances so warrant;

(e) to withdraw the work or case from the court of a member.

(f) perform the functions entrusted to the President under these rules and such other powers as may be relevant to carry out his duties as head of the Tribunal while exercising the general superintendence and control over the administrative functions of the Members, Registrar, Secretary and other staff of the Tribunal”

6. It is prerogative of the President of NCLT to assign a matter to a particular Bench or tag with any other matter. The power under Rule 16(d) has been exercised by the President. We do not find any merit in the submissions of the Counsel for the Appellant that the order is passed under Rule 146 and opportunity is required to be given before passing the order tagging the case with other two matters. Present is not a case where power has been exercised under Rule 146. The power has been exercised by the President under Rule 16(d). We, thus, are of the view that the submission of

the Appellant that he was entitled for opportunity under Rule 146 before disposal of the Application does not have any merit.

22. The impugned order gives the reason for transferring the matter to the Bench which has earlier heard on 25.02.2025. In paragraph 3 of the order following has been noticed:

“3. It is submitted that in C.P.(IB) No. 225 of 2020 sought to be transferred, IA(I.B.C)/5703(ND)2024 was filed for withdrawal of Corporate Insolvency Resolution Process under Section 12A of Insolvency and Bankruptcy Code, 2016 (IBC) read with Regulation 30A of CIRP Regulations, 2016. The same along with other pending IAs were heard and the hearing was concluded on 25.02.2025 when the Hon'ble erstwhile Bench permitted parties to file Written Submissions, if any and adjourned the matter for the purpose of compliance.”

23. In the impugned order under heading analysis and finding in paragraphs 8 & 9, following was held:

“8. In the light of the directions given by Hon'ble NCLAT on 12.11.2024 and the case having been heard by the Bench consisting of Mr. Mahender Khandelwal, Member (Judicial) and Dr. Sanjeev Ranjan, Member (Technical) on 25.02.2025 more particularly IA(I.B.C.)-5703 of 2024 filed by IRP under Section 12A of Insolvency & Bankruptcy Code, 2016 needs to be heard and decided by the same Bench.

9. In the interest of justice, this application stands ordered with the direction that CP(IB)225 of 2020 along with the applications including IA(I.B.C.)-5703 of 2024 be listed before the Bench consisting of Mr. Mahender Khandelwal, Member (Judicial) and Dr. Sanjeev Ranjan for effective disposal on merits.”

24. We, thus are of the view that no grounds have been made out in this appeal to interfere with the order dated 09.05.2025 and the company appeal deserves to be dismissed. We however, observe that we have only considered the validity of the order dated 09.05.2025 in the present appeal and we have

not expressed any opinion on merits of 12A application or the claim of the appellant which has been raised by filing of an application before the adjudicating authority which are not subject matter of our consideration.

With the above observations, the appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Justice N. Seshasayee]
Member (Judicial)

[Arun Baroka]
Member (Technical)

NEW DELHI

17th July, 2025

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