

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

**Company Appeal (AT) (Ins) No.1583 of 2024 &
I.A. No.6174, 6364 of 2025**

In the matter of:

Siddharth Gupta

...Appellant

Vs

Isinox Ltd.
(Through the IRP Gauri Pankaj Deshpande) & Anr.

...Respondents

Present:

Appellant: Mr. Shaunak Kashyap, Mr. Mayank Dhawan, Mr. Vikram Kalra, Ms. Ragini Singh, Ms. Priya Rai, Advocates
Mr. P. Nagesh, Sr. Advocate with Mr. Brijesh K. Tamber, Mr. Prateek Kushwaha, Dhimaan Dutta, Advocates for
Interveners
Mr. Gaurav Mitra, Ms. Anju Bhushan Gupta, Mr. Aditya Goel, Mr. Sanyam Gupta, Advocates in IA 6364/2025

Respondent: Mr. Jatin Kumar, Mr. Aashray Chaudhary, IRP/R-1

O R D E R
(Hybrid Mode)

10.03.2026 - I.A. No.6174 and I.A. No.6364 of 2025

M/s Indian Bank, the applicant in I.A.6364 of 2025 had a security interest over a certain asset of the CD, and it sold the same to the applicant in I.A.6174 of 2025. This sale had taken place when the moratorium of the CD pursuant to an Order of the Adjudicating Authority admitting the CD to CIRP was in force. They both have now come forward with these applications for impleading themselves in the present appeal. The backdrop that provided the setting for these

applications has been provided vide the Order of this Bench dated 24.03.2025, and it reads as below:

“Somesh A. Naik filed an application under Section 7 of the Insolvency & Bankruptcy Code, 2016 (‘Code’) bearing CP (IB) No. 216/MB-IV/2022 before the National Company Law Tribunal, Mumbai Bench - IV against the Corporate Debtor, namely, M/s Isinox Limited.

The application was admitted on 17.03.2023 as a result thereof, the moratorium under Section 14 of the Code was imposed. The order dated 17.03.2023 was challenged in appeal by the Suspended Director of the Corporate Debtor bearing Company Appeal (AT) (Ins.) No. 430 of 2023 in which stay was granted on 11.04.2023, in the following manner :-

“In the meantime, dated 17.03.2023 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench shall remain stayed.”

The Company Appeal (AT) (Ins.) No. 430 of 2023 was ultimately allowed by this Court on 16.12.2024 and CIRP proceeding initiated vide order dated 17.03.2023 was set aside.

While the aforesaid appeal, bearing Company Appeal (AT) (Ins.) No. 430 of 2023, was pending, Gauder & Co. S.A. filed an application under Section 9 of the Code before the National Company Law Tribunal, Mumbai bench bearing CP (IB) No. 1277/MB/ 2022.

The said application was admitted on 18.07.2024. The order of admission dated 18.07.2024 is under challenged before this court by way of present appeal Comp. App. (AT)

(Ins.) No. 1583 of 2024 at the instance of Suspended Director of the Corporate Debtor.

In the present appeal also, this Court had granted an interim stay on 09.08.2024 in the following manner :-

“In the meanwhile, no further steps shall be taken in pursuance of the impugned Order. This shall be without prejudice rights and contentions of the parties.”

When the order dated 09.08.2024 was passed by this Court, it was pointed out by Counsel appearing on behalf of the Appellant that parties had entered into consent terms on 13.10.2023 but money could not be paid since approval of Reserve Bank of India was required for money to be remitted overseas.

The contention of the Appellant was noticed that the amount of Rs. 1,59,23,680/- is to be deposited and the Appellant was ready to deposit the amount of Rs. 45 Lakhs by way of demand draft and rest of the amount was to be deposited within 30 days thereafter.

It is also pertinent to mention that the order of stay was limited only to the extent that the RP shall convene the meeting of the CoC for the CIRP cost as on date.

While this appeal was pending, the RP filed an application bearing I.A. No. 349 of 2025 besides interim application bearing I.A. No. 342 of 2025.

In this application, the RP has prayed for stay on auction sale dated 31.12.2024 conducted by the Indian Bank/ Respondent No. 1 of the mortgaged property of the CD on the ground that the sale could not have been conducted because of

the moratorium. Although, Indian Bank has not filed any formal reply to the application but an additional affidavit has been filed dated 03.03.2025, alleging that the very foundation of the CP (IB) No. 1277/MB/2022 is illegal because the order dated 18.07.2024 could not have been passed admitting the application filed by the OC in the presence of the CIRP initiated by the FC.

The basic argument is that the order of stay dated 11.04.2023 does not extinguished the CIRP order dated 17.03.2023 which came to be extinguish finally on 16.12.2024 and therefore, there could not have been two CIRP against the same CD.

It is also the contention of the Indian Bank that on this premise that there cannot be two CIRP's against the same CD, the mortgaged property of CD with the Bank was put up for sale on 31.12.2024.

As against this, Counsel for the Appellant has submitted that if, the contention of the Bank is accepted, for the sake of argument, that the first CIRP was still continuing then on what basis the bank issued notice for sale on 27.11.2024 when the first CIRP was still in continuation.

Contention of the Appellant seems to be logical, therefore, the competent officer of the bank shall file an affidavit as to why notice for sale dated 27.11.2024 was issued when the first CIRP was still continuing.

Mr. Gaurav Mitra, Advocate appearing on behalf of the Indian Bank prays for two weeks' time to file the affidavit. Let the necessary affidavit be filed giving all the details, with an advance copy to the Counsel for the Appellant."

2. According to Indian Bank, it sold the security asset of the CD to the applicant in I.A. No.6174 of 2025 namely M/s. Vehicles Recyclers India Pvt. Ltd. when the order admitting the CD to CIRP was struck down vide judgement in C.A.430 of 2025. However, as could be noted, there was the other moratorium that was operating due to the Order which is now impugned in this appeal. According to the appellant, to pass an order admitting the CD to CIRP a second time when the CD had already been admitted vide Order which was the subject matter of the appeal in C.A.430 of 2025 and was itself illegal. It's intent to participate in this Appeal is twofold: (a) that it has to highlight perceived illegality of the Order admitting CD to CIRP in the present appeal, and (b) that inasmuch as it has sold secured asset to the applicant, it has to intervene as there is a danger to the property that it has sold is likely to be targeted by the IRP/RP appointed in the present case. Secondly, it also exposes the right which the applicant in I.A.6174 of 2025 is believed to have acquired is now in peril. Since the impugned Order has the potential to affect the right of the purchaser and imposes an obligation on the Indian Bank vis-à-vis the said sale, they are keen to put forth their contention, in order they may get an opportunity to secure their interest as regards the transaction involving the sale of secured asset by Indian Bank, they both have now come forward with separate applications for impleading themselves in this appeal.

3. The appellant strongly resisted these applications. His contention has been that the very conduct of Indian Bank is tainted in malafide and that there is no bar for commencement of a second CIRP even when an Order admitting the CD

was still in force. So far as the argument of the counsel of the IRP goes, it needs to be recorded that an IRP has very little role in an appeal filed by the suspended directors of the CD as concerning the issue of impleading third parties to the appeal in the appeal.

4. There are two aspects: (a) A need to be heard; and (b) merit of what is to be heard. We are now concerned only with the first aspect. Law is long settled that where a civil right is in peril of being affected by a judicial proceeding, then such persons whose rights are so imperiled have a right to be heard. Very evidently, during the subsistence of the moratorium pursuant to the impugned judgement in this appeal was in force, Indian Bank has sold the property. It apparently has its reasons to contend that the initiation of the present CIRP itself is illegal. Besides, the purchaser of Indian Bank now appears to be caught in a no man's land. Irrespective of whether they eventually succeed or not, they still are entitled to be heard, for their interests are at stake. Need for impleading a party depends on whether they are necessary or proper party to litigation, and since this case, in the absence of the applicants a collateral damage can still be inflicted on the rights that they had dealt with, we consider it necessary to implead them. After all, if justice must be seen to be done, and if this maxim has to have any value and relevance under the Constitutional scheme of things, then it is imperative for any judicial fora not to deny the one his right of being heard when its substantive right is exposed to a forensic scrutiny.

5(a). In conclusion, both these applications are allowed and the applicants herein are directed to be impleaded as respondents 3 and 4. The appellant is directed to file the amended memo of parties.

5(b). The appellant is further directed to serve the copy of the appeal papers on the newly impleaded parties within three days from today, and the respondents so added now are required to file their objections, if they are so desirous on or before 27th March, 2026 and the appellant may file his rejoinder if it is interested, on or before 10th April, 2026.

List the matter on 15th April, 2026.

[Justice N. Seshasayee]
Member (Judicial)

[Arun Baroka]
Member (Technical)

rs/mr