NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1526 of 2022

IN THE MATTER OF:
Sunder Nagar Co-operative Housing Societies Union Ltd. **...Appellant**

Versus

State Bank of India & Anr. **...Respondents**

Present:

For Appellant:	Mr. Mrinal Elker Mazumdar and Mr. Saurabh Singh, Advocates. Mr. Kaustubh Shakkarwar, Mr. Devesh Tripathi, Mr. Abhishek Yadav, Advocates
For Respondent:	Mr. Ankur Mital, Mr. Yashika Sharma, Mr. Aleendra Singh, Advocates for SBI.

With

Company Appeal (AT) (Insolvency) No. 1527 of 2022

IN THE MATTER OF:
Mohan Nathuram Sakpal **...Appellant**

Versus

State Bank of India & Anr. **...Respondents**

Present:

For Appellant:	Mr. Krishnendu Datta, Sr. Advocate with Mr. Puneet Singh Bindra, Mr. Kumar Anurag Singh, Mr. Zain A. Khan, Mr. Simran Jeet and Mr. Rishabh Gupta, Ms. Neha Agarwal, Advocates.
For Respondent:	Mr. Ankur Mittal, Mr. Ateendra Singh and Ms. Yashika Sharma, Advocates for R-1 (SBI). Mr. Anuj Tiwari, Advocates for RP.

O R D E R

23.12.2022: In Company Appeal (AT) Ins. No. 1527 of 2022, Mr. Krishnendu Datta, Learned Sr. Counsel for the Appellant challenging the Order dated 06.12.2022 passed by the Adjudicating Authority admitting Section 7 Application submits that the Application which was filed by the State Bank of India was barred by time. He specifically submits that the payment of Rs. 50 Lacs on 01st June, 2015 does not contain any acknowledgement and cannot be treated to be acknowledgement within the meaning of Section 19 of the Limitation Act, 1963. He submits that if the date 01st June, 2015 is not accepted extending the limitation, the Application filed was clearly barred by time.

2. Learned Counsel for the Respondent-State Bank of India refuting the submissions of Learned Counsel for the Appellant contends that Application was well within time. The default was mentioned as 01st June, 2015 in the Part-IV and thereafter there was 'One Time Settlement' on 31st January, 2018 and hence the Application was well within time. It is further submitted that even 01st June, 2015 acknowledgement has to be treated since payment was made in the Loan Account. He further submits that there was Restructuring of the Facility and under the Restructuring, extension of one year was granted for repayment which began from September 2014 to September, 2015. Learned Counsel for the Bank further states that in the Appeal, there are no ground taken that the Application is barred by time.

3. Learned Counsel for the Respondent further submits that there has been acknowledgement in the Balance-Sheets and since in the Reply-Affidavit filed before the Adjudicating Authority, no plea of the limitation was taken on balance-sheets were not brought on record and Respondent seeks liberty to bring other balance-sheets on record through application.

4. Company Appeal (AT) (Ins.) No. 1526 of 2022 has been filed by the Appellant-Sunder Nagar Co-operative Housing Societies Union Ltd. where Learned Counsel for the Appellant submits that the Corporate Debtor was rehabilitating various units and in event, the 'Corporate Insolvency Resolution

Process' is continued, the whole project shall stand causing hardship to rehabilitants.

5. Submissions raised by Learned Counsel for the parties needs scrutiny. Let Reply-Affidavits be filed within two weeks. Rejoinder may be filed within one week, thereafter. Proceedings taken in pursuance of the Order dated 06.12.2022 shall abide by the result of the Appeal. We further direct that IRP shall proceed with the carrying on the project with the cooperation of the ex-management to protect the interest of the home-buyers and other inhabitants.

6. Mr. Krishnendu Datta, Sr. Advocate submits that he has already made a one-time settlement proposal to the Bank. Learned Counsel for the Bank submits that proposal shall be considered and if proposal is accepted, appropriate communication shall be brought on record, although, earlier, proposals were not accepted. He shall submit a fresh proposal within three days from today to the Bank with Demand Draft of Rs. 06 Crores. Learned Counsel for the Bank submits that the said proposal shall be considered within two weeks.

List this Appeal on **16th January, 2023** along with Company Appeal filed vide Diary No, 42064 of 2022. IRP shall proceed with the CIRP, however shall not constitute the CoC till 16th January, 2023.

[Justice Ashok Bhushan]
Chairperson

[Ms. Shreesha Merla]
Member (Technical)

Basant/nn