

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (INS) No. 189 / 2026
(With Defects)

In the matter of:

Venkata Chalam Varanasi,

Bankruptcy Trustee,

Resident of No. 12-13-205, Street No. 2,

Tarnaka, Secunderabad – 500 017

.... Appellant

V

Mr. Upender Kumar Agarwal,

S/o. Sh Basudev Agarwal,

Sri Rama Nilayam, Plot No.99,

Road No.72, Prashasan Nagar Jubilee Hills,

Hyderabad - 500033, Telangana

....Respondent

Present :

For Appellant : Mr. Y. Suryanarayana, Advocate

For Respondent : No Appearance

ORDER
(Hybrid Mode)

06.04.2026:

Oral Judgment : Justice Sharad Kumar Sharma, Member (Judicial):

The Appellant herein in the instant Company Appeal had filed an Application IA (IBC) No 951 / 2025, in CP (IB) / 246 / 95 / HDB / 2021, seeking an appropriate direction as against the Respondent to co-operate with the Appellant / Applicant to furnish the statement of the financial position mandated in terms of Section 129 of the Code to be read with Regulation 12 of IBBI

(Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.

2. After having considered the argument extended by the Ld. Counsel for the Applicant, the Ld. Adjudicating Authority had proceeded to pass an order on 23.06.2025, passed in IA (IBC) / 951 / 2025, issuing directions to the Respondents to extend all assistance and co-operation to the Appellant / Applicant Bank / Bankruptcy Trustee and to provide the Applicant Bank / Bankruptcy Trustee and to provide the statement of financial positions, while also observing that the failure to do so, may invite appropriate action under the law.

3. Alleging its non-compliance, the Appellant filed a Contempt Petition, being Contempt Application (IBC) / 19 / 2025, alleging thereof that, the order passed on IA (IBC) / 951 / 2025, as preferred in CP(IB) / 246 / 95 / HDB / 2021 has not been complied with.

4. But surprisingly, the Appellant has chosen to file the said Contempt Petition under Section 425 of the Companies Act, to be read with Rule 11 of the NCLT Rules, 2016, as well as, invoking the provisions contained under Section 10 & 12 of the Contempt of Courts Act, 1971.

5. Ld. Tribunal after considering the contentions raised by the Appellant in the Application preferred for drawing a contempt proceedings under Section 10 & 12 of the Contempt of Courts Act, 1971, had proceeded to reject the

Application by the impugned order dated 20.01.2026. Aggrieved by the same, the instant Company Appeal, has been preferred by the Appellant.

6. The powers to draw contempt proceedings by Tribunals / Appellate Tribunals has been contemplated under Section 425 of the Companies Act, which states that the Tribunals / Appellate Tribunals will have the same power, jurisdiction and authority in respect of contempt of themselves as the High Court has and may exercise under the provisions of the Contempt of Courts Act, 1971. Thus, the provisions of Contempt of Courts Act, 1971, will be applicable in totality over the contempt proceedings initiated under Section 425 of the Act.

7. In that eventuality, when a Tribunal passes order in the Contempt Petition filed before it, under Section 425 of the Companies Act, Appeal against the same will have to be dealt with in accordance with the provisions of Section 19 of the Contempt of Courts Act, 1971.

8. In the instant case, Ld. Tribunal did not find merit in the Application for contempt preferred by the Appellant and rejected, the same by passing the Impugned Order. Therefore, Appeal against the said Impugned Order will have to be dealt with as per the provisions of Section 19 of the Contempt of the Courts Act, 1971. Section 19(1) envisages Appeal against, only those orders where a punishment has been inflicted for contempt. In the instant case, no punishment has been awarded. Hence, Appeal against such order is not maintainable.

9. The reasons behind the same are very clear. It is a settled principle of law that, an Applicant to the Contempt proceedings is simply an informer to the Tribunal(s) or the Court(s), informing the Court, about the alleged non-compliance of the Order passed by it, and the need to draw a contempt proceedings to inflict punishment for such non-compliance as contemplated under the Contempt of Courts Act, 1971. In the present case, the Tribunal has found that no orders has been deliberately violated and hence, proceeded to dismiss the Contempt Petition by the impugned order of 20.01.2026.

10. Dismissal of the Contempt Petition is an exclusive prerogative of the Tribunal, and after filing of the Contempt Petition, the Applicant himself has no role thereafter. When there is an order of punishment as against the alleged Contemnor, it is the Contemnor who can file an Appeal under Section 19 of the Contempt of Courts Act, 1971, and not the Applicant to the Contempt Application / Petition.

11. Accordingly, the dismissal of the Contempt Petition in the instant case holding it to be not maintainable or that no deliberate contempt has been made out, is a perfectly valid order under Section 425 of the Act. Further, no Appeal against the said order would be maintainable and that too, at the behest of Appellant / the Applicant to the Contempt Petition, as per the provisions of Section 19 of the Contempt of Courts Act. Therefore, the Appeal is accordingly dismissed.

12. But, having said so, we feel that it is the responsibility of the Tribunal to ensure that the orders passed by it are complied with, so as to attach a sanctity and inviolability to its proceedings. The Ld. Tribunal is requested to proceed accordingly.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

SR/MS/AK