

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**AT CHENNAI**

**(APPELLATE JURISDICTION)**

**Company Appeal (AT) (CH) (Ins) No.232/2025**  
**(IA Nos. 666, 667 & 668/2025)**

**In the matter of:**

**Mr. Naseer Ahmed**  
**No. 391, 2<sup>nd</sup> Cross, 2<sup>nd</sup> Main,**  
**2<sup>nd</sup> Stage, 80 Feet Road, RMV Extension,**  
**Bengaluru, Karnataka - 560058** ...Appellant  
V

**Mr. Ravindra Beleyur,**  
**Resolution Professional,**  
**O/at: `Shreevathsa`, No. 428, 19B Cross,**  
**Jayanagar, 3<sup>rd</sup> Block,**  
**Bengaluru, Karnataka - 560011** ...Respondent

**WITH**

**Company Appeal (AT) (CH) (Ins) No.234/2025**  
**(IA Nos. 670 & 671/2025)**

**In the matter of:**

**Mrs. Nuzhat Aisha Nazeer**  
**No. 391, 2<sup>nd</sup> Cross, 2<sup>nd</sup> Main,**  
**2<sup>nd</sup> Stage, 80 Feet Road, RMV Extension,**  
**Bengaluru, Karnataka - 560058** ...Appellant  
V

**Mr. Ravindra Beleyur,**  
**Resolution Professional,**  
**O/at: `Shreevathsa`, No. 428, 19B Cross,**  
**Jayanagar, 3<sup>rd</sup> Block,**  
**Bengaluru, Karnataka - 560011** ...Respondent

**WITH**

**Company Appeal (AT) (CH) (Ins) No.236/2025**  
**(IA Nos. 673 & 674/2025)**

**In the matter of:**

**Mr. Awaiz Ahmed  
No. 69-B, Sobba Malachite,  
Bellary Road, Jakkur,  
Behind Shilpa School,  
Bengaluru - 560064**

**...Appellant**

**V**

**Mr. Ravindra Beleyur,  
Resolution Professional,  
O/at: `Shreevathsa`, No. 428, 19B Cross,  
Jayanagar, 3<sup>rd</sup> Block,  
Bengaluru, Karnataka - 560011**

**...Respondent**

**Present :**

For Appellant : Mr. G. Sridhar, Advocate  
For Mr. NP. Vijaykumar, Advocate

For Respondent : Mr. Ravindra Beleyur, RP

**J U D G M E N T**  
**(Hybrid Mode)**

**Per : Justice Sharad Kumar Sharma, Member (Judicial):**

1. These are set of three Company Appeals, which engages consideration of a common question of fact and law. Hence, for the purposes of brevity they are being decided together.
2. Company Appeal (AT) (CH) (INS) No. 232 / 2025 is listed today along with two Interlocutory Applications IA No. 666 / 2025 and IA No. 668 / 2025.
3. In **IA No. 666 / 2025** the Appellant has sought a condonation of 26 days of delay, which has chanced in re-filing the Appeal. After having heard the Ld.

Counsel for the Appellant on the Condone Delay Application in re-filing of the Appeal and being satisfied with the reasons given therein, besides the fact that since the delay in re-filing is an exclusive aspect between the Appellant and this Tribunal, a pragmatic view has to be taken, thus the delay of 26 days in re-filing which has chanced in preferring the Appeal would stand condoned. Accordingly, IA No. 666 / 2025, would stand allowed.

4. In **IA No. 668 / 2025**, the Appellant has sought a leave to file the Appeal. This Tribunal is conscious of the fact that, the instant Appeal has been filed under Section 61 of the I & B Code, 2016, which provides for preference of an Appeal, by `any aggrieved person`, owing to the ratio laid down by the Principal Bench in its Judgment dated 14.07.2023 in Company Appeal (AT) (INS) Nos. 130 & 132 / 2023, which has further elaborated the provision as who is aggrieved by an order of Ld. Adjudicating Authority can file an Appeal; no independent Application for leave to file an Appeal is required to be filed. Thus, this application being IA No. 668 / 2025 would stand closed.

5. Company Appeals (AT) (CH) (INS) No. 234 / 2025 & 236 / 2025 have been preferred along with Interlocutory Applications being **IA No. 671 / 2025 & IA No. 674 / 2025** respectively, wherein the Appellant has prayed for seeking leave to file an Appeal. This Tribunal being conscious of the fact that, the instant Appeal being an appeal under Section 61 of the I & B Code, 2016, which provides for preference

of an Appeal by any aggrieved person, which has been elaborated by the ratio of Principal Bench in its Order dated 14.07.2023 in Company Appeal (AT) (INS) Nos. 130 & 132 / 2023, that any person who is aggrieved by the Order of the Ld. Adjudicating Authority, can file an Appeal, no independent Application for leave to file an Appeal is required to be filed. Thus, the Applications being IA No. 671 / 2025 & IA No. 674 / 2025, would stand closed.

We proceed to hear the Appeals on merits of the matter.

6. The precise facts which, engages consideration in **Company Appeal (AT) (CH) (INS) No. 232 / 2025** are as under;

That by virtue of the Impugned Order dated 11.12.2024, the Ld. Adjudicating Authority i.e., the Ld. NCLT, Bengaluru Bench, allowed IA No. 219 / 2024 as preferred in CP (IB) No. 07 / BB / 2021, being an Application preferred under Section 60 (5) of I & B Code, 2016 to be read with Regulation 19 of the IBBI (Insolvency Resolution Process for Personal Guarantors to the Corporate Debtors), Regulations 2019.

7. The consequential effect of the Impugned Order that has been passed by the Tribunal, has resulted into passing of an order enabling the Debtor and the Creditors, leaving it open for them to file an Application for Bankruptcy under Chapter IV of the Code.

8. The Appellant herein is a Promoter / Director of the Corporate Debtor M/s. Scotts Garments Limited and a Personal Guarantor for the credit facilities extended by the Financial Creditor i.e. State Bank of India to the Corporate Debtor. A Consortium of Banks, comprising of State Bank of India, Canara Bank and IDBI Bank with Canara Bank as lead Bank had provided credit facilities to the Corporate Debtor. This Consortium had appointed SBICAP Trustee Company Limited to act as a Trustee for and on behalf of them, by their Security Trust Agreement dated 26.04.2017. The Appellant being a Personal Guarantor along with Mrs. Nuzhat Aisha Naseer and Mr. Awaiz Ahmed, the Appellants in Company Appeal (AT) (CH) (INS) Nos. 234 & 236 of 2025 respectively executed a Deed of Guarantee with the aforesaid Trustee Company Limited on 26.04.2017.

9. In 2018, M/s. Saravana Distributors, had filed a Company Petition being CP (IB) / 68 / BB / 2018, as against the Corporate Debtor ``Scotts Garments Limited'' u/s. 9 of I & B Code, 2016, seeking to initiate CIRP proceedings against the Corporate Debtor. Those proceedings stood allowed and the Scotts Garments Limited, was directed to be admitted into the CIRP proceedings, on 13.08.2018.

10. Simultaneously, the State Bank of India along with Canara Bank and IDBI Bank initiated a proceeding under Section 19 of the DRT Act on 23.05.2019 against M/s. Scotts Garments Limited and its Guarantors which was inclusive of the Appellant in O.A. No. 1218 / 2019, before DRT – II, Bengaluru. Further, State

Bank of India issued the Demand Notice (Form B) on 21.09.2020, calling upon the Appellant to fulfil his financial liabilities payable towards the Financial Creditors. The Appellant issued a response by way of a reply on 08.10.2020 to the aforesaid Demand Notice. Being not satisfied with the said response by the Appellant on 08.10.2020, to the Demand Notice dated 21.09.2020, the State Bank of India filed an Application u/s. 95 of the Code being CP (IB) / 7 / BB / 2021, seeking to initiate the process of Personal Insolvency Resolution Process against the Appellant / Personal Guarantor (PG). The same stood allowed by the Order of 07.06.2022 and a Resolution Professional was appointed thereof to carry out the resolution process.

11. The Resolution Professional, owing to non-cooperation of the Appellant / Personal Guarantor during the Personal Insolvency Resolution Process and failure to co-operate with the Resolution Professional to provide the required information as well as the Repayment Plan, filed an Interlocutory Application seeking directions from the Ld. NCLT to the Personal Guarantors for ensuring their co-operation in the proceedings so that, it may be brought to its logical end, but, the same was not done. Thus, the Resolution Professional has filed IA No. 8 / 2023 to take on record the report under Section 106 of the I & B Code, 2016.

12. Further, the Resolution Professional after convening the meeting of the CoC on 19.09.2022 wherein the CoC noted non-submission of the Repayment Plan, filed

IA No. 419 / 2022, submitted his report and sought a direction from the Ld. NCLT to reject the deemed Repayment Plan and to permit any Creditor to initiate the Bankruptcy proceedings as against the Appellant / Personal Guarantor. On directions from the Ld. Adjudicating Authority, the RP again convened the meeting of the Committee of Creditors, on 06.03.2024, modified the resolution of CoC, revised his Report as per Section 112 of the Code and filed the IA No. 219 / 2024, intimating the decision of CoC to file for Bankruptcy and praying to permit the Creditors to file an Application under the Chapter IV of I & B Code, 2016, to initiate the Bankruptcy proceedings, as against the Appellant / Personal Guarantor. Upon filing of this Application i.e. IA No. 219 / 2024, the Application IA No. 419 / 2022 was dismissed as infructuous vide Order dated 01.05.2024.

13. Further, Ld. NCLT vide its Order of 11.12.2024, passed in IA No. 8 / 2023, which is the subject matter of consideration in Company Appeal (AT) (CH) (INS) No. 231 / 2025, allowed condonation of delay of 26 days in submitting the report of the Resolution Professional. Appeal against the same has been heard by this Tribunal in Company Appeal (AT) (CH) (INS) No. 231 / 2025 and the Order in IA No. 8 / 2023 has been affirmed with the dismissal of the aforesaid Company Appeal.

14. Simultaneously, the Ld. Adjudicating Authority took up for consideration IA No. 219 / 2024, took on record the statement of objection filed by the Personal

Guarantor / the Appellant herein on 24.05.2024, directed the Respondents to file their written submissions on 22.10.2024 and upon detailed consideration of pleadings thus exchanged, passed the Impugned Order, permitting the Financial Creditor to file for Bankruptcy as against the Personal Guarantor / Appellant, particularly in the light of the implications of the provisions contained under Section 115 (2) of the I & B Code, 2016, which provides that it is only when the Ld. Adjudicating Authority rejects the Repayment Plan under Section 114, the Debtors and the Creditors shall be entitled to file an Application Bankruptcy by invoking the provisions contained under Chapter IV.

15. The Ld. Adjudicating Authority has passed the instant Order in IA No. 219 / 2024 observing thereof that, as per Section 105 of the Code, the Debtor / Personal Guarantor was required to submit the Repayment Plan to the Resolution Professional who in turn would have submitted the same along with his Report to the Ld. Adjudicating Authority, that further to it, the RP was to conduct the meeting of the CoC u/s. 108 of the Code to consider the Repayment Plan and after such meeting was to prepare the report of the meeting of the CoC u/s. 112 of the Code and to submit the same to the Ld. Adjudicating Authority u/s. 113 of the Code and that thereafter the Ld. Adjudicating Authority was to pass an Order u/s. 114(1) of the Code, either approving or rejecting the Repayment Plan submitted by the Resolution Professional, based on the report of the CoC meeting or on the report

of RP submitted u/s. 106 of the Code, that in the instant case, due to non-filing of the Repayment Plan by the Personal Guarantor himself, the procedure as stated in the light of the provisions contained under Section 105 of the I & B Code, 2016, could not be carried, that the non-submission of the Repayment Plan will have the similar effect as that of rejection of the Repayment Plan under the implications of Section 114, as provided to be read along with the implications contained under Section 115 (2) of I & B Code, 2016, that non-submission of Repayment Plan by the Personal Guarantor, has resulted into the rejection of the Repayment Plan and hence, the consequential action to be proceeded under Section 115(2) was required to be followed, and it cannot be faulted of, legally.

16. The Appellant has attempted to challenge the Impugned Order on the grounds that the Impugned Order is arbitrary and suffers from erroneous application of law, that it is not a speaking order, that in absence of the Repayment Plan, the report filed u/s. 112 of the Code has no basis and that non-submission of Repayment Plan has not been specifically included as a ground to initiate Bankruptcy proceedings u/s. 121 of the Code and hence, the Impugned Order is bad in law.

17. Provisions contained in Section 121 (1) reads as under:

*“(1) An application for bankruptcy of a debtor may be made, by a creditor individually or jointly with other creditors or by a debtor, to the Adjudicating Authority in the following circumstances, namely;-*

- (a) where an order has been passed by an Adjudicating Authority under sub-section 4 of section 100; or*
- (b) where an order has been passed by an Adjudicating Authority under sub-section 2 of section 115; or*
- (c) where an order has been passed by an Adjudicating Authority under sub-section 3 of section 118.’’*

18. If the provisions contained under Section 121 are taken into consideration, they stipulate the circumstances under which filing of an Application for Bankruptcy of a Debtor, by a Creditor individually or jointly can be permitted subject to the exceptions that had been carved out therein. The circumstances detailed therein is inclusive of an Order passed by Ld. Adjudicating Authority under the provisions contained under Section 115 (2) of I & B Code, 2016.

19. In the instant case, the Ld. Adjudicating Authority has taken the position that, in the absence of submission of the Repayment Plan by the Personal Guarantor, there will be a deemed rejection of the Repayment Plan under Section 114 r/w Section 115 (2) of the I & B Code, 2016, and if that be so, the pleading by the Appellant that the Impugned Order is violative of Section 121 (1) will not be maintainable. The process contemplated under Sub-Clause (b) of Sub-Section 1 of Section 121, contemplates that rejection of a Repayment Plan under Section 114, would attract Section 115 (2) of the I & B

Code, 2016, which will entitle the Creditors to file an Application for Bankruptcy under Chapter IV which is the case at hand.

20. In the instant case, the Appellant has failed to file the Repayment Plan; it is not his case that he was not given a chance to file the same. Non-filing of Repayment Plan will clearly imply rejection under Section 114 (1) of I & B Code, as nothing has been put up before Ld. Adjudicating Authority to consider for approval and accordingly the Creditors will be entitled to file an Application for Bankruptcy under Chapter IV in the light of Sub-Clause (b) of Sub-Section (1) of Section 121 to be read with Sub-Section (2) of Section 115 of I & B Code, 2016.

21. Owing to the aforesaid reason, the grounds as agitated by the Ld. Counsel for the Appellant contending thereof that, the Impugned Order has been passed without a cogent reason and the appreciation of the facts and circumstances of the instant case is not acceptable because the Personal Guarantor cannot take an advantage of his own inaction arising because of non-submission of the Repayment Plan and then taking advantage of the same by claiming that no order to proceed with the Bankruptcy process could be resorted to because, non-submission of Repayment Plan has not been specifically included in Section 114 of the Code is an absolute misnomer, and contrary to the spirit of law.

22. Hence, the ground raised by the Ld. Counsel for the Appellant while putting a challenge to the Impugned Order is not sustainable. Hence, the Company Appeal (AT) (CH) (INS) No. 232 / 2025 lack merits and the same is accordingly dismissed.

23. **Company Appeal (AT) (CH) (INS) No. 234 / 2025** too engages consideration of a common question of fact and law except that the Appellant is a different person. It also involves the consideration of a question of condonation of delay in submission of the report of the Resolution Professional regarding the status of the Plan, which has been already considered by this Appellate Tribunal in Company Appeal (AT) (CH) (INS) No. 233 / 2025, which was arising from the Order passed in IA No. 7 / 2023 as preferred in CP (IB) / 06 / BB / 2021.

24. The decision taken in the instant case on IA No. 218 / 2024 in CP (IB) / 7 / BB / 2021, in the light of the provisions contained under Section 115 (2) permitting the invitation of the Application for initiation of the proceedings for Bankruptcy under Chapter IV does not call for any interference, owing to the reasons which this Tribunal has already assigned while deciding the Company Appeal (AT) (CH) (INS) No. 232 / 2025. Hence, this **Company Appeal (AT) (CH) (INS) No. 234 / 2025 would too stand dismissed.**

25. Similar would be the logic to be considered in **Company Appeal (AT) (CH) (INS) No. 236 / 2025**, where the IA No. 220 / 2024 as preferred in CP (IB) / 8 /

BB / 2021 by the Respondent / Resolution Professional has been allowed by Ld. Adjudicating Authority, by invoking the provisions contained under Section 115 (2) of the Code, permitting the Creditors to initiate the Bankruptcy proceedings. The Appeal challenging the decision of Ld. Adjudicating Authority to condone the delay of 26 days in submission of the report of the Resolution Professional as decided in IA No. 6 / 2024 has already been dismissed by this Appellate Tribunal in Company Appeal (AT) (CH) (INS) No. 235 / 2025. Hence, this **Company Appeal (AT) (CH) (INS) No. 236 / 2025, would too stands dismissed**, owing to the reasons which we have assigned while considering the Company Appeal (AT) (CH) (INS) No. 232 / 2025.

26. In order to summarize the conclusion drawn in all these three Company Appeals, by way of a repetition it is reiterated that once the Personal Guarantor has failed to submit his / her Repayment Plan, within the time frame stipulated therein, in the light of the provisions contained under Section 114 of the I & B Code, 2016, it would automatically stand rejected and the consequential decision taken under Section 115 (2) by Ld. Adjudicating Authority to permit the Creditors to file an Application for Bankruptcy by invoking the provisions contained under Chapter IV, would not call for any interference because the provisions contained under Section 121 (1) (a), as it has been sought to be attracted by the Appellant will have no bearing, in the present circumstances, since being an independent provision

isolated in its applicability to the provisions contained under Section 115 (2) of the I & B Code, 2016. Hence, these **Company Appeal (AT) (CH) (INS) Nos. 232, 234 & 236 / 2025**, lack merit and are accordingly dismissed for the aforesaid reasons.

**[Justice Sharad Kumar Sharma]**  
**Member (Judicial)**

**[Jatindranath Swain]**  
**Member (Technical)**

13/06/2025

SR / MS