

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 999 of 2025

IN THE MATTER OF:

Metalrod Pvt. Ltd.

...Appellants

Versus

Harshit Finvest Pvt. Ltd. & Ors.

...Respondents

Present:

For Appellant : Mr. Yash Gaiha, Advocate.

For Respondents : Mr. Kanishk Khetan, Advocate.

O R D E R
(Hybrid Mode)

29.07.2025: Heard counsel for the Appellant.

2. This appeal has been filed against the order dated 19.05.2025 by which Restoration Application No. 78/(ND)/ 2024 has been allowed and the Section 7 application which was earlier withdrawn on 07.03.2023 has been revived. Challenging the order this appeal has been filed by the respondent in Section 7 application, that is, the Corporate Debtor.

3. Ld. Counsel for the appellant challenging the order raised two submissions. Firstly, he submits that application was filed after more than one year hence it was clearly barred by time and could not have been entertained by the Adjudicating Authority. He further submits that the application was filed on the ground of breach of the Consent Award dated 18.01.2023 and the applicants have already filed the application for execution of the Consent Award before the Delhi High Court. During the pendency of

the said application it was not open to pray for revival of Section 7 application.

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

5. From the facts which are on the record it is clear that Section 7 application was filed by the respondent-Financial Creditor against the Corporate Debtor in which on 07.03.2023 following order was passed:-

“ORDER

IA/1332/2023 This application has been filed by the Petitioner seeking permission to withdraw the present petition bearing CP-IB/646/ND/2022 in view of the Consent Award dated 18.01.2023 passed by the Arbitrator.

The Petitioner has also sought liberty to revive the petition in case of breach of terms and conditions of the Consent Award. Having heard the submissions made by Counsel for the Petitioner, we permit the petitioner to withdraw the petition in terms of the award dated 18.01.2023. We also grant liberty to the Petitioner in case of breach of the terms and conditions as mentioned in the Consent. Award. Therefore, CP-IB/646/ND/2022 is dismissed as withdrawn. IA disposed off.”

Section 7 application was withdrawn with liberty to the petitioner in case of breach of terms and conditions as mentioned in the Consent Award. The application has been filed for restoration/ revival by financial Creditor alleging breach of the terms and conditions of the Award. It is the not the case of the appellant before us that there is no breach of the Consent Award. Submission is that application is barred by time. Ld. Counsel for the appellant submits that the application had been filed after one year its barred

by time. He has referred to Rule 48 of the NCLT Rules, 2016 and submits that application ought to have been filed within 30 days or the limitation should have been fixed by the court when there is no limitation prescribed.

6. Coming to the submission, Rule 48 the said rule is with regard to restoration when application is dismissed for non-prosecution and the said rule has no application in the present case. Coming to the submission that statute does not prescribed for any limitation, we do not agree with the appellant. Article 137 of the Limitation Act provides limitation for any application for which no period is prescribed in the Limitation Act. If no period is prescribed, Article 137 shall govern any application. Hence, we are of the view that limitation for filing application will be three years and further the application for revival has been filed under Rule 11 of the NCLT Rules which protect the inherent power of the court. In the facts of case where Adjudicating Authority itself granted liberty to revive on breach of Consent Award exercise of jurisdiction by Adjudicating Authority to revive is in accordance with law and we do not find any substance in above submission.

7. Coming to the second submission of the appellant that financial creditor having filed an application for execution of Consent Award before Delhi High Court he ought not to have filed the application. Section 7 proceedings are special proceedings which are provided in the IBC and when specific liberty was granted to the financial creditor to revive the petition if there is breach of Consent Award, we do not find any lack of jurisdiction in Adjudicating Authority to allow the restoration, reviving Section 7 application. The fact that financial creditor has also filed an application for execution of

the Award in Delhi High Court cannot in no manner preclude the financial creditor to file the revival application for which specific liberty has already been granted by Adjudicating Authority as noted above.

8. In view of the above, we see no reason to interfere in the impugned order. With the above, Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

harleen/NN