

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

**(APPELLATE JURISDICTION)**

**Company Appeal (AT) (CH) (Ins) No.271/2025**  
**(IA No.772/2025)**

**IN THE MATTER OF:**

**SATYABRAT BEHERA**

Proprietor of Satya Logistics  
DBS Business Center, Suite No. 110,  
No. 31A, Cathedral Garden Road,  
Nungambakkam, Chennai 600034.

**...Appellant/Financial Creditor**

**Versus**

**1. ASHOK AGARWAL**

Personal guarantor to  
M/s Ankit Ispat Private Limited (CD) No 9,  
Gopalapuram, 6th Street,  
Chennai 600086.

**... Respondent No. 1/Personal Guarantor**

**2. MRS. ANJALI NIRAV CHOKSI**

Resolution Professional DJNV & Co.,  
2nd Floor, H.N. House,  
Opposite Muktajivan Colour Lab,  
Stadium Circle, Navrangpura,  
Ahmedabad, Gujarat – 380009

**... Respondent No. 2/Resolution Professional**

**With**

**Company Appeal (AT) (CH) (Ins) No.272/2025**  
**(IA No.773/2025)**

**IN THE MATTER OF:**

**SATYABRAT BEHERA**

Proprietor of Satya Logistics  
DBS Business Center, Suite No. 110,  
No. 31A, Cathedral Garden Road,  
Nungambakkam, Chennai 600034.

**...Appellant/Financial Creditor**

**Versus**

**1. Mr. AJAY AGARWAL**

Personal guarantor to  
M/s Ankit Ispat Private Limited (CD),  
145, Devdarshan Apartments,  
1, Barnaby Road, Kilpauk,  
Chennai-10.

**... Respondent No. 1/Personal Guarantor**

**2. MRS. ANJALI NIRAV CHOKSI**

Resolution Professional DJNV & Co.,  
2nd Floor, H.N. House,  
Opposite Muktajivan Colour Lab,  
Stadium Circle, Navrangpura,  
Ahmedabad, Gujarat – 380009

**... Respondent No. 2/Resolution Professional**

**With**

**Company Appeal (AT) (CH) (Ins) No.273/2025**  
**(IA No.774/2025)**

**IN THE MATTER OF:**

**SATYABRAT BEHERA**

Proprietor of Satya Logistics  
DBS Business Center, Suite No. 110,  
No. 31A, Cathedral Garden Road,  
Nungambakkam, Chennai 600034.

**...Appellant/Financial Creditor**

**Versus**

**1. Mr. ANKIT AGARWAL**

Personal guarantor to  
M/s Ankit Ispat Private Limited (CD),  
145, Devdarshan Apartments,  
1, Barnaby Road, Kilpauk,  
Chennai-10.

**... Respondent No. 1/Personal Guarantor**

**2. MRS. ANJALI NIRAV CHOKSI**

Resolution Professional DJNV & Co.,  
2nd Floor, H.N. House,  
Opposite Muktajivan Colour Lab,  
Stadium Circle, Navrangpura,  
Ahmedabad, Gujarat – 380009

**... Respondent No. 2/Resolution Professional**

**With**  
**Company Appeal (AT) (CH) (Ins) No.274/2025**  
**(IA No.775/2025)**

**IN THE MATTER OF:**

**SATYABRAT BEHERA**

Proprietor of Satya Logistics  
DBS Business Center, Suite No. 110,  
No. 31A, Cathedral Garden Road,  
Nungambakkam, Chennai 600034.

**...Appellant/Financial Creditor**

**Versus**

**1. ANITA AGARWAL**

Personal guarantor to  
M/s Ankit Ispat Private Limited (CD),  
145, Devdarshan Apartments,  
1, Barnaby Road, Kilpauk,  
Chennai-10.

**... Respondent No. 1/Personal Guarantor**

**2. MRS. ANJALI NIRAV CHOKSI**

Resolution Professional DJNV & Co.,  
2nd Floor, H.N. House,  
Opposite Muktajivan Colour Lab,  
Stadium Circle, Navrangpura,  
Ahmedabad, Gujarat – 380009

**... Respondent No. 2/Resolution Professional**

**Present:**

**For Appellant** : Mr. T.K. Bhaskar, Advocate  
For Mr. P. Gowtham, Advocate

**JUDGEMENT**

**(Hybrid Mode)**

**[Per: Justice Sharad Kumar Sharma;(Member Judicial)]**

1) The Impugned Orders, which are under challenge, in these four Company Appeals are of the same date i.e., 21.03.2025. These four Company Appeals involve consideration of a common question of fact and law. Hence, for the purposes of brevity, they are being taken up together.

2) The impugned order dated 21.03.2025, have been respectively rendered in the following Company Petitions being CP(IB)/233(CHE)/2024, CP(IB)/230(CHE)/2024, CP(IB)/231(CHE)/2024 and lastly CP(IB)/232(CHE)/2024.

3) The orders passed thereon on these Company Petitions will have the same consequential and legal implication for the proceedings of the respective Company Petitions. The Impugned Orders, have been challenged by the Learned Counsel for the Appellant, on a very narrow canvas that, the Impugned Orders suffer from the vices, that, they have been passed in apparent derogation of established and the settled principles of being in violation of the provisions of IBC, and that the orders suffer from the principles of Audi Alteram Partem, because the Appellants were deprived of being heard by the Tribunal on the issue, based on, which the Impugned Orders have been passed.

4) It is argued by the Learned Counsel for the Appellants that, the Financial institutions i.e., SBI, Central Bank of India and Federal Bank, are the Petitions to the proceedings of in IBA/712/2020, pending before the **NCLT, Division Bench-I, Chennai**, that the aforesaid financial institutions, are not party to the proceedings of the Company Petitions, which has been detailed above and listed before Ld. NCLT, Division Bench II, Chennai that the statement made by the Counsel for the aforesaid banking institutions, upon a mention being made before Ld. NCLT, Division Bench II, Chennai, ought not to have been taken into consideration in deciding the Petitions, except without providing an opportunity

of hearing to the Appellants, and that, since, there was an apparent deprivation of providing with an effective opportunity of hearing, the orders passed in the respective CPs suffer from the vices of Principles of natural justice and cannot be sustained.

5) The Learned Counsel for the Appellant has further submitted that, the orders, even otherwise, procedurally suffer from defect because, they have been the respondents in the proceedings being carried on before the NCLT, Division Bench-I, Chennai, on 30.01.2025, in IBA No. 702/2020 and also, in various other IAs i.e., IBA No. 712/2020, IBA No. 711/2020, IBA No. 720/2020 and IBA No. 703/2020, filed in the respective Company Petitions, preferred by decided together. If the aforesaid Banks including State Bank of India, their Counsel (that is, the Learned Counsel for the Personal Guarantors) brought to the knowledge of the Learned NCLT Division Bench-I, Chennai, that, there are other Company Petitions which have been preferred by M/s. Satya Logistics Pvt. Ltd. as the Financial Creditor against the same Personal Guarantors who also happen to be a Personal Guarantors to a different Corporate Debtor M/s. Ankit Ispat Pvt. Ltd. and the same are pending consideration under Section 95 of I&B Code, before Chennai Bench-II, and that in the said proceedings one Ms. Anjali Nirav Choksi, has been appointed as an IRP by the order passed thereon on 16.12.2024, for the purposes of collating the facts and records for the commencement of IRP process against the Personal Guarantors/Respondents herein, and that since, IRP has

already been appointed, the impugned orders dismissing the Section 95 applications preferred by the Appellant are prima facie defective.

6) The bone of contention, in the instant Company Appeals is that the Learned Counsel for the Financial Institutions i.e., State Bank of India, Central Bank of India and Federal Bank, has been permitted to make a mention on their own in the proceedings of the aforesaid Company Petitions, which are involved herein in each of the Company Appeals, despite of the fact, of not being party and that the Learned Adjudicating Authority took into account the contents of the statement thus made without considering the following points:

- 1. That the banking institutions who made the mention, through its counsel are not party to the proceedings of the respective Company Petitions, which involve consideration in these Company Appeals.*
- 2. That the order dated 30.01.2025, of NCLT Division bench-I, being the nature of recording of an intimation given to NCLT, Division Bench-I, Chennai, cannot be drawn as to be the basis to derive a source or an authority for making a mention by the Counsel of the Financial Institution in the proceedings of the Company Petition being carried in Bench-II, without being the party to it.*
- 3. And even if at all, based on the order of 30.01.2025, any mention was required to be made by the Petitioner of IBA No. 702/2020, IBA No. 712/2020, IBA No. 711/2020, IBA No. 720/2020 & IBA No. 703/2020 i.e., the Banking Institutions, then atleast in all fairness it was expected that, the Petitioner to the aforesaid IBAs ought to have given a*

*prior intimation to the Petitioner of the Company Petition i.e., Appellants herein, before making a mention before the Adjudicating Authority,, that is, the court of Bench-II, about his intention of bringing the fact on record about the pendency of the proceedings of the IBAs before Bench-I.*

*4. This mention was accepted by the Tribunal when the Company Petition was fixed for delivery of order and that too, by a party who is not party to the proceedings.*

7) It is contended by the Appellant that, first of all, making a mention by a party who is not a party to the proceedings of the Company Petition, it cannot be accepted. **Secondly**, if at all, the mention deserved acceptance, then it could have been considered only when the parties to the respective Company Petitions, as involved consideration in the above four Appeals were noticed and heard prior to the mention being made by the applicant to, the IBAs as detailed above.

**Thirdly** the Counsel for the State Bank of India, Central Bank of India, as well as the Federal Bank, who was representing in the IBAs before NCLT, Division Bench-I, Chennai, imparted no prior information to the Appellant Counsel about their act or intention of making a mention before the Tribunal, about bringing the fact on record about the pendency of IBAs before NCLT, Division Bench-I, Chennai.

8) He submits that, in the absence of there being information imparted prior in time, the Appellant was deprived of his opportunity to place forward his contentions qua the implication of the mention, which was made by the Counsel for the Financial Institutions and in the absence there being a prior information,

the order as rendered unilaterally believing the mention to be true, would to be suffering from the Audi Alteram Partem and being violative of the Principles of natural justice.

9) There is yet another aspect which has been argued by Learned Counsel for the Appellant which is that, in the proceedings, which were being held in the Company Petitions, CP(IB) 223/2024, 230/2024, 231/2024 & 232/2024, the arguments got concluded on 19.02.2025 and the order was reserved and the matter was thereafter directed to be listed for pronouncement of judgment. The relevant observation made in the order of 19.02.2025, is extracted hereunder: -

*“In view of the above the delay is condoned, report is taken on record.*

*The Counsel for the Guarantor has stated that he has already given his reply to the IRP and he has nothing more to say and stated that the same be taken as reply. Case Heard.*

*Reserve for orders.”*

10) Thus, it is argued by the Learned Counsel for the Appellant that for all practical purposes, the judicial proceedings stood exhausted in the aforesaid Company Petitions i.e., CP(IB)/223/2024, 230/2024, 231/2024, 232/2024 with the conclusion of arguments on 19.02.2025 and the orders were reserved, and therefore, in accordance with the judicial propriety, after the case was heard finally, and the order was reserved, it ought not to have been unilaterally opened to be heard afresh and that too, at the behest of the mention of a party, who is not a party to the proceedings in which order was reserved. It has further been



submitted by the Appellant's Counsel that, the date on which the Impugned Order (i.e., 21.03.2025), has been passed, it was rather the date fixed for delivery of judgement, as it was reserved on 19.02.2025, and in that eventuality, when the matter is listed for delivery of order, it was listed exclusively for a delivery of order on the Company Petitions on merit and it ought not to have been dismissed on a mention made without information, to the Appellants herein by a party who is not party to the proceedings, on the basis of pendency of the IAs as detailed above, which were pending consideration before the NCLT, Division Bench-I, Chennai.

11) It has been argued by the Learned Counsel for the Appellant that, there was no prior notice issued to the Appellant, prior to passing of the Impugned order, though on the said date, the matter was fixed for delivery of order. He submits that, if at all, a mention at the behest of the Counsel, who is not a party to the proceedings to the Company Petition is at all to be accepted and the Impugned order is passed, based on such mention, it will amount to sitting over the order, which was expected to be delivered on the date fixed, that is, 21.03.2025. He has further argued that when the matter was listed for pronouncement of order, no new fact could have been taken into consideration by the Tribunal, and that too, on a mention by a non-party to the proceedings, without providing an opportunity of hearing to the Appellant herein because as soon as the order was reserved on 19.02.2025, the Tribunal in all judicial propriety, should have proceeded to decide the matter on merit, on the issues which were already

argued and considered on 19.02.2025, when the order was reserved, and that, if at all, the Tribunal felt that there was any merit in the mention made by the Counsel for the Financial institutions, the Tribunal ought to have given a notice of hearing to the Appellant on the facts of mention, and that too after prior intimation by the Counsel for the Financial institutions, who was going to make a mention which is not the case in respect of the orders passed on 21.03.2025. As impugned orders in the respective Company Petitions have resulted into the closure of the Company Petitions on the ground of the mention made by the Counsel regarding the pendency of the IBAs before the NCLT, Division Bench-I, Chennai, they will fall to be orders in derogation of Principles of natural justice, and de hors to the reckoned principle of dispensation of justice, which requires that:

- i. All the parties to the proceedings are to be heard.
- ii. The judgment rendered by the judicial or quasi-judicial authorities should be in such a fashion, which reposes confidence upon the party to the proceedings, and if there is any *iota* of doubt and more particularly, the procedural impropriety, such should have been avoided, so as to repose confidence in the public at large with regards to the justice dispensation system being discharged by the Tribunal.

12) Summarizing, as the orders have been passed exclusively, upon a mention being made by the Counsel for the Financial institution, and that too, by a party who is not a party to proceedings, and that too without prior intimation to the

Appellants herein who were the petitioners in the Company Petition, and also because the date on which the mention was accepted and the Impugned Order was passed, was a date fixed for delivery of order after the arguments stood concluded on 19.02.2025, the Tribunal ought to have either have noticed the Appellant and should have heard him on the issue raised by mention, and then passed an order, if at all required, as per law, and it ought not to have passed an order on the basis of the mention on the date when the Company Petition itself was listed for pronouncement of order.

13) Thus, there is an apparent procedural impropriety and which is that apparently the basis of rendering of the Impugned order of 21.03.2025, is on the basis of a proceeding which is absolutely alien to the proceeding, which stood concluded on 19.02.2025. The NCLT, Division Bench-II, Chennai, ought to have heard the Appellant on the issue raised by the Financial institutions before passing the Impugned order. Since, the respective orders happen to be in violation of Principles of natural justice, the same stand quashed and the matter is remitted back to the Tribunal i.e., NCLT, Bench-II, Chennai to hear the parties on merits of the submission made by the Counsel for the Financial institution as it was made by way of making a mention, and only after providing an opportunity of hearing to the Appellant, so that, he can have his say in the matter, it would proceed to decide the matter afresh after considering the rival contentions, as regards to what bearing would the proceedings pending consideration before the NCLT, Division Bench-I, would have on the proceedings of the pending

Company Petitions before Division Bench II. Subject to the above, the Company Appeals are allowed and the Impugned orders dated 21.03.2025, are hereby quashed. The matter is remitted back to the NCLT, Bench-II, Chennai, to redecide the matter afresh after hearing the respective Counsels for the parties.

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

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

26/06/2025  
RO/MS/RS