

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT IV

Item No.6

IA 4736(MB)2025

IN

C.P. (IB)/569(MB)2024

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (TECHNICAL)

SHRI K. R. SAJI KUMAR
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **16.10.2025**

NAME OF THE PARTIES: **CENTRAL BANK OF INDIA**

VS

**N KUMAR PROJECTS & INFRASTRUCTURE
PRIVATE LIMITED**

For Applicant : Adv. Partho Sarkar a/w Adv. Nikesh Uparpelli
i/b Vidhi Legal.

For Respondent : Adv. Amit Tungare.

Sections 7, 60(5) of IBC

ORDER

IA-4736/2025

1. The Corporate Debtor (CD) in CP(IB)569(MB)/2024 (Main C.P.), is the Applicant in this I.A. The Main C.P. is filed by Central Bank of India, the Financial Creditor (FC) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (Code/IBC). The Applicant/CD has sought the following reliefs:

“A. To hold and declare, that the photo-copies/cam scanned documents annexed to CP(IB)569(MB)/2024 are inadmissible evidences as per the mandate of law laid down in ‘Bhartiya Sakshya Adhinyam’ earlier Evidence Act.

B. To direct the registry of this Hon’ble Tribunal to intimate Govt. of India (Ministry of Home Affairs &/or such other Govt.

Department) for ultravires usage of Cam Scanner by officials of Central Bank, in introducing documents to be read in evidence in adjudicating CP(IB)569(MB)/2024.

C. To dismiss the Company Petition-CP(IB)569(MB)/2024 at the threshold, on the ground that the documents and materials relied upon by the Financial Creditor are inadmissible in evidence under the Bhartiya Sakshya Adhiniyam, 2023 (earlier Indian Evidence Act, 1872), and therefore cannot form the basis of a valid adjudication under the Insolvency & Bankruptcy Code, 2016.

D. To grant, any other reliefs, in the facts of the present case.”

2. The Applicant/CD has challenged the maintainability of the Main C.P., on the preliminary issue of inadmissible documents produced by the Respondent/FC. According to the Applicant/CD, the photocopies of the documents submitted by the Respondent/FC to substantiate debt and default in the Main C.P. lack evidentiary value under the Bhartiya Sakshya Adhiniyam, 2023 (BSA) (erstwhile Evidence Act, 1872). The Applicant/CD contends that the numerous photocopies of the documents filed in support of the case in the Main C.P. are not admissible as evidence, since the photocopies were not made by copying machine from the originals and that they were not compared with the original and not properly notarised. The Ld. Counsel for the Applicant/CD submits that every document is to be proved by leading primary evidence. However, in the absence of the primary evidence, documents can be proved by secondary evidence under the law. It is submitted that, in order for the photocopy of the document to qualify as secondary evidence, the contents of the original are required to be compared. The documents are *ex-facie* inadmissible as secondary evidence, being scanned copies processed through Mobile Application, viz., “Cam Scanner”, which was banned in India long ago. According to the Applicant, the use of prohibited Application for generating documents intended for filing before judicial forum raises serious

questions about cyber safety, and the conduct and propriety of bank officials. Therefore, the Applicant/CD prays for a declaration that the photocopies/cam scanned documents annexed to the Main C.P. are inadmissible, and also for a direction to the Registry of this Tribunal to intimate the Central Government as to the *ultra vires* usage of Cam Scanner by the Respondent/FC. The Ld. Counsel for the Applicant/CD has also cited a number of judgments of the Hon'ble High Courts and the Hon'ble Supreme Court regarding the admissibility of primary and secondary evidence by Courts under the BSA (erstwhile Evidence Act).

3. On the contrary, the Ld. Counsel appearing for the Respondent/FC submits that the present I.A. only deserves to be dismissed *in limine*. He submits that the Respondent/FC does not propose to file any written reply to this I.A. but has decided to argue it out, as the intention of the Applicant/CD is only to protract the Main C.P., without any legal basis. He argued that this is a frivolous attempt to derail/delay the admission of the Applicant/CD into CIRP, which is already in debt and default. The final arguments on the Main C.P. by the Respondent/FC have already been completed on 23.09.2025, and the matter now stands for hearing the Applicant/CD. At this crucial juncture, the vexatious attempt of the Applicant/CD is to run away from arguing the Main C.P. The Ld. Counsel for the Respondent/FC also submits that this Tribunal is not a trial Court or a Civil Court, and hence, not supposed to consider such frivolous and vexatious contentions intended to delay the proceedings under Section 7 of the Code.
4. Further, the Ld. Counsel for the Respondent/FC submits that the Applicant/CD has only challenged the evidentiary value of the photocopies of the documents but has not challenged the very execution of the documents. The loan transaction with the Respondent/FC or the debt and default has not been disputed by the Applicant/CD. He submitted that the OTS proposal by the Applicant/CD itself is sufficient to prove their debt and default in the

Main C.P. The Respondent/FC has produced all the necessary documents in the Main C.P., to substantiate the debt and default of the Applicant/CD, which were generated in the ordinary course of business. He undertakes to produce the originals of any document, if sought by the Tribunal.

5. We have considered the submissions of the Ld. Counsel for the parties and perused the records.
6. On perusal of the records, it is seen that Respondent/FC was finally heard on the Main C.P., on 23.09.2025, and on that day, the Applicant/CD did not raise any contention as to the admissibility of the documents produced by the Respondent/FC but simply sought time for their arguments. Hence, the matter was listed for hearing the Applicant/CD on 10.10.2025. However, on that day, the Ld. Counsel for the Applicant/CD sought further time, which was granted as a last chance for the hearing. The Main C.P. now stands listed to 28.10.2025 for hearing the Applicant/CD. While so, the present I.A. is filed by the Applicant/CD on 08.10.2025, challenging the authenticity of the photocopies of the documents submitted by the Respondent/FC. In any case, since the matter is part-heard, the veracity or otherwise of the documents agitated by the Applicant/CD will certainly come up for consideration of this Court at the time of the arguments in the final hearing scheduled on 28.10.2025.
7. The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, which apply to matters relating to the corporate insolvency resolution process, provide that till such time the rules of procedure for conduct of proceedings under the Code are notified, the application made under Section 7,9 and 10 of the Code shall be filed before the Adjudicating Authority in accordance with rules 20,21,22,23,24 and 26 of Part III of the National Company Law Tribunal Rules, 2016 (NCLT Rules). Rule 23 (2) of the NCLT Rules provides that every petition, application, or appeal may be

accompanied by documents duly certified by the authorised representative or advocate filing the petition, application, or appeal, duly verified from the original. Therefore, the NCLT Rules, as applicable, specify that the petition/application can be accompanied by documents duly certified by the authorised representative or advocate filing the petition, application, or appeal, duly verified from the original.

8. In the present case, we observe that the documents annexed to the Main C.P. are notarised documents. At the admission stage, the NCLT only needs to satisfy itself that a default has occurred based on the records and documents presented. The process being summary in nature, the Tribunal does not conduct a detailed admission of documents where the evidence is tested through examination and cross-examination of witnesses as in a civil court proceeding.
9. The Ld. Counsel for the Applicant has placed reliance on the judgment of the Hon'ble Supreme Court in *Union of India Vs. Ranbir Singh Rathaur* [(2006) 11 SCC 696], regarding the admissibility of documents by Courts and a few other judgments regarding the admissibility of secondary evidence. The above judgments in no manner help the Applicant in the facts of the present case, which deals with the requirement of filing of Section 7 application under the Code.
10. In view of the above, it is not necessary for us to consider and determine whether the "Scanner Application" used by the Respondent/FC, to scan the documents produced by them in the Main C.P., is banned for some reason by the Government. In the application under Section 7 of the IBC, it is sufficient for the Respondent/FC to show that there is a debt, which is payable by the Applicant/CD and is in default, which will be further examined during the final hearing on 28.10.2025. Moreover, all the documents produced by the Respondent/FC are required to be scrutinised before an order is passed in the Main C.P. Further, IBC, being a summary proceeding, it

is not for this Adjudicating Authority to declare certain photocopies/scanned documents as inadmissible at this stage or to intimate the Central Government as regards *ultra vires* nature or usage of “Cam Scanner” by the officials of the Respondent/FC, as prayed for by the Applicant/CD.

11. In view of the provisions regarding filing of application in the NCLT Rules, and the foregoing discussion, this I.A is bound to fail and is **dismissed** as not maintainable.

Sd/-
ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

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Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)