

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1407 of 2025
& I.A. No. 5503 of 2025

IN THE MATTER OF:

Campbell Advertising Pvt. Ltd. **...Appellant**

Versus

Vipul Ltd. **...Respondent**

Present:

For Appellant : **Mr. P. Nagesh, Sr. Advocate.**

For Respondent : **Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Shaurya Shyam, Mr. Sagar Thakkar, Ms. Khyati Khemka, Ms. Kavya Tekriwal, Ms. Varsha Mohanty, Advocates.**

With

Company Appeal (AT) (Insolvency) No. 1408 of 2025
& I.A. No. 5504 of 2025

IN THE MATTER OF:

Dhankalash Distributors Pvt. Ltd. **...Appellant**

Versus

Vipul Ltd. **...Respondent**

Present:

For Appellant : **Mr. P. Nagesh, Sr. Advocate.**

For Respondent : **Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Shaurya Shyam, Mr. Sagar Thakkar, Ms. Khyati Khemka, Ms. Kavya Tekriwal, Ms. Varsha Mohanty, Advocates.**

ORDER
(Hybrid Mode)

12.09.2025: These two Company Appeals have been field by the Operational Creditor challenging order 10.07.2025 passed by the

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Adjudicating Authority (National Company Law Tribunal) (Court-II), New Delhi by which order Restoration Application No.56/ND/2025 and Restoration Application No.55/ND/2025 has been rejected. The proceeding under Section 7 were initiated by the Financial Creditors against the same Corporate Debtor claiming amount in Part IV of the application. It is sufficient to refer to Company Appeal (AT) (Ins.) No.1407 of 2025 for deciding the issues between the parties.

2. Section 7 application was heard and the Adjudicating Authority noticing the fact that amount claimed in Part IV i.e. Principal and interest have been paid and with regard to *pendente lite interest*, the Corporate Debtor has agreed to resolve the dispute and the application was dismissed. It is useful to notice Para 3 and 4 of the judgment dated 18.03.2025, which is as follows:

“3. From order dated 25.02.2025, it can be seen that currently there is no quarrel regarding the amount of default in respect of which the captioned petition was preferred. It is not the case of the Financial Creditor that the default regarding the amount mentioned in Part-IV of the petition stiller subsists. Nevertheless, the Financial Creditor raised the issue of interest the amount of default from the date of filing of the petition under Section 7 of IBC, 2016 (ibid). While examining an application, we need to refer to the default existed as on date of filing of the petition. Once, no default regarding the amount referred to in Part-IV of the petition subsists, it cannot be said that the Corporate Debtor need rescue and an order is required to be

*passed to put it back to its feet. Thus, in the wake of the recent developments, the present petition doesn't deserve admission. As far as the amount of interest accrued to Financial Creditor during the CIRP is concerned, both the Financial Creditor and the Corporate Debtor are at variance regarding the amount. However, the Corporate Debtor agreed that the interest at the rate of 8% per annum for the period during which the present petition remained pending is payable by the Applicant. As has been noted hereinabove, this Tribunal cannot be expected to act as Debt Recovery Tribunal. Such is the spirit of the judgement of Hon'ble Supreme Court in **Mobilox Innovations Private Limited vs. Kirusa Software Private Limited and The Transport Corporation of India Ltd. vs. State of Andhra Pradesh & Ors. etc.** The submissions regarding interest were recorded in the order dated 25.02.2025. The order reads thus:*

“Mr. Dhawan could draw our attention to order dated 20.12.2024 and 22.01.2025. Mr. P. Nagesh, Ld. Counsel for the Applicant submitted that the amount of TDS Rs.16,26,321/-is not reflected in the relevant account of the Creditor. To meet the submission raised on behalf of the Applicant, Mr. Sumesh Dhawan, Ld. Counsel for the Corporate Debtor submitted that the amount has already been deposited with the Income Tax Department and would be reflected in the account in due course and it is the responsibility of the Corporate Debtor to ensure that the same is reflected. Mr. P. Nagesh Ld. Sr. Counsel for the Applicant also contended that the amount of interest referred to in order dated 22.01.2025 has also not been paid as yet. Confronted with the plea Mr. Sumesh Dhawan Ld. Counsel for the Corporate Debtor handed over a cheque dated 20.03.2025 for amount of Rs. 15,81,762/- to Mr. P. Nagesh, Ld. Sr. Counsel for the Applicant. Mr.

Sumesh Dhawan submitted that the amount of interest is not Rs. 15,81,762/- but is Rs.1,49,44,660/-. Arguments heard, order reserved”

*4. There being no insolvency of the Corporate Debtor qua the debt referred to in Part-IV of the petition, as on date, we refuse to order commencement of CIRP qua the Corporate Debtor. However, we are sanguine that the Corporate Debtor and Financial Creditor would resolve their dispute regarding the amount of interest conceded by the Corporate Debtor on the amount of default for the period of pendency of the present petition. Subject to aforementioned observation, **the application stands disposed of. No cost.**”*

3. Subsequent to aforesaid order, the Corporate Debtor has given a cheque to the Financial Creditor claiming to be *pendente lite interest* of Rs.46,93,907/-. The cheque was dishonoured, hence, a Draft was given. Acknowledgment of receipt was issued by the Financial Creditor on 03.05.2025. Restoration Application came for consideration, the Adjudicating Authority had taken the view that since there is acknowledgement with regard to *pendente lite interest* also no grounds have been made out for restoration of Section 7 application and the Restoration Application was rejected. Aggrieved by order dated 10.07.2025 rejecting Restoration Application, this Appeal has been filed.

4. Shri P. Nagesh, Sr. Advocate appearing for the Appellant submits that the Corporate Debtor having agreed to pay the *pendente lite interest*, has paid only Rs.46 Lakhs rather the entire interest amount was amount more than

Rs.1 Crore. He submits that the Adjudicating Authority ought to have restored Section 7 application.

5. Shri Sumesh Dhawan, learned counsel for the Respondent refuting the submissions of learned counsel for the Appellant submits that the interest paid by the Corporate Debtor was *pendente lite interest* on the principal amount which was claimed in the Part IV and the Appellant is now claiming *pendente lite interest* for the entire Part IV amount, which is not permissible. He submits that in any view of the matter entire Part IV amount having been paid there was no occasion to revive the CIRP.

6. We have considered the submissions of learned counsel for the parties and perused the record.

7. From the facts which have been brought on the record, it is clear that entire Part IV amount including interest was paid to the Financial Creditor, which fact is recorded in the order dated 18.03.2025. The Corporate Debtor also agreed to resolve their dispute regarding amount of *pendente lite interest* and amount towards *pendente lite interest* of Rs.46,93,907/- was also paid, for which acknowledgement was issued on 03.05.2025. The said acknowledgement obviously reflect amount of Rs.46,93,907/-. It is submitted by learned counsel for the Respondent that the Restoration Application was filed on 17 June, 2025 after more than one and a half month after receiving the amount.

8. Learned counsel for the Respondent has referred to judgment of this Tribunal in ***Company Appeal (AT) (Ins.) No.1005 of 2022, Reliance***

Commercial Finance Limited vs. Darode Jog Builder Pvt. Ltd., where this Tribunal in Para 14 laid down following:

“14. In event, in consequence of the Order of the Adjudicating Authority, the Corporate Debtor deposits the entire defaulted amount whether still the Adjudicating Authority was required to necessarily admit the Section 7 Application. The answer would be obviously no. When the Corporate Debtor has complied to deposit the entire defaulted amount of the Financial Creditor as permitted by the Adjudicating Authority, no purpose and occasion shall survive to still proceed with the Insolvency Resolution of the Corporate Debtor. The proceeding under Section 7 are proceeding for resolution of the insolvency of the Corporate Debtor. We do not find any error in the course adopted by the Adjudicating Authority to ascertain as to whether the Corporate Debtor can comply to deposit the entire defaulted amount in the Bank Account of the Financial Creditor.”

9. After having heard learned counsel for the parties, we are of the view that the Adjudicating Authority in the impugned order has noticed the payment of entire Part IV amount as well as interest of Rs.46 Lakhs and took the view that present is not a case for reviving Section 7 application and Restoration Application was rejected. In the facts of the present case, we are of the view that under Section 7 proceeding, the Corporate Debtor having paid entire amount in Part IV, principal and interest as clearly recorded, insolvency proceeding cannot be initiated against the Corporate Debtor, as sought by the Appellant by filing Restoration Application. As per the statement recorded on

18.03.2025, the Corporate Debtor, according to its calculation has paid amount of Rs.46,93,907/- towards *pendente lite interest* also. We are of the view that in event Appellant's case is that he is entitled for some more interest, it is always open for the Appellant to take such proceeding as available in law. With these observations, we dismiss the appeal.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

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