

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH: NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 1279 of 2025**

**[Arising out of the Order dated 01.07.2025, passed by the 'Adjudicating Authority' (National Company Law Tribunal, Mumbai Bench), in IA-2341/2025 in Company Petition (IB)/178/(MB)2021]**

**IN THE MATTER OF:**

1. Mohan Reddy Bhumi Reddy Gari.  
Director of DSK Southern Projects Private Limited Having an address at Villa No. 374, Adarsh Palm Retreat, Devarabisanahalli, Bangalore, Karnataka - 560 103.

**...Appellant**

**Versus**

1. STCI Finance Limited  
A/B 1-802, A Wing 8th Floor, Marathon Innova, Marathon Nextgen Compound, Off. GK. Marg, Lower Parel West Mumbai - 400013

**...Respondent**

**Present:**

**For Appellant** : Mr. G. Aniruth Purusothaman, Advocate  
**For Respondent** : Mr. Ayush J Rajani, Advocate.

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

**[Per: Justice Mohd. Faiz Alam Khan, Member (Judicial)]**

Instant appeal has been preferred by the appellant under Section 61 of the Insolvency and Bankruptcy Code, 2016 (for short 'Code') against the impugned order dated 01.07.2025, passed by the National Company Law Tribunal, Mumbai Bench in IA No. 2341 of 2025 moved in CP No. 178 of 2021 whereby the aforesaid IA was dismissed by the tribunal.

2. Necessary facts required for disposal of this appeal are that Insolvency process against DSK Southern Projects Pvt. Ltd. (CD) was initiated by Ld. NCLT, Mumbai vide order dated 09.12.2021 passed in CP (IB) No. 178 of 2021 and during the course of the Insolvency Resolution, a resolution plan submitted by the consortium of Shiv Charan, Bharti Agarwal, and Pushplata Bai, Successful Resolution Applicant (SRA) was approved by the CoC as well as by Ld. NCLT vide order dated 17.02.2023 and the appellant became the Director of the CD after the conclusion of the CIRP.

3. It is further reflected that Directorate of Enforcement (ED), Mumbai Zonal Office-II passed a Provisional attachment order no. 01 of 2019 dated 14.02.2019 in File No. ECIR no. 01/MBZO- II/2018 thereby seizing and attaching properties of the CD which also included 14 residential units situated at Mantri Pinnacle at Bannerghatta Road, Bengaluru having an aggregate value of Rs. 32,51,10,596/-.

4. It is further reflected that flat no. 2402 on floor no. 24, admeasuring 3595 sq. ft. (4 BHK) in Mantri Pinnacle, Bannerghatta Road, Bengaluru although was mortgaged to Respondent but was not attached by the ED.

5. It is further reflected that Ld. NCLT vide order dated 17.02.2023 and 23.04.2023 passed in IA No. 383 of 2022 held that the attachment of properties of the CD could not continue after the admission of the CD into CIRP and further directed the ED to release the assets of the CD forthwith as they are covered under the approved resolution plan.

6. Subsequently, it appears that, the SRA file a writ petition bearing no. 9943 of 2023 before the Hon'ble Bombay High Court which was disposed of

on 01.03.2024, and the attachment of the properties by the CD was put to an end on 17.02.2023.

7. The ED challenged the aforesaid order of the Hon'ble Bombay High Court by filing a SLP (C) Diary No. 34194/2024 before the Hon'ble Supreme Court and vide order dated 12.08.2024, Hon'ble Supreme Court directed that the order dated 14.02.2019 of provisional attachment will continue and the aforesaid SLP filed by the ED is still pending for disposal before the Hon'ble Supreme Court.

8. It is in the 13<sup>th</sup> meeting of the monitoring committee of the CD which was held on 28.03.2025 the appellant requested for issuance of no objection certificate for aforesaid flat no. 2402 which has not been allegedly attached by the ED and thereafter IA No. 2341 of 2025 was filed by the appellant before NCLT seeking directions of the release of the said flat which has been dismissed by passing the impugned order.

9. The Respondent STCI Finance Ltd. (Financial Creditor) in his reply filed before adjudicating authority has narrated all the factual matrix from filing of the resolution plan by the appellant till approval of the same by the CoC as well as by the adjudicating authority and also stated facts with regard to the filing or writ petition nos. 9943 of 2023 and 29111 of 2023 by the appellant before the Hon'ble Bombay High Court and also passing of the order dated 01.03.2024 and also the order of the Hon'ble Supreme Court passed in SLP (C) Diary no(s). 34194 of 2024 whereby the provisional attachment order dated 14.02.2019 was directed to remain continue.

10. It is further submitted in para no. 12 of the reply that in the present circumstances, if an appropriate indemnity or undertaking is furnished by

the appellant to the effect that in the event of any adverse order passed by any court or authority including the ED or any appellate court including Hon'ble Supreme Court then the Respondent shall be bound to return the subject property i.e. flat no. 2402 on floor no. 24 in Mantri Pinnacle, Bannerghatta Road, Bengaluru. It is further highlighted that such an undertaking will sufficiently address the Respondents concern.

11. We have heard Ld. Counsel for the parties and perused the record.

12. It is not in dispute that the appellant had submitted a resolution plan of the CD which was approved by the CoC of the CD as well as by the adjudicating authority vide order dated 17.02.2023.

13. It is also reflected that in the resolution plan provision was made for the payment of secured financial creditors of Rs. 27.95 Crore in the manner that Rs. 8.34 Crore to be paid by SRA within 90 days of the date of approval of resolution plan by the LD. NCLT and the balance amount of Rs. 19.60 Crore to be paid after removal of the attachment of the property by ED by three equal quarterly payment of Rs. 6.53 Crores from 30<sup>th</sup> day of removal of attachment. The appellant (SRA) has deposited the first instalment in accordance with the provisions contained in the plan.

14. It is also evident that Hon'ble Bombay High Court vide order dated 01.03.2024, passed in writ petition no. 9943 of 2023 filed by the appellant and writ petition no. 29111 of 2023 filed by the ED has held that the attachment by the ED over the attached properties of the CD has come to an end on 17.02.2023 by virtue of operation of Section 32A of the IBC and aggrieved by this judgment the ED has approached the Hon'ble Supreme Court by filing SLP (C) diary no. 34194 of 2024 and on 12.08.2024 the

Hon'ble Supreme Court directed for continuance of the provisional attachment order dated 14.02.2019, passed by the ED and it is stated that the said SLP is still pending before the Hon'ble Supreme Court, for the sake of convenience, the order of Hon'ble Supreme Court dated 12.08.2024 is placed as under:

*“Application for exemption from filing a certified copy of the impugned judgment is allowed.*

*Delay condoned.*

*The issue raised in the petition requires hearing.*

*Therefore, we grant leave.*

*We direct the appellant to implead union of India through Ministry of Finance and Ministry of Corporate Affairs as added respondents. Amended cause title to be filed within a period of one week from today.*

*The name of Respondent No. 4-adjudicating authority is deleted from the array of parties.*

*Mr. Ravi Raghunath, the Ld. Counsel accepts notice on behalf of Respondent Nos. 1 to 3.*

*List for hearing on 16<sup>th</sup> October, 2024 in the first five matters.*

***In the meanwhile, the order of attachment dated 14<sup>th</sup> February, 2019 will continue to operate. Needless to add that the contempt petition before the High Court will not proceed.***

*The parties are free to file the brief submissions in writing one week before the next date”.*

*(Emphasis Ours)*

15. The appellant has also brought on record the provisional attachment order passed by the ED on 14.02.2019 whereby apart from other properties of the CD, the following properties given at S. No. 15 of the schedule, description of properties attached by the ED has been given.

Sr. No.	Name of owner	Place where property is situated	Nature of property	Description of the property	Area	Document details	Value Rs. In lakhs	Remarks
15.	D.S. Kulkarni Developers Ltd.	Bannerghatta Road, Bangalore	Units (Flats) of a Mantri-DSK Pinnacle Projects.	14 unsold flats on Katha no. 2., Hulimavu Village, Begur Hobli, Bangalore Area =52915 SqM	52915 Sq. Feet		3244.00	For the attachment Ready Reckoner rate of government of Karnataka has been considered.

*Mantri Pinnacle at Bannerghatta-Unsold Units Pertains to DSK Southern Project Pvt. Ltd. as on 12.12.2018 (mentioned at Sr. No. 15 in Schedule A1 of PAO no. 01/2019 dated 14.02.2019)*

Sl. No.	Floor	Unit No	Unit Type	Area (in Sq ft.)	Area (in Sq. MT)
1	2	201	4BHK	3,595	333.99
2	5	201	4BHK	3,595	333.99
3	8	801	4BHK	3,595	333.99
4	11	1101	4BHK	3,595	333.99
5	12	1202	4BHK	3,595	333.99
6	14	1401	4BHK	3,595	333.99
7	26	2601	4BHK	3,595	333.99
8	27	2702	4BHK	3,595	333.99
9	29	2901	4BHK	3,595	333.99
10	30	3002	4BHK	3,595	333.99
11	30	PH1	4BHK	6180	574.14
12	31	3102	4BHK	3,595	333.99
13	32	3201	4BHK	3,595	333.99
14	33	3302	4BHK	3,595	333.99
<b>Total</b>				<b>52,915</b>	<b>4915.96</b>

16. The contention of the appellant before this Tribunal as well as before the adjudicating authority is/was that flat no. 2402 situated at floor no. 24 admeasuring 3595 sq. feet (4 BHK) in Mantri Pinnacle, Bannerghatta Road,

Bengaluru was never attached by the ED vide its provisional attachment order dated 14.02.2019 and therefore the same is not covered by the order of the Hon'ble Supreme Court dated 12.08.2024 passed in SLP (C) diary no. 34194 of 2024.

17. It is apparent that Hon'ble Supreme Court vide its order dated 12.08.2024, has only directed for continuance of the provisional attachment order passed by the ED on 19.02.2024 and prima facie it is evident from the record that the flat no. 2402 situated at floor no. 24 admeasuring 3595 sq. feet (4 BHK) in Mantri Pinnacle, Bannerghatta Road, Bengaluru pertaining to which a prayer has bene made for release did not find place in the list of properties attached by the aforesaid provisional attachment order. However, the adjudicating authority by passing the impugned order observed as under:

*“6. It is noticed that the release of the attachment by Ed is crucial for the implementation of the Resolution Plan, which depends upon the final outcome of the said Special Leave Petition pending before the Hon'ble Supreme Court. Therefore, directing release of the said flat, and thus proceeding with the implementation of the Resolution Plan, may not be in line with the interim order passed by the Hon'ble Supreme Court. Considering the above, we are not inclined to give any direction to the Respondent to release said flat at this stage. However, the Applicant is at liberty to approach the Respondent and furnish suitable undertaking/indemnity that satisfies the Respondent to release the said flat, provided it is not subject to any attachment by the ED”.*

18. Thus, the adjudicating authority was of the view that release of the said flat may not be in line with the interim order passed by the Hon'ble Supreme Court, however on the other hand liberty was given to the appellant (SRA) to approach the Respondent to furnish suitable undertaking

for the purpose of release of the said flat, provided the same is not subject to any attachment by the ED.

19. We are of the considered view that the adjudicating authority has committed manifest illegality in not ascertaining as to whether the aforesaid flat no. 2402 situated at floor no. 24 admeasuring 3595 sq. feet (4 BHK) in Mantri Pinnacle, Bannerghatta Road, Bengaluru was in fact provisionally attached by the ED by passing the provisional attachment order date d 19.02.2024 and without ascertaining the same the liberty has been given to the appellant to approach the Respondent and the ball has been placed in the court of the Respondent while it was the utmost duty of the adjudicating authority to adjudicate on the issue as to whether the aforesaid property was actually provisionally attached by the ED vide and if the property is found to be under attachment vide order dated 14.02.2019 the attachment of it was obviously protected by the order of the Hon'ble Supreme Court dated 12.08.2024 passed in SLP (C) diary no. 34194 of 2024. However, if the property was not found attached by the ED vide order dated 14.02.2019 it was within the jurisdiction and power of the adjudicating authority to release the same in favour of the appellant, as the Hon'ble Supreme Court vide above order has only continued the provisional attachment order dated 19.02.2024, whereby certain properties of the CD were provisionally attached and this property is not reflecting in the said attachment order.

20. In view of above, in our considered view the impugned order may not be allowed to stand and for the reasons given herein before the same is set aside.

21. We would have very well adjudicated the issue as to whether the aforesaid property has in fact been attached by the ED by passing provisional attachment order dated 19.02.2024 but we find that an incomplete provisional attachment order has been brought on record by the appellant. Thus, we in this scenario, are compelled to remand the case to adjudicating authority for afresh consideration of the matter.

22. In this view of the matter while setting aside the impugned order dated 01.07.2025 passed by the adjudicating authority, we remand the matter back to adjudicating authority for disposal of the IA No. 2341 of 2025 filed by the appellant in CP (IB) No. 178/MB/2021, afresh in the light of the observations made herein before, strictly in accordance with law, after providing an opportunity of being heard to the parties.

23. Needless to say that the parties would be free before the adjudicating authority to place any additional document in support of their contentions. The IA No. 2341 of 2025 is revived before the NCLT, Mumbai.

24. The parties shall appear before the Ld. NCLT, Mumbai on 03.12.2025. We request the adjudicating authority to dispose of the IA No. 2341 of 2025 within one month of first appearance of the parties before it.

**[Justice Mohd. Faiz Alam Khan]**  
**Member (Judicial)**

**[Indevar Pandey]**  
**Member (Technical)**

**New Delhi.**  
**18.11.2025**  
*sr*