

Shankar Khandelwal Vs. Omkara Asset Reconstruction Pvt. Ltd. & Anr.

Civil Appeal No(s). 13158-13159 of 2025 · Supreme Court of India · 2026-04-29 · Pamidighantam Sri Narasimha · Alok Aradhe · F2J-C-1110

Full judgment text

Shankar Khandelwal Vs. Omkara Asset Reconstruction Pvt. Ltd. & Anr.

[Civil Appeal No(s). 13158-13159 of 2025]

Alok Aradhe, J.

1. These appeals under Section 62 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code"), are directed against the impugned judgment dated 15.10.2025 passed by the National Company Law Appellate Tribunal (NCLAT), whereby the order dated 22.01.2025 passed by the National Company Law Tribunal (NCLT), admitting two separate petitions under Section 7 of the Code and initiating the Corporate Insolvency Resolution Process (CIRP), has been affirmed.

2. The central question that arises for determination in these appeals are whether the application filed under Section 7 of the Code by the secured financial creditor was within the period of limitation.

FACTS

3. The facts giving rise to the filing of these appeals, briefly stated, are that the appellant is the erstwhile Director of Shrinathji Business Ventures Private Limited and Samaria Business Ventures Private Limited (Corporate Debtors). Two separate loans were sanctioned by Dewan Housing Finance Corporation Ltd., (DHFL) in September 2014 for sums of Rs.12 crores and Rs.11 crores, out of which Rs.11.50 crores and Rs.11 crores respectively were disbursed.

The corporate debtors defaulted in repayment, and on 06.12.2016, DHFL classified their accounts as Non-Performing Assets (NPA). Subsequently, DHFL itself entered CIRP pursuant to proceedings initiated by the Reserve Bank of India, and on 07.06.2021, a resolution plan submitted by Piramal Capital & Housing Finance Ltd., (PCHFL) was approved by the NCLT, Mumbai. On 10.01.2021, PCHFL assigned the subject loans to Omkara Asset Reconstruction Pvt. Ltd., the secured financial creditor.

4. Following the termination of the earlier CIRP, the secured financial creditor filed an application under Section 7 of the Code on 23.09.2024 against the corporate debtor. By order dated 22.01.2025, the NCLT held that the application was within limitation and admitted the same.

5. The appellant challenged the aforesaid order in appeal. By order dated 15.10.2025, the NCLAT, inter alia, held that the admission of the claim by the Resolution Professional (RP) in the first CIRP against the corporate debtor on 22.05.2022 constituted a valid acknowledgment, and its subsequent updating on 21.01.2024 constituted a second acknowledgment. It was further held that, if limitation is computed from either of these dates, the debt is not timebarred. Accordingly, the NCLAT concluded that the petition under Section 7 of the Code was within limitation and affirmed the order of the NCLT. In this factual background, the present appeals arise for consideration.

SUBMISSIONS

6. Learned senior counsel for the appellant submitted that the date of default of corporate debtor was 06.12.2016 and the limitation would have expired on 06.12.2019. It is, however, submitted that the period of limitation remained suspended from 03.12.2019 to 29.04.2024 in view of mandate contained in Section 60(6) of the Code. However, the period of limitation expired three days after 29.04.2024, whereas, the petition under Section 7 of the Code was filed by the secured creditors on 23.09.2024, and was thus barred by limitation.

7. It is further contended that admission of debt by an Interim Resolution Professional (IRP) cannot be equated with an acknowledgment of liability under Section 18 of the Limitation Act, 1963 (hereinafter referred to as "the 1963 Act"). It is urged that the admission of claims is merely an administrative function of the IRP under Section 18 of the Code. It was argued that the IRP's admission of the secured

financial creditor's claim in the first CIRP does not constitute an acknowledgment under Section 18 of the 1963 Act. Accordingly, it is submitted that the application under Section 7 of the Code was filed beyond the prescribed period of three years and is barred by limitation. In support of the aforesaid submissions, reliance was placed on the decisions of this Court¹.

8. Learned senior counsel for the respondent no. 1, on the other hand, submitted that the period of limitation would commence from 06.12.2017 i.e., upon expiry of the period prescribed under Section 13(2) read with Section 13(4) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the SARFAESI Act, 2002") expired.

It is further submitted that in view of the order passed by this Court², the period from 15.03.2020 to 28.02.2022, is excluded from computation of limitation. It is pointed out that during the pendency of the first CIRP on 02.05.2022, IRP acknowledged the debt. It is contended that petition under Section 7 of the Code was within limitation. In support of the aforesaid submissions, reliance was placed on the decisions of this Court³.

9. We have considered the rival submissions and have perused the records.

STATUTORY PROVISIONS

10. We take note of the relevant statutory provisions. Article 137 of the 1963 Act is extracted below for the facility of reference:-

Section 60 of the Code deals with adjudicating authority for corporate persons. Section 60(6) of the Code, which is relevant for the purposes of the controversy involved in these appeals read as under:-

"Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963) or in any other law for the time being in force, in computing the period of limitation specified for any suit or application by or against a corporate debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded."

ISSUES

11. The following issues arise for consideration in these appeals (i) whether the period of limitation for filing the petition under Section 7 of the Code has to be reckoned from 06.12.2016 or 06.12.2017, (ii) whether the petition under Section 7 of the Code is within limitation, and (iii) whether an admission of debt by an IRP amounts to acknowledgment of liability under Section 18 of the 1963 Act.

ANALYSIS

12. The relevant undisputed facts are reflected in the following chronology of events:

13. It is well-settled in law that the limitation for filing an application under Section 7 of the Code is three years and is governed by Article 137 of 1963 Act⁴. An application under Section 7 of the Code is governed by Article 137 of the 1963 Act. The accrual of such right has been consistently interpreted by this Court to arise on the date of the default, that is, when the corporate debtor first fails to discharge its repayment obligations. The limitation begins to run from the date of classification of the account as NPA, being the date of default, and not from any subsequent proceeding initiated for recovery⁵. In the instant case, it is not in dispute that accounts of the CD were declared NPA on 06.12.2016. Therefore, the right to file a petition under Section 7 of the Code accrued on 06.12.2016. Accordingly, the first issue is answered in the aforesaid terms.

14. In the facts of the present case, the period of limitation for filing the petition under Section 7 of the Code, commences from 06.12.2016. The period of limitation would have expired on 06.12.2019. However, following three events have intervened before filing of petition under Section of the Code namely:-

(i) Commencement of CIRP of DHFL from 03.12.2019 to 07.06.2021 from which it is evident that CIRP went beyond the expiry of three years period on 06.12.2019.

(ii) Before the expiry of the CIRP of DHFL, the Suo Motu Order of this Court due to Covid Pandemic directed exclusion of limitation period commencing from 15.03.2020 till 28.02.2022. Further, this limitation period is extended by another 90 days from 01.03.2022.

(iii) Before expiry of extension of limitation by virtue of Suo Motu order of this Court, CIRP as against the appellant itself commenced on 23.12.2021 and continued till 29.07.2024.

15. After reckoning three years from 06.12.2016 and excluding the above referred periods, only three days remain from 29.07.2024 which would expire on 01.08.2024. However, petition under Section 7 was filed on 23.09.2024 which is well beyond the period of limitation. Accordingly, the second issue is answered.

16. The third issue pertains to legal character of the admission of a claim by the IRP/RP and whether such admission can be construed as admission of liability so as to extend the period of limitation under Section 18 of the 1963 Act. At the outset, it must be noted that scope and ambit of Section 18 of the 1963 Act are well-settled. For a writing to constitute a valid acknowledgment, it must be made by the party against whom the right is claimed, or by a person duly authorized on its behalf; it must be made before the expiration of the prescribed period of limitation; and, most importantly, it must evince a conscious and unequivocal intention to admit a subsisting jural relationship and an existing liability.

A mere reference to a past transaction or a bald recital of a debt, without an intention to admit liability, would not suffice. The said principle has been authoritatively enunciated by this Court⁶. The provisions of the Code and the Regulations were considered by this Court⁷ and it has been held that RP has no adjudicatory powers and his role involves collation of claims. RP performs its administrative duties under Section 18 of the Code.

The admission of a claim by RP is merely an administrative/clerical task performed as part of its statutory duties under Section 18 of the Code⁸ and, therefore, admission of claim by RP only means induction/entry of a claim. An admission of a claim by RP is akin to mere recital/reference of debt, which does not amount to an acknowledgment under Section 18 of the 1963 Act⁹. Therefore, IRP's admission of secured financial creditors debt in first CIRP was not an acknowledgement under Section 18 of 1963 Act. Accordingly, third issue is answered.

17. It is a well-settled legal proposition that an acknowledgment under Section 18 of the 1963 Act can only extend/renew a limitation period which has not already expired¹⁰. Therefore, a limitation period can be extended only by an acknowledgment which is made within the period of limitation. In any case, the admission of claim of secured financial creditor by IRP on 02.05.2022 does not enure to the benefit of the secured financial creditor as the same was not made within the period of limitation.

CONCLUSION

18. In view of foregoing analysis, the impugned judgment dated 15.10.2025 and order dated 22.01.2025 passed by NCLAT and NCLT respectively are quashed and set aside.

19. In the result, the appeals are allowed. There shall be no order as to costs.

.....J. [Pamidighantam Sri Narasimha]

.....J. [Alok Aradhe]

New Delhi;

April 29, 2026.

1 Babulal Vardharji Gurjar v. Veer Gurjar, (2020) 15 SCC 1; Prabhakaran & Ors. v. M. Azhagiri Pillai (Dead) by LRs. & Ors., (2006) 4 SCC 484; Tilak Ram & Ors. v. Nathu & Ors., 1966 SCC OnLine SC 99; Valliamma Champaka Pillai v. Sivathanu Pillai & Ors., (1979) 4 SCC 429; Committee of Creditors of Essar Steel India Ltd. through authorised signatory v. Satish Kumar Gupta & Ors., (2020) 8 SCC 531; Ajay Kumar Radheyshyam Goenka v. Tourism Finance Corporation of India Ltd., (2023) 10 SCC 545; China Development Bank v. Doha Bank Q.P.S.C. & Ors., (2025) 7 SCC 729; Kotak Mahindra Bank Ltd. v. Kew Precision Parts Pvt. Ltd. & Ors., (2022) 9 SCC 364; Laxmi Pat Surana v. Union Bank of India & Anr., (2021) 8 SCC 481; Reliance Asset Reconstruction Co. Ltd. v. Hotel Poonja International Pvt. Ltd., (2021) 7 SCC 352; Hindalco Industries Ltd. v. Hirakud Industrial Works Ltd. & Ors., 2023 SCC OnLine NCLAT 1554 and Expert Realty Professionals Pvt. Ltd. through Neeraj Gusain v. Logix Infrastructure Pvt. Ltd. through RP Mr. Pawan Kumar Goyal & Ors., 2025 SCC OnLine NCLAT 1455

2 Cognizance For Extension of Limitation, In Re; (2022) 3 SCC 117

3 New Delhi Municipal Council v. Minosha India Limited, (2022) 8 SCC 384; Laxmi Pat Surana (supra); Shantanu Jagdish Prakash v. SBI & Anr., 2025 SCC OnLine NCLAT 117; Mavjibhai Nagarbhay Patel v. SBI & Anr., 2024 SCC OnLine NCLAT 2014; R. Kandasamy (D) & Ors. v. T.R.K. Sarawathy & Anr., (2025) 3 SCC 513; S. Shivraj Reddy (D) thr. LRs. & Anr. v. S. Raghuraj Reddy & Ors., 2024 SCC OnLine SC 963;

National Textile Corporation Ltd. v. Naresh Kumar Badrikumar Jagad & Ors., (2011) 12 SCC 695; Marg Ltd. v. Srei Equipment Finance Ltd. and Marg Ltd. v. Srei Equipment Finance Ltd., SCC OnLine Cal 7940

4 Babulal Vardharji Gurjar (supra)

5 BK Educational Services (P) Ltd. v. Paras Gupta & Associates, (2019) 11 SCC 633; Gaurav Hargovindbhai Dave v. Asset Reconstruction Company (India) Ltd. & Anr., (2019) 10 SCC 572; Babulal Vardharji Gurjar (supra) and Tech Sharp Engineers Pvt. Ltd. v. Sanghvi Movers Ltd., (2023) 2 SCC 531

6 Prabhakaran (supra); Tilak Ram (supra) and Valliamma (supra)

7 Swiss Ribbons Private Limited & Anr. v. Union of India & Ors., (2019) 4 SCC 17 and Ajay Kumar Radheyshyam Goenka v. Tourism Finance Corporation of India Limited; (2023) 10 SCC 545

8 Committee of Creditors of Essar Steel India Ltd. through authorised signatory (supra)

9 Prabhakaran & Ors. (supra), Tilak Ram & Ors. (supra) and Valliamma Champaka Pillai (supra)

10 Kotak Mahindra Bank Ltd. (supra); Laxmi Pat Surana (supra); Reliance Asset Reconstruction Co. Ltd. (supra) and M/s. Airen and Associates v. M/s. Sanmar Engineering Services Ltd., 2025 SCC OnLine SC 1562

Source disclosure: Complete sanitized public judgment text retained for research; official-primary replacement remains pending.

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