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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 05.05.2025

\+ **W.P.(C) 5884/2025 & CM APPLs. 26849-26851/2025**

CLIMAX ENTERPRISES PRIVATE LIMITED .....Petitioner

Through: Mr. Gulshan Kumar Sachdev, Advocate

versus

SUPER AAYS PRIVATE LIMITED & ANR. .....Respondents

Through:

CORAM:
HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Petition has been filed by the Petitioner under Article 226 & 227 of the Constitution of India seeking to challenge the Order dated 12.03.2025 passed by the National Company Law Tribunal [hereinafter referred to as "NCLT"], New Delhi [hereinafter referred to as "Impugned Order"].

2. A query has been put to the learned Counsel appearing on behalf of the Petitioner regarding maintainability of the present Petition, in view of the fact that the Insolvency & Bankruptcy Code, 2016 [hereinafter referred to as "IBC"] provides for an appellate remedy before the NCLT.

3. Learned Counsel appearing for the Petitioner raises two contentions. Firstly, he states that it is an Interim Order. Secondly, he submits that the principles of natural justice have been violated and thus the Court must hear him.

4. It is apposite to extract Section 61 of the IBC, which is set out below:

> *"Section 61: Appeals and Appellate Authority*
>
> *61(1) Notwithstanding anything to the contrary contained under the Companies Act 2013, any person aggrieved by the order of the Adjudicating Authority under this part may prefer an appeal to the National Company Law Appellate Tribunal...."*

5. A plain reading of this provision shows that any person aggrieved by an order of NCLT may prefer an Appeal to the National Company Law Appellate Tribunal [hereinafter referred to as "NCLAT"]. The provision does not discuss whether such an order is an interim order or a final order.

6. The Supreme Court in ***M/s. Innoventive Industries Ltd v. ICICI Bank***[1]**,** held that IBC, 2016 is a single unified umbrella code, regulating the entire gamut of law relating to Insolvency Resolution in a time bound manner. Thus, IBC, 2016 being a complete self-contained code providing a mechanism to resolve all the issues arising during the Corporate Insolvency Process, including the mechanism that orders passed by NCLT are appealable to the NCLAT under Section 61 of the IBC, 2016 and the orders of the NCLAT are amenable to the appellate jurisdiction of the Supreme Court under Section 62 of the IBC, 2016. The relevant extract of ***Innoventive*** case is extracted below:

> "*13. **One of the important objectives of the Code is to bring the insolvency law in India under a single unified umbrella with the object of speeding up of the insolvency process.** As per the data available with the World Bank in 2016, insolvency resolution in India took 4.3 years on an average, which was much higher when compared with the United Kingdom (1 year), USA (1.5 years) and South Africa (2 years). The World Bank's Ease of Doing Business Index, 2015, ranked India as country number 135 out of 190 countries on the ease of resolving insolvency based on various indicia.*
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> xxx xxxx xxxx xxxx

[1] (2018) 1 SCC 407

*55. **<u>It is settled law that a consolidating and amending Act like the present Central enactment forms a code complete in itself and is exhaustive of the matters dealt with therein</u>**. In Ravula Subba Rao v. CIT26, this Court held: (SCR p. 585: AIR p. 610, para 10)*

> *10. ..... The Act is, as stated in the Preamble, one to consolidate and amend the law relating to income tax. The rule of construction to be applied to such a statute is thus stated by Lord Herschell in Bank of England v. Vagliano Bros. 32: (AC pp. 144-45)*
>
> *'... I think the proper course is in the first instance to examine the language of the statute, and to ask what is its natural meaning, uninfluenced by any considerations derived from the previous state of the law, and not to start with inquiring how the law previously stood, and then, assuming that it was probably intended to leave it unaltered.....'*

[Emphasis Supplied]

6.1 Therefore, it is clear that matters arising out of the insolvency proceedings must be addressed solely within the IBC. It is settled law that orders of the NCLT are challenged before the NCLAT. Therefore, an order passed by the NCLT is only appealable to the NCLAT under Section 61 of the IBC and the orders of the NCLAT are amenable to the appellate jurisdiction of the Supreme Court under Section 62 of the IBC and the High Courts should refrain from interfering in the process.

7. So far as concerns the second aspect of the matter that there is violation of the principles of natural justice, it is the case of the Petitioner that he was not heard.

8. This is however not borne from the Impugned Order. A perusal of the Impugned Order shows that there has been no appearance on behalf of the Petitioner from 01.02.2024 onwards. It is apposite to set out relevant extract of the Impugned Order below:

> *"None appears on behalf of the applicant. It seems that Learned Counsel on behalf of the applicant has been absenting from 01st February 2024 onwards on one pretext or the other. Mr. Deepak Tyagi,*

Learned Counsel for the respondent/corporate debtor is present physically. Heard the arguments on behalf of the respondent/corporate debtor. Both the parties are permitted to file written submissions within one week, with a copy in advance to the opposite side. List this matter on 02.04.2025."

9. After some arguments, learned Counsel appearing on behalf of the Petitioner seeks permission to withdraw the present Petition with liberty to take appropriate steps before the appropriate forum.

10. The Petition is dismissed as withdrawn with liberty as prayed for, *albeit* in accordance with law. All pending Applications stand closed.

11. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 5, 2025/*g.joshi*

Click here to check corrigendum, if any