

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

Company Appeal (AT) (Insolvency) No. 320 of 2026

[Arising out of Order dated 19.12.2025 passed by the Adjudicating Authority (National Company Law Tribunal), Cuttack Bench in C.P. (IB) No.19/CB/2025]

In the matter of:

Durga Prasanna Mishra

...Appellant

Vs.

Piramal Capital & Housing Finance Ltd. & Anr.

...Respondents

**For Appellant: Ms. Bhabna Das, Mr. Aripit Kumar Mishra,
Advocates.**

**For Respondents: Mr. Krishnendu Datta, Sr. Advocate with Ms.
Devika Mohan, Mr. Akshay Sharma, Mr. Yash
Tandon, Advocates for R-1.**

**Mr. Santosh Kumar Ray, Ms. Rituparna Sanyal,
Ms. Ashmita Lohia, Ms. Srishti Mahana,
Advocates for RP.**

J U D G M E N T

(2nd March, 2026)

Ashok Bhushan, J.

This Appeal by a Suspended Director of the Corporate Debtor has been filed challenging the order dated 19.12.2025 passed by the Adjudicating Authority (National Company Law Tribunal) Cuttack Bench by which Section 7 application filed by 'Piramal Capital & Housing Finance Ltd.', the Respondent No.1 herein has been admitted. Aggrieved by the order initiating

the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor- 'Shree Baladevjew Infrastructure Pvt. Ltd.', this Appeal has been filed.

2. Brief facts of the case necessary to be noticed for deciding the Appeal are:-

2.1. The Corporate Debtor was sanctioned a loan on 17.05.2013 by Dewan Housing Finance Corporation Limited (DHFL). Security documents were also executed. The total amount of Rs.7.55 Crores was disbursed between 22.05.2013 to 29.01.2015. The Corporate Debtor committed default and account was classified as NPA on 31.05.2015. A demand-cum-recall notice was issued on 01.06.2015 to the Corporate Debtor, the co-borrower and the guarantors. No payment having been made, notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 22.09.2015. Corporate Debtor vide letter dated 02.11.2015 agreed to pay the irregular amount within one month but also raised objections to notice under Section 13(2) of the SARFAESI Act. A possession notice under Section 13(4) of the SARFAESI Act was issued on 06.01.2016 seeking possession of the secured assets. Corporate Debtor again sought rescheduling by its letter received on 01.02.2016 which was refused by the Financial Creditor. Possession was taken by the Financial Creditor on 08.06.2018. On 05.01.2018 & 28.09.2020, Corporate Debtor proposed One Time Settlement. The CIRP process against the Financial Creditor itself was initiated by the NCLT, Mumbai Bench on 03.02.2019. In the CIRP of the Financial Creditor, Resolution Plan was approved on 07.06.2021 in favour of 'Piramal Capital & Housing Finance Ltd.', the Respondent No.1 herein. Corporate Debtor again submitted an OTS proposal on 23.07.2024 which was

not accepted. An application under Section 7 was filed by the Respondent on 01.03.2025 claiming total amount in default as Rs.36,08,97,240/- which included principal interest and penal charges as on 15.02.2025. In the application under Section 7 notice was issued to the Corporate Debtor which returned with endorsement "addressee cannot be located". Adjudicating Authority vide order dated 16.07.2025 directed for substituted service through publication in a local newspaper. The notices were published on 08.08.2025. On 22.08.2025, counsel entered appearance on behalf of the Corporate Debtor and sought time to file Vakalatnama and reply. Again on 16.09.2025, the same request was repeated by the counsel for the Corporate Debtor on the ground that the Managing Director had been released from judicial custody recently. Despite the opportunities granted, no appearance on behalf of the Corporate Debtor or reply was filed. Adjudicating Authority proceeded *ex parte* against the Corporate Debtor on 06.11.2025 and heard the matter on 25.11.2025. The Adjudicating Authority by the impugned order held that the Financial Creditor has been able to successfully prove debt and default. Despite opportunity no reply having been filed, Adjudicating Authority also held that the application filed by the Financial Creditor is within limitation. Adjudicating Authority admitted Section 7 application by appointing Mr. Soumitra Lahiri as Interim Resolution Professional.

3. We have heard Ms. Bhabna Das, Learned Counsel for the Appellant, Shri Krishnendu Datta, Learned Senior Counsel for the Respondent No.1 and Shri Santosh Kumar Ray, Learned Counsel for the Resolution Professional.

4. Learned Counsel for the Appellant challenging the order submits that the Managing Director of the Corporate Debtor was in Police/ judicial custody from 05.05.2025 to 17.09.2025 and again w.e.f. 25.10.2025 till 26.11.2025. Adjudicating Authority passed order to proceed ex parte during the aforesaid period. The order passed by the Adjudicating Authority is in violation of principle of natural justice. Due to Appellant being in judicial custody and he was required to attend his ailing father, Appellant could not attend the proceeding. Entire proceeding has been taken in absence of any representation from the Corporate Debtor. It is submitted that out of loan facility of Rs.8 Crore only Rs.7.5 Crore was disbursed. Corporate Debtor has already completed around 45-50% of the project and some further investment shall be able to complete the project and handover the same to the possession. Corporate Debtor has also repaid an amount of Rs.2.85 Crore to DHFL. The project was delayed due to several reasons. Section 7 proceeding cannot be use for reviving dead claims. Application was required to be filed within three years from first date of default which was 01.12.2014 and NPA was declared on 31.05.2015. Application filed on 01.03.2025 was barred by time.

5. Counsel for the Respondent- Financial Creditor refuting the submission of the Appellant submits that the disbursement having not been disputed, the default was admittedly committed by the Corporate Debtor in repayment of the loan. Various OTS proposals given by the Corporate Debtor from time to time clearly proves the debt and default. Adjudicating Authority has rightly admitted Section 7 application. It is submitted that the first date of default mentioned in Part IV as 01.12.2014 being the first instalment not paid after

which notices were issued on 22.09.2015 under Section 13(2) of the SARFAESI Act calling upon the Corporate Debtor and guarantors to pay amount where in response to which Corporate Debtor by letter dated 02.11.2015 agreed to pay irregular amount installment within one month. There have been various letters given by the Corporate Debtor acknowledging the debt and praying for restructuring. Application filed on 01.03.2025 was within limitation period. Limitation period can be treated to be extended by giving benefit of Section 18 of the Limitation Act. Corporate Debtor having not paid the amount, the debt and default is fully proved.

6. We have considered the submissions of the Counsel for the parties and perused the record. The first issue which need to be considered is as to whether application filed was beyond period of limitation. In Part IV, Financial Creditor has claimed first default in payment of installment on 01.12.2014. In Part-IV of the application, details of default and relevant pleadings with respect to facts and events have been narrated by the Financial Creditor. The loan account was classified as NPA on 31.05.2015. It is useful to notice pleadings in Part-IV Serial No.2 at Item Nos.7 to 10 where Corporate Debtor by letter dated 02.11.2015 agreed to pay the irregular amount installment within period of one month which can be treated as first acknowledgment:-

2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH WORKINGS FOR COMPUTATION OF	7. Due to the default of re-payment of the loan instalments, the loan account was classified as Non-Performing Asset ("NPA") on 31.05.2015.
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<p>AMOUNT AND DATES OF DEFAULT IN TABULAR FORM)</p>	<p>8. Thereafter, DHFL vide letter dated 01.06.2015 issued a demand cum recall notice to the Corporate Debtor, TSFPL and its guarantors, Mr. Gagan Bihari Mishra, Mr. Durga Prasanna Mishra and Mrs. Mitali M. Rath ("Demand cum Recall Notice"). Copy of the Demand cum Recall Notice is annexed herewith as ANNEXURE-14.</p> <p>9. The Corporate Debtor, TSFPL and its guarantors failed to pay the outstanding debt in terms of the Demand cum Recall Notice, and therefore, DHFL was constrained to issue a Notice dated 22.09.2015 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act"), calling upon the Corporate Debtor, TSFPL and its guarantors to pay the outstanding debt of Rs.8,19,52,704/- (Rupees Eight Crores Nineteen Lakhs Fifty Two Thousand Seven Hundred and Four Only) payable as on 22.09.2015 along with further interest, non-compliance charges, incidental expenses, costs and any other charges, etc. from 23.09.2015 till the date of repayment within 60 (sixty) days from the receipt of this notice ("Demand Notice"). A copy of the said Notice under Section 13(2) of the SARFAESI Act dated 22.09.2015 is annexed herewith as ANNEXURE-15.</p> <p>10. The Corporate Debtor vide its letter dated 02.11.2015, inter alia agreed to pay the</p>
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		irregular amount/instalment within a period of one month. Copy of the letter dated 02.11.2015 is annexed herewith as ANNEXURE-16.
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7. There have been further letters by the Corporate Debtor requesting for restructuring. Prayer for restructuring was made by the Corporate Debtor by letter dated 18.11.2015. Part IV also gives the details of OTS proposal received from the Corporate Debtor on 05.01.2018 and thereafter various OTS proposals letter dated 23.07.2024 and 23.08.2024. All the aforesaid correspondences which is pleaded in Part IV was filed along with the Part IV application. The details pertaining to CIRP initiation against DHFL has also been pleaded in Part IV which proceedings came to an end by approval of the Resolution Plan on 07.06.2021.

8. The details as mentioned in Part IV of Section 7 application which was supported by relevant letters and the OTS clearly contained acknowledgment within the meaning of Section 18 of the Limitation Act. The Financial Creditor itself was under CIRP from 03.02.2019 to 07.06.2021 and further the order passed by the Hon'ble Supreme Court in Suo Moto Writ Petition No.3 of 2020 shall enure to the benefit of the Financial Creditor. Adjudicating Authority has noticed the OTS proposals and has held that the limitation for filing the application was to expire on 23.08.2027. Last OTS proposal having been given on 23.08.2024, we thus are of the view that there are sufficient materials on the record to give the benefit of Section 18 of the Limitation Act.

9. From the letter accepting the acknowledgment and praying for restructuring which was issued as early as in 2015 which was issued on 02.11.2015 and 18.11.2015 shall give extension of limitation under Section 18. Further OTS proposal was given on 05.01.2018 shall also give extension of the limitation and thereafter OTS proposals given on 28.09.2020, 23.07.2024 shall clearly extend the limitation. Benefit of the Financial Creditor being under CIRP and order passed by the Hon'ble Supreme Court in Suo Moto Writ Petition No.03 of 2020 shall also clearly enure to benefit of the Financial Creditor. We, thus, uphold the finding of the Adjudicating Authority that the application was filed within the limitation.

10. Now coming to the submission of the Appellant that Managing Director was under police/judicial custody. The Adjudicating Authority in Paragraphs 11 to 13 of the impugned order had noticed following:-

"11. The notice issued to the Corporate Debtor having been returned with the endorsement "addressee cannot be located", as recorded in the orders dated 21.05.2025 and 09.07.2025, this Adjudicating Authority, vide order dated 16.07.2025, directed effecting substituted service through publication in a local Odia daily newspaper. In compliance with the said direction, the Financial Creditor effected publication in the Odia daily "Sambad", Bhubaneswar and Cuttack Edition, dated 08.08.2025, and thereafter filed an affidavit of compliance dated 12.08.2025 enclosing a copy of the said publication, thereby evidencing due compliance with the directions of this Adjudicating Authority.

12. Subsequently, on 22.08.2025, Mr. Bijay Jena, learned counsel, entered appearance on behalf of the Corporate Debtor and sought time to file his Vakalatnama and reply. On the next date of hearing, 16.09.2025, the learned counsel reiterated the request for adjournment, submitting that the Managing Director of the Corporate Debtor had recently been released from judicial custody. Considering the submission, this Adjudicating Authority granted opportunity of two weeks to file the reply. a final

13. Despite the opportunities granted, there was no appearance on behalf of the Corporate Debtor on 07.10.2025, nor was any reply filed. Accordingly, vide order dated 06.11.2025, the Corporate Debtor was proceeded against ex-parte. The matter was thereafter heard finally on 25.11.2025 in the absence of the Corporate Debtor, and upon completion of arguments, the order was reserved.”

11. When the notice was published by substituted service in the Newspaper on 08.08.2025 and the Corporate Debtor appeared through counsel on 22.08.2025, the Corporate Debtor shall be presumed to have well aware of the proceeding. Twice the Counsel for the Corporate Debtor asked for time to file reply but no reply was filed which is noted by the Adjudicating Authority in aforesaid paragraphs. The above clearly indicate that despite opportunity the Corporate Debtor did not file reply, hence, present is not a case of any violation of principle of natural justice. The Appellant being in custody from 25.10.2025 till 26.11.2025 cannot be any ground for alleging violation of principle of natural justice when on 22.08.2025, Counsel for the Corporate Debtor has appeared and prayed for time to file reply. We thus, are satisfied

that ample opportunity was given to the Corporate Debtor to file reply which was not availed of.

12. The disbursement of the loan is not even denied. The default on the part of the Corporate Debtor is writ large which is clearly reflected from various restructuring and OTS proposals submitted by the Corporate Debtor. When Corporate Debtor had submitted various OTS proposals, it is a clear acknowledgment of debt. The findings recorded by the Adjudicating Authority of debt and default, thus, are fully supported by relevant materials on the record in which no error can be found.

13. In view of the foregoing discussions, we are of the view that the Adjudicating Authority on materials on record having found debt and default has admitted Section 7 application. No grounds have been made out to interfere with the order impugned. The Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

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

New Delhi

Anjali