

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 1577 of 2024

(Arising against the impugned order dated 04.07.2024 passed by the Hon'ble National Company Law Tribunal, New Delhi, Bench-III, in IA No. 4421/2023 in CP (IB) No. 589/ND/2020)

IN THE MATTER OF:

Akshat Gupta,

Resident of 163/F, W-2, Western Avenue, Sainik
Farm, New Delhi-110062.

...Appellant

Versus

Union Bank of India,

Stressed Asset Management Branch, 603B,
Konnectus Tower, Bhav Bhuti Marg, Ajmeri Gate, New
Delhi-110001.

...Respondent No.1

Ajay Gupta,

Bankruptcy Trustee of Mr. Anil Syal, Office at 7,
Siddhartha Extension, Pocket-B, New Delhi-110014.

...Respondent No.2

Present:

For Appellant: Mr. Sameer Rohatgi, Advocate.

**For Respondents: Mr. Brijesh Kumar Tamber, Mr. Prateek Kushwaha,
Mr. Aryan Data and Mr. Kirti Baithwal, Advocates for
R-1/UBI.**

**Mr. Milan Singh Negi, Mr. Nikhil Kumar Jha and
Mr. Gautam Goel, Advocates for R-2.**

**Ms. Prachi Johri and Ms. Mrigangi Parul, Advocates for
Intervenor.**

J U D G M E N T
(25th March, 2026)

INDEVAR PANDEY, MEMBER (T)

The present appeal has arisen from the order dated **04.07.2024** passed by the National Company Law Tribunal, New Delhi, Bench-III, in **IA No. 4421/2023 in CP (IB) No. 589/ND/2020**, whereby the Adjudicating Authority set aside, the completed public auction sale of the 50% undivided rights of the personal guarantor Mr. Anil Syal in the residential property situated at H. No. 117, First Floor, Uday Park, New Delhi-110049. The auction process was completed successfully on 27.06.2023 and the entire sale consideration had been deposited by the successful bidder. Thereafter, the Sale Certificate dated 05.07.2023 was issued in favour of the Appellant.

2. The Adjudicating Authority allowed the application filed by Union Bank of India on the grounds that the auction sale was undervalued and directed the Bankruptcy Trustee to conduct fresh valuation, followed by a fresh auction, simultaneously ordering refund of the entire sale amount to the Appellant. Feeling aggrieved by the cancellation of a legally concluded auction process and the consequential deprivation of vested rights created in his favour, the successful auction purchaser Mr. Akshat Gupta has preferred the present appeal.

Brief facts of the case

3. The brief facts of the case are as given below:

- i. The bankruptcy process of *Mr. Anil Syal* commenced pursuant to his own application under Sections 121 and 122 of the IBC, which culminated in the order of the Adjudicating Authority dated 30.09.2022 appointing Mr. Ajay Gupta (Respondent No. 2 herein) as the Bankruptcy Trustee.
- ii. Following commencement of bankruptcy, the Bankruptcy Trustee initiated the process for realization from the bankrupt's assets, including the 50% undivided ownership rights of the bankrupt in the property at H. No. 117, First Floor, Uday Park, New Delhi-110049, which formed part of the bankruptcy estate.
- iii. A public auction notice was published on 02.06.2023 in Financial Express and Jansatta inviting bids for purchase of the aforesaid 50% rights of the bankrupt in the property, thereby offering equal opportunity for participation to the public at large.
- iv. Based on the public notice, the *Appellant Akshat Gupta* approached the Bankruptcy Trustee and expressed willingness to participate by submitting a Letter of Intent and a duly filled Bid Declaration Form dated 12.06.2023, along with earnest money of Rs. 9,07,216 through demand draft dated 09.06.2023 drawn on HDFC Bank.
- v. The e-auction was conducted on 27.06.2023 between 11 AM and 2 PM on the online auction portal *NeSL*, where the Appellant participated after fulfilling all protocols and auction requirements. On conclusion of bidding, the Appellant was declared the successful bidder and was directed to deposit the balance sale consideration

within 10 days from 27.06.2023. Pursuant to being declared successful bidder, the Appellant transferred Rs. 82,64,945 through RTGS on 05.07.2023 towards the balance sale consideration, thereby completing the full payment of Rs. 91,72,161, which was above the reserve price fixed for the auction.

- vi. Thereafter, the Bankruptcy Trustee issued a Sale Certificate dated 05.07.2023 in favour of the Appellant, thereby completing the auction sale and vesting equitable rights in the Appellant in respect of 50% undivided share in the property.
- vii. The Union Bank of India (Respondent No. 1) filed an IA No. 4421/2023 on 08.08.2023, before the Adjudicating Authority alleging that the property had been sold at an undervalued price and sought setting aside of the sale and refund of the sale consideration.
- viii. Based on the said application, the Adjudicating Authority issued notice on 22.08.2023 and directed parties to maintain status quo in respect of the property, thereby restraining the Appellant from exercising rights emanating from the Sale Certificate.
- ix. The Adjudicating Authority finally decided the IA No. 4421/2023, vide the impugned order dated 04.07.2024, whereby the auction sale held on 27.06.2023 and the Sale Certificate dated 05.07.2023 were set aside, and directions were issued to conduct fresh valuations of the property, by both Respondent No. 1 and Respondent No. 2 and thereafter conduct a fresh auction. The Adjudicating Authority also ordered the refund of the entire sale consideration to the Appellant.

The relevant paras 17 to 22 of the impugned order dated 04.07.2024 are extracted below:

“17. The following issues arise for consideration:

i. Whether the Bankruptcy Trustee has committed any illegality or material irregularity in conducting the e-auction?

ii. Whether the e-auction dated 27.06.2023 (advertisement dated 02.06.2023) is liable to be set aside?

*18. In order to answer the above questions, it would be relevant to note that the advertisement for conducting the e-auction was published in two newspapers namely Financial Express (English) and Jansatta (Hindi) on 02.06.2023. In the said advertisement the date of e-auction was mentioned as 27.06.2023. In the normal course, the e-auction would have to be conducted after a period of 30 days from the date of publication of the advertisement in the Newspapers. In this connection, as a referring point, we would like to refer to the provision of sub-rule 6 of Rule 8 of the SARFAESI Security Interest (Enforcement) Rules, 2002, which stipulates that 30 days' time period should be given for conducting the e-auction. In the instant case, admittedly the advertisement was issued on 02.06.2023 and e-auction was conducted on 27.06.2023 which is much before the 30 days period. In this regard, we would like to refer to the judgement passed by the Hon'ble NCLAT in the case of **Naren Seth Vs. Sunrise Industries & Ors.** in Company Appeal (AT) (Insolvency) No. 401 of 2023 wherein the Hon'ble Appellate Authority has made the following observations:*

****** “Although, no specific timelines have been given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016, normally notice period of 30 days is given to get best value. In this connection, as a referring point only, we*

would like to refer to the provision of sub-rule (6) of Rule 8 of the SARFAESI Security Interest (Enforcement) Rules, 2002 which are as under:- "Rule 8 Sale of immovable secured assets (6) the authorised officer shall serve to the borrower a notice of thirty days for sale of the immovable secured assets, under sub-rule (5) ****

(Emphasis Supplied)

This also indicates that sufficient time say 30 days ought to have been given. Thus, we find the Liquidator acted in hurry in concluding the Eauction."

19. *The above observation made by the Hon'ble NCLT makes it clear that a sufficient time of 30 days ought to be given for conducting e-auction to get the best value. However, in the instant case, the Bankruptcy Trustee acted in a hasty manner and conducted the e-auction on 25th day from the date of the issuance of the advertisement dated 02.06.2023. We are therefore of the view that the Bankruptcy Trustee of Mr. Anil Syal has acted in a hest in conducting the auction of the 50% undivided share in the residential flats in question.*

20. *We direct the Bankruptcy Trustee to conduct the fresh valuation w.r.t. the sale of the property (50% undivided share in a residential flat which is indivisible) bearing H. No. 117, First Floor, Uday Park, New Delhi-110049. The Applicant Bank is also directed to conduct a fresh valuation w.r.t. the sale of the property (50% undivided share in a residential flat which is indivisible) bearing H. No. 117, First Floor, Uday Park, New Delhi-110049. Thereafter, the Average of both the Valuation will be considered for the fresh auction by the meeting of the Creditors.*

21. *We further direct the Bankruptcy Trustee to return the e-auction sale proceeds to Mr. Akshat Gupta, Auction Purchaser including EMD, if any and cancel the sale certificate issued to Mr. Akshat Gupta, Auction Purchaser.*

22. Accordingly, the IA-4421/2023 is allowed by setting aside the e-auction dated 27.06.2023 conducted by the bankruptcy trustee by directing the bankruptcy trustee to conduct a fresh auction by maintaining at least 30 days' time between the paper publication and the e-auction so as to enable more bidders to participate in the auction for fetching high value of the property. The bankruptcy trustee shall also clearly mention the timings for the inspection of the property in the paper publication."

x. The impugned order dated 04.07.2024 resulted in the annulment of a concluded auction process in which the Appellant had already deposited the entire sale consideration and a Sale Certificate had been issued in his favour, and further directed refund of the consideration amount and initiation of a fresh valuation and auction exercise. Aggrieved by the same, the present appeal has been filed by the appellant seeking the quashing of impugned order.

Submission of the Appellant

4. Ld. counsel for the Appellant/ Successful Auction Purchaser, submits that the present Appeal has been preferred in the Bankruptcy Process of one Mr. Anil Syal, which was undertaken by the Bankruptcy Trustee (Respondent No. 2). The auction culminated in the Appellant being declared as the highest bidder, and a valid Sale Certificate was issued on 05.07.2023 in favour of the Appellant. However, vide the Impugned Order dated 04.07.2024, passed on an application preferred by Union Bank of India (Respondent No. 1), a CoC Member, the entire auction process was set aside, without there being any finding against the Appellant and without any

violation attributable to the Appellant. It is submitted that the Impugned Order is not only legally unsustainable, but fundamentally ignores the vested rights of a bona fide third-party auction purchaser, who has acted in complete transparency and good faith.

5. The Ld. Counsel highlights that Respondent Bank had raised multiple objections regarding valuation and other process-related aspects, yet the NCLT rejected each and every specific objection of the Bank. Instead, the NCLT gave an altogether new and un-pleaded finding that the auction notice was published with 25 days' time instead of 30 days. The Adjudicating Authority relying solely on this basis, without any statutory support and without any pleading by any party; set aside the auction. Subsequently, without citing reasons, the NCLT directed both BT and Respondent Bank to conduct a fresh valuation and further gave liberty to the CoC to fix the reserve price for the re-auction, despite the fact that the CoC had relinquished the secured interest and therefore lost all direct rights in the property. This direction is alien to the IBC framework and not backed by Regulations. Thereafter, Respondent Bank, exploiting the wording of the order, stalled the re-auction process and effectively ensured that neither the Appellant nor any other participant obtains an opportunity to bid, thereby causing prejudice only to the bona fide auction purchaser.

6. The Ld. counsel for the Appellant submits that the auction process in the present case was completely transparent, competitive and compliant with law. The auction notice was publicly published on 02.06.2023. Two eligible bidders participated in the auction; both placed competing bids; the Appellant outbid the competitor; and the bid price exceeded the reserve price.

No party has alleged fraud, collusion, manipulated bidding, lack of publicity, lack of participation, or any form of procedural unfairness. Where there is no allegation of fraud or procedural defect, the sanctity of auction cannot be destroyed merely to give a fresh opportunity for bidding.

7. Ld. Counsel further submits that it is the settled law of the Hon'ble Supreme Court that a public auction, once complete, cannot be interfered with except in extremely limited and exceptional circumstance such as fraud. The principle has been consistently affirmed, including in *Valji Khimji and Co. v. Official Liquidator of Hindustan Nitro Product (Gujarat) Ltd.*, Civil Appeal No. 4992 of 2008, wherein Hon'ble Supreme Court held that entertaining objections after a confirmed sale should not be permitted except in cases of fraud, as doing so would defeat the finality of auction procedures and erode public confidence. Similarly, in *Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd.*, Civil Appeal Nos. 5542-5543 of 2023, the Hon'ble Supreme Court held that courts must protect the sanctity of an auction and once the auction purchaser has complied with obligations, vested rights arise which cannot be undone by subsequent claims arising from other parties.

8. The appellant states that in the present case, the auction was complete on the fall of hammer on 27.06.2023, and the Appellant was formally declared as the successful bidder, and rights crystallized in the Appellant's favour, consistent with the ratio laid down by Hon'ble SC in '*Sadashiv Prasad Singh v. Harendar Singh*, [Civil Appeal Nos. 161-162 of 2014]'. Therefore, setting aside the auction despite there being no fraud, and despite the Appellant having completed all compliances, is contrary to established law.

9. It is the submission of the Ld. Counsel that the Appellant has acted at all times as a completely bona fide third-party purchaser, having no nexus or privity with the bankrupt, with the Bank, or with any creditor. The Appellant submitted Expression of Interest on 12.06.2023, participated in the auction, deposited the entire purchase consideration in compliance with timelines, and received a Sale Certificate on 05.07.2023. He submits that the Impugned Order, particularly paragraphs 16–22, restricts the Appellant merely to refund of purchase consideration, without assessing rights already vested in the Appellant.

10. He states that the law is emphatically clear that rights of a bona fide third-party purchaser cannot be divested even if the underlying decree or process is subsequently challenged. Hon'ble Supreme Court in '*M/s Janatha Textiles & Ors v. Tax Recovery Officer & Anr.*, (2008) 12 SCC 582' has held that an auction purchaser's title continues to be protected, even where the underlying decree or process is later interfered with. The Bankruptcy Tribunal, instead of protecting the bona fide purchaser, has imposed a consequence only on the purchaser and not on the persons actually alleged to have committed procedural irregularity, if any, viz. BT or Bank. Therefore, rights of the Appellant deserved to be preserved rather than penalized.

11. The Ld. Counsel submits that the present Appeal was filed by the Appellant on 18.07.2024, which was well before the Intervenor, Anil Sayal's Appeal was disposed on 30.07.2024. No notice at any stage was issued to the Appellant in the said proceedings. Even in the Intervenor's proceedings, the Intervenor's limited prayer was only for his discharge and not for annulment of auction, and he was directed to approach the NCLT again for

that limited purpose. Therefore, the Appellant's challenge to the Impugned Order is on merits and cannot be extinguished on account of subsequent proceedings where the Appellant was neither heard nor impleaded.

12. The Appellant submits that Respondent Bank's allegation of undervaluation in its Application IA 4421/23 was wholly misconceived. The Bank relied upon a valuation of Rs. 3.81 crore for the full flat in 2021 and claimed the current market value should be Rs. 4.5 crore. However, the Bank deliberately compared the value of 100% unencumbered flat with peaceful possession to the subject asset, which consisted of only 50% rights in an indivisible residential unit without possession of any portion. The two values are not comparable in law or in valuation practice. The NCLT made no finding of undervaluation and rightly so; yet the NCLT thereafter directed fresh revaluation by BT and Bank which was without reasons, and beyond the IBC framework.

13. Ld. Counsel submits that the fresh valuation carried out under coercion of the Impugned Order reflects the absurdity of Bank's case which can be seen from the following:

- BT's valuation dated 15.07.2024 placed the value at Rs. 1.05 crore, only about Rs. 14.2 lakhs above the March 2023 valuation of Rs. 90.72 lakh.
- Bank's own valuer on 11.07.2024 valued full flat at Rs. 4.20 crore, halved it for indivisibility and assigned Rs. 89.50 lakh to the Bankrupt's share, which is less than the reserve price fixed earlier by BT. Dissatisfied by the same, the Bank engaged

another valuer on 05.08.2024, without even sharing the Impugned Order, valuing the property at Rs. 4.14 crore for 100% share without adjusting indivisibility.

- Even the built-up area relied upon by Bank (1450 and 1453 sq.ft.) was demonstrably incorrect, as per Sanction Plan and Sale Deed confirming 1033.18 sq.ft. BT highlighted this in the 6th CoC Meeting but the Bank still continued with incorrect area in the 7th CoC Meeting dated 29.10.2024.

14. It is the submission of Ld. Counsel that the entire narrative of undervaluation was manufactured only to disturb an already concluded auction, whereas the purpose of an open auction is to determine true value through competitive bidding, which has already occurred in this case.

15. The counsel submits that there was no pleading whatsoever in Bank's application regarding 25 or 30 days' notice period, nor any oral argument to that effect. The Impugned Order introduces this finding *suo motu* without pleadings, without evidence, and without Invoking any provision of the IBC. The IBC does not fix 30 days between publication of auction notice and the auction date. NCLT relied on '*Naren Seth v. Sunrise Industries in Company Appeal (AT)(INS) No. 40112023*, decided on 04.07.2023', i.e., after the auction notice, making retrospective application of unrelatable reasoning.

16. The Counsel submits that the auction was not rendered uncompetitive by a notice period of 25 days. It was published in Financial Express and Jansatta, conducted on NeSL platform, two eligible bidders participated, and

competitive bidding occurred with the Appellant offering higher than the reserve price. It is therefore factually and legally incorrect to hold that any stakeholder suffered prejudice.

17. The Counsel further submits that valuation is part of BT's Preliminary Report dated 23.03.2023, duly shared with the Bank on the same date. The Bank had three months to object before auction on 27.06.2023, but did not raise any concern. There is no provision under IBC making valuation by a single CoC member mandatory. Under IBC Regulations, auction is the default mode of sale and does not require prior permission of the CoC, except in matters enumerated under Section 153, where valuation, auction and sale do not appear. Therefore, even assuming, arguendo, that the valuation was needed to be reassessed, penalizing only the bona fide purchaser violates foundational fairness.

18. In light of the above submissions, the counsel for the Appellant prays that the Impugned Order dated 04.07.2024 be set aside, as it is contrary to settled law, unsupported by pleadings, inconsistent with the IBC, and gravely prejudicial to the vested rights of a bona fide auction purchaser, despite complete compliance from the Appellant.

Submissions of Respondent No. 1: Union Bank of India

19. Ld. Counsel for the Respondent No.1 (Union Bank) submitted at the outset, that its submissions are based on three principal grounds. These grounds, taken cumulatively as well as independently, demonstrate that the impugned order dated 04.07.2024 passed by the Learned Adjudicating

Authority suffers from no legal infirmity whatsoever and therefore does not warrant any interference by this Hon'ble Appellate Tribunal. The three grounds on which the Respondent Bank rests its opposition to the present appeal are (i) that the present appeal is barred by the doctrine of res judicata; (ii) that the sale conducted by the Bankruptcy Trustee is grossly undervalued; and (iii) that the Bankruptcy Trustee acted with undue haste and in violation of settled procedure.

20. Learned counsel for Respondent No.1 submits that the impugned order dated 04.07.2024 has already attained finality in law. It is pointed out that the said order was previously subjected to appellate scrutiny before this Hon'ble Tribunal in Company Appeal (AT) (INS) No. 1437 of 2024 filed by Anil Syal (Intervenor herein). In the said appeal, despite advance service of the appeal papers through email dated 23.07.2024 upon the Appellant herein, the Appellant failed to appear before this Tribunal. Consequently, vide a detailed order dated 30.07.2024 passed by the Hon'ble Chairperson Bench, this Appellate Tribunal declined to interfere with the direction of re-auction and expressly upheld the impugned order dated 04.07.2024. The operative portion of the said order clearly records that no ground was found to interfere with the direction for re-auction of the property, though liberty was granted to the Appellant (Anil Sayal) to raise the issue of his discharge before the Adjudicating Authority.

21. It is further submitted that the order dated 30.07.2024 has attained finality as no Civil Appeal or Special Leave Petition was preferred by the Appellant before the Hon'ble Supreme Court. In the absence of any challenge

to the said order, the issue stands concluded between the parties. It is respectfully contended that this Hon'ble Tribunal, exercising appellate jurisdiction, is now functus officio, in relation to the same impugned order dated 04.07.2024, as entertaining the present appeal would result in conflicting orders by coordinate Benches of the same Tribunal.

22. Learned counsel further submits that the impugned order dated 04.07.2024 was once again affirmed by this Hon'ble Tribunal in its judgment dated 08.07.2025 passed in Company Appeal (AT) (INS) No. 523 of 2025 filed by Anil Syal (Intervenor herein), which arose from proceedings initiated by the Bankrupt himself. In the said judgment, while dealing with the discharge application, this Hon'ble Tribunal categorically recorded that the order dated 04.07.2024 directing re-auction of the property had already been upheld and was not interfered with earlier. Thus, the legality and correctness of the re-auction direction stands reaffirmed twice over by this Hon'ble Tribunal.

23. It is submitted that despite these categorical findings, neither the auction purchaser nor the Intervenor Anil Syal has challenged either the order dated 30.07.2024 or the judgment dated 08.07.2025 by way of any further appeal or review. This deliberate inaction reinforces the finality attached to the impugned order.

24. Learned counsel further submits that the principles of res judicata squarely apply, even where an order is passed ex parte or at the first hearing, provided the parties are the same and the issue stands conclusively decided. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in '*Saroja v. Chinnusamy (Dead) by LRs & Anr.*, [(2007) 8 SCC 329]',

wherein it was authoritatively held that an ex parte decree is as binding as a decree passed after contest and operates as res judicata unless fraud is established.

25. The Ld. Counsel further places reliance on '*Ishwar Dutt v. Land Acquisition Collector & Anr.*, [(2005) 7 SCC 190]', wherein the Hon'ble Supreme Court emphasised that the doctrine of res judicata is founded on public policy and aims at giving finality to judicial decisions. The object is to prevent multiplicity of litigation and inconsistent verdicts. In view of the above authoritative pronouncements and the undisputed procedural history, it is submitted that the present appeal is clearly barred by res judicata and deserves to be dismissed at the threshold without entering into merits.

26. Without prejudice to the preliminary objection on maintainability, learned counsel submits that the sale conducted by the Bankruptcy Trustee suffers from gross undervaluation. It is pointed out that the methodology adopted by the Registered Valuer for determining the value of the subject property is contrary to internationally accepted valuation standards. The valuation exercise, including the basis for arriving at the 50% value of the property, was never discussed or approved in any meeting of the Committee of Creditors.

27. Ld. Counsel further submitted that in the notice of the Respondent No.2, during the insolvency resolution process, the Bank has also filed the claim on 20.11.2020 of Rs. 56,36,94,071.84/- with the Resolution Professional. Even in the claim form filed with the Resolution Professional it was mentioned by the Bank in the FORM that the Respondent Bank has

security interest on the property situated at First Floor 117, Uday Park, New Delhi- 110049 owned by the Bankrupt/ Anil Syal and his wife Mrs. Meenakshi Syal and the value of the property is Rs. 3.80 crores.

28. It is submitted by the Ld Counsel that the Bankruptcy Trustee had appointed the Bankrupt in accordance with the 153(i)(c) of the Code, 2016 for the assistance in administrating the estate of the Bankrupt. Since the Bankruptcy Trustee was seeking the assistance of the Bankrupt it is ought to be in the knowledge of the Respondent No.2 that the Applicant Bank has already served the notice under Section 13(2) of the SARF AESI Act, 2002 with respect to the property in question which is jointly owned by the Bankrupt and Mrs. Meenakshi Syal who are husband and wife in relation.

29. Ld. Counsel further pointed out that despite being in the notice of the Respondent No. 2, the entire property is mortgaged to the Bank, the Respondent No. 2 being an officer of the Court did not give any heed to consult with the Respondent Bank nor any application is filed by impleading the Union Bank of India for seeking appropriate direction with respect to the way forward in the given scenario.

30. Ld. Counsel stated that despite the fact that the Bank has charge on the entire asset on which the Bankrupt have 50% share, the Respondent No.2 have failed to conduct any due diligence and did not even check the public records which clearly reflects that the Respondent Bank have charge on the entire property situated at First Floor 117, Uday Park, New Delhi 110049.

31. It is submitted by the counsel for respondent that the valuation report was never shared transparently and was disclosed to the Respondent Bank for the first time, only as an annexure to the reply filed by the Bankruptcy Trustee in IA No. 4421 of 2023. On scrutiny, it became evident that after initially determining the value, the valuer arbitrarily reduced the value by nearly 40% by assigning vague and unsubstantiated reasons, thereby causing grave prejudice to the secured creditor.

32. Learned counsel further submits that Regulation 30(3) of the IBBI (Bankruptcy Process) Regulations, 2019 expressly empowers the Bankruptcy Trustee to appoint an additional registered valuer, where circumstances so warrant. Given the substantial reduction in valuation and the high-value nature of the asset, the Trustee was duty-bound to obtain an independent valuation. The failure to do so demonstrates a clear lack of diligence and reflects favouritism towards the auction purchaser.

33. Learned counsel points out that as per the claim form requirements, particularly Column No.11, the secured creditor is mandated to disclose the value of the security held. In compliance thereof, Union Bank of India had informed the Bankruptcy Trustee that the value of the property stood at Rs. 3.82 Crores as determined on 18.02.2021. This valuation was deliberately ignored by the Trustee without assigning any valid reason.

34. It is submitted that pursuant to the affirmation of the impugned order by this Hon'ble Tribunal, the Respondent Bank has already filed IA No. 873 of 2025 before the Adjudicating Authority seeking withdrawal of

relinquishment of its security interest, so that the property may be sold under the SARFAESI Act, 2002. The said application is pending adjudication.

35. Learned counsel further submits that the Respondent Bank is presently willing and prepared to sell the mortgaged property under the SARFAESI Act to ensure maximum value realisation. The current market value of the property is approximately Rs. 4.5 Crores or more, and sale under SARFAESI would be far more beneficial to all stakeholders than continuation under a flawed bankruptcy sale process. In these circumstances, it is submitted that the impugned order calls for no interference on this ground either.

36. Learned counsel submits that the conduct of the Bankruptcy Trustee is vitiated by undue haste and procedural irregularity. The first meeting of the Committee of Creditors was held even before the Respondent Bank's claim was formally filed. The Bank filed its claim on 27.06.2023 along with disclosure of asset value, yet in the very next CoC meeting, the Trustee astonishingly announced that the property stood sold.

37. It is submitted that despite objections being raised by the Bank's representative during the meeting, the same were not recorded in the minutes. Furthermore, the Trustee failed to adhere to the mandatory 30-day period between issuance of auction notice and conduct of auction, a requirement which has long been embedded in SARFAESI jurisprudence and later clarified by this Hon'ble Tribunal in *Naren Seth v. Sunrise Industries*.

38. Learned counsel submits that the said judgment is merely clarificatory and does not lay down any new law. The statutory requirement of maintaining adequate notice period has existed for more than two decades, and the Trustee cannot take shelter under the plea that the judgment was rendered after the auction.

39. It is further submitted that pursuant to the order dated 30.07.2024, the Bankruptcy Trustee has already refunded the sale consideration to the auction purchaser, which was accepted without protest. Having accepted the refund, the Appellant cannot approbate and reprobate by simultaneously challenging the setting aside of the auction.

40. In view of the totality of facts, the settled legal position, and the binding finality of earlier appellate orders, Respondent No.1 submitted that the present appeal is devoid of merit and is liable to be dismissed.

Submissions of Respondent No. 2 — Bankruptcy Trustee

41. Ld. Counsel for the Bankruptcy Trustee Respondent No. 2 submits that the bankruptcy trustee has acted strictly in accordance with the letter and spirit of the Insolvency and Bankruptcy Code, 2016 and the applicable Bankruptcy Regulations at every stage of the process. It is submitted that in compliance with Regulation 8 of the PG Regulations, the preliminary report was duly prepared and furnished within the statutory timeline of 90 days from the bankruptcy commencement date. The preliminary report contained the complete particulars envisaged under Regulation 8, including the details of the assets and liabilities of the bankrupt, the strategy for resolution, and

the proposed plan of action for realisation of assets. The said report was duly submitted before the Adjudicating Authority as well as circulated to the Committee of Creditors (CoC) and the bankrupt, and there exists sufficient documentary material to demonstrate that no objections were raised at any stage by Union Bank of India regarding the filing, content or supply of the said report.

42. It is further submitted that the registered valuer, Value Edge Professional Pvt. Ltd., an IBBI-approved entity, was appointed strictly in consonance with Regulation 30 of the PG Regulations, which mandates appointment of a registered valuer for valuation of the bankrupt's estate. The valuation was duly undertaken by the certified expert using legally accepted methodologies in line with the International Valuation Standards (IVS). At no point during the process, including during multiple CoC meetings and progress reports submitted from time to time, did the creditor, Union Bank of India raise, even a single objection either to the appointment of the valuer or to the valuation conducted.

43. Counsel further submits that the allegation that the bankruptcy trustee ought to have appointed an additional valuer under Regulation 30(3) is wholly misconceived, as the said provision is attracted only on the existence of special circumstances warranting such appointment. In the present case, no such special circumstance ever arose. On the contrary, the CoC was always privy to the valuation report and was consistently apprised of each development, including in the 2nd Progress Report dated 18.04.2023 and the 3rd Progress Report dated 08.07.2023, both of which were circulated

to the CoC without any protest. Moreover, in the 3rd CoC meeting held on 02.08.2023, the UBI/CoC, holding 100% voting share, approved the valuer's fee and all expenses incurred toward the e-auction. Having expressly approved all such actions, the Bank cannot now be permitted to contend that an additional valuer ought to have been appointed or that the valuation was undervalued. The belated challenge initiated only upon filing of the application on 08.08.2023 clearly establishes that the objection is an afterthought without any legal or factual basis.

44. Counsel for Respondent No. 2 submits that the challenge of UBI to the valuation and the e-auction is flawed and devoid of factual foundation. The asset in question was only a 50% undivided share in a residential flat in Uday Park, New Delhi, and therefore, the valuation necessarily required consideration of the inherent deterrents such as (i) the undivided nature of the title and (ii) pending litigation associated with the property, both of which materially reduce market value. The valuation was carried out using internationally accepted IVS standards and there is no evidence placed on record demonstrating that the valuation is incorrect, undervalued or commercially unreasonable.

45. It is the submission of the Ld. Counsel that for several months, including until the 3rd CoC meeting on 02.08.2023, the CoC/UBI fully approved and endorsed both the valuation and the e-auction process at every stage. Only thereafter, unexplainedly and without any material justification, the Bank opted to file the application for setting aside the auction. Such conduct indicates that the Bank has attempted to retract from its previously

approved position without any cogent reason, and therefore, the challenge is contrary to the principles of acquiescence and approbation-reprobation. The record demonstrates categorically that the valuation and e-auction were conducted transparently, lawfully, and with complete knowledge and approval of the CoC.

46. Ld. Counsel states that the realisation of the sole asset of the bankrupt was undertaken in strict conformity with law. The e-auction held on 27.06.2023 was conducted via the IBBI-approved auction vendor i.e. NeSL, in which two eligible bidders duly participated. The Appellant herein emerged as the highest bidder at Rs.91,72,161/-, and the Letter of Intent was issued on the same day. The entire auction consideration was deposited by the successful bidder on 05.07.2023, following which the sale certificate was issued on the same date.

47. Ld. Counsel further submits that Regulation 21 of the PG Regulations empowers the bankruptcy trustee to convene CoC meetings as and when necessary and further mandates that the CoC may request such a meeting when creditors having at least 33% voting share so demand. Therefore, if UBI had any reservation whatsoever regarding the valuation or auction process, which was already known to them and they could have sought a CoC meeting to address the same. Their silence and approval throughout the valuation and auction proceedings, followed by a challenge only after completion of the auction and issuance of the sale certificate, completely undermines their case. The trustee has strictly complied with both Section 152 and 153 of the

IBC, which empower and guide the sale of assets of the bankrupt estate, leaving no room for suggesting any illegality in the process.

48. Counsel for Respondent No. 2 submits that the entire foundation of the impugned order rests solely on the assumption that a 30-day notice period was mandatory for the e-auction. It is submitted that there exists no provision under the Insolvency and Bankruptcy Code or the PG Regulations mandating a 30-day notice period for auction of assets by the bankruptcy trustee. The bankruptcy trustee is therefore not in breach of any statute or regulation.

49. He further submitted that the judgment relied on by the Adjudicating Authority in *Naren Seth v. Sunrise Industries & Ors.*, Company Appeal (AT) (Ins) No. 401 of 2023, was delivered on 04.07.2023. By this date, the auction had already been conducted (27.06.2023), the full amount had been deposited (05.07.2023), and the sale certificate had been issued. There was therefore no occasion in law for Respondent No. 2 to comply with a judgment that arose after conclusion of the auction process. Thus, the sole ground on which the impugned order has been passed is unsustainable in law.

50. In view of the above submissions, Respondent No.2/ Bankruptcy Trustee argues that throughout acted transparently, objectively, impartially, and strictly in accordance with the IBC and regulations. Every action was undertaken with complete participation and prior knowledge of the CoC/UBI, and no irregularity has occurred at any stage. The present challenge is an afterthought, contrary to the record, and liable to be rejected.

Analysis and findings

51. The only issue that we need to decide in this appeal is whether the Adjudicating Authority was justified in cancelling the e-auction held on 27.06.2023 on the basis that the auction notice, published on 02.06.2023, allowed only twenty-five days before the auction date, and whether, in the facts of this case, this shortened period, along with other alleged procedural irregularities resulted in an auction process, that did not provide adequate market exposure or safeguard the value maximisation objective of the Insolvency and Bankruptcy Code. We need to look into whether the sale was conducted in a manner consistent with fairness, stakeholder consultation, and proper market participation, which are essential parts of the insolvency process.

52. The Appellant argues that the auction was conducted in accordance with the Regulations. He points out that the Bankruptcy Trustee completed the valuation, published the auction notice in two newspapers on 02.06.2023, conducted the auction on 27.06.2023 on the NeSL platform, and received participation from two genuine bidders. The Appellant immediately paid the full sale amount and received the sale certificate. He emphasises that Union Bank, despite being a major stakeholder, never raised any objections during the entire auction process viz. during the valuation stage, i.e. a stage when progress report dated 18.04.2023 was submitted to the bank; and at auction stage for which a progress report dated 08.07.2023 was submitted. The Appellant also states that the Regulations do not mandate a 30-day period and that the Tribunal introduced this requirement on its own.

He maintains that, since no fraud or illegality occurred, the Tribunal should not have overturned a completed auction that had already transferred title in his favour.

53. Per contra the Respondent No.1/Union Bank, states that the entire process suffered from shortcomings. The Bank explains that the property was not a standard flat, but a 50% undivided share in a residential unit, i.e. an asset which is not simple to evaluate and does require deeper due diligence from potential buyers. The Bank highlights that the valuation was done close to the publication date and was never shared in advance for discussion, because the Trustee acted quickly and the CoC was informed, only after steps were completed. The Bank submits it had no meaningful opportunity to request a second valuation or examine, whether the valuation reflected the true market potential. According to the Bank, a 25-day notice is not enough for a fractional, legally complicated asset, and this shortened period could have prevented more bidders from participating and offering a higher value.

54. The Bankruptcy Trustee on the other hand maintains that every step was carried out properly and that Union Bank remained silent throughout. The Trustee says that two bidders' participation shows that the publication was effective and that the Tribunal should not have interfered with a sale already completed.

55. We note that, based on the claims admitted, the Committee of Creditors was constituted by the Bankruptcy Trustee, with Union Bank of India holding an overwhelmingly dominant share, having an admitted claim

of Rs. 71,90,78,635, which translated into 97.27% of the voting share. Arvind Jain was the second creditor with an admitted claim of Rs. 2,02,17,061, carrying only 2.73% of the voting share. ICICI Bank, though listed as a creditor, had no admitted claim and consequently no voting share. Thus, Union Bank of India was the principal and decisive creditor in the CoC, effectively representing almost the entire voting strength.

56. In the present case, however, from the factual record, we find an important pattern that most of the key information was shared with the CoC, only after the Bankruptcy Trustee had already completed the activity. A review of the dates surrounding the process makes this pattern clear:

Events completed before the first CoC meeting held on 18.04.2023 - communicated only through 2nd Progress Report dated 18.04.2023:

- Appointment of valuer
- Completion of valuation
- Internal preparation and asset administration

Events completed before the Second CoC meeting held on 08.07.2023 - communicated only through 3rd Progress Report dated 08.07.2023:

- Publication of auction notice – 02.06.2023
- Auction conducted – 27.06.2023
- Highest bidder selected – 27.06.2023
- Sale certificate issued – 05.07.2023

57. These Progress reports merely narrated past events, rather than giving stakeholders an opportunity to discuss, question, or influence those steps. This “post-facto sharing” deprived the CoC of the opportunity to participate meaningfully at the valuation and auction-planning stages. In insolvency law, stakeholder consultation is not a formality; it is part of ensuring that the process maximises value and that the concern of major creditors, especially the largest financial creditor, such as Union Bank in this case, are addressed before crucial decisions are taken by the Bankruptcy Trustee.

58. The CoC plays a very important role in IBC proceedings whether it is CIRP stage; Liquidation stage; or Bankruptcy of Personal Guarantors. The Code insists on primacy of CoC in CIRP proceedings, and keeping the CoC involved in decision-making process by informing them at every stage of liquidation and bankruptcy proceedings. post-facto sharing of activities already undertaken is akin to treating the CoC as a post-box, contrary to the objectives of IBC, which require keeping CoC informed well in time and consider its advice, if the same is in accordance with the Code. Bankruptcy Trustee, by keeping the CoC out of the loop, reinforced the Tribunal’s conclusion that the sale process did not fully meet the standards of fairness and value maximisation mandated under the Code. This clearly shows procedural lapse on the part of Bankruptcy Trustee which could vitiate the auction proceedings.

59. It is in this context that the issue related to 25-day notice period becomes highly relevant. Although a 25-day gap between publication and auction may appear reasonable in a normal commercial sale, it cannot

automatically be treated as adequate in an insolvency auction, particularly for a complex asset like a half-share in a residential flat. This is the type of property, where buyers require more time to understand co-ownership issues, marketability risks, legal limitations, and the practical feasibility of purchasing an undivided share. In such a circumstance, a longer notice period 30 days or more may be practical to ensure that the market has a proper window to respond. The shorter 25-day window, coupled with limited prior consultation and delayed sharing of crucial information, increased the risk that fewer bidders would participate or that bidders would not have adequate time for due diligence. Even though two bidders participated in the auction, this does not prove full competitiveness. For specialised complex assets like fractional property, even a single additional bidder could significantly raise the price. When Union Bank questioned the process, the Tribunal had to examine whether this compressed timeline materially affected the fairness and transparency of the sale. In these circumstances, we find that the Tribunal's concern was reasonable, and the 25-day notice period, as applied to the facts of this case, was indeed inadequate.

60. We now take up the matter relating to alleged undervaluation of the asset as submitted by the Respondent No.1/Union Bank. In para 47 of their reply, Bank has submitted a table in this regard:

47. That the Respondent No. 2 has concluded the sale in favour of the Appellant which is a undervalued sale. As per the following figures which are matter of fact and record.

S. No.	Particulars	Value (Rs. In Crores)	Year of Valuation	Remarks
1.	Valuation as per Net Worth Statement	Rs. 2.75	01.01.2016	This is the value of the property provided by the bankrupt at the time of securing the loan availed by the corporate debtor by mortgaging his property to the applicant bank.
2.	Valuation done by the Bank	Rs. 3.82	18.02.2021	This is the valuation conducted by the applicant bank for obtaining the fresh valuation of the mortgaged property.
3.	Present Market Value	Rs. 4.5 (approx.)	2023	This is the approximate present market value rate as per the current circle rates.
4.	Determination of Value by the Bankruptcy Trustee/ Registered Valuer appointed by the Bankruptcy Trustee	Rs. 0.90	2023	This value is the determination by the registered valuer which is not even 20% of the current market value as per the value provided in Serial No. 1 to 3.

61. The above figures clearly show a wide variation in the valuation of the property over time, ranging from Rs. 2.75 crores in 2016, Rs. 3.82 crores in 2021, and an approximate present market value of about Rs. 4.5 crores in 2023. The Bankruptcy Trustee has taken a drastically lower valuation of only Rs. 0.90 crore for 50% of the property, as determined by its registered valuer in 2023 (the valuation of full property would be Rs. 1.80 cr.). It is material to note that this valuation of Rs. 0.90 crore, which ultimately formed the basis of the auction and sale in favour of the Appellant, was never shared with Union Bank of India prior to the conduct of the auction. The Bank was thus deprived of any meaningful opportunity to examine, question, or object to

this valuation, despite being the principal creditor. The non-sharing of such a crucial valuation figure, especially when it was substantially lower than all earlier valuations on record, seriously affected transparency and fairness of the sale process and prevented the Bank from raising timely concerns before the auction was concluded.

62. We also take note of Regulation 30(3) of the IBBI (Bankruptcy Process) Regulations, 2019, which is extracted below:

“Regulation 30. Valuation of assets.

(3) The bankruptcy trustee may appoint an additional registered valuer, for valuing the assets of the bankrupt if required in the circumstances of the case, who shall independently submit his estimate as per sub-regulation (2).”

As per the Regulation 30 (3) bankruptcy trustee may obtain more than one valuation to ensure a fair assessment of the asset. This would be required in peculiar circumstances of the case. The property in the present case was a 50% undivided share in a residential flat, which is inherently complex and not easily marketable. Obtaining only a single valuation, without prior stakeholder consultation, was therefore inadequate. This omission, when read with the short 25-day notice period and post-facto information sharing, reinforces the conclusion that the auction process did not ensure proper value discovery and justified the direction for fresh valuation and re-auction.

63. We also note that despite being aware that the entire property was mortgaged in favour of Union Bank of India, Respondent No. 2 proceeded

with the valuation and sale without consulting the Bank or seeking directions from the Adjudicating Authority. The Respondent No. 2 was expected to act with greater caution while dealing with an encumbered asset, particularly where a secured creditor held a charge over the entire property.

64. We further note that, Respondent No. 2 failed to carry out basic due diligence by verifying public records, which clearly reflected that Respondent No.1 had a charge over the property situated at First Floor, 117, Uday Park, New Delhi-110049. This lapse is material, especially when the bankrupt held only a 50% undivided share, yet the security interest extended to the whole asset. The fact that property was encumbered and 50% share of the property was in the name of Meenakshi Syal, the wife of bankrupt, and that SARFAESI proceedings are ongoing against both should have been highlighted in the auction notice.

65. We also note that Respondent No. 2 did not share the valuation report with Union Bank of India prior to the auction, despite being aware that the Bank had disclosed the property value at around Rs. 3.80 crores in its claim form. The non-sharing of the valuation prevented the Bank from examining or questioning the valuation and adversely affected the transparency and fairness of the sale process.

66. It is also to be noted that Respondent No. 2 failed to comply with Regulation 8(3)(d)(iv) of the IBBI (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019, which requires the bankruptcy trustee to place all relevant and material facts before the Adjudicating Authority. In the present case, Respondent No. 2 did not

disclose that the entire property, comprising the 50% share of the bankrupt and the remaining 50% share of his wife, Mrs. Meenakshi Syal, was mortgaged in favour of Union Bank of India and was already under SARFAESI proceedings initiated by the Bank. It was also not disclosed that the bankrupt had filed an application under Section 94 of the Code, the effect of which was to stall the SARFAESI action. Further, having taken assistance from the bankrupt under Section 153(1)(c) of the Code for administering the estate, the Trustee could not have been unaware of these facts. Despite such knowledge, the Trustee proceeded with valuation and sale without factoring in the existing encumbrance or coordinating with the secured creditor. This omission deprived the Adjudicating Authority of a complete factual picture and demonstrates a lack of due diligence, thereby undermining the fairness and transparency of the sale process.

67. We also find it necessary to look into the Company Appeal (AT)(Ins) No. 1437 of 2024 in the same C.P. (IB) No. 589 (PB)/2020 filed by the bankrupt Sh. Anil Syal who is also an Intervenor in this case. In the aforesaid appeal, the Appellant, Anil Syal, has sought, inter alia, setting aside of the impugned order dated 04.07.2024 passed by the Adjudicating Authority in IA No. 4421 of 2023 in (IB) No. 589 (PB)/2020; and a direction to discharge the Appellant under Section 138(1)(a) of the Insolvency and Bankruptcy Code on the ground that one year has elapsed from the Bankruptcy Commencement Date; and such other consequential reliefs as may be deemed appropriate. The prayers in the said appeal have been extracted below:

- (i) *Pass an order setting aside the impugned order dated 04.07.2024 passed by the Adjudicating*

Authority i.e., Hon'ble NCLT, New Delhi Bench in IA 4421/2023 in (IB) No. 589 (PB)/2020;

- (ii) Pass an order directing Hon'ble NCLT, New Delhi Bench to discharge the Appellant, u/s 138(1)(a), in the light of completion of one year from the Bankruptcy Commencement Date;*
- (iii) Pass any other further order as this Appellate Tribunal may deem appropriate in the facts and circumstances of the instant case.*

68. This Appellate Tribunal passed the following order in the said appeal on 30.07.2024. The relevant paras 5 & 6 are extracted below:

“5. In view of the aforesaid, we are of the view that in so far as present appeal, we do not find any ground to interfere with the order directing for re-auction of the property. We, however, give liberty to the Appellant to make appropriate application before the Adjudicating Authority for raising the issue of discharge of Appellant.

6. Learned counsel for the Appellant submits that although Appellant has no issue with regard to re-auction but the re-auction should be held by some other authority and he may be discharged in the meanwhile. We are unable to accept the submission of the Appellant that re-auction should be held by some other authority. It is the Bankruptcy Trustee who has to hold the auction as directed by the Adjudicating Authority. Appeal is disposed of accordingly.”

69. The appellant had sought the setting aside of the impugned order dated 04.07.2024 in prayer (a) of his appeal as seen above. However, we can see from the decision of the Tribunal that it did not find any ground to interfere with the order directing re-auction of the property, nor did it agree

to the submission of the appellant that the re-auction should be held by another authority.

70. We now examine the judgments relied upon by the Appellant in the context of the present factual matrix of this case:

- i. The first Judgment relates to Hon'ble SC's decision in '*Valji Khimji & Co. v. Official Liquidator (Civil Appeal No. 4992 of 2008)*'. In this case Hon'ble Supreme Court observed that once a sale is confirmed and no illegality is found, it should not be lightly interfered with. In the present case, however, the irregularity identified goes to the heart of the insolvency sale process: information was shared only post-facto; and the auction notice allowed only a 25-day period for a complex asset requiring deeper market exposure. These circumstances created a real possibility of suppressed participation and incomplete value discovery. Valji Khimji (supra) *involved* no analogous irregularity; the ratio is distinguishable and cannot be applied to validate the present auction.
- ii. In '*Celir LLP v. Bafna Motors (Civil Appeal Nos. 5542–5543 of 2023)*' Hon'ble Supreme court declined to interfere in an auction, where the process had been repeatedly exposed to the market, multiple rounds of bidding had taken place, a surplus over the reserve price had already been achieved, and the stakeholder challenge was filed at a stage, where the auction had attained finality, without any defect being pointed out earlier. In the present matter, however, the challenge arose from the grievance of the secured creditor who also had 97% voting share in CoC and its grievance related to undervaluation of asset, and procedural

irregularities including inadequate notice, rushed valuation, and a compressed auction timeline for a fractional undivided share, which legitimately required wider publicity. Unlike Celir LLP, where the auction process was transparent, prolonged and fully market-tested, the present auction was conducted on a 25-day notice, without meaningful opportunity for creditors to verify valuation or broaden bidder participation. Hence, the principle in Celir LLP (supra), that courts should not reopen auction processes which are procedurally flawless and have undergone adequate price discovery is not applicable to this case.

- iii. The appellant further relied upon Hon'ble SC's Judgment in '*Sadashiv Prasad Singh v. Harendar Singh (Civil Appeal Nos. 161-162 of 2014)*'. The ruling in *this case* related to the protection of a bona fide purchaser, where the sale had been confirmed in execution proceedings and no defect in the auction process had been demonstrated. The Supreme Court held that unless fraud or collusion is shown, a confirmed sale should not be set aside. That principle does not govern the present case because the irregularity here is not post-sale dissatisfaction, but relate to pre-sale procedural lapses; an insufficient auction notice period; lack of advance consultation with stakeholders; compressed valuation timelines; and the sale of a difficult asset (50% undivided share) without adequate market exposure. These circumstances directly affect the fairness and competitiveness of the auction, which is a central criterion under the insolvency framework. *Sadashiv Prasad Singh* (supra) did not involve insolvency law, did not consider stakeholder consultation duties,

and did not address value maximisation obligations. The precedent therefore cannot be applied to a case where the challenge arises from the flawed conduct of the auction rather than from any attempt to unsettle a procedurally sound sale.

- iv. Reliance also been placed upon the Judgment of Hon'ble SC in '*Janatha Textiles v. Tax Recovery Officer (2008) 12 SCC 582*'

In this case Hon'ble Supreme Court held that unless a substantial injury or prejudice is shown, confirmed sales should not be set aside. This dealt with a tax recovery sale where the issue was whether minor procedural defects could invalidate an otherwise lawful auction. The present case, however deals with auction sale under Bankruptcy Proceedings under the code which is a complete legislation providing a comprehensive framework wherein all procedures are conducted according to the Act Rules and Regulations of the Code. Unlike the sale in *Janatha Textiles*, which involved no procedural error affecting market exposure or valuation integrity, the irregularities in the present case were significant and directly connected to the objective of achieving maximum value under the IBC. Therefore, *Janatha Textiles* offers no protection to the Appellant.

We can see from the case laws cited by the appellant that none of the cases cited in support of his contentions are applicable in the current factual matrix.

71. We have also gone through the judgment of this Appellate Authority in '*Naren Seth v. Sunrise Industries*, [Company Appeal (AT)(Ins) No. 401 of Company Appeal (AT) (Ins.) No. 1577 of 2024

2023]'. It only explains and clarifies an existing principle that auctions must allow sufficient time between the auction notice and the auction date so that interested bidders can properly participate. The requirement of giving around 30 days' time between the notice and the auction has existed under the SARFAESI Act for more than 20 years and is therefore not a new legal requirement. Even though the judgment in *Naren Seth* (supra) was delivered after the auction in the present case, it merely clarifies a principle that was already part of the legal framework at the time the auction was conducted. In the case of Personal Bankruptcy, the entire process is dealt by Debt Recovery Tribunal (DRT hereinafter) under SARFAESI Act, which provides for a notice period of 30 days for the auction. In the specific case of Bankruptcy of personal guarantors of Corporate Debtors under IBC, the power of DRT has been vested in NCLT. So, the Adjudicating Authority in such cases has to apply the norms as followed by DRT. The Adjudicating Authority was therefore justified in relying on this judgment to assess the adequacy of the 25-day notice period. Since the auction in the present case was conducted with a shorter notice period, than that in case of similar proceedings in DRT; and NCLT has been vested with the power of DRT, the ratio laid down by the *Naren* (supra) applies directly to the present case. The finding of the Adjudicating Authority that the auction process was not sufficiently fair or transparent due to such short notice period is therefore absolutely correct.

72. We also note that Respondent No.1 has already filed IA No. 873 of 2025 before the Adjudicating Authority seeking withdrawal of relinquishment of

its security interest, so that the property may be sold under the SARFAESI Act, 2002. The said application is pending adjudication.

73. We further note that the appellant has sought and obtained refund of the auction amount deposited by him, consequent to judgment of coordinate bench of this Court in Comp. App. (AT) (Ins.) No. 523 of 2025 dated 08.07.2025. The appellant at the same time is pursuing this appeal. Such a conduct is not permissible, as he cannot be allowed to seek setting aside of impugned order from which he is not adversely affected.

74. After carefully noting the complex nature of the asset; the under-valuation of the asset; repeated post-facto communication to the CoC and the effect of allowing only 25 days of notice, we fully endorse the findings of the Adjudicating Authority that the auction process did not provide sufficient opportunity for fair market participation and value discovery. We further note that the appellant has already taken the refund of auction amount paid by him.

75. In view of above findings, we find no infirmity in impugned order. The appeal is hereby dismissed. No order as to costs. Pending I.As, if any, are also closed.

**[Justice N Seshasayee]
Member (Judicial)**

**[Mr. Arun Baroka]
Member (Technical)**

**[Mr. Indevvar Pandey]
Member (Technical)**

SA/Pragya (LRA)