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

**Comp. App. (AT) (Ins) No. 1332 of 2026**

**IN THE MATTER OF:**

**Loknath Prasad Gupta (Member of the Suspended Board of Directors of Raja Udyog Private Limited)** ...**Appellant(s)**

**Versus**

**Dinesh Chand & Ors.** ...**Respondent(s)**

**Present:**

| | | |
|---|---|---|
| **For Appellant** | : | Mr. Joy Saha, Sr. Adv. with Mr. Patita Paban Bishwal, Ms. Tanvi Luhariwala & Ms. Swastika Roy, Advocates |
| **For Respondents** | : | Mr. Aishwarya Kumar Awasthi, Advocates for R-1,2& 3.<br>Mr. Abhijeet Jain, for IRP |

**O R D E R**
**(Hybrid Mode)**

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

The instant appeal has been filed by the appellant challenging the order dated 20th July 2026 (impugned order) passed by Learned National Company Law Tribunal, Kolkata Bench (Adjudicating Authority) passed in CP (IB)No. 138 of 2025 whereby the application filed by Respondent No. 1,2 and 3 under section 7 of the Insolvency and Bankruptcy Code, 2016 (Code) has been admitted against the Corporate Debtor (CD).

2. Brief facts necessary for the disposal of this appeal are that an application under Section 7 of the Code was filed by the Respondent No. 1, 2 and 3 against the corporate debtor for initiation of CIRP against CD Raja Udyog Private Limited with the contention that during the Covid-19 pandemic situation the Corporate Debtor was in need of immediate financial assistance and the Corporate Debtor approached the Respondents through

one of its directors namely Mr. Om Prakash Gupta and relying upon the representation, assurance and promise that the amount would be repaid soon and would be returned back, the Respondent financial creditors advanced financial assistance to the corporate debtor.

3. It is further reflected that the Respondent No. 1 landed Rs. 1 Crore to the corporate debtor while the Respondent No. 2 and 3 together Advanced Rs. 1 Crore 25 Lakhs.

4. It is further reflected that the corporate debtor initially paid interest including TDS to the financial creditors until 30th April 2022 however after 30th April 2022 the corporate debtor stopped making any payments towards the discharge of its liability and consequently Respondents issued demand notices dated 29th January 2025 and 21st March 2025 demanding the entire outstanding amount within 10 days. However, the corporate debtor issued cheques towards/for part payment but these cheques were also dishonoured upon presentation and thus the CD committed a default of Rupees 3,15,78,482/-. In Part IV of the application, it is claimed that as on 28th April 2025 a sum of Rupees 3,18,88,305.66/- is due and payable by the corporate debtor.

5. Ld. Adjudicating Authority found that there is debt and default and also the debt at the time of default was above threshold and admitted the application by passing the impugned order and Mr. Abhijit Jain was appointed as the Interim Resolution Professional (IRP). Aggrieved by this impugned order instant Appeal has been preferred by the appellant, who is the director of the suspended management of the CD.

6. It is also evident that when this appeal was presented before us on 28th July 2026, it was informed to us that parties are in the process of entering into the settlement and it is further submitted by the Ld. Counsel for the Appellant that Rs 2.25 Crores has already been given to the Respondent No.1, 2 and 3 and they have prepared the demand draft of Rs. 93,88,310/- in favour of Respondent No. 1, 2, 3 and the settlement terms would be reduced in writing within few days and would be submitted before this Appellate Tribunal.

7. It is also evident that in pursuance of order dated 28th July 2026, the parties filed a joint affidavit dated 31st July 2026 along with the copy of the Memorandum of Settlement wherein it is stated in clear terms that the parties have settled the dispute amicably and a consolidated sum of Rs. 3,18,88,305/- shall be treated as the full and final settlement amount against all claimed amount in satisfaction and discharge of all liabilities, whether admitted or disputed, existing as on date.

8. It is also reflected that in the memorandum of settlement, it has been specifically stated that prior to the pronouncement of the impugned judgment the corporate debtor had repaid the entire principal amount alleged to have been advanced by the Respondents/ financial creditors and in this regard the details have been produced in tabular form which shows that Rs. 1 crore were paid to Respondent No. 1- Dinesh Chand, Rs. 75 lakhs to Respondent No. 2- Girish Chandra and Rs. 50 lakhs to Respondent No. 3- Anju Agarwal, prior to the passing of the impugned order. It is further stated that in furtherance of the mutual understanding and as a gesture towards

settlement the corporate debtor undertakes to deliver three demand drafts totalling Rs. 93,88,310/- towards the claim and interest in favour of Respondent No. 1 to 3.

9. Learned counsel for the appellant at the outset submits that during the course of the pendency of proceedings before the Learned Adjudicating Authority an undertaking was filed on behalf of the corporate debtor by its director Mr. Om Prakash Gupta on 20th May 2026 wherein the corporate debtor admitted its liability and undertook to pay/settle the amount claimed by the Respondents/ financial creditors aggregating to Rupees 3,18,88,305/- and the undertaking had specified that this payment would be made within a period of 30 days from the date of recording of the undertaking, however, the appellant could not pay the amount within the stipulated thirty days and the Ld. Adjudicating Authority in a haste passed the order without granting adequate time to the appellant to discharge its liability.

10. It is further submitted that when there were elements of settlement present to settle the dispute between the parties, before the Learned Adjudicating Authority, it was the incumbent duty of the Learned Adjudicating Authority to have provided adequate time to the parties to enter into the settlement, as the prime object of the insolvency process is to resolve the CD and the together insolvency process could not be used as a recovery mechanism.

11. It is further submitted that till 20th July 2026, the day on which the impugned judgment was passed, Rs. 2,25,00,000/- had already been paid to

the Respondents No. 1 to 3 and thus on that day i.e. 20th July 2026 only Rs. 93,88,310/- were due on the corporate debtor which were below the threshold and therefore there was no occasion for the Ld. Adjudicating Authority to have initiated the insolvency process against the CD.

12. Learned Counsel for the Respondent No. 1 to 3 has admitted the terms of the settlement and submits that the amount as indicated in the settlement had been received by the Respondents before passing of the impugned judgment and demand draft of Rs. 93,88,310/- has been given to the Respondent No. 1, 2 and 3 after the passing of the impugned judgment and also that the whole debt of the respondents has now been satisfied and no dispute has now remained between the parties.

13. Ld. Counsel for the IRP submits that he will abide by the decision of this Appellate Tribunal.

14. Having heard Ld. Counsel for the parties and having perused the record it is reflected that before the Adjudicating Authority the parties were in the process of settling their disputes amicably and in this regard an undertaking was filed on behalf of the corporate debtor by its director Mr. Om Prakash Gupta on 20th May 2026, before the Ld. Adjudicating Authority, wherein the corporate debtor admitted its liability and undertook to pay/settle the amount claimed by the respondents/ financial creditors aggregating to Rupees 3,18,88,305/- and the undertaking had specified that this payment would be made within a period of 30 days from the date of recording of the undertaking, however, the appellant could not pay the amount within the stipulated thirty days.

15. It is further reflected that the parties in their joint affidavit enclosed the copy of the memorandum of settlement wherein it is specifically stated that corporate debtors even prior to the pronouncement of the impugned judgment had repaid the entire principal amount alleged to have been advanced by the respondents to the CD and the details of the payment of the principal amount paid to the Respondent Number 1 to 3 has been given as under: -

| Date | Dinesh Chand (RS.) | Girish Chandra (Proprietor of M/s. G.R Chemicals) (RS.) | Anju Agarwal (Proprietor of M/s. R.Traders) (RS.) |
|---|---|---|---|
| 20.06.2026 | 26,00,000/- | - | 30,00,000/- |
| 21.06.2026 | 25,00,000/- | 30,00,000/- | - |
| 22.06.2026 | - | - | 20,00,000/- |
| 10.07.20206 | 30,00,000/- | - | - |
| 13.07.2026 | 19,00,000/- | - | - |
| 20.07.2026 | - | 45,00,000/- | - |
| **Total (Rs.)** | **1,00,00,000/-** | **75,00,000/-** | **50,00,000** |

16. The above placed table would evidently reveal that from 20th June 2026 till 20th July 2026, whereon the impugned order was passed Rs. 2,25,00,000/- had been paid to the Respondents No. 1 to 3 by the Appellant/CD and thus on that day i.e. 20th July 2026 only Rs.

93,88,310/- were due on the corporate debtor which were below the threshold.

17. It is also evident that when Rs 2,25,00,000/- had been received by the Respondent No. 1, 2 and 3 on or before 27th July 2026, they should have brought this fact in the knowledge of the Learned Adjudicating Authority and had this been done, the impugned judgment might not have been passed.

18. Thus, from the facts admitted to the parties, it is evident that on the day when the impugned order has been passed by Ld. Adjudicating Authority, only Rs. 93,88,310/- were due on the corporate debtor, which were admittedly below the threshold of rupees 1 crore and therefore the impugned order passed by the Learned Adjudicating Authority may not withstand the test of law and is liable to be set aside.

19. In view of the reasons given herein before the appeal filed by the appellant is **allowed** and the impugned order passed by the Ld. Adjudicating Authority is set aside.

20. The CIRP cost if any shall be paid by the appellant.

21. There is no order as to costs.

22. Pending I.A.'s if any are also disposed of.

**[Justice Mohammad Faiz Alam Khan]**
**Member (Judicial)**

**[Naresh Salecha]**
**Member (Technical)**

**New Delhi**
**25.08.2026**
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