NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 275 of 2026

(Arising out of the Impugned Order dated 05.12.2025 passed by the 'Adjudicating Authority' (National Company Law Tribunal, New Delhi Single Principal Bench in TA(IBC)-50(PB)/2024)

IN THE MATTER OF:

Kamlesh Rani Singla
W/o Sh. Pawan Singla
R/o 28, 3rd Floor, North Avenue Road,
Punjabi Bagh West, West Delhi, Delhi – 110026 **...Appellant**

Versus

1. **Praveen Kumar Garg**
Proprietor of M/s GSV Products
Legal Admin & Regd. Office, WZ-14D,
Manohar Park, New Delhi-110026 **...Respondent No.1**

2. **Mr. Gautam Singhal**
(Resolution Professional)
Duly appointed in (IB)-419/ND/2023)
IBBI Registration No.:
IBBI/IPA-001/IP-P01437/2018-19/12240 **...Respondent No.2**

Present:

For Appellant : Dr. Pankaj Garg and Mr. Yaksh Garg, Advocates.

For Respondent : Mr. Rajat Chaudhary, Advocate for R-2

J U D G M E N T
(Hybrid Mode)

[Per: Arun Baroka, Member (Technical)]

The present Appeal of the Suspended Director cum Personal Guarantor of the Corporate Debtor, has been preferred involving Section 421 of the Companies Act, 2013 (hereinafter referred as "the Act") against the order dated 05.12.2025 (hereinafter referred to as the "Impugned Order") passed by Ld. National Company Law Tribunal, New Delhi, Single Principal Bench in

TA(IBC)-50(PB)/2024, arising out of CP(IB) No. 419/ND/2023, titled "Praveen Kumar Garg v. Kamlesh Rani Singla". By way of the Impugned Order dated 05.12.2025, the Ld. Principal Bench has:

i) Dismissed T.A. (IBC) No. 50 (PB)/2024, filed under Rule 16(d) of the National Company Law Tribunal Rules, 2016 read with Sections 61(1) and 61(2) of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of the NCLT Rules, 2016, seeking transfer of C.P. (IB) No. 419/ND/2023, titled "Praveen Kumar Garg v. Kamlesh Rani Singla", from the Hon'ble NCLT, New Delhi Bench-II to the Hon'ble NCLT, Chandigarh Bench (Court-II); and

ii) Closed the said transfer application by placing reliance upon the order dated 16.10.2025 passed by the Hon'ble Gujarat High Court in R/Special Civil Application No. 11679 of 2024,

Submissions of the Appellant

2. The Appellant submits that, this Appellate Tribunal is empowered under Section 421 of the Companies Act, 2013 to entertain and adjudicate the present Appeal against the impugned order dated 05.12.2025. It argued that in addition to the statutory appellate jurisdiction, this Hon'ble Tribunal also possesses inherent powers bestowed on it under Rule 11 of the National Company Law Appellate Tribunal Rules, 2016, which enables to exercise inherent powers and to pass such orders as may be necessary for the proper adjudication of the matter and for securing the ends of justice.

3. The present Appeal is not barred by limitation and has been filed within the period prescribed under Section 421(3) of the Companies Act, 2013. The cause of action to prefer the present Appeal arose upon the passing of the Impugned Order on 05.12.2025, and the Appellant has approached this Hon'ble Tribunal within the statutory timeline of 45 days. Accordingly, the Appeal is well within limitation.

4. M/s. Laxmi Pipes Ltd., a company incorporated under the provisions of the Companies Act, having its registered office at Bhiwani Road, Hansi, District Hisar, Haryana-125033, is presently undergoing Corporate Insolvency Resolution Process (CIRP). The affairs of the Corporate Debtor are presently being managed through its Resolution Professional appointed pursuant to initiation of CIRP. The CIRP of Laxmi Pipes Ltd. is pending adjudication before the Hon'ble National Company Law Tribunal, Chandigarh Bench-II, in CP (IB) No. 107/Chd/Hry/2023, titled "Praveen Kumar Garg v. Laxmi Pipes Ltd.", which was admitted by an order dated 17.05.2023 under Section 9 of the Insolvency and Bankruptcy Code, 2016. Mr. Deepak Thukral was appointed as the Interim Resolution Professional, a moratorium under Section 14 IBC was declared, and the Corporate Debtor admitted an operational debt of ₹1,14,27,112/- payable to the Respondent No.1.

5. Apart from the above proceedings, Respondent No.1 (Praveen Kumar Garg, Proprietor of M/s GSV Products) filed CP(IB) No. 419/ND/2023 invoking Section 95 of IBC against Appellant (Personal Guarantor/Suspended Director) before NCLT New Delhi Bench II, triggering mandatory transfer

jurisdiction u/s 60(2) IBC. Respondent No. 1 initiated proceedings under Section 95 of the Code against the Appellant in his alleged capacity as Personal Guarantor and Suspended Director before the Hon'ble National Company Law Tribunal, New Delhi, Bench-II, instead of filing the same before the Hon'ble National Company Law Tribunal, Chandigarh Bench. The aforesaid proceedings were initiated deliberately and with full knowledge of the fact that the Respondent No. 1 had already instituted proceedings against the Corporate Debtor before the Hon'ble NCLT, Chandigarh Bench vide in shape of CP (IB) No. 107/Chd/Hry/2023, Chandigarh Bench-II, titled Praveen Kumar Garg v. Laxmi Pipes Ltd., which stood admitted on 28.05.2024, and wherein Mr. Gautam Singhal was appointed as the Resolution Professional.

6. The pendency and admission of the Corporate Insolvency Resolution Process of the Corporate Debtor before the Hon'ble NCLT, Chandigarh Bench crystallised exclusive territorial and subject-matter jurisdiction in terms of Section 60(2) of the Insolvency and Bankruptcy Code, 2016. Consequently, the initiation and continuation of the proceedings under Section 95 IBC before the Hon'ble NCLT, New Delhi, Bench-II are without jurisdiction, and void ab initio, thus the said proceedings are liable to be transferred to the Hon'ble NCLT, Chandigarh Bench in accordance with law.

7. Further, by order dated 28.05.2024, the Hon'ble NCLT, New Delhi, Bench-II, admitted CP (IB) No. 419/ND/2023 under Section 95 IBC, appointed Mr. Gautam Singhal (IBBI/IPA-001/IP-P01437/2018-2019/12240) as the Resolution Professional, and thereby triggered an interim moratorium under Section 96 IBC, resulting into an initiation of parallel

insolvency proceedings arising out of the same debt and transaction. Being aggrieved the Appellant filed Transfer Application No. T.A. (IBC)-50 (PB) of 2024 on 08.07.2024, before the Hon'ble NCLT, Principal Bench, seeking transfer of CP (IB) No. 419/ND/2023 to the Hon'ble NCLT, Chandigarh Bench-II, under Section 60(1) and (2) IBC read with Rule 16(d) of the NCLT Rules, 2016, to cure the inherent jurisdictional defect. The said Transfer Application specifically raised a threshold and incurable objection of jurisdiction, contending that proceedings under Section 95 IBC against a Personal Guarantor cannot be maintained before NCLT New Delhi particularly when the CIRP of the Corporate Debtor is pending before NCLT Chandigarh, which alone has exclusive territorial and subject-matter jurisdiction under Section 60(2) of the Code. Thereafter, on 05.12.2025, the Ld. Principal Bench dismissed T.A. (IBC)-50 (PB) of 2024 titled as "Kamlesh Rani Singla Vs. Praveen Kumar Garg" by way of the Impugned Order, without granting the Appellant an effective opportunity of hearing on the jurisdictional issue, and refused to order transfer of CP (IB) No. 419/ND/2023, NCLT-II, to the Hon'ble NCLT, Chandigarh Bench-II.

8. While dismissing the Transfer Application of the Appellant, the Ld. Adjudicating Authority has erroneously placed reliance upon the judgment dated 16.10.2025 passed by the **Hon'ble High Court of Gujarat in R/Special Civil Application No. 11679 of 2024, titled Arcelor Mittal Nippon Steel India Limited v. National Company Law Tribunal & Ors.**, and has, on that premise, misconstrued the scope of Rule 16(d) of the National Company Law Tribunal Rules, 2016 as being confined only to intra-territorial transfers,

thereby completely disregarding and rendering otiose the overriding, mandatory and special jurisdictional command contained in Section 60(2) of the Insolvency and Bankruptcy Code, 2016, which obligates that all insolvency proceedings in respect of a Corporate Debtor and its corporate guarantor must be heard by the same Ld. Adjudicating Authority (Bench) having jurisdiction over the Corporate Debtor. Section 60(2) of the Insolvency and Bankruptcy Code, 2016, in clear and mandatory terms, provides that where a CIRP or liquidation proceeding of a Corporate Debtor is pending before a particular Bench of the NCLT, any application relating to the insolvency resolution or bankruptcy of the Personal Guarantor of such Corporate Debtor shall be filed before the same Bench. The legislative intent is to ensure consolidation of proceedings, judicial consistency, and avoidance of conflicting decisions. In view of the aforesaid overriding statutory mandate under Section 60(2) of the Insolvency and Bankruptcy Code, 2016, the Hon'ble NCLT, New Delhi, lacks both territorial jurisdiction as well as inherent jurisdiction to entertain or proceed with the Section 95 application against the Appellant, and any continuation of such proceedings would be *void ab initio, coram non judice,* without jurisdiction, and wholly unsustainable in law.

9. The issue raised in the present appeal is covered by the judgment of this Hon'ble Appellate Tribunal in **Company Appeal (AT) (Insolvency) No. 58 of 2023, Ankit Miglani v. State Bank of India, decided on 19.04.2023**, wherein this Hon'ble Tribunal, after an exhaustive consideration of the scheme and scope of Section 60(1), (2) and (3) of the Insolvency and Bankruptcy Code, 2016, has categorically held that Section 60(2) of the Code

is mandatory in nature and admits of no discretion. It has been unequivocally laid down that where a Corporate Insolvency Resolution Process of the Corporate Debtor is pending before a particular Bench of the National Company Law Tribunal, any application relating to the insolvency resolution or bankruptcy of the Personal Guarantor of such Corporate Debtor must necessarily be instituted before the same Ld. Adjudicating Authority (Bench), and not before any other Bench. The Hon'ble Appellate Tribunal has further clarified that the legislative intent behind Section 60(2) IBC is to ensure consolidation of proceedings, judicial consistency, and avoidance of parallel or conflicting decisions by different Benches of the NCLT, and that assumption of jurisdiction by any other Bench, in the absence of a pending CIRP before it, constitutes a patent lack of territorial jurisdiction. Applying the said binding ratio, once the CIRP of the Corporate Debtor is admittedly pending before the Hon'ble NCLT, Chandigarh Bench-II, the initiation and continuation of proceedings under Section 95 IBC against the Appellant before the Hon'ble NCLT, Bench-II, New Delhi are wholly without jurisdiction, non-est in law, and is liable to be transferred. The Impugned Order, therefore, runs directly contrary to the settled law laid down by this Hon'ble Appellate Tribunal and warrants interference on this ground alone.

10. In the aforesaid circumstances, the impugned order dated 05.12.2025 is illegal, perverse, and unsustainable in law. Consequently, C.P. (IB) No. 419/ND/2023 pending before the Hon'ble NCLT, New Delhi Bench-II is liable to be transferred to the Hon'ble NCLT, Chandigarh Bench-II, being the sole jurisdictional Adjudicating Authority, under Section 60(2) of the Insolvency

and Bankruptcy Code, 2016. The present Appeal is, therefore, being preferred. The present Appeal, therefore, deserves to be allowed, the Impugned Order set aside, and CP (IB) No. 419/ND/2023 be transferred to the Hon'ble NCLT, Chandigarh Bench, being the sole competent Ld. Adjudicating Authority (Bench), in the interest of justice.

<u>Reliefs Sought</u>

11. In view of the facts and grounds stated above, it is most respectfully prayed that this Hon'ble Appellate Tribunal may be pleased to:

(a) Set aside the Impugned Order dated 05.12.2025 passed by the NCLT, New Delhi Single Principal Bench in TA(IBC) - 50(PB) / 2024.

(b) Allow TA(IBC) - 50(PB) / 2024 titled as "Kamlesh Rani Singla Vs. Praveen Kumar Garg" and transfer CP(IB) No. 419/ND/2023, titled as Praveen Kumar Garg Proprietor of M/S GSV Products Vs. Kamlesh Rani Singla from NCLT New Delhi Bench II to NCLT Chandigarh Bench-II under Section 60(2) IBC read with Rule 16(d) NCLT Rules.

(c) Quash and set aside all proceedings undertaken before the Hon'ble National Company Law Tribunal, New Delhi in CP (IB) No. 419/ND/2023 pursuant to and subsequent to the admission order dated 28.05.2024, and direct that the said proceedings shall remain in abeyance and stand transferred to the Hon'ble National Company Law Tribunal, Chandigarh Bench-II, being the competent and jurisdictional Adjudicating Authority under Section 60(2) of the Insolvency and Bankruptcy Code, 2016.

(d) Pass such other order(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

Issues for consideration:

- Whether the Hon'ble National Company Law Tribunal, New Delhi, Bench-II, could exercise jurisdiction over proceedings initiated under Section 95 of the Insolvency and Bankruptcy Code, 2016 against a Personal Guarantor, when the Corporate Insolvency Resolution Process of the Corporate Debtor is admittedly pending prior in time before the Hon'ble NCLT, Chandigarh Bench-II?

- Whether the dismissal of T.A. (IBC) No. 50 (PB) of 2024 by the Ld. Principal Bench, New Delhi, without affording the Appellant an effective and meaningful opportunity of hearing on the foundational objection of lack of jurisdiction under Section 60(2) of the Insolvency and Bankruptcy Code, 2016, amounts to a violation of the principles of natural justice which is basic essence of adjudication, thereby vitiating the impugned order and rendering it legally unsustainable?

- Whether the judgment of the Hon'ble Gujarat High Court dated 16.10.2025 passed in R/SCA No.11679 of 2024, rendered in the context of administrative transfers, is applicable to, or can govern, judicial transfer applications seeking correction of an inherent and incurable statutory jurisdictional defect under Section 60(2) of the Insolvency and Bankruptcy Code, 2016?

Appraisal

12. The Ld. Adjudicating Authority has dismissed the transfer application, solely relying on the order dated 16.10.2025 passed by the Hon'ble High Court of Gujarat in R/Special Civil Application No. 11679 of 2024. The relevant portion of that order is extracted below:

> "[16] On a perusal of Rule 16(d) of the NCLT Rules, 2016, it becomes clear that the Rule defines the powers and functions of the President, Registrar, and Secretary. Under this provision, the President has the authority to transfer cases from one Bench to another within the same Tribunal when circumstances so require. However, the Rule does not confer any power to transfer a case beyond the territorial jurisdiction of a particular Bench. In other words, the President's authority to transfer matters is confined to Benches falling within the same territorial limits.
>
> In the present case, the NCLT, New Delhi, while acting on the administrative side, has committed a serious error by transferring the cases from the NCLT, Ahmedabad, to the NCLT, Mumbai. The President of the NCLT has no administrative power to alter or extend the territorial jurisdiction of any Bench. Such an administrative decision directly affecting pending judicial proceedings is, therefore, subject to judicial review. Accordingly, the orders dated 6th June 2024 and 10th February 2025 passed by the NCLT, New Delhi, on the administrative side, are without any legal authority and are liable to be quashed and set aside.
>
> Moreover, since the issue of transfer of these petitions was already pending before the NCLT, New Delhi, on the judicial side, the exercise of administrative powers in this manner has rendered those proceedings ineffective, which further fortifies the impropriety of the orders.
>
> I answer the question No.(ii) accordingly."

13. The primary issue for our consideration before us is as to whether NCLT, New Delhi, Bench-II, could exercise jurisdiction over proceedings initiated under Section 95 of the Insolvency and Bankruptcy Code, 2016, against a Personal Guarantor, when the CIR Proceedings of the Corporate Debtor is already pending before the NCLT, Chandigarh Bench-II, and whether it is against the provisions under Section 60(2) of the Code? Further whether Rule 16(d) of the NCLT Rules, 2016, restricts the power and functions of the President to allow such transfer applications in such situations as is in this case.

14. Before proceeding further, it will be useful to extract the provisions of Section 60(2) of the Insolvency and Bankruptcy Code noted as follows:

> **"Section 60: Adjudicating Authority for corporate persons**
>
> (1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate persons located.
>
> (2) Without prejudice to sub-section (1) and notwithstanding anything to the contrary contained in this Code, where a corporate insolvency resolution process or liquidation proceeding of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution or liquidation or bankruptcy of a corporate guarantor or personal guarantor, as the case may be, of such corporate debtor shall be filed before such National Company Law Tribunal.
>
> (3) An insolvency resolution process or liquidation or bankruptcy proceeding of a corporate guarantor or personal guarantor, as the case

> may be, of the corporate debtor pending in any court or tribunal shall stand transferred to the Adjudicating Authority dealing with insolvency resolution process or liquidation proceeding of such corporate debtor"

15. We note that Section 60(2) of the Insolvency and Bankruptcy Code, 2016, clearly provides that where a CIRP or liquidation proceeding of a Corporate Debtor is pending before a particular Bench of the NCLT, any application relating to the insolvency resolution or bankruptcy of the Personal Guarantor of such Corporate Debtor shall be filed before the same Bench. Apparently, the intent is to ensure consolidation of proceedings, judicial consistency, and avoidance of conflicting decisions. The provisions of Section 60(2), because of use of non-obstinate clause, will have an overriding effect under the circumstances to Section 60(1), as far as it relates to defining of territorial jurisdiction for cognizance of proceeding under the Code. Thus, this is an overriding statutory mandate under Section 60(2) of the Insolvency and Bankruptcy Code, 2016. Therefore, NCLT, New Delhi, lacks both territorial jurisdiction as well as inherent jurisdiction to entertain or proceed with the Section 95 application against the Appellant, and any continuation of such proceedings would be void ab initio and without jurisdiction.

16. It was also brought to our notice that this Appellate Tribunal in **Company Appeal (AT) (Insolvency) No. 58 of 2023, Ankit Miglani v. State Bank of India,** after an exhaustive consideration of the scheme and scope of Section 60(1), (2) and (3) of the Insolvency and Bankruptcy Code, 2016, decided on 19.04.2023, that <u>Section 60(2) of the Code is mandatory in nature and admits of no discretion.</u> It was held that:

XXX

The Scheme of the Code as per Section 60 is that Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors in the NCLT having territorial jurisdiction over the place where the registered office of a corporate person is located. The Corporate Person in the present case is Uttam Galva Metallics Limited, whose registered office admittedly is in the State of Haryana. Sub-section (2) of Section 60 contains an addition to Section 60(1), which provides that where a corporate insolvency resolution process or liquidation proceeding of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution process of a corporate guarantor or personal guarantor shall be filed before such National Company Law Tribunal.

XXX

17. We further note that, this Appellate Tribunal had also considered the Scheme of Section 60, sub-section (2) in **Company Appeal (AT) (Insolvency) No.60 of 2022 – State Bank of India, Stressed Asset Management Branch vs. Mahendra Kumar Jajodia, Personal Guarantor to Corporate Debtor**, wherein, the Ld. Adjudicating Authority had held that no CIRP or liquidation proceedings of the Corporate Debtor being pending, the Application filed under Section 95 was rejected. In the above context, this Appellate Tribunal examined the statutory Scheme of Section 60 and in paragraphs 7 to 10, following was held:

"7. Sub-Section 1 of Section 60 provides that Adjudicating Authority for the corporate persons including corporate debtors and personal guarantors shall be the NCLT. The Sub-Section 2 of

Section 60 requires that where a CIRP or Liquidation Process of the Corporate Debtor is pending before 'a' National Company Law Tribunal the application relating to CIRP of the Corporate Guarantor or Personal Guarantor as the case may be of such Corporate Debtor shall be filed before 'such' National Company Law Tribunal. The purpose and object of the sub-section 2 of Section 60 of the Code is that when proceedings are pending in 'a' National Company Law Tribunal, any proceeding against Corporate Guarantor should also be filed before 'such' National Company Law Tribunal. The idea is that both proceedings be entertained by one and the same NCLT. The sub-section 2 of Section 60 does not in any way prohibit filing of proceedings under Section 95 of the Code even if no proceeding are pending before NCLT.

8. The use of words 'a' and 'such' before National Company Law Tribunal clearly indicates that Section 60(2) was applicable only when a CIRP or Liquidation Proceeding of a Corporate Debtor is pending before NCLT. The object is that when a CIRP or Liquidation Proceeding of a Corporate Debtor is pending before 'a' NCLT the application relating to Insolvency Process of a Corporate Guarantor or Personal Guarantor should be filed before the same NCLT. This was to avoid two different NCLT to take up CIRP of Corporate Guarantor. Section 60(2) is applicable only when CIRP or Liquidation Proceeding of a Corporate Debtor is pending, when CIRP or Liquidation Proceeding are not pending with regard to the Corporate Debtor there is no applicability of Section 60(2).

9. Section 60(2) begins with expression 'Without prejudice to sub-section (1)' thus provision of Section 60(2) are without prejudice to Section 60(1) and are supplemental to sub-section (1) of Section 60.

> 10. Sub-Section 1 of Section 60 provides that Adjudicating Authority in relation to Insolvency or Liquidation for Corporate Debtor including Corporate Guarantor or Personal Guarantor shall be the NCLT having territorial jurisdiction over the place where the Registered Office of the Corporate Person is located. The substantive provision for an Adjudicating Authority is Section 60, sub-Section (1), when a particular case is not covered under Section 60(2) the Application as referred to in sub-section (1) of Section 60 can be very well filed in the NCLT having territorial jurisdiction over the place where the Registered Office of corporate Person is located."

18. As noted by this Appellate Tribunal in above noted judgments, we find that it has been unequivocally laid down that where a Corporate Insolvency Resolution Process of the Corporate Debtor is pending before a particular Bench of the National Company Law Tribunal, any application relating to the insolvency resolution or bankruptcy of the Personal Guarantor of such Corporate Debtor must necessarily be instituted before the very same Ld. Adjudicating Authority (Bench), and not before any other Bench. It ensures consolidation of proceedings, judicial consistency, and avoidance of parallel or conflicting decisions by different Benches of the NCLT. Furthermore, we agree with the arguments that assumption of jurisdiction by any other Bench, in the absence of a pending CIRP before it, constitutes a lack of territorial jurisdiction. We thus find that by applying the said ratio, once the CIRP of the Corporate Debtor is admittedly pending before the Hon'ble NCLT, Chandigarh Bench-II, the initiation and continuation of proceedings under Section 95 IBC

against the Appellant before the Hon'ble NCLT, Bench-II, New Delhi are wholly without jurisdiction, non-est in law, and liable to be set aside.

19. The Impugned Order, therefore, runs directly contrary to the settled law laid down by this Appellate Tribunal and warrants our interference on this ground alone. Thus, in view of the foregoing facts and circumstances, the statutory mandate contained in Section 60(2) read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016, it is manifest that the assumption and continuation of jurisdiction by the Hon'ble NCLT, New Delhi in CP (IB) No. 419/ND/2023 is wholly without authority of law and vitiated by a jurisdictional error.

20. The position of law as per Insolvency and Bankruptcy Code 2016 and the related NCLT Rules 2016 is recapitulated as below for ready reference:

- **Section 60 (2):** Without prejudice to sub-section (1) and notwithstanding anything to the contrary contained in this Code, where a corporate insolvency resolution process or liquidation proceeding of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution or liquidation or bankruptcy of a corporate guarantor or personal guarantor, as the case may be, of such corporate debtor shall be filed before such National Company Law Tribunal.
- **Rule 16 (d)** in addition to the general powers provided in the Act and in these Rules, the President shall exercise the

following powers, namely**: -** transfer any case from one Bench to other Bench when the circumstances so warrant"

- **"Bench"** per **Rule 2(7) of NCLT Rules 2016:** "bench means a bench of the tribunal constituted under Section 419 of the Act and includes circuit benches constituted by the President with prior approval of the Central Government to sit at such other geographical locations as may be necessary, having regard to requirements."

21. The perusal of the above legal position makes things very clear. **Rule 16(d) of the NCLT Rules 2016, administratively equips** the President NCLT with sufficient power to transfer any case from one bench to the other bench. Further, the power of President NCLT is not restricted nor clouded to any territorial location. Rather the President NCLT is empowered to transfer a case as per the criteria laid down in section 60(2) of the Code, which empowers to transfer proceedings against personal guarantor from some other bench to where the proceedings against the Corporate Debtor were going on. We note that it will create anomalous situations by a narrow interpretation that Rule 16(d) restricts it to the same territorial jurisdiction as has happened in this particular case.

22. We thus observe that a combined reading of Section 60 of the Code, Rule 16 (d) and Rule 2(7) of NCLT Rules 2016 indicates that the President NCLT is empowered to transfer any case from one bench to the other bench having regard to requirements. It is all the more important per Section 60

when the CIR proceeding against the Corporate Debtor is going on in one bench, the President is very well empowered under Section 60(2) of the Code to transfer proceedings against personal guarantor from some other bench to where the proceedings against the corporate debtor were going on.

23. We note that the insolvency proceedings against the Corporate Debtor are going on in the NCLT bench in Chandigarh and the insolvency proceedings against the personal guarantor have been initiated in another bench in another territorial location at New Delhi. Even the transfer application has been dismissed by the President NCLT, ignoring the provisions in Section 60(2) of the Code but on a very narrow interpretation of Rule 16(d) that the proceedings cannot be transferred from one territorial jurisdiction to another territorial jurisdiction.

24. Thus we find that the Ld. Adjudicating Authority has misconstrued the scope of Rule 16(d) of the National Company Law Tribunal Rules, 2016 as being confined only to intra-territorial transfers, thereby completely disregarding and rendering otiose the jurisdictional command contained in Section 60(2) of the Insolvency and Bankruptcy Code, 2016, though being overriding provision which obligates that all insolvency proceedings in respect of a Corporate Debtor and its corporate guarantor must be heard by the same Ld. Adjudicating Authority (Bench) having jurisdiction over the Corporate Debtor. Section 60(2) of the Insolvency and Bankruptcy Code, 2016, in clear and mandatory terms, provides that where a CIRP or liquidation proceeding of a Corporate Debtor is pending before a particular Bench of the NCLT, any

application relating to the insolvency resolution or bankruptcy of the Personal Guarantor of such Corporate Debtor shall be filed before the same Bench. In view of the aforesaid overriding statutory mandate under Section 60(2) of the Insolvency and Bankruptcy Code, 2016, the Hon'ble NCLT, New Delhi, lacks both territorial jurisdiction as well as inherent jurisdiction to entertain or proceed with the Section 95 application against the Appellant, and any continuation of such proceedings would be *void ab initio, coram non judice,* without jurisdiction, and wholly unsustainable in law.

25. We also note that the Transfer Application specifically raised a threshold and objection of jurisdiction, contending that proceedings under Section 95 IBC against a Personal Guarantor cannot be maintained before NCLT New Delhi when the CIRP of the Corporate Debtor is pending before NCLT Chandigarh, which alone has exclusive territorial and subject-matter jurisdiction under Section 60(2) of the Code. In this case we find that the proceedings against the Corporate Debtor were going on in NCLT Chandigarh in one of the benches and simultaneously proceedings against the personal guarantor have been initiated in NCLT Delhi in another bench. It would have been appropriate that this application should have been dismissed as non-maintainable at the stage of the admission itself and the applicant should have been advised to file it before the appropriate bench, that is in Chandigarh. In any case when the transfer application was filed before the President, the President while relying on the judgement of Hon'ble Gujarat High Court has not been allowed the transfer, which is against the provisions of the Code and a very narrow interpretation of Rule 16 (d) of the NCLT Rules.

Orders

26. Therefore, we set aside the order of the President NCLT in TA(IBC)-50(PB)/2024 and quash the proceedings in CP(IB) No. 419/ND/2023. Respondents are provided liberty to file proceedings as per law as an Operational Creditor under Section 95 before NCLT with appropriate jurisdiction in the matter.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

New Delhi.
September 09, 2026.

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