

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1772 of 2026 & I.A. No. 6703 of 2026

Arising out of Impugned Order dated 12.09.2022 passed by National Company Law Tribunal, New Delhi Bench (Court No. IV), at New Delhi in C.A. No.485/2019

IN THE MATTER OF:

Ms. Manju Sirohi

W/o Sh. Ashok Kumar Sirohi

R/O E-13, Ground Floor, Sector-30,

Noida, Uttar Pradesh-201301

E-mail: sirohimanju353@gmail.com

....Appellant

VERSUS

1. Assets Care & Reconstruction Enterprise

Ltd. Registered office at:

2 Floor, Mohan Dev Building, 13,

Tolstoy Marg, New Delhi-110001

And

Branch office at: Unit No.: 502, C Wing,

One BKC, Radius Developers,

Plot N: C 66, G Block, Bandra Kurla Complex,

Mumbai, Maharashtra- 400051

E-mail: acre.arc@acreindia.in

....Respondent No.1

2. Mr. Anup Kumar

Bankruptcy Trustee of Ms. Manju Sirohi

Personal Guarantor of M/s Saha Infratech Pvt Ltd

IBBI Reg No. IBBI/IPA-002/IP-N00333/2017-

2018/10911

734, Lawyers Chamber Block, Western Wing,

Tis Hazari Court, Delhi-110054

E-mail: irp.acre@gmail.com

....Respondent No.2

Present

For Appellant: Mr. Sulaiman Mohd. Khan, Ms. Taibh Khan, Mr. Yashvardhan Mittal & Mr. Ranjeet Singh, Advocates.

For Respondents: Mr. Amit Prakash, Advocate for R-2

With

Comp. App. (AT) (Ins) No. 1773 of 2026 & I.A. No. 6707 of 2026

(Arising out of Impugned Order dated 20.08.2026 passed in RA- 73/ND/2026 in CP(IB)-80/ND/2023 by the Hon'ble National Company Law Tribunal, New Delhi)

IN THE MATTER OF:

Ms. Manju Sirohi

W/o Sh. Ashok Kumar Sirohi
R/O E-13, Ground Floor, Sector-30,
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For Respondents: Mr. Amit Prakash, Advocate for R-2

J U D G E M E N T

(07.10.2026)

NARESH SALECHA, MEMBER (TECHNICAL)

1. There are two appeals before us i.e. Company Appeal (AT) (INS) No. 1772 of 2026 and Company Appeal (AT) (INS) No. 1773 of 2026 filed by the Appellant, Manju Sirohi.

Company Appeal (AT) (INS) No. 1772 of 2026

2. The appeal is filed by the Appellant i.e., Manju Sirohi who is a Personal Guarantor of M/s Saha Infratech Private Limited under Section 61 of the Insolvency and Bankruptcy Code, 2016, (“**Code**”) arising out of Impugned Order dated 03.08.2026 passed in IA/ND/4604/2025 in CP(IB)-80/ND/2023 by the Hon'ble National Company Law Tribunal, New Delhi (“**Adjudicating Authority**”).

Assets Care & Reconstruction Enterprise Ltd., who is the Financial Creditor, acting in its capacity as trustee of ACRE-100-TRUST, is the Respondent No.1 herein.

Mr. Anup Kumar, who is the Bankruptcy Trustee of the Appellant is the Respondent No.2 herein.

Company Appeal (AT) (INS) No. 1773 of 2026

3. The appeal is filed by the Appellant i.e., Manju Sirohi who is a Personal Guarantor of M/s Saha Infratech Private Limited under Section 61 of the Insolvency and Bankruptcy Code, 2016, (“**Code**”) arising out of Impugned Order dated 20.08.2026 passed by the Hon'ble National Company Law Tribunal (“**Adjudicating Authority**”) in CP(IB)-80/ND/2023, whereby RA-73/ND/2026 seeking recall of the Order dated 03.08.2026 being being ex-parte Order was dismissed.

Assets Care & Reconstruction Enterprise Ltd., who is the Financial Creditor, acting in its capacity as trustee of ACRE-100-TRUST, is the Respondent No.1 herein.

Mr. Anup Kumar, who is the Bankruptcy Trustee of the Appellant is the Respondent No.2 herein.

Common Pleadings of the Appellant

4. The Appellant submitted that Respondent No. 1 had filed an application under Section 95(1) of the Code, to initiate the insolvency process against her on account of the failure of M/s Saha Infratech Pvt. Ltd. (Corporate Debtor) to repay the debt. The Appellant stated that vide order dated 10.04.2023, the Adjudicating

Authority appointed Mr. Anup Kumar as the Resolution Professional in CP(IB)-80/ND/2023. The Appellant contended that Respondent No. 1 thereafter filed IA-5276/2024 under Section 123 of the Code seeking initiation of the bankruptcy process against her, and that due to her non-appearance, the Adjudicating Authority initiated ex-parte proceedings by order dated 21.02.2025.

5. The Appellant submitted that on 03.03.2025 and again on 16.03.2025 she sold her personal jewellery in order to sustain herself in Delhi NCR, with the sale proceeds being credited to her personal bank account, and that on 11.03.2025 she received funds transferred from her mother-in-law's bank account pursuant to its closure. The Appellant contended that on 14.05.2025 the Adjudicating Authority reserved orders in IA-5276/2024, and that on 21.05.2025 the Adjudicating Authority declared her bankrupt under Section 126 of the Code and appointed Respondent No. 2 as the Bankruptcy Trustee under Section 125 of the Code.

6. The Appellant submitted that on 11.09.2025, Respondent No. 2 filed IA-4604/ND/2025 under Regulation 12 of the relevant IBBI Regulations read with Section 186(D) of the Code, seeking, inter alia, directions to the Appellant to submit her complete financial position, to return a sum of Rs. 19,17,500/- forming part of the bankruptcy estate, to furnish details of after-acquired property, and to extend co-operation in the bankruptcy process.

7. The Appellant stated that a complete transaction summary of her Union Bank of India account (No. 398502010053816) reveals deposits totalling Rs. 18,92,214.00 comprising Rs. 5,66,966.00 transferred from her mother-in-law's

account on 11.03.2025 and Rs. 13,25,248.00 realised from the sale of gold jewellery and related items on 24.03.2025, against withdrawals totalling Rs. 19,19,500.00 made between 16.06.2025 and 24.07.2025, primarily by self-withdrawal and ATM.

8. The Appellant contended that her counsel, who was recently engaged, appeared on 03.08.2026 through video conferencing when the Adjudicating Authority disposed of IA-4604/ND/2025 and passed an ex-parte order directing her to pay back Rs. 19,17,500/- to Respondent No. 2. The Appellant submitted that although her counsel was present when the matter was called, an unstable internet connection prevented necessary submissions, resulting in the ex-parte order.

9. The Appellant submitted that being aggrieved by the said ex-parte order, she preferred RA-73/ND/2026 under Rule 11 of the NCLT Rules, 2016 seeking its recall. The Appellant stated that on 20.08.2026, the recall application was heard and dismissed by the Adjudicating Authority on the ground that IA-4604/ND/2025 had been allowed and disposed of on merits and that a recall application was not the appropriate remedy, even though the order dated 03.08.2026 itself recorded that the application was allowed due to the absence of any denial.

10. The Appellant submitted that the Adjudicating Authority grossly erred in dismissing the recall application and failed to appreciate that the order dated 03.08.2026 was not passed on merits and was made without affording her an

opportunity of hearing. The Appellant stated that she is a senior citizen residing in Delhi NCR with no source of income, that the sale of her personal jewellery was a last resort to sustain herself, and that she was unaware of the moratorium at the time of the withdrawals.

11. The Appellant contended that her personal jewellery constitutes an excluded asset under Section 155(2) of the Code, and that the amounts withdrawn from her savings account represented the sale proceeds of such jewellery together with the sum transferred from her mother-in-law's account, both of which are excluded assets under Section 79(14) of the Code.

12. Concluding arguments, the Appellant requested this Appellate Tribunal to set aside the Impugned Orders and allow the both appeals.

13. Per contra, the Respondent No.2 (Bankruptcy trustee), the contesting Respondent, denied all the averments made by the Appellant as misleading and baseless.

14. The Respondent No. 2 stated that in the captioned matter the Personal Insolvency Resolution Process was initiated on 18.01.2024 and, upon non-submission of a repayment plan, the Adjudicating Authority passed an order on 02.07.2024 under Section 114 of the Code, directing the financial creditor to file an application against the personal guarantor/Appellant. The Respondent No. 2 contended that the financial creditor thereafter filed an application under Section 123 of the Code, and vide order dated 21.05.2025 the Adjudicating Authority

initiated the bankruptcy process against the Appellant and appointed the answering Respondent as the Bankruptcy Trustee to conduct the proceedings in accordance with law.

15. The Respondent No. 2 submitted that pursuant to the order dated 21.05.2025, a public announcement was made on 30.05.2025 inviting creditor claims by 06.06.2025, and simultaneous intimation of initiation of the bankruptcy proceedings.

16. The Respondent No. 2 stated that pursuant to the public announcement claims were received from two financial creditors and admitted as follows: M/s Assets Care & Reconstruction Enterprises Ltd. claimed Rs. 426,19,59,899/-, of which Rs. 55,06,45,056.52/- was admitted and Rs. 371,13,14,842.48/- was admitted as contingent; M/s IDBI Trusteeship Services Ltd. claimed Rs. 544,33,62,699/- which was admitted entirely as contingent, resulting in a total claim of Rs. 970,53,22,598/-, of which Rs. 55,06,45,056.52/- was admitted and Rs. 915,46,77,541.48/- was admitted as contingent.

17. The Respondent No. 2 contended that pursuant to Section 133 of the Code the first meeting of creditors was convened on 01.07.2025, in which the Appellant through her representative participated and assured the Bankruptcy Trustee that the financial statement of the Bankrupt would be submitted as called for in the intimation letter dated 30.05.2025. The Respondent No. 2 submitted that despite the assurance, the Appellant failed to provide the financial statement as called for, whereupon another intimation was sent on 18.07.2025 seeking relevant

information; in response the Appellant furnished details of bank accounts and other information.

18. The Respondent No. 2 stated that upon receiving the information, the Bankruptcy Trustee collected the bank account statements and instructed the banks to mark debit freeze on all accounts till further instructions. Upon perusal of the statements, it was found that the Appellant had withdrawn a total of Rs. 19,17,500/- between 16.06.2025 and 24.07.2025, the details being: 16.06.2025 – Self – Rs. 9,95,000/-; 21.06.2025 – Self – Rs. 9,00,000/-; 06.07.2025 – ATM – Rs. 10,000/-; 23.07.2025 – ATM – Rs. 10,000/-; 24.07.2025 – ATM – Rs. 1,000/- , Rs. 1,500/-, Rs. 500/- and Rs. 500/-.

19. The Respondent No. 2 contended that an application (IA-4604/2025) was filed before the Adjudicating Authority seeking return of the unauthorised withdrawal of Rs. 19,17,500/-. The Appellant appeared on 08.12.2025 but thereafter failed to appear despite notice, compelling the Adjudicating Authority to proceed ex-parte and pass the impugned order dated 03.08.2026 directing return of the said amount. The Appellant's subsequent recall application (RA-73/ND/2026) was dismissed by the Adjudicating Authority vide order dated 20.08.2026.

20. The Respondent No. 2 submitted that the amount of Rs. 19,17,500/- constitutes an unauthorised withdrawal because, under Section 154 of the Code, 2016, the estate of the bankrupt vests in the Bankruptcy Trustee immediately from the date of appointment without any conveyance, assignment or transfer. The

Respondent No. 2 stated that any amount lying in the account of the Bankrupt forms part of the bankruptcy estate under Section 155 of the Code and is to be distributed to the creditors under Section 178 of the Code.

21. The Respondent No. 2 contended that the withdrawal is illegal as it was made after due intimation given by the Bankruptcy Trustee vide letter dated 30.05.2025. The Respondent No. 2 further submitted that while the Appellant seeks exclusion of the assets under Section 79(14) of the Code, the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019 prescribe that the value of unencumbered personal ornaments under clause (c) of the said sub-section shall not exceed one lakh rupees.

22. The Respondent No. 2 stated that the Appellant failed to avail the ample opportunities granted by the Adjudicating Authority and therefore cannot raise the plea at this stage. The Respondent No. 2 contended that the present appeals are without any merit or ground and are liable to be dismissed outright.

23. Concluding the arguments, the Respondent No.2 requested this Appellate Tribunal to dismiss both appeals.

Findings

24. We have already noted the rival contentions of the parties in preceding paragraphs. The material facts are not in dispute. The Appellant was declared bankrupt on 21.05.2025 and Respondent No. 2 was appointed Bankruptcy Trustee. The Union Bank of India statement of her savings account, filed by both sides and admittedly authentic, shows Rs. 19,07,366.46 at her credit on that date. Between 16.06.2025 and 24.07.2025 the whole of it was drawn out: two Self withdrawals of Rs. 9,95,000.00 and Rs. 9,00,000.00, and six ATM withdrawals totalling Rs. 23,500.00, leaving Rs. 114.32. The Appellant does not deny any withdrawal and her own table lists them. Her defence is one of law and hardship, not of fact.

25. It may be stated that the correct test is vesting, not moratorium. The Trustee's intimation of 30.05.2025 and his application, and the Appellant's plea of being unaware of the moratorium, all proceed on a wrong label. We observe that Section 128(1)(c) of the code restrains creditors from acting against the bankrupt's property; it does not regulate the bankrupt. We need to appreciate that the estate, comprising all property belonging to the bankrupt at the commencement date, vests in the Trustee by operation of law, without any conveyance, assignment or transfer. Thus, it is clear that money at credit in a bank account is property and from 21.05.2025, the balance was the Trustee's to hold,

and every withdrawal by the Appellant was a dealing with property that was not hers to deal with.

26. We are of clear opinion that the plea of unawareness is no defence to vesting, which does not depend on the bankrupt's knowledge, and is in any case unproved. It has been brought to our notice that the Trustee's intimation was delivered to the Appellant on 05.06.2025, eleven days before the first withdrawal and she was represented at the creditors meeting on 01.07.2025 and further she wrote to the Trustee about her accounts on 22.07.2025, after which the ATM withdrawals of 23–24.07.2025 followed.

27. We would like to state that the jewellery sale proceeds of Rs. 13,25,248.00 (69.5 % of the balance) are not excluded assets as Section 155(2)(a) excludes only "excluded assets" as defined in section 79(14) of the code. The Clause (c) protects only unencumbered personal ornaments which cannot be parted with, in accordance with religious usage, of a value not exceeding Rs. 1,00,000/- (Rule 5(a) of the 2019 Bankruptcy Rules). We are not in position to accept the pleadings of the appellant because the proceeds are more than thirteen times the cap prescribed in the regulations. Further the exclusion attaches to described assets, not to money. It has also been brought to our notice that on the commencement date, the Appellant held no ornaments (her Form-E shows jewellery as Nil but a bank balance, which none of clauses (a) to (e) of section 79(14) of the code mentions, and nothing in the Code carries the protected character over to sale proceeds.

28. We are of considered opinion that claimed hardship by the Appellant cannot enlarge section 79(14) of the code, which is a closed list. We also do not find any rationale for withdrawal of Rs. 18,95,000/- by the Appellant in five days without explanation.

29. We note that the recall application (RA-73/ND/2026) was dismissed. It needs to be appreciated that recall is not a matter of right. The Appellant's case that her counsel could not be heard on 03.08.2026 for want of connectivity is not supported by any record. We have noted that notice had been served to the Appellant on 22.09.2025 and no reply had been filed for over ten months. Even on the Appellant's version, no prejudice is shown. Thus, we do not find any merit in the contents of the appellant regarding denial of recall application by the Adjudicating authority.

30. Based on the above analysis, we do not find any merit in either of the appeals. The appeals fail and stand rejected. No order as to cost. IA, if any, stands closed.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

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