

NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.3
IA/669(MP)2026
in
CP(IB)/74(MP)2025

Proceedings under Section Rule 43 & 131 r.w. Rule 11
IN THE MATTER OF:

Ghanshyam Das And Company
V/s
Century 21 Malls Pvt Ltd

.....Applicant

.....Respondent

Coram:

Hon'ble Shri Brajendra Mani Tripathi, Member (J)
Hon'ble Shri Man Mohan Gupta Member (T)

PRESENT:

For the Applicant : Mr. Manoj Munshi, Sr. Adv (Online) a.w.
Mr. Mayank Munshi, Adv (Online)
For the Respondent : Ms. Deepika Rathi, Adv (Physical)

ORDER

Delivered on 16/10/2026

IA/669(MP)2026

1. The present Application has been filed by the Applicant under Rules 43 and 131 read with Rule 11 of the National Company Law Tribunal Rules 2016 and Section 424 of the Companies Act 2013 with the following prayers: -

(i) Direct the Applicant/Alleged Financial Creditor, M/s Ghanshyamdass and Company, to produce on record, within such time as this Hon'ble Tribunal may deem appropriate, the audited financial statements, Balance Sheets, Profit and Loss Accounts, ledger accounts, relevant Income-tax Returns, Tax Audit Reports, TDS records, bank Ltd Statements and supporting accounting documents specified in paragraph 13 hereinabove, including the documents referred to and relied upon in the Rejoinder dated 26.09.2026 but not placed on record.

(ii) Direct the Applicant to furnish a complete, authenticated and year-wise reconciliation of the alleged principal amount of Rs. 7,50,00,000/-, the interest of Rs. 29,48,66,651/- claimed thereon, and all payments, credits and adjustments, explaining the basis on which the aggregate claim of Rs. 36,98,66,651/- has been arrived at.

(iii) Direct the Applicant to file an affidavit of its authorised partner verifying the completeness and authenticity of the documents so produced and explaining the material accounting discrepancies identified hereinabove.

(iv) Grant the Corporate Debtor reasonable opportunity to inspect the documents so produced and to place on record a supplementary affidavit or additional objections confined to the documents and information produced pursuant to the directions of this Hon'ble Tribunal.

(v) Defer final consideration of admission of the Section 7 Petition until compliance with the directions for production of documents and an opportunity of response to the Corporate Debtor.

(vi) In the event of failure or refusal to produce relevant documents without sufficient cause, consider drawing such adverse inference as may be permissible in law while adjudicating the claim of financial debt and default.

2. Ld. Senior Counsel for the Applicant submits that the present Application has been filed seeking a direction to the Respondent to produce the documents specified in the prayer clause of the Application.
3. It is submitted that the Financial Creditor has filed a petition bearing CP(IB)/33(MP)2026, claiming an amount allegedly due and in default, and seeking initiation of the CIRP against the Applicant under Section 7 of the Insolvency and Bankruptcy Code, 2016.
4. Ld. Senior Counsel for the Applicant contends that the amount claimed in the main petition filed under Section 7 of the IBC does not fall within the definition of "Financial Debt", as no interest was payable or had ever been paid in respect of the said amount. It is, therefore, submitted that the amount allegedly transferred to the Applicant does not carry the time value of money and, consequently, does not qualify as a financial debt. Ld. Senior Counsel further submits that the documents sought to be produced are necessary to substantiate the contention that the transaction in question did not carry the time value of money and that no interest was payable thereon.

5. Ld. Counsel for the Respondent appears and opposes the Application, submitting that the petition under Section 7 of the IBC has been filed by the Respondent and that the burden of proving the existence of debt and default rests upon the petitioner. It is further submitted that Rule 43 of the NCLT Rules, 2016, cannot be invoked by the Applicant to compel the Respondent to produce the documents in question. If the Respondent fails to establish the existence of debt and default under Section 7 of the IBC, the petition may be dismissed by this Tribunal. At this stage, the Respondent cannot be directed to produce the aforesaid documents at the instance of the Applicant. Accordingly, it is contended that the present Application is not maintainable and deserves to be rejected.
6. We have heard the rival submissions advanced by Ld. Counsel for the parties and perused the material available on record.
7. The petition under Section 7 of the IBC has been filed by the Respondent against the Applicant and is pending consideration for admission before this Tribunal. Before examining the merits of the present Application, it is pertinent to note that, at the stage of admission of a petition under Section 7 of the IBC, this Tribunal is required to examine whether a financial debt exists and whether a default in respect thereof has occurred. A roving enquiry into the matter is not warranted at this stage.
8. It is well settled that the scope of examination by the Adjudicating Authority at the stage of admission of a petition under Section 7 of the IBC is confined to the existence of a financial debt and the occurrence of default, in accordance with the provisions of the Code. The amendment to Section 7 of the IBC, substituting the word “may” with “shall” in the relevant provision, further underscores the limited scope of discretion available to the Adjudicating Authority at the stage of admission.
9. We now proceed to examine the merits of the present Application. The Applicant seeks a direction to the Respondent to produce the financial records of the Corporate Debtor to establish the nature of the alleged debt. However, we find merit in the contention advanced by Ld. Counsel for the Respondent that the burden of establishing the existence of a financial debt and default under Section 7 of the IBC rests upon the petitioner. In the event that the

petitioner fails to discharge this burden, the petition would be decided accordingly. Therefore, the Applicant cannot, as a matter of right, compel the Respondent to produce the financial records of the Corporate Debtor for the purpose of substantiating the Applicant's defence.

10. As regards Rule 43 of the NCLT Rules, 2016, the same is an enabling provision that empowers this Tribunal, where considered necessary, to direct the parties or any other person or institution to produce relevant documents. Such power may be exercised by the Tribunal when the production of documents is considered necessary for the proper adjudication of the matter. Accordingly, Rule 43 does not confer an automatic right upon the Applicant to seek production of the documents in question.
11. As regards Rule 131 of the NCLT Rules, 2016, the documents sought to be produced by the Respondent cannot be directed to be produced merely at the instance of the Applicant to enable the petitioner to substantiate its case. The responsibility to establish the ingredients of Section 7 of the IBC rests upon the petitioner, and the Applicant cannot seek to compel the Respondent to produce documents for the purpose of supplementing or fortifying the petitioner's case.
12. It is, however, clarified that if, during the course of the proceedings or before passing the final order, this Tribunal considers any document necessary for the effective adjudication of the matter, it shall be at liberty to direct the production of such document in accordance with law. Further, if the petitioner fails to produce any document that it is legally required to produce, this Tribunal shall also be at liberty to draw an adverse inference, as may be permissible in law.
13. In view of the foregoing discussion, we find no merit in the present Application, and the same is liable to be rejected.
14. Accordingly, **IA/669(MP)2026 stands rejected and disposed of *in limine*.**

Sd/-

**MAN MOHAN GUPTA
MEMBER (TECHNICAL)**

Tomar

Sd/-

**BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)**