**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**
**PRINCIPAL BENCH, NEW DELHI**
**(APPELLATE JURISDICTION)**

**Company Appeal (AT) (Insolvency) No. 1285 of 2024**

**[Arising out of the Impugned Order dated 10.05.2024 passed by the National Company Law Tribunal, New Delhi, Court-III in (IB)-144(ND)/2024]**

**In the matter of:**

**Ajay Singal,**
Director of GRJ Distributors
& Developers Private Limited
Address: 166, Ground Floor, Udyog Vihar,
Phase-I, Gurugram-122016, Haryana.

**...Appellant**

**Versus**

1. **Mr. Ranjan Chakraborti**
Interim Resolution Professional of
GRJ Distributors & Developers Private Limited
Avalon Rangoli Project
Registration no.- IBBI/IPA-002/IP-N00541/2017-2018/11618
Address: 1/22, Second Floor, Asaf Ali Road, New Delhi- 110002.

2. **M/s Bajrang Fire Protection**
A sole proprietorship
Address: LG-9, Kamla Palace, Jail Road,
Near Sohna Chowk, Gurugram, Haryana-122001.

**...Respondents**

**Present :**

**For Appellant** : Mr. Sandeep Bhuraria, Ms. Vaishnavi Prakash, Ms. Surbhi Bhuraria, Advocates.

**For Respondents:** Mr. Lokesh Bhola, Mr. Abhishek Singh Chauhan, Advocates for Applicant in IAs No. 4624 and 8487 of 2024.
Mr. Atul Bhatia, Mr. Ranjan Chakraborti, Advocates for RP.
Mr. Sameer Abhyankar, Mr. Ripul Swati, Mr. Krishna Rastogi, Advocates for R-2.

**WITH**
**Company Appeal (AT) (Insolvency) No. 1472 of 2024**
**& I.A. No. 5354 of 2024**

**[Arising out of the Impugned Order dated 10.05.2024 passed by the National Company Law Tribunal, New Delhi, Court-III in (IB)-144(ND)/2024]**

**In the matter of:**

**1. Varsha Gupta**
D/o Sh. Vidya Prakash Gupta,
Through SPA Holder Pankaj Gupta, S/o
V.P. Gupta,
Resident of 314, Great India Apartments,
Plot No. 15, Sector 6, Dwarka, New Delhi– 110075

**2. Mrs. Namita Gupta**
W/o Sh. Pankaj Gupta
Through SPA Holder Pankaj Gupta, S/o
V.P. Gupta,
314, Resident of Great India Apartments,
Plot No. 15, Sector 6, Dwarka, New Delhi– 110075

**3. Om Prakash**
Son of Shri Ram Chandra Resident of D1/69,
Janakpuri, New Delhi.

**4. Sushila Kumari**
W/o Ranbir Singh R/o VP Om Bijawa,
Tehsil Israna, Distt. Panipat, Haryana –132103

**...Appellants**

**Versus**

**1. M/s. Bajrang Fire Protection**
Having Its Registered Office at: LG-9,
Kamla Palace, Jail Road,Near Sohna
Chowk, Gurugram-122001.

**2. M/s. GRJ Distributors & Developers Private Limited**
Through IRP- Mr. Ranjan Chakraborti

Having Its Registered Office at: 64,
Scindia House, Connaught Place, New
Delhi-110001.

**...Respondents**

**Present :**

**For Appellant** : Mr. Harsh Jain, Mr. Umang Mehta, Advocates.

**For Respondents:** Mr. Sandeep Bhuraria, Ms. Vaishnavi Prakash, Ms. Surbhi Bhuraria, Advocates for Applicant in IA No. 1487 of 2025.
Mr. Lokesh Bhola, Mr. Abhishek Singh Chauhan, Advocates for Applicant in IAs No. 4623 and 8488 of 2024.
Mr. Sameer Abhyankar, Mr. Ripul Swati, Mr. Krishna Rastogi, Advocates for R-1.

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

**[Per: Ajai Das Mehrotra, Member (Technical)]**

**Company Appeal (AT) (Insolvency) No. 1285 of 2024** has been filed by Ajay Singal, Director of GRJ Distributors & Developers Private Limited against the impugned order dated 10.05.2024 of National Company Law Tribunal, New Delhi, Court-III wherein M/s GRJ Distributors & Developers (hereinafter referred to as the **'Corporate Debtor'**) has been admitted into Corporate Insolvency Resolution Process (hereinafter referred to as the **'CIRP'**) on an application under Section 9 filed by M/s Bajrang Fire Protection (hereinafter referred to as the **'Operational Creditor'**).

**2.** The brief facts of the case as noted by Ld. NCLT are as under:

i. The Operational Creditor is a turnkey contractor who was entrusted with the work of supply and installation of a Ventilation, Fire Alarm and Fire Fighting

System in one of the residential projects developed by the Corporate Debtor under the name of "Avalon Rangoli, Dharuhera", Rewari, Haryana by the Corporate Debtor.

ii. Three purchase orders were issued against which several RA Bills were raised by the Operational Creditor.

iii. The work was completed by the Operational creditor but the Corporate Debtor failed to make the payments. The Operational Creditor issued a demand notice under Section 8 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the **'IBC, 2016'**) in the prescribed format on 05.02.2024 raising demand of Rs. 1,24,16,610/-. The Corporate Debtor did not reply to the Section 8 notice, nor made payment against it.

iv. The Operational Creditor had placed on record copy of bank statement for the Financial Year 2016-17 showing receipt of part payments from the Corporate Debtor and RA Bill dated 15.01.2016, 22.06.2016, 10.12.2016, 06.01.2017, 12.05.2017 & 07.11.2017.

v. Before the Ld. NCLT, the Corporate Debtor raised some issues regarding non installation of fire projection systems and failure to provide Ventilation work.

vi. The Ld. NCLT noted that the Corporate Debtor had failed to produce any evidence to substantiate the aforesaid allegations and did not accept the contention of pre-existing dispute regarding quality of work.

vii. The Corporate Debtor submitted before the Ld. NCLT that it is not in a position to repay the debt amount due to financial constraints and in case the CIRP is initiated, it may be restricted to the project in question i.e. "Avalon Rangoli, Dharuhera", Rewari, Haryana.

viii. The Ld. NCLT directed initiation of CIRP against the Corporate Debtor restricted to the project “Avalon Rangoli, Dharuhera” and appointed Mr. Sanjeet Kumar Sharma as IRP.

**3.** In his oral and written submissions, the Learned Counsel for the Appellant stated that inadvertently the issue of limitation was not raised before the Ld. NCLT. It was submitted that last invoice was raised by the Operational Creditor on 07.11.2017 and the last payment was made to the Operational Creditor by the Corporate Debtor in 26th July 2017. The application under Section 9 of the IBC, 2016 was filed by the Operational Creditor on 22.02.2024 which is beyond the limitation period of 3 years, which is to be counted from the date of default.

**4.** It was submitted that the objection regarding limitation goes to the root of the matter and touches upon the jurisdiction of the Adjudicating Authority to proceed with the claim of the creditor.

**5.** The Learned Counsel for the Respondent No. 2 (Operational Creditor) in his oral and written submissions stated that the application under Section 9 was filed before the Ld. NCLT on 22.02.2024 which was within the limitation period. The Operational Creditor referred to the reply dated 03.12.2024 filed by the Operational Creditor, and submitted that the Operational Creditor was pursuing to realise payments continuously before the issue of demand notice. The Learned Counsel submitted that in Annexure - A of their reply they have enclosed letter dated 16.04.2018 issued by the Corporate Debtor wherein Corporate Debtor has accepted that an amount of Rs. 82,40,016/- is outstanding with reference to the first purchase order dated 04.09.2015, an amount of Rs. 19,87,404/- is outstanding in respect of the second purchase order dated 13.01.2017 and an amount of Rs. 7,94,133/- is outstanding in respect of the third purchase order dated 01.03.2017 and had stated that due to huge cashflow issues and extreme slowdown in real estate sector, and failure of allotees of the project to pay their balance outstanding, the Corporate Debtor is not able to make the payments. It was further submitted that in letter dated 03.01.2019 given at Annexure-B to the reply, the Corporate Debtor has acknowledged outstanding amount of Rs. 1,10,21,553/- and has requested for patience of Operational Creditor and stated that the Corporate Debtor is undergoing severe financial constraints due to slowdown in real estate sector. It was submitted that through letter dated 22.12.2021, the Corporate Debtor submitted that due to on going economic slowdown the business of the company is not doing well and there is recession in the real estate industry due to which the Corporate Debtor is seeking additional time to make the payments of outstanding dues towards the said purchase orders. It was also mentioned that the Corporate Debtor is committed to settling the amount as soon as possible. The said letter clearly indicates that the Corporate Debtor has acknowledged the debt on 16.04.2018, 03.12.2019 and 22.12.2021. The written acknowledgement of debt extends the period of limitation. The Section 9 petition was filed on 22.02.2024, within three years of the last acknowledgement of debt, and is therefore, within limitation.

**6.** The Learned Counsel for the Appellant then stated that these letters were not produced before the Ld. NCLT and were not part of the record before the Ld. NCLT and should not be considered by this Tribunal.

**7.** To this argument, the Learned Counsel for the Operational Creditor stated that since the defence of limitation was not taken during the proceedings before the Ld. NCLT, there was no necessity to place these documents before the Ld. NCLT. These documents have been annexed with the reply of the Operational Creditor as the Appellant for the first time has raised the issue of limitation in this Appeal.

**8.** We have heard both the parties and have perused the records.

**9.** We note that the issue of limitation was not taken as defence before the Ld. NCLT and has been taken as a defence in this appeal proceedings for the first time. Since the objection regarding limitation goes to the root of the matter and touches upon the jurisdiction of the Adjudicating Authority, we have considered it during the present proceedings. Since this issue was raised for the first time, the Operational Creditor is fully justified in placing on record the letters dated 16.04.2018, 03.01.2019 and 22.12.2021 issued by the Corporate Debtor to the Operational Creditor acknowledging the debt and requesting for more time to make the payment. The issuance of these letters are not disputed before us rather the argument is only such letters were not placed before Ld. NCLT. We have already dealt with this contention above.

**10.** The last of the written acknowledgment in the form of letter is dated 22.12.2021. The application under Section 9 has been filed by the Operational Creditor on 22.02.2024, which is within three years of the last acknowledgment of debt. It is trite law that acknowledgment of debt in writing extends the limitation period per Section 18 of the Limitation Act. We hold that the application under Section 9 was filed by the Operational Creditor before the Ld. NCLT within the limitation period. We find no reason to interfere in the reasoned order of the Ld. NCLT in admitting the Corporate Debtor into CIRP, consequently, the Company Appeal (AT) (Ins.) 1285 of 2024 is dismissed. The connected IAs No. 8487 and 8606 of 2024 filed by the purported Association of allotees have become infructuous as the CIRP shall proceed as per law, and are accordingly disposed of.

**11. Company Appeal (AT) (Insolvency) No. 1472 of 2024** has been filed by buyers of Flat Nos. 701, 702 and 202 of Tower A-5 of "Avalon Rangoli Dharuhera" constructed by M/s GRJ Distributors and Developers Pvt. Ltd. It is the contention of the Appellants that they have not been provided possession of Flats for which they have filed consumer complaints under the Consumer Protection Act before the State Consumer Disputes Redressal Commission, Haryana and by 3 separate orders, all dated 20.11.2022, the State Commission, has allowed the consumer complaints and it was directed that the amount invested by the them be refunded along with interest.

**12.** It was stated that the Appellant No. 4 had also initiated execution proceedings for execution of the award passed by the Ld. State Commission. It was submitted that application under Section 9 of the IBC, 2016 has been filed by the Operational Creditor at the behest of the Corporate Debtor in order to scuttle the orders passed by the State Consumer Disputes Redressal Commission, in favour of the Appellants. It was prayed that the order of Ld. NCLT be set aside.

**13.** We find that no evidence regarding any connivance between the Operational Creditor and Corporate Debtor has been furnished by the Appellants. In fact, the Ex-Director of Corporate Debtor has filed Company Appeal (AT) (Ins.) 1285 of 2024 challenging the order of admission under Section

9 of the IBC, 2016 passed by the Ld. NCLT. We find no merit in this appeal. However, to protect the interest of the flat buyers, we direct the Resolution Professional to process their claims in CIRP of the Corporate Debtor and process them as per law.

**14.** With these directions, Company Appeal (AT) (Ins.) 1472 of 2024 is disposed of. All connecting pending IAs are also disposed of.

**15.** No order as to costs.

**[Justice Yogesh Khanna]**
**Member (Judicial)**

**[Mr. Ajai Das Mehrotra]**
**Member (Technical)**

***Place: New Delhi***
***Dated: 09.04.2025***
***Ram N.***