

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 718 of 2025

IN THE MATTER OF:

Saurabh Premprakash Chugh

...Appellants

Versus

The State Bank of India

...Respondents

Present:

For Appellant : Mr. Dhiren R. Dave, Advocate.

For Respondents : None.

O R D E R
(Hybrid Mode)

23.07.2025: Heard Shri Dave who has appeared for the appellant.

2. This appeal has been filed against the order dated 24.02.2025 by which Section 94 application filed by the appellant has been dismissed, noticing that an earlier application was filed by the appellant being CP No. (IB)- 7 of 2025 u/s 94 of 2016 which was dismissed on 09.01.2025.

3. Ld. Counsel for the appellant submits that there was certain typographical error in the earlier application hence after correcting the typographical error the fresh application was filed being CP (IB)- 75(AHM)/2025.

4. We have considered the submission of the appellant and perused the record.

5. The earlier order dated 09.01.2025 passed in CP (IB) No. 7/(AHM)/2025 is to the following effect:-

“ORDER

Heard Ld. Counsel for the applicant. It is observed that the application filed is contradicting various dates of the debt due. Further, from the documents submitted, the respondent/s financial creditor (SBI & SIB) had already invoked the guarantee by serving demand notice on 20.03.2017 and 30.06.2018 respectively, but the applicant has stated that debt was due on 14.09.2016 and default occurred on 07.10.2020. This misrepresentation appears to be to gain limitation period for filing this application. The applicant has not reckoned the original demand notice issued after default on 20.03.2017 and calculated the limitation from a subsequent period which is wrong, misleading this Tribunal.

Further he has stated on page 13 of his application that the default occurred on 28.12.2024. The respondent financial creditor also has issued various demand and possession notices while the first invocation demanding repayment of the loan is on 20.03.2017 which has apparently resulted after the loan was taken over from another financial creditor on default. The applicant has made inconsistencies in the application hiding the facts of invocation and due date with contradictory dates and this application is liable to be dismissed. It is filed to gain wrong advantage by misrepresenting facts to avail interim moratorium by filing this application on 14.12.2024. Applicant has also not submitted the copy of guarantee documents and copy of first demand notice invoking the guarantee by SBI/SIB mentioned in the demand notice but only possession notices.

The application is barred by limitation, and details filled in application with enclosing documents are inconsistent on the cause of action initiated on the guarantee by respondent/s.

The application is dismissed and disposed of”

6. Adjudicating Authority thus rejected Section 94 application on merits holding it as barred by limitation. The subsequent application which has been filed again under Section 94 being CP (IB)- 75(AHM)/2025 is rejected by following order dated 24.02.2025:-

“ORDER

Heard Ld. Counsel for the applicant.

It appears from the records that the applicant has been filing various applications under Sec 94 of IBC 2016 inspite of its rejection. Initially the application was heard on CP IB 56 of 2024 making one of the financial creditors which was dismissed being defective with a liberty to file fresh with proper declaration. However, the applicant filed another application CP IB 7 of 2025 under Sec 94 of 2016 which was rejected on 09.01.2025 wherein the invocation of guarantees by two of the financial creditors including the present respondent has been reckoned as reason for dismissing the application. The applicant has preferred this application under the same stated invocation which again is observed to be submitted inspite of rejection to gain interim moratorium. In view of the above, we have examined the documents, which has been submitted inspite of earlier dismissal, we pass the following order.

The application filed is rejected.”

The submission of learned counsel for the appellant is that there was certain typographical error in the earlier application hence fresh application was filed. when the earlier application was dismissed on merits by order dated 09.01.2025 it was not open for the appellant to file fresh application under Section 94 which shall be clearly barred by principles of *Res judicata*. The correction of any typographical error in the application by filing fresh

application filed by the appellant is inconsequential. We thus do not find any error in the order impugned. Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

harleen/NN