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2025 INSC 911

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5787 OF 2025

IL & FS FINANCIAL SERVICES LIMITED — APPELLANT (s)

VERSUS

ADHUNIK MEGHALAYA STEELS PRIVATE LIMITED — RESPONDENT(s)

J U D G M E N T

K.V. Viswanathan, J.

1. The short question that arises for consideration is whether the National Company Law Appellate Tribunal (for short 'NCLAT') and the National Company Law Tribunal (for short 'NCLT') were justified in dismissing the Section 7 application filed by the appellant against the respondent under the Insolvency and Bankruptcy Code, 2016 (for short 'IBC'), on the ground that the same was being barred by limitation.

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BRIEF FACTS: -

2. According to the appellant, on 27.02.2015, a Loan Agreement was entered into between the appellant and the respondent for a term loan facility of Rs. 30 crores. The loan was secured, *inter alia*, by way of a pledge of 8,10,804 shares of Adhunik Metaliks Ltd. in favour of the appellant by virtue of a Pledge Agreement dated 27.02.2015.

3. On 01.03.2018, the account of the respondent was admittedly declared as a Non-Performing Asset (NPA) as the respondent was unable to meet its debt obligations.

4. In the Section 7 IBC application filed by the appellant on 15.01.2024, a default amount of Rs. 55,45,97,395/- was set out and it was mentioned therein that the date of default was 01.03.2018; that it was duly recorded in the information utility as annexed; that a recall facility notice was issued on 10.08.2018 for which there was no response; that ever since the loan facility was extended in February 2015, the respondent acknowledged the liability and its default in all its year to year audited financial statements from 2015 till the latest available Balance Sheet for the financial year 2019-20; that the

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financials were duly filed by the respondent with the Registrar of Companies; that the Balance Sheet of F.Y. 2019-20 was duly approved by the Board of Directors and the date of signing of the said financial statement was 12.08.2020; the Balance Sheet of 2019-20 was made available to the public on 14.02.2021 and it was averred that the Section 7 application in view of the acknowledgement was filed on time. Reliance was also placed on the order dated 10.01.2022 of this Court in Suo Moto Writ Petition (C) No. 3 of 2020 in *In Re : Cognizance for Extension of Limitation* (read with earlier orders dated 23.03.2020, 08.03.2021 and 27.04.2021). It was contended that the period between 15.03.2020 till 28.02.2022 ought to be excluded.

5. In short, the stand of the appellant was that if 12.08.2020, the date on which the Balance Sheet of 2019-20 was signed, is taken as the date of acknowledgment (which was within the 3 years from 01.03.2018) limitation would expire only on 11.08.2023. However, in view of the benefit of the extension orders passed by this Court on 10.01.2022, the entire period up to 28.02.2022 ought to be excluded and if that were so limitation was available till 27.02.2025. Hence, the Section 7 application filed on 15.01.2024 was well within time.

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6. It will be necessary to advert to the Balance Sheet as annexed for the years 2015-16, 2016-17, 2017-18 and 2019-20. The entire case revolves around the question as to whether at all there was a valid acknowledgment of the debt under Section 18 of the Limitation Act 1963, in view of the entries in the Balance Sheet of F.Y. 2019-20.

7. In the Balance Sheet of 2015-16 under the head "*Textual Information (14) - Disclosure of sub classification and notes on liabilities and assets explanatory (Text Block)*", it was shown as follows: -

From IL & FS Financial Services Ltd.	24,57,40,400	24,57,40,400

Under borrowings for 2015-16, the amount was shown as Rs. 24,57,40,400/- and the following endorsement occurred in the table: -

"Secured by Pledge of 8,10,804 shares of Adhunik Metaliks Limited".

8. Similarly, in the Balance Sheet of F.Y. 2016-17, under Textual Information (16), the above information and the identical amount is reflected. Here again, in the table under borrowings, the identical amount is shown with the following endorsement under nature of

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security. “Secured by Pledge of 8,10,804 shares of Adhunik Metaliks Limited.”

9. The following table occurs in the financial statement, for the F.Y. 2017-18.

Classification of borrowings [Table]

Classification based on time period (Axis)	**Long Term (Member)**			
Classification of Borrowings(Axis)	**Term Loans from others [Member]**		**Rupee term loans from others [Member]**	
Subclassification of borrowings[Axis]	**Secured Borrowings [Member]**		**Secured Borrowings [Member]**	
	01/04/2017 to 31/03/2018	01/04/2016 to 31/03/2017	01/04/2017 to 31/03/2018	01/04/2016 to 31/03/2017
Borrowings notes [Abstract]				
Details of borrowings [Abstract]				
Details of borrowings [LineItems]				
Borrowings	**23,68,91,933**	**24,57,40,400**	**23,68,91,933**	**24,57,40,400**
Nature of Security [Abstract]				
Nature of Security	**Secured by Pledge of 8,10,804 shares of Adhunik Metaliks Ltd.**	**Secured by Pledge of 8,10,804 shares of Adhunik Metaliks Ltd.**	**Secured by Pledge of 8,10,804 shares of Adhunik Metaliks Ltd.**	**Secured by Pledge of 8,10,804 shares of Adhunik Metaliks Ltd.**
Details on Loans guaranteed [Abstract]				
Aggregate amount of loans guaranteed by directors	0	0	0	0
Aggregate amount of loans guaranteed by others	23,68,91,933	24,57,40,400	23,68,91,933	24,57,40,400
Details on defaults on borrowings [Abstract]				
Outstanding amount of continuing default principal	0	0	0	0
Outstanding amount of continuing default interest	0	0	0	0

The above table under the column - Secured borrowings for both 2016-17 and 2017-18 shows that the amount of borrowings secured

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by the same pledge of shares has marginally come down for the year 2017-18.

10. The Balance Sheet of 2018-19 is not on record. However, from the Balance Sheet of F.Y. 2019-20, the figure under the head borrowings for the F.Y. 2018-19 is also discernible. The table appended to the Balance Sheet of F.Y. 2019-20 is as follows:-

Classification of borrowings (Table)				
Unless specified otherwise, all monetary values are in INR				
Classification based on time Period [Axis]	Long Term [Member]			
Classification of borrowings [Axis]	Borrowings [Member]			
Sub Classification of borrowings [Axis]	Secured Borrowings [Member]		Unsecured Borrowings [Member]	
	01/04/2019 to 31/03/2020	01/04/2018 to 31/03/2019	31/03/2020	31/03/2019
Borrowings notes [Abstract]				
Details of borrowings [Abstract]				
Details of borrowings [Line Items]				
Borrowings	24,41,22,835	24,41,22,835	2,95,84,659	3,24,84,659
Nature of Security [Abstracts]				
Nature of Security				
Details on defaults on borrowings [Abstract]				
Outstanding amount of continuing default principal	0	0	0	0
Outstanding amount of continuing default Interest	0	0	0	0

It will be clear that under the heading “Secured Borrowings” the amount shown for 2018-19 and 2019-20 is the same.

11. It is, no doubt, true that there was no mention of the name of the appellant or any reference to the pledge of shares. Along with the

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Balance Sheet, as required under the Indian Accounting Standards (Ind AS) 7, a cash flow statement, (indirect) is also appended. The cash flow statement, (indirect) is set out hereunder: -

Cash flow Statement, indirect

	01/04/2019 to 31/03/2020	01/04/2018 to 31/03/2019	31/03/2018
Statement of cash flows [Abstract]			
Whether cash flow statement is applicable on company	Yes	Yes	
Cash flows from used in operating activities [Abstract]			
Profit before extraordinary items and tax	-9,52,02,961	-29,34,997	
Adjustments for reconcile profit (loss) [Abstract]			
Adjustments to profit (loss) [Abstract]			
Adjustments for depreciation and amortisation expense	6,45,289	6,80,044	
Total adjustments to profit (loss)	6,45,289	6,80,044	
Adjustments for working capital [Abstract]			
Adjustments for decrease (increase) in trade receivables	0	20,77,089	
Adjustments for increase (decrease) in other current liabilities	-38,02,634	(A) -11,60,73,898	
Total adjustments for working capital	-38,02,634	-11,39,96,809	
Total adjustments for reconcile profit (loss)	-31,57,345	-11,33,16,765	
Net cash flows from (used in) operations	-9,83,60,306	-11,62,51,762	
Net cash flows from (used in) operating activities before extraordinary items	-9,83,60,306	-11,62,51,762	
Net cash flows from (used in) operating activities	-9,83,60,306	-11,62,51,762	
Cash flows from used in investing activities [Abstract]			
Cash payment for investment in partnership firm or association of persons or limited liability partnerships	0	-50,57,854	
Cash advances and loans made to other parties	8,23,30,679	11,34,73,820	
Other inflows (outflows) of cash	-1,97,29,900	0	

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Net cash flows from (used in) investing activities before extraordinary items	-10,20,60,579	-10,84,15,966	
Net cash flows from (used in) investing activities	-10,20,60,579	-10,84,15,966	
Cash flows from used in financing activities [Abstract]			
Proceeds from borrowings	**0**	**72,30,902**	
Net Cash flows from (used in) financing activities before extraordinary items	**0**	**72,30,902**	
Net Cash flows from (used in) financing activities	**0**	**72,30,902**	
Net increase (decrease) in cash and cash equivalents before effect of exchange rate changes	-20,04,20,885	-21,74,36,826	
Net increase (decrease) in cash and cash equivalents	-20,04,20,885	-21,74,36,826	
Cash and cash equivalents cash flow statement at end of period	40,63,021	3,62,748	11,62,151

(Emphasis supplied)

12. The appellant has a case that the amount shown as secured borrowing is Rs 24,41,22,835/- since to the original amount of Rs. 23,68,91,933/- as reflected in the 2017-18 Balance Sheet, a sum of Rs. 72,30,902/- has been added as proceeds from borrowings raised by the respondent in F.Y. 2018-19. According to the appellant, if Rs. 72,30,902/- is added to Rs. 23,68,91,933/- a figure of Rs. 24,41,22,835/- would be arrived at. The appellant further argues that, as is clear from the cash flow statement, no part of cash flow proceeds was utilized in repayment of existing borrowings under the financial activities, since the amount under the head “Cash flows from (used in) financial activities” is Nil. According to the appellant, this lends support to the fact that the debt owed by the respondent to the

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appellant in the previous years remained unpaid even in 2019-20. It is by this process of reasoning that the appellant contended that there was clear acknowledgement of debt and the jural relationship in the Balance Sheet of F.Y. 2019-20.

13. The respondent filed a reply affidavit to the Section 7 application. It was contended that the Section 7 application was barred by limitation. Para 10, 23 and 24 of the reply are reproduced hereunder: -

> "**10.** Admittedly date of default, as per the own averment in the said application is 1st March 2018. Admittedly the Financial Creditor had declared the account of the CD as non performing asset on 1st March 2018 and had also issued Recall facilities Notice to the CD on 10th August 2018. Hence, the Limitation period of 3 (three) years under the Limitation Act 1963 to initiate any action against the CD from 10th August 2018 has already been expired on 9th August 2021. Further, in terms of the order dated 10th January 2022, passed by the Hon'ble Supreme Court in Suo Moto Writ Petition (C) No: 3 of 2020, the limitation period of 90 days after 28.02.2022 also expired on 29th May 2022. Therefore, filing of the present Application at this belated stage for claiming a debt which is time barred is non est in law and is only arm twisting tactic to extort money.
>
> **23.** Thus I deny each and every allegations made, in the said Application and not accepting any of the allegations made in contradiction of the aforesaid averments and documents submitted herein. There is no live claim of the Financial Creditor, as on date. I am denying any debts in favour of the Financial Creditor.

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> **24.** Further, I state that the limitation for filing of the present application must be considered from the date of default, i.e, 1st March 2018, which clearly makes the claim of FC hopelessly time barred and the same cannot be revived at this later stage. (Sic) deny that Balance Sheet of CD can be treated as acknowledgment of debt, as wrongfully alleged or at all."

14. For the sake of completion of facts, it may also be mentioned that further in the record of financial information with the national e-governance service, submitted by the appellant, as on 04.10.2023, against the sanctioned limit of Rs.30 crores to the respondent the amount due is reflected as Rs.54,03,08,748.54. On 15.01.2024 when the Section 7 application was filed, the outstanding amount was quantified as Rs.55,45,97,395/-.

15. The NCLT, Guwahati Bench held that there was no acknowledgement of liability in the Balance Sheet of F.Y. 2019-20, since the name of the financial creditor did not appear in the Balance Sheet. It also held that the application under Section 7 filed by the appellant was barred by limitation, since, according to the NCLT, the application ought to have been filed on or before 30.05.2022 applying

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Para 5(III) of the order of this Court dated 10.01.2022 extending the period of limitation.

16. The appellant aggrieved filed an appeal before the NCLAT. The NCLAT held that as far as the Balance Sheet of F.Y. 2017-18 was concerned, it was signed on 02.09.2018 and the three-year period would have ended on 01.09.2021. According to the NCLAT, limitation would have extended in view of the order of this Court dated 10.01.2022. According to the NCLAT, limitation would stand extended under Para 5(III) up to 30.05.2022. The NCLAT further held that even if the entry in the Balance Sheet of F.Y. 2019-20 is taken, since the said Balance Sheet was signed on 12.08.2020, limitation would have extended only up to 30.05.2022. Thereafter, the NCLAT examined the argument whether the date of signing the Balance Sheet would be the relevant date or whether the date of uploading the Balance Sheet on the website of the Ministry of Corporate Affairs would be the relevant date for commencement of time. On this issue, it was held that the date of signing the Balance Sheet would be the relevant date and, on that basis, concluded that the Section 7 petition ought to have been filed on or before 30.05.2022.

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Holding so, it dismissed the appeal of the appellant. Aggrieved, the appellant is before us in appeal.

CONTENTIONS OF LEARNED COUNSEL: -

17. We have heard Mr. Ritin Rai, learned Senior Counsel for the appellant and Mr. Ramji Srinivasan, learned Senior Counsel, for the respondent. We have also perused the records of the case.

18. Mr. Ritin Rai, learned Senior Advocate, after adverting to the facts and the documents submitted that there was a clear acknowledgment of the debt within the meaning of Section 18 of the Limitation Act in the Balance Sheet of F.Y. 2019-20. According to the learned Senior Counsel, even taking 12.08.2020, the date of signing of the financial statements of F.Y. 2019-20 as the commencement date, limitation was available in the ordinary course till 11.08.2023. According to the learned Senior Counsel, under the extension of limitation orders of this Court dated 10.01.2022, Para 5(1) would apply and the whole of the period from 15.03.2020 to 28.02.2022 would stand excluded. According to the learned Senior Counsel, in which case, time was available till 27.02.2025 to file the Section 7

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application and the Section 7 application has been filed on 15.01.2024, well within time. The learned Senior Counsel relied on certain judgments of this Court in support of his propositions.

19. Mr. Ramji Srinivasan, learned Senior Counsel, submitted that in the Balance Sheet of F.Y. 2019-20 the name of the appellant is nowhere mentioned and thus it cannot be construed as an acknowledgment of any jural relationship between the appellant and the respondent. It is also argued that the scope of enquiry under Section 7 of IBC is extremely limited and the adjudicating authority has to only see the existence of financial debt, acknowledgement, if any, and existence of default and also whether the procedural requirements have been fulfilled. It is argued that there is mismatch between the debt claimed in the Section 7 application and in the Balance Sheet of F.Y. 2019-20 which was relied upon. Learned Senior Counsel contends that there was no clear acknowledgment as neither the specific loan amount nor the loan agreement has been mentioned. Learned Senior Counsel contends that the name of the appellant has not been referred to. Learned Senior Counsel cited certain judgments,

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in support of his contentions, while defending the orders of the Tribunals below.

20. Distinguishing the judgment in ***Vidyasagar Prasad*** v. ***UCO Bank and Anr.***, 2024 SCC OnLine SC 2993 cited by the appellant, learned Senior Counsel contended that the said judgment was passed in the facts of that case and does not lay down any law of general application. Further, it was argued that in ***Vidyasagar Prasad (supra)*** there was an OTS proposal given which was construed as an acknowledgement in that case. Learned Senior Counsel contended that the Tribunals below have correctly applied Para 5(III) of the order of this Court dated 10.01.2022 in Suo Moto Writ Petition (C) No. 3 of 2020 and, as such, the limitation for filing the application expired on 30.05.2022, and the application having been filed on 05.01.2024, it has rightly been held to be barred by limitation.

QUESTION FOR CONSIDERATION: -

21. The principal question, as highlighted earlier, that arises for consideration is whether the Tribunals below were justified in holding

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that the Section 7 application under the IBC filed by the appellant on 15.01.2024 was barred by time? In answering the above question, two incidental questions do arise; (i) Does the entry in the Balance Sheet of F.Y. 2019-20 constitute a valid acknowledgement of debt by the respondent under Section 18 of the Limitation Act, 1963 ? (ii) If the answer to the above question is in the affirmative, will Para 5(I) or 5(III) of the order dated 10.01.2022 passed by this Court in Suo Moto Writ Petition No. 3 of 2020 govern the situation?

22. It is now well settled in view of Section 238A of the IBC that the Limitation Act, 1963 shall, as far as may be, apply to the proceedings under the Code. It is also well settled that Article 137 of the first schedule to the Limitation Act providing a period of three years from the date when the right to apply accrues will govern the situation. [***Dena Bank (Now Bank of Baroda)*** v. ***C. Shivakumar Reddy and Anr.***, (2021) 10 SCC 330 following ***Gaurav Hargovindbhai Dave*** v. ***Asset Reconstruction Co. (India) Ltd. and Anr.***, (2019) 10 SCC 572, ***B.K. Educational Services (P) Ltd***. v. ***Parag Gupta & Associates***, (2019) 11 SCC 633, and ***Jignesh Shah and Anr.*** v. ***Union of India and Anr.***, (2019) 10 SCC 750].

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23. In this case, it is not disputed that the account of the respondent was declared as a non-performing asset on 01.03.2018. However, the appellant is relying on the entries adverted to hereinabove in the Balance Sheet of F.Y. 2019-20 signed by the Directors on 12.08.2020. Does the entry adverted to hereinabove in the Balance Sheet of F.Y. 2019-20 constitute an acknowledgment of debt, as contemplated under Section 18 of the Limitation Act, is the primary question that arises for consideration?

24. Section 18 of the Limitation Act reads as under: -

> **"18. Effect of acknowledgment in writing.—**(1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.
>
> (2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872 (1 of 1872), oral evidence of its contents shall not be received.
>
> Explanation.—For the purposes of this section,—
>
> (a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has

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> not yet come or is accompanied by refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to set off, or is addressed to a person other than a person entitled to the property or right,
>
> (b) the word "signed" means signed either personally or by an agent duly authorised in this behalf, and
>
> (c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right."

25. The question as to what constitutes a valid acknowledgment has come up for consideration before this Court both under the Limitation Act, 1908 and the Limitation Act, 1963.

26. The earliest pronouncement of this Court was in ***Khan Bahadur Shapoor Fredoom Mazda*** v. ***Durga Prasad Chamaria and Others***, 1961 SCC OnLine SC 147. Justice P. B. Gajendragadkar (as His Lordship then was) while construing Section 19 of the Limitation Act, 1908 which is similar to Section 18 of the Limitation Act, 1963 held as under: -

> **"6.** It is thus clear that acknowledgment as prescribed by Section 19 merely renews debt; it does not create a new right of action. It is a mere acknowledgment of the liability in respect of the right in question; it need not be accompanied by a promise to pay either expressly or even by implication. **The statement on which a plea of acknowledgment is based must relate to a present subsisting liability though the exact nature or the specific character of the said liability may not be indicated in words. Words used in the acknowledgment**

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must, however, indicate the existence of jural relationship between the parties such as that of debtor and creditor, and it must appear that the statement is made with the intention to admit such jural relationship. Such intention can be inferred by implication from the nature of the admission, and need not be expressed in words. If the statement is fairly clear then the intention to admit jural relationship may be implied from it. The admission in question need not be express but must be made in circumstances and in words from which the court can reasonably infer that the person making the admission intended to refer to a subsisting liability as at the date of the statement. In construing words used in the statements made in writing on which a plea of acknowledgment rests oral evidence has been expressly excluded *but surrounding circumstances can always be considered. Stated generally courts lean in favour of a liberal construction of such statements though it does not mean that where no admission is made one should be inferred, or where a statement was made clearly without intending to admit the existence of jural relationship such intention could be fastened on the maker of the statement by an involved or far-fetched process of reasoning.* Broadly stated that is the effect of the relevant provisions contained in Section 19, and there is really no substantial difference between the parties as to the true legal position in this matter."

(Emphasis supplied)

27. It will be clear from the above passage that an acknowledgment of debt merely renews the debt and does not create a new right of action. It is further essential that the acknowledgment must relate to a subsisting liability and must indicate the jural relationship between the parties such as that of debtor and creditor, and it must appear that the statement is made with the intention to admit such jural

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relationship. It was also held that such intention can be inferred by implication from the nature of the admission and need not be expressed in words. It has also been held that in construing the words used in the statements, surrounding circumstances can always be considered and that Courts lean in favour of a liberal construction of such statements, though intention cannot be fastened by an involved or far-fetched process of reasoning.

28. After setting out the law, the Court in ***Khan Bahadur Shapoor (supra)*** took up for consideration the question whether the letter of 05.03.1932 written by respondent no. 2 mortgagor in that case, to the respondent no. 1 mortgagee construed an acknowledgement. While construing the said letter of 05.03.1932, the Court found it appropriate to read it in the context of an earlier letter of 26.11.1931 written by R-2 mortgagor to R-1 Mortgagee and used the earlier letter to construe the letter of 05.03.1932 and particularly the phrase "interested" mentioned in the letter of 05.03.1932. This Court, while construing the letter of 05.03.1932 as an acknowledgment in favor of the Mortgagee respondent no. 1, held as under: -

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“12. It is now necessary to consider the document on which the plea of acknowledgment is based. This document was written on 5-3-1932. **It, however, appears that on 26-11-1931, another letter had been written by Respondent 2 to Respondent 1; and it would be relevant to consider this letter before construing the principal document.** In this letter Respondent 2 had told Respondent 1 that the Chandni Bazar property was being sold the next morning at the Registrar's sale on behalf of the first mortgagee and that the matter was urgent, otherwise the property would be sacrificed. It appears that the said property was subject to the first prior mortgage and Respondent 2 appealed to Respondent 1 to save the said threatened sale at the instance of the prior mortgagee. It is common ground that Respondent 1 paid to Respondent 2 Rs 2500 on 27-11-1931, and the threatened sale was avoided. This fact is relevant in construing the subsequent letter.

13. The said property was again advertised for sale on 11-3-1932, and it was about this sale that the letter in question came to be written by Respondent 2 to Respondent 1 on March 1932. This is how the letter reads:

“My dear Durga prosad,

Chandni Bazar is again advertised for sale on Friday the 11th instant. I am afraid it will go very cheap. I had a private offer of Rs 2,75,000 a few days ago but as soon as they heard it was advertised by the Registrar they withdrew. As you are interested why do not you take up the whole. There is only about 70,000 due to the mortgagee — a payment of 10,000 will stop the sale.

Yours sincerely,

sd-

J.C. Galstaun

14. Does this letter amount to an acknowledgment of Respondent 1's right as a mortgagee? That is the question which calls for our decision. The argument in favour of Respondent 1's case is that when the document refers to Respondent 1 as being interested it refers to his interest as a puisne mortgagee and when it asks Respondent 1 to take up the

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> whole it invites him to acquire the whole of the mortgage interest including the interest of the prior mortgagee at whose instance the property was put up for sale. On the other hand, the appellant's contention is that the word “interest” is vague and indefinite and that Respondent 1 may have been interested in the property in more ways than one……”

Thereafter, this Court concluded as under: -

> **15. In construing this letter it would be necessary to bear in mind the general tenor of the letter considered as a whole.** It is obvious that Respondent 2 was requesting Respondent 1 to avoid the sale as he did on an earlier occasion in November, 1931. The previous incident shows that when the property was put to sale by the first mortgagee the mortgagor rushed to the second mortgagee to stop the sale, and this obviously was with a view to persuade the second mortgagee to prevent the sale which would otherwise affect his own interest as such mortgagee. The theory that the letter refers to the interest of Respondent 1 as an intending lessee or purchaser is far-fetched, if not absolutely fantastic. Negotiations in that behalf had been unsuccessful in 1926 and for nearly five years thereafter nothing was heard about the said proposal. **In the context it seems to us impossible to escape the conclusion that the interest mentioned in the letter is the interest of Respondent 1 as a puisne mortgagee and when the said letter appeals to him to take up the whole it can mean nothing other than the whole of the mortgagee's interest including the interest of the prior mortgagee.** An appeal to Respondent 1 to stop the sale on payment of Rs 10,000 as he in fact had stopped a similar sale in November 1931 is an appeal to ensure his own interest in the security which should be kept intact and that can be achieved only if the threatened sale is averted. We have carefully considered the arguments urged before us by the learned Attorney-General but we see no reason to differ from the conclusion reached by the court of appeal below that this letter amounts to an acknowledgment. **The tenor of the letter shows that it is addressed by Respondent 2 as mortgagor to Respondent 1 as puisne mortgagee, it reminds him of his interest as such mortgagee in the property which would be**

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> **put up for sale by the first mortgagee, and appeals to him to assist the avoidance of sale, and thus acquire the whole of the mortgagee's interest.** It is common ground that no other relationship existed between the parties at the date of this letter, and the only subsisting relationship was that of mortgagee and mortgagor. This letter acknowledges the existence of the said jural relationship and amounts to a clear acknowledgment under Section 19 of the Limitation Act. It is conceded that if this letter is held to be an acknowledgment there can be no other challenge against the decree under appeal.
>
> (Emphasis supplied)

29. What is significant about this judgment is that this Court construed the primary document of 05.03.1932 in the context of an earlier letter of 26.11.1931 and thereby considered the surrounding circumstances and considered the general tenor of the letter keeping in mind the context.

30. In ***Lakshmirattan Cotton Mills Co. Ltd. and M/s Behari Lal Ram Charan*** v. ***Aluminium Corporation of India Ltd.***, (1971) 1 SCC 67, this Court followed the judgment in ***Khan Bahadur Shapoor (supra)*** and reiterated the ratio laid down in the said judgment. In the said case, the appellant claimed that the letter dated 16.04.1946 claimed to be addressed on behalf of the respondent therein constituted an acknowledgment of liability which ensured that the suit was within time. The Trial Court found for the appellants but the High

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Court held that the letter of 16.04.1946 was "merely explanatory" and did not amount to an acknowledgement. On appeal to this Court, the question whether the letter of 16.04.1946 constituted a valid acknowledgement was examined including the question as to whether the signatories had the authority to bind the respondent. In examining this question, this Court as a preface to the enquiry set out as follows: -

> **"12.** Before we proceed to inquire into the correctness or otherwise of the High Court's view in regard to the letter (Exh. 1), it would **be necessary to examine the correspondence which previously ensued between the parties and the surrounding circumstances which led to that letter."**

Thereafter, after examining the correspondence, this Court concluded as under in Para 18:-

> **"18.** It must follow from these facts that there was a subsisting account in the name of the appellant-company in the books of the corporation in which interest on the balance shown therein from time to time was being credited and in which amounts in respect of items passed during the course of reconciliation were also being credited. The statement in the letter (Exh. 1) that "after all the above adjustments the position will be as per statement attached", that is to say, that there was a balance of Rs 1,07,447-13-11 due and payable to the appellant-company, must clearly amount to an acknowledgment within the meaning of Section 19(1). ***In our view if the letter (Exh. 1) were to be looked at in the background of the controversy between the parties, which controversy was as aforesaid, limited to the question as to the correctness of the amount claimed by the***

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> ***appellant-company, as also the correspondence which ensued in regard to it, it would be impossible to say that the letter (Ex. 1) and the statement of account enclosed therewith were merely explanatory and did not amount to an admission of the jural relationship of debtor and creditor and of the liability to pay the amount found due at the foot of the account on finalisation."***
>
> (Emphasis supplied)

31. Thereafter, the other objections with regard to the conditional nature of the offer and the authority of Mr. Subramanyam to make the acknowledgements were examined and it was ruled in favor of the appellant. The letter of 16.04.1946 was held to be an acknowledgement. The appeals of the appellants were allowed and the matter remitted to the High Court to examine the other questions.

32. The facts of the above two precedents are relevant only to repel an express argument raised by the respondent herein that the Balance Sheet of F.Y. 2019-20 has to be read as a standalone document and the other documents cannot be looked at to construe the said document.

33. It was not disputed before us that entries in Balance Sheets could constitute a valid acknowledgement and in fact it could not have been disputed, in view of the categoric pronouncement of this Court in ***Asset Reconstruction Co. (India) Ltd.*** v. ***Bishal Jaiswal and***

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Another, (2021) 6 SCC 366. The only dispute was whether the entry in F.Y. 2019-20 did or did not constitute a valid acknowledgement. Among the grounds canvassed was the aspect that the name of the appellant was not mentioned in the Balance Sheet of F.Y. 2019-20. It is worthwhile to notice certain observations from the judgement in ***Bishal Jaiswal (supra)*** as it does have a bearing for the disposal of the present matter. This Court in ***Bishal Jaiswal (supra)*** held that entries in Balance Sheet had to be examined on a case-by-case basis to examine whether an acknowledgment of liability exists. Para 35 of ***Bishal Jaiswal (supra)*** reads as under: -

> **"35.** A perusal of the aforesaid sections would show that there is no doubt that the filing of a balance sheet in accordance with the provisions of the Companies Act is mandatory, any transgression of the same being punishable by law. However, what is of importance is that notes that are annexed to or forming part of such financial statements are expressly recognised by Section 134(7). Equally, the auditor's report may also enter caveats with regard to acknowledgments made in the books of accounts including the balance sheet. A perusal of the aforesaid would show that the statement of law contained in *Bengal Silk Mills* [*Bengal Silk Mills Co.* v. *Ismail Golam Hossain Ariff*, 1961 SCC OnLine Cal 128 : AIR 1962 Cal 115] , that there is a compulsion in law to prepare a balance sheet but no compulsion to make any particular admission, is correct in law as it would depend on the facts of each case as to whether an entry made in a balance sheet qua any particular creditor is unequivocal or has been entered into with caveats, which then **has to be examined on a case by case basis to**

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> **establish whether an acknowledgment of liability has, in fact, been made, thereby extending limitation under Section 18 of the Limitation Act.**"
>
> (Emphasis supplied)

34. The other aspect which remains to be examined is the contention of the respondent that the name of the appellant is nowhere mentioned in the Balance Sheet of F.Y. 2019-20 and as such the Balance Sheet of F.Y. 2019-20 cannot be construed as an acknowledgement of any jural relationship between the parties. To Counter this aspect, appellant has drawn attention to the judgment of this Court in ***Vidyasagar Prasad (supra)***. In ***Vidyasagar Prasad (supra),*** this Court, at the outset, dealt with the earlier judgments in ***Laxmi Pat Surana*** v. ***Union Bank of India***, (2021) 8 SCC 481, ***Dena Bank (now Bank of Baroda)*** v. ***C. Shivakumar Reddy and Anr.***, (2021) 10 SCC 330, and ***Rajendra Narottamdas Sheth and Anr.*** v. ***Chandra Prakash Jain and Anr.***, (2022) 5 SCC 600 to reiterate that Section 18 of the Limitation Act dealing with acknowledgment of debt applies to proceedings under the IBC in view of Section 238A.

35. Thereafter, this Court, on facts, recorded the following findings: -

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“10. Having considered the specific facts and circumstances of this case, the Adjudicating Authority as well as the National Company Law Appellate Tribunal have concurrently held that the entries in the balance-sheets amount to clear acknowledgment of debt. We agree with the findings. Further, note 3.4 appended to said balance-sheet entry dated March 31, 2017 mentions that “company has made certain defaults in the repayment of term loans and interest.” It further mentions of a continuing default. The entry also mentions long-term borrowings. **The conclusions of the National Company Law Tribunal and National Company Law Appellate Tribunal that there is acknowledgment of debt are unimpeachable.**

10.1. Following the principles as expounded in the case of *Bishal Jaiswal,* (2021) 6 SCC 366, the Adjudicating Authority as well as the National Company Law Appellate Tribunal have examined the case in detail and have come to the conclusion that the entry made in the balance-sheet coupled with the note of the auditor of the appellant clearly amounts to acknowledgment of the liability. **We see no reason whatsoever to take a different view of the matter. Their findings are fortified when we examine the matter from another perspective.**

11. The Adjudicating Authority and National Company Law Appellate Tribunal have also considered the corporate debtor's proposal of one-time settlement (OTS) to UCO Bank. The proposal made by letter dated June 7, 2016 acknowledges that there were prior debts owed to UCO Bank. To substantiate the argument that such one-time settlement constituted acknowledgment of debt since it relates to present and subsisting liability and indicates existence of a jural relationship between the parties, UCO Bank relied on judgment of this court in *Lakshmirattan Cotton Mills Co. Ltd.* v. *Aluminium Corporation of India Ltd.* [(1971) 1 SCC 67……”

(Emphasis supplied)

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36. It will be noticed that even in ***Vidyasagar Prasad (supra)*** a similar argument about the name of creditor not being mentioned was repelled and additionally the aspect of the proposal given by the corporate debtor therein for a one-time settlement was taken into account as an additional aspect in favour of acknowledgment of debt.

37. The respondent herein contends that ***Vidyasagar Prasad (supra)*** could not be said to have laid a law for general application with regard to entries in Balance Sheet wherein the names of the creditor are mentioned and additionally contended that in that case an OTS proposal was also available to buttress the point of acknowledgment.

38. We have independently examined the facts of the present matter to construe whether the entries in the Balance Sheet of F.Y. 2019-20 constitute a valid acknowledgement. As to whether a certain document in a given case constitutes a valid acknowledgement would depend on the facts and circumstances of each case. We do no better than recall the observations of this Court in ***Khan Bahadur Shapoor (supra)*** wherein it was observed as under: -

> **"7. It is often said that in deciding the question as to whether any particular writing amounts to an**

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> **acknowledgment as in construing wills, for instance, it is not very useful to refer to judicial decisions on the point. The effect of the words used in a particular document must inevitably depend upon the context in which the words are used and would always be conditioned by the tenor of the said document, and so unless words used in a given document are identical with words used in a document judicially considered it would not serve any useful purpose to refer to judicial precedents in the matter…….”**
>
> (Emphasis supplied)

39. Having said that, the legal principles as to what constitutes a valid acknowledgment as laid down in the precedents, have to be rigorously applied. It should also not be forgotten that this Court in ***Khan Bahadur Shapoor (supra)*** has held that surrounding circumstances could be considered and that a liberal construction should be favoured, though the process of reasoning should not be involved or far-fetched. This Court in ***Khan Bahadur Shapoor (supra)*** had considered the general tenor and context of the document. Further, as noticed in ***Lakshmirattan Cotton Mills (supra),*** the previous correspondence and the surrounding circumstances were also taken into consideration. In ***Bishal Jaiswal (supra),*** this Court held that a case-to-case examination will be made with regard to entries made in Balance sheets to decide the question of acknowledgment. In ***Dena Bank (supra),*** this Court held that in relation to proceedings

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under the IBC, Section 18 of the Limitation Act cannot be construed with pedantic rigidity. In ***Vidyasagar Prasad (supra),*** this Court affirmed the finding of the NCLAT in that case wherein the NCLAT had held that the company's Balance Sheet is prepared in the statutory format as per schedule 3 of the Companies Act which did not provide for giving the specific name of every secured or unsecured creditor.

40. In ***OPG Power Generation Private Ltd.*** v. ***Enexio Power Cooling Solutions (India) Private Ltd. And Anr.***, (2025) 2 SCC 417, this Court speaking through one of us (Manoj Misra J.,) while reiterating the holding in ***Khan Bahadur Shapoor (supra)*** summarised the essence of Section 18 of the 1963 Act as under: -

> "**132.** Section 18 of the 1963 Act deals with the effect of acknowledgment in writing. Sub-section (1) thereof provides that where, before the expiration of the prescribed period for a suit or application in respect of any right, an acknowledgment of liability in respect of such right has been made in writing signed by the party against whom such right is claimed, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed. The Explanation to this section provides that an acknowledgment may be sufficient though it omits to specify the exact nature of the right or avers that the time for payment has not yet come or is accompanied by a refusal to pay, or is coupled with a claim to set-off, or is addressed to a person other than a person entitled to the right.**"**

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41. Keeping all these principles in mind, if we examine the facts of the present case, it will be clear that the Balance Sheet of F.Y. 2019-20, viewed in the background of the other admitted documents, including the financial statements of the previous years, clearly constitutes a valid acknowledgment of a subsisting liability and indicated the existence of a jural relationship and an admission as to the existence of such relationship. We say so for the following reasons:-

i) The general tenor and context of the balance sheet of F.Y. 2019-20 considered in the background of surrounding circumstances arising from the balance sheets of F.Y. 2015-16, 2016-17 & 2017-18 clearly points to the fact that the entry in the balance sheet of F.Y. 2019-20 constitutes a valid acknowledgement and pertains to the same borrowing as was reflected in the balance sheet of F.Y. 2015-16, 2016-17 & 2017-18.

ii) Under the Indian Accounting Standards (Ind AS) 7, a cash flow statement is appended to the financial statement. The cash flow statement indicates that in F.Y. 2018-19 there was proceeds from

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borrowings of Rs.72,30,902/- and added to Rs.23,68,91,933/-, a figure of Rs.24,41,22,835/- is arrived at.

iii) More importantly, in the cash flow statement it was indicated that no part of cash flow proceeds was utilised in the repayment of existing borrowings under the financial activities since the amount under the head "cash flows from (used in) financial activities" is nil. This clearly indicates that the debt remained unpaid even in 2019-20.

42. In addition to the above, it is significant to note that in this case in the reply filed to the Section 7 application, apart from a general objection as to the application being barred by limitation only a bare denial was made in the following terms:-

> "(sic) deny that Balance Sheet of CD can be treated as acknowledgment of debt as wrongfully alleged or at all."

43. In the application under Section 7 detailed averments were made referring to a series of audited financial statements and Balance Sheet from F.Y. 2015-16 to F.Y. 2019-20 to make out a case that the entry in F.Y. 2019-20 constituted an acknowledgment under Section 18 of the Limitation Act by the respondent. In any event, we have not

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based our finding on the mere factum of non-denial but have construed the entry in the Balance Sheet of F.Y. 2019-20 to conclude that the entry in the F.Y. 2019-20 constitutes a valid acknowledgment.

44. The Balance Sheet of F.Y. 2019-20 was admittedly signed by the board of directors on 12.08.2020. This date was within the subsisting period of limitation for the reason that taking 01.03.2018 as the commencement of limitation, limitation ordinarily would have continued till 28.02.2021. Since an acknowledgment came into effect on 12.08.2020, limitation would have stood extended till 11.08.2023. However, Covid-19 intervened resulting in this Court passing a series of orders extending the period of limitation. The relevant order applicable in this case is the order of 10.01.2022.

45. Parties were at daggers drawn on the aspect whether sub Para (I) of Para 5 of the order of 10.01.2022 would apply or sub Para (III) would apply. Para 5 of the order dated 10.01.2022 reads as under: -

> "5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M. A No. 21 of 2022 with the following directions:

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> I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.
>
> II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.
>
> III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.
>
> IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Section 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings"

46. We have no manner of doubt that sub-Para 1 of Para 5 of the order of this Court dated 10.01.2022 would apply and the entire period from 15.03.2020 to 28.02.2022 would stand excluded, which would mean that the limitation would, reckoning the acknowledgment of 12.08.2020, commence on 01.03.2022 and continue till 28.02.2025. Since the application has been filed on 15.01.2024 the same is within

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time. Limitation, in view of the acknowledgment as found above, having commenced only on 12.08.2020, the question of limitation expiring between 15.03.2022 and 28.02.2022 cannot arise. Hence, Para 5(III) of the order of this Court dated 10.01.2022, has no application to the facts of this case.

47. In view of the observations made hereinabove, the judgments of the NCLAT dated 25.03.2025 and NCLT dated 16.05.2024 are set aside. The appeal is allowed. The matter is remitted to the adjudicating authority to proceed with and decide in accordance with law, treating the application under Section 7 of the IBC, filed by the appellant, as one filed within limitation. No order as to costs.

.....J.
[**MANOJ MISRA**]

.....J.
[**K. V. VISWANATHAN**]

New Delhi;
30th July, 2025