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Section 95 IBC: NCLAT Chennai Bars Consecutive Insolvency Applications Against Same Guarantor

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In a recent judgment, the National Company Law Appellate Tribunal (NCLAT) in Chennai addressed a significant issue concerning the initiation of insolvency resolution proceedings under the Insolvency and Bankruptcy Code (I & B Code). The case, titled “Indian Bank v. K R Tirumuruhan” (Company Appeal (AT) (CH) (Ins) No.150/2025), highlights the legal complexities and precedents set in insolvency matters, particularly when multiple financial creditors seek to initiate proceedings against the same personal guarantor.

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Case Background

The case involves Indian Bank, the financial creditor, and K R Tirumuruhan, a personal guarantor. Indian Bank, through its Stressed Assets Management Branch in Chennai, sought to initiate insolvency resolution proceedings against K R Tirumuruhan under Section 95 of the I & B Code. The application was filed before the National Company Law Tribunal (NCLT), Chennai Bench, in case number CP(IB)80/2024. However, the NCLT dismissed the application on 06.01.2025, deeming it infructuous and allowing the bank to file afresh at a later date. The dismissal was based on the fact that another financial creditor, IDBI Trusteeship Services Limited, had already initiated proceedings under Section 95 of the I &B Code,2016 against the same personal guarantor in a different case, CP(IB) No.785/2020. This prior initiation created a bar under Section 96 of the I & B Code, preventing subsequent applications against the personal guarantor.

Legal Provisions and Judgments Relied Upon

The NCLAT’s decision in this case was influenced by specific provisions of the I & B Code and a previous judgment. Section 95 of the I & B Code allows financial creditors to initiate insolvency resolution proceedings against personal guarantors. However, Section 96 of the I & B Code creates a bar against subsequent applications under Section 95 once proceedings have been initiated by another financial creditor against the same personal guarantor. The NCLAT also referred to a previous judgment in the case of Indian Bank, SAMB, Chennai Vs T. Prabhakar (Comp App (AT) (CH) (Ins) No.121/2025). In that case, the NCLAT dismissed a similar appeal on 30.04.2025, upholding the NCLT’s decision to dismiss an application under Section 95 due to the bar created by Section 96.

Final Decision

The NCLAT dismissed the current appeal (Company Appeal (AT) (CH) (Ins) No.150/2025) on 04.06.2025. The tribunal upheld the NCLT’s decision to dismiss the application under Section 95, citing the bar created by Section 96 of the I & B Code. The NCLAT also requested the NCLT to expedite the pending Section 95 proceedings, which were the source of grievance for the appellant. This decision reinforces the principle that once insolvency proceedings are initiated by one financial creditor, subsequent applications by other creditors against the same personal guarantor are barred.

Conclusion

The judgment in “Indian Bank v. K R Tirumuruhan” emphasises the importance of legal precedents and the strict application of the I & B Code in insolvency matters. It highlights the need for financial creditors to be aware of existing proceedings before initiating new ones, thereby ensuring the efficient and fair resolution of insolvency cases. This case is a reminder of the legal complexities involved in insolvency proceedings and the significance of adhering to established legal principles.

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