

Appeal cannot be filed on any issue for which efficacious remedy provided under any statute, has already been availed by the Appellant.

CASE TITLE	Arvind Dham Vs State Bank of India and Anr ¹
CASE CITATION	Company Appeal (AT) (Insolvency) No. 18 of 2021
DATE OF ORDER	18.01.2021
COURT/TRIBUNAL	NCLAT, New Delhi
CASES REFERRED	-
SECTION/REGULATION REFERRED	Section 96 of IBC, Rule 49(2) of the NCLT Rules, 2016

Brief of the case:

The appeal was filed against the impugned order of NCLT, New Delhi that ordered for appointment of Resolution Professional and interim-moratorium qua the Appellant (Personal Guarantor), as being violative of principles of natural justice and in the teeth of Section 96 of the IBC.

Decision:

Hon'ble NCLAT disposed off the appeal with direction that this application of the Appellant shall be heard before according consideration to Report of the Resolution Professional under Section 99 of IBC and held that,

“Remedy under Rule 49(2) of the NCLT Rules, 2016 for setting aside the impugned order is stated to have been availed by the Appellant. It is submitted that the application is still pending before the Adjudicating Authority. That being the state of affairs, we are of the considered opinion that the instant appeal would not be maintainable as efficacious remedy provided under Rules has already been availed by the Appellant. As regards the concern raised by the learned counsel for the Appellant that the Adjudicating Authority has not disposed off the application, we deem it appropriate to dispose off this appeal with direction to the Adjudicating Authority to take up the application filed by the Appellant under Rule 49(2) of the NCLT Rules, 2016 with notice to the parties and make all endeavours for its expeditious disposal, preferably within 10 days”



QR CODE FOR FULL ORDER/JUDGEMENT:

¹<https://ibbi.gov.in/uploads/order/b4e22735f262414a973e76be0472cae7.pdf>