

**If CIRP has been initiated against the principal borrower, appellant can file claim in CIRP initiated against the Corporate Guarantor.**

<b>CASE TITLE</b>	Edelweiss Asset Reconstruction Company Ltd. Vs. Gwalior Bypass Projects Ltd. <sup>1</sup>
<b>CASE CITATION</b>	Company Appeal (AT) (Ins) No.1186 of 2019
<b>DATE OF ORDER</b>	08.03.2021
<b>COURT/TRIBUNAL</b>	NCLAT, New Delhi
<b>CASES REFERRED</b>	Dr. Vishnu Kumar Agarwal Vs M/s. Piramal Enterprises Ltd. State Bank of India vs. Athena Energy Ventures Pvt. Ltd. Ascot Realty Private Limited vs. Ajay Kumar Agarwal
<b>SECTION/REGULATION REFERRED</b>	Section 7 of IBC, 2016

**Brief of the case**

An Appeal was preferred by the Appellant against the Impugned Order dated 12th September, 2019 passed by the National Company Law Tribunal, Principal Bench, New Delhi. The Appellant filed Application under Section 7 of Insolvency and Bankruptcy Code, 2016 and the same was admitted on 5th December, 2018 against principal borrower – Adel Landmarks Ltd. ICICI Bank filed another Application under Section 7 of IBC against Corporate Debtor - Gwalior Bypass Projects Ltd. which was admitted on 29th May, 2019. The issue involved in this matter is that if CIRP has been initiated against the principal borrower, could the Appellant have filed claim in CIRP initiated against the Corporate Guarantor.

**Decision**

Hon'ble NCLAT allowed and disposed off the appeal with following observation:

*“8. For above reasons discussed by us in the matter of “Athena Energy”, we find that the present Appeal is required to be allowed. We do not find that there is bar for the Financial Creditor to proceed against the principal borrower as well as Corporate Guarantor at the same time, either in CIRPs or file claims in both CIRPs.*

*9.(A) For the above reasons, the present Appeal is allowed. Impugned Order is quashed and set aside. We find that the claim submitted by the Appellant was required to be considered by the IRP/RP in the CIRP proceedings...”*



**QR CODE FOR FULL ORDER/JUDGEMENT:**

<sup>1</sup><https://nclat.nic.in/Useradmin/upload/183653136160473611db22e.pdf>