

Security interest can be proved through its registration with CERSAI, and the financial creditor can be classified as a Secured Creditor based on such registration

The NCLAT, New Delhi, in the case of **Bizloan Private Limited Versus Mr. Amit Chandrashekhar Poddar [Comp. App. (AT) (Ins) No. 210 of 2024 & I.A. No. 718 of 2024] dated July 03, 2025**, has held that security interest can be proved through its registration with Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI) and the financial creditor can be classified as a Secured Creditor based on such registration as per Regulation 21 of the Liquidation Regulations, 2016.

The NCLAT clarified that it is not mandatory for the security interest to be registered under section 77 of the Companies Act to claim the status of a Secured Financial Creditor in the Liquidation proceedings under the Insolvency and Bankruptcy Code, 2016 (IBC). It further observed that Section 77 of the Companies Act, 2013 mandates every company creating a charge on its property or assets (whether in India or outside) to register the particulars of the charge and the instrument creating it with the RoC. Section 77(3) of the Companies Act, 2013 states that no charge created by a company shall be taken into account by a liquidator or any other creditor unless it is duly registered under sub-section (1) of Section 77 of Companies Act, 2013 and a certificate of registration is issued by the RoC.

The NCLAT noted that the Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI) is a centralised platform that was established by the Reserve Bank of India to maintain records of security interests created over movable and immovable properties. It serves as a comprehensive database as far as the securitisation, asset reconstruction, and security interests registered by the Banks and financial institutions are concerned. It held that while CERSAI registration is important for creditors to enforce their rights under the SAFAESI Act, but does not mean that companies are exempted from registering their charges under section 77 of the Companies Act with the RoC. The Registration of the charge with the RoC is indispensable in order to claim benefit as a Secured Financial Creditor in the CIRP or liquidation.

The Tribunal observed that it is a settled principle of law that when two laws conflict, the law enacted later will prevail. The IBC came into force on December 01, 2016, that is, after the date of enforcement of section 77 of the Companies Act, which came into effect on November 15, 2016. Furthermore, section 238 of the Code with the non-obstinate clause, therefore giving overriding effect over any other law for the time being in force. Section 77 of the Companies Act serves altogether a different purpose, the non-compliance of which leads to consequences to the concerned stakeholders, whereas the purpose of the CERSAI registration is to enforce security interest created over assets in favor of the Banks and alert others financial institutions not to lend money over assets already mortgaged or hypothecated.

The NCLAT further added that Regulation 21 of the IBBI (Liquidation Process) Regulations, 2016, allows proof of security through records with the information utility, RoC registration, or CERSAI registration. The use of the word 'or' in Regulation 21 clearly establishes that the proof of security interest can either be established through RoC registration or CERSAI registration. Thus, a security interest by the Creditors can also be proved if the same is available in CERSAI and is not completely and exclusively dependent on a charge registered with RoC under Section 77 of the Companies Act, 2013. It concluded that in the present appeal,

although the charge was not registered with the RoC under section 77(3) of the Companies Act, the same was registered with the CERSAI. Regulation 21 states that the charge registration with the CERSAI is sufficient to prove a security interest therefore, the Appellant should have been treated as a Secured Financial Creditor.