CA No. 9/2026
Shew Prokash Saha and Ors Vs. Cisco Systems Capital India Private Limited
&
CA No. 13/2026
Shew Prokash Saha and Ors Vs. Cisco Systems Capital India Private Limited
&
CA No. 15/2026
Gurmeet Singh Jaspal and Ors Vs. Cisco Systems Capital (India) Pvt Ltd.
&
CA No. 18/2026
Gurmeet Singh Jaspal And Ors Vs. Cisco Systems Capital India Pvt Ltd.
&
CA No. 22/2026
Gurmeet Singh Jaspal Vs. Cisco Systems Capital India Pvt Ltd.
&
CA No. 23/2026
Shew Prokash Saha Vs. Cisco Systems Capital India Pvt Ltd.
&
CA No. 24/2026
Shew Prokash Saha Vs. Cisco Systems Capital India Pvt Ltd.
&
CA No. 25/2026
Shew Prokash Saha Vs. Cisco Systems Capital India Pvt Ltd.
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CA No. 26/2026
Shew Prokash Saha Vs. Cisco Systems Capital India Pvt Ltd.
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CA No. 27/2026
Gurmeet Singh Jaspal Vs. Cisco Systems Capital India Pvt Ltd.
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CA No. 28/2026
Gurmeet Singh Jaspal Vs. Cisco Systems Capital India Pvt Ltd.
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CA No. 29/2026
Shew Prokash Saha Vs. Cisco Systems Capital India Pvt Ltd.
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CA No. 30/2026
Shew Prokash Saha Vs. Cisco Systems Capital India Pvt Ltd.
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CA No. 31/2026
Gurmeet Singh Jaspal Vs. Cisco Systems Capital India Pvt Ltd.
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CA No. 32/2026
Shew Prokash Saha Vs. Cisco Systems Capital India Pvt Ltd.
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CA No. 33/2026
Shew Prokash Saha Vs. Cisco Systems Capital India Pvt Ltd.
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CA No. 34/2026
Gurmeet Singh Jaspal Vs. Cisco Systems Capital India Pvt Ltd.
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CA No. 35/2026
Shew Prokash Saha Vs. Cisco Systems Capital India Pvt Ltd.
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CA No. 36/2026
Gurmeet Singh Jaspal and Ors Vs. Cisco Systems Capital India Pvt Ltd.
&
CA No. 37/2026
Gurmeet Singh Jaspal Vs. Cisco Systems Capital India Pvt Ltd.
&
CA No. 38/2026
Gurmeet Singh Jaspal Vs. Cisco Systems Capital India Pvt Ltd.
&
CA No. 39/2026
Gurmeet Singh Jaspal Vs. Cisco Systems Capital India Pvt Ltd.
PS – Barakhamba Road

05.06.2026

1. Vide this common order, the Court shall dispose of the application under Section 148 N. I. Act (hereinafter referred to as **'NI Act'**) filed on behalf of the appellant/convict seeking waiver/exemption from deposit of 20% of the fine/compensation amount imposed vide judgment of conviction dated 10.12.2025 and order on sentence dated 13.12.2025, pending adjudication.

Arguments addressed on behalf of the applicant/appellant/convict

2. Ld. Counsel for the applicant/appellant argued that the appellant(s) are facing severe financial incapacity of depositing the said amount in the absence of regular source of income or assets to their disposal; that the drawer of the cheque i.e. Manthan Broadband Services Pvt. Ltd. is under Corporate Insolvency and Liquidiation since year 2019 and complainant/respondent claim for Rs.40.01 Crores out of Rs.40.60 Crores claimed has already been admitted by the Liquidator; that there is existence of arguable legal issues in pending appeal and there is risk of prejudice and denial of effective right of appeal.

2.1 Relying upon the judgment rendered by Hon'ble Supreme Court of India in Crl. Appeal No. 2741/2023 titled as ***Jamboo Bhandari Vs. M.P. State Industrial Development Corporation Ltd. & Ors.; (2023) 10 SCC 446*** Ld. Counsel submitted that depositing the minimum 20% of the fine or compensation in cheque bounce appeal is the general rule but not an Absolute Mandate.

2.2 Ld. Counsel furhter arrgued that the condition of deposit of 20% as per provisions of Section 148 NI Act by the convicted Direcors in case of companies under Liquidiation has been referred by Two Members Bench of Hon'ble Supreme Court of India in ***SLP (Crl.) No. 12327/2025 titled as Bharat Mittal Vs. State of Rajasthan & Ors.*** The relevant para is reproduced hereinbelow :

> *"The important question that arises before this Court in the present case is:*
> *"When a director of an accused company is convicted under Section 138 of the Negotiable Instruments Act (hereinafter referred to as 'the NI Act'), without the company itself being convicted due to some existing 'legal snag'*
> *- such as winding up, liquidation, or any similar scenario -can the appellate court, while hearing the appeal filed by the director challenging his conviction and sentence, impose a condition of depositing 20% of the amount as prescribed under Section 148 of the Act?"*
> *This question assumes Reason: significance in the present context, given the large number of litigations arising under Section 138 of the NI Act."*

<u>Arguments addressed on behalf of respondent/complainant</u>

3. The application is stoutly opposed by the Respondent, who contends that the statutory mandate under Section 148 is ordinarily compulsory, and that no exceptional circumstances exist warranting departure therefrom and placed reliance upon case titled as ***Surinder Singh Deswal Vs. Virender Gnadhi*** reported in ***(2019) 11 SCC 341, Muskan Enterprises Vs. State of Pujab*** reported in **2024 SCC OnLine SC 4107**. She further aruged that the plea of financial incapacity is unsubstantiated and the pending insolvency proceedings are irrelevant. She further argued that appellants are attempting to reopen merits at an interlocutory stage, which is not permissible under the law.

<u>Scope and Nature of Power under Section 148 NI Act</u>

4. The jurisprudence governing Section 148 NI Act is now well crystallised. While the provision uses the expression "may", the Hon'ble Supreme Court in ***Surinder Singh Deswal (Supra)***, has held that the provision is intended to operate as a general rule of pre-deposit, thereby discouraging frivolous appeals and ensuring seriousness in challenge to convictions under Section 138 NI Act.

4.1 However, in **Jamboo Bhandari (Supra)**, the Hon'ble Supreme Court has clarified that the said requirement, though generally mandatory in its operation, is not absolute or inflexible, and that the Appellate Court retains discretion to mould relief in appropriate cases where compelling circumstances so demand.

4.2 The power under Section 148 NI Act is thus neither mechanical nor punitive; it is a judicial discretion grounded in equity, proportionality, and fairness, to be exercised so as to balance the right of appeal with the object of deterrence under the NI Act.

<u>Court's Observation</u>

5. This Court heard the rival submissions advanced on behalf of both the parties and persued the entire material available on record.

6. Upon careful perusal of the record, this Court is of the considered view that the appeal raises substantial and arguable questions of law and fact, *inter alia* relating to:

i. The nature of liability arising from settlement arrangements;

ii. The character of the impugned instruments as alleged "security cheques"; and

iii The extent and contours of vicarious liability under Section 141 NI Act.

6.1 These issues, by their very nature, require detailed scrutiny at the appellate stage and cannot be prejudged at the stage of consideration of pre-deposit. The Hon'ble Supreme Court has consistently held that at this stage, the Court must refrain from any observation that may prejudice the merits of the appeal **(Jamboo Bhandari (Supra)**.

6.2 The appellants have asserted financial hardship. While documentary substantiation is limited, the Court cannot be oblivious to the broader circumstances of corporate insolvency involving the principal obligor and long-drawn litigation spanning several years. It is trite that access to appellate remedy cannot be rendered illusory or oppressive by imposing conditions that effectively foreclose the right of appeal. The Hon'ble Supreme Court in ***Garikapati Veeraya v. N. Subbiah Choudhury, AIR 1957 SC 540***, has recognised the right of appeal as a substantive right, which cannot be curtailed except by express statutory mandate and reasonable procedural safeguards.

6.3 It is not disputed that the principal company is undergoing insolvency/liquidation proceedings and that the complainant/respondent's claim stands admitted therein. While insolvency does not extinguish criminal liability of Directors ***(P. Mohanraj v. Shah Bros. Ispat (P) Ltd., (2021) 6 SCC 258)***, the existence of such proceedings is nevertheless a relevant circumstance while examining equitable pre-deposit obligations under Section 148 NI Act.

6.4 The law does not operate in silos; it demands a harmonious interpretation that avoids multiplicity of coercive financial burdens for the same underlying transaction. The object of Section 148 is salutary to ensure that appeals are not filed merely to delay enforcement of lawful orders. At the same time, the provision is not intended to become a financial barrier that stifles a meritorious appeal at inception. The discretion vested in the Appellate Court must therefore be exercised in a manner that furthers justice rather than technical rigidity.

6.5 In the peculiar facts of the present case, this Court is persuaded to hold that exceptional circumstances do exist in the present matters i.e. prolonged insolvency proceedings of the principal obligor; substantial admitted liability already subjected to insolvency adjudication; multiplicity of proceedings arising from the same transaction; arguable issues requiring full appellate examination; and absence of clear and immediate liquidity evidenced on record. These factors cumulatively tilt the balance in favour of protecting the appellate remedy rather than securing pre-deposit at this stage.

Conclusion

7. The law under Section 148 NI Act, though leaning in favour of deposit, is not blind to equity. It is a jurisdiction of calibrated discretion, to be exercised where insistence on deposit would operate harshly or unjustly in the peculiar facts of a case. This Court is satisfied that the present case falls within the narrow category of cases warranting complete relaxation of the statutory requirement.

8. In view of the foregoing discussion, the present applications are **allowed**. The appellants are hereby **exempted** from depositing 20% of the fine/compensation amount imposed by this Court vide order dated 16.01.2026. The said relief is granted in view of the peculiar facts and circumstances of the case, and in exercise of discretion under Section 148 NI Act as interpreted in ***Jamboo Bhandari (Supra)*** and ***Surinder Singh Deswal v. Virender Gandhi (Supra)***.

9. It is clarified that this order is passed solely for the purpose of adjudication of the present applications and shall not be construed as an expression on the merits of the appeal(s), which shall be decided independently and in accordance with law.

SHEFALI BARNALA TANDON

Digitally signed by SHEFALI BARNALA TANDON
Date: 2026.06.05 17:45:47 +0530

(Shefali Barnala Tandon)
ASJ-06 / New Delhi District
Patiala House Court/05.06.2026 (gr)