

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No.1039 of 2024

(Arising out of Order dated 09.04.2024 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-III in IA No.2504/2021 in CP(IB)-2130(ND)/2019)

IN THE MATTER OF:

Hemant Sharma, Resolution Professional
Today Homes and Infrastructure Pvt. Ltd. ...Appellant

Versus

Indian Renewable Energy Development Agency Ltd. ...Respondent

Present:

For Appellant : Mr. Abhijeet Sinha, Sr. Advocate with Mr. Kanishk Khetan, Mr. Akash Srivastava and Mr. Shivam Jaiswal, Advocates.

Mr. Karan Grover, Advocate for SRA.

For Respondents : Mr. Gaurav Mitra, Mr. Aditya Vashisth, Mr. Anmol Bansal, Ms. Aishwarya Modi, Advocates

J U D G M E N T

ASHOK BHUSHAN, J.

This Appeal by the Resolution Professional (“**RP**”) of Today Homes and Infrastructure Pvt. Ltd. has been filed challenging order dated 09.04.2024 passed by National Company Law Tribunal, New Delhi, Court-III allowing IA No.2504 of 2021 filed by Respondent – M/s Indian Renewable Energy Development Agency Ltd. and directing the RP to reconsider the claim of the Applicant. Aggrieved by the impugned order and adverse observations made against RP and further direction to send the copy of the order to Insolvency and Bankruptcy Board of India (“**IBBI**”), this Appeal has been filed by the RP.

2. Brief facts of the case necessary to be noticed for deciding the Appeal are:

- (i) The Corporate Insolvency Resolution Process (“**CIRP**”) against the Corporate Debtor (“**CD**”) commenced vide order dated 31.10.2019. The IRP made a public announcement on 14.11.2019 asking for submission of the claims. The last date for filing of the claim with proof as per Regulation 12(2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“**CIRP Regulations**”) was 30.01.2020.
- (ii) Respondent No.1 submitted the claim as Financial Creditor in Form-C for an amount of Rs.360,95,17,540/-. The claim was based on corporate guarantee extended by the CD in favour of Respondent No.1 in respect of credit facilities availed from Respondent No.1 by three companies, namely – (i) Today Clean Energy Pvt. Ltd.; (ii) Photon Suryakiran Pvt. Ltd.; and (iii) Photon Sunbeam Pvt. Ltd.
- (iii) The RP sent an email dated 13.07.2020 to Respondent No.1 informing that claim cannot be accepted as financial debt. It was further informed that claim could be filed as a creditor falling within the appropriate category of the creditors, in the prescribed Form. In reply to the email of the RP, Respondent No.1 sent a letter dated 16.09.2020 requesting the RP to reconsider the claim in the light of the definition of ‘financial

debt'. On 23.01.2021, the RP again reiterated that claim was not admissible as financial debt on the ground that there was no debt disbursed to the CD against the consideration of time value of money and further claim was not admissible because Respondent No.1 has not invoked the corporate guarantee prior to the insolvency commencement date of the CD.

- (iv) Aggrieved by the rejection of the claim of Respondent No.1, IA No.2504 of 2021 was filed by Respondent No.1. Reply was filed by the RP to the IA. Rejoinder was also filed by Respondent No.1.
- (v) By the impugned order dated 09.04.2024, the Adjudicating Authority disposed of the IA, setting aside the decision of the RP dated 13.07.2020 and 23.01.2021 and directed the RP to reconsider the claim of the Applicant. Aggrieved by which order, this Appeal has been filed by the RP.

3. We have heard Shri Abhijeet Sinha, learned Senior Counsel appearing for the RP and Shri Gaurav Mitra, learned Counsel appearing for Respondent No.1.

4. Shri Abhijeet Sinha, learned Senior Counsel appearing for the Appellant challenging the impugned order submits that observation of the Adjudicating Authority that RP has adjudicated the claim of Respondent No.1 is incorrect. Under the CIRP Regulations, RP is entitled to collate and verify the claims. The RP in exercise of its statutory jurisdiction under CIRP Regulations found that the claim of Respondent No.1 is not

verifiable. Two reasons were given by the RP in the letter that there was no disbursement in favour of the CD and secondly, the corporate guarantee, which was in favour of Respondent No.1, was never invoked prior to insolvency commencement date. Learned Counsel for the Appellant submits that the Appellant is not raising any argument with regard to first reason given by the RP, however, it is submitted that in view of the corporate guarantee having not been invoked by Respondent No.1, the claim was not admissible in the CIRP of the CD. It is submitted that right to payment of corporate guarantee shall arise only when corporate guarantee is invoked prior to insolvency commencement date. In the present case, admittedly the guarantee submitted in favour of Respondent No.1 was never invoked. Hence, the claim has rightly not been accepted. It is further submitted that the facility which was extended by Respondent No.1, being fully satisfied by the Principal Borrower and no default has been committed by the Principal Borrower, hence, the claim of Corporate Guarantor on the basis of any uninvoked guarantee cannot be accepted. It is further submitted that RP has not exceeded his jurisdiction in considering the claim and the reasons given in the emails rejecting the claim were bonafide reasons, which Appellant believed as per the statutory provisions and as per law as declared by this Tribunal. Hence, there was no occasion for making any adverse observation against the Appellant in the impugned order that act of the RP is in excess and abuse of the powers and duties of the RP. It is

submitted that there was no reason to send the copy of the order to the IBBI.

5. Learned Counsel for Respondent No.1 refuting the submissions of learned Counsel for the Appellant submits that claim filed by Respondent No.1 has erroneously been rejected by the RP. It is submitted that the financial facilities were extended by Respondent No.1 to the three companies, to which financial facilities, the CD stood as corporate guarantor. It is submitted that the non-invocation of guarantee is no ground to not accept the claim. It is submitted that the claim filed by a creditor, whether it is matured or not, is a claim within the meaning of IBC. It is submitted that the definition of 'claim' under Section 3, sub-section (6) of the IBC is wide definition, which covers any claim, which is matured or not whether disputed or undisputed. Even if the claim of Respondent No.1 is being disputed, that is no reason to reject the claim. It is submitted that when the claim was based on corporate guarantee, the RP was obliged to admit the claim. The reasons given by the RP that no disbursement was made in favour of the CD is erroneous and contrary to law. The definition of 'financial debt' in Section 5, sub-section (8) also covers the guarantee issued for any of the transactions enumerated in sub-section (8)(i) of Section 5. It is submitted that the Adjudicating Authority has rightly set aside the decision of the RP and directed for reconsideration of the claim, which order does not warrant any interference. It is submitted that Appeal at the instance of the RP is not maintainable to an order directing for reconsideration of the claim.

6. Learned Counsel for both the parties have placed reliance on various judgments of this Tribunal as well as judgments of the Hon'ble Supreme Court in ***China Development Bank vs. Doha Bank Q.P.S.C and Ors. – (2024) SCC OnLine 3829.***

7. We have considered the submissions of the learned Counsel for the parties and have perused the records.

8. The facts as brought on the record are that the CD is the corporate guarantor of three facilities extended by Respondent No.1 in favour of three companies, i.e. namely – (i) Today Clean Energy Pvt. Ltd.; (ii) Photon Suryakiran Pvt. Ltd.; and (iii) Photon Sunbeam Pvt. Ltd., are not in dispute. The facilities were extended on 21.09.2015 (Rs.68 crores); 19.08.2016 (Rs.200 crores); and 07.11.2016 (Rs.210 crores) respectively, for which Deed of Guarantee was executed on 21.09.2015, 03.03.2016 and 29.12.2016. The claim filed by Respondent No.1 in the CIRP was for Rs.360,95,17,540/- for the facilities, which were extended by the CD. The facts are also not in dispute that Respondent No.1 has not invoked the corporate guarantee prior to insolvency commencement date. The Adjudicating Authority while noticing the submissions of the Applicant has noted the submission of Respondent No.1 that guarantee has not been invoked. It was noted that claim against corporate guarantor would still be valid claim, despite the fact that guarantee has not been invoked.

9. The Adjudicating Authority after hearing the Applicant as well as the RP has held that there is no adjudicatory power in the RP and the email sent by the RP tantamount to adjudication and cannot be

sustained. It was held that RP is only vested with administrative powers as opposed to quasi-judicial powers. The Adjudicating Authority in paragraph 5 (vi), (vii) and (viii) made following observations:

5.vi. In the present application the Applicant has raised a specific objection stating that the Resolution Professional has exceeded in his jurisdiction and has in effect adjudicated the claim although the Resolution Professional has no adjudicatory powers and therefore, decision taken by Resolution Professional vide E-mail dated 13.07.2020 and 23.01.2021 cannot be sustained in the eyes of law, in view of the law laid down by the Hon'ble Supreme Court in the case of **'Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors.**, reported in (2019) 4 SCC 17 wherein it held that Resolution Professional has no adjudicatory power and that he is "really a facilitator of the resolution process, whose administrative functions are overseen by the Committee of Creditors and by the Adjudicating Authority."

vii. We have carefully perused the two E-mail sent by the Resolution Professional and we are of the considered view that the decision taken by the Resolution Professional vide the said two E-mail tantamounts to adjudication and therefore cannot be sustained in the eyes of law. We find that the Resolution Professional has while rejecting the claim has taken into consideration, various judgements passed by the Hon'ble Supreme Court in the case of **Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. Vs Axis bank Limited etc.** reported in (2020) 8 SCC 401, and Hon'ble NCLAT in case of **Ascot Realty Private Limited v. Ajay Kumar Agarwal** reported in 2020 SCC OnLine NCLAT 732 and proceeded to decide the claim on merits instead of collating the claim and performing his duties as Resolution Professional as envisaged under Section 18 and 25 of the Code.

viii. It is trite law that the Resolution Professional has only been vested with administrative as opposed to quasi-judicial power. In view of the above, the Resolution Professional by rejecting the claims at his own level without presenting the complete facts to the Committee of Creditors has misconstrued his role, duties, and responsibilities. Such an act by the Resolution Professional in rejecting the claim by effectively holding that since there is no invocation of the guarantees, there is no valid claim of the applicant relying upon the judgment of the Hon'ble Supreme Court amounts to adjudication. Such an act by the Resolution Professional is in excess and abuse of the powers and duties of a Resolution Professional conferred by the IBC. The Resolution Professional is obligated under law only to collate and admit

or reject a claim and maintain an updated list of creditors of the Corporate Debtor.”

10. The decision of the RP by email dated 13.07.2020 and 23.01.2021 was set aside and directions have been issued to reconsider the claim of the Applicant. It is useful to extract paragraph 5(ix) and (x) of the impugned order, which is as follows:

“**5.ix.** For the ongoing reasons we set aside the decision taken by the Resolution Professional vide E-mail dated 13.07.2020 and 23.01.2021 and direct the Resolution Professional to re-consider the claim of the Applicant in the light of the powers and functions envisaged under Section 18 and 25 of the Code and place the same before the CoC for approval.

x. The claim was filed vide E-mail dated 31.01.2020 and the last date to file the proof of claim was 30.01.2020 as per Regulation 12(2) of the CIRP Regulations. The delay of 1 day in filing the claim with the Resolution Professional is condoned in the interest of justice.”

The application IA – 2504 of 2021 was disposed of in the above terms.

11. The IBC defines “claim” in Section 3 sub-section (6) to the following effect:

“(6) “claim” means –

(a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured, or unsecured;

(b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured;”

12. Section 3, sub-section (11) defines “debt” and Section 3, sub-section (12) defines “default”, which are as follows:

6(11) “debt” means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;

(12) “default” means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not 1 [paid] by the debtor or the corporate debtor, as the case may be;”

13. Regulations 7 of the CIRP Regulations deals with “Claims by operational creditors”; Regulation 8 with “Claims by financial creditors” and Regulation 9A with “Claims by other creditors”. There is a difference between ‘claim’, ‘debt’ and ‘default’, which was noticed by Hon’ble Supreme Court in **Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors. - (2019) 4 SCC 17**. The Hon’ble Supreme Court in paragraph 65 of the judgment laid down following:

65. In this context, it is important to differentiate between “claim”, “debt” and “default”. Each of these terms is separately defined as follows:

3. Definitions.—In this Code, unless the context otherwise requires—

* * *

(6) “**claim**” means—

(a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;

(b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured;

* * *

(11) “**debt**” means a liability or obligation in respect of a claim which is due from any

person and includes a financial debt and operational debt;

(12) “**default**” means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be;”

Whereas a “claim” gives rise to a “debt” only when it becomes “due”, a “default” occurs only when a “debt” becomes “due and payable” and is not paid by the debtor. It is for this reason that a financial creditor has to prove “default” as opposed to an operational creditor who merely “claims” a right to payment of a liability or obligation in respect of a debt which may be due. When this aspect is borne in mind, the differentiation in the triggering of insolvency resolution process by financial creditors under Section 7 and by operational creditors under Sections 8 and 9 of the Code becomes clear.

14. We need to first notice the objection raised by learned Counsel for the Respondent that Appeal filed by the RP is not maintainable. Reliance has been placed on the judgment of the Hon’ble Supreme Court dated 25.09.2023 in **Civil Appeal Nos.5985-6001 of 2023 in Regen Powertech Pvt. Ltd. vs. Giriraj Enterprises and Anr.** The Hon’ble Supreme Court in the above judgment made following observations:

“We are of the opinion that in view of the facts and circumstances, the Resolution Professional should not have filed the present appeals. The Resolution Professional should have maintained a neutral stand. It is for the aggrieved parties, including the Committee of Creditors of Regen Powertech Private Limited (RPPL) and Regen Infrastructure and Services Private Limited (RISPL), to take appropriate proceedings or file an appeal before this Court.

Recording the aforesaid, the present appeals preferred by the Resolution Professional are dismissed as not entertained.

If required and necessary, the Court can take assistance and ascertain the facts from the Resolution Professional, in case an appeal(s) is preferred by the Committee of Creditors or a third party.

Pending application(s), if any, shall stand disposed of.”

15. When we look into the above judgment of the Hon’ble Supreme Court, the judgment used the expression “...*in view of the facts and circumstances, the Resolution Professional should not have filed the present appeals...*”. Thus, the observation made by the Hon’ble Supreme Court confined to the facts and circumstances of that case and no such proposition was laid down that RP cannot file an Appeal.

16. From the facts of the present case, it is sufficient to notice that Adjudicating Authority in the impugned order has made observation that act of the RP is in excess and abuse of the powers and duties of a RP, conferred by the IBC and further the Adjudicating Authority directed that copy of the order be sent to the IBBI. The impugned order makes adverse observations and question the act of the RP in excess and abuse of power, we are of the view that RP was fully entitled to file an Appeal. Hence, the objection that Appeal was not maintainable at the instance of the RP, cannot be accepted.

17. We have noticed the difference between the concept of ‘claim’, ‘debt’ and ‘default’ as has been laid down by the Hon’ble Supreme Court in **Swiss Ribbons** (supra). The present is a case where issue which arose for consideration is as to whether claim filed by Respondent No.1 was

required to be verified and admitted by the RP or not. The directions issued by the Adjudicating Authority in paragraph 5 (ix) as extracted above to set aside email dated 13.07.2021 and 21.01.2021 directing the RP to reconsider the claim of Respondent No.1, in the light of the powers and functions envisaged under Section 18 and 25 of the Code and place the same before the CoC for approval. The order of the Adjudicating Authority, thus, is only for reconsideration of the claim. The Adjudicating Authority in the impugned order has not expressed any opinion on the nature of the claim of Respondent No.1 and category, under which the claim is required to be accepted. The first question which needs to be answered in the present Appeal is as to whether claim filed by Respondent No.1 was entitled to be verified and accepted by the RP or the claim was liable to be rejected on the ground that Respondent No.1 has not invoked the guarantee prior to insolvency commencement date. Learned Counsel for the Appellant in support of his submission has relied on judgment of this Tribunal in ***Company Appeal (AT) (Ins.) No.484 of 2023 – Ankur Kumar vs. Sustainable Agro-Commercial Financial Ltd.*** decided on 06.02.2025 by this Tribunal as well as judgment of the Hon'ble Supreme Court in ***China Development Bank*** (supra). Learned Counsel for the Respondent on the other hand placed heavy reliance on the judgment of the Hon'ble Supreme Court in ***China Development Bank*** and judgments of this Tribunal in ***M/s Edelweiss Asset Reconstruction Co. Ltd. vs. V. Mahesh and Anr. – Company Appeal (AT) (CH) (Ins.) No.226 of 2021*** decided on 13.12.2021; the judgment of this Tribunal in

Export Import Bank of India vs. Resolution Professional, JEKPL Pvt. Ltd. – Company Appeal (AT) (Ins.) No.304 of 2017 decided on 14.08.2018; and judgment of this Tribunal in **9M Corporation through its Proprietor vs. Naresh Verma and Ors. – (2021) SCC online NCLAT 504**. Before we come to the judgment of Hon’ble Supreme Court in **China Development Bank**, on which, both the parties have placed reliance, we need to notice the judgment relied by the Respondent.

18. In **Export Import Bank** (supra), this Tribunal held that the maturity of a claim or default of debt or invocation of guarantee has no nexus with filing of claim pursuant to public announcement. In paragraph 56, this Tribunal observed following:

“**56.** Therefore, we hold that maturity of claim or default of claim or invocation of guarantee for claiming the amount has no nexus with filing of claim pursuant to public announcement made under Section 13(1)(b) r/w Section 15(1)(c) or for collating the claim under Section 18(1)(b) or for updating claim under Section 25(2)(e). For the purpose of collating information relating to assets, finances and operations of Corporate Debtor or financial position of the Corporate Debtor, including the liabilities as on the date of initiation of the Resolution Process as per Section 18(1), it is the duty of the Resolution Professional to collate all the claims and to verify the same from the records of assets and liabilities maintained by the Corporate Debtor.”

19. To the same effect is the judgment of this Tribunal in **M/s Edelweiss Asset Reconstruction Co. Ltd.**, where this Tribunal in paragraph 25, laid down that maturity of a claim or default of debt, are

not guiding factors to be noticed for collating or updating the claims. In paragraph 25, this Tribunal observed as follows:

“25. We are in-agreement with the above decision. The Resolution Professional is required to maintain an updated list of all claims. The maturity of a claim or default of debt, are not the guiding factors to be noticed for collating or updating the claims.”

20. Now, we come to the judgment of the Hon’ble Supreme Court in **China Development Bank**, which has been relied by both the parties. The Hon’ble Supreme Court in the above case had occasion to consider whether default in payment of debt can be a reason for not accepting the claim in the CIRP of the CD. The Hon’ble Supreme Court in the above case, after noticing the definition of ‘claim’, ‘debt’ and ‘default’ as well as provisions of Contract Act, came to the conclusion that even if right cannot be enforced by reason of the applicability of the moratorium, the claim will still exist. It was held that whether the cause of action for invoking the guarantee has arisen or not is not relevant for considering the definition of claim. It is useful to extract paragraph 65 of the judgment, where following was laid down:

“65. Another argument was canvassed based on the definition of “claim” under section 3(6) of the Insolvency and Bankruptcy Code, 2016. If the right to payment exists or if a breach of contract gives rise to a right to payment, the definition of claim is attracted. Even if that right cannot be enforced by reason of the applicability of the moratorium, the claim will still exist. Therefore, whether the cause of action for invoking the guarantee has arisen or not is not relevant for considering the definition of claim.”

21. The above judgment clearly lays down that even if right cannot be enforced by reason of applicability of the moratorium, the claim will still exist. In the present case, the claim was filed by Respondent No.1, even though the guarantee was not invoked. The acceptance of consideration of such claim is, thus, clearly permissible as per the law laid down by the Hon'ble Supreme Court in paragraph 65 as noted above.

22. The judgment in **Ankur Kumar** (supra) relied by learned Counsel for the Appellant is the judgment where this Tribunal has taken the view that when the corporate guarantee was not invoked, the claim admitted in CIRP is not matured. In the above case, the Adjudicating Authority has allowed an IA filed by the Financial Creditor to accept the claim, which was allowed, against which the RP has filed an Appeal, which Appeal was allowed. In paragraphs 31 and 32 of the judgment, this Tribunal in **Ankur Kumar's** case laid down following:

“**31.** It is, thus, clear that no claim existed of the Respondent on the date of commencement of the CIRP process, hence, the said claim could not have been admitted in the process. Counsel for the Respondent submitted that prior to submitting the claim in Form C on 13.10.2021, it has sent letter dated 23.10.2020 which can be treated as claim which was required to be placed by the IRP before the CoC. We have found that the Respondent could not have been invoked the guarantee given by the corporate debtor on 18.09.2020. The said invocation cannot be base for any claim to be admitted in the CIRP it having not matured. It is not necessary for us to examine the contention that the claim of the Respondent has to be treated to have been filed on 23.10.2020 and not on 13.10.2021.

32. Coming to the order of the Adjudicating Authority impugned in the Appeal, it is to be noticed that the Adjudicating Authority has not even adverted to the ground raised in the reply by the IRP that the claim arises out of the guarantee invoked after initiation of the CIRP which ground was taken by the IRP in paragraph 3, as extracted above. Without adverting to the said ground the Adjudicating Authority has allowed the application which order cannot be sustained.”

23. We notice that judgment of the **Ankur Kumar** was delivered on 06.02.2025, whereas judgment of the Hon’ble Supreme Court in **China Development Bank** was delivered earlier on 20.12.2024 and the judgment of the Hon’ble Supreme Court in **China Development Bank** was neither placed before this Tribunal, nor noticed by this Tribunal in **Ankur Kumar’s** case. We, thus, need to follow the judgment of the Hon’ble Supreme Court in **China Development Bank** with respect to definition of ‘claim’ and the claim submitted by Respondent No.1

24. Now, coming to the observations made by the Adjudicating Authority in the impugned order regarding that RP has entered into adjudication of the claim. Suffice it to say that the RP under the CIRP Regulations, under Regulation 13, has a duty to verify every claim as on the insolvency commencement date. The RP, thus, for verification of the claim has to look into the nature of the claim, the basis of the claim, the fact that whether the RP has verified the claim or not, it cannot be said to be adjudication of the claim. The verification of claim is a statutory duty of the RP, enforced by Regulation 13. The decision of the RP to verify or not verify a claim, may be erroneous, but that cannot be said to be

adjudication of the claim by RP. The Adjudicating Authority has rightly held that RP has no adjudicatory function, which is the law laid down by the Hon'ble Supreme Court in **Swiss Ribbons**. We, thus, are of the view that the act of not verifying the claim by the RP and communicating email dated 13.07.2021 and 23.01.2021 giving reason for non-verification, cannot be said to be in excess and abuse of the duties of the RP. We, thus, are of the view that adverse observations made in paragraph 5(viii) against the RP, need to be deleted and further directions issued in paragraph 6(ii) forwarding copy of the order to IBBI is also needs to be deleted.

25. We have noticed that under paragraph 5(ix), which is the operative portion where the Adjudicating Authority directed the RP to reconsider the claim of the Applicant (Respondent No.1 herein), the Adjudicating Authority had neither entered into the nature of the claim of Respondent No.1 nor the quantification. We, thus, are of the view that the directions issued by Adjudicating Authority to reconsider the claim cannot be faulted in the facts of the present case and the law as noticed above and the RP has to carry out reconsideration of the claim of Respondent No.1 and take a decision. While entertaining the Appeal on 24.05.2024, we had only directed that no further steps shall be taken by IBBI in pursuance of the impugned order. In the Appeal there was no direction with regard to reconsideration of Respondent No.1's claim by the RP. We, thus, observe that in event the claim of Respondent No.1 has not yet been

considered, the same may be reconsidered as per directions of the Adjudicating Authority, in accordance with law.

26. In view of the foregoing discussions, we dismiss the Appeal, subject to deletion of the adverse observation made in the impugned order in paragraph 5(viii) as well as directions in paragraph 6(ii). Parties shall bear their own costs.

**[Justice Ashok Bhushan]
Chairperson**

**[Justice N. Seshasayee]
Member (Judicial)**

**[Arun Baroka]
Member (Technical)**

NEW DELHI

21st August, 2025

Ashwani