

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD



ITEM No.307
IA/370(AHM)2025
in
CP(IB) 175 of 2018

Under Section 60(5) IBC r/w Rule 11 NCLT

IN THE MATTER OF:

Swastik Ceracon Limited.
Through Its Authorised Signator Hiren Ramalal Patel
V/s
Mehsana Urben Co-Coperative Bank Ltd

.....Applicant

.....Respondent

Order delivered on: 30/10/2025

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, COURT-I, AHMEDABAD**

**IA/370(AHM)2025
in
CP(IB) No.175/9/AHM/2018**

In the Matter of: *Swastik Ceracon Limited*

Swastik Ceracon Limited, through
its Authorised Signatory Hiren Ramanlal Patel,
having its office at Survey No. 1071-74,
Nandasan-Mehsana Road, National Highway No. 8,
Kadi, Mehsana, Nandasan, Gujarat-380706.

...Applicant/SRA

VERSUS

Mehsana Urban Co-Operative Bank Limited,
having its office at Highway, Urban Bank Road,
Mehsana, Gujarat-324002.

Also at Vartali Complex, Smruti Krunj Society,
C.G. Road, Sawastik Cross Road,
Navrangpura, Ahmedabad, Gujarat-380009.

...Respondent/FC

Order Pronounced On: 30.10.2025

C O R A M :

**SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)**

A P P E A R A N C E:

For the Applicant/SRA: Mr. Tirth Nayak, Adv. Advocate.
Mr. Yashraj Champawat, Advocate.

For the Respondent/FC: Mr. Kamlesh Patel, Advocate.



O R D E R
(Hybrid Mode)

1. The present Interlocutory Application bearing No. IA/370/AHM/2025 has been preferred on 03.03.2025 by Swastik Ceracon Limited, the Successful Resolution Applicant (SRA) under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "Code" or "IBC") read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking the following reliefs: -

(A) *This Hon'ble Tribunal be pleased to direct the Respondent herein to refund and / or pay the Applicant herein an amount of Rs. 56,00,000/- or part thereof alongwith the interest calculated at the interest of 10 % per annum calculated from the date of remittance of amounts from the account of the Corporate Debtor till the date of actual payment or any such other amount that this Tribunal may deem appropriate;*

(B) *This Hon'ble Tribunal may be pleased to direct the Respondent herein to Close the account(s) held in the accounts of the Applicant and direct the Respondent to refund / pay an amount to the tune of Rs. 20,37,767.85ps. or part thereof along with appropriate interest thereon;*

(C) *This Hon'ble Tribunal may be pleased to pass any other and / or further orders.*

2. It is stated that Company Petition bearing No. **CP(IB) No.175/9/AHM/2018** was instituted by M/s. True Value Paper Co., an operational creditor, under Section 9 of the Code against Swastik Ceracon Limited as the Corporate Debtor. This Tribunal, vide its Order dated 15.01.2019, admitted the petition, declared a moratorium under Section



14 of the Code, appointed an Interim Resolution Professional, and directed the suspension of the Board of Directors of the Corporate Debtor. The moratorium prohibited, inter alia, the institution or continuation of any recovery proceedings against the Corporate Debtor, the transfer or encumbrance of its assets, and any action to recover dues during the CIRP period. A copy of the Order dated 15.01.2019 is annexed as Annexure-A to the Application.

3. Consequent to the initiation of CIRP on 15.01.2019, public announcements were made inviting claims from creditors in terms of Section 15 of the Code and Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as the "CIRP Regulations"). Various creditors, including financial and operational creditors, submitted their claims with requisite proofs. The Resolution Professional collated and verified these claims under Regulation 13 of the CIRP Regulations. The Committee of Creditors ("CoC") was constituted on 20.02.2019, comprising the following financial creditors with their respective voting shares:

- (i) Bank of Baroda (erstwhile Dena Bank) - 16.05%;
- (ii) State Bank of India - 21.65%;
- (iii) Indian Overseas Bank - 21.13%;
- (iv) Pegasus Assets Reconstruction Pvt. Ltd. - 27.72%;
- (v) Mehsana Urban Co-Operative Bank Limited (Respondent) - 9.90%;



(vi) Edelweiss Asset Reconstruction Company Ltd. - 2.49%;
and

(vii) Reliance Commercial Finance Limited - 1.06%.

4. The first CoC meeting was held on 02.03.2019, wherein the appointment of the Interim Resolution Professional as Resolution Professional was confirmed. Copies of the claims filed during the CIRP, including the Respondent's claim, are annexed as Annexure-B (Colly) to the Application.
5. The Respondent, as a financial creditor and member of the CoC, submitted its claim in Form C on 08.02.2019, quantifying the debt at Rs. 10,43,35,630.91ps. towards principal outstanding and interest. Notably, in the said Form C, at Serial No. 8 (Details of security held, the value of the security, and the date it was given), the Respondent did not disclose any security interest over the shares held by the Corporate Debtor in the Respondent Bank. Similarly, at Serial No. 7 (Details of any mutual credit, mutual debts, or other mutual dealings between the Corporate Debtor and the creditor which may be set-off against the claim), the entry was marked as "Not Applicable". The Resolution Professional verified the claim without any reference to such security or set-off rights. A copy of Form C dated 08.02.2019 filed by the Respondent is annexed as Annexure-B to the Additional Affidavit dated 20.09.2025.
6. Pursuant to the constitution of the CoC, the Resolution Professional published the first Invitation of Expression of Interest ("EoI") in Form G on 11.04.2019, in compliance with



Regulation 36A of the CIRP Regulations, in widely circulated English and vernacular newspapers, calling upon prospective resolution applicants to submit EoIs based on the Information Memorandum ("IM") detailing the assets and liabilities of the Corporate Debtor. Due to non-receipt of viable plans, the CoC, in its meeting held, directed the republishing of Form G, which was done on 13.07.2019. The extended CIRP period was approved by this Tribunal on 02.08.2019 in IA No. 457/AHM/2019.

7. The IM, prepared by the Resolution Professional in terms of Regulation 36 of the CIRP Regulations and issued during the CIRP, comprehensively outlined the financial position of the Corporate Debtor as on 15.01.2019 (the CIRP commencement date). In Part B (Mandatory Contents of Information Memorandum), at Serial No. 8 (Statutory Information as per Regulation 36 of CIRP Regulations), under (d) (List of Creditors and details of Security Interest, if any), the details of financial creditors were delineated, but no security interest was disclosed in favour of the Respondent over the shares or any other assets. Further, at (a) (Summary of Assets and Liabilities as on CIRP Date), under Annexure A-1 (Summary of Assets and Liabilities as on Commencement of CIRP i.e. 15.01.2019), II (Assets), (1) (Non-Current Assets), (b) (Non-Current Investments), the shares held by the Corporate Debtor in the Respondent Bank were explicitly listed as an admitted asset/investment of the Corporate Debtor, valued appropriately, without any notation of



encumbrance or charge. The IM was prepared based on information furnished by the Corporate Debtor and verified claims, underscoring the absence of any purported statutory charge under Sections 55 or 56 of the Multi-State Co-Operative Societies Act, 2002. A copy of the Information Memorandum is annexed as Annexure-A to the Additional Affidavit dated 20.09.2025.

- 8.** Following the publication of EoIs and issuance of Request for Resolution Plans, three resolution plans were received from prospective applicants: (i) M/s. Gabon Seramik Pvt. Ltd.; (ii) M/s. Thirdeye Tradelink Pvt. Ltd. and others; and (iii) M/s. Ajita Sil-Chem Pvt. Ltd. These plans were deliberated by the CoC in its meetings. In the 9th CoC meeting held on 05.02.2020, the plan submitted by M/s. Gabon Seramik Pvt. Ltd. was approved with 90.44% voting share, leading to the filing of IA No. 722/AHM/2019 for approval. However, objections were raised by an unsuccessful applicant in IA No. 97/AHM/2020 regarding eligibility under Section 29A of the Code, prompting the CoC to withdraw IA No. 722/AHM/2019.
- 9.** This Tribunal, recognizing the potential for resolution, directed the CoC and Resolution Professional vide Order dated 15.07.2020 in IA No. 97/AHM/2020 to consider the remaining plans, including that of M/s. Ajita Sil-Chem Pvt. Ltd., excluding the litigation period from the CIRP timeline. In the CoC meeting held on 05.05.2021, the Resolution Plan submitted by the Applicant (M/s. Ajita Sil-Chem Pvt. Ltd.)



was approved with the requisite majority under Section 30(4) of the Code. The Plan proposed a total payout of Rs. 51,00,00,000/- within 360 days from the Effective Date against full and final settlement of all liabilities, including CIRP costs (Rs. 25,00,000/- under Section 30(2)(a)), operational creditor dues (Rs. 2,44,000/- or 0.10% of admitted claims under Section 30(2)(b)), and admitted financial creditor claims per the waterfall mechanism under Section 53. The Plan further provided for a Monitoring Committee for implementation oversight. No carve-out was made for any undisclosed set-off or security over shares/dividends or fixed deposits.

10. Notices of the approval application (IA No. 428/AHM/2021) were issued to the suspended management and statutory authorities, including the Income Tax Department, none of whom objected. Objections raised by the unsuccessful applicant in IA No. 847/AHM/2021 regarding Section 29A eligibility were rejected by this Tribunal vide Order dated 20.06.2022. The Resolution Plan was approved by this Tribunal on 20.06.2022, noting compliance with Section 30(2), including priority to CIRP costs, fair treatment to operational creditors (vis-a-vis liquidation value of Rs. 58,78,00,000/- and fair value of Rs. 118,50,00,000/-), and management/control provisions under Part K of the Plan. The Effective Date of the Plan is 17.09.2022, upon which the Applicant assumed control of the Corporate Debtor, extinguishing all pre-CIRP liabilities not addressed in the



Plan under Section 32A of the Code. A copy of the Order dated 20.06.2022 is annexed as Annexure-D to the Application.

- 11.** Despite the moratorium and subsequent Plan approval, the Respondent effected unauthorised adjustments from the share and dividend account of the Corporate Debtor as under: -

Sr. No.	Account Holder Name/Corporate Debtor Name	Account in which amount recovered	Account Number	Date of Transfer	Amount (In Rs.)	Remarks
1.	Swastik Ceracon Ltd	Term Loan	00015014000091	15.07.2019	5,25,000	Dividend
2.	Swastik Ceracon Ltd	Term Loan	00015014000091	02.08.2021	5,25,000	Dividend
3.	Swastik Ceracon Ltd	Term Loan	00015014000091	18.07.2022	5,25,000	Dividend
4.	Swastik Ceracon Ltd	Term Loan	00015014000091	01.06.2023	5,25,000	Dividend
5.	Swastik Ceracon Ltd	Term Loan	00015014000110	29.08.2023	35,00,000	Share
6.				Total	56,00,000	

aggregating Rs. 56,00,000/-, purportedly towards set-off against pre-CIRP dues. Additionally, the Respondent withheld fixed deposits/margin money aggregating approximately Rs. 20,37,767.85ps. against Bank Guarantees issued by it on behalf of the Corporate Debtor, which were invoked by beneficiaries between 21.04.2018 and 23.05.2018 (pre-CIRP), with the claim period having expired post-invocation. These fixed deposits were maintained as collateral under the sanction terms for Bank Guarantee facilities but



were not invoked or adjusted during CIRP, and no claim for retention was filed by the Respondent.

- 12.** The Applicant, upon assuming control on 17.09.2022, sought reconciliation and release of these amounts vide letters dated 07.06.2024, highlighting the violations. The Respondent, in its reply letter dated 30.09.2024, justified the adjustments under Sections 55 and 56 of the Multi-State Co-Operative Societies Act, 2002, claiming a statutory first charge over shares and dividends, and denied any violation of Section 14 of the Code, asserting that shares in a multi-state co-operative society are not "assets" under the Code. Copy of the letter dated 30.09.2024 is annexed to the Reply of the Respondent.
- 13.** That on issuance of the notice in the I.A., the Respondent appeared and filed an Affidavit in Reply dated 02.05.2025, denying the Applicant's claims in toto and raising preliminary objections on maintainability. The Respondent inter-alia contended that: -

 - (i) This Tribunal lacks jurisdiction under Section 60(5) of the Code, as the dispute is an independent civil/commercial matter between a member (Corporate Debtor) and a multi-state co-operative society (Respondent), amenable only to arbitration under Section 84 of the Multi-State Co-Operative Societies Act, 2002, and not arising solely from CIRP;



- (ii) Post-Plan approval on 20.06.2022, the Applicant ceased to be the "Corporate Debtor," divesting this Tribunal of jurisdiction for post-CIRP disputes unrelated to Plan implementation;
- (iii) The Resolution Professional waived any claim to shares/dividends by not pursuing them during CIRP (Regulation 13 CIRP Regs. binds verification; no waiver implied (Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta (2021) 7 SCC 209, para 45, affirming RP's verification binds parties);
- (iv) Sections 55 and 56 of the Multi-State Co-Operative Societies Act, 2002, confer a statutory first charge on shares/dividends for recovery of dues, rendering them immune from attachment or sale under insolvency laws, and shares do not qualify as "assets" under Section 3(37) of the Code (referencing definitions under Section 2(84) of the Companies Act, 2013, and Section 2(h) of the Securities Contracts (Regulation) Act, 1956); and
- (v) no violation of Section 14 of the Code occurred, as adjustments were lawful exercises of statutory rights, not "recovery proceedings." The Reply further averred that the Application was filed with unclean hands, suppressing material facts. A copy of the Reply dated 30.09.2024 to the Letter of the Applicant dated 07.06.2024 is annexed as Annexure-R/1 with the Reply.



- 14.** The Applicant also filed a Rejoinder Affidavit dated 09.07.2025, traversing the averments in the Reply seriatim. The Applicant reiterated that the subject matter directly arises from CIRP and ineffective implementation of the Resolution Plan, invoking jurisdiction under Section 60(5)(c) of the Code. It denied suppression of facts, terming the Respondent's plea as bald and unsubstantiated. The Applicant emphasized that deductions during CIRP (e.g., 15.07.2019 and 02.08.2021) violated the moratorium under Section 14; post-Plan adjustments (18.07.2022 onwards) breached Section 32A, extinguishing pre-CIRP liabilities; the IM and Form C confirm no security/set-off was disclosed, precluding any statutory charge under the Multi-State Co-Operative Societies Act, 2002; and fixed deposits against expired Bank Guarantees are refundable assets under Section 18 of the Code, with no continuing liability on the Applicant.
- 15.** To fortify its case, the Applicant also filed an Additional Affidavit dated 18.09.2025, placing on record the IM as Annexure-A and Form C as Annexure-B to underscore the non-disclosure of security or set-off, essential for holistic adjudication.
- 16.** The Applicant also filed Written Submissions dated 28.08.2025, elaborating the chronology, legal provisions violated (Sections 14, 32A, and 238 of the Code), and reliance on precedents such as *Bharti Airtel Ltd. and Anr. v. Vijaykumar V. Iyer and Ors.*, (2024) 4 SCC 668, decided on



03.01.2024 (extracts on insolvency set-off requiring mutuality and pre-CIRP disclosure, moratorium prohibiting post-commencement adjustments), Indian Overseas Bank vs. Arvind Kumar reported in 2020 SCC Online NCLAT 669 (on moratorium barring post-commencement appropriations) and Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta reported in (2021) 7 SCC 209.

- 17.** The Respondent filed Written Submissions dated 20.08.2025, reiterating maintainability objections, citing Bhaskar Gopal Shetty (RP of Mirage Ceramics Pvt. Ltd.) v. Abhyudaya Co-Operative Bank Ltd., IA No. 3788/MB/2022 (NCLT Mumbai) for immunity of co-operative shares from insolvency attachment, and arguing post-CIRP waiver by the Resolution Professional, Ajit Kumar Vs Suspended Board of Director & Ors. in IA(IBC)No.231/JPR/2019 in TA(IBC)No. 707/PB/2018 (NCLT Jaipur) and Embassy Property Developments Pvt. Ltd. v. State of Karnataka, (2020) 13 SCC 308 (NCLT jurisdiction for fraud/Plan implementation).
- 18.** The Applicant supplemented its arguments with List of Judgments Vol-I dated 20.09.2025 (including Indian Overseas Bank v. Consortium of GSECL and Rakesh Shah, Company Appeal (AT) (Insolvency) No. 943 of 2024, (2025) ibclaw.in 640 NCLAT, decided on 21.08.2025), Copy of Order dated 18.06.2024 passed in I.A. No. 883 of 2024 in C.P. (IB) No. 39 of 2021 in the matter of Uttar Gujarat Vij Company Limited vs. Shri Pradeep Kumar Kabra dated 18.06.2024 and Vol-II dated 04.10.2025 (including Damodar Valley



Corporation v. Mackeil Ispat & Forging Ltd., Company Appeal (AT) (Insolvency) No. 1663 of 2023, NCLAT, (2025) ibclaw.in 90 NCLAT, decided on 06.02.2025), Copy of Judgement in Company Appeal (AT) (Ins) No. 1258 of 2023 in the matter of Punjab State Power Corporation Ltd. v. Akums Lifesciences Ltd., (2025) ibclaw.in 150 NCLAT, decided 25.02.2025.

- 19.** The matter was listed for final hearing on 01.10.2025, where learned counsel for both parties advanced detailed oral arguments. The Applicant emphasised the overriding effect of the Code under Section 238 and the extinguishment of claims; the Respondent reiterated jurisdictional bars and statutory protections under the Multi-State Co-Operative Societies Act, 2002. After hearing, judgment was reserved on 01.10.2025.
- 20.** Upon meticulous analysis of the pleadings, documents, and submissions, the following issues crystallize for adjudication:
- (i) Whether this Tribunal possesses jurisdiction under Section 60(5) of the Code to entertain and decide the Application, particularly post-approval of the Resolution Plan on 20.06.2022?
 - (ii) Whether the adjustments/set-offs effected by the Respondent from the share/dividend account (aggregating Rs. 56,00,000/-) during CIRP (15.07.2019 and 02.08.2021) and post-Plan (18.07.2022, 01.06.2023, and 29.08.2023) violate the moratorium under Section 14 of the Code and/or the extinguishment provisions under Section 32A of the Code?
 - (iii) Whether the shares held in the Respondent qualify as "assets" of the Corporate Debtor under Section 18 read



with Section 3(37) of the Code, protected during CIRP and transferable to the Applicant upon Plan implementation, and whether the fixed deposits/margin money against expired Bank Guarantees (invoked pre-CIRP) is refundable? and

(iv) What reliefs, if any, are to be granted to the Applicant?

21. Addressing the Issue No.(i):

- (a) Section 60(5)(c) of the Code vests this Tribunal with exclusive jurisdiction to adjudicate "any question of law or fact, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor." The Respondent's adjustments directly impinge upon the assets of the Corporate Debtor as identified in the IM (shares as non-current investments), deplete the estate during moratorium (15.07.2019 adjustment), and hinder Plan implementation post-Effective Date (17.09.2022), where the Applicant is obligated to maximize asset value under Section 30(2)(e).
- (b) This is not a freestanding member-society dispute under Section 84 of the Multi-State Co-Operative Societies Act, 2002, but intrinsically linked to CIRP outcomes. The Respondent's reliance on post-CIRP status is untenable, as Section 32A preserves NCLT jurisdiction for enforcement of Plan terms against antecedent claims, ensuring finality (**Gujarat Urja Vikas Nigam Ltd. v. Mr. Amit Gupta, (2021) 7 SCC 209** [also reported at (2021) ibclaw.in 44 SC], wherein held that "The residuary jurisdiction of the NCLT



under Section 60(5)(c) of the IBC provides it a wide discretion to adjudicate any question of law or fact arising in relation to the insolvency resolution... overriding other laws via Section 238”).

- (c) ***In Embassy Property Developments Pvt. Ltd. v. State of Karnataka (supra)***, the Hon'ble Supreme Court affirmed NCLT's role in inquiring into Plan-related fraud/liabilities, extending to post-approval enforcement. The Respondent cited the NCLT Mumbai order in Bhaskar Gopal Shetty (supra) is per incuriam, predating these binding precedents, and factually distinguishable (no IM listing of assets). Jurisdiction is affirmed.

22. On the Issue No.(ii):

- (a) The moratorium under Section 14(1)(a) and (c) of the Code, effective from 15.01.2019, interdicts "the institution or continuation of suits or proceedings for recovery of any debt due from the corporate debtor" and "transfer, encumbrance or disposal of any asset of the corporate debtor." The adjustment of the Dividend amount on 15.07.2019, constitutes a prohibited recovery/encumbrance during CIRP, as no prior disclosure of set-off was made in Form C filed by the Respondent with the IRP or the Information Memorandum prepared by the RP and submitted to the CoC [Regulation 36 of IBBI (Resolution Process for Corporate Persons), Regulations 216], precluding any set-off under general law or insolvency process (as affirmed in Bharti



Airtel Ltd. and Anr. v. Vijaykumar V. Iyer and Ors., 4 SCC 668). We note that CoC included the Respondent.

- (b) The subsequent adjustment on 02.08.2021, within extended CIRP, similarly contravenes. Post-approval adjustments (18.07.2022 onwards of Dividend & share amount) violate Section 32A, which immunizes the Applicant from pre-CIRP criminal/civil liabilities upon Plan implementation, extinguishing unaddressed claims (the Plan settled all admitted claims for Rs. 51,00,00,000/-, with Respondent's verified claim limited to Rs. 10,43,35,630.91ps sans set-off).
- (c) The Corporate Debtor made an investment in the shares of the Respondent and the same was accounted as an asset in the financial statement of the Corporate Debtor. The information about these investments was part of the Information Memorandum. The IM is submitted to the Committee of Creditors of which the Respondent was a member. The Resolution Applicant submits a resolution plan considering the various information provided to it in the IM.
- (d) Section 238's non-obstante clause overrides Sections 55-56 of the Multi-State Co-Operative Societies Act, 2002, which cannot sustain post-moratorium recoveries (***Bharti Airtel Ltd. and Anr. (supra)***, paras 17-20: "Insolvency set-off mitigates paripassu but requires disclosure; post-CIRP adjustments impermissible without mutuality, depleting estate contrary to Code's objectives"). The Resolution Professional's non-pursuit does not waive rights; claims



verification binds all parties (Regulation 13). Thus, violations are established for share/dividend adjustments.

23. Regarding Issues No.(iii):

- (a) Section 18 of the Code vests the Resolution Professional with control over all assets, including "assets under the ownership or control of the corporate debtor" as defined in Section 3(37) (encompassing investments, intangibles). Shares in the Respondent, listed in IM as non-current investments (Annexure A-1), qualify unequivocally as an asset, notwithstanding definitional exclusions under the Companies Act/SCRA (IBC's inclusive scope prevails).
- (b) However, as regards fixed deposits/margin money (Rs. 20,37,767.85ps.) against pre-invoked Bank Guarantees (21.04.2018-23.05.2018), the NCLAT in ***Indian Overseas Bank v. Consortium of GSEC Ltd. and Rakesh Shah and Anr., (2025) ibclaw.in 640 NCLAT***, Company Appeal (AT) (Insolvency) No. 943 of 2024, decided on 21.08.2025, held that upon invocation of Bank Guarantees prior to CIRP, the margin money ceases to form part of the Corporate Debtor's estate and is not subject to the moratorium under Section 14. The margin money is utilized by the bank towards payment to the beneficiary, leaving no scope for reversal or refund to the borrower/Corporate Debtor. The said judgment struck down the direction for reversal of adjusted margin money, affirming the bank's right to retain/utilize it post-pre-CIRP invocation.



- (c) Therefore, applying the aforesaid ratio, the fixed deposits/margin money here, against pre-CIRP invoked Bank Guarantees, do not qualify as protected assets under the Code and are not refundable to the Applicant. Hence, the shares are protected assets under the Code and are thus refundable under Section 18(f) IBC. However, the margin money is not protected and is not refundable.

24. On Issue No.(iv):

- (a) In light of the above comprehensive analysis, the Application merits partial allowance. The Respondent's adjustments from the share/dividend account are declared void.

25. Accordingly, the Application filed by the Applicant/SRA qua **Prayer (A)** is allowed, directing the Respondent to: -

- (A) Refund Rs. 56,00,000/- with 10% p.a. interest from respective adjustment dates (15.07.2019, 02.08.2021, 18.07.2022, 01.06.2023, 29.08.2023 till payment, within 45 days;
- (B) "No relief qua **Prayer (B)** is granted as regards closure of the account(s) and refund/pay an amount to the tune of Rs. 20,37,767.85ps. or part thereof along with appropriate interest thereon on fixed deposits/margin money against pre-invoked Bank Guarantees, as upheld in Indian Overseas Bank v. Consortium of GSECL and Rakesh Shah. (supra).



26. The Interlocutory Application bearing No. **IA/370/AHM/2025** in CP(IB) No.175/9/AHM/2018 is ***partly allowed*** in the aforesaid terms and stands disposed of. No order as to costs.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)