

**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-I**

**IA 2259 of 2024 & IA 1041 of 2025  
IN  
CP (I&BP)/ 1061 (MB) 2017**

Under Section 60(5) of the Insolvency and  
Bankruptcy Code, 2016.

Ahluwalia Contracts (India) Limited  
...Applicant

Vs.

Maharashtra Housing and Area  
Development Authority

... Respondent 1

Mr. Rajendra K. Bhuta,

... Respondent 2

**In the matter of**

Company Petition No. 1061 of 2017,  
Under Section 7 of the Insolvency and  
Bankruptcy Code, 2016.

Union Bank of India

... Financial Creditor

Vs.

Guruashish Construction Private Limited

...Corporate Debtor

***Order delivered on: 18.12.2025***

***Coram :***

**Shri. Prabhat Kumar**  
Hon'ble Member (Technical)

**Shri Sushil Mahadeorao Kochey**  
Hon'ble Member (Judicial)

***Appearances:***

For the Applicants : M/s. Khaitan Legal Associates  
For the Respondent 1 : Adv. Jaya Joil-Bagwe  
For the Respondent 2 : Adv. Darryl Pereira

**ORDER**

1. The Interlocutory application has been filed in Company Petition No. 1061 of 2017 under section 60(5) of the Insolvency and Bankruptcy Code of India, 2016 ("**IBC**") read with Rule 11 of the National Company Law Tribunal Rules, 2016 by Ahluwalia Contracts (India) Limited (herein referred as "Applicant/Contractor") against Maharashtra Housing and Area Development Authority ("Mhada") and Mr. Rajendra K. Bhuta (herein referred as Liquidator) in the Liquidation Process of Guruashish Construction Private Limited. The Applicant has prayed for following :

- a. *The Applicant seeks directions against the Liquidator to pay Rs. 7,64,77,946/- (Rupees Seven Crore Sixty-Four Lakh Seventy-Seven Thousand Nine Hundred Forty-Six Only) along with 18% per annum interest from the date of such order till realisation thereof, representing the cost of replacement of the machinery that has been illegally and wrongfully auctioned off;*
- b. *Compensation for Loss Due to Unavailability of Machinery: The Applicant seeks directions against MHADA to pay Rs. 12,74,63,243/- (Twelve Crore Seventy-Four Lakh Sixty-Three Thousand Two Hundred Forty-Three Only) along with 18% per annum interest from the date of such order till realisation thereof on account of loss suffered by the Applicant due to the unavailability of the machinery and material over the extended period during which they were wrongfully withheld.;*

- c. In the Applicant's earlier Interlocutory Application No. 2259 of 2024, filed immediately upon learning that its machinery may have been wrongfully auctioned, the Applicant specifically sought two principal reliefs. First, it sought directions to the Respondents to disclose the complete status of its machinery and to permit immediate access to the work sites at Siddharth Nagar Sectors R-3, R-4, R-5, and R-10, Patra Chawl, Goregaon (West), Mumbai-400062, for the purpose of identifying and retrieving its equipment and materials;*
- d. Second, recognizing the possibility that the machinery may have already been disposed of, the Applicant sought consequential directions that, if the Respondent had auctioned or otherwise alienated the Applicant's machinery, the Respondent be ordered to pay the full replacement cost of such machinery and materials, together with interest at the rate of 18% per annum, on account of the wrongful and unauthorized auction of the Applicant's property.*
2. The Applicant is the Ahluwalia Contracts (India) Limited who was awarded multiple Work Orders between 2010 and 2013 by the Corporate Debtor, for execution of civil and finishing works across Sectors 3, 4, 5, 9 and 10 pursuant to JDA between MHADA, the Society and Guruashish Construction Pvt. Ltd. ("Corporate Debtor"). Respondent no 1 MHADA is an undertaking of the Government of Maharashtra. Respondent no 2 is Mr. Rajendra K. Bhuta, Liquidator of the Corporate Debtor.
3. The Applicant had filed earlier an IA 2259 of 2024 which has been made Exhibit A in the present Application and the prayer B and C therein is identical to prayer A and B herein, except that the Applicant has sought relief against the Liquidator

Respondent No.1 in IA 1041 of 2025, which was earlier claimed against the Respondent No.2 in IA 1041 of 2025. Besides the prayer for direction to MHADA (i) for disclosure of status of Applicants machinery in R-3, R-4 R-5, and R-10 work sites and (ii) and payment of cost towards the legal expenses incurred by the Applicant in IA 2259 of 2024 has been made for direction against the Liquidator as well as MHADA.

**Background of the case**

4. On 10 April 2008, MHADA, Goregaon Siddharth Nagar Graha Nirman Sanstha Ltd ( “the Society”) and Guruashish Construction Pvt. Ltd.(“Corporate Debtor”), the Corporate Debtor, executed a Tripartite Joint Development Agreement (“JDA”) granting the Corporate Debtor a licence to enter the land admeasuring about 47 acres belonging to MHADA solely for the purpose of carrying out redevelopment, rehabilitation of tenants and construction of the free-sale component. Pursuant to this JDA, the Corporate Debtor issued multiple Work Orders between 2010 and 2013 to the Applicant, Ahluwalia Contracts (India) Ltd., for execution of civil and finishing works across Sectors 3, 4, 5, 9 and 10.
5. It is stated that, acting upon these Work Orders, the Applicant mobilised heavy machinery, shuttering plates, scaffolding, centring materials, generators and various specialised construction equipment, all of which were owned exclusively by the Applicant and deployed at the respective Work Sites.
6. On 24 April 2017, MHADA issued a termination letter to the Corporate Debtor unilaterally terminating the JDA owing to non-performance. The Applicant asserted that they were never informed of this termination either by MHADA or by the Corporate Debtor, despite its equipment remaining deployed

across several sectors. Soon thereafter, on 24 July 2017, this Tribunal admitted the Corporate Debtor into Corporate Insolvency Resolution Process (“CIRP”) on a Section 7 petition filed by Union Bank of India, appointing Mr. Rajendra K. Bhuta as the IRP. After termination of the JDA, MHADA issued a further letter dated 12 January 2018 directing handover of possession of the Work Sites. The IRP informed to Mhada on 15 January 2018 that no coercive steps can be taken because of the moratorium, and subsequently filed MA 137/2018 seeking protection of the Work Sites for directions in terms of Section 14(1)(d). This Tribunal dismissed the application on 2<sup>nd</sup> April 2018, holding that the land belonged exclusively to MHADA and was not an asset of the Corporate Debtor, which was upheld by NCLAT on 14 December 2018.

7. During this period, the Applicant’s machinery continued lying at the Work Sites, but the Applicant was denied access to retrieve them. On 14 May 2019, the Applicant wrote to MHADA seeking permission to remove its equipment, but received no response. While the dispute regarding the land was pending before the Supreme Court, the Supreme Court on 19 February 2020 held that the moratorium under Section 14 applies even to third-party property in possession of the Corporate Debtor.
8. Meanwhile, the Corporate Debtor was ordered into liquidation by this Tribunal on 4 September 2020 and the Liquidator was appointed to perform the duties under Sections 35, 36 and 38–40 of the IBC. MHADA filed an application IA 2333/2020 asserting exclusive ownership and the Liquidator filed IA 2377/2020 for inclusion of said plot of land as liquidation estate. The Applicant also filed IA 551/2021 seeking directions

for access, in view of continued obstruction in retrieving its machinery from the site.

9. During hearings of that application, MHADA, through its advocate, assured the Tribunal that the Applicant would be permitted access. However, permission was granted only on 3 February 2022 for Sector R-9, enabling removal of only part of the equipment. The Applicant consistently followed up for permission to enter other sectors R-3, R-4, R-5 and R-10—but access was repeatedly denied, leading to continued detention of its machinery. On 21 April 2022, MHADA issued a reminder to remove remaining items by 28 April 2022; the Applicant responded the same day stating that all its materials had already been removed except steel reinforcement, which was subsequently cleared.

10. On 10 February 2023, this Tribunal decided the cross-applications, rejecting the Liquidator's claim and holding that the entire 47-acre land belongs exclusively to MHADA and does not form part of the liquidation estate. The Liquidator wrote to MHADA on 24 March 2023, 5 September 2023 and 26 September 2023 seeking access to locked rooms in Sector R-10 to inspect materials allegedly belonging to the Corporate Debtor. The Liquidator conducted inspections, prepared an inventory and thereafter treated the machinery lying at the site—including machinery claimed by the Applicant—as assets of the Corporate Debtor.

11. On 10 November 2023, during a routine visit to the site, the Applicant's representative was orally informed that the machinery lying at the Work Sites had been auctioned. The

Applicant immediately initiated correspondence seeking clarification, but received no meaningful response, compelling it to issue a legal notice dated 21 December 2023 to both Respondents.

12. On 27 August 2024, MHADA filed its reply in IA 2259/2024 and disclosed for the first time that the Liquidator had inventoried, treated the equipment as assets of the Corporate Debtor, and auctioned them to M/s Gaurav Worldwide Trading Pvt. Ltd.

13. The present Application has therefore been filed by the Applicant seeking directions permitting access to the Work Sites to recover its machinery and construction equipment and seeking consequential reliefs for the wrongful detention and unauthorized auction of its property.

14. The Applicant states that both Respondents are jointly and severally liable for the losses, damages, and prejudice suffered by the Applicant. Respondent No.1 (MHADA) is liable for the prolonged illegal detention of the Applicant's Machinery and Material, deliberate concealment of critical facts regarding its status, and facilitation of the unauthorized auction by Respondent No.2. Respondent No.2 is liable for the unauthorized inspection, inventory preparation, and auction of the Applicant's property, suppression of material facts before this Hon'ble Tribunal, and dereliction of statutory duties under the Insolvency and Bankruptcy Code, 2016. The acts and omissions of both Respondents have caused the Applicant significant financial loss, operational disruption, and irreparable harm.

**Submissions on behalf of Applicant**

15. The Applicant submits that the Liquidator acted wholly without jurisdiction in purporting to auction plant, machinery and materials that did not belong to the Corporate Debtor. Under Section 36(3) of the Insolvency and Bankruptcy Code, 2016, only assets “owned by the corporate debtor” can form part of the liquidation estate, and Section 36(4) expressly excludes third-party assets. The machinery belonging to ACIL never vested in the Corporate Debtor and therefore could not have been included in the liquidation estate. Consequently, the auction of such third-party property was patently illegal, void and beyond the authority of the Liquidator.
16. The Applicant submits that the Liquidator’s defence that due diligence was undertaken is contradicted by his own affidavits and documents. The Valuer’s list contains 16 items, the Liquidator’s list of auctioned items contains 38 items, and PECL’s list contains 29 items. These conflicting inventories expose the complete absence of verification and the arbitrary manner in which assets were identified and sold. The mismatch in number, description and valuation shows that ACIL’s machinery was mixed with PECL’s materials and wrongly included in the auction. Such conduct violates Regulation 32 of the Liquidation Regulations and demonstrates gross negligence in the discharge of statutory duties.
17. The Applicant further submitted that the Liquidator was fully aware of ACIL’s presence and machinery at the site. ACIL had been deployed as a subcontractor under valid work orders issued by Guruashish, which was well within the knowledge of MHADA and necessarily within the knowledge of the

Liquidator. MHADA had already coordinated with ACIL for removal of ACIL's machinery from Sector R-9 pursuant to the withdrawal order dated 21 January 2022. Removal of third-party assets from the project site requires the Liquidator's knowledge and consent, and it is not open for the Liquidator to claim ignorance of ACIL's machinery while permitting identical removals at an adjacent sector. The plea of lack of awareness is an afterthought and factually false.

18. The Liquidator's entire stand is built on the erroneous assumption that all machinery lying at Sector R-10 belonged to PECL. This assumption is unsustainable because ACIL had separately mobilised its own machinery under its own work orders, and the description and valuation of several auctioned items correspond exclusively to ACIL's equipment. Moreover, PECL's own correspondence lists only 29 items, while the Liquidator claims to have auctioned 38 items, indicating that several items sold did not belong to PECL at all. The Liquidator therefore proceeded on a fundamentally incorrect premise, rendering the entire auction process void.

19. The Applicant submits even if the Liquidator had a lien over PECL's assets for unpaid dues, such lien cannot extend to property belonging to a third party. A lien cannot legally attach to assets never owned by, nor in possession of, the Corporate Debtor in its own right. Moreover, the project site at Sector R-10 was under the control of MHADA, and the Corporate Debtor did not exercise exclusive possession. The assertion that the Liquidator could lawfully retain or auction ACIL's assets on the basis of a lien is legally untenable and contrary to settled principles of law.

20. The Applicant submits that MHADA's conduct directly contributed to the loss suffered by ACIL. MHADA terminated JDA with Guruashish without notifying ACIL, denied ACIL physical access to Sector R-10, and required ACIL to coordinate exclusively with MHADA for retrieval of assets. MHADA was fully aware that ACIL's machinery remained at the site, as evidenced by the extensive correspondence relating to retrieval from Sector R-9. By preventing access and subsequently allowing the Liquidator to treat the equipment as unclaimed property, MHADA enabled the wrongful sale and is jointly responsible for the loss.
21. The Applicant submits that even assuming that the sale occurred under a mistaken impression, the Liquidator cannot retain the proceeds of the sale of property that did not belong to the Corporate Debtor. The doctrine of restitution requires restoration of the full value of the property wrongfully auctioned. Neither the Liquidator nor the liquidation estate can be unjustly enriched at the expense of ACIL. The value realised from such sale, or the replacement value of the machinery whichever is higher and must be restored to ACIL along with consequential losses arising from deprivation of the equipment essential to its contractual operations.
22. The Applicant submits that the Liquidator's repeated invocation of "value maximisation" is wholly misplaced. Value maximisation applies only to assets forming part of the liquidation estate. Third-party assets cannot be sold to augment liquidation value, and the Liquidator has no statutory or equitable authority to treat such assets as part of the liquidation process. ACIL has suffered loss of machinery worth approximately Rs. 7.64 crores and consequential losses of Rs.

12.74 crores due to the inability to utilise the machinery in ongoing projects. These losses flow directly from the restrictive conduct of MHADA and the wrongful auction carried out by the Liquidator. ACIL is therefore entitled to full compensation for the value of its machinery and consequential losses.

**Submissions on behalf of respondent no. 2– Liquidator**

23. The Liquidator submits that the present IA is wholly misconceived, as the Applicant seeks to shift responsibility to the Liquidator for alleged loss of machinery that the Applicant never identified, never claimed, and never proved at any point during the CIRP or the liquidation process. After MHADA terminated the JDA in 2018, the entire Work Site remained exclusively under MHADA's control and not under the custody or supervision of the Liquidator.
24. When liquidation commenced on 04.09.2020, the Liquidator issued public notices inviting claims in accordance with Regulation 12. The Applicant, despite having every opportunity, did not file a single claim relating to any machinery, nor did it provide any list, documentary proof of ownership, invoices, delivery challans, inspection reports, or inventories related to its machinery situated at R-10. At every stage the Applicant remained silent, thereby waiving any alleged rights.
25. The Liquidator submits that records further shows that the Applicant independently approached MHADA, obtained permission, and retrieved whatever machinery it claimed to own by filing IA 551/2021, which was withdrawn on 21.01.2022 after the retrieval from R-9 was completed. At that time, the Applicant did not record any protest, objection, or

allegation of missing items, thereby creating a presumption that the retrieval was complete and satisfactory.

26. In contrast, Petron Engineering Construction Ltd. (PECL), another contractor and a debtor of the Corporate Debtor, repeatedly submitted inventories and ownership documents from 2017 onwards. PECL's list dated 27.11.2017, correspondence of 11.01.2021, and repeated claims to the RP clearly established that the machinery lying at Sector R-10 belonged exclusively to PECL. Since PECL owed ₹8.86 crore to the Corporate Debtor, the Liquidator lawfully exercised lien under the Contract Act and treated PECL's machinery as forming part of the liquidation estate.

27. The Liquidator verified PECL's inventory, issued public auction notices, conducted an open auction on 22.07.2023, and sold only those assets that were clearly identified as liquidation estate assets. The Applicant never objected to these notices or the auction process, despite multiple public publications.

28. The Applicant has produced a self-created "Annexure C," which is entirely unverified and was never submitted during CIRP or liquidation. This document contradicts MHADA's affidavit, which confirms that the Applicant had already lifted its machinery in 2022. The belated attempt to introduce this fabricated list after completion of auction and near completion of dissolution proceedings is a clear attempt to derail the liquidation process.

29. The Liquidator relies on the judgment of the Hon'ble NCLAT in *Reliance Realty Ltd. v. Anup Kumar (Liquidator) & Anr.*, (2025) ibclaw.in 877 (NCLAT), particularly paragraphs 14, 20, 21, 26, 33, 34 and 35, where the Tribunal held that silence during CIRP and liquidation amounts to acquiescence, that the

burden of proving ownership of assets lies entirely on the party asserting it, that auction cannot be challenged after completion, and that liquidation cannot be obstructed by belated, unsupported claims.

30. The Liquidator submits that the Applicant's conduct where it failed to file any claim, prove ownership, object at any stage, and failed to produce even a single contemporaneous document renders the IA devoid of merit. The Liquidator has acted strictly in compliance with Sections 35 and 36 of the IBC, and the assets auctioned belonged exclusively to PECL

**Submissions on behalf of respondent no. 1 – Mhada**

31. Respondent No. 1 submits that the present Application is wholly misconceived, lacks bona fides and is a blatant attempt by the Applicant to misuse the legal process for extracting compensation where no legal right exists. At the outset, MHADA submits that the contents of the earlier IA No. 2259 of 2024, relied upon by the Applicant, are matters of record and require no detailed reiteration. The Applicant has sought to create a false narrative regarding the withdrawal of IA No. 551 of 2021 by alleging that MHADA had made a concession before this Hon'ble Tribunal assuring access to the work site. This allegation is factually incorrect and deliberately misleading. The order dated 21 February 2022 clearly records that the Applicant withdrew the said IA simpliciter, with liberty to pursue remedies available in law, and no concession was made by MHADA. In fact, the Applicant, despite relying upon that IA, deliberately suppressed the order dated 21 February 2022 in IA 2259/2024. It was MHADA which placed the true and correct order on record, thereby bringing to the Tribunal's

notice what had transpired. The Applicant's attempt to retrospectively create a justification or favourable interpretation of the withdrawal order is nothing but an abuse of process.

32. The Applicant further claims that MHADA allowed it to retrieve machinery from Sector R-9 on account of alleged concessions or acknowledgements of ownership. Permission for removal of material from Sector R-9 was granted solely because MHADA urgently required possession of the rehabilitation area for completing the rehabilitation of 672 tenants. At the relevant time, CIRP had ended and no liquidation order had yet been passed, MHADA was required to ensure smooth progress of the rehabilitation project. Even in granting such access, MHADA conducted a thorough verification of invoices and documents and permitted removal only of those materials conclusively established to belong to the Applicant. This isolated instance, based on special circumstances and proof, cannot be used to claim that all materials at all sectors belonged to the Applicant.

33. After filing its reply in IA No. 2259/2024, MHADA even undertook further verification with the Liquidator to ascertain whether any other contractor had claimed materials lying at R-9 or adjoining sectors. The Liquidator categorically informed MHADA that no claims had been received from any contractor and that the Liquidator had no objection to materials from R-9 being handed over to the Applicant. This was also placed on record by MHADA through an Additional Affidavit.

34. The Applicant's subsequent issuance of a legal notice dated 21 December 2023, alleging that its machinery was wrongfully auctioned, is a belated afterthought and appears to be a calculated attempt to extort money from MHADA. It is

inexplicable that a contractor who claims ownership of valuable machinery would remain silent for 18 months after allegedly removing all its materials from R-9 in April 2022, and only thereafter suddenly claim that additional machinery belonging to it was auctioned. The conduct of the Applicant, including prolonged silence, lack of follow-up, and absence of timely assertion of ownership, strongly suggests fabrication of claims and mala fide intent.

35. The Applicant's allegation that MHADA allowed the Liquidator to auction the machinery is baseless and contrary to law. Under the IBC, once liquidation commences, the Liquidator alone is empowered under Sections 35 and 36 to identify, verify and deal with assets forming part of the liquidation estate. Any person claiming rights over any property lying in possession of the Corporate Debtor must necessarily file a claim before the Liquidator. The Applicant failed to file any such claim, failed to communicate any ownership assertion, and failed to respond at the appropriate time. Having chosen not to approach the Liquidator, the Applicant now attempts to wrongly shift responsibility onto MHADA.

36. MHADA's role was limited to facilitating lawful access when requested by the Liquidator. MHADA had no legal duty to inform the Applicant about any inspection or access request made by the Liquidator. The Applicant's attempt to impute such an obligation onto MHADA is legally untenable. The Applicant's unawareness or failure to monitor the liquidation proceedings cannot be converted into a liability for MHADA. Equally, the claim that MHADA should now compensate the Applicant is wholly unsustainable, since MHADA neither

auctioned the machinery nor exercised any control over the Liquidator's statutory duties.

37. Furthermore, Respondent No. 2 – the Liquidator – has categorically stated on oath that the materials lying on Sector R-10 belonged to another contractor and that the same were auctioned after due verification. This statement completely destroys the Applicant's claim, which is unsupported by any documentary evidence. The Applicant has failed to produce even a single document linking it to the materials lying at R-10 or any other sector from which the alleged machinery was auctioned.

38. The attempt by the Applicant to connect its earlier access to R-9 with the materials at R-10 is misleading and untenable. Each sector contained different contractors' materials; the Applicant was fully aware that it had not filed any claim before the Liquidator regarding machinery at R-10. Having chosen not to file a claim, the Applicant cannot now attempt to hold MHADA liable for its own failures.

39. The allegations that MHADA shirked responsibility or acted in connivance with the Liquidator are false, baseless and made with the intention of creating a false cause of action. The Applicant's conduct of prolonged silence, belated legal notice, absence of any proof of ownership, suppression of key orders, and attempts to falsely attribute obligations to MHADA demonstrates that the present Application is nothing but an attempt to misuse legal proceedings for monetary gain.

**Findings and analysis:**

40. Heard the Counsel and perused the material on record.
41. It is noted that the Applicant was rendering construction services to the Corporate Debtor pursuant to five work orders issued by the Corporate Debtor for development of a Slum Rehabilitation Authority (SRA) Project in terms of tripartite joint development agreement entered amongst MHADA, co-operative society and the Corporate Debtor. The Applicant herein had deployed its machinery / equipment's on the site for execution of said work orders. The joint development agreement came to be terminated on 20.04.2017 by MHADA and thereafter the Corporate Debtor was admitted into CIRP process on 24.07.2017 and into liquidation process on 04.09.2020.
42. The Resolution Professional filed an Application before this Tribunal seeking direction to MHADA to refrain from taking over the possession of a plot of land on which the aforesaid development was to taking place and the said Application was dismissed by this Tribunal vide order dated 02.04.2018. It is uncontested position that MHADA was in possession of the plot and the Applicant had sought on 14.05.2019, 10.03.2021, 06.12.2021 and MHADA vide its letter granted the access to Sector R-9 for removal of their machinery by 28<sup>th</sup> April 2022 and removed its machinery lying in Sector R-9. On perusal of letter dated 14.05.2019 from the Applicant to MHADA it is noted that the applicant has enclosed the list of machinery as Annexure-A to said letter, however, after removal of machineries from Sector R-9 site, the Applicant herein neither informed to the Liquidator nor to MHADA if any further

machinery or equipment, except structures, is left at any other part of the project site for further removal. The Applicant had requested further access for removal of its structure vide letter dated 28.04.2022, however, it was not followed thereafter with MHADA.

43. It is pleaded by the Applicant that its representative visited the site on 10.11.2023 with a request for further access and came to know that the material lying thereat has already been auctioned by MHADA. It is clear from the own admission of the Applicant that he had not prosecuted his case either with MHADA or with the Liquidator after removal of machinery or equipment from R-9 site.

44. It is case of the MHADA that it had handed over all the equipment lying on the other parts to the Liquidator who intervaried those machinery and proceeded to auction the same in the month of July 2023. It is explained by the Liquidator that the equipment or machinery found at the MHADA site were noted to be assets of PECL and since the Corporate Debtor had receivable therefrom, the Liquidator proceeded to auction those machines after exercising his right of lien over equipment and machinery belonging to PECL under due intimation to the Liquidator of PECL (which was also in liquidation at that time).

45. This Bench had asked Liquidator to furnish the list of equipment and machinery claimed by the PECL and list of equipment and machinery auctioned by the Liquidator which was placed on record by way of additional affidavit dated 12.08.2025. The Applicant has pointed out certain discrepancies in the details and has claimed that the balance equipment and machinery belong to it, which has been

auctioned by the Liquidator without having any authority to do so and thus has sought the restoration of the auction money on principle of restitution.

46. It is pointed out by the Applicant that the Valuer's List mentions valuation of 16 items, the Liquidator's List mentions auctioning 38 items, PECL's List of machinery only has 29 items. On perusal of both the list it is noted that total 36 items have been auctioned out of which 18 are plant and machinery and 18 are office equipment the valuers list contains 19 plant and machinery which also includes Hydraulic Power pack with Jack. It is noted that the said item is not in the list of auction but find a mention in the list of plant and machinery claimed by PECL. Accordingly, the Applicant cannot lay the claim on the basis of discrepancy in the numbers which stand duly explained.

47. On analysis of list of machines auctioned and list of machines claimed by PECL, it is noted that there is difference in quantity in relation to only 3 items thereof i.e. Bar Bending Machine (1), Bar Cutting Machine (1), and Concrete Vibrator Electric (4). It is noted that Concrete Vibrator Electric is not mentioned in the list of the machinery claimed by the Applicant. It is also noted that the 4 bar binding machines were claimed by PECL which have been valued as such and 1 bar binding machine has been valued as scrap. Though, Bar Bending Machines and Bar Cutting Machines have been claimed by the Applicant, however, it is noted that these two machines having valued at Rs. 52,000/- and Rs.57,600/- each, and hence even if the claim of the Applicant is considered for the sake of argument it cannot exceed Rs.1,09,600/- (assuming that its Bar Bending Machine was not in scrap condition). As we have noted earlier that there

has a complete negligence on the part of the Applicant after April 2022 to claim its machineries or equipments if any were left out at MHADA site, the Applicant cannot claim an equitable relief in the form of restitution when the details thereof are not proved but are only being inferred by deduction.

48. It is pertinent to note the decision in the case of *Reliance Realty Ltd. v. Anup Kumar (Liquidator) and Anr.*, by the Hon'ble NCLAT, New Delhi, wherein the Hon'ble NCLAT after taking note of the fact that the assets have already been sold, possession memo prepared, sale certificate issued, and the distribution of proceeds by the Liquidator, held that the liquidation process should not be disrupted and derailed by the Applicant who for no cogent reason had never agitated the issue of ownership of assets lying in the lease premises. The Hon'ble NCLAT also observed that the provisions of IBC enjoin the Liquidator to sale the assets of the Corporate Debtor in a manner that would result in maximization in value, lead to quick recovery for the stakeholders and obviate scope for any necessary delay.

49. In this case also it has already noted by us that the Applicant prior to auction of the said assets never informed the Liquidator about its machinery or equipments lying at MHADA site where it was rendering construction services to the Corporate Debtor prior to termination of JDA. Accordingly, we do not find any merit in the prayer for seeking restitution of the money from the Liquidator or recovery of the machinery already auctioned. As regards prayer against MHADA, we are of considered view that no relief can be granted by us in terms of Section 60(5) of the Code as the said claim is not arising from the Insolvency of the Corporate Debtor as the Applicant was never restrained by

either Resolution Professional or Liquidator or this Tribunal from removing its machinery from MHADA site and the Applicant, undisputedly, had been corresponding directly with them.

50. In view of the aforesaid, IA 2259 of 2024 and IA 1041 of 2025 are **dismissed**. No order as to costs.

51. **Ordered accordingly.**

Sd/-

**Prabhat Kumar**  
**Member (Technical)**

*Sudhanshu*

Sd/-

**Sushil Mahadeorao Kochey**  
**Member (Judicial)**