

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

**IA 4589 of 2025 In CP IB 973 of 2020**

under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016

**Pan India Consultants Private Limited.**

**...Applicant**

**Amit Chandrakant Shah & Anr.**

**...Respondents**

In the matter of

**COMPANY PETITION NO. 973 OF 2020**

**BANK OF INDIA**

**...Petitioner/Financial Creditor**

**V/s**

**FROST INTERNATIONAL LIMITED**

**...Respondent/Corporate Debtor**

***Order delivered on: 12.01.2026***

***Coram:***

**Shri Prabhat Kumar**  
Hon'ble Member (Technical)  
*Appearances:*

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

For the Applicant : Adv. Ashish Mishra, Adv. Amay Shivalkar a/w Adv. Arman, Adv. Angad,

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Adv. Armaan Grewal

For the Respondents : Adv. Gayatri M, .Adv. Jash Shah a/w  
Adv. Astha Ojha & Adv. Prateek Kumar.

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**ORDER**

1. The present application IA 4589 of 2025 is filed on 4.9.2025 by PAN India Consultants Private Limited (“Applicant”) in Corporate Insolvency Resolution Process (“CIRP”) of Frost International Limited (“Corporate Debtor”) under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with Rule 11 of the National Company Law Tribunal Rules, 2016 (“Rules”) against Respondent No. 1 (“Resolution Professional/RP”), seeking, inter alia, direction in respect of Participating Interest (“PI”) of the Corporate Debtor in Oil Block CB-ONN-2010/5 in the Cambay Basin (“Oil Block”), being considered as part of Corporate Debtor’s assets in its resolution under the Code. The applicant further seeks-a direction to Respondent No. 2 (“CoC/Committee of Creditors”) not to consider any proposal for sale of the Corporate Debtor’s Participating Interest in the Oil Block without first following the process set out in the agreements signed by and between the Applicant and the Corporate Debtor. The Applicant has made following final prayers, besides interim relief sought in terms of prayer (a) to (d) :

*(e) this Hon'ble Tribunal be pleased to direct that the PI of the Corporate Debtor in the Oil Block is not an asset of the Corporate Debtor;*

*(f) this Hon'ble Tribunal be pleased to direct Respondent No. 1 to offer the PI of the Corporate Debtor to the Applicant as per Article 13 and/or any other provision of the JOA;*

*(g) this Hon'ble Tribunal be pleased to pass an order directing that the PI of the Corporate Debtor in the Oil Block be excluded from the Corporate Insolvency Resolution Process of the Corporate Debtor;*  
*(h) this Hon'ble Tribunal be pleased to pass such further orders as may be required/ necessary in the facts and circumstances of the present case.*

2. The CIRP commenced on February 9, 2023 pursuant to order passed by this Tribunal u/s 7 of the Code on an application filed by Bank of India, one of financial creditor. The RP had issued Form G thrice on April 10, 2023, July 18, 2023, and August 20, 2024. Pursuant to approval of CoC for a cluster-wise asset sale under Regulation 36B(6A), a revised Form G (Second form G) was issued on 18th July 2023. Subsequently, in the 25th meeting of the CoC held on 11<sup>th</sup> August 2024, it was resolved to invite Expressions of Interest ("EOI") for submission of resolution plans under two alternatives-(i) acquisition of the Corporate Debtor as a going concern (Option I), and (ii) cluster-wise asset sale (Option II), accordingly, fresh form G (third form G) was issued in accordance with Regulation 36A of the CIRP Regulations, for both resolution of the Corporate Debtor as a going concern (Option I) and cluster-wise asset sale basis (Option II) in terms of provisions contained in Code and CIRP Regulations.
3. A total of 49 Eols and 52 resolution plans were received across multiple rounds for both the options. The CoC decided to pursue Resolution Plans received under Option I - resolution as a going concern, i.e. Company as a whole. Ultimately, on June 03, 2025, in the 40thCoC Meeting, 6 (six) final compliant resolution plans received under Option I - resolution as a going concern, i.e. Company as a whole. were put up for CoC approval through an e-voting along with Section 12A proposal received from the Suspended Director. On November 3, 2025, the CoC approved a resolution plan under Option I (Corporate Debtor as a whole) with the requisite majority. Thereafter, Respondent No. 1 filed an application for approval of the resolution plan before

this Tribunal on November 27, 2025, which is yet to come on board of this Tribunal for consideration thereof in terms of Section 31 of the Code .

4. On 28th March 2012, the Corporate Debtor, the Government of India, and the Applicant entered into a Production Sharing Contract (“PSC”) in respect of Oil Block .Pursuant to Article 7.4 of the PSC, a Joint Operation Agreement (“JOA”) was signed between the Corporate Debtor and the Applicant on 6th May 2013 to undertake joint operations in the Oil Block.
5. The Applicant and the Corporate Debtor hold Participating Interest (“PI”) in the Oil Block in the ratio as specified in Article 3 of the JOA, being 20% and 80%, respectively, at the time of award. The Participating Interest holders (“PI holders”) constitute an “Operating Committee” (“OC”) for the overall supervision and direction of joint operations. Further, there is a "Management Committee" (“MC”) consisting of one member from each of the PI holders and two members from the Government of India for the overall management of the Oil Block. The Government of India retains 100% sovereign right in the Oil Block, and the holders of PI are merely granted a licence by the Government of India to operate the Oil Block as per the PSC and JOA and applicable statutory framework.
6. The Applicant was appointed as the “Operator” of the Oil Block in terms of Article 4.2 of the JOA read with Article 7.4 of the PSC. In order to carry out the joint operations in the Oil Block, the Applicant as the Operator is stated to have raised cash calls on the PI holders. It is stated by the Applicant that, on account of the Corporate Debtor’s failure to make several cash call payments, the PI has been redistributed several times, and currently, there are three other entities which hold PI in the Oil Block, namely, Naharwar Marketing Services Pvt. Ltd. (“NMSPL”), Pan India Holdings Pvt. Ltd. (“PIH”), and FTA HSRP Solutions Pvt. Ltd. (“FTA”). It is further stated that FTA, as well, acquired 15% of the Corporate Debtor’s PI, declaring themselves as an Affiliate of the Corporate Debtor. Such transfers are stated to be as per the provisions of

Article 13 of the JOA and duly ratified or under process by the Government of India through the Directorate General of Hydrocarbons.

7. It is submitted by the applicant that, since the Oil Block and all rights therein remain solely with the Government of India, and any transfer or assignment of PI in the Oil Block is strictly governed by the provisions of the JOA and the PSC, and the Respondents are not entitled to include the Corporate Debtor's PI in the assets of the Corporate Debtor. It is further stated that the Respondent No.1 is liable to issue a Sale Notice as provided for in Article 28.1 of the PSC, and the Applicant and other PI holders have a pre-emptory right to purchase the PI of the Corporate Debtor in the Oil Block as per Article 13.1 of the JOA, and, specifically, in terms of Article 13.3 of the JOA, before selling its PI to a third party, the transferring party must make an offer of its PI to the existing PI holders.
8. It is further submitted by the applicant that the Oil Block is excluded from the purview of proceedings under Section14(1) of the Code by the Government of India by Government Notification dated 14<sup>th</sup> June 2023, specifically excluding all Production Sharing Contracts, Exploration Licenses and any transactions, arrangements or agreements, including Joint Operating Agreements, connected or ancillary thereto.
9. The Applicant is stated to have addressed a letter dated 27th May 2025 to Respondent No. 2 recording that the PI of the Corporate Debtor in the Oil Block, despite being the sovereign right of the Government of India, was also included in the Resolution Plan prepared by Respondent No. 1. Further, the Applicant stated therein that the Applicant intended to exercise its rights under Article 13.3.1 to purchase the Corporate Debtor's PI, and called upon Respondent No. 2 to provide the Applicant with the Sale Notice as provided for in the JOA and for the valuation of the Corporate Debtor's PI to enable the Applicant to purchase the same at the rate at which it was proposed to be sold as per the Resolution Plan.

10. Respondent No. 1 by his letter dated 13<sup>th</sup> June 2025 that he, in consultation with Respondent No. 2, twice issued invitations for expression of interest for sale of the Corporate Debtor on a going concern basis as well as cluster wise sale of the assets of the Corporate Debtor, to which no expression of interest was received from the Applicant or any other PI holder, and Respondent No. 1 clarified that there is no assignment of PI being contemplated at the stage as the Corporate Debtor is proposed to be sold as a going concern as a whole, and thus, there is no application of the requirements of Article 13, including issuance of Sale Notice. A copy of this letter was marked by RP to DG Hydrocarbons and Joint Secretary (E), Ministry of Petroleum and Natural Gas.

11. The applicant, vide letter dated 16<sup>th</sup> June, 2025 reiterated its stand and also asserted that the interests of the Government of India and all holders of PI are protected by the provisions of the JOA and the PSC, which govern any case of sale, transfer and assignment of the PI of any party; any new owner or controller of PI would necessarily have to meet the required conditions as stipulated in Article 28.2 of the PSC; and the transfer of 5.28% of the Corporate Debtor's PI is under processing since before the start of the CIRP, to the knowledge of Respondent No. 1, and is deemed approved as per PSC, accordingly the Applicant has a lien over the same as per Article 7.6.3 of the JOA . The Applicant is stated to have issued another reminder letter dated 6th August 2025, which was responded by Respondent No. 1 vide letter dated 7th August 2025.

12. It is further submitted by the Applicant that, on account of the Corporate Debtor's failure to make Cash Call payments, the Corporate Debtor's PI in the Oil Block has been redistributed and approved by the OC, and in terms of the PSC, the OC-approved the redistribution of PI has been placed before the Government of India for approval, which is deemed to have been approved as per Article 28.6 of the PSC. It is further submitted that it is not disclosed as to how much PI the Corporate Debtor actually purportedly holds, or indeed,

how much is being put up for sale, which the applicant is entitled to be informed in terms of JOA.

13. Respondent No. 1 and 2 have filed their reply. All the parties were heard by this Tribunal, and the material on record as well as arguments advanced by the Ld. Counsel for the parties have been taken into consideration.
14. The following issues arises for determination in the present application :
  - a. Whether the PI interest in Oil Block is an asset of Corporate Debtor;
  - b. If yes, whether such asset can be excluded from the Resolution process; and
  - c. If the answer to b is in negative, whether the applicant has any pre-emptory right.
15. It is not in dispute that the Corporate Debtor, in terms of the Recital (1) r/w Article 3 of the PSC, the Applicant and Corporate Debtor were given a license “*...for exploration, development and production of Petroleum...*” in the Oil Block and it acquired the undivided share expressed as a percentage of such Party's participation in the rights and obligations under this Contract (defined as PI) in Oil Block, whereby, the corporate debtor is vested with bundle of rights and interest, inter-alia, the exclusive right to carry out Petroleum Operations to recover costs and expenses. Clause 1.74 of the PSC defines "Petroleum Operations" to mean, “*as the context may require, Exploration Operations, Development Operations or Production Operations or any combination of two or more of such operations, including construction, operation and maintenance of all necessary facilities, plugging and abandonment of Wells, safety, environmental protection, transportation, storage, sale or disposition of Petroleum to the Delivery Point, Site Restoration and any or all other incidental operations or activities as may be necessary.*”
16. The Code does not define the word “*assets*”, however section 3(37) thereof provides that “*words and expressions used but not defined in this Code but defined in the Indian Contract Act, 1872, the Indian Partnership Act, 1932, the Securities Contract (Regulation) Act, 1956, the Securities Exchange Board of India Act, 1992, the Recovery of Debts Due to Banks and Financial Institutions*

*Act, 1993, the Limited Liability Partnership Act, 2008 and the Companies Act, 2013, shall have the meanings respectively assigned to them in those Acts",* however, none of these Acts define the term "assets" as used in Section 18 and 25 of the Code, which mandates Interim Resolution Professional and Resolution Professional respectively to take control and custody of any asset of the corporate debtor.

17. The definition of the word "property" contained in 3(27) is an inclusive definition which states that "*property includes money, goods, actionable claims, land and every description of property situated in India or outside India and every description of interest including present or future or vested or contingent interest arising out of, or incidental to, property*". Only Recovery of Debts Due to Banks and Financial Institutions Act, 1993 defines the word "Property" in section 2(jb) thereof in exhaustive manner to mean as follows :

- (a) *immovable property;*
- (b) *movable property;*
- (c) *any debt or any right to receive payment of money, whether secured or unsecured;*
- (d) *receivables, whether existing or future;*
- (e) *intangible assets, being know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature, as may be prescribed by the Central Government in consultation with Reserve Bank*

18. The Intangible rights being license or commercial rights of similar nature are Properties under the definition contained in Recovery of Debts Due to Banks and Financial Institutions Act, 1993, and Property, in terms of Section 3(27) of the Code, includes every description of property, the intangible rights being license or commercial rights of similar nature falls with the definition of Property on combine reading of Section 3(27) of Code and Section 2(jb) of Recovery of Debts Due to Banks and Financial Institutions Act, 1993. Since,

the bundle of rights and interests in the Oil Block acquired by the Corporate Debtor, in terms of PSC, are intangible rights in nature of a license as well as commercial rights, those rights falls within the definition of Property under the Code.

19. The Hon'ble Supreme Court in case of ***Victory Iron Works Ltd. v. Jitendra Lohia & Anr., (2023) ibclaw.in 29 SC***, while dealing with the definition of word "assets" under the Code, observed that "*But the word "asset" is defined in Section 102(2) of the Income Tax Act, 1961 to include "property or right of any kind". Though Section 102 applies as such to Chapter X-A of the Income Tax Act, the definition throws light on the fact that property or right of any kind is considered to be an asset.*" Since, the rights and interests in the Oil Block held by the Corporate Debtor was properties, therefore, these rights constitutes the assets of the Corporate Debtor and the Resolution Professional is duty bound under Section 25(2)(a) to take custody and control of the same. Since these rights constitutes assets of the corporate debtor, these assets are required to be disclosed in the Information Memorandum as well. Accordingly, we hold that the PI in Oil Block constitutes assets of the Corporate Debtor.

20. Having said so, it is pertinent to examine whether such asset can be excluded from the Resolution process. The Applicant has relied upon Notification dated June 14, 2023, which reads as follows :

*S.O. 2660(E).—In exercise of the powers conferred by clause (a) of sub-section (3) of section 14 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby notifies that the provisions of sub-section (1) of section 14 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), shall not apply where the corporate debtor has entered into any of the following transactions, arrangements or agreements, namely: -*

(i) the Production Sharing Contracts, Revenue Sharing Contracts, Exploration Licenses and Mining Leases made under the Oilfields (Regulation and Development) Act, 1948 (53 of 1948) and rules made thereunder; and

(ii) any transactions, arrangements or agreements, including Joint Operating Agreement, connected or ancillary to the transactions, arrangements or agreements referred to in clause(i).

21. On a plain reading of the aforesaid notification, it is clear that the said notification only excludes the applicability of Section 14(1) of the Code, which bars specified actions, including legal, against the Corporate Debtor or its properties. The said notification does not provide for exclusion of the rights of the Corporate Debtor under the Production Sharing Contracts, Revenue Sharing Contracts, and Exploration Licenses.

22. The Applicant has also relied upon Article 28 of PSC in this relation. The said Article deals with assignment of Participating Interest and provides as follow:

*28.1 Subject to the terms of this Article and other terms of this Contract, any Party comprising the Contractor may assign, or transfer, a part or all of its Participating Interest, with the prior written consent of the Government, which consent shall not be unreasonably withheld, provided that the Government is satisfied that:*

*(a) the prospective assignee or transferee is of good standing, has the capacity and ability to meet its obligations hereunder, and is willing to provide an unconditional undertaking to the Government to assume its Participating Interest share of obligations and to provide guarantees in respect thereof as provided in the Contract.*

*(b) the prospective assignee or transferee is not a company incorporated in a country with which the Government, for policy reasons, has restricted trade or business;*

*(c) the prospective assignor or transferor and assignee or transferee respectively are willing to, comply with any reasonable conditions of the Government as may be necessary in the circumstances with a view to ensuring performance under the Contract;*

*(d) the assignment or transfer will not adversely affect the performance or obligations under this Contract or be contrary to the interests of India.*

*(e) the prospective assignor or transferor of small size on land block having Contract Area less than 200 Sq. Km has completed the Minimum Work Programme committed under Initial Exploration Period as specified in Article 5.2 and 5.2.1*

xxx    xxx    xxx

*28.2 In case of any change in the status of a Company or its shareholding resulting in a change in:*

*a) the control of the Company; or*

*b) its relationship with the company(ies) providing the guarantee under Article 29.1(a), 29.1(b) and 29.2;*

*the Company shall seek prior written consent of the Government for assigning the Participating Interest under the changed circumstances and the provisions of this Article 28 shall apply, mutatis mutandis, to be obtaining of such consent. For the purpose of this Article 28.2, control has the same meaning as in Article 1.3.*

23. From the bare perusal of aforesaid clause(s), it is clear that these provisions does not bar assignment or transfer of PI by any party comprising contractor (PI holder), or change in control or shareholding of PI holder, however, it requires approval of central government, which is not to be unreasonably withheld and the transferee or person gaining control or shareholding of PI holder has to satisfy the conditions stipulated therein. Accordingly, it can not

be said that, the transfer of PI in terms of resolution can not take place as the Government of India is owner of Oil Block. Since, the corporate debtor is being resolved as a going concern, the said resolution does not tantamount to assignment or transfer of PIs by the Corporate debtor as PI remains with the Corporate Debtor, hence, clause 28.1 to that extent is not applicable to the present case. As regards satisfaction of conditions contemplated in clause 28.2 as well as in 28.2 by the new owner or management, we are of considered view the Resolution Applicant, being conscious of the stipulations in PSC having been made available to them, would have considered its eligibility and capacity to satisfy those conditions while seeking approval of the Central Government. Further, it is also pertinent to refer to clause 28.8 dealing with transfer to mortgagee of PI in case of default by PI holder. The said clause reads as follow:

*28.8 Nothing contained in this Article 28, shall prevent a Party comprising the Contractor from mortgaging, pledging, charging or otherwise encumbering at its own risk and cost all or part of its Participating Interest for the purposes of security relating to finance to the extent required for performing its obligation under the Contract, provided that:*

- i) such Party shall remain solely liable for all its obligations relating to its Participating Interest to the exclusion of the other participants thereto;*
- ii) the encumbrance shall be expressly subordinated to the rights of the other Parties under this Contract. The obligations occurring from the said encumbrance shall be the sole responsibility of the original Party and shall in no manner compromise the rights of other Parties to the Contract;*

*such Party has given reasonable notice of such encumbrance and furnishes to all other Parties (including, for the avoidance of doubt, the Government) a certified copy of the executed instrument(s) evidencing the encumbrances;*

*iv) keeping in view the national interest of India, prior consent of the Government shall be required (which consent shall not be unreasonably withheld) of the list of potential lenders with whom such Party can consider hypothecation;*

*v) the Party creating the charge shall ensure that such charge shall not in any way affect the interest of other Parties or result in interference with joint operations. In the event of any claims or liabilities imposed on other Parties because of the creation of such charges, the Party having created charge on its Participating Interest shall indemnify the other Parties; and*

*vi) in case of foreclosure or default by a borrowing Party, the mortgagee shall not be deemed to have acquired a right to carry on either by itself or through an agent, the Petroleum Operation, without the prior written consent of the Government of India.*

24. The above clause makes it abundantly clear that there is no bar in change in control arising from default of PI holder who has borrowed from financial lenders against mortgage of such PI, as said clause allows the creation of charge over the PI and, in case of default in repayment of mortgage debt by PI holder, only requires written consent of Government of India. Since, the resolution of Corporate Debtor by inclusion of its PI in Oil block does not affect the rights of the other PI holder(s), we do not find any merit in the prayer for exclusion of PI from the resolution of the Corporate Debtor as going concern as approved by CoC in its commercial wisdom.

25. As regards applicant's assertion of its pre-emptory right, it is noted that the second and third form G published by the Respondent No. 1 consequent upon decision of Respondent No. 2 contemplated sale of Corporate Debtor as going concern as well as its sale on cluster basis, however, neither the applicant nor any other PI holder, if there is any in terms of contractual provisions amongst the parties, submitted any expression of interest for acquisition of Corporate Debtor's PI rights in response to the said publication. Instead, the applicant, vide its letter dated 27th May 2025 to Respondent No. 2 informed that the Applicant intended to exercise its rights under Article 13.3.1 of JOA to purchase the Corporate Debtor's PI, and called upon Respondent No. 2 to provide the Applicant with the Sale Notice as provided for in the JOA and for the valuation of the Corporate Debtor's PI to enable the Applicant to purchase the same at the rate at which it was proposed to be sold as per the Resolution Plan. The applicant further reiterated it vide letter dated 16<sup>th</sup> June, 2025. Besides this, vide its letter 6<sup>th</sup> August, 2025, the applicant asserted its lien over PI rights of Corporate Debtor in terms of Article 7.6.3 of the JOA on account of alleged failure of Corporate Debtor contribute towards cash calls.

26. As we have noted above that the CoC finally decided to resolve the Corporate Debtor as going concern, the question of pre-emptory right in relation to PI in favour of Applicant, if any, as asserted vide letter dated 27<sup>th</sup> May, 2025 became academic as the option of cluster sale was given go by. It is pertinent to refer to Article 13.1 of JOA, which reads as follows:

*No assignment hereunder of a Participating Interest shall be effective until any approval of the assignment by the Government, required pursuant to the Contract, has been received and the requirements of the Contract in relation to the assignment are satisfied. The rights to sell assign or transfer a Participating Interest, in whole or in part, shall be subject to the terms of Article 12 and the following provision of Article 13. Further a party may not assign its Participating Interest without the consent of other Parties which consent not to be*

*unreasonably withheld and to be granted where the prospective assignee establishes to the reasonable satisfaction of the other Parties that it is capable of meeting its financial and technical obligations under the Contract and this Agreement. A Party shall notify the Assigning Party of its consent or otherwise within sixty (60) Business Days of receiving notice from the Assigning Parties requesting such consent. A Party which fails to give such notifications within the said sixty (60) Business Days shall be deemed to have consented to the Assignment. A Party refusing its consent shall provide in reasonable detail its reasons for withholding its consents at the same time as its gives notice of its refusal of such consent. A Party may withhold its consent where it exercises its rights pursuant Article 13.3.*

27. The Article 13.1 requires the approval of Central Government, which is also required in terms of Clause 28 of PSC as discussed in preceding para. In addition to it, it requires consent of other PI holder and provides that such consent shall not be unreasonably withheld by other PI holder, if the prospective assignee establishes to the reasonable satisfaction of the other Parties that it is capable of meeting its financial and technical obligations under the Contract and this Agreement. We have noted that similar conditions are contemplated in clause 28 of the PSC, where the Central Government has to be satisfied on these aspects as well. Further, Article 13.1 requires compliance with Article 12, which deals with cases where a PI holder seeks to withdraw from the Agreements, which is not the case herein. Further, Article 13.3 obligates PI holder to notify other PI holder(s) in writing of its desire to transfer such Sale Interest by way of a written notice. In the present case, there is no transfer of PI contemplated in the resolution of the Corporate Debtor. It is relevant to note the decision of Hon'ble NCLAT, in **Binani Industries Ltd. v. Bank of Baroda [2018 SCC OnLine NCLAT 521]** holding that "*It is not a sale. No one is selling or buying the 'Corporate Debtor' through a 'Resolution*

*Plan'. It is resolution of the 'Corporate Debtor' as a going concern. One does not need a 'Resolution Plan' for selling the 'Corporate Debtor'. If it were a sale, one can put it on a trading platform".* Hence, in our considered view, the provisions contained in Article 13.1 does not apply to the present case.

28. In the present case, the resolution of corporate debtor as going concern is being carried out under statutory framework contained in the Code, and may result into change in ownership and control of the Corporate Debtor i.e. PI holder, it is pertinent to refer to Article 13.3.2 which provides that "*The preferential right of purchase set out in Article 13.3.1 shall not apply in the case of a merger or consolidation; provided, however, such preferential right shall apply to any sale or assignment of the stock of a Party, other than to an Affiliate, where the principal or sole assets of such Party at the time of such sale or transfer is its Participating Interest under the Contract and this Agreement*". It is evident from this Article that Article 13.3.1 applies to sale or assignment of shares of PI holder only where the principal or sole of assets of such PI holder at the time of such sale or transfer is its Participating interest. In the present case, the Corporate debtor is stated to own residential properties, commercial properties, land, windmills, PI of Oil Block, and vehicles, which clearly shows that PI is not its sole or principal asset.

29. It is also pertinent to refer to Article 13.3.4 which provides that "*the Parties intend to apply the principles of Article 13.3 in good faith and be bound by the spirit as well as the terms thereof and, in particular but without limitation a fair cash equivalent shall be placed on any non-cash consideration offered to the Transferor by another Party or a third party, supported, if requested by any Party, by a report from an internationally recognized or mutually accepted independent Chartered Accountant*". The resolution of Corporate Debtor as going concern is a non-cash consideration, accordingly, the value of PI held by the Corporate Debtor can not be sole basis for exercise of pre-emptory right, even if the Applicant is held to possess one in the present facts of the case.

30. As regards applicant's claim that it has its lien over PI rights of Corporate Debtor in terms of Article 7.6.3 of the JOA on account of alleged failure of Corporate Debtor contribute towards cash calls, the Respondent No. 1 has submitted that a detailed reconciliation of audited accounts (as on March 31, 2023) demonstrates that the Corporate Debtor is not in default of cash call obligations, and several participating entities connected with the Applicant are in arrears, which were repeatedly communicated to the Applicant, who has chosen to ignore them and level baseless allegations.. Respondent No.1 has also alleged that he has identified multiple irregularities and instances of noncompliance with the terms and conditions of the JOA and PSC in the Applicant's operation of the Oil Block. It is further stated by the Respondent No. 1 that these irregularities include, inter alia, the appointment of a statutory auditor, approval of books of accounts without approval of the Operating Committee, unilateral decision-making without the Committee's consent, and operating the Oil Block at a loss. It is noted that this Tribunal, after taking note of Article 9.2 read with 9.2.1 of JOA vide order dated 22<sup>nd</sup> April, 2025 passed in IA 4287 of 2024 directed the applicant to provide, inter-alia, tally data as well as details of each cost incurred from start of the operation till date and its supporting documents in relation to affairs of Oil Block affairs for carrying out audit thereof by the Respondent No. 1. Further, the Respondent No. 1 is stated to have apprised the Directorate General of Hydrocarbons in September 2024 and April 2025 regarding the Applicant's non-compliance and requested for replacement of the Applicant as the Operator of the Oil Block. Since, the order dated 22<sup>nd</sup> April, 2025 is in challenge before Hon'ble NCLAT, the records as directed by this Tribunal are still not provided, we are not in a position to adjudicate upon this issue whether there was any default in payment of cash calls and vesting of consequential lien in favor of party who contributed the cash to recoup said default. Accordingly, no order can be passed on the aspect of lien as contemplated in Article 7.6.3 of JOA at this stage.

31. In view of the aforesaid, we do not find any merit in prayer(s) made by the Applicant. Accordingly, the IA 4589 of 2025 is dismissed and disposed of.

32. We consider it appropriate to clarify that the present application does not require determination quantum of PI interest held by the Corporate as on CIRP commencement date or re-distribution of PI interest consequent upon alleged default in payment of cash calls, accordingly, any observation of this Tribunal shall not have any effect or be construed as finding on the quantum of PI interest held by the Corporate Debtor or re-distribution thereof as claimed by the applicant in any proceedings before us or before any court or any authority.

Sd/-

**Prabhat Kumar**  
Member (Technical)

Sd/-

**Sushil Mahadeorao Kochey**  
Member (Judicial)