

Annexure-I**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**
AT CHENNAI**(APPELLATE JURISDICTION)****COMPANY APPEAL (AT) (CH) (Ins) No.144/2026**
(IA Nos.439, 440, 441 & 442/2026)**In the matter of:****M/s. Svaryu Energy Ltd.****CIN-U40100MH2008PLC38187****Rep by its Authorised Signatory /****Assistant Vice President – Finance Mr. Divya Kapadia****Current Regd Address at: Unit No.2916 to 2918, 29th Floor,****A Wing, Marathon Futurex, Mafatlal Mills Compound,****N.M. Joshi Marg, Lower Parel, Mumbai – 400 013.****...Appellant****V****M/s. Gemscab Industries Ltd.****Regd Address at: 519, Laxmi Plaza, Laxmi Industries****Estate New Link Road,****Andheri-west, Mumbai – 400 053.****Mr. Mahesh Lakshmanadas****(Interim Resolution Professional of****M/s. Svaryu Energy Limited)****Registration No.IPA-001/IP-P01734/2019-2020/12654,****Salem, Chennai.****...Respondents****Present :****For Appellant : Mr. Sharang Dhulia, Mr. Cheta Jadon & Mr. Chiron Singhi, Advocates****For Respondents : Mr. Syed Afridi, Advocate for R1
Mr. Akash Balagee, Advocate for R2****ORDER**
(Hybrid Mode)**17.03.2026:**

The Appellant, who happens to be the Corporate Debtor in the proceedings of CP(IB) No.88/2024, puts a challenge to the impugned order dated 24.02.2026, that has been rendered by the Learned NCLT, Chennai

Bench-II. Consequently, it has resulted into admission of the Section 9 application, that was initiated at the behest of Respondent No.1. In those proceedings, Mr. Mahesh Lakshmanadas was appointed as IRP of the Corporate Debtor. When the proceedings of the Company Appeal, were being taken up today, the parties to the proceedings, through their counsel, had made a statement that an understanding has been arrived at between the parties, wherein based on the terms and conditions as entered into the Memorandum of Understanding, the Respondent/Petitioner of the Company Petition, had expressed its willingness to withdraw the Company Petition, being CP(IB) No.88/204, which was instituted before the NCLT, Chennai Bench-II. The respective counsels for the parties had made a statement at bar supporting the terms and conditions mentioned in the Memorandum of Understanding dated 13.03.2026, wherein the Applicant to the proceeding under Section 9 of the Code, had made a statement that they intend to withdraw the Company Petition itself.

2. If that be the situation, where the Applicant to the Section 9 application i.e., Respondent No.1 herein i.e., Gemscab Industries Limited, has expressed its willingness to withdraw the Company Petition, subject to the conditions mentioned therein. In fact, nothing would survive as of now for the Appellant/Corporate Debtor, to put a challenge to the impugned order of 24.02.2026, resulting into the initiation of the CIRP, as against the Appellant. The terms of the said settlement are being extracted herein to be made as part of the order: -

**“UNDERTAKING AND NO OBJECTION LETTER
ISSUED BY M/S GEMSCAB INDUSTRIES LIMITED
CONFIRMING FULL AND FINAL SETTLEMENT WITH
M/S SVARYU ENERGY LIMITED**

Dated: March 13th 2016

To

M/S SVARYU ENERGY LIMITED

CIN: U40100MH2008PLC438187

Regd Address at Marathon Futurex, 29th Floor,

Unit No. 2916 to 2918 A Wing, Mafatial Mills Compound

N. M. Joshi Marg,

Lower Parel Mumbai – 400 013 Maharashtra, India.

**Subject: Undertaking and No Objection in respect of
withdrawal of Company Petition (IB) No. 88 of 2024 pending
before the Hon'ble National Company Law Tribunal,
Chennai Bench-II**

Dear Sir.

We, M/s Gemscab Industries Limited, CIN: U74899DL1994PLC062461 a company incorporated under the Companies Act, 1956 and having its Registered office at 704-707, 7th Floor, Vikrant Tower, 4, Rajendra Place, New Delhi – 110008, hereby issue the Undertaking and No Objection Letter in connection with the full and final settlement of the total outstanding dues payable by M/s. Svaryu Energy Limited arising out of the supply of goods against various invoices raised during the year 2023.

Further as agreed that;

1. That in January 2023, the Second Party approached the First Party for the purchase of Cables and, pursuant to mutual discussions, issued Purchase Orders dated 25.01.2023 aggregating to Rs. 2,34,12,054/-. In furtherance thereof, the

First Party duly manufactured and supplied the said products in accordance with the agreed terms. Against the said amount, the Second Party made a part payment of Rs. 24,58,872/- on 17.06.2023, while the remaining amount continued to remain due and payable. The parties have now mutually agreed to settle the accounts with M/s Svaryu Energy Limited for a total sum of Rs. 1,80,00,000/- (Rupees One Crore Eighty Lakhs Only) towards full and final settlement of the outstanding dues between them.

- 2. We hereby confirm that M/s Gemscab Industries Limited has received a sum of Rs. 1,30,00,000/- (Rupees One Crore Thirty Lakhs Only) on 13 March 2026 through RTGS from M/s Svaryu Energy Limited towards part payment of the settlement amount.*
- 3. We further confirm that for the balance amount of Rs. 50,00,000/- (Rupees Fifty Lakhs Only), we have received post-dated cheques from M/s Svaryu Energy Limited, the details of which are mentioned in the table below.*

Sr. No.	Date of Payment	Amount (in Rs.)	Cheque Details/Transaction Details
a)	On 13 th March 2026	1,30,00,000=00	RTGS vide UTR: UBINR22026031301288193
b)	On 18 th March 2026	20,00,000=00	Chq no: 239114 Bank: Union Bank of India Nariman Point Mumbai
c)	On 13 th April 2026	15,00,000=00	Chq no: 239111 Bank: Union Bank of India Nariman Point Mumbai
d)	On 05 th May 2026	15,00,000=00	Chq no: 239112 Bank: Union Bank of India Nariman Point Mumbai
Total Amount		Rs. 1,80,00,000/-	

- 4. It is stated that M/s Gemscab Industries Limited had filed Company Petition (IB) No. 88 of 2024 under Section 9 of the Insolvency and Bankruptcy Code, 2016 before the Hon'ble*

National Company Law Tribunal, Chennai Bench-II, seeking initiation of the Corporate Insolvency Resolution Process against M/s Svaryu Energy Limited for recovery of the operational debt arising out of the aforesaid transactions.

- 5. In view of the settlement arrived at between the parties and the payment received, M/s Gemscab Industries Limited hereby records its No Objection to the settlement and undertakes that it shall take necessary steps to withdraw the aforesaid Company Petition (IB) No. 88 of 2024 pending before the Hon'ble National Company Law Tribunal, Chennai Bench-II, by filing an appropriate Interlocutory Application, affidavit, consent memo, or such other application as may be required before the Hon'ble Tribunal.*
- 6. It is further confirmed that the settlement between the parties has been arrived at voluntarily and amicably, without any coercion or undue influence, in order to resolve the disputes between the parties.*
- 7. This Undertaking and No Objection Letter is issued to M/s Svaryu Energy Limited voluntarily and without any coercion, undue influence, or misrepresentation. We hereby confirm and declare that, upon receipt and realization of the full settlement amount of Rs. 1,80,00,000/- (Rupees One Crore Eighty Lakhs Only) as agreed terms, all disputes, claims, or differences of whatsoever nature between M/s Gemscab Industries Limited and M/s Svaryu Energy Limited arising out of the aforesaid transactions shall stand fully and finally resolved, and no further claim shall remain or be raised against M/s Svaryu Energy Limited. This Undertaking and No Objection Letter shall be binding upon M/s Gemscab Industries Limited and may be produced before the Hon'ble National Company Law Tribunal,*

financial institutions, lenders, or any other competent authority, as and when required, without prejudice to our rights in the event of non-compliance with the agreed payment schedule

For M/s Gemscab Industries Limited

Through its Managing Director

(Shashi Kant Gupta)

Dated 13-03-2026

Place: New Delhi.”

3. When the matter was being taken up, Mr. Venkata Sivakumar, had participated in the proceedings, though not being a party in Company Petition or in Company Appeal, contending thereof that they became a necessary party to be heard even if the Company Appeal is being decided on the basis of the Memorandum of Understanding arrived at between the parties on 13.03.2026. When the Company Appeal was instituted before this Appellate Tribunal on 10.03.2026 till it was taken up today, there is nothing on record that has been placed before us by way of any application filed by Mr. Venkata Sivakumar representing his client, seeking to be impleaded as a Respondent to the Company Petition. If the Company Petition itself is taken into consideration, that was preferred by the Respondent herein in the shape of Form 5, which has been contemplated under Rule 6, the parties described therein were as under: -

“SUBJECT: Application to Initiate corporate insolvency resolution process in the matter of M/s BGR Energy System Limited UNDER THE Insolvency and Bankruptcy code 2016.

*M/s. Gemscab Industries Limited,
Rep. By its Director
Mr. Shashi Kant Gupta,
519, Laxmi Plaza, Laxmi Industrial estate,
New Link Road, Andheri-west,
Mumbai – 400 053. ...Applicants/Operational Creditor*

Versus

*M/s. Svaryu Energy Limited,
(Formerly known as Refex Energy Ltd)
Rep. by its Director and Authorised Signatory,
Having Registered office at:
11th Floor, Bascon Futura IT Park,
10/2, Venkat Narayana Road,
T. Nagar, Chennai -TN- 600 017.
Having Branch office at
C/o. Famous Working Company,
FWC Reception, 1st Floor,
Famous Studios, 20 Dr. E Moses road, Mahalaxmi,
Mumbai – 400 011.*

... Respondent/ Corporate Debtor”

4. Meaning thereby, if the original application preferred under Section 9 of the Code, as filed on 10.01.2024, the so-called applicant who claims himself to be impleaded as a party petitioner to the application has not been a party to the proceedings before the Learned NCLT nor had sought his impleadment, and hence they don't become the necessary party to be impleaded herein in the instant Company Appeal at the first instance. When they are not party to the proceedings before the Learned Tribunal.

5. And more particularly, when the Applicant to the Section 9 application, himself has filed a Memorandum of Understanding dated

13.03.2026. When the Applicant to Section 9 application itself has sought a withdrawal of his Company Petition, the so-called Applicant M/s. Ishaan Solar Power Limited, represented through Mr. Venkata Sivakumar, cannot seek himself to be impleaded as a party more particularly when the Respondent No.1 i.e., M/s. Gemscab Industries Limited, is the master of its own proceedings of the Company Petition and once it has sought to withdraw the proceedings, no third party can have any say or grievance for the prayer to seek himself to be impleaded as a petitioner in the petition. For the reason being that, under the principle of Dominus Litus, the Applicant, who is the master to the proceedings, and nobody else can impose upon itself or himself to be impleaded, particularly when the Applicant himself has sought of the withdrawal of the application filed by the Respondent under Section 9 of the Code.

6. Mr. Venkata Sivakumar, who appeared on behalf of M/s. Ishaan Solar Power Limited submitted that he has already filed an impleadment application, upon passing of the orders when we had enquired from the Registry, neither any such application has been e-filed before this Tribunal, nor has been physically filed, nor the same has been numbered. Hence, mere oral assertions and objections raised by Mr. Venkata Sivakumar, and that too, to the closure of this Company Appeal on the basis of the settlement resulting into withdrawal of the Company Petition, as withdrawal of Company Petition, that itself takes away the very purpose of the impugned order dated 24.02.2026, the Company Appeal would stand closed in terms

of the Memorandum of Understanding dated 13.03.2026, whereby the Company Petition has been dismissed as withdrawn.

7. In that eventuality, the impugned order dated 24.02.2026 loses its significance, and it is not required to be ventured into on the merits of the matter. The **Comp App (AT) (CH) (Ins) No.144/2026** is accordingly dismissed as withdrawn.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Indevar Pandey]
Member (Technical)

VG/MS/AK