# NATIONAL COMPANY LAW APPELLATE TRIBUNAL
# PRINCIPAL BENCH, NEW DELHI

## COMPANY APPEAL (AT) (INSOLVENCY) NO. 840 of 2021

**(Arising out of the Order dated 10th August, 2021 passed by the Learned Adjudicating Authority (National Company Law Tribunal, Court 5, Mumbai Bench), in C.P. (IB)-1166/MB/2020)**

**IN THE MATTER OF:**

**Edelweiss Asset Reconstruction Company Limited**
(Acting in its capacity as trustee of EARC SC 30)

Having its registered office at:
Edelweiss House, Off C.S.T. Road,
Kalina, Mumbai – 400098. **…Appellant**

**Versus**

**Perfect Engine Components Pvt. Ltd.**

Having its Registered Office at:
1101 Viraj Towers,
Junc of Andheri Kurla Road,
W.E. Highway, Andheri (E)
Mumbai City Maharashtra
Mumbai – 400069. **…Respondent**

**Present**

| | |
|---|---|
| **For Appellant:** | **Mr. Neeraj Malhotra, Sr. Advocate with Ms. Vidhisha Haritwal, Mr. Nimish Kumar & Ms. Shreya Singh, Advocates.** |
| **For Respondent:** | **Mr. Kumar Anurag Singh, Mr. Zain A. Khan, & Ms. Ekta Bharti, Advocates.** |

# J U D G E M E N T

**[Per; Shreesha Merla, Member (T)]**

**1.** Aggrieved by the Impugned Order dated 10.08.2021 passed by the Learned Adjudicating Authority (National Company Law Tribunal, Court 5, Mumbai Bench) in C.P. (IB) No. 1166/MB/2020 'Edelweiss Asset Reconstruction Company Limited' (hereinafter referred to as 'Edelweiss') preferred this Appeal under Section 61 of the Insolvency and Bankruptcy Code, 2016, (hereinafter referred to as 'The Code'), challenging the dismissal of the Section 7 Application preferred by them before the Adjudicating Authority. By the Impugned Order, the Adjudicating Authority has dismissed the Section 7 Application was 'barred by Limitation' and observed as follows:

> *"29. Evidently, there has been restructuring of loan on 07.11.2014 and 30.06.2017, contrary to the terms and conditions of the restructuring package, the Petitioner has revoked the restructuring package on 01.06.2018. The said letter of revocation of restructuring immediately objected/rebutted by the Corporate Debtor. In strict interpretation of law of Contracts, it seems that there was no consensus ad idem and the unilateral revocation was strongly objected by the Corporate Debtor who pointed out that there is no default and payments will have to be made only from operational cash flows. It is relevant to refer to Section 3(12) of the Code, which defines default as follows:*
>
> > *"Default means no-payment of debt when whole or any part or instalment of amount of debt has become due and payable and is not paid by the debtor or the corporate Debtor as the case may be".*
>
> *Therefore, this Bench finds it difficult to construe that default has occurred in the present case.*

*30. This Bench is of the considered view that the cause of action arose as on 31.03.2009/28.06.2012. However. the Petitioner was filed on 08.03.2020 which is beyond three years as contemplated in judgment of Hon'ble Supreme Court in B.K. Educational services Private Limited Vs Parag Gupta and Associates wherein it is categorically held that the Article 137 of the Limitation Act, 1963 mentioned that the right to sue accrues by the Default occurs, the default has occurred over three year prior to the filing of Petition and the Petition is barred by the Limitation under Limitation Act, 1963. In the instant case, it can be seen from the facts of the given case the default occurred as on 31.03.2009 or on 28.06.2012, a recovery certificate issued by the Debt Recovery Tribunal (DRT) on 22.11.2016, the restructuring package as on 07.11.2014, 30.06.2017.*

*31. The restructuring package further envisaged the payment of instalment from operational cash flows and therefore. there can be no default attributed to the Corporate Debtor. It is the case of the Petitioner that thought the defaults occurred on 31.03.2009. It has balance confirmation letter for the period 2010, 2011 and 2012 and that the Corporate Debtor had made part payment in all the credit facilities till 28.09.2018. Further, they are relying on the acknowledgment of debt in the balance sheet of the Corporate Debtor. The balance sheet confirms that there is no default on behalf of the Corporate Debtor for year 2016 and 2019. The Auditor Report at page 781 and 829 is reproduced below:*

> *"...*
> *viii. 'Based on the audit procedure and according to the information and explanation given to us, we are of the opinion that the company has not defaulted in repayment of loans or borrowings to banks & Financial institutions.*
> *..."*

*32. Therefore, it can be construed that the Corporate Debtor has rightfully included the long-term borrowing from the Petitioner in view of the restructuring package, but it does not demonstrate default. Further, the CIBIL Report of the Corporate Debtor mentioned this account*

*to be standard account and therefore, there is no default recorded in the Information Utility and in terms of the restructuring package, it is concluded that the Petitioner has not been able to demonstrate the default on the part of the Corporate Debtor.*

*33. The factual matrix narrated in the aforesaid paras indicate that post filing of DRT proceedings by the Original Lender. The present Petitioner was substituted by virtue of deed of assignment from BI in March, 2014. The Petitioner granted First restructuring package on 7 November, 2014. which was revoked on 22.09.2016 and Second restructuring Package on 30.06.2017, thus at the time when Recovery certificate was granted on 22.11.2016. The Petitioner having contractually agreed to be bound by certain terms and conditions of the contract under the restructuring package, wherein a mechanism is prescribed for payment of outstanding dues. cannot now enforce its statutory rights when there is no default in payment by the Corporate Debtor.*

*34. The Corporate Debtor and its group are OEM suppliers having interdependent operations. The said OEM's include Companies like Cummins India Limited, Bajaj Auto Limited, Tata Motors Limited, Kirloskar Oil Engines Limited, Indian Railways etc. and that the Corporate debtor and its associates has 600 employees on its rolls and accreditations which may fall by initiation of CIRP proceedings. The intention of IBC is maximization of assets of Corporate Debtor and initiating CIRP against the Corporate Debtor. The objective of the Code is to aid organizations which are insolvent and are unable to pay its debts and are consistently defaulting. However, in the instant case, there is no default and payment of instalments is linked to operating cash flows."*

**2. <u>Submissions of the Learned Sr. Counsel appearing on behalf of the Appellant:</u>**

- It is submitted by Learned Sr. Counsel, Mr. Malhotra that the liability towards 'Edelweiss' was acknowledged through Restructuring Letters, Request Letters

and also in the Balance Sheets. Hence, though the date of NPA is 30.06.2009, the letter of acknowledgement letter dated 31.03.2010 to 31.03.2012 should be taken into consideration together with the Demand Notice dated 06.08.2012 under Section 13(2) of SARFAESI Act, 2002 issued to the 'Corporate Debtor' by State Bank of India ('SBI') demanding a payment of Rs.62,96,33,561.36/-. The Counsel also gave the chronology of events detailed as follows:

- On 09.03.2014, SBI had executed the Assignment Agreement in favour of the Appellant.
- On 07.11.2014, the Appellant sanctioned a Restructuring Package in favour of the 'Corporate Debtor' and its associates, signed by the 'Corporate Debtor' and therefore acknowledges its liability.
- It is submitted that the liability is also acknowledged in the Balance Sheets for Financial Year 2014–15, 2015–16, 2016–17, 2017–18 & 2018–19.
- On 22.09.2016, the first Restructuring Package was revoked by the Appellant and Possession Notice of the Mortgage Property was issued under SARFAESI Act, 2002. On 18.11.2016, the 'Corporate Debtor' requested for rescheduling of the payment amounts which also constitutes 'acknowledgement of liability'.
- On 22.11.2016, OA No.01/2014 was decreed by the Debt Recovery Tribunal ('DRT') Pune and Recovery Certificate was issued in favour of the Appellant.

- On 30.06.2017, 'Edelweiss' acceded to the request of the 'Corporate Debtor' and approved a fresh reconstruction of the debt of the three group Companies.
- On 26.07.2017, DRT Pune issued a Recovery Certificate in favour of 'Edelweiss' in OA No.01/2014 for a sum of Rs.80,67,60,995.92/- with pendant lite and future interest.
- On 10.10.2017, Consent Terms were filed before DRT-I, Mumbai and transferred Original Application No.560/2016. It is submitted by Learned Sr. Counsel that these Consent Terms amount to 'acknowledgement of liability'. It is submitted that the said Consent Terms are based on the approved second Restructuring Package only and they are signed by one Mr. Amrish Vijay Shah who was representing a 'Corporate Debtor' as a Director. Subsequently, the second Restructuring was cancelled on 01.06.2018 due to various 'defaults' by the 'Corporate Debtor'.
- Sale Notice by 'Edelweiss' was issued on 06.12.2019 and a reply was filed by the 'Corporate Debtor' on 31.01.2020. Subsequently, the Section 7 Application was filed on 07.08.2020 and, therefore, the Application is well within the period of Limitation. The Learned Sr. Counsel in support of his contention that the Adjudicating Authority has erroneously dismissed the Application as 'barred by Limitation' place reliance on the following Judgements in support of his case:

- *'Sesh Nath Singh & Anr.' Vs. 'Baidyabati Sheoraphuli Co-operative Bank Ltd. & Anr.'*[1].
- *'Dena Bank (now Bank of Baroda)' Vs. 'C. Shivakumar Reddy & Anr.'*[2].

o Learned Sr. Counsel on the question of the amount being a 'Standard Account' and of finding of the Adjudicating Authority that there was no 'default' submitted that the Restructuring Package, the communication and the Balance Sheets clearly evidence that there was a 'default' on behalf of the 'Corporate Debtor'. Learned Counsel drew our attention to the Revocation Letter dated 22.09.2016 and 01.06.2018, the Demand Notice dated 06.12.2019 and also the letters addressed by the 'Corporate Debtor' dated 14.06.2018 and 31.01.2020.

**3. <u>Submissions of the Learned Counsel appearing on behalf of the Respondent:</u>**

- Learned Counsel appearing for the Respondent vehemently argued that the account of the 'Corporate Debtor' was declared an NPA way back on 30.06.2009, the first Restructuring Scheme was revoked on 22.09.2016; while the Restructuring Package was in effect, 'Edelweiss' secured the Recovery Certificate from DRT Pune, from the entire claim amount concealing the existence of the Restructuring Package. The second Restructuring Package was sanctioned on 30.07.2017, which was

[1] (2021) 7 SCC 313
[2] (2021) 10 SCC 330

subsequently cancelled on 01.06.2018. The said Revocation was objected to by the 'Corporate Debtor', vide letter dated 14.06.2018, highlighting all the compliances made in terms of the second Restructuring Package. A Sale Notice was issued on 12.04.2019 and a fresh SARFAESI Notice was issued on 06.12.2019 pursuant to which the date of NPA was stated to be 28.06.2012. Thereafter on 31.01.2020, a Reply was addressed by the 'Corporate Debtor' to the Notice dated 17.02.2019 and therefore the Section 7 Application is 'barred by Limitation'.

- The 'letter of acknowledgements' relied upon by the Appellant between 31.03.2010 and 31.03.2012 cannot be relied upon as there is no evidence on record to show that they were signed prior to the expiry of the three years Limitation from 2009. The 'letter of acknowledgement' relied upon by the Appellant with respect to the first Restructuring Scheme is dated 07.11.2014 which is again outside the Limitation period of three years from the date of NPA. Further, the decrees dated 22.11.2016 and Recovery Certificate dated 26.07.2017 have been obtained in contravention to the Restructuring Package and the same can be seen from the letter dated 01.06.2018. It is strenuously argued that it is only to extend the period of Limitation that the Appellant is placing reliance on the Restructuring Packages and the Recovery Certificates which are beyond three years of the date of NPA i.e., 2009.
- Learned Counsel also contended that there is absolutely no 'default' and that the Appellant originally was acting as an intermediary in working out

a proposal of OTS to be offered by SBI and hence was aware of the financial condition of the 'Corporate Debtor'.

- Learned Counsel placed reliance on the Judgement of the Hon'ble Apex Court in the following cases:
    - In *'Innoventive Industries Ltd.' Vs. 'ICIC Bank & Anr.'*[3], wherein it was held by the Hon'ble Supreme Court that the default shall occur when debt is due and payable in fact and in law.
    - In *'Indus Biotech Private Limited' Vs. 'Kotak India Venture (Offshore) Funds (earlier known as Kotak India Venture Limited & Ors.'*[4], wherein it has been held that there should be judicial determination of default within the meaning of Section 3(12) while considering an Application under Section 7 of the Code.
    - In *'Reliance Asset Reconstruction Co. Ltd.' Vs. 'Hotel Pooja International (P) Ltd.'*[5], wherein it was held that the acknowledgement must be done prior to the expiry of three years of Limitation and reliance was not placed on documents which were not placed along with Section 7 Application.

**Assessment:**

**4.** The brief point, which falls for consideration in this Appeal is whether the Adjudicating Authority was justified in dismissing the Application filed under

[3] (2018) 1 SCC 407
[4] Arbitration Petition (Civil) No. 48/2019 with Civil Appeal No. 1070/2021
[5] (2021) 7 SCC 352

Section 7 of the Code as 'barred by Limitation' and also holding that there was no 'default'.

**5.** We are of the considered view that the issue of Limitation is to be tested on the touchstone of the ratio of the Hon'ble Apex Court in ***'Dena Bank (now Bank of Baroda)' Vs. 'C. Shivakumar Reddy & Anr."[6],*** wherein the Hon'ble Apex Court has clearly laid down that Judgement/decree for money or Certificate of Recovery or Arbitral Award in favour of the 'Financial Creditor', constitutes an 'acknowledgement of debt' and gives rise to a fresh cause of action, provided it is within three years of the default:

> ***"130.*** *We see no reason why the principles should not apply to an application under Section 7 IBC which enables a financial creditor to file an application initiating the corporate insolvency resolution process against a corporate debtor before the adjudicating authority, when a default has occurred. As observed earlier in this judgment, on a conjoint reading of the provisions of the IBC quoted above, it is clear that a final judgment and/or decree of any court or tribunal or any arbitral award for payment of money, if not satisfied, would fall within the ambit of a financial debt, enabling the creditor to initiate proceedings under Section 7 IBC.*
>
> ***131.*** *It is not in dispute that Respondent 2 is a corporate debtor and the appellant Bank, a financial creditor. The question is, whether the petition under Section 7 IBC has been instituted within 3 years from the date of default. "Default" is defined in Section 3(12) to mean "non-payment of a debt which has become due and payable whether in whole or any part and is not paid by the corporate debtor".*
>
> ***132.*** *It is true that, when the petition under Section 7 IBC was filed, the date of default was mentioned as 30-*

[6] (2021) 10 SCC 330

*9-2013 and 31-12-2013 was stated to be the date of declaration of the account of the corporate debtor as NPA. However, it is not correct to say that there was no averment in the petition of any acknowledgment of debt. Such averments were duly incorporated by way of amendment, and the adjudicating authority rightly looked into the amended pleadings.*

***133.** As observed above, the appellant Bank filed the petition under Section 7 IBC on 12-10-2018. Within three months, the appellant Bank filed an application in the NCLT, for permission to place additional documents on record including the final judgment and order/decree dated 27-3-2017 in OA No. 16 of 2015 and the recovery certificate dated 25-5-2017, enabling the appellant Bank to recover Rs 52 crores odd. The judgment and order/decree of the DRT and the recovery certificate gave a fresh cause of action to the appellant Bank to initiate a petition under Section 7 IBC."*

……

***"138.** While it is true that default in payment of a debt triggers the right to initiate the corporate resolution process, and a petition under Section 7 or 9 IBC is required to be filed within the period of limitation prescribed by law, which in this case would be three years from the date of default by virtue of Section 238-A IBC read with Article 137 of the Schedule to the Limitation Act, the delay in filing a petition in the NCLT is condonable under Section 5 of the Limitation Act unlike delay in filing a suit. Furthermore, as observed above Sections 14 and 18 of the Limitation Act are also applicable to proceedings under the IBC.*

***139.** Section 18 of the Limitation Act cannot also be construed with pedantic rigidity in relation to proceedings under the IBC. <u>This Court sees no reason why an offer of one-time settlement of a live claim, made within the period of limitation, should not also be construed as an acknowledgment to attract Section 18 of the Limitation Act.</u> In Gaurav Hargovindbhai Dave [Gaurav Hargovindbhai Dave v. Asset Reconstruction Co. (India) Ltd., (2019) 10 SCC 572 : (2020) 1 SCC (Civ) 1] cited by Mr Shivshankar, this Court had no occasion to consider any proposal for one-*

*time settlement. Be that as it may, the balance sheets and financial statements of the corporate debtor for 2016-2017, as observed above, constitute acknowledgment of liability which extended the limitation by three years, apart from the fact that a certificate of recovery was issued in favour of the appellant Bank in May 2017. The NCLT rightly admitted the application by its order dated 21-3-2019 [Dena Bank v. Kavveri Telecom Infrastructure Ltd., 2019 SCC OnLine NCLT 7881].*

***140.*** *To sum up, in our considered opinion an application under Section 7 IBC would not be barred by limitation, on the ground that it had been filed beyond a period of three years from the date of declaration of the loan account of the corporate debtor as NPA, if there were an acknowledgment of the debt by the corporate debtor before expiry of the period of limitation of three years, in which case the period of limitation would get extended by a further period of three years.*

***141.*** *Moreover, a judgment and/or decree for money in favour of the financial creditor, passed by the DRT, or any other tribunal or court, or the issuance of a certificate of recovery in favour of the financial creditor, would give rise to a fresh cause of action for the financial creditor, to initiate proceedings under Section 7 IBC for initiation of the corporate insolvency resolution process, within three years from the date of the judgment and/or decree or within three years from the date of issuance of the certificate of recovery, if the dues of the corporate debtor to the financial debtor, under the judgment and/or decree and/or in terms of the certificate of recovery, or any part thereof remained unpaid.*

***142.*** *There is no bar in law to the amendment of pleadings in an application under Section 7 IBC, or to the filing of additional documents, apart from those initially filed along with application under Section 7 IBC in Form 1. In the absence of any express provision which either prohibits or sets a time-limit for filing of additional documents, it cannot be said that the adjudicating authority committed any illegality or error in permitting the appellant Bank to file additional documents. Needless however, to mention that*

*depending on the facts and circumstances of the case, when there is inordinate delay, the adjudicating authority might, at its discretion, decline the request of an applicant to file additional pleadings and/or documents, and proceed to pass a final order. In our considered view, the decision of the adjudicating authority to entertain and/or to allow the request of the appellant Bank for the filing of additional documents with supporting pleadings, and to consider such documents and pleadings did not call for interference in appeal."*

*(Emphasis Supplied)*

**6.** In the instant case, it is the main case of the Respondent/'Corporate Debtor' that the date of NPA is 2009 and hence has to be construed as the 'date of default'. The Hon'ble Apex Court in ***'Laxmi Pat Surana' Vs. 'Union Bank of India & Anr.'***[7] has observed as follows:

***"43.*** *Ordinarily, upon declaration of the loan account/debt as NPA that date can be reckoned as the date of default to enable the financial creditor to initiate action under Section 7 IBC. However, Section 7 comes into play when the corporate debtor commits "default". Section 7, consciously uses the expression "default" — not the date of notifying the loan account of the corporate person as NPA. Further, the expression "default" has been defined in Section 3(12) to mean non-payment of "debt" when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be. In cases where the corporate person had offered guarantee in respect of loan transaction, the right of the financial creditor to initiate action against such entity being a corporate debtor (corporate guarantor), would get triggered the moment the principal borrower commits default due to non-payment of debt. Thus, when the principal borrower and/or the (corporate) guarantor admit and acknowledge their liability after declaration of NPA but*

[7] (2021) 8 SCC 481

*before the expiration of three years therefrom including the fresh period of limitation due to (successive) acknowledgments, it is not possible to extricate them from the renewed limitation accruing due to the effect of Section 18 of the Limitation Act. Section 18 of the Limitation Act gets attracted the moment acknowledgment in writing signed by the party against whom such right to initiate resolution process under Section 7 IBC ensures. Section 18 of the Limitation Act would come into play every time when the principal borrower and/or the corporate guarantor (corporate debtor), as the case may be, acknowledge their liability to pay the debt. Such acknowledgment, however, must be before the expiration of the prescribed period of limitation including the fresh period of limitation due to acknowledgment of the debt, from time to time, for institution of the proceedings under Section 7 IBC. Further, the acknowledgment must be of a liability in respect of which the financial creditor can initiate action under Section 7 IBC."*

*(Emphasis Supplied)*

**7.** In the aforenoted Judgement, the Hon'ble Apex Court has clearly laid down the principle that the 'date of default' does not mean a strict interpretation that it has to be the 'date of NPA' in fact, the 'date of default' defined under Section 3(12) of the Code is to mean 'non-payment of a date which has become 'due and payable' whether in whole or any part and is not paid by the Corporate Debtor'. It is an admitted fact in the instant case that there were some Consent Terms entered into between 'Edelweiss' and the 'Corporate Debtor' in Transfer Original Application No.560/2016 filed before the DRT-I, Mumbai, which is signed by Mr. Amrish Vijay Shah the Director of the 'Corporate Debtor'. It is clearly stated in this Consent Terms in the default Clause that in case of non-compliance of any of the Terms stated in the Restructuring Letter that all

liabilities as per the Original Application No.560/2016 shall be restored. It is also an admitted fact that the second Restructuring was cancelled vide Letter dated 01.06.2018 and the Reply by the 'Corporate Debtor' dated 14.06.2018 in paras (d) & (e) has admitted that they could not get the Working Capital Limits sanctioned and for various other reasons mentioned in the paras (d) & (e) the terms of the Restructuring Package could not be adhered to. This construes an 'acknowledgement of debt and default' and signed by the CEO of Mr. Amrish Shah of the 'Corporate Debtor'. Sections 18 & 19 of the Limitation Act, 1963 reads as under:

> ***"18. Effect of acknowledgment in writing.—****(1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.*
>
> *(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872 (1 of 1872), oral evidence of its contents shall not be received.*
>
> *Explanation.—For the purposes of this section,—*
>
> *(a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to set off, or is addressed to a person other than a person entitled to the property or right,*

*(b) the word "signed" means signed either personally or by an agent duly authorised in this behalf, and*

*(c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right.*

***19. Effect of payment on account of debt or of interest on legacy.—****Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made:*

*Provided that, save in the case of payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.*

*Explanation.—For the purposes of this section,—*

*(a) where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment;*

*(b) "debt" does not include money payable under a decree or order of a court."*

**8.** It is also seen from the Balance Sheets that there has been an 'acknowledgement of liability' upto the years 2018-19. The contention of the Learned Counsel for the Respondent that the Restructuring Letters were sanctioned beyond three years of the date of NPA and therefore is 'barred by Limitation' is untenable as at the cost of repetition we hold that as per the ratio of the Hon'ble Apex Court in ***'Laxmi Pat Surana' (Supra)*** the 'date of default' cannot be strictly construed as the date of NPA. The material on record shows that the 'Corporate Debtor' has been consistently acknowledging its 'debt' from

31.03.2010 onwards by way of letters in Restructuring Packages, and also by way of communication the Appellant/'Financial Creditor' for Restructuring, apart from the liability being shown in the Balance Sheets.

**9.** For all the aforenoted reasons we are of the considered view that the Section 7 Application is not 'barred by Limitation', and that there is a 'debt' and 'default', and the facts of the instant case are squarely covered by the ratio of the Hon'ble Apex Court in ***'Dena Bank (now Bank of Baroda)' (Supra).***

**10.** Hence, this Appeal is allowed and the Impugned Order dated 10.08.2021 passed by the Learned Adjudicating Authority is set aside and the Adjudicating Authority shall proceed in accordance with law.

**[Justice Anant Bijay Singh]**
**Member (Judicial)**

**[Ms. Shreesha Merla]**
**Member (Technical)**

**Principal Bench,**
**New Delhi**
**22nd December, 2022**

*himanshu*