

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT NO.-I)
KOLKATA**

I.A (I.B.C) No. 521/KB/2021

In

C.P (I.B.C) No. 387/KB/2017

***An Application under Section 60(5) of the Insolvency and
Bankruptcy Code, 2016.***

IN THE MATTER OF:

STATE BANK OF INDIA

.....Financial Creditor

Versus

M/S ADHUNIK ALLOYS AND POWER LIMITED

.....Corporate Debtor

And

IN THE MATTER OF:

DEPUTY COMMISSIONER OF COMMERICAL TAXES AND ORS.

.....Applicants

Versus

ADHUNIK ALLOYS AND POWER LIMITED ORS.

.....Respondents

Date of Pronouncement: 08.04.2026

Coram:

Smt. Bidisha Banerjee (Judicial)

Cmde. Siddharth Mishra, Member (Technical)

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In
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Appearances (via Physical / Hybrid Mode):

For the SRA : Mr. Anuj Singh, Adv.
: Ms. Trinisha De, Adv.
: Mr. Ashok Kumar Singh, Adv.

ORDER

Per: Siddharth Mishra, Member (Technical)

1. The present application is filed on behalf of the Deputy Commissioner of State Tax, Adityapur Circle, Jamshedpur and others through its respective Divisional designated officials being Assistant Commissioner of State Tax, Mr. Sanjay Kumar Gupta, *inter alia* seeking followings reliefs:

- a) *Direction to immediately furnish Audited Balance Sheets and ledgers of the write offs, related party transactions and write offs, sales and purchase effected and advances made/ received with interest to and from related parties in the last five years in accordance with the transactions referred in this Application for the last five years including the CIRP period and as reflected in the audited balance sheets/ledgers of the CD;*
- b) *Direction to immediately furnish valuation of contingent liabilities, Liquidation and Fair value of the CD, Forensic Audit report and all related documents;*
- c) *Direction to immediately furnish details of liabilities accrued on the downloaded Form C by the RP and the Resolution Applicant explaining how the same have been incorporated in the Resolution Plan and also the compliance of the provisions of Section 30(2) in the Resolution Plan;*
- d) *Any other direction that the Hon'ble Bench may deem fit and proper for the proper adjudication of issue.*

2. **Brief Facts of the Case**

- a) State Bank of India filed an application being no. CP (IB) No. 387/KB/2017 against M/s Adhunik Alloys and Power Limited (Now Amalgam Steel and Power Limited) (hereinafter referred to as “Corporate Debtor”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “IBC”). By order dated 23.08.2017, this Adjudicating Authority admitted the Corporate Debtor into Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”).
- b) On 07.12.2018, this Adjudicating Authority passed the final order approving Resolution Plan submitted by one Bhagwati Power and Steel Limited (hereinafter referred to as “SRA/Respondent No.2”)
- c) After the approval of the resolution plan the Respondent No.2 filed an application being No. 772/KB/2020 against the applicants herein seeking quashing of demands notices raised despite extinguishment in terms of order dated 07.12.2018 and with further directions to issue Form-C to the SRA. By order dated 23.02.2022, this Adjudicating Authority rejected the objections taken by the applicant authority and allowed the prayers of the Respondent No.2.

3. **Applicant’s Contention:**

- a) Ld. Counsel submit that the Applicants was never issued any notices during the CIRP proceedings nor the RP or the Committee of Creditors (“CoC”) shared any documents relating to the CIRP of the Corporate Debtor.
- b) Ld. Counsel submit that the dues of the Applicants had been shown as “Contingent Liabilities” in the Books of Account of the Corporate Debtor and the details of proceedings are already annexed in IA No. 722/KB/2020.




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- c) Ld. Counsel submit that the Applicants being operational creditors had no access to the documents of CIRP viz. Audited Balance Sheets of the Corporate Debtor for the last five years, Forensic audit report, Liquidation Value along with Fair value, Valuation of Contingent liabilities etc.
- d) Ld. Counsel submit that to persued and defend the IA No. 722/KB/2020 filed by the SRA / Respondent No. 2, the applicants needs aforesaid documents to defend the matter.
- e) Ld. Counsel submit that the Liquidation value has nothing to do with the Resolution Plan and the Resolution Applicant was supposed to comply under section 30(2) of the IBC.
- f) Ld. Counsel submits that the Resolution Plan of the Corporate Debtor provides that “any unclaimed statutory liabilities would be liable to 100% write-off, since the liquidation value was insufficient to meet such liabilities.” Further, a portion of the Resolution Plan seeks directions from the Hon’ble NCLT for waiver of statutory liabilities. It is, therefore, questioned as to how such provisions satisfy the mandate under Section 30(2) of the IBC.
- g) Ld. Counsel for the Applicant submits that the Applicant has filed a supplementary affidavit detailing the downloading and issuance of Form Cs by the RP for the period from 23.08.2017 to 07.12.2018, i.e., prior to the declaration of moratorium, in respect of concessional purchases made by the Corporate Debtor, and further for the period from 08.12.2018 to 22.02.2020 by the RP and the Resolution Applicant, involving a cumulative amount of Rs. 78.73 crores, on which approximately 13–14% may constitute the tax liability, all without any authorisation of the Applicant. It is submitted that neither the RP nor the Resolution Applicant had any authority to download the impugned Form Cs without prior authorisation of the

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Applicant upon due verification of dues, demands, disputes, and conduct, as the said Forms constitute property of a statutory body under the Central Sales Tax Act and are beyond the jurisdiction of this Hon'ble Bench. It is further submitted that the Applicant is unaware as to whether any permission was sought from the Hon'ble Adjudicating Authority (NCLT) in this regard. In any event, the said amount is stated to be due and payable by the RP and the Resolution Applicant, and the acts of downloading the Form Cs and extinguishing the liabilities of the Corporate Debtor are alleged to constitute criminal misconduct, rendering them liable in accordance with law. It is also submitted that the Applicant is not aware as to how such liabilities have been dealt with in the Resolution Plan.

- h) Ld. Counsel submit that the CoC, RP and the Resolution Applicant claimed zero value for the liabilities of the applicant by purported reason of liquidation value being insufficient and further it was incumbent upon the respondents to share the aforesaid documents of the Corporate Debtor with the applicant adhering to the least requirement of natural justice which the respondents have failed.
- i) Ld. Counsel submits that the applicant is not legally obliged to accept the valuation reports done by the professionals and secured by the CoC and the RP and kept under their control and possession on mere 'ipse dixit'.
- j) Ld. Counsel submits that in absence of the aforesaid documents it is a monumental task to defend the case of the applicant in IA No. 722/KB/2020 filed by the respondent. That in such circumstances the applicants prays for direction to the CD, RP, Resolution Applicant and the CoC to immediately furnish the aforesaid documents



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which may be required by the applicants to verify the valuation, forensic audit report and the resolution plan.

4. Submission of the Resolution Professional / Respondent No. 3

- a) Ld. Counsel submit that the instant application is liable to be dismissed as being not maintainable on the ground that three years had elapsed since the Corporate Debtor has been resolved and all the records was handed over to the Monitoring Committee/ Successful Resolution Applicant.
- b) Ld. Counsel submit that the public announcement for the initiation of the CIRP against the Corporate Debtor was published on 25.08.2017 and the RP, despite not required as per the provision of the code, vide letter dated 06.09.2017 informed and requested the applicant to lodge its claim. No reply was received from the applicant. A copy of the said letter is annexed and marked as **Annexure- A**.
- c) Ld. Counsel submit that the applicant never sought any documents from the RP during the CIRP. Further, the access to the documents as sought by the applicant could not have been provided as per the provision of the code except audited balance sheets which is public document and the same can be downloaded form the MCA website following its due process.
- d) Ld. Counsel submit that Regulation 35 and 36 of the IBBI (CIRP Regulation), 2016 clearly states that a RP is required to maintain confidentiality *qua* the fair value, liquidation value, information memorandum and debt of the related party of the corporate debtor. The documents as sought by the applicant can only be share with members of the CoC and few details can be shared with the prospective resolution applicant only after availing undertaking for the same. The applicants were not part of the CoC nor was a

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prospective resolution applicant and therefore not entitled to receive the aforesaid documents.

- e) Ld. Counsel submit that the resolution plan dated 22.11.2018 submitted by the SRA was approved by the CoC with 77.02% votes and the same was approved by this Hon'ble Bench vide order dated 07.12.2018 and granted waiver with respect to write off unclaimed dues in its entirety. Further, no appeal challenging the approval of the resolution plan has been filed by the applicant till date. The applicant herein are simply contesting the approval of the resolution plan of the corporate debtor.
- f) The applicant alleges that the RP has committed a criminal misconduct by downloading form Cs from the website of the applicant. Ld. Counsel for the RP states that given the scope of the Corporate Debtor, it is eligible under law to avail concessional rates of tax. It is pertinent to note that in order to make interstate purchase of goods the Corporate Debtor is obligated to make declaration under Form C. The RP was vested with the management of the Corporate Debtor until the same was resolved thus the RP had acted well within his powers in downloading Form Cs from the websites of the statutory authorities to comply with requirements under the law and manage the operations of the Corporate Debtor. The RP owes no amount to the applicant and has not extinguished any liability of the Corporate Debtor.

5. Submission of the SRA/ Respondent No. 2

- a) Ld. Counsel submit the instant application has been filed to re-agitate the issues which have already been determined vide order dated 23.02.2022 passed by this Hon'ble Bench in IA No. 722/KB/2020.




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- b) Ld. Counsel submit that vide order dated 23.02.2022, this Hon'ble bench, upon hearing both the parties, had passed appropriate directions upon the applicants herein regarding the liabilities as to Form Cs to be supplied to the SRA. At this instance, the applicant cannot pursue its claims vide this instant application which clearly has been filed in the form of an appeal against the order of this Hon'ble Tribunal in IA No. 722/KB/2020. Further, no appeal has been filed by the applicant against the aforesaid order and thus the said order had attained finality.
- c) Ld. Counsel submit that instead of preferring an appeal before the NCLAT against the orders dated 07.12.2018 and 23.02.2022, the applicants herein are continuing to pursue the said application and re-agitating the issue already determined by this Hon'ble Tribunal in CP (IB) No. 387/KB/2017 and IA No. 722/KB/2020.
- d) Ld. Counsel submit that the documents sought by the applicants are intergra to the CIRP of the corporate debtor and cannot be divulged to the applicants, who were never connected with the CIRP and the same cannot be given without the permission of the relevant parties to the CIRP unless such disclosures is required by law.
- e) Ld. Counsel submit that as per clause 21 of the Code of Conduct appended to the First schedule to the Insolvency and Bankruptcy Board of India (Insolvency professionals) Regulation, 2016, an insolvency professional is obliged to ensure that confidentiality of the information relating to the insolvency resolution process, liquidation or bankruptcy process, as the case may be, is maintained at all times.
- f) Ld. Counsel submit that the instant application has been filed as a fishing exercise to try a hand at procuring evidence against the SRA. The SRA or RP is not under any

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responsibility to furnish or disclose the documents as sought by the applicant.

- g) Ld. Counsel further submit that the SRA or RP is not under any responsibility to furnish to the applicants details of purported liabilities accrued on the downloaded Form Cs by the RP and the SRA explaining how the same have been incorporated in the approved Resolution Plan. Lastly, the instant application deserves to be dismissed in limine without any consideration.

6. Rejoinder of the Applicant dated 20.04.2022

- a) The Applicants, in their rejoinder, have submitted that the Respondent has been evasive in addressing the two fundamental issues raised. Firstly, it is contended that there has been a purported siphoning of approximately Rs. 394.08 crore through related party transactions, as reflected in the audited balance sheet for the financial year ending 31 March 2019 (at page 59 of the IA No. 722/KB/2020). Secondly, reference is made to certain write-offs amounting to Rs. 291.03 crore, as reflected in the audited balance sheet for the same financial year (at page 56 of the IA No. 722/KB/2020), in the backdrop of a proposal to write off nearly Rs. 243.11 crore due to Government bodies and banks, as recorded at page 61 of the said IA.
- b) It is further submitted that there has been illegal downloading of C-Forms pertaining to purchases made by the Corporate Debtor prior to the commencement of the CIRP, amounting to Rs. 78,72,90,080.53, with an associated tax liability of approximately Rs. 11 crore. In this regard, the Applicants contend that the Respondent has refused to share crucial financial records, including ledgers,

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bank statements, journal entries relating to write-offs, cash vouchers, and other supporting documents, citing certain purported legal protections.

- c) According to the Applicants, in the absence of such disclosures, they are left with no option but to accept, on a mere ipse dixit of the erstwhile Resolution Professional, that as per the valuation reports indicating fair value and liquidation value, there was no scope for making any provision for operational creditors. The Applicants further submit that the Respondent has asserted the authority of the Resolution Professional to download C-Forms even in respect of transactions undertaken prior to the commencement of CIRP. This, according to the Applicants, is in the context of the Corporate Debtor's alleged failure to deposit more than Rs. 6 crore of tax into the Government treasury, despite having collected the same on behalf of the Commercial Tax Department, and notwithstanding the issuance of various demand notices and the pendency of proceedings before competent authorities under the relevant statutory framework.
- d) The applicant also contented that it is not clear whether Regulation 14 i.e., Determination of Amount of claim as mandated under the IBBI (CIRP) Regulation, 2016 has been complied with or not as the Respondent has not come in clean hands before this Hon'ble Bench. It ex facie appears that the RP has deliberately not complied with this regulation to the gross prejudice of the applicants.

7. Supplementary Affidavit of the Applicant dated 10.05.2022

- a) The Applicant has submitted that, while filing the rejoinder dated 20.04.2022, certain important documents were inadvertently not annexed. It is stated that the same are



now being placed on record by way of the present supplementary affidavit. The Applicant has, accordingly, annexed thereto the amendments to the CIRP Regulations, the audited financial statements of the Corporate Debtor for the financial year 2018–2019, as well as the financial statements relating to related party transactions of Orissa Manganese and Minerals for the period from 2017–2018 to 2020–2021.

8. Analysis and Findings

- a) We have heard the Learned Counsel appearing for the parties and have carefully considered the pleadings, the documents placed on record, and the rival submissions advanced on behalf of the parties.
- b) It is an admitted position that the Resolution Plan submitted by the Respondent No. 2 as Successful Resolution Applicant in the Corporate Insolvency Resolution Process (“CIRP”) of M/s Adhunik Alloys and Power Ltd. was approved by the Committee of Creditors (“CoC”) with 77.20% voting share and subsequently approved by this Adjudicating Authority vide order dated **07.12.2018**. It is also submitted that the said approval order is not under challenge before the Hon’ble NCLAT. It is further noted that the present application has been filed on **24.05.2021**, i.e., after a lapse of **899** days from the date of approval of the Resolution Plan.
- c) The Applicants, through this present Application, have sought disclosure of certain documents pertaining to the CIRP of the Corporate Debtor, on the ground that the CoC, RP and Resolution Applicant have ascribed a NIL value to the claims of the Applicants on account of insufficiency of the Liquidation value. In such circumstances, it is



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contented that the Respondent are under an obligation to furnish the relevant records of the Corporate Debtor, including the Forensic Inquiry Report, details of liquidation and fair value, valuation of contingent liabilities, as well as the audited balance sheets and ledgers, in adherence to the principles of natural justice.

- d) This Adjudicating Authority observes that the Applicants have sought certain documents for the purpose of defending the case initiated by Respondent No. 2, being IA No. 772/KB/2021. It is noted that Respondent No. 2 had filed the aforesaid Interlocutory Application seeking quashing of the demand notice issued by the Income Tax Department. Thereafter, vide order dated 23.02.2022, the objections raised by the Income Tax Department were rejected, and the reliefs sought by Respondent No. 2 were allowed.
- e) The limited issue before this Bench is **“Whether the present Application filed under Section 60(5) of the Code is maintainable in view of the fact that the Resolution Plan of the Corporate Debtor has already been approved by this Adjudicating Authority?”**.
- f) At the outset, it is settled law that once a Resolution Plan has been approved by the Adjudicating Authority under Section 31 of the Code, it becomes binding on all stakeholders, including the government and creditors, resulting in the freezing of claims. Any claims not included in the plan are generally extinguished, preventing further disputes or litigation, ensuring a “Clean Slate” for the successful resolution applicant.
- g) The Hon’ble Supreme Court in **CoC of Essar Steel India Ltd. Vs. Satish Kumar Gupta & Ors.** (2019) ibclaw.in 07 SC, emphasized that Section 31(1) ensures that the



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resolution applicant starts running the business on a fresh slate. The Hon'ble Court held that a successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who successfully take over the business of the corporate debtor. This judgment solidified the finality of the resolution process and reaffirmed that claims not included in the resolution plan cannot be subsequently enforced.

- h) The reliefs sought by the Applicants, who are statutory authorities, cannot be granted at this belated stage as it would effectively amount to reopening a settled matter and thereby opening a Pandora's box. It is an undisputed position that nearly **eight years** have elapsed since the Corporate Debtor stood resolved pursuant to the approval of the Resolution Plan by the Adjudicating Authority vide order dated 07.12.2018. The said Resolution Plan has attained finality, no appeal having been preferred within the prescribed period of limitation. In such circumstances, permitting the Applicants to now seek production of documents and revisit issues pertaining to the period prior to the approval of the Resolution Plan would not only defeat the very objective of finality under the insolvency framework but also unsettle the rights and obligations that have since crystallized in favour of the successful resolution applicant.
- i) The jurisdiction of this Adjudicating Authority under Section 60(5) of the Code cannot be invoked in the present circumstances to seek production of documents pertaining to the CIRP of the Corporate Debtor for the purposes of verification or otherwise, once the Resolution Plan has been



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duly approved. Upon such approval, the Resolution Plan attains finality and the CIRP stands concluded, thereby circumscribing the scope of any further inquiry or directions in relation thereto. Entertaining such requests at such belated stage would amount to an impermissible exercise of jurisdiction, contrary to the scheme and objective of the Code, which envisages certainty, finality, and timely resolution.

- j) Accordingly, this Adjudicating Authority is of the considered view that the reliefs sought by the Applicants, are beyond the permissible scope of Section 60(5) and cannot be granted after the approval of the Resolution Plan.

9. In light of the above discussion, the present Application bearing **I.A. 521/KB/2025** is held to be not **maintainable** and is **dismissed** accordingly.
10. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
11. Let the certified copy of the order be issued, if applied for, upon compliance with all requisite formalities.

(Cmde. Siddharth Mishra)
Member (Technical)

(Bidisha Banerjee)
Member (Judicial)

Order signed on the 8th day of April 2026

S.T. LRA

