NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Review Application No. 4 & 5 of 2025
in
Company Appeal (AT) (Ins) No. 522 & 523 of 2024

In the matter of:

1. **RAVINDRA N. ATHAVALE**
For himself and ex-employees
Resident at 2nd Floor, Sfurti Bldg,
Shivasi Vdyog Nagar,
Manpada Road Dombivali,
Thane – 421204

.... Applicant No.1

2. **DNYANABA NAMDEO KARANDE**
For himself and ex-employees
R/o 302/A4 Ashar Estate,
Shree Nagar, Wagle Estate,
Thane – 400 604

....Applicant No.2

Versus

1. **CALYX CHEMICALS AND PHARMACEUTICALS PVT. LTD.**
Having address at-
Unit No. 110, Marwah's Complex,
Krishanlal Marg, Off Saki- Vihar Road,
Andheri (East), Mumbai- 400072

...Respondent No.1

2. **CHARU S. DESAI**
Resolution Professional of Calyx Chemicals and Pharmaceuticals Limited
Having address at-
2602, Fairfield A Wing,
Lodha Luxuria, Majiwada,
Thane (West)- 400601

...Respondent No.2

Present:

For Applicant : Mr Gaurav H. Sethi, Mr. Rahul Kapoor and Mr. Rahul Panwar, Advocates.

For Respondent : Counsel appeared but presence not marked.

J U D G M E N T
(Hybrid Mode)

Per: Barun Mitra, Member (Technical)

Review Applications Nos. 4 & 5 of 2025 have been filed by the Applicants seeking review of the order dated 18.12.2024 passed by this Tribunal in Company Appeal (AT)(Insolvency) Nos. 522 & 523 of 2024 in terms of the Order dated 07.04.2025 passed by the Hon'ble Supreme Court of India in Civil Appeal No. 5052-5053 of 2025.

2. For a better, comprehensive and holistic understanding of the issue at hand, we would like to recapitulate briefly the chronological sequence of events in the present matter briefly. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process (**"CIRP**" in short) on 06.02.2018. The resolution plan submitted by the Successful Resolution Applicant (**"SRA"** in short) was approved by the Adjudicating Authority on 16.04.2019 with 77.80% CoC voting share, following which the SRA took over the management and ownership of the Corporate Debtor. This resolution plan was challenged before this Tribunal, which challenge was dismissed by this Tribunal on 30.08.2019. The order of this Tribunal upholding the resolution plan was challenged before the Hon'ble Supreme Court. However, the Hon'ble Supreme Court vide order dated 20.02.2020 dismissed the appeal and did not interfere with the Resolution Plan. Thus, the resolution plan of the SRA acquired finality on 20.02.2020 having also received the stamp of approval of the Hon'ble Supreme Court.

3. Much after the plan was approved and confirmed upto the level of the Hon'ble Supreme Court, certain ex-employees of the Corporate Debtor filed an

I.A. before the Adjudicating Authority in 2022 seeking payment of gratuity dues under the Resolution Plan. Vide its order dated 19.01.2024, these applications were allowed by the Adjudicating Authority and it was held that gratuity dues as per the provisions of the Payment of Gratuity Act, 1972 to the extent of their admitted claims deserves to be paid. The SRA challenged the order of Adjudicating Authority before this Tribunal. By judgment dated 18.12.2024, this Tribunal allowed the appeal and set aside the impugned order of the Adjudicating Authority by observing that any admission of such belated claim of gratuity payment would tantamount to modification of the resolution plan as the plan did not provide for payment of gratuity to these ex-employees. Aggrieved by the decision of this Tribunal dated 18.12.2024, Civil Appeal No. 5052-5053 of 2025 was filed before the Hon'ble Supreme Court stating that this Tribunal had failed to appreciate that payment of admitted gratuity dues was reflected in "Approved Resolution Plan" but was not implemented by the SRA.

4. The Hon'ble Supreme Court passed the following order on 07.03.2025 in Civil Appeal Nos.5052-5053 of 2025, the relevant excerpts of which are as extracted below:

> *"2. We heard Ms. Anjali Sharma, the learned counsel appearing for the appellants (ex-employees of the corporate debtor). We confronted the learned counsel with the following part of the impugned order which reads thus:-*
> *"This judgment clearly held that SRA cannot be left open to entertain claims which have not been factored in the resolution plan. Therefore, no such claims which are not part of the plan can be enforced against the SRA after the approval of a resolution plan. No proceeding can be initiated or continued in respect of a claim which is not part of the resolution plan."*

3. The learned counsel submitted that it is a finding which is absolutely contrary to the evidence on record.
4. According to the learned counsel the claim is very much a part of the plan. She invited our attention to the plan approval order also.
5. In view of the aforesaid, we permit the appellants herein to go back to the NCLAT and point this out.
6. Prima facie, if what has been submitted by the learned counsel is true and correct then the same needs to be rectified by the NCLAT and then proceed accordingly to decide the matter once again on merits.
7. If any application is filed in this regard the same shall not be rejected only on the ground that the NCLAT has no power to review its order."

5. In pursuance of the above order of the Hon'ble Supreme Court, the Applicants have filed the present Review Applications No. 4 & 5 of 2025 in CA(AT)(Ins) No. 522 & 523 of 2023 making the following prayers as reproduced below:

(a)Pass an order with the effect of reviewing the orders passed by this Hon'ble Appellate Tribunal in Company Appeal (AT) (Ins.) No. 522 of 2024 and in Company Appeal (AT)(Ins.)523 of 2024 dated 18.12.2024; and/or
(b)Pass an order of rectification or modification of the orders passed by this Hon'ble Appellate Tribunal in Company Appeal (AT) (Ins.) No. 522 of 2024 and in Company Appeal (AT)(Ins.)523 of 2024 dated 18.12.2024; and/or
(c) Pass an order to re-hear the matter in order to pass sufficient orders under the above mentioned prayers (a) and (b).
(d) Any other order as deemed fit by Hon'ble Tribunal in light of the fact and circumstance in the present case.

6. In deference to the directions of the Hon'ble Supreme Court, we have heard the matter on 07.08.2025 after condoning refiling delay of 57 days on part of the Applicants. We have duly considered the arguments advanced by the Ld. Counsels for both parties and perused the records carefully.

7. When we look at the orders of the Hon'ble Supreme Court, we find that liberty has been given to the present Applicants to draw our attention to the purported discrepancies in the findings returned by us on 18.12.2024 with respect to their gratuity related claims for being contrary to evidence of record. The Hon'ble Supreme Court having directed that the matter be reconsidered by this Tribunal without taking the stand that this Tribunal lacks power to review its own order, we now proceed to examine the veracity of the contention of the Applicants made before the Hon'ble Supreme Court that the gratuity related claims of the Applicants formed part of the approved resolution plan, which has been disregarded by this Tribunal.

8. It is the case of the Applicants that along with other ex-employees they had filed their gratuity claim before the Resolution Professional (**"RP"** in short) and that the same had been accepted and admitted by the RP. These claims were also reflected in the List of Creditors which had been prepared and submitted by the RP before the Adjudicating Authority on 13.03.2018. Furthermore, the plan submitted by the SRA had also acknowledged that the statutory liabilities towards the workmen and employees will be paid in full. It is further contended that since their gratuity claims found place in the List of Creditors and there is no specific denial of payment of gratuity dues in the resolution plan, these claims cannot be ignored by the SRA. Submission was also pressed that apart from the fact the gratuity payment formed part of the Resolution Plan, it was also asserted that the plan stipulated that gratuity will be paid as and when due, in accordance with applicable law. The applicable law being Payment of Gratuity Act, 1872, the Applicants fit within the parameters of Section 4 of Payment of

Gratuity Act and therefore entitled to payment of gratuity dues. In support of their contention, reliance was placed on the judgment of this Tribunal in ***Jet Aircraft Maintenance Engineers Welfare Association Vs Ashish Chhawchharia, 2022 SCC OnLine NCLAT 418*** which was subsequently upheld by the Hon'ble Apex Court in ***Jalan Fritsch Consortium Vs Regional Provident Fund Commissioner & Arn.*** in ***Civil Appeal No. 407 of 2023*** directing payment of admitted claims towards gratuity dues to the employees. Further it was contended that for the purpose of making gratuity payment, the SRA cannot make any differential treatment between employees on the payroll as on 06.02.2018 and employees not on payroll as on 06.02.2018. In support of their contention reliance has been placed on the judgment of this Tribunal in ***SBI Vs Moserbaer Karamchari Union in CA(AT)(Ins) No. 396 of 2019*** and of the Hon'ble Supreme Court in ***CoC of Essar Steel India Ltd. Vs Satish Kumar Gupta (2019) 16 SCR 275*** to contend that sub-categorization within a class of creditors is impermissible. Therefore, failure on the part of SRA to pay admitted gratuity dues to the Applicants on this count tantamount to non-implementation of the resolution plan.

9. Refuting the arguments canvassed by the Applicant, the Ld. Counsel for the Respondent vehemently contended that the Applicants had misrepresented facts before the Hon'ble Supreme Court that this Tribunal had returned a wrong finding that the gratuity claim of the Applicants did not form part of the resolution plan and that this finding of the Tribunal was contrary to evidence on record. It was added that the Respondent not being on caveat, they were not present when the matter was heard by the Hon'ble Supreme Court and therefore stood deprived of the benefit and opportunity to present the correct factual position before the Hon'ble Apex Court. It was emphatically asserted that the resolution plan did not provide for payment toward gratuity claims of the Applicants since the resolution plan as approved by the Adjudicating Authority on 16.04.2019 clearly provided that employees not on the payroll as on 06.02.2018 being the Insolvency Commencement Date (**'ICD'** in short) were to be paid Nil amount. It was asserted that this aspect of Nil Payment to the Applicants for gratuity claims in the plan read with Annexure 7 thereof had been clearly noticed by this Tribunal in paragraph 21 of its order dated 18.12.2024. There is no ambiguity in the plan that the Applicants not being on the payroll as on ICD were not to be paid gratuity dues but the Applicants are merely trying to orchestrate this claim by deliberately ignoring Annexure 7 instead of reading the plan in conjunction with Annexure 7. It is further contended that this Plan has acquired finality and the Applicant is trying to indirectly challenge the plan under the guise of this review application. It was also asserted that the Applicant are making a distorted claim that the plan provided for payment of gratuity to them but the SRA did not abide by the terms of the plan during the implementation of the plan.

10. The limited question before us is whether the material available on record supports the position that the claim of the Applicants with respect to gratuity dues formed part of the approved resolution plan and denial of gratuity payment shows non-implementation of the terms of the Resolution Plan.

11. It is the contention of the Applicants that their names figured in the List of Creditors prepared by the RP. In support of their contention, attention has been adverted to a letter dated 13.03.2018 sent by the RP to the Adjudicating Authority furnishing a List of Creditor and the "Claims Submitted" by the creditors in accordance with Regulation 13(2)(d) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Perusal of this letter shows that it depicts "Operational Claims"; "Employee Claims" and "Financial Claims" as well as the names of Creditors as can be seen at page 46-47 of the Review Application. The name of one of the Applicants, Shri Ravindra Athavale is found to be reflected under the category of "Employee Claims" which clearly shows that gratuity dues of the Applicants had been admitted by the RP. To avoid any ambiguity, the letter is as reproduced below:

"ANNEXURE A/3"

calyx

CALYX CHEMICALS AND PHARMACEUTICALS LIMITED

CIN : U24220MH1986PLC038618

Factory: N-102,91, MIDC, Tarapur, Boisar, Dist. Palghar - 401 506, Maharashtra, INDIA.
Tel.: +91-22-2525-274 858 • Fax : +91-22-6646 6416 • www.calyxindia.com

13 March 2018

To
The National Company Law Tribunal,
Mumbai Bench.
6th Floor, Fountain, Mahatma Gandhi Road
Mumbai, Maharashtra – 400 001

Subject: List of creditors for Calyx Chemicals and Pharmaceuticals Limited as required under Regulation 13(2) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016

In accordance with Regulation 13(2) (d) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016, we have enclosed as Annexure, the claims submitted by financial and operational creditors, amount of claims admitted as per available information and security interest in respect of such claims.

The amount admitted in some case might undergo some changes, as we are expecting some clarification and additional information. We would submit updated list, in case any claims received are updated or any new claims are received.

For any queries you may reach out to me at email id charudesai@gmail.com and/or ip.calyx@in.ey.com.

Thanking You.

Yours truly,

Charu Desai

Mrs. Charu Desai

Interim Resolution Professional
Calyx Chemicals and Pharmaceuticals Limited
(a company under corporate insolvency resolution process by NCLT order dated 6 February 2018)

Registered with IBBI:

IP Registration no.: IBBI/ IPA-001/IP-P00434/2017-18/10757
Address: 2602, Fairfield A Wing, Lodha Luxuria, Majiwada, Thane West, Thane – 400061, Maharashtra, India.
E-mail: charudesai@gmail.com

NOTARY
M.R. FABALE
GOVT. OF INDIA

Registered Office :

CALYX CHEMICALS AND PHARMACEUTICALS LIMITED

CIN : U24220MH1986PLC038618
R & D Unit : A-37/38, MIDC Phase-I, Golavli, Kalyan-Shil Road, Dombivli (East), Dist. Thane - 421 203, INDIA
Tel.: +91-251-6698300 • Fax : +91-22-66466401 • www.calyxindia.com

(A) Operational Claims	
Name of Creditor	Claim Submitted (Rs)
Ambavat Jain & Associates Limited	3,33,024
Fine Chem Corporation	3,62,513
Income-tax (TDS) Department	92.13 Lacs
Jiangsu Guotai International Group Hau Tai	1,04,40,713
Jivraj Chemicals & Industries Private Limited	49,10,405
Sanjay Mehta	2,19,500
Shree Aarti Enterprises	3,71,010
Shree Ganesh Decorators & Caterers	17,95,000
Sub Total (A)	276.45 Lacs

(B) Employee Claims	
Name of Creditor	Claim Submitted (Rs)
Balaraju Chinnabathini	4,18,116
Bansi Lal	1,90,000
Bhaskar Nair	1,87,054
Dinesh Gond	3,78,427
Gangadhar Hegde	1,79,662
Girish Mandlekar	2,05,906
Hanumanth Rao	56,562
Hemant Ghanekar	1,58,382
Hitesh Patil	62,844
Jayashree Murukate	98,743
Jitendra Kini	75,953
Jitendra Suryavanshi	2,51,564
Kamlesh Kore	3,70,333
Kiran Desai	55,379
Mahesh Kamat	3,48,192
Nitin Dey	78,110
Peddi Bijam	1,28,774
Raghava Reddy	1,52,067
Raghavendra S T Pyali	1,85,664
Ravindra Athavale	1,00,000
Sandeep Turwatkar	2,52,452
Shakera Shaikh	78,224
Sumit Gamgawar	80,595

NOTARY GOVT. OF INDIA

Registered Office :
Unit No. 110, Marwah's Complex, Krishanlal Marwah Marg, Off. Saki-Vihar Road, Andheri (East), Mumbai - 400 072, Maharashtra, INDIA.
Tel.: +91-22-2857 1191 • Fax: +91-22-6646 6416 • www.calyxindia.com

CALYX CHEMICALS AND PHARMACEUTICALS LIMITED
CIN : U24220MH1986PLC038618
R & D Unit : A-37/36, MIDC Phase-I, Golavli, Kalyan-Shil Road, Dombivli (East), Dist. Thane - 421 203. INDIA.
Tel.: +91-251-6698 300 • Fax : +91-22-6646 6401 • www.calyxindia.com

Sunil Save	88,535
Sushil Dheer	1,83,123
Tanvir Mahadik	2,08,042
Vimeshkumar Patel	1,79,284
Sub Total (B)	47,20,987

(C) Financial Claims	
Name of Creditor	Claim Submitted (Rs in crores)
Secured-	
Allahabad Bank	94.20
Bank of Bahrain & Kuwait BSC	6.83
Bank of India	71.20
Bank of Maharashtra	43.83
Canara Bank	64.08
Corporation Bank	60.93
Dena Bank	8.65
Export-Import Bank of India	112.58
IDBI Bank Limited	45.64
Indian Bank	8.70
Kotak Mahindra Bank Limited	8.02
Oriental Bank of Commerce	44.63
Punjab National Bank	155.33
SBI Global Factors Limited	10.62
State Bank of India	560.13
The Jammu & Kashmir Bank Limited	73.60
UCO Bank	29.01
Unsecured-	
Canbank Factors Limited	3.15
Sub Total (C)	1401.15

TOTAL CLAIMS SUBMITTED (A + B + C): Rs 1404.39 crores

Notes:

i. CIRP commencement date is 8 February 2018
ii. Employee claims in respect of certain former employees have not been admitted pending submission of claims
iii. The security interest in favour of financial creditors is as under:

Registered Office : Unit No. 110, Marwah's Complex, Krishanlal Marwah Marg, Off. Saki-Vihar Road, Andheri (East), Mumbai - 400 072. Maharashtra. INDIA.
Tel.: +91-22-2857 1191 • Fax: +91-22-6646 6416 • www.calyxindia.com

(READABLE VERSION OF THE SCANNED COPY OF LETTER DATED 13.03.2018 IS AS BELOW)

"ANNEXURE A/3"

Calyx

CALYX CHEMICALS AND PHARMACEUTICALS LIMITED

CIN:U24220MH1986PLC038618

Factory: N-102, 91, MIDC, Tarapur, Boisar, Dist. Palghar-401 506, Maharashtra, INDIA. Tel.: +91-22-2525-274 858. Fax: +91-22-6646 6416. www.calyxindia.com

13 March 2018

To
The National Company Law Tribunal,
Mumbai Bench.
6th Floor, Fountain, Mahatma Gandhi Road
Mumbai, Maharashtra - 400 001

Subject: List of creditors for Calyx Chemicals and Pharmaceuticals Limited as required under Regulation 13(2) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016

In accordance with Regulation 13(2) (d) of Insolvency and Bankruptcy board of India (insolvency Resolution Process for Corporate Person) Regulations, 2016, we have enclosed as Annexure, the claims submitted by financial and operational creditors, amount of claims admitted as per available information and security interest in respect of such claims.

The amount admitted in some case might undergo some changes, as we are expecting some clarification and additional information. We would submit updated list, in case any claims received are updated or any new claims are received.

For any queries you may reach out to me at email id charudesal@gmail.com and/ or ip.calyx@in.ey.com.

Thanking You.

Yours truly,

Mrs. Charu Desai
Interim Resolution Professional
Calyx Chemicals and Pharmaceuticals Limited
(a company under corporate insolvency resolution process by NCLT order dated 6 February 2018)

Registered with IBBI:

IP Registration no.: IBBI/ IPA-001/IP-P00434/2017-18/10757
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CIN:U24220MH1986PLC038618
R & D Unit : A-37/35, MIDC Phase-I, Golavli, Kalyan-Shil Road, Dombivli (East), Dist. Thane - 427 203. INDIA Tel: +91-251-6698 300 .
Fax : +91-22-6646 6401. www.calyxindia.com

(A) Operational Claims	
Name of Creditor	***Claim Submitted (Rs)***
Ambavat Jain & Associates Limited	*3,33,024*
Fine Chem Corporation	*3,62,513*
Income-tax (TDS) Department	*92.13 Lacs*
Jiangsu Guotai International Group Hau Tai	*1,04,40,713*
Jivraj Chemicals & Industries Private Limited	*49,10,405*
Sanjay Mehla	*2,19,500*
Shree Aarti Enlerprises	*3,71,010*
Shree Ganesh Decorators & Caterers	*17,95,006*
Sub Total (A)	***276.45 Lacs***
(B)Employee Claims	
Name of Creditor	***Claim Submitted (RS)***
Balaraju Chinnabathini	*4,18,116*
Bansi Lal	*1,90,000*

Bhaskar Nair	*1,87,054*
Dinesh Gond	*3,78,427*
Gangadhar Hegde	*1,79,662*
Girsh Mandlekar	*2,05,906*
Hanamanth Rau	*56,562*
Hemant Khamkar	*1,58,302*
Hitesh Patil	*62,844*
Jaysshree Murukale	*98,743*
Jitendre Kint	*75,953*
Jitendra Suryavanshi	*2.51,564*
Kamlesh Kore	*3,70,333*
Kiran Desai	*65,379*
Mahesh Kamal	*3,48,192*
Nilin Dey	*78,110*
Peddi Bijam	*1,28,774*
Raghava Reduy	*1,52,067*
Raghavendra S T Pyali	*1,85,664*
Ravindra Athavale	*1,00,000*
Sandeep Turwaikar	*2,52,452*
Shakera Shaikh	*78.224*
Sumit Gampawar	*69,595*
Sunil Save	*88,535*
Sushil Dheer	*1,63,123*
Tanvir Mahadik	*2,08.042*
Vimeshkumar Palel	*1,79,284*
[Sub Total B)	***47,20,987***

(C) Financial Claims	
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Secured-	
Allahabnd Bank	*94.20*
Bank of Bahrain & Kuwait BSC	*6.8*
Bank of India	*71.20*
Bank of Maharashira	*43.83*
Canara Bank	*64.08*

Corporation Bank	*60.93*
Dena Bank	*8 65*
Export-Import Bank of India	*112.58*
IDBI Bank Limited	*45 64*
Indian Bank	*8.70*
Kotak Mehindra Banık Limited	*8.0*
Oriental Bank of Commerce	*44.63*
Punjab National Bank	*155.33*
SBI Global Factors Limited	*10.62*
The Jammu & Kaslımir Bank Limited	*73.60*
UCO Bank	*29.01*
Unsecured-	
Canbank Factors Limited	*3.15*
Sub Total (C)	***1401.15***

TOTAL CLAIMS SUBMITTED (A + B + C): Rs 1404.39 crores
Notes:

i. ***CIRP commencement dates 6 February 2018***
ii. ***Employee claims in respect of certain former employees have not been admitted pending submission of claims***
iii. ***The security interest in favour of financial creditors is as under."***

x-x-x-x-x-x READABLE VERSION ENDS x-x-x-x-x-x

12. At this stage, it will be useful and constructive to notice the terms of the resolution plan of the SRA to find out how the plan has treated the claims and pay-outs to Workmen and Employees in general and the claims of the present Applicants in particular. The terms of the resolution plan have been outlined in the order of the Adjudicating Authority dated 19.10.2024 which has not been disputed by either parties which reads as follows:

> *"3.1. The total liability of the Company towards Workmen and Employees as per the claim sheet above is INR 6.29 Crores (including Net Salary, Leave Encashment, Bonus, PT, PF, TDS and Gratuity)*

whereas, as per the provisional balance sheet of the Company as on March 31 2018, the estimated liability towards workmen and employees is INR 4.01 Crore.

3.2. Out of the INR 6.29 Crores, INR 1.16 Crores is Statutory Liability towards PF, PT and TDS and INR 2.56 Crores is towards Gratuity and INR 1.11 Crores towards Net Salary. Break up given below as given below:-

Liabilities Towards Workmen and Employees			
Sr. No.	***Statue***	***Total Liabilities – as on CIRP Commencement Date (INR in Crores)***	***Share of Payment to be made (INR in Crores)***
1.	*Employee and Workmen TDS***	*0.38*	*0.38*
2.	*Employee and Workmen PF***	*0.74*	*0.74*
3.	*Employee and Workmen Prof Tax***	*0.04*	*0.04*
	Total of Above	***1.16***	***1.16****
4.	*Net Salary + Leave Encashment + Bonus**	*2.57*	*1.11*
5.	*Gratuity (Paid on accrual basis)***	*2.56*	*2.56*
	Total	***6.29***	***4.83***

Note

**:<u>Net Salary + Leave Encashment + Bonus of all employees and workmen to the extent of amount allotted above shall be paid as per annexure 7.</u> on discharge of relevant Workman or Employee from Employment or within 2 years from Closing Date, whichever is earlier.*

***: The Statutory Liabilities towards the Workmen and Employees will be paid in full*

*3.3 The Resolution Applicant proposes to pay an upfront sum of INR 1.16 Crores, **("Workmen Payment")** within 30 days from the Closing Date. towards PF, PT & TDS. Gratuity (currently provisioned for INR 2.56 Crores) will be paid as and when due, in accordance with the Applicable Law. Also, Net Salary, Leave Encashment, Bonus of all employees and workmen to the extent of INR 1.11 Crores shall be paid **as per Annexure 7**, on discharge of relevant Workman or Employee from Employment or within 2 years from Closing Date, whichever is earlier. The aforesaid amounts will be full and final amount and one time settlement of all workmen and employees dues as on Insolvency Commencement Date. While the Resolution Applicant is not aware of the liquidation value of the Company, for the purpose of this Resolution Plan, the underlying assumption of the Resolution Applicant is that the liquidation value due to the Operational Creditors (Workmen and Employees) in accordance with the liquidation waterfall under the Code is far less than the sun agreed to be paid to the Workmen and Employees hereinabove. Further, as per Regulation 38(1) of the CIRP Regulations, the amount due to the Operational Creditors are being given priority in payment over the Financial Creditors.*

3.4 This Workmen Payment shall also include liability of the Company arising from payment of Provident Fund contribution and ESI contribution and any other liability of the Company, whether contractual, statutory or otherwise. towards its workmen, staff, employees and any other person working with the Company on its pay roll. The Workmen Payment shall be paid from the OCD Consideration, to be infused by the Resolution Applicant.

*3.5 List of exact payment to Workmen and Employees is annexed hereto as **Annexure 7** till CIRP commencement date, and it shall constitute a full and final settlement of all workmen and employee dues (including pertaining to payment of salary, bonus, leave encashment, terminal benefits, statutory contributions and any other statutory liability) for the period prior to the CIRP commencement date. Except for Workmen and Employee Payment, the Company and the Resolution Applicant shall not be in any manner whatsoever at any point, present or future, be directly or indirectly responsible or liable for any claims with respect to workmen dues which relate to a period prior to CIRP commencement date. All balance dues, whether in past, present or* *future other than what is provided for in the clause 3.3 above, pertaining to the workmen and employee of the Company, for the period prior to the CIRP commencement date, shall stand settled in the manner set out above.*

3.6 In consideration of Workmen and Employee Payment, all the litigations/ proceedings by employees/ workmen or before any labour department for non-payment of any dues/ contribution or any other moneys shall be withdrawn and stand dismissed accordingly and the Company shall no longer be required to make any payments in relation to such litigations/proceedings.

3.7 In case any stock options or warrants or rights to Equity Shares have been granted to workmen/ employees pursuant to any employee stock option plan/ policy of the Company, such options/ warrants/ rights, whether vested or unvested, exercised or un-exercised shall stand revoked with no claims or liabilities against the Company or the Resolution Applicant."

(Emphasis supplied)

13. Interestingly, the order of the Adjudicating Authority has confined itself to the above terms of the Resolution plan without extracting Annexure 7 even though it formed an integral adjunct of the resolution plan and has to be read hand in hand in view of Clause 3.3 and 3.5 of the plan. It is therefore essential to reproduce "Annexure 7: Payment to Employees and Workmen". The contents of Annexure 7 which appears as 'Annexure 4' in the Review Application is as reproduced below:

"ANNEXURE A/4"

Annexure 7: Payment to Employees and Workmen

1. List of employees who were on the payroll of the company as on 6th February, 2018 and have submitted claims through an authorized representative of workmen and employees.

Sr. No.	Employee Name	Claims Admitted (Amount in INR)	Payment to be made (Amount in INR)
1.	Ajay Rathod	40,027	20,014
2.	Ajay Suradkar	36,481	18,241
3.	Ajay Tare	38,689	19,345
4.	Ajaykumar Patel	7,72,033	3,86,017
5.	Ajit Pawar	26,861	13,431
6.	Ajit Salunkhe	23,695	11,848
7.	Amitabh Saxena	2,99,805	1,49,903
8.	Amol More	18,026	9,013
9.	Amol Sayane	43,888	21,944
10.	Anand Salunkhe	2,86,885	1,43,443
11.	Anant Kasar	1,37,905	68,953
12.	Anil Jadhav	15,499	7,750
13.	Anil More	3,34,298	1,67,149
14.	Ankur Khot	39,157	19,579
15.	Ankush Kamble	69,032	34,516
16.	Apurva Sukani	43,405	21,703
17.	Aquib Shaikh	83,592	41,796
18.	Arun Bari	2,69,261	1,34,631
19.	Arun More	27,827	13,914
20.	Arvind Poojari	209,263	104,632
21.	Ashok Dinde	184,787	92,394
22.	Ashok Konda	20,68,853	10,34,427
23.	Ashok Salunkhe	2,61,342	1,30,671
24.	Ashwini Raut	39,362	19,681
25.	Aslam Naikawadi	40,476	20,238
26.	Avdhesh Yadav	1,35,113	67,557
27.	Avijit Sanyal	1,62,367	81,184
28.	Avinash Takale	43,299	21,650
29.	Balaji Panda	1,08,308	54,154

30.	Balaso Saptal	2,70,637	1,35,319
31.	Balu Katela	42,378	21,189
32.	Bhanudas Tupe	3,11,145	1,55,573
33.	Bhanwar Tailor	2,54,100	1,27,050
34.	Bhaskar Ghagre	23,785	11,893
35.	Bhupesh More	30,635	15,318
36.	Bimal Patel	65,14,304	32,57,152
37.	Brijnandan Pandey	24,523	12,262
38.	Chandrakanth Salian	1,32,194	66,097
39.	Danaji Nemane	54,971	27,486
40.	Dashrath Dalvi	86,073	43,037
41.	Dattatraya Dute	23,111	11,556
42.	Dayanand Patil	2,68,263	1,34,132
43.	Deepak Patil	1,38,464	69,232
44.	Deepak Patil	2,62,513	1,31,257
45.	Deepti Patil	44,186	22,093
46.	Devidas Patil	3,04,845	1,52,423
47.	Dhairya Shah	1,13,232	56,616
48.	Dhanashree Khot	42,092	21,046
49.	Dharmendra Mishra	79,662	39,831
50.	Dharmendra Shinde	42,244	21,122
51.	Dhiraj Tare	Not legible	16,953
52.	Digambar Satwe	Not legible	1,44,091
53.	Dinesh Raut	16,668	8,334
54.	Dinesh Vade	2,67,287	1,33,644
55.	Dinyar Elavia	34,14,343	17,07,172
56.	Dipali V. Desai	26,367	13,184
57.	Dulamani Majhi	33,160	16,580
58.	Dyaneshwar Shinde	4,48,350	2,24,175
59.	Eknath Parab	1,69,658	84,829

60.	Ganesh Kushwa	2,27,984	1,13,992
61.	Ganesh Tirloskar	73,597	36,799
62.	Gautam Davane	43,152	21,576
63.	Ghanshyam Yadav	1,00,998	50,499
64.	Girish Bhangale	1,59,576	79,788
65.	Gopalkrishna Shenoy	22,71,031	11,35,516
66.	Gracy Andrew	2,91,950	1,45,975
67.	Harshad Lohar	41,963	20,982
68.	Hemant Bari	1,23,591	61,796
69.	Hemant Kumar Singh	1,81,859	90,930
70.	Hemant Pimple	2,61,577	1,30,789
71.	Hemantkumar Mahajan	1,71,211	85,606
72.	Himanshu Churi	15,699	7,850
73.	Hitesh Dongare	33,866	16,933
74.	Hitesh Vagadia	9,79,215	4,89,608
75.	Indiresh Yadav	1,14,997	57,499
76.	Jagdish Salian	3,98,388	1,99,194
77.	Jaiprakash Patil	4,55,916	2,27,958
78.	Javed Mahammed Shaikh	24,807	12,404
79.	Jayashrec Murukate	1,26,398	63,199
80.	Jaydeep Mhatre	34,441	17,221
81.	Jayesh Gawad	40,602	20,301
82.	Jitendra Mali	96,460	48,230
83.	Jitendra Sankhe	1,12,390	56,195
84.	Jitendra Talele	1,06,159	53,080
85.	Jitendra Tare	71,568	35,784
86.	Jitendra Vade	2,66,288	1,33,144
87.	K R Singh Thapa	3,67,813	1,83,907
88.	Kailash Salunkhe	2,74,602	1,37,301
89.	Kalidas Bagal	1,28,676	64,338

90.	Kalpesh Bhangale	24,791	12,396
91.	Kanishk Kadu	45,952	22,976
92.	Kinjal Shah	6,16,452	3,08,226
93.	Kiran Jadhav	47,301	23,651
94.	Kishor Barde	1,61,831	80,916
95.	Krishna Gosawi	1,88,900	94,450
96.	Krushnath Nimbalkar	1,46,391	73,196
97.	Lalbahadur Chaudhari	2,82,968	1,41,484
98.	Laxman Zore	3,57,061	1,78,531
99.	Madhukar Davare	25,416	12,708
100.	Mahesh Patil	2,93,195	1,46,598
101.	Mahesh Sankhe	2,27,564	1,13,782
102.	Manish Gharat	2,64,206	1,32,103
103.	Manohar More	1,21,975	60,988
104.	Manohar Salunkhe	2,88,461	1,44,231
105.	Manoj Dhande	36,498	18,249
106.	Manoj Pimpale	2,81,751	1,40,876
107.	Nakul Salve	38,252	19,126
108.	Narsing Dhaygude	29,120	14,560
109.	Navnath Patil	2,00,438	1,00,219
110.	Netaji Dabade	32,278	16,139
111.	Nikhil Ovhal	43,842	21,921
112.	Nilesh Machhi	36,981	18,491
113.	Nilesh Pathak	2,80,526	1,40,263
114.	Nitin Lokhande	2,62,614	1,31,307
115.	Nivruti Naik	2,41,976	1,20,988
116.	Omkar Patil	31,792	15,896
117.	Pandurang Gawde	1,56,924	78,462
118.	Paritosh Sankhe	41,528	20,764
119.	Parmanand Tamore	39,878	19,939

120.	Peddi Reddy .B	1,34,122	67,061
121.	Pradeep Shanvar	14,616	7,308
122.	Pradip Warke	23,447	11,724
123.	Prafull Ghodke	2,86,721	1,43,361
124.	Prakalp Raut	40,678	20,339
125.	Prakash Gosavi	4,73,829	2,36,915
126.	Prakash Kadam	39,125	19,563
127.	Prakash Suryavanshi	5,05,605	2,52,803
128.	Prakash Tupe	5,47,538	2,73,769
129.	Pranay Mer	35,460	17,730
130.	Pranay Shah	29,695	14,848
131.	Pranita Mhatre	64,464	32,232
132.	Prashant P Deshmukh	34,997	17,499
133.	Prashant Showche	2,68,256	1,34,128
134.	Prashant Vade	2,54,067	1,27,034
135.	Pratik Dalvi	47,325	23,663
136.	Pravin Chaudhari	1,60,370	80,185
137.	Premshankar Singh	2,29,035	1,14,518
138.	Prinkal Bari	44,040	22,020
139.	Pritam Vajirkar	2,89,567	1,44,784
140.	Priyanka Raut	18,391	9,196
141.	Purushottam Patil	2,49,308	1,24,654
142.	Raghava Majjiga	1,58,903	79,452
143.	Rahul Kulkarni	1,97,658	98,829
144.	Rahul Wadke	1,04,596	52,298
145.	Raj Mhatre	17,845	8,923
146.	Rajan Margl	1,20,286	60,143
147.	Rajesh Mere	30,765	15,383
148.	Rajesh Mhatre	3,05,337	1,52,669
149.	Rajesh Sonkamble	1,53,856	76,928

150.	Rajesh Yadav	52,855	26,428
151.	Rakesh Mhatre	37,251	18,626
152.	Ram Varma	1,08,495	54,248
153.	Ramdas Kadam	5,36,639	2,68,320
154.	Ramnarayan Pandil	2,69,306	1,34,653
155.	Rashmi Khandare	1,04,877	52,439
156.	Ravi Selvaraj	75,850	37,925
157.	Ravindra Sonkamble	1,48,630	74,315
158.	Reena Kini	51,821	25,911
159.	Ronak Ashok Sethiya	52,173	26,087
160.	Roopvarsha Khambal	2,94,600	1,47,300
161.	Roshan Vade	34,259	17,130
162.	Rupali Joshi	3,51,255	1,75,628
163.	Rupesh Sankhe	3,23,687	1,61,844
164.	Rushikumar Gharat	2,69,475	1,34,738
165.	Sachin Gursal	25,438	12,719
166.	Sachin Mane	47,826	23,913
167.	Sachin Patil	81,410	40,705
168.	Sagar Kamble	30,920	15,460
169.	Sandip Diva	34,003	17,002
170.	Sandip Madhukar Shelar	9,631	4,816
171.	Sandip Pimple	1,30,012	65,006
172.	Sandip Rahane	43,193	21,597
173.	Sanjay Ghadge	1,05,634	52,817
174.	Sanjay Jadhav	1,60,265	80,133
175.	Sanjay Pawar	2,29,277	1,14,639
176.	Sanjay Shinde	3,97,182	1,98,591
177.	Sanjay Suryavanshi	2,05,413	1,02,707
178.	Santosh Bhangale	3,65,724	1,82,862
179.	Santosh Hindalekar	2,41,309	1,20,655

180.	Santosh Khambe	2,67,710	1,33,855
181.	Santosh Mohite	11,766	5,883
182.	Santosh Salunkhe	2,57,262	1,28,631
183.	Santosh Sankhe	2,70,929	1,35,465
184.	Santosh Sankhe	57,358	28,679
185.	Santosh Vade	2,55,972	127,986
186.	Sathiascelan B	21,53,681	10,76,841
187.	Satish Shinde	81,612	40,806
188.	Satyanarayan Veerbhathini	1,45,231	72,616
189.	Shahaji Bhosale	2,78,153	1,39,077
190.	Shailesh Kansara	2,53,870	1,26,935
191.	Shailesh Patil	47,632	23,816
192.	Shamali Salve	51,305	25,653
193.	Shankar Shinde	64,670	32,335
194.	Shantaram Jamble	5,13,363	2,56,682
195.	Shidharam Haralayya	46,092	23,046
196.	Shirish Taharabadkar	2,35,754	1,17,877
197.	Shivaji Katkar	2,54,818	1,27,409
198.	Shivaji Nagare	1,15,114	57,557
199.	Shivaram Gharat	1,09,333	54,667
200.	Shravanbal Tejam	1,68,381	84,191
201.	Shrikrishna Sawant	1.90.585	95,293
202.	Shubham Mistri	32,872	16,436
203.	Smita Kalse	43,482	21,741
204.	Smita Shinde	83,163	41,582
205.	Somnath Neharkar	31,662	15,831
206.	Sopan Shelar	2,62,467	1,31,234
207.	Subhash Domb	3,74,939	1,87,470
208.	Suhas Patil	28,405	14,203
209.	Sunil Deshmukh	2,88,558	1,44,279

210.	Sunil Jadhav	33,596	16,798
211.	Sunil Padave	3,24,376	1,62,188
212.	Sunil Raut	1,03,398	51,699
213.	Sunil Vartak	Not legible	Not legible
214.	Sunil Wahurwagh	73,436	36,718
215.	Sunita Kumkar	39,613	19,807
216.	Supesh Shelke	43,547	21,774
217.	Suresh Avadhani	6,16,028	3,08,014
218.	Suresh Mate	1,18,733	59,367
219.	Suresh Salunkhe	2,81,024	1,40,512
220.	Suresh Thapa	3,12,786	1,56,393
221.	Suryakant Zore	3,23,534	1,61,767
222.	Suryapraksh Yadav	44,455	22,228
223.	Suyog Gharat	25,987	12,994
224.	Swapnil Kadu	39,104	19,552
225.	Tamanna Shaikh	92,579	46,290
226.	Tejeswara Rao Killi	1,20,398	60,199
227.	Trishul Shinde	25,210	12,605
228.	Tushar Bari	53,185	26,593
229.	Uday Bhosle	1,28,896	64,448
230.	Uday Kumar Rao	15,19,405	7,59,703
231.	Umesh Patil	2,10,591	1,05,296
232.	Upesh Deo	41,809	20,905
233.	Vaibhav Patil	57,944	28,972
234.	Vaibhav Patil	18,657	9,329
235.	Vaman Naik	6,35,201	3,17,601
236.	Vasant Mane	1,83,489	91,745
237.	Vicky Patil	25,918	12,959
238.	Vijay Patil	3,46,670	1,73,335
239.	Vilas Salunkhe	2,33,917	1,16,959

240.	Vilas Shinde	3,78,359	1,89,180
241.	Vinayak Jamble	3,78,359	1,48,562
242.	Vinod Pagdhare	2,97,123	81,915
243.	Vinod Yadav	1,63,829	16,018
244.	Vishal Guhagarkar	32,035	1,058
245.	Vishal Patil	2,116	15,082
246.	Vishvesh Joshi	82,215	41,108
247.	Yogesh Gund	44,455	22,228
248.	Yogesh Patil	67,641	33,821
249.	Yuvaraj Barhate	5,17,390	2,58,695
	Total	**5,67,77,295**	**2,83,88,648**

2. List of employees who were on the payroll of the company as on 6th February 2018 and have submitted claims individually.

Sr. No.	Employee Name	Claims Admitted (Amount in INR)	Payment to be made (Amount in INR)
1.	Hiren Dave	1,05,972	52,986
	Total	**1,05,972**	**52,986**

3. List of employees who were not on the payroll of the company as on 6th February and have submitted claims individually

Sr. No.	Employee Name	Claims Admitted (Amount in INR)	Payment to be made (Amount in INR)
1.	Amarjeet Yadav	21,655	-
2.	Anju Verma	1,27,186	-
3.	Babaji Gunjal	21,857	-
4.	Balaraju Chinnabathini	4,18,116	-
5.	Gangadhar Hegde	1,79,662	-
6.	Girish Mandlekar	2,05,906	-
7.	Hanamanth Rao	56,562	-

	Rangrao		
8.	Hemant Khamkar	1,58,382	-
9.	Hitesh Patil	62,844	-
10.	Jayashree Murukate	98,743	-
11.	Jitendra Kini	75,953	-
12.	Jitendra Suryavanshi	2,51,564	-
13.	Jitendra Talele	50,906	-
14.	Kamlesh Kore	3,70,333	-
15.	Kiran Desai	55,379	-
16.	Kiran Sajan	64,811	-
17.	Mahesh Kamat	3,48,192	-
18.	Mayuri Bhoir	1,02,462	-
19.	Mrinal Debnath	65,080	-
20.	Nilesh Sankhe	82,020	-
21.	Nitin Dey	78,110	-
22.	Peddi Reddy Bijjam	1,28,774	-
23.	Raghava Reddy Majjiga	1,52,067	-
24.	Raghavendra T-Pyati	1,85,664	-
25.	Raup Pinjari	19,640	-
26.	Ravindra Athavale	1,00,000	-
27.	Sagar Ekal	15,848	-
28.	Sandeep Patil	69,083	-
29.	Sandeep Turwatkar	2,52,452	-
30.	Shakera Shaikh	78,224	-
31.	Shashikant Gaikwad	86,433	-
32.	Sonali Sawant	35,805	-
33.	Sudhir Zende	61,593	-
34.	Sumit Gampawar	69,595	-
35.	Sunil Save	88,535	-
36.	Suresh Patil	6,54,964	-
37.	Sushil Dheer	1,63,123	-
38.	Tanvir Mahadik	2,08,042	-
39.	Vimesh Patel	1,79,284	-
	Total	**54,44,849**	**-**

Summary of all the Employee claims:

Sr. No.	Particulars	Claims Admitted (Amount in INR)	Payment to be made (Amount in INR)
1	Employees in the payroll and claims submitted through authorized representatives	5,67,77,295	2,83,88,648
2	Employees in the payroll and claims submitted individually	1,05,972	52,986
3	Employees not on the payroll of the company	54,44,849	-
	Total	**6,23,28,116**	**2,84,41,634**

14. When we peruse the terms of the resolution plan alongwith the Annexure 7, it clearly shows at Category No. 3 that 39 employees who were not on the payrolls of the Company as on 06.02.2018 had submitted their claims individually. Annexure 7 clearly depicts that "Nil" payments were to be made to them against the claim amount admitted in their case. We find the name of one of the present Applicants, Shri Ravindra Athavale at Sl. No. 26 at Annexure 7 at Category No.3. It is unambiguously clear from a reading of Annexure 7 that 'Nil Payment' was due to the Applicants in terms of the plan. The existence of this list has not been denied or controverted by the Applicant.

15. Given this backdrop, we cannot subscribe to the manner in which the Applicants have tried to read the Resolution Plan in a fragmented manner segregating Annexure 7 therefrom. This skewed approach also followed by the Adjudicating Authority of severing the Annexure 7 from the plan has led to misrepresentation and misinterpretation of the terms of the resolution plan.

Annexure 7 clearly shows that Nil Payment treatment was accorded to the Applicant in the resolution framework of the SRA with respect to their gratuity dues.

16. This leaves no doubt in our mind that the resolution plan did not provide for payment of gratuity dues to certain employees including the Applicants who were not on payroll of the Company as on 06.02.2018. It is also a fact that it has not been disputed by the Applicants that they were not on the payroll of the employer as on 06.02.2018.

17. We further note that this resolution plan was approved by the CoC with 77.80% vote share and thereafter approved by the Adjudicating Authority on 16.04.2019. This plan was thus approved by the Adjudicating Authority nearly six years back as of now. At the cost of repetition, it is again stated that this resolution plan was challenged upto the level of the Hon'ble Supreme Court, but the challenge to the plan having failed to pass muster, the plan had acquired finality. Though the plan had been challenged right up to the Hon'ble Supreme Court, the Applicant had remained silent and did not challenge the resolution plan which tantamount to their acquiescence to the term of the plan.

18. At this stage, we would like to point out that the facts of the present case is clearly distinguishable from ***Jet Aircraft judgment supra*** which has been relied upon by the Applicants. In the present case, the Resolution Plan had acquired finality upto the level of the Hon'ble Supreme Court and even implementation process was also complete. As noticed above, this plan clearly did not provide for payment of gratuity dues to the employees who were not on the payroll before 06.02.2018. In the ***Jet Aircraft judgment supra,*** the plan had not attained finality and was still under challenge. Thus, this judgement cannot come to the rescue of the Applicants.

19. Thus, when the plan of the SRA did not provide for any payment to the Applicants for their gratuity dues and this plan had been approved by CoC in the exercise of its commercial wisdom, it would be fallacious on our part to accede to the contention of the Applicants that their gratuity payment claims formed part of the Resolution Plan. Further in terms of the approved plan, the SRA has already paid Rs 4.83 Cr. including Rs 2.56 Cr. towards gratuity against the admitted claim of Rs 6.29 Cr. of the workmen/employees which has not been controverted by the Applicants.

20. It is well-settled, as held by the Hon'ble Supreme Court in ***Ghanshyam Mishra and Sons Pvt. Ltd. Vs Edelweiss ARC (2021) 9 SCC 657*** and ***Ebix Singapore Pvt. Ltd. Vs Committee of Creditors of Educomp Solutions Ltd. (2022) 2 SCC 401,*** that once a Resolution Plan is approved, all claims not forming part of it stands extinguished and cannot be reopened. After the plan of the SRA was approved by the Adjudicating Authority on 16.04.2019, the issue of differential treatment to employee and workmen not on the payroll of the Corporate Debtor as on 06.02.2018 and employees and workmen who were on the payroll as on 06.02.2018 in respect of gratuity claim was never put to challenge by the Applicants. Thereafter the order of the Hon'ble Supreme Court affirming the resolution plan was passed on 20.02.2020. The Applicant filed their application challenging the resolution plan for non-inclusion of their claim as late as in April 2022 by which time the plan had acquired finality. Thus, in terms of the ***Ghanshyam Mishra*** and ***Ebix judgments supra***, the Applicant stood precluded from disputing the plan and that too when the SRA has already discharged the payment obligations in terms of the approved resolution plan of 16.04.2019 which plan carried the stamp of approval from the CoC upwards to the Hon'ble Supreme Court.

21. In view of the aforesaid reasons, we do not find any merit in the Review Applications warranting any modification of our findings dated 18.12.2024. Accordingly, the Review Applications are rejected. No costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

Place: New Delhi
Date: 21.08.2025

Abdul/ Harleen