THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I

<u>IA 2848 of 2025</u>

Under Sections 60(5) of the Insolvency and Bankruptcy Code, 2016

1. **Mr. Nirav Anupam Tarkas and**
2. **Mr Prem Laddha**

...**Applicant**

V/s

Anchor Leasing Pvt Ltd.

…**Respondent**

In the matter of

<u>COMPANY PETITION (IB) NO. 66 (MB) OF 2018</u>

ANCHOR LEASING PVT. LTD.

…Petitioner

V/s

EURO CERAMICS LIMITED

…Respondent

Order delivered on: 31.10.2025

***Coram**:*

Shri Prabhat Kumar
Hon'ble Member (Technical)

Shri Sushil Mahadeorao Kochey
Hon'ble Member (Judicial)

Appearances:

For the Applicant	:	Adv. Dipesh Siroya
For the Respondent	:	Adv. Agam H Maloo a/w Adv. Nita Chaturvedi

ORDER

1. This Application IA 2848/2025 was filed by Mr. Nirav Anupam Tarkas (Applicant), erstwhile Resolution Professional of Euro Ceramics Limited ("Corporate Debtor") under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("Code") read with Regulation 33 of the Corporate Insolvency Resolution Process (CIRP) regulation seeking direction against Anchor Leasing & Finance (Respondent 1) and Present Liquidator [Respondent 2] for payment of fees, of the Applicant. The Applicant has sought following reliefs:-

INTERIM RELIEF SOUGHT

a) *That the Respondent No.2 be directed not to disburse any amount in favour of any of the creditors who are members of Stakeholders Consultative Committee till disposal of the present Application,*

b) *That the Respondent/SCC be ordered and directed to pay to the Applicant its outstanding fee of sum of Rs 9,12,953/- [Rupees Nine Lakh Twelve Thousand Nine Hundred and Fifty Three Only] of the Applicant.*

c) *Any other suitable relief or direction which this Hon'ble Tribunal may consider appropriate in the facts and circumstances of the case.*

RELIEF SOUGHT

a) *That the Respondent be directed to pay to the Applicant its outstanding fee of sum of Rs 9,12,953/- [Rupees Nine Lakh Twelve Thousand Nine Hundred and Fifty Three Only] of the Applicant.*

(ai) For Cost.

b) *any other suitable relief or direction which this Hon'ble Tribunal may consider appropriate in the facts and circumstances of the case.*

2. The Corporate Insolvency Resolution Process ("CIRP") commenced on 25th February, 2019 in terms of Order passed by this Tribunal allowing the Application filed by Respondent No. 1 u/s of the Code and the Applicant was appointed as Resolution Professional on 7th May, 2019. Thereafter, the Corporate Debtor was admitted into Liquidation Process vide order dated 1st December, 2020 appointing Applicant as the Liquidator to carry out Liquidation of Corporate Debtor, who was replaced on 6th September, 2023 appointing Respondent No. 2 as Liquidator to carry the Liquidation process further in terms of resolution passed by Stakeholder's Consultative Committee on 17th June 2023.
3. It is case of the Applicant that he had conducted e-auctions to the tune of Rs. 48,01,38,909/- and liquidators fees accrued as per the terms and conditions of the appointment enshrined in the

Liquidation Regulations payable in two parts i.e. on (i) realization of proceeds and (ii) distribution to stakeholders. Out of accrued fees, fees to the tune of Rs. 1,49,54,048/- was paid during tenure of the Applicant, however a sum of Rs 9,12,953/- (Rupees Nine Lakhs Twelve Thousand Nine Hundred and Fifty Three Only) is still outstanding. The complete detail with break up are stated to have been provided to the Stakeholders Consultative Committee and the Respondent No. 2.

4. Respondent No. 2 liquidator has filed reply stating that (i) there is no legal provision which allows the present liquidator to clear the liquidation fees of erstwhile liquidator from the liquidation estate without the approval of SCC and this Tribunal to that extent; (ii) - The applicant has not joined SCC as necessary party and the Respondent No. 1, the original petitioner, is not member of stakeholders consultation committee (SCC). The state Bank of India and Cosmos Bank are member of the SCC with voting right of 97% and there is no approval from them; (iii) Upon reviewing the records, no determinable basis or justification for the quantum or legitimacy of the claimed fees could be found. Further, no proper reconciliation, documentation, or confirmation from secured creditors or major stakeholders has been provided by the erstwhile Liquidator to substantiate the claim as liquidation cost under Regulation 2(ea) or for priority under Section 53 of IBC; (iv) As per Section 35(1)(e) of IBC and Regulation 44, any payment out of the liquidation estate must follow due verification, approval by the SCC, and distribution waterfall under section 53; (v) Vide letter dated 12.10.2024, he had informed the erstwhile liquidator that no documents were provided by him for approval of SCC for fee of the liquidator and reimbursement of

expenses levied by him. Assuming that fee is calculated under liquidation regulation 4(2)(b) there is again an excess fee of approx. Rs. 72 Lakh which has been charged by over the permissible limit under the said regulation as per Annexure C to the letter dated 12.10.2024.

5. The Applicant has filed rejoinder refuting the submissions of the Respondent No. 2 and re-asserting his submissions in the application.
6. Heard the Learned Counsel and perused the material on record.
7. The Respondent No. 2 has categorically stated that no documents were provided by the applicant for approval of SCC for fees of the applicant and reimbursement of expenses claimed by him. Instead, the Respondent No. 2 has placed on record detailed working of fees payable to the Applicant in terms of Regulation 4(2)(b) of the Liquidation Process Regulations and a copy thereof is also stated to have communicated to the Applicant vide letter dated 12.10.2024, however, the applicant has not given any specific rebuttal to these calculations, instead has relied upon his own working placed as Annexure D2 of the Application. The working of liquidator's fees as placed by Respondent no. 2 determines the total fees payable to the Applicant as Rs. 76,92,336/- as against Rs. 1,57,19,109/- as determined by the Liquidator vide Annexure D2 of the Application.
8. The Applicant has also placed on record an invoice for Rs. 9,12,953/- towards balance amount payable to him. In this invoice, a sum of Rs. 1,57,19,109/- has been charged as his fees accruing on realization and distribution of assets in liquidation, besides GST applicable thereon and Rs. 10,182/- as expenses.

The Applicant has reduced a sum of Rs. 1,49,54,048/- (excluding GST component) as received by him alongwith GST thereupon.

9. On perusal of said invoice and calculation provided by Applicant at Annexure D2, it is noted that the Applicant had deducted 495 days as exempt period for determination of time period within the realization of assets and distribution of proceeds therefrom took place. At page 40 of the Application, the Applicant has provided following table for determination of period claimed suo-moto as exempt from liquidation period :

ECL Liquidators fees working as on Nov 23. Liquidator changed on 13.11.23				
ICD Date	**01.12.2020**			
Sr	Event / Contingency	From	To	No of days
1	COVID 19 mandatory close down	24-03-2020	30-04-2021	284
2	Medical accident of Liquidator [Exemption granted by NCLT]	03-09-2021	09-11-2021	70
3	Fresh auctions resumed after Medical accident	09-11-2021	29-03-2022	141
	TOTAL DAYS TIME ELAPSED			**495**
	TOTAL DAYS FROM LIQUIDATION RESOLUTION TILL			**1,074**
	EFFECTIVE LIQUIDATION PROCESS PERIOD			**579**

10. The Applicant has computed fees payable to him in the second bucket i.e. realization within next six months as the period from liquidation commencement date till date of auction after excluding the period of 495 days comes to 354 days. However, we could not find any logic for excluding period of 141 days taken for resuming fresh auction even if the period of another 70 days stated to have been excluded by this Tribunal on medical ground

(for which no order is placed on record). Accordingly, in our considered view, the period of 141 days can not be excluded and the realization as per applicant's own determination could be completed within 495 days only. The period of 495 days falls after 1 year thus the applicant was eligible for fees only at the rates prescribed in the third bucket i.e. after 1 year. The Respondent No. 2 has determined the fees payable to the Applicant as per third bucket and we do not find any infirmity in said calculation. Accordingly, we have no hesitation to hold that the applicant has already withdrawn amounts towards his fees payable in terms of Regulation 4(2) in excess of what was due to him and is liable to refund the amounts so withdrawn in excess along with GST. The Respondent No. 2 has determined the fees payable to the applicant as follows :

Liquidator fee as per regulation

Amount realised	Estimated liquidation cost	Net amount realised (Exluding liquidation cost)	Amount Distributed to Stakeholders
53,02,85,406	35000000	49,52,85,406	48,01,38,870

Percentage of fee on amount realised/distrubuted (Excluding liquidation cost)						
	Amount	Realisation in first six month	in next six month	thereafter	Fees	Balance
On first	10000000	5.00%	3.75%	1.88%	188000	48,52,85,406
on next	90000000	3.75%	2.80%	1.41%	1269000	39,52,85,406
on next	400000000	2.50%	1.88%	0.94%	3715683	-
on next	500000000	1.25%	0.94%	0.51%	0	-
on further sum realised	>500000000	0.25%	1.90%	0.10%	0	
		Total - A			5172683	

FEE ON DISTRIBUTION

	Amount	Distribution in first six month		Fees		
On first	10000000	2.50%	1.88%	0.94%	94000	47,01,38,870
on next	90000000	1.88%	1.40%	0.71%	639000	38,01,38,870
on next	400000000	1.25%	0.94%	0.47%	1786653	
on next	500000000	0.63%	0.47%	0.26%	0	-
on further sum	>500000000	0.13%	0.95%	0.05%	0	
		Total - B			2519653	
		TOTAL (C=A+B)			7692336	
Fee calculated and charged by erstwhile liquidator					14954048	
		Excess fee Charged			7261713	

11. As per above working, the total fees payable to the Applicant comes to Rs. 76,92,336/- plus GST @ 18% thereon and out of

pocket expenses of Rs. The applicant has already withdrawn a sum of Rs. 10,182/- claimed in Invoice at Annexure D1. The Applicant has already withdrawn a sum of Rs. 1,49,54,048/- plus GST. Thus, the applicant is liable to refund a sum of Rs. 72,51,530/- (Rs. 1,49,54,048 – Rs. 76,92,336 – Rs. 10,182) plus GST @ 18% thereon amounting to Rs. 13,05,275/- wrongfully collected from the account of Corporate Debtor. The said amount shall be refunded back within 30 days from the date of last withdrawal of money towards his fees and shall carry interest @ 12% p.a. if not paid within the period so allowed.

12. In view of the above, we find no merit that any sum is payable to the Applicant, instead he is liable to pay the money as determined in preceding para and has to be paid in accordance with the directions contained therein.

13. In terms of above, IA 2848 of 2025 is dismissed and disposed of.

14. A copy of this Order be forwarded to IBBI for necessary information and action, if required.

-Sd/-	**-Sd/-**
Prabhat Kumar	**Sushil Mahadeorao Kochey**
Member (Technical)	Member (Judicial)