

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 52 of 2025

IN THE MATTER OF:

Shri Dutt India Pvt. Ltd.

...Appellants

Versus

Ashok Kumar Golecha

...Respondents

Liquidator of Spark Green Energy Satara Ltd.

Present:

**For Appellant : Ms. Aakashi Lodha and Mr. Rohit Gupta,
Advocates.**

**For Respondents : Mr. Prakhar Tandon and Mr. Agam H. Maloo,
Advocates for Liquidator.**

WITH

Company Appeal (AT) (Ins) No. 53 of 2025

IN THE MATTER OF:

Shri Dutt India Pvt. Ltd.

...Appellants

Versus

Ashok Kumar Golecha

...Respondents

Liquidator of Spark Green Energy Satara Ltd.

Present:

**For Appellant : Ms. Aakashi Lodha and Mr. Rohit Gupta,
Advocates.**

**For Respondents : Mr. Prakhar Tandon and Mr. Agam H. Maloo,
Advocates for Liquidator.**

O R D E R
(Hybrid Mode)

10.07.2025: Heard Ld. Counsel for the appellant and Ld. Counsel for the Liquidator.

These two appeals have been filed against the same order dated 26.11.2024 passed by the National Company Law Tribunal, Mumbai Bench,

Court-II in IA No. 1626 of 2024 and IA No. 3067 of 2024. In the liquidation proceedings of M/s Spark Green Energy (Satara) Ltd. The appellant emerged as Successful Auction Purchaser in e-auction held 16.10.2023 for which reserve price was Rs.14.50 crores. The appellant paid the entire amount and sale certificate was issued on 25.01.2024. Liquidator also handed over the physical possession of the land, building and plant of the corporate debtor to the appellant and assets proceeds were also distributed to the secured creditors. IA No. 1626 of 2024 and IA No. 3067 of 2024 was filed by the liquidator as well as appellant respectively praying for grant of relief and concession. Ld. Adjudicating Authority heard both the applications and by the impugned order has decided both the applications by granting various reliefs and concessions and disposed of both the applications. Appellant aggrieved by the order has come up in the appeal.

2. Shri Rohit Gupta Ld. Counsel appearing for the appellant at very outset submits that the scope of appeal be confined only to observation of the Adjudicating Authority contained in paragraph 28.10 where it has issued a general directions with regard to claims which existed on the date of liquidation commencement and has not been filed. He submits that the Adjudicating Authority has rightly held that no claim filed with the liquidator shall survive after consideration of same in accordance with Section 53, the same direction ought to have also been made with regard to claims which existed and have not filed.

3. We thus proceeded to consider the submission counsel for the appellant only to the above extent.

4. Ld. Counsel appearing for the liquidator submits that liquidator also support the submissions advanced by the appellant in the present appeal.

5. We have considered submissions of the counsel for the parties and perused the record. Liquidation proceedings are governed by the IBBI Liquidation Regulation 2016 which regulation provides for filing of the claim as on liquidation commencement date. In the present case, the public announcement was made by Liquidator. Regulation 16(2) clearly contemplate that claim for debt or dues including interest as on the liquidation commencement date is to be submitted. Any claim which was existing of a claimant against the corporate debtor in the liquidation or liquidation commencement date is contemplated to be filed and considered as per Section 53 as per the statutory scheme under Liquidation Regulation and IBC. When the Adjudicating Authority has taken the view that *“we conclude that no claims filed with the liquidation shall survive after consideration of the same in accordance with Section 53 of the Code.”* The Adjudicating Authority ought to have also dealt with the said claim which were existing on the liquidation commencement date and were not filed. Thus, the observation of the Adjudicating Authority to the following effect *“In relation to other claims, if any, existed on the date of sale by the liquidator, but no claim had been filed, a general direction cannot be issued that contradicts the terms of the Process Document. As a result, the relief in general is not granted”, cannot be*

supported. We thus accept the submission made by counsel for the appellant that no claim which existed on the date of sale by the liquidator and was not filed cannot survive after distribution of the assets by the Liquidator. We thus modify the paragraph- 28.10 to the above extent. Both the appeals are disposed of accordingly.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

harleen/NN