

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 1152 of 2025

**[Arising out of the Order dated 06.06.2025, passed by the
'Adjudicating Authority' (National Company Law Tribunal, New Delhi
Court-IV) in IA /1619/ND/2020 IN CP IB/1581/ND/2019]]**

IN THE MATTER OF:

Pradeep Upadhyay

Liquidator

M/s Dugal Associates Private Limited Under Liquidation)

IBBI Registration No - IBBI/IPA-001/IP-P01415/

2018-19/12233

Correspondence Address:

B-2/42, Sector-18, Rohini,

Delhi – 110089

...Appellant

Versus

Bhadohi Industrial Development Authority (BIDA)

Through Chief Executive Officer (CEO)

Bida Bhawan, Rajpura Road, Bhadohi, Uttar Pradesh

Email: bidabhadohi@rediffmail.com

...Respondent

Present:

For Appellant : Mr. Sanjeev Panda, Mr. Sumit Shukla, Advocates with
Mr. Pradeep Upadhyay, Liquidator.

For Respondent : Mr. Shivam Kumar, Ms. Upasana Singh, Advocates.

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

[Per: Arun Baroka, Member (Technical)]

The present Appeal has been filed under Section 61 of the Insolvency and Bankruptcy Code, 2016 ("IBC") against the impugned order dated 06.06.2025 of Hon'ble National Company Law Tribunal, New Delhi, Court-IV passed in Application bearing IA/1619/ND/2020 IN CP IB/1581/ND/2019.

2. The Appellant seeks to set aside or modify the order dated June 6, 2025, passed by the Learned NCLT, New Delhi, Court-IV, in IA 1619/ND/2020 in CP (IB) 1581/ND/2019. They also request that the Respondent be directed to remove the blacklisting imposed on the Corporate Debtor. Furthermore, the Appellant prays for the release of retention money amounting to approximately Rs. 27,14,940, which is currently held by the Respondent, along with the release of the final payment of around Rs. 36,40,441.61 for the work completed. Beyond these specific monetary reliefs, the Appellant also asks the court to pass any other orders it deems fit and just, considering the facts of the case.

3. These reliefs are grounded on the contention that the termination of the contract was triggered by the insolvency of the Corporate Debtor, and therefore, the moratorium under Section 14 of the Insolvency and Bankruptcy Code should protect against such termination.

4. Appellant - Liquidator¹ contends that the CIRP was initiated against the Corporate Debtor (CD)² on 11.11.2019.

5. It claims that under an Agreement dated 07.10.2016 CD was engaged in a civil construction project for BIDA³. Appellant claims that while approximately 90% of the work has been completed in terms of physical progress across the various components of the project, this does not correspond to 90% of the

¹ Appellant in Liquidator Mr. Pradeep Upadhyay

² CD in M/s Dugal Associates Private Limited

³ BIDA – Bhadohi Industrial Development Authority

contract value in monetary terms. This variance arises due to certain high-value tasks such as final finishes, services, or specialized components-being either partially completed or pending. These remaining elements constitute a significant portion of the contract value, though they represent a smaller portion of the physical volume of work. Hence, the extent of physical completion (approx. 90%) must be viewed distinctly from the proportion of value disbursed or due under the contract. The payments received thus far correspond strictly to certified portions of the work completed under the RA billing system, and no advance or unearned amount has been claimed or received.

6. On 23.01.2020, the Appellant formally informed the Respondent of the initiation of CIRP and the moratorium under Section 14. On 27.01.2020, the Appellant personally met the CEO of BIDA and apprised him of the CIRP status and proposed completion of the balance work. This meeting was acknowledged by the Respondent in their reply before the Adjudicating Authority.

7. Vide order dated 24.12.2019, the District Collector of Bhadohi constituted a committee to examine delays in project execution and the Committee met on 19.02.2020, and the Corporate Debtor also participated. The delays were beyond the control of the CD and the said committee was formed to investigate the reason; however, blacklisting order was passed without waiting the outcome. Appellant claims that the act of the blacklisting of the Corporate Debtor have adversely impacted the revival of the Corporate Debtor as no PRAs came forward to submit the resolution plan.

8. However, even before the Committee could conclude its enquiry, the Respondent, by order dated 28.01.2020, terminated the Agreement, blacklisted the Corporate Debtor which resulted in Forfeiture of amount payable to CD in terms of Running Account Payment based on MB (Measurement Book), Retention Money, TDS deducted by BIDA, EMD etc. despite being aware of the moratorium. Thus, the action of the Respondent was triggered by the Insolvency and therefore, is hit by the provisions of Section 14 of the Code. Contended that Liquidator is not taking shelter behind the moratorium. However, the sequence of events clearly shows that the action of the Respondent was triggered by the insolvency of the CD.

9. The Appellant promptly objected to the termination and forfeiture via letters dated 30.01.2020, 04.02.2020 and 07.02.2020, asserting that only minor work remained, which could be swiftly completed under RPs supervision. Letter dated 04.02.2020 clearly demonstrates that the delays in contract were not attributable to the CD.

10. Appellant further claims that the Respondent BIDA issued a fresh tender on 12.02.2020 for the residual work, violating the Code and the moratorium. On 26.02.2020, the Appellant filed IA No. 1619/2020 before the Hon'ble NCLT seeking redress. Appellant claims that due to the blacklisting of the CD, nobody took interest in Resolution Plan and finally the COC recommended the CD for Liquidation. Thereafter, on 12.01.2022, the Adjudicating Authority ordered liquidation of the Corporate Debtor and appointed the Appellant as Liquidator.

Despite notices, BIDA failed to participate in IA 1619/2020 and was proceeded ex parte on 24.02.2022. Later, BIDA filed IA No. 6030/2022 seeking recall of the ex parte order, which was allowed on 04.01.2023 subject to costs. The reply filed by the BIDA was taken on record. After filing of replies and rejoinders, final arguments were heard on 02.05.2025 and judgment was reserved.

11. Appellant claims that on 06.06.2025, the NCLT passed a non-speaking and unreasoned order, failing to address the core legal issues-leading to this appeal. Adjudicating Authority failed to appreciate the fact that the District Collector passed an order dated 24.12.2019 constituting a committee headed by the Superintending Engineer, PWD to examine the quality of work and the delay in execution of works. The said Committee held its enquires and met to discuss the matter as set out in the agenda on 19.02.2020 wherein, the Appellant/Corporate Debtor has also participated. It is claimed that even before the said Committee could complete the enquiry, the CEO of Respondent BIDA vide Order dated 28.1.2020, during the operation of moratorium under Section 14 of IBC, 2016, has terminated the Agreement dated 7.10.2016 and further forfeited the deposit and EMD of the Corporate Debtor amounting to Rs. 24,83,989/-. BIDA has further blacklisted the Corporate Debtor vide this impugned order, which is prime-facie wrong and illegal as against the moratorium.

12. Adjudicating Authority has failed to appreciate the fact that as borne out from the records, there were certain delays in execution of the work under

contract which are attributable to various factors beyond the control of the Corporate Debtor, as proper possession of land was not given to complete the project. Moreover, the Respondent in themselves accepted the fact that, villagers were not allowing the Corporate Debtor to work smoothly, till 2019. (Details reasons are provided in letter dated 04.02.2020 at page 87-90 of the Appeal Paper Book).

13. Appellant claims that Adjudicating Authority has failed to exercise its residuary jurisdiction as contemplated under Section 60(5) (c) of the Code which provides it a wide discretion to adjudicate questions of law or fact arising from or in relation to the insolvency resolution proceedings as the termination of the contract is triggered by the insolvency of the CD and issued a non-speaking order which is illegal, perverse and against the mandate of the IBC, 2016 read with the mandatory provisions of the Section 14 read with Section 53 of the Code.

14. Appellant further contends that the legislative intent behind creation of a provision for moratorium in terms of Section 14 of IBC during the pendency of CIRP of the Corporate Debtor, is only to ensure that the Corporate Debtor is transferred or sold as a "going concern" and thus maximize the asset value of the Corporate Debtor, for the benefit and in the interests of all the stakeholders.

15. Appellant claims that IBC is a complete code and Section 238 overrides all other laws. The NCLT in its residuary jurisdiction is empowered to stay the termination of the agreement if it satisfies the criteria laid down by the Hon'ble Supreme Court in Gujarat Urja Vikas vs Amit Gupta & ORs" in Civil Appeal No.

9241 of 2019 (2021) 7 SCC 209: 2021 SCC ONLINE SC 194. In the present appeal, the termination of the agreement was triggered by the insolvency of the Corporate Debtor in view of the averments made hereinabove. Hence, the present appeal be allowed and relief as prayed in the appeal be granted in the interest of justice.

16. Appellant contends that nearly five years have elapsed since the filing of the application by the IRP, and in the intervening period, the contract in question has been awarded to another party. Consequently, the issue relating to the continuity of the contract has become infructuous. However, it is submitted that the removal of blacklisting imposed on the Corporate Debtor, along with the release of all amounts due comprising pending running payments, retention money, TDS deductions, and payments based on the Measurement Book (MB) would significantly facilitate the realization of stakeholders' claims and protect their legitimate interests. Granting such relief would ensure that the corporate insolvency resolution process achieves its intended objective of maximizing value for all creditors. Therefore, it is prayed that the present appeal be allowed.

Appraisal

17. We have heard counsels of both sides. No reply was filed by the Respondent despite opportunities. We have perused the materials placed on record and the reply of the Respondent before NCLT was relied upon by us.

18. We note that the CD was engaged by BIDA for certain building construction works. This work could not be completed timely by the CD.

Concurrently section 9 petition was filed by some other operational creditor viz M/s Roofs and Ceilings Pvt Ltd. under section 9 of the code for initiating CIR proceedings against the CD in July 2019. Adjudicating authority admitted the insolvency proceedings vide order dated 11th December 2019 and imposed moratorium under section 14 of the Code.

19. In the meantime, exchange of correspondence was going on between the CD and BIDA for completion of this work. These details have been noted by the adjudicating authority in the impugned order, which are noted herein for assistance:

“ ...

- c) The Corporate Debtor, engaged as a contractor, entered into an agreement with BIDA on 17.10.2016 for execution of certain building construction works. The project, valued at ₹6,41,80,357/- , was to be completed by 14.10.2017, pursuant to a work order issued on 07.10.2016. The agreement and work order set out mandatory terms and conditions, including Clause 3 and Clause 21, which empower BIDA to forfeit security and recover amounts from the contractor in specified circumstances.
- d) The Respondent submitted that as the Corporate Debtor failed to complete the project within the stipulated timeline, show cause notices were issued by the Assistant Engineer, BIDA, on 01.11.2017 and 13.11.2017. Subsequently, on the directions of the District Magistrate/CEO, BIDA, an inspection was conducted on 01.02.2018, which revealed serious irregularities on the part of the Corporate Debtor. The Public Works Department submitted its inspection report on 23.02.2018 detailing the findings.

- e) That vide letter dated 16.04.2018, the Assistant Engineer, BIDA, directed the Corporate Debtor to increase the workforce to expedite project completion, as the original timeline had lapsed. Subsequently, vide letter dated 01.05.2018, the Assistant Engineer informed the Corporate Debtor that the completion deadline had been extended to 30.07.2018, and the project was required to be completed within the revised timeframe.
- f) Thereafter, vide letter dated 25.05.2018, BIDA warned the Corporate Debtor to complete the project, failing which blacklisting would ensue. Subsequently, on 12.09.2018, the Executive Engineer directed the Corporate Debtor to rectify the discrepancies identified in the Enquiry Report of the Civil Engineering Department, IIT-BHU, with immediate effect. Further, BIDA extended the project completion deadline to 31.12.2018, vide letter dated 28.09.2018.
- g) The Respondent further submitted that following the extension, BIDA issued multiple communications dated 23.10.2018, 22.11.2018, 27.11.2018, and 26.02.2019 to the Corporate Debtor for project completion, but no substantial progress was made. The Director of the Corporate Debtor submitted an affidavit undertaking to complete the remaining work by the end of March 2019; however, no compliance was followed. Despite further reminders dated 26.04.2019, 28.06.2019, 18.09.2019, and 17.10.2019, the Corporate Debtor failed to act. Consequently, a show cause notice was issued by the then CEO, BIDA, on 11.11.2019, to which the Corporate Debtor replied on 20.12.2019. Thereafter, in a board meeting held on 08.01.2020 in the presence of the Chairperson, BIDA/Principal Secretary, it was resolved that the project must be completed by 25.01.2020.
- h) Thereby a letter was issued to the Corporate Debtor on 16.01.2020 directing completion of the project. However, due to continued non-compliance, the then Chief Executive Officer, on 28.01.2020,

cancelled the agreement, blacklisted the Corporate Debtor, and forfeited the security deposit and earnest money as per the contractual terms. It is further submitted that the Corporate Debtor had taken a BIDA site on rent in 2017 but failed to pay rent from October 2017 to November 2020. Consequently, a recovery order dated 24.11.2020 was issued against the Corporate Debtor for ₹9,65,710/-.

- i) The Ld. Counsel for the Respondent submitted that BIDA has sustained substantial losses in connection with the work executed by the Corporate Debtor and is claiming recovery of ₹1,48,16,890/, including security deposit, retention money, and other disputed amounts. Despite repeated notices, neither the Liquidator nor the Corporate Debtor appeared or carried out measurement work. Consequently, BIDA conducted the measurement in December 2020. It was found that 5approximately 25% of the work remained incomplete, compelling BIDA to award the remaining work to M/s Krishna Construction on 11.03.2020. The non-performance resulted in losses exceeding ₹1.4 crore, including interest at 12% per annum and damages, which BIDA now seeks to recover from the Corporate Debtor under liquidation.
- j) The order for blacklisting the Corporate Debtor was passed by BIDA through its Chief Executive Officer on 28.01.2020. Notably, the Resolution Professional (RP) made his first request for review of the said order on 27.01.2020, citing the moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016. Subsequent emails were sent by the RP on 30.01.2020 and 04.02.2020, followed by a letter from the Assistant Engineer, BIDA, dated 03.02.2020, directing the Corporate Debtor to complete the measurement work. In its reply dated 04.02.2020, BIDA stated that it had not received prior communication from the RP or the Corporate Debtor regarding the commencement of insolvency proceedings and had only become

aware of it during the RP's meeting with the CEO on 27.01.2020, at which time no formal documentation was shared.

- k) Further emails were sent by the RP on 04.02.2020 and 07.02.2020 requesting release of EMD and security deposit and review of the blacklisting order. BIDA responded on 07.02.2020, detailing the losses sustained due to non-completion of the work and offering cooperation in case any documents were required by the RP. On 10.07.2020, the RP informed BIDA of his intention to visit the project site for measurement. In response, BIDA, via its Executive Engineer, communicated on 31.07.2020 that the project remained incomplete and reiterated its readiness to facilitate the RP's visit. However, the RP did not visit the site and continued to correspond only through emails.
- l) On 24.08.2020, the RP again raised issues regarding pending payments and measurements, which were addressed by BIDA in its reply dated 14.09.2020, clarifying that no payments were pending and reiterating the basis for blacklisting due to substantial financial loss. Additionally, BIDA stated that the Corporate Debtor had not paid rent for a site taken on lease since October 2017. A recovery order was issued on 24.11.2020 for ₹9,65,710/-, with a warning that failure to pay by 28.11.2020 would result in recovery along with 16% interest per annum. As of November 2021, the total outstanding amount stood at ₹23,71,572.10.
- m) The Respondent submitted that despite repeated requests and opportunities, the Corporate Debtor failed to complete the assigned work. Consequently, the Development Authority was left with no option but to cancel the contract. The initiation of insolvency proceedings does not absolve the Corporate Debtor from its contractual obligations. Notably, the Corporate Debtor failed to complete work under 33 out of 76 specified work heads, rendering its claims untenable and misleading...”

20. We note that when the contract was terminated on 28.01.2020, the moratorium was in place. However, the termination of the contract was culmination of the protracted proceedings between the CD/Appellant and BIDA, which was going on as per the contractual agreement between the two parties. BIDA had finally taken action for termination of the contract as per contractual provisions - even though Appellant claims that the termination of the contract was a consequence of the CIRP proceedings. But the facts in the facts and circumstances of the case bely such a claim.

21. Such a situation was existing in another matter which was adjudicated by Hon'ble Supreme Court in **TATA Consultancy Services Limited Vs. Vishal Ghisulal Jain, Civil Appeal No. 3045 of 2020 decided on 23.11.2021**, the relevant extract is as follows for convenience:

“ ...

25. Before the initiation of the CIRP, the Appellant had on multiple instances communicated to the Corporate Debtor that there were deficiencies in its services. The Corporate Debtor was put on notice that the penalty and termination clauses of the Facilities Agreement may be invoked. This is evident from the Appellant's communications dated 1 August 2018, 17 September 2018, 1 October 2018 and 11 October 2018. In its email dated 13 October 2018 the Appellant specifically noted that the housekeeping staff being provided by the Corporate Debtor was inadequate. The Appellant was apparently constrained to deploy its own staff for housekeeping, evinced from its email dated 19 November 2018. The Corporate Debtor has admitted that the Appellant was using its own housekeeping staff and deducting the costs from the invoice. The Appellant again intimated the Corporate

Debtor to change faulty batteries of the UPS and provide cleaning products in its email dated 3 February 2019. The termination notice dated 10 June 2019 also clearly lays down the deficiencies in the services of the Corporate Debtor. The termination notice enumerated the following deficiencies:

xxx

26. In **Gujarat Urja (supra)**, the contract in question was terminated by a third party based on an ipso facto clause, i.e., the fact of insolvency itself constituted an event of default. It was in that context, this Court held that the contractual dispute between the parties arose in relation to the insolvency of the corporate debtor and it was amenable to the jurisdiction of the NCLT Under Section 60(5)(c). This Court observed that ".... NCLT has jurisdiction to adjudicate disputes, which arise solely from or which relate to the insolvency of the corporate debtor... The nexus with the insolvency of the corporate debtor must exist" (para 69). Thus, the residuary jurisdiction of the NCLT cannot be invoked if the termination of a contract is based on grounds unrelated to the insolvency of the Corporate Debtor.

27. It is evident that the Appellant had time and again informed the Corporate Debtor that its services were deficient, and it was falling foul of its contractual obligations. There is nothing to indicate that the termination of the Facilities Agreement was motivated by the insolvency of the Corporate Debtor. The trajectory of events makes it clear that the alleged breaches noted in the termination notice dated 10 June 2019 were not a smokescreen to terminate the agreement because of the insolvency of the Corporate Debtor. Thus, we are of the view that the NCLT does not have any residuary jurisdiction to entertain the present contractual dispute which has arisen dehors the insolvency of the Corporate Debtor. In the absence of jurisdiction over the dispute, the NCLT could not have imposed an ad-interim stay on the termination notice. The NCLAT has incorrectly upheld the interim order of the NCLT.

28. While in the present case, the second issue formulated by this Court has no bearing, we would like to issue a note of caution to the NCLT and NCLAT regarding interference with a party's contractual right to terminate a contract. Even if the contractual dispute arises in relation to the insolvency, a party can be restrained from terminating the contract only if it is central to the success of the CIRP. Crucially, the termination of the contract should result in the corporate death of the Corporate Debtor. In *Gujarat Urja (supra)*, this Court held thus:

176. Given that the terms used in Section 60(5)(c) are of wide import, as recognised in a consistent line of authority, we hold that NCLT was empowered to restrain the Appellant from terminating PPA. However, our decision is premised upon a recognition of the centrality of PPA in the present case to the success of CIRP, in the factual matrix of this case, since it is the sole contract for the sale of electricity which was entered into by the corporate debtor. In doing so, we reiterate that NCLT would have been empowered to set aside the termination of PPA in this case because the termination took place solely on the ground of insolvency. The jurisdiction of NCLT Under Section 60(5)(c) of IBC cannot be invoked in matters where a termination may take place on grounds unrelated to the insolvency of the corporate debtor. Even more crucially, it cannot even be invoked in the event of a legitimate termination of a contract based on an ipso facto Clause like Article 9.2.1(e) herein, if such termination will not have the effect of making certain the death of the corporate debtor. As such, in all future cases, NCLT would have to be wary of setting aside valid contractual terminations which would merely dilute the value of the corporate debtor, and not push it to its corporate death

by virtue of it being the corporate debtor's sole contract (as was the case in this matter's unique factual matrix).

177. The terms of our intervention in the present case are limited. Judicial intervention should not create a fertile ground for the revival of the regime Under Section 22 of SICA which provided for suspension of wide-ranging contracts. Section 22 of the SICA cannot be brought in through the back door. The basis of our intervention in this case arises from the fact that if we allow the termination of PPA which is the sole contract of the corporate debtor, governing the supply of electricity which it generates, it will pull the rug out from under CIRP, making the corporate death of the corporate debtor a foregone conclusion.

(emphasis supplied)

29. The narrow exception crafted by this Court in Gujarat Urja (supra) must be borne in mind by the NCLT and NCLAT even while examining prayers for interim relief. The order of the NCLT dated 18 December 2019 does not indicate that the NCLT has applied its mind to the centrality of the Facilities Agreement to the success of the CIRP and Corporate Debtor's survival as a going concern. The NCLT has merely relied upon the procedural infirmity on part of the Appellant in the issuance of the termination notice, i.e., it did not give thirty days' notice period to the Corporate Debtor to cure the deficiency in service. The NCLAT, in its impugned judgment, has averred that the decision of the NCLT preserves the 'going concern' status of the Corporate Debtor but there is no factual analysis on how the termination of the Facilities Agreement would put the survival of the Corporate Debtor in jeopardy.

30. Admittedly, this Court has clarified the law on the present subject matter in Gujarat Urja (supra) after the pronouncements of the NCLT and NCLAT. Going forward, the exercise of the NCLT's residuary powers should be governed by the above decision.”

22. From the above background we need to answer the question whether the termination of the contract by the Respondent is occasioned by the insolvency of the Corporate Debtor and, as such, is barred by the moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016.

23. We find that the present case is squarely covered by the above judgement of the Hon'ble Supreme Court. Adjudicating authority has also noted that the CD was not getting any goods or supplies from the Respondent and rather it was providing service to Respondent in the form of construction work. Moreover, the construction work was not proceeding as per the stipulated time frame and therefore, the Respondent was within its rights to terminate the contract. It has nothing to do with the initiation of the CIRP proceedings. The situation described by the Hon'ble Supreme Court in above cited case that "there is nothing to indicate that the termination of the Facilities Agreement was motivated by the insolvency of the Corporate Debtor. The trajectory of events makes it clear that the alleged breaches noted in the termination notice dated 10 June 2019 were not a smokescreen to terminate the agreement because of the insolvency of the Corporate Debtor" is very much similar to the present case.

24. The Adjudicating Authority also describes similar situation in the present case, as noted in the per the impugned which is noted herein for better appreciation of the matter:

"...

17. It is found that the respondent is neither supplying any goods or services to the Corporate Debtor in terms of Section 14(2) nor is it recovering any property that is in possession or occupation

of the Corporate Debtor as the owner or lessor of such property as envisioned under Section 14 (1)(d). Rather, it is availing of the services of the Corporate Debtor and which in turn had to complete the Construction project of the Respondent herein. Thus, Section 14 is indeed not applicable to the present case.

18. Prior to the initiation of the Corporate Insolvency Resolution Process (CIRP), the Respondent had, on multiple occasions, duly communicated to the management of the Corporate debtor its concerns regarding persistent deficiencies in the performance of its contractual obligations. The Corporate Debtor was repeatedly put on notice and cautioned to rectify the lapses. The parties had executed an Agreement dated 17.10.2016, under which the commencement date of work was stipulated as 15.10.2016, with a scheduled completion date of 14.10.2017. Despite the lapse of the contractual timeline, the Respondent/ BIDA issued several reminders to the Corporate Debtor to expedite and complete the work. However, the Corporate Debtor failed to adhere to its contractual commitments.

19. Consequently, a final show cause notice was issued by the then Chief Executive Officer of BIDA on 11.11.2019, to which the Corporate Debtor submitted a reply dated 20.12.2019. Subsequently, in a Board meeting held on 08.01.2020, chaired by the Principal Secretary and Chairperson of BIDA, a final opportunity was granted to the Corporate Debtor to complete the project by 25.01.2020. Pursuant thereto, BIDA issued a letter dated 16.01.2020, directing the Corporate Debtor to complete the construction by the stipulated deadline of 25.01.2020. The letter also clearly stated that any further failure to comply would result in initiation of legal proceedings and blacklisting of the Corporate Debtor.

20. It is evidently clear from the record that the Respondent had, on multiple occasions, brought to the attention of the Corporate

Debtor the persistent deficiencies in the services being rendered under as per the Agreement. The Respondent had repeatedly communicated its dissatisfaction and concerns regarding the Corporate Debtor's failure to perform its obligations in accordance with the agreed contractual standards. The communications indicate that the Corporate Debtor was consistently in breach of the terms and conditions stipulated in the agreement, thereby failing to meet the performance benchmarks expected under the contract.

21. Furthermore, there is nothing on record to suggest that the termination of the Agreement was motivated by the initiation of the CIRP against the Corporate Debtor. The sequence and nature of events preceding the termination clearly demonstrate that the decision to terminate the agreement was a result of the Corporate Debtor's sustained non-compliance and operational shortcomings. The termination notice dated 28.01.2020 specifically sets out the breaches committed by the Corporate Debtor, and there is no indication that these were contrived or artificially manufactured grounds used as a pretext to exit the contract due to the insolvency proceedings. Further we record that the termination notice dated 28.01.2020 also clearly lays down the deficiencies in the services of the Corporate Debtor.

22. Therefore, it cannot be said that the invocation of the termination was a smokescreen to circumvent the moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016. The trajectory of events leading to the termination supports the conclusion that the termination was founded on legitimate contractual grounds, and not as a reaction to the Corporate Debtor's insolvency status.”

25. Accordingly, we are compelled to hold that the National Company Law Tribunal (NCLT) does not possess any residual or overarching jurisdiction under

Section 60(5) to adjudicate contractual disputes arising independently of the insolvency of the Corporate Debtor. In the absence of such jurisdiction over the dispute in question, the protective ambit of Section 14 in the form of moratorium is inapplicable to the termination of a contract. Furthermore, it has not been established that the impugned termination is integral or indispensable to the efficacious conduct of the Corporate Insolvency Resolution Process. In this case we, therefore, don't find that the termination of the contract was triggered by the insolvency of the Corporate Debtor, and therefore, the moratorium under Section 14 of the Insolvency and Bankruptcy Code should protect against such termination. In light of the foregoing considerations, we are constrained to conclude that the appeal is devoid of merit and, thus, does not warrant admission. Consequently, other reliefs sought by the Appellant become infructuous and cannot be granted.

Orders

26. Accordingly, we find no merit in the Appeal and the order of the Adjudicating Authority is not found to be having any infirmity. The Appeal is therefore, dismissed. No orders as to costs.

[Justice Ashok Bhushan]
Chairperson

[Arun Baroka]
Member (Technical)

New Delhi.
November 07, 2025.

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