

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. No. 3961 of 2022 in
Company Appeal (AT) (Ins.) No. 729 of 2020

IN THE MATTER OF

Union Bank of India
(Erstwhile Corporation Bank) Applicant

Versus

Dinkar T. Venkatasubramanian & Ors.... Respondents

Present:

For Applicant: Mr. Venkataraman, ASG with Mr. Sanjay Kapoor, Mr. Surya Prakash, Mr. Arjun Bhatia, Advocates for applicant in I.A. No. 3961 of 2022.

For Respondents: Mr. Gopal Jain, Sr. Advocate, Mr. Alok Kumar, Ms. Deepti Bhardwaj, Mr. Kunal Arora, Ms. Raghwi Rawat, Advocates for R-1/UBI.

Mr. Sanjay Bhatt, Ms. Ruchi Goyal and Mr. Sumant Batra, Advocates for R-2 (RP)

ORDER

(DATE: 4.10.2023)

(Per.: Dr. Alok Srivastava, Member (Technical))

The Interlocutory Application I.A. No. 3961 of 2022 filed by the Applicant Financial Creditors of M/s Amtek Auto Limited through State Bank of India in CA(AT)(Insolvency) No. 729 of 2020 is an application for recalling the order dated 27.1.2022 in CA(AT)(Insolvency) No. 729 of 2020, filed by Union Bank of India

(erstwhile Corporation Bank) & Ors. under Rule 11 of the National Company Law Appellate Tribunal Rules, 2016 (hereinafter called “NCLAT Rules”) pursuant to the liberty granted by this Tribunal vide order dated 2.9.2022 in Review Application No.01 of 2022.

2. In brief, the facts of the case relevant to the present Application IA No. 3961/2022 are as follows:-

- (i) On an application filed by Union Bank of India under section 7 of the Insolvency and Bankruptcy Code, 2016 (in short “IBC”) against the corporate debtor – M/s Amtek Auto Limited, Corporate Insolvency Resolution Process (in short “CIRP”) was initiated leading to submission of a resolution plan, which was approved by the Committee of Creditors (“CoC”) by a majority voting share of 70.7% on 11.1.2020.
- (ii) Subsequently, the Resolution Professional filed application I.A. No. 255 of 2020 for approval of the resolution plan by the Adjudicating Authority and another IA No. 222 of 2020 was filed by the Union Bank of India requesting for certain reliefs.

- (iii) The Adjudicating Authority vide order dated 9.7.2020 allowed IA No. 255 of 2020 thereby approving the resolution plan and by the same order dated 9.7.2020 rejected I.A. No. 222 of 2020.
- (iv) Aggrieved by the rejection of I.A. No. 222 of 2020, the Union Bank of India (erstwhile Corporate Bank) filed Company Appeal (AT)(Insolvency) No. 729 of 2020, wherein the Financial Creditors of M/s Amtek Auto Limited was not impleaded as a respondent party. This Tribunal partly allowed CA(AT)(Insolvency) No. 729 of 2020 by judgment dated 27.1.2022.
- (v) The Financial Creditors of M/s Amtek Auto Limited filed Civil Appeal Diary No. 5609 of 2022 before the Hon'ble Supreme Court, which was disposed of vide order dated 1.4.2022, as the Appellant withdrew the civil appeal with liberty granted to the Appellant to file a review application before the NCLAT.
- (vi) Subsequently the Appellant/Applicant filed Review Application No. 01 of 2022 before the NCLAT, which was disposed of by order dated 2.9.2022 holding that

while no review application was maintainable before this Tribunal in the matter, the Appellant, if so advised, could take recourse to any other remedy available in accordance with law.

(vii) Subsequently, IA No. 3961 of 2022 was filed by the Union Bank of India, seeking recall of the judgment dated 27.1.2022 passed by a three-member bench of this Tribunal. In view of a judgment of this Tribunal in **Agarwal Coal Corporation Private Limited vs. Sun Paper Mill Limited & Anr [CA(AT)(Ins) No. 412/2019]**, wherein it had been held that no review or recall of a judgment was possible, and it was decided, after hearing the rival parties, by order dated 9.2.2023 to refer the issues that had arisen in IA No. 3961 of 2022 regarding the existence of the power of “recalling an order/judgment” to Hon’ble Chairperson of NCLAT for constituting a larger bench to decide on the referred issue.

(viii) Consequently, a five-member bench of this Tribunal was constituted by the order of Hon’ble Chairperson, NCLAT, which heard the reference made by the three-

member bench in IA No. 3961 of 2022 and passed order dated 25.5.2023 by which it answered the question posed to it by stating that this Tribunal has the inherent jurisdiction to entertain an application for recall of its judgment on sufficient grounds and also holding, inter alia, that the judgment of three-member bench of this Tribunal in **Agarwal Coal Corporation Private Limited vs. Sun Paper Mill Limited & Anr.(supra)** does not lay down the correct law.

(ix) Subsequently, in the light of the above-mentioned order dated 25.5.2023, this Tribunal heard arguments in IA No. 3961 of 2022 for necessary orders.

3. We heard the arguments of both the parties and perused the record with their able assistance.

4. The Learned ASG Mr. Venkataraman appearing for the Applicant in IA No. 3961 of 2022 has argued that the opening of Letters of Credit before the commencement of CIRP was not an issue that could have been considered by the Resolution Professional and therefore the impugned order dated 27.1.2022 of this Tribunal, which directs the Resolution Professional to not deduct the amount of Rs. 34 crores from the share of Union Bank
*I.A. No. 3961 of 2022 in
Company Appeal (AT) (Ins.) No. 729 of 2020*

of India was not correct. He has pointed out from the minutes of the 31st meeting of the CoC dated 7.2.2020 and e-mail communication dated 21.11.2018 [from Interim Resolution Professional) for M/s Amtek Auto Limited], and certain other emails that it was made clear by the IRP that no auto-debit for payments of the outstanding amounts of Letters of Credit as on 21.11.2018 should be made from the current account of the corporate debtor. He has further pointed out that the same advice was reiterated in e-mail dated 26.11.2018 (sent by the IRP to the Corporation Bank) which was repeated in letter dated 14.12.2018. He has added that in the minutes of 31st CoC meeting, the matter of recovery of Letters of Credit by Corporation Bank was discussed, when Resolution Professional had stated that the Corporation Bank had unduly enriched itself by debiting the amount of Letters of Credit forcibly from the operating account of the corporate debtor, which was done despite repeated contrary advice given by the Resolution Professional to the Corporation Bank.

5. Mr. Venkataraman, Learned ASG has further pointed out that it is clearly recorded in the minutes of the 30th and 31st CoC meetings that the amount forcibly debited by the Corporation Bank should not be considered as 'interim finance'. He has
*I.A. No. 3961 of 2022 in
Company Appeal (AT) (Ins.) No. 729 of 2020*

referred to sub-section (15) of section 5 of the IBC, wherein the definition of 'interim finance' has been given, to argue that going by this definition of 'interim finance', the amount debited by the Corporation Bank cannot be considered as a "financial debt" raised by the Resolution Professional during the CIRP.

6. The Learned ASG has further referred to clause (a) of sub-section (13) of section 5 of the IBC to submit that an amount of interim finance and costs incurred in raising such finance can be considered as insolvency resolution process costs, but such is not the case in the present matter. He has further pointed out that the Resolution Professional is not empowered to decide what is to be considered as part of insolvency resolution process costs in the light of the duties of RP and IRP which are laid down in sections 17 and 25 of the IBC respectively. He has submitted that as per clause (c) of sub-section (2) of section 25, the Resolution Professional is allowed to raise 'interim finance' subject to the approval of the CoC, and in the present matter the CoC had not permitted raising of interim finance. He has also referred to sub-section (1) of section 28 to buttress the point that the approval of the CoC is required to raise 'interim finance'. On such basis, he has argued that the Resolution Professional did not have the

authority to decide the issue of 'interim finance' during the currency of the CIRP.

7. The Learned ASG has further argued that a commercial decision was taken by the CoC that an amount of Rs. 34 crores shall be considered as part of the final payment to the Union Bank of India, and therefore, it was not up to the Hon'ble NCLAT to vary or change this decision without hearing the affected party i.e. the Financial Creditors of M/s Amtek Auto Limited, which had taken the commercial decision regarding deduction of Rs. 34 crores from the final payment to Union Bank of India. He has referred to paragraphs 10.15 and 10.17 of the impugned order wherein it is incorrectly held that Resolution Professional, and not CoC, should have decided the issue of amount auto-debited by the Union Bank of India as 'interim finance'. He has argued that in view of the decision of the CoC to deduct the amount of Rs. 34 crores (which was auto-debited by the Union Bank of India) the impugned order has correctly held that this amount should be deducted from the final payment to Union Bank of India.

8. The Learned ASG has argued that varying the commercial decision of CoC to deduct the amount of Rs. 34 crores from the final payment to Union Bank of India as was directed by Hon'ble
*I.A. No. 3961 of 2022 in
Company Appeal (AT) (Ins.) No. 729 of 2020*

NCLAT in its judgment/order dated 27.1.2022 was against the principle of natural justice, since it was done without giving an opportunity of hearing to the Financial Creditors of M/s Amtek Auto Limited.

9. The Learned ASG has brought to our attention the order dated 25.5.2023 of the five-member bench of this Tribunal in IA No. 3961/2022 and submitted that the Hon'ble Supreme Court has upheld the order dated 22.5.2023 while dismissing Civil Appeal No.4620/2023 filed by the Union Bank of India, whereby the order of five-member bench of this Tribunal has achieved finality. He has lastly argued that denial of natural justice in providing an opportunity of hearing to the Financial Creditors of M/s Amtek Auto Limited exist constitutes sufficient ground for recall of impugned judgment dated 27.1.2022, IA No. 3961/2022 may be allowed and fresh hearing in CA(AT)(Insolvency) No. 729 of 2020 may be undertaken by this Hon'ble Tribunal.

10. The Learned Senior Counsel Mr. Gopal Jain appearing for Respondent Union Bank of India has initiated his arguments by bringing to our attention a letter dated 8.8.2017 of the RP, by which he (RP) had advised the Chief Manager of the Corporation Bank (which was later merged into Union Bank of India) to open *I.A. No. 3961 of 2022 in Company Appeal (AT) (Ins.) No. 729 of 2020*

the Letter of Credit by debiting from the current cash account of the corporate debtor, and similar instruction was repeated in another letter dated 7.8.2018.

11. The Learned Senior Counsel Mr. Gopal Jain has referred to para 10.24 of the impugned order dated 27.1.2022 to point out that such action was taken on the advice of RP, which has been admitted by him and accordingly noted in the impugned order. He has further pointed out that the amount of Rs. 34 crores received by the Corporation Bank by opening letters of credit were actually paid to the third-party vendors and suppliers as and when such payments became due, in accordance with the terms of the Letters of Credit, and the Corporation Bank did not appropriate any amount to itself. He has argued that the present case is, therefore, not a fit case for recalling the impugned order, and therefore IA No. 3961 of 2022 may be dismissed.

12. The Learned Senior Counsel Shri Gopal Jain has also argued that in Civil Appeal Diary No. 5609/2022 filed by the Financial Creditors of M/s Amtek Auto Ltd. before Hon'ble Supreme Court, a limited liberty was granted to the Applicants to challenge para 10.28 of the NCLAT's order dated 27.1.2022 by filing a review

application, but now the challenge has been made to the entire order dated 27.1.2022.

13. Mr. Sanjay Bhatt, the Learned Counsel for the erstwhile Resolution Professional has adopted the arguments advanced by the Learned ASG for the Appellant.

14. The main issue that arises in the adjudication of IA No. 3961 of 2022 is whether, in view of the facts and circumstances of the case and the Order dated 25.5.2023 of the five-member bench of NCLAT, there are sufficient and cogent grounds for recall of the Impugned Order dated 27.1.2022.

15. It may be recalled that IA No. 3961 of 2022, which was filed in CA(AT)(Insolvency) No. 729 of 2020, was considered by a three-member bench of this Tribunal by order dated 9.2.2023, when during arguments the legality of the order of a three-member of this Tribunal in the matter of **Agarwal Coal Corporation Pvt. Limited vs. Sun Paper Mills Limited (2018) 1 SCC 407** was raised which issue would have bearing on the adjudication of I.A. 3961 of 2022. This bench then decided to refer the issue whether a judgment/order of this Tribunal could be recalled. The questions framed for reference are reproduced below :-

*I.A. No. 3961 of 2022 in
Company Appeal (AT) (Ins.) No. 729 of 2020*

- I. *Whether this Tribunal not being vested with any power to review the judgment can entertain an application for recall of judgment on sufficient grounds?*
- II. *Whether judgment of this Tribunal in "I.A. No. 265 of 2020 in Company Appeal (AT) (Ins.) No. 412 of 2019, Agarwal Coal Corporation Private Limited Vs Sun Paper Mill Limited & Anr." and "I.A. No. 3303/2022 in Company Appeal (AT) (Ins.) No. 359 of 2020, Rajendra Mulchand Varma & Ors Vs K.L.J Resources Ltd & Anr." can be read to mean that there is no power vested in this Tribunal to recall a judgment?*
- III. *(In the above two judgments this Tribunal has held that this Tribunal cannot recall its judgment in exercise of its inherent jurisdiction) Whether the judgment of this Tribunal in "Agarwal Coal Corporation Private Limited Vs Sun Paper Mill Limited & Anr." and "Rajendra Mulchand Varma & Ors Vs K.L.J Resources Ltd. & Anr." lays down the correct law?*

20. *Let the papers be placed before Hon'ble Chairperson, NCLAT for constituting a larger bench for considering the above questions."*

16. A five-member bench was constituted by order of the Hon'ble Chairperson of NCLAT, which heard the arguments on the issues raised in the reference, and provided answers in its order dated 25.5.2023. The relevant paragraphs of this order are reproduced below :-

"20. The above judgments of the Hon'ble Supreme Court clearly lay down that there is a distinction between review and recall. The power to review is not conferred upon this I.A. No. 3961 of 2022 in Company Appeal (AT) (Ins.) No. 729 of 2020

Tribunal but power to recall its judgment is inherent in this Tribunal since inherent power of the Tribunal are preserved, powers which are inherent in the Tribunal as has been declared by Rule 11 of the NCLAT Rules, 2016. Power of recall is not power of the Tribunal to rehear the case to find out any apparent error in the judgment which is the scope of a review of a judgment. Power of recall of a judgment can be exercised by this Tribunal when any procedural error is committed in delivering the earlier judgment; for example; necessary party has not been served or necessary party was not before the Tribunal when judgment was delivered adverse to a party. There may be other grounds for recall of a judgment. Well known ground on which a judgment can always be recalled by a Court is ground of fraud played on the Court in obtaining judgment from the Court. We, for the purpose of answering the questions referred to us, need not further elaborate the circumstances where power of recall can be exercised.

xx xx xx xx

23. *Next judgment of this Tribunal in “Rajendra Mulchand Varma & Ors. vs. K.L.J Resources Ltd. & Anr.” was a judgment where judgment of “Agarwal Coal Corporation Private Limited” was relied. In Para 8 of the said judgment following observations have been made:*

“8. It is noted that in the matter of Agarwal Coal Corporation Pvt. Limited vs. Sun Paper Mills Limited (2018) 1 SCC 407 passed by the NCLAT, it is held that “in the absence of any power of ‘review’ or ‘recall’ vested with the Adjudicating Authority/Appellate Authority, any order/judgment passed by it cannot be either reviewed or recalled”. It is further held by NCLAT in the same judgment that a judgment passed by the Tribunal becomes ‘conclusive’, ‘final’ and ‘binding’ and the Applicant cannot take recourse to rule 11 of the NCLAT Rules, 2016, which provide ‘inherent powers’. The same judgment held that appropriate course of action open to the applicant is to approach the Hon’ble

Supreme Court under section 62 against the said judgment, if the Applicant so desires.”

24. *After relying on judgment of “Agarwal Coal Corporation Private Limited”, the three-member bench held that prayer made in the I.A. No. 3303/2022 cannot be accepted. Para 13 is as follows:*

“13. In the light of the above, we are of the opinion that this tribunal cannot accept the prayer made by the Applicant in IA No. 3303 of 2022 using the power given in rule 11 of the NCLAT Rules, 2016. We follow the judgment of the coordinate bench of this Tribunal given in the case of Agarwal Coal Corporation Pvt. Limited vs. Sun Paper Mills Limited (supra) where this Tribunal has held that NCLAT does not have power to review or recall its own order, in the absence of any specific provision in the IBC. Therefore, the application filed by the Applicant bearing IA No. 3303 of 2022 is rejected.”

25. *Judgment of this Tribunal in “K.L.J Resources Ltd. & Anr.” makes it clear that that judgment only followed the judgment in “Agarwal Coal Corporation Private Limited”, which we have already noticed above.*

26. *In view of the law laid down by Hon’ble Supreme Court which holds that the Tribunal has inherent power to recall its judgment on appropriate grounds, the three-member bench judgment in “Agarwal Coal Corporation Private Limited” and “K.L.J Resources Ltd. & Anr.” observing that the Tribunal does not have power to recall cannot be approved. The three-member bench judgments of this Tribunal insofar as observation that this Tribunal has no power to review, no exception can be taken to that part of the judgment. We, however, hold that the judgment laying down that this Tribunal has no power to recall the judgment does not lay down correct law.*

27. *In view of the foregoing discussion, we answer the questions referred to this Bench in following manner:*

I: This Tribunal is not vested with any power to review the judgment, however, in exercise of its inherent jurisdiction this Tribunal can entertain an application for recall of judgment on sufficient grounds.

II & III: The judgment of this Tribunal in “Agarwal Coal Corporation Private Limited vs Sun Paper Mill Limited & Anr.” and “Rajendra Mulchand Varma & Ors vs K.L.J Resources Ltd & Anr.” observing that this Tribunal cannot recall its judgment does not lay down the correct law “

17. As we consider IA 3961 of 2022 for decision, we are conscious of the fact that some arguments have been made by the Learned Senior Counsels on which our views may have bearing on the adjudication of CA(AT)(Ins) 729 of 2020 should we were to allow the application for recall of order dated 27.1.2022. We would like to make it clear that any view or opinion made by us while disposing of the present application may not be construed as expression of opinion on the merits of the appeal, should it be decided to re-hear it after recalling the order dated 27.1.2022.

18. In answering the questions under reference, the five-member bench of this Tribunal, inter alia, considered the judgment of the Hon'ble Supreme Court in **Grindlays Bank Ltd. vs. Central Government Industrial Tribunal & Ors. [1980 (Supp) SCC 420]**,

wherein the following was laid down in paragraph 6 of the order dated 25.5.2023 :-

“6. We are of the opinion that the Tribunal had the power to pass the impugned order if it thought fit in the interest of justice. It is true that there is no express provision in the Act or the rules framed thereunder giving the Tribunal jurisdiction to do so. But it is a well-known rule of statutory construction that a Tribunal or body should be considered to be endowed with such ancillary or incidental powers as are necessary to discharge its functions effectively for the purpose of doing justice between the parties. In a case of this nature, we are of the view that the Tribunal should be considered as invested with such incidental or ancillary powers unless there is any indication in the statute to the contrary. We do not find any such statutory prohibition. On the other hand, there are indications to the contrary.”

19. We have perused the order dated 1.4.2022 of the Hon'ble Supreme Court, whereby the appellant was granted permission to withdraw the Civil Appeal Diary No. 5609/2022 with liberty to file a review application before the National Company Law Appellate Tribunal, Principal Bench, New Delhi (NCLAT) on the observations made by it in para 10.28 of the impugned judgment with all the contentions available to the parties to be kept open. The Order dated 1.4.2022 of Hon'ble Supreme Court is reproduced below:-

“ORDER

The application for leave to appeal is allowed.

Shri Shanjay Bhyatt, learned counsel appearing on behalf of the appellant seeks permission to withdraw the present appeal with a liberty to file a review application before the National Company Law Appellate Tribunal,

*I.A. No. 3961 of 2022 in
Company Appeal (AT) (Ins.) No. 729 of 2020*

Principal Bench, New Delhi (NCLAT) on the observations made by it in para 10.28 of the impugned judgment. The permission is accordingly granted. The Civil Appeal stands dismissed as withdrawn with the above liberty. All the contentions which will be available to the parties are kept open.“

20. On the basis of this liberty granted by Hon'ble Supreme Court, the Financial Creditors of Amtek Auto Ltd. filed Review Application No. 01/2022 before this Tribunal which was disposed of by order dated 2.9.2022. The relevant portion of this order is reproduced below:-

“7. It is now well settled that an application for review against the order of the Tribunal can only be maintained if the remedy of review is provided in the Code.

8. In the order dated 01.04.2022, passed by the Hon'ble Supreme Court, permission was granted to the Appellant as sought by it to file the review application but it does not mean that the review application is maintainable before this Tribunal in the absence of provision of review in the Code which is a complete in itself.

9. Faced with this difficulty, Counsel for the Appellant has submitted that he has invoked Rule 11 of the NCLAT Rules, 2016 which provides inherent powers to this Tribunal. In this regard, Counsel for the Respondent has submitted that the said Rule may be invoked by the Appellant by way of an appropriate proceedings but in so far as the present application is concerned it is confined to review in terms of the order of the Hon'ble Supreme Court.

10. We are one with the argument raised by Counsel for the Respondent in this regard and thus, it is hereby held that no review application is maintainable before this Tribunal as there is no provision for review in the Code. However, the Appellant, if so advised, may take recourse to its other

remedy in accordance with law in case it is still aggrieved against the order dated 27.01.2022 or a part of it.”

21. On the ground that the Applicant was allowed to take any other remedy available under law, the Appellants filed an Interlocutory Application I.A. 3961 of 2022 under Rule 11 of the NCLAT Rules which is the present application under consideration.

22. On the basis of the above-stated order, the Learned Senior Counsel for Respondent has claimed that Hon’ble Supreme Court had given limited liberty to the Applicant to raise the issue relating to Para 10.28 of the Order dated 27.1.2022 of this Tribunal. In this connection, we note that para 10.28 of the Impugned Order dated 27.1.2022 has made an inference that the Resolution Professional made an erroneous recommendation to the CoC. In arriving at such an inference, the Hon’ble NCLAT made an observation in Para 10.17 of the same order that RP failed to exercise its jurisdiction, but left it to the CoC to decide the issue. In the Impugned Order dated 27.1.2022 the finding that the RP, instead of the CoC, should have exercised jurisdiction in deciding whether to treat Rs. 34 crores as CIRP cost or not is a matter to be examined by us. The matter as to how Rs. 34 crores should be treated became part of the Resolution Plan, which once it came to be approved by the CoC got the stamp of it being ‘commercial I.A. No. 3961 of 2022 in Company Appeal (AT) (Ins.) No. 729 of 2020

wisdom' of the CoC. Hence, we are of the view that in hearing the 'recall' application we should consider the entire judgment dated 27.1.2022 as the powers of RP and CoC, are also connected.

23. The Learned Senior Counsel for the Respondent has cited the judgement of Hon'ble Supreme Court in the matter of **M.K. Rajagopalan V. Dr. Periasamy Palani Grounder & Anr.[2023 SCC OnLine SC 574]** in support of his contention that in upholding the commercial wisdom of the CoC, it should be seen that the CoC has examined all the relevant information available before it. We note from the minutes of the 30th meeting of the CoC dated 5.2.2020 that the RP had placed various options as to how the amount recovered from Letters of Credit should be treated and we find that the CoC had applied its mind to the various options for treatment of the said amount of Rs. 34 crores and while considering and approving the resolution plan in the 31st CoC meeting on 7.2.2020 taken a conscious commercial decision in the matter.

24. It is noted that the judgment dated 25.5.2023 of the five-member bench of this Tribunal was assailed before the Hon'ble Supreme Court in Civil Appeal No. 4620 of 2023, wherein, while

dismissing the civil appeal, the Hon'ble Supreme court held as hereunder:-

“We are in agreement with the view taken by the Five Judges Bench of the NCLAT and thus find no reason to interfere with the impugned judgment.

Insofar as the endeavour of learned counsel for the appellant to urge on the facts of the case is concerned, that would be a matter to be considered, dependent on the fate when the matter is placed before the appropriate Bench, to be decided on merits.

The Civil Appeal is dismissed.”

25. We thus note that the order dated 25.5.2023 of this Tribunal has achieved finality.

26. In the light of order dated 25.5.2023, in the facts and circumstances of the present case, we are of the view that since the Financial Creditors of M/s Amtek Auto Limited were not a party before this Tribunal when it was considering CA(AT)(Insolvency) No. 729 of 2020, which was disposed of vide judgment dated 27.1.2022, by which the Resolution Professional was directed not to deduct the amount of Rs. 34 crores, it was necessary that the Financial Creditors of M/s Amtek Auto Limited (who comprised the CoC) should have been heard before making an order, which was a variance with the commercial decision of the

CoC. In doing so, this Tribunal did not follow the dictum that 'no one shall be Condemned unheard'.

27. In result, we order the following:-

- (i) The judgment dated 27.1.2022 of three-member bench of this Tribunal in CA(AT)(Insolvency) No. 729 of 2020 is hereby recalled.
- (ii) The Applicant in IA No. 3961 of 2022, namely Financial Creditors of M/s Amtek Auto Limited through State Bank of India may be impleaded as a party, while rehearing CA(AT)(Insolvency) No. 729 of 2020, after recalling the order dated 27.1.2022.
- (iii) IA No. 3961 of 2022 is disposed of accordingly with the above-stated directions.

28. We have decided the issue of 'recall' of judgment/order dated 27.1.2022 by this order. At the expense of repetition, we would like to make it abundantly clear that the adjudication of CA (AT) (Ins.) No. 729/2020 after recall of order dated 27.1.2022 shall not be influenced in any manner by any comment, view or opinion

expressed by us that may have bearing on the merits of the main appeal.

(Justice Ashok Bhushan)
Chairperson

(Dr. Alok Srivastava)
Member (Technical)

(Mr. Barun Mitra)
Member (Technical)

New Delhi
4th October, 2023

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