

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.302

IA/1278(AHM)2023 in CP(IB) 14 of 2018

Under Section 60(5) IBC r.w 14 IBC & Rule 11 of NCLT Rules, 2016

IN THE MATTER OF:

Wind World (India) Ltd through RP Mr. Shailen Shah
V/s
IDBI Bank Ltd. & Anr

.....Applicant

.....Respondent

Order delivered on: 01/04/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.



SANJEEV SHARMA
MEMBER (TECHNICAL)



SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I, AHMEDABAD**

**IA No. 1278 of 2023
in
C.P.(I.B.) No.14/7/(AHM)/2018**

*(An application under Section 60(5) and Section 14 of the
Insolvency and Bankruptcy Code, 2016 along with Rule 11 of the
National Company Law Tribunal Rules, 2016)*

In the matter of: Wind World (India) Ltd.

MEMO OF PARTIES

Wind World (India) Ltd.

(Through Mr. Ravi Sethia,
Resolution Professional of Wind World (India) Limited)
Having its registered office at:
5th Floor, Lodha Excelus,
Apollo Mills' Compound,
N. M. Joshi Marg, Mahalaxmi,
Mumbai-400011.

..... Applicant

VERSUS

1. IDBI Bank Ltd.

Having its registered office at:
IDBI Tower, WTC Complex,
Cuffe Parade, Mumbai – 400005.

**2. Mining Engineer, (Recovery) Mines and
Geology Department, Jaisalmer**

Having office at:
Khanij Bhavan, Ramgarh Road,
Jaisalmer (Rajasthan) 345001.

..... Respondents

Order Pronounced On: 01.04.2026

*I.A. No.1278 of 2023 in CP (IB) No. 14 of 2018
Wind World (India) Limited V/s. IDBI Bank Ltd. & Ors.*

CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Applicant/RP : Mr. Neha Naik, Adv. a.w.
Ms. Sanaea Laskari, Adv.

For the Respondent : Mr. Priyam Raval, Adv. R-2

ORDER
(Per: Bench)

1. The present Interlocutory Application has been filed on 01.11.2023 vide inward no. E1938 by the Resolution Professional of the Corporate Debtor under Sections 60(5) and 14 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016 seeking reliefs in the nature of directions to the Respondents namely, the IDBI Bank Limited (R1) and the Mining Engineer (Recovery) Mines and Geology Department, Jaisalmer (R2) for contravention of the moratorium under Section 14(1)(a) of the Insolvency and Bankruptcy Code, 2016 along with the following prayers: -

(a) Allow the instant application;

- (b) Restrain the Respondent from placing a lien on all bank accounts of the Applicant maintained with the Respondent;
- (c) Issue an order to the Respondent to defreeze the bank accounts of the Applicant;
- (d) Issue an order to the Respondent to not undertake any actions which are prejudicial to the interest of the Applicant during the CIRP period;
- (e) Grant ad-interim reliefs in terms of prayer clauses (b) and (c), thereby allowing the Applicant to operate all its bank accounts maintained with the Respondent;
- (f) Pass any other order or directions as this Hon'ble Tribunal *may deem fit in the interest of justice and in the facts and circumstances of the instant case.*

2. The brief facts of the case of the Applicant are narrated as under: -

2.1 Various courts/tribunals/authorities issued directions to the Respondent to place a lien and freeze the bank accounts of the Applicant. Acting upon such orders, the Respondent placed a lien upon the Applicant's accounts maintained with it during the CIRP, which amounts to execution of a judgment, decree or order and is a direct violation of Section 14(1)(a) of the IBC.

2.2 It is stated that such freezing of the Applicant's accounts has prevented the Applicant from utilizing its funds for the smooth running of its business during CIRP, thereby causing prejudice to the Applicant and defeating the legislative intent of the IBC to maintain the corporate debtor as a going concern.

- 2.3 The Applicant submits that the Corporate Debtor through its Resolution Professional is entitled to approach the NCLT for adjudication of disputes relating to CIRP. The Respondent's action of freezing the Applicant's accounts jeopardises the going concern status of the Applicant, which is contrary to the scheme and intent/object of the IBC.
- 2.4 It is submitted that this Bench, vide its order dated 20.02.2018 had admitted the Applicant Company into CIRP and declared a moratorium under Section 13(1)(a) read with Section 14 of the IBC, prohibiting institution or continuation of suits or proceedings against the Applicant, including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority during the said CIRP period.
- 2.5 As stated, the Interim Resolution Professional, thereafter, published a public announcement. The last day for submission of claims was 08.03.2018. As stated, various resolution plans were submitted by the Committee of Creditors ("CoC") of the Applicant Company. On 17.11.2018, one plan submitted by 'Suraksha Consortium' came to be approved by the CoC. Hence, the RP filed an application before this bench for seeking approval of the said Resolution Plan.
- 2.6 As stated, on 24.08.2022, this Bench heard and passed an order rejecting the Resolution Plan on various grounds. On such, the RP and CoC filed an appeal before

the Hon'ble NCLAT. As stated, Hon'ble NCLAT passed an order on 30.09.2022 by way of an interim measure to stay the consequence and effect of order passed by this Bench. As submitted, the moratorium imposed under Section 14 still subsists.

2.7 It is stated that despite the subsistence of the moratorium, the Respondent placed a lien on the Applicant's accounts maintained with IDBI Bank, Jaisalmer Branch bearing A/c. No. 1653102000000772 in purported compliance with orders passed by the Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer, directing banks not to operate the Applicant's accounts without permission.

2.8 Subsequently, by email dated 26.09.2023, the Respondent Bank conveyed to the Applicant that the lien was imposed pursuant to directions issued by the Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer, which mandated that the Applicant's bank accounts shall not be operated without prior permission. In furtherance of the said order, the Respondent simultaneously placed liens on other bank accounts of the Applicant.

2.9 It is further noted that, in view of the lien placed by the Respondent upon the said bank account of the Applicant, the Resolution Professional of the Applicant, immediately on 04.09.2023, addressed an email enclosing a letter to the Respondent. By the said

communication, the Resolution Professional categorically informed the Respondent that the order passed by the Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer was itself in contravention of Section 14 of the IBC, and consequently, the Respondent's action of freezing the said bank account was also in violation of the moratorium. The Resolution Professional, therefore, requested the Respondent to refrain from taking any action in furtherance of its email dated 26.09.2023, particularly since the Respondent is a member of the Committee of Creditors with a substantial voting share of 23.76%.

2.10 It is further stated that, vide email dated 11.10.2023, the Respondent responded to the Applicant's communication of 04.10.2023. In the said email, the Respondent acknowledged and concurred with the Resolution Professional's position and further stated that as the said order has emanated from a Court of Law, it was legally obliged and duty bound to adhere to the directions contained therein. The Applicant herein has placed a copy of email communication dated 11.10.2023 on record as Exhibit - 'G'.

2.11 It is further recorded in the application that the RP, vide an email dated 13.10.2023, once again requested the Respondent to release the lien placed upon the said bank account. It was also pointed out that, in terms of

Section 238 of the IBC, the I.B. Code, 2016 has an overriding effect and supersedes all other laws. The Respondent, however, vide its reply dated 16.10.2023, reiterated that it had adhered to the directions issued by the Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer, and advised the Resolution Professional to approach the said authority and/or the NCLT or any other appropriate forum to obtain suitable directions.

2.12 It is further stated that, the Applicant, upon reviewing the account statement of its bank account bearing no. 0174102000015039 maintained at the Respondent Bank's Andheri-West branch in Mumbai, discovered that the Respondent had marked a lien of Rs.1,12,83,53,332/- on the said account. The Applicant, by email dated 17.10.2023, requested the Respondent to furnish copies of the orders on the basis of which such lien had been imposed. In response, on the same day, the Respondent provided details of the lien aggregating to Rs.1,12,83,53,332/- placed from the year 2017 to 2023 on the Applicant's account, without supplying copies of the said orders. The particulars of the lien, as communicated by the Respondent, are set out in tabular form in the record as under:

Sr. No.	Particulars of the orders of Court/Tribunal/ Authority directing lien	Date of lien	Lien Amount (Rs.)
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1	Notice under Section 45, Karnataka Value Added Tax Act, 2003 dated 12 October 2020	26.12.2017	8,13,19,388
2	Notice, Department of Revenue dated 2 April 2019	02.04.2019	3,00,00,000
3	Notice from the Commercial Tax Department dated 27 March 2019	03.04.2019	26,50,771
4	Notice under Section 45 of the Karnataka Value Added Tax dated 24 October 2019	24.10.2019	8,05,358
5	Notice from the Commercial Tax Circle-6, Bhopal dated 27 February 2020	05.03.2020	53,12,805
6	Notice under Section 45 of the Karnataka Value Added Tax Act, 2003 dated 25 June 2020	14.07.2020	8,05,358
7	Notice under Section 45 of the Karnataka Value Added Tax Act, 2003	19.10.2020	75,00,000
8	Notice under Section 45 of the Karnataka Value Added Tax Act, 2003 dated 26 December 2017	21.10.2020	20,12,229
9	Notice of KVAT Hubballi dated 28.10.2020	02.11.2020	5,68,77,307
10	STO-1/C-86/POR/Recovery/2021-22 dated 18.09.2021	18.10.2021	68,35,14,276
11	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	26.09.2023	25,75,76,540

It is stated that the Respondent has not provided any copies of the orders based on which the lien of Rs.1,12,83,53,332/- was placed on the Applicant's Bank account No.0174102000015039 maintained with the Respondent (R1) bank.

2.13 The Applicant further tabulated the details of orders/ lien/ frozen accounts and amounts lying with the bank accounts as under:

Sr. No.	Court/Tribunal/ Authority directing lien	Branch	Account No.	Lien Amount (Rs.)	Amount lying in account (Rs.)
1	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Ahmedabad (Shahibaug) Main Branch	01301020 00028820	25,75,76,540	52,205
2	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Mumbai – Andheri (West)	01741020 00015242	25,75,76,540	Nil
3	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Daman	03181020 00002288	25,75,76,540	13,700
4	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Mumbai – Andheri (West)	01741020 00015835	25,75,76,540	9,03,592
5	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Mumbai – Andheri (West)	01741020 00015570	25,75,76,540	4,02,84,867
6	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Bangalore – R.T. Nagar	03631020 00010070	25,75,76,540	11,064

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7	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Mumbai – Andheri (West)	01741020 00021775	25,75,76,540	10,000
8	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Jaisalmer	16531020 00000772	25,75,76,540	17,18,642
9	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Mumbai – Andheri (West)	01741020 00015011	25,75,76,540	15,778
10	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Mumbai – Cuffe Parade Main Branch	12610300 0000976	25,75,76,540	16,410
11	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Mumbai – Andheri (West)	01741020 00015385	25,75,76,540	9,65,546. 44
12	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Mumbai – Andheri (West)	01741020 00014225	25,75,76,540	1,51,851
13	Mining Engineer (Recovery), Mines and Geology Department, Jaisalmer	Mumbai – Cuffe Parade Main Branch	12610300 0003049	25,75,76,540	Nil

	Department, Jaisalmer				
14	Pursuant to various authorities/ tribunals (break-up set out in Para 6.11)	Mumbai – Andheri (West)	01741020 00015039	1,12,83,53,332	2,44,353

2.14 As stated, due to the act of the Respondent of placing liens on the bank accounts of the Applicant after commencement of CIRP and during the subsistence of moratorium, the Applicant has filed the present application to seek appropriate directions from this Bench to lift the liens and unfreeze the aforesaid bank accounts.

2.15 The Applicant submits that once CIRP is admitted under Section 7 of the IBC, a moratorium under Section 14 automatically prohibits suits, proceedings, or execution of any order against the corporate debtor. By virtue of Section 238, the Code overrides all inconsistent laws. Hence, no authority could direct the Respondent to place a lien, and the Respondent's act of freezing accounts is in violation of the moratorium.

2.16 The Applicant further submits that judicial precedents have consistently held that banks cannot freeze the accounts of a corporate debtor during moratorium, nor restrict withdrawals required for day-to-day functioning.

Section 14 of the IBC overrides all contrary provisions, and any claims predating CIRP ought to have been filed before the Resolution Professional pursuant to the public announcement. The Respondent, being a financial creditor with 23.76% voting share, ought not to have acted upon directions of other authorities to freeze accounts for pre-CIRP claims, which is contrary to the scheme of the Code.

2.17 The Applicant submits that the Respondent's act of freezing accounts during moratorium also defeats the object of the IBC, which is to keep the corporate debtor as a going concern. It is urged that such action has caused serious prejudice to the Applicant's operations and therefore this Adjudicating Authority alone has jurisdiction under Section 60(5) of the IBC to adjudicate the issue and direct release of the liens.

2.18 The Applicant submits that most of its collections and payments are routed through the bank accounts maintained with the Respondent. As on date, Rs.4,43,88,008/- lies in these accounts. By freezing them, the Respondent has prevented the Applicant from accessing funds essential for business operations, thereby obstructing its functioning as a going concern and defeating the legislative intent of the IBC.

2.19 The Applicant submits that the Respondent's reliance on orders of various courts and authorities to freeze accounts during the subsistence of moratorium

amounts to execution of judgments in violation of Section 14(1)(a) of the IBC. It is urged that this Tribunal has jurisdiction under Section 60(5) to adjudicate the issue as it directly concerns the CIRP of the Corporate Debtor.

2.20 The Applicant submits that the Respondent's act of freezing its bank accounts pursuant to orders of various authorities is intrinsically linked to the ongoing CIRP. Such action, being in clear contravention of Section 14 of the IBC, has caused serious prejudice to the Applicant's business and revival prospects.

2.21 In view of the Respondent's act of placing liens on the Applicant's accounts during moratorium, the Applicant is constrained to file the present application. It is submitted that this Tribunal has jurisdiction under Section 60(5) of the IBC, read with Section 14 and Rule 11 of the NCLT Rules, to adjudicate the issue as it directly concerns the CIRP of the Corporate Debtor.

3. On receipt of the Interlocutory Application, the Respondent No.1 filed its reply on 07.12.2023 vide inward diary no. d-4980 through one Ms. Shipra Tiwari, holding designation of General Manager, NPA management group with the respondent by stating following facts on record:

- 3.1 The Respondent states that being an authorized representative, being well acquainted with the facts and circumstances of the case, she is competent to affirm the affidavit in reply.
- 3.2 The Respondent (R1) submits that it acted in Bonafide manner and vide Mines and Geology Department, Jaisalmer's directions/orders dated 25.08.2023 to freeze the Corporate Debtor's account, being duty bound to comply it acted in accordance of such order. It is further stated that the Applicant has not challenged the Mining Department Order nor made it a party.
- 3.3 It is stated that the Mining Department in its clear terms directed the R1 the account of the Corporate Debtor ("CD") shall not be operated without the permission of the mining department and further stated that if such impugned account will be operated, then it will be the sole responsibility of the Respondent Bank. It further directed to send the balance amount in the said account of CD to the Mining Department. It is stated that the Respondent No.1 is therefore obliged and duty bound to adhere the directions. It is further stated the R1 has categorically mentioned in various correspondences that R1 is acting in accordance with the directions of the Mining and Geology Department, Jaisalmer. The R1 further affirmed and recognized the present contravention of Section 14 of the Code.

- 3.4 The Respondent no.1 submits that the lien placed on the Applicant's bank account bearing number 0174102000015039 was created strictly in accordance with various government orders and in compliance with the directions issued therein.
- 3.5 The Respondent no.1 has dealt the application in para wise manner as below.
- 3.6 With reference to paragraph 1 of the Applicant's Application, the R1 denied its contents with this reply. The Respondent submitted that it is for this Tribunal to determine the legal position under Section 14(1)(a) of the IBC and whether the Mining Department Order dated 25.08.2023 constitutes a contravention thereof. The Respondent reiterated that it has acted bona fide and strictly under the authority of law, placing liens only pursuant to the directions of the Court of the Mining Engineer, Mines and Geology Department, Jaisalmer.
- 3.7 With reference to paragraphs 2 to 5 of the Applicant's Application, the Respondent denied their contents with this reply.
- 3.8 With reference to paragraphs 6.1 to 6.12 of the Applicant's Application, the Respondent denies their contents. The Respondent accepts that those paragraphs correctly narrate the factual background of the CIRP and describe how certain bank accounts of the Applicant came to have liens placed pursuant to the

Mining Department Order. The Respondent denied the allegation of non-sharing of orders, clarifying that it has always been ready and willing to share the same, as evidenced by the email at Exhibit-K of the said application. Copies of all notices were subsequently shared with the Corporate Debtor upon retrieval. In relation to paragraph 6.11, the Respondent specifically denies that account no. 0174102000015039 had a credit balance of Rs.1,12,83,53,332/-, and clarifies that the correct demand amount raised by the Mining Department is Rs.25,75,76,540/-.

- 3.9 With reference to paragraph 6.13 of the Applicant's Application, the Respondent denied its contents.
- 3.10 With reference to paragraphs 7 to 8 of the Applicant's Application, the Respondent denied their contents. The Respondent submits that it is for this Tribunal to determine the correct legal position under the IBC in relation to the said order, and undertakes to abide by whatever decision is rendered.
- 3.11 With reference to paragraphs 9 to 10 of the Applicant's Application, the Respondent denied their contents.
- 3.12 With reference to paragraphs 11 to 12 of the Applicant's Application, the Respondent denied their contents and stated that it is for the Adjudicating Authority to decide the correct position of law under the IBC.

- 3.13 With reference to paragraphs 13 to 18 of the Applicant's Application, the Respondent denied their contents. The Respondent submits that those paragraphs primarily contain the Applicant's submissions on alleged prejudice, balance of convenience, and justification for relief sought from this Tribunal. On these aspects, the Respondent offers no comments.
- 3.14 With reference to the prayers sought in paragraph 19 of the Applicant's Application, the Respondent submits that it is for this Tribunal to determine whether the Applicant is entitled to such reliefs. The Respondent states that the injunction sought under prayer 19(b) is infructuous, as the lien on the accounts has already been placed. In respect of prayer 19(c), the Respondent reiterates that effective adjudication requires impleadment of the Mines and Geology Department, Jaisalmer, as a necessary party.
4. In further receipt of the said I.A. No. 1278 of 2023, the Respondent No.2/ Mining Engineer (Recovery) Mines and Geology Department, Jaisalmer has also filed its reply on 16.02.2026 vide inward diary no. D-1432 through authorized person, Mr. Ved Prakash, working as Mining Engineer, Jaisalmer Officer. The brief facts as narrated in the reply of R2 are as under:

4.1 The R2 stated that it perused the copy of the captioned application and well conversant to file a reply. He at the outset denied the allegations, averments or contentions raised in the application.

4.2 The R2 has tabulated detailed chronology of events in a tabulated form as under:

Sr. No.	Date	Particulars Narrated
1	29.01.2016	Wind World (India) Ltd. (Corporate Debtor) allegedly carried out illegal mining by utilizing minerals belonging to the State Government in construction of Wind Mills. Directorate of Revenue Intelligence, Rajasthan called upon Additional Director (Mines), Jaipur to recover royalty amount from the Corporate Debtor under Rajasthan Minor Mineral Concession Rules, 1986. (Annexure R1)
2	16.06.2016	Show Cause Notice dated 16.06.2016 issued by Mining Engineer, Jaisalmer, calling upon Corporate Debtor to provide details of Wind Mill works, source of minerals, and royalty payment status within 30 days. Warning of recovery of 10 times royalty if no reply. (Annexure R2)
3	06.09.2016	Corporate Debtor failed to respond; liability of Rs. 17,80,47,580/- accrued. Directed to deposit within 30 days, failing which recovery would be initiated. (Annexure R3) (CD was not in CIRP)
4	22.09.2017	Liability revised to Rs. 25,75,76,540/- based on audit findings. Final opportunity given to deposit dues within 15 days. (Annexure R4) (CD was still not under CIRP)
5	29.12.2017	IDBI Bank Ltd. (Respondent No.1) filed Section 7 IBC petition (Company Petition IB No.14/2018) seeking CIRP against Corporate Debtor.

6	20.02.2018	CIRP commenced upon admission of petition. (Annexure R5)
7	12.07.2018	Revised liability of Rs. 25,75,76,540/- confirmed; Corporate Debtor directed to deposit within 15 days. Respondent not aware of CIRP at this stage. (Annexure R6) (Respondent was not made aware of CIRP)
8	31.08.2018	Mining Engineer ordered recovery of Rs. 25,75,76,540/- as arrears of revenue under Rajasthan Land Revenue Act, 1956. Writ of summons issued for appearance on 27.09.2018. (Annexure R7)
9	08.02.2019	Writ of Summons issued again for Rs. 25,75,76,545/- (including fees). Appearance required on 07.03.2019. (Annexure R8)
10	24.05.2019	Banks including Respondent No.1 ordered to mark attachment on Corporate Debtor's bank accounts under Rajasthan Land Revenue Act. (Annexure R9)
11	26.06.2019	Applicant informed Respondent of CIRP for the first time and requested withdrawal of bank attachment. (Annexure R10)
12	13.09.2019	Respondent reiterated demand of Rs. 25,75,76,540/- and maintained attachment order, citing concealment of CIRP facts. (Annexure R11)
13	25.08.2023	Respondent again ordered banks including Respondent No.1 to mark attachment on Corporate Debtor's accounts. (Exhibit E in Application)
14	27.10.2023	Applicant filed the present Application before NCLT

4.3 In Part-B, the Respondent No.2 has sought certain prayers as under:

"5. The Applicant has, inter alia, sought directions upon the Respondents to:

(b) Restrain the Respondent, from placing a lien on all bank accounts of the Applicant maintained with the Respondent;

(c) Issue an order to the Respondent to defreeze the bank accounts of the Applicant;

(d) Issue an order to the Respondent to not undertake any actions which are prejudicial to the interest of the Applicant during the CIRP period.

(e) Ad-interim reliefs in terms of prayer clause (b) and

(e) allowing the Applicant to operate all its bank accounts maintained with the Respondent;”

4.4 Further, the R2 in its reply para from 6 to 13 has **denied** certain facts as narrated under following paragraphs:

6. Respondent denied the averments made in Applicant's Paras 1-5, stating they are opposed and countered in later submissions.
7. With respect to Applicant's Paras 6.1-6.4, Respondent says those pleadings are factual in nature, except where otherwise pleaded.
8. Regarding Applicant's Para 6.5, Respondent states the averments should not be construed as admissions, as Respondent holds no knowledge of them.

9. On Applicant's Para 6.6, Respondent says the pleadings are factual and merit no counter.
10. On Applicant's Para 6.7, Respondent says the averments are dealt with in its detailed submissions.
11. On Applicant's Paras 6.8-6.13, Respondent says the averments are dealt with in its submissions.
12. Respondent denies Applicant's Paras 7-18, calling them misconceived, and counters them in its submissions.
13. Respondent denies Applicant's Para 19 prayers, calling them totally misconceived, and counters them in its submissions.

4.5 The Respondent No.2 has narrated its preliminary objections from Para 15 to 22. Paragraph wise brief of such objections is stated as under:

15. The captioned Application is not maintainable before this Tribunal in view of non-application of Section 14 read with Section 60(5) of the IBC in the instant case.
16. It is a settled principle of law that this Tribunal, under Section 60(5)(c) of the IBC, shall have jurisdiction to entertain or dispose only those questions of priorities or questions of law or fact which arise out of or in relation to the insolvency resolution or liquidation proceedings of the

corporate debtor or corporate person under the Code.

17. In light of the principle laid down by the Hon'ble Supreme Court in the matter of ***Embassy Property Developments Private Limited vs. State of Karnataka and Others (2020) 13 SCC 308***, it is clear that the impugned order, being a quasi-judicial action passed by the present Respondent, falls within the ambit of public law domain. Its correctness can be questioned only before a superior forum vested with judicial review over such quasi-judicial action. The Tribunal, being a creature of a special statute, cannot be elevated to the status of a superior court having judicial review powers over such actions, particularly in light of Section 21(1) and Section 25 of the Mines and Minerals (Development and Regulation) Act, 1957 read with Rules 54, 58 and 71 of the Rajasthan Minor Mineral Concession Rules, 2017.
18. The aforesaid position of law clearly establishes that this Tribunal can exercise only such powers as prescribed by the IBC. The impugned order passed by the Respondent, being that of a statutory authority, is in the realm of public law. Any such decision cannot be brought within the fold of "*arising out of or in relation to insolvency resolution*" under Section 60(5)(c) of the IBC. The Respondent

has further reproduced paragraphs 29, 61, 30, 37, 41 and 46 of ***Embassy Property Developments Private Limited (supra)*** in its reply.

19. Therefore, wherever the Applicant seeks to exercise a right falling outside the purview of the IBC, it cannot bypass the statutory scheme and invoke jurisdiction of this Tribunal. The Tribunal, being a creature of special statute, cannot be clothed with jurisdiction not entrusted to it. (Embassy Property, Annexure R12).
20. For ready reference, Respondent reproduces Section 21(1) and Section 25 of the Mines and Minerals (Development and Regulation) Act, 1957 read with Rule 54 and Rule 71 of the Rajasthan Minor Mineral Concession Rules, 2017 (Annexure R13).
21. It is submitted that the IBC does not nullify statutory rights and remedies under the Mines and Minerals (Development and Regulation) Act, 1957 read with the Rajasthan Minor Mineral Concession Rules, 2017. Both statutes operate in different domains: the former regulates mines and minerals, while the latter governs insolvency resolution. One cannot give the IBC such sweeping amplitude as to take away statutory powers to impose penalties or recover arrears as land revenue.
22. Further, the provisions of the IBC cannot be given a truncated meaning that elevates it above all other

statutes while ignoring statutory rights created elsewhere.

23. Therefore, the captioned Application challenging the legality and validity of the impugned order under Section 60(5) read with Section 14 of the IBC is not maintainable before this Tribunal, since it cannot exercise jurisdiction over matters in the realm of public law.

24. In light of the aforesaid facts, provisions, and settled law, the captioned Application is not maintainable and is liable to be dismissed in limine.

4.6 The Respondent No.2 has further given submissions on merits from Paragraph 25 to 30. Brief of such submissions is stated as under:

25. Without prejudice to preliminary objections, Respondent sets out its case on merits.

26. Respondent submits that recovery proceedings were initiated under the Mines and Minerals (Development and Regulation) Act, 1957, the Rajasthan Minor Mineral Concession Rules, 2017, and the Rajasthan Land Revenue Act, 1956.

27. Applicant published a public announcement on 23.02.2018 inviting claims from creditors of the Corporate Debtor, with a deadline of 08.03.2018.

28. Respondent argues that despite several correspondences (show cause notices and demand

letters for Rs. 25,75,76,540/-), the Applicant failed to inform Respondent about the CIRP of the Corporate Debtor.

29. Respondent reiterates that when the bank attachment order dated 24.05.2019 was passed, Applicant had not informed Respondent about CIRP, despite having knowledge of ongoing proceedings in the communications dated from 29.01.2016 to 22.09.2017.
30. Even after commencement of CIRP, Respondent continued to send communications (letters dated 12.07.2018, 31.08.2018, and 08.02.2019). Applicant neither responded nor intimated Respondent about CIRP.
31. It is stated that the Respondent submitted its claim to the Applicant/RP on 07.02.2025 to the tune of Rs.25,75,76,540/-. A copy of such Form B is placed on record as AnnexureR14 and it was Bonafide and unintentional delay in submitting the claim.
32. It is stated that the Respondent was not made aware till the attachment order dated 24.05.2019 was passed and Form B came to submitted to the Applicant on 07.02.2025. It is stated to be a settled position of law that the timelines prescribed for the Corporate Insolvency Resolution Process (CIRP) are directory in nature. This is evident from the IBBI (Insolvency Resolution Process for Corporate

Persons) Regulations, 2016 and further fortified by the pronouncement of the Hon'ble Supreme Court in the matter of **State Tax Officer (1) v. Rainbow Papers Ltd., (2023) 9 SCC 545**, decided on 06.09.2022, wherein it was explicitly observed that the timelines under the Code are not mandatory in regard to submission of claims by creditors, particularly when statutory arrears are involved.

33. The Respondent further quoted the relevant paragraphs 48, 56 and 57. of the above cited judgment.
34. As stated, it is settled law that where a statutory provision relating to "first charge" is *pari materia* to Section 48 of the Gujarat Value Added Tax Act, 2003, the principle laid down in **State Tax Officer (1) v. Rainbow Papers Ltd., (2023) 9 SCC 545**, shall have direct applicability. In the present matter, Section 25 of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 224(1) of the Rajasthan Land Revenue Act, 1956 are provisions directly covered by the ratio of Rainbow Papers.
35. It is submitted that in the judgment of the **Hon'ble Supreme Court in State Tax Officer (1) v. Rainbow Papers Ltd., (2023) 9 SCC 545**, the proposed Resolution Plan must necessarily conform to the statutory provisions u/s 30(2) of the

Insolvency and Bankruptcy Code, 2016. If not, it must be rejected.

36. As stated, Hon'ble Apex Court has extensively and deliberately observed that where a proposed Resolution Plan does not comply with the requirements enumerated under Section 30(2) of the Insolvency and Bankruptcy Code, 2016, such Resolution Plan cannot be made binding upon government authorities, including the State authorities herein, the present Respondent. Furthermore, Section 31 of the Code, which provides for approval of the Resolution Plan by the Adjudicating Authority, imposes a duty upon this Tribunal to exercise its limited power of judicial review to the extent provided under Section 31, and thereby to ensure that the requirements of Section 30(2) are duly met. Hence, the duty cast upon this Tribunal in scrutinizing the Resolution Plan is substantive and not a mere formality.

37. It is stated that the arrears due to the present Respondent may be considered as a secured dues and the present Respondent may be considered as a 'Secured Creditor'.

5. On receipt of the Reply of the Respondents, the Petitioner filed a rejoinder on 16.03.2026 vide inward diary no. D-2283 through an affidavit affirmed by Mr. Ravi Sethia, the

Resolution Professional of the CD, Wind World (India) Limited, being an applicant herein. The brief facts as stated are as under: -

- 5.1 The applicant stated that he is well aware and fully conversant with the facts of the present case and able to depose the same. It is further stated that he has read the copy of the reply filed by the Respondent.
- 5.2 The Applicant denied each and every statement, allegation, averment and submission made in the Reply.
- 5.3 It is stated that this Tribunal has the jurisdiction under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (IBC) to entertain the present matter. The Applicant states that the Respondent's reliance placed on the decision of ***Embassy Property Developments Private Limited vs. State of Karnataka and Others (2020) 13 SCC 308 (Embassy Property)*** is incorrect and misplaced.
- 5.4 It is further stated that the Respondent No.2 has placed heavy reliance on the judgment of the Hon'ble Supreme Court in the matter of ***Embassy Property*** to contend that the order passed by Respondent No.2 being a quasi-judicial action and within the ambit of public law domain, its correctness can be called into question only before the forum vested with judicial review over such quasi-judicial action.

5.5 As averred by the Petitioner, unlike in the facts of Embassy Property decision, the Applicant here is not challenging the imposition of royalty. The limited grievance raised is against the subsequent communication dated 25.08.2023 issued by Respondent No.2 to Respondent No.1, and the consequential action of Respondent No.1 in placing liens and freezing the bank accounts of the Corporate Debtor during the subsistence of the moratorium under Section 14 of the IBC. The Applicant submits that such enforcement action, undertaken during CIRP, is impermissible and squarely falls within the jurisdiction of this Tribunal under Section 60(5) of the IBC.

5.6 The Applicant submitted that it is not seeking this Tribunal's review of any public law decision of Respondent No.2. The limited grievance raised in the present Application pertains to the impermissible enforcement of the order passed by Respondent No.2 during the subsistence of the statutory moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016. Specifically, the challenge is directed against the act of Respondent No.2 in issuing the communication dated 25 August 2023 to Respondent No.1, and the consequential action of Respondent No.1 in placing liens and freezing the bank accounts of the Corporate Debtor.

5.7 As stated, the present Application has been filed for the limited purpose of seeking relief against Respondent No.1, IDBI Bank Limited, in respect of the lien placed and freezing of the bank accounts of the Corporate Debtor maintained with Respondent No.1. The reliefs sought are: (a) to restrain Respondent No.1 from placing any lien on the bank accounts of the Applicant maintained with it; (b) to direct Respondent No.1 to unfreeze the said bank accounts; and (c) to direct Respondent No.1 not to undertake any action prejudicial to the interests of the Applicant during the subsistence of the CIRP.

5.8 It is stated that the principal thrust of the present Application is that the action of Respondent No.1, undertaken on the basis of the communication dated 25 August 2023 issued by Respondent No.2, amounts to execution of an order during the subsistence of the statutory moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016. Such execution of judgments, decrees or orders is expressly prohibited under Section 14.

5.9 The Applicant submits that it is not questioning the jurisdiction of Respondent No.2 under the Mines and Minerals (Development and Regulation) Act, 1957 or the Rajasthan Minor Mineral Concession Rules, 2017. The issue here is whether Respondent No.2's order can be executed by directing Respondent No.1 to place a lien on

the Corporate Debtor's bank accounts during CIRP, when a statutory moratorium under Section 14 of the IBC is in force. The challenge is thus to the act of execution by Respondent No.1 pursuant to Respondent No.2's communication, and not to the underlying order dated 12 July 2018 recording an alleged outstanding of Rs. 25,75,76,540/-.

5.10 Section 60(5) of the Insolvency and Bankruptcy Code, 2016 confers wide jurisdiction upon this Tribunal in matters relating to the Corporate Insolvency Resolution Process. The provision expressly empowers the Tribunal to entertain or dispose of (a) any application or proceeding by or against the corporate debtor, (b) any claim made by or against the corporate debtor, and (c) any question of priorities or any question of law or fact arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor.

5.11 The present Application arises directly out of and relates to the Corporate Insolvency Resolution Process of the Corporate Debtor. It concerns the protection and preservation of the Corporate Debtor's assets, namely its bank accounts maintained with Respondent No.1, during CIRP. The freezing of these accounts pursuant to Respondent No.2's directions gravely impact the Corporate Debtor's ability to function as a going concern and, in effect, amounts to recovery action during the moratorium period.

5.12 The Applicant submits that the present Application is not a matter in the realm of public law requiring judicial review. It does not seek to question or review any decision of Respondent No.2. The grievance raised is confined to the enforcement of the statutory moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 against the action of Respondent No.1 in placing a lien upon and freezing the bank accounts of the Corporate Debtor pursuant to Respondent No.2's communication dated 25 August 2023. The enforcement of moratorium provisions under Section 14 is squarely within the jurisdiction of this Tribunal under Section 60(5) of the Code, and the impugned action of Respondent No.1 impermissibly interferes with the CIRP of the Corporate Debtor.

5.13 As stated that this Tribunal is competent to adjudicate disputes arising during CIRP. The freezing of the Corporate Debtor's bank accounts by Respondent No.1, pursuant to Respondent No.2's directions, directly undermines its status as a going concern and disrupts the insolvency resolution framework. Such interference with the Corporate Debtor's assets and operations is of the CD strikes at the very core of Insolvency Resolution framework under the IBC.

5.14 It is stated that the statutory authorities are empowered only to determine the quantum of tax, interest, fines or penalty that may be due from the Corporate Debtor.

However, such authorities cannot enforce recovery of these dues or levy interest during the subsistence of the moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016. Any attempt to enforce recovery during CIRP is impermissible in law.

5.15 The instruction issued by Respondent No.2 to Respondent No.1 vide a communication dated 25.08.2023 seeks to enforce the order dated 12.07.2018, thereby compelling recovery during the moratorium. Such enforcement action is in direct contravention of Section 14 of the Insolvency and Bankruptcy Code, 2016, which expressly prohibits execution of any judgment, decree or order against the Corporate Debtor during CIRP.

5.16 Placing a lien on the bank accounts of the Corporate Debtor amounts to earmarking and appropriating funds for the benefit of a particular creditor. Such an act creates an impermissible preference in favour of one creditor over all other stakeholders and directly interferes with the CIRP. It frustrates the objective of equitable treatment of creditors under the Code.

5.17 It is well settled that during the subsistence of the moratorium, no creditor, including statutory authorities, can take any action which has the effect of recovering or securing recovery of its dues from the assets of the Corporate Debtor. Consequently, the act of Respondent No.2 in directing Respondent No.1 to place

a lien over the Corporate Debtor's bank accounts is impermissible in law and liable to be set aside as being in clear violation of Section 14 of the Insolvency and Bankruptcy Code, 2016.

- 5.18 The Insolvency and Bankruptcy Code, 2016 expressly provides that upon commencement of insolvency proceedings, the Adjudicating Authority shall declare a moratorium prohibiting the institution or continuation of suits and the execution of any judgment, decree or order against the Corporate Debtor.
- 5.19 The act of Respondent No.1 in placing a lien and freezing the Corporate Debtor's bank accounts pursuant to Respondent No.2's letter dated 25.08.2023 (Exhibit E) constitutes "execution of any judgment, decree or order" within the meaning of Section 14(1)(a) of the Insolvency and Bankruptcy Code, 2016. Such action directly appropriates the Corporate Debtor's assets and prevents it from accessing its own funds, thereby violating the statutory moratorium.
- 5.20 Section 238 of the Insolvency and Bankruptcy Code, 2016 provides that the provisions of the Code shall have overriding effect notwithstanding anything inconsistent contained in any other law for the time being in force. Therefore, even if Respondent No.2's order under the Mines and Minerals (Development and Regulation) Act, 1957 or the Rajasthan Minor Mineral Concession Rules,

2017, such provisions cannot prevail over the moratorium imposed under Section 14 of the Code.

5.21 Respondent No.2 has submitted that the Mines and Minerals (Development and Regulation) Act, 1957 read with the Rajasthan Minor Mineral Concession Rules, 2017 empowers it to issue directions for recovery of dues. However, such reliance cannot override the express bar under Section 14 of the Insolvency and Bankruptcy Code, 2016. By virtue of Section 238, the provisions of the Code prevail over any inconsistent law, and therefore, Respondent No.2's directions cannot be enforced during the moratorium.

5.22 It is submitted that while the Insolvency and Bankruptcy Code, 2016 does not nullify the rights of statutory authorities to determine and recover dues, it regulates the manner in which such recovery can be effected when a corporate debtor is undergoing CIRP. During the moratorium, all creditors, including governmental authorities, are required to submit their claims before the Resolution Professional and cannot resort to execution proceedings as attempted in the present case. Thus, even if Respondent No.2 possesses statutory powers under the Mines and Minerals (Development and Regulation) Act, 1957, the Rajasthan Minor Mineral Concession Rules, 2017, or the Rajasthan Land Revenue Act, such powers cannot be exercised in violation of the express provisions of the Code. By virtue

of Section 238, the IBC overrides all other laws to the extent of inconsistency.

5.23 **Respondent No.2 has contended that the Applicant failed to inform it regarding the commencement of CIRP of the Corporate Debtor.** It is submitted, however, that upon admission of the Corporate Debtor into CIRP, the erstwhile Resolution Professional duly made a public announcement on 23.02.2018 calling for submission of claims by 08.03.2018 (Exhibit B to the Application). The statutory mechanism under the Code ensures that all creditors, including governmental authorities, are notified and afforded an opportunity to submit their claims. Hence, Respondent No.2's contention is untenable.

5.24 The Insolvency and Bankruptcy Code, 2016 does not mandate that the Resolution Professional must issue individual notices to each potential creditor or statutory authority. The public announcement made under Section 15 of the Code serves as deemed knowledge and constitutes sufficient notice to all persons having claims against the Corporate Debtor. Accordingly, Respondent No.2 cannot plead ignorance of the CIRP when the public announcement dated 23.02.2018 was duly made, inviting claims by 08.03.2018.

5.25 It is stated that the Respondent No.2 filed its claim belatedly vide Form B submitted on 07.02.2025 (forwarded by email dated 11.03.2025). It has contended

that the timelines prescribed under the Insolvency and Bankruptcy Code, 2016 for submission of claims are directory and not mandatory.

5.26 In terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, Respondent No.2 was required to submit its claim by 08.03.2018. Thereafter, on 17.11.2018, the resolution plan submitted by Suraksha Consortium was approved by the Committee of Creditors. It is the law that once the resolution plan has been approved by the Committee of Creditors, the Resolution Professional is functus officio in regard to acceptance of claims, and no further or belated claims can be entertained.

5.27 Thus, the claim of Respondent No.2 dated 07.03.2025, submitted belatedly in Form B vide email dated 11.03.2025, was rightly rejected by the erstwhile Resolution Professional. Such an inordinately delayed claim, filed nearly seven years after the last date for submission of claims, is untenable and contrary to the scheme of the CIRP under the Insolvency and Bankruptcy Code, 2016.

5.28 It is further submitted that the R2 has never challenged the action of rejection of its belatedly claim before this Bench. Hence, the plea for filing a claim in CIRP cannot be taken.

- 5.29 It is stated that the Respondent No.2 has sought to rely upon the judgment of the Hon'ble Supreme Court in the matter of ***State Tax Officer v. Rainbow Papers Limited*** to contend that its dues ought to be treated as **secured debt** having a first charge by virtue of Section 224(1) of the Rajasthan Land Revenue Act, 1956. The reliance placed on the said judgment is wholly misconceived and misleading in the facts of the present case.
- 5.30 It is stated that under the provisions of the Insolvency and Bankruptcy Code, 2016, a creditor claiming to be a secured creditor must necessarily submit its claim in the prescribed form along with supporting proof within the timelines stipulated under the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Resolution Professional can admit a claim as secured only upon due verification of such claim and supporting documents.
- 5.31 In the present case, Respondent No.2 has not filed its claim within the prescribed timelines. In the absence of a claim duly filed and admitted in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 and the CIRP Regulations, and as Respondent No.2's debt not reflected in the balance sheet of the Corporate Debtor as on the insolvency commencement date, there exists no admitted claim of Respondent No.2 which

could be treated as secured debt. Hence, the question of recognizing any alleged first charge in favour of Respondent No.2 do not arise.

5.32 Therefore, the Petitioner states that the R2's attempt to invoke Rainbow Papers to claim the benefit of a first charge is liable to be rejected, as there is no admitted claim of the Respondent No.2 in CIRP treated as the 'Secured Debt'.

5.33 Hence, the Petitioner averred that the actions of R2 for placing lien and freezing the bank accounts of the CD are in clear violation of the statutory moratorium under Section 14 of the IBC which interfere with CIRP of the CD and to operate as a going concern. Hence, the Applicant prayed to issue appropriate directions to ensure strict compliance with the moratorium under the IBC and to protect the assets of the Corporate Debtor during the CIRP period.

6. The Applicant has filed a written submission on 16.03.2026 vide inward diary no. D-2297. In the present matter, the written submissions from R2 are received and filed on 16.03.2026 vide inward diary no. D-2339.

7. We have carefully perused the daily proceedings in the matter. The Application was filed on 26.10.2023. It was first

listed on 07.11.2023 and in the daily order following interim directions were issued: -

It is further states that no amount out of the said demand of Rs. 25,75,76,54/- has so far has been remitted by the IDBI Bank in pursuance of the said order.

This is an issue arising during the insolvency of a corporate debtor from the records of this Tribunal the moratorium under Section 14 is in operation as of the date of this order. Exercising the powers of the adjudicating authority and as the matter pertains to the insolvency of the corporate debtor, we hereby direct as under:-

- a) IDBI Bank Ltd., shall not transfer any amount in pursuance to the order of Mining Engineer, Mines & Geology Department, Jaisalmer, Rajasthan.
- b) We direct the RP to bring to the notice of Court of Mining Engineer, Mines & Geology Department, Jaisalmer, Rajasthan, that the corporate debtor is under Insolvency and a moratorium under Section 14 is in place.
- c) We also direct the RP to clearly bring the Provisions of Section 238 of the IBC, 2016 and provisions as contained with Section 14(1) of the IBC, 2016 to the knowledge of the said authority by way an affidavit.
- d) We issue notice and direct the IDBI bank / respondent to file their detailed affidavit, within a period of two weeks' from the date of this order.

8. On 05.12.2023, the Applicant was allowed to amend the memo of parties by impleading R2 as necessary party. Revised Memo of Parties was filed on 16.01.2024. Notice was issued to the Respondent No.2 vide order dated 17.01.2024 of this Tribunal and the Respondent was given seven days' time to file the Reply. However, the Reply of the Respondent No.2 was filed for the first time on 16.02.2026. On 15.03.2026, the Respondent No.2 filed a written submission in the Application.

9. The Resolution Professional had filed a purshis in this Tribunal on 05.12.2023 stating that the Resolution Professional has filed an Affidavit before the Court of Mining Engineer, Mines and Geology Department, Jaisalmer bring the provisions of Section 238 of the IBC and provisions of Section 14(1) of the IBC to the knowledge of the said authority. The said Affidavit has been duly acknowledged on 04.12.2023. A copy of the Affidavit is also filed with the purshis.

10. We have heard the Ld. Counsels for the Applicant and the Respondents and have carefully perused the records. We consider appropriate to refer to the following Chronology of Events: -

- 16.06.2016: Office of the Mining Engineer, Department of Mines and Geology, Jaisalmer issued a show cause notice to Wind World (India) Ltd., the Corporate Debtor.
- 06.09.2016: A liability of Rs 17,80,47,580 accrued and the Corporate Debtor was directed to pay.
- 22.09.2017: Liability got revised to Rs 25,75,76,540.
- 29.12.2017: An application under section 7 of the IBC, 2016 was filed by the IDBI Bank Limited.
- 20.02.2018: Company Petition CP No. 14 of 2018 got admitted and CIRP commenced.
- 12.07.2018: The Mining Department revised liability against the Corporate Debtor to Rs 25,75,76,540.

- 24.05.2019: The Respondent No.2 ordered various banks including Respondent No.1 (IDBI Bank) to mark attachment on the bank account of the Corporate Debtor in view of Sections 230,231,235, and 237 of the Rajasthan Land Revenue Act, 1956.
- 24.08.2022: This Bench passed an order rejecting the Resolution Plan submitted in this case.
- 30.09.2022: The RP and CoC filed an appeal before the Hon'ble NCLAT against the rejection of the Resolution Plan and the Hon'ble NCLAT passed an interim order staying the operation and effect of the order passed by this Bench.
- 25.08.2023: The Respondent No.2 once again ordered various banks including Respondent No.1 to mark attachment on the account of the Corporate Debtor.
- 26.10.2023: Respondent No.1 informed the Applicant that a lien of Rs25,75,76,540 had been placed on the bank accounts of the Corporate Debtor in compliance with the order dated 25 August 2023 passed by the Respondent No.2
- 27.10.2023: Applicant filed the present Interlocutory Application.

11. Considering the prayers in the Application and Reply of the Respondents and the interim order dated 07.11.2023, the following issues are framed for our consideration and decision.

- **Issue No.1:** Whether the Application filed by the Resolution Professional is maintainable?
- **Issue No 2:** Whether the Respondent No.2 was prohibited from issuing directions to Respondent No.1

for placing lien on all bank accounts of the Applicant with the Respondent No.1?

- **Issue No.3** Whether an order to defreeze the bank accounts of the Applicant with the Respondent No.1 can be issued?
- **Issue No.4:** Whether a direction can be issued to the Applicant to admit the claims filed by the Respondent No.2 and consider those as that of a “secured creditor”?

12. Issue No. 1: Whether the Application filed by the Resolution Professional is maintainable?

12.1 This Adjudicating Authority passed an order on 20.02.2018 admitting the application filed by the IDBI Bank under section 7 of the IBC, 2016 that led to commencement of CIRP in case of the Corporate Debtor. A portion of Paragraph 7 of the order reads as below:

7. This Adjudicating Authority hereby order moratorium under Section 13(1)(a) of the IB Code prohibiting the following as referred to in Section 14 of the Code;

- (a) the institution of suits or continuation of pending suits or proceedings against the Company/corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

12.2 The order of moratorium under section 14 is effective from the date of commencement of the CIRP till the completion of the corporate insolvency resolution process. This Adjudicating Authority had rejected the Resolution Plan submitted in this case, but liquidation was not ordered. Further, the RP and COC had challenged the order of rejection of the resolution plan. On 24.09.2025, Ld. Counsel for the RP informed this Bench that the appeals before the Hon'ble NCLAT have been withdrawn and the matter stands finally disposed of. Therefore, the moratorium ordered in this case continues to remain in operation. Therefore, the moratorium ordered in this case continues to remain in operation, as no liquidation order has been passed and the CIRP has not attained finality.

12.3 The Respondent No.2 has contended that the order passed by it raising a demand against the Corporate Debtor is a quasi-judicial action which is within the ambit of public law domain and therefore the correctness of the said order can be called into question only before the superior forum which is vested with the power of judicial review over such quasi-judicial action. The Respondent has placed reliance on the decision of Hon'ble Supreme Court in the case of **Embassy Property Developments Private Limited Vs. State of Karnataka and Others (2020) 13 SCC 308.**

- 12.4 It has been claimed that Mines and Minerals (Development and Regulation) Act, 1957 read with the Rajasthan Minor Mineral Concession Rules, 2017 and IBC, operates in different domain and one cannot given provisions of IBC wide and sweeping amplitude that take away statutory rights and powers created by other statutes.
- 12.5 It has been claimed that this Tribunal, under Section 60(5)(c) of the IBC, has jurisdiction to entertain or dispose only those questions of priorities or questions of law or fact which arise out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under the Code.
- 12.6 **Per Contra**, the Applicant submits that the Application does not seek judicial review of the order of Respondent No.2 imposing the alleged royalty dues of Rs 25,75,76,540 dated 12 July 2018 rather the Application challenges the execution and enforcement such order by Respondent No.1 during the subsistence of the statutory moratorium under Section 14 of the IBC, 2016. The Action of the Respondent No.2, vide letter of 25.08.2023, ordering the Respondent No.1 to create the lien and freezing the bank account is challenged. It has been claimed that the Application arises directly out of and relates to the CIRP of the Corporate Debtor. It is further contended that enforcement of the moratorium provisions under section 14 of the IBC is within the

jurisdiction of the NCLT under section 60 (5) read with Section 14.

12.7 Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 confers wide residuary jurisdiction upon the Adjudicating Authority to entertain and dispose of:

“any question of law or fact arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor.” The scope of this provision is not confined to core insolvency determinations alone but extends to all matters having a direct nexus with, or impact upon, the insolvency resolution process.

12.8 In ***Embassy Property Developments Pvt. Ltd. v. State of Karnataka Civil Appeal No. 9170 of 2019***, the Hon’ble Supreme Court has held that the Adjudicating Authority under Section 60(5) is empowered to decide questions arising out of or in relation to the insolvency resolution process of the Corporate Debtor, where such issues have a direct bearing on CIRP.

12.9 We are of the view that issue before us is not the correctness of the determination of dues by the Mining Authority from the Corporate Debtor or questioning the power of the authority to pass such an order or the judicial review of the order but the direction issued by the Respondent No.2 to Respondent No.1 to create a lien on the bank account of the Corporate Debtor. This lien and subsequent freezing of the Bank Accounts by the Respondent No.1 impacts the functioning of the

Corporate Debtor as a going concern and inhibits the Resolution Professional to take control, custody, protection and preservation of the assets of the Corporate Debtor. Due to lien and subsequent freezing of the balance in the account results into non-availability of the money in the bank account for the functioning of the Corporate Debtor. Issue of direction for creating the lien on the bank accounts results into execution and enforcement of a decree or order of the court of law which action is expressly prohibited by an order of moratorium under section 14 of the Code. We hold that any action that affects the implementation of the moratorium is an issue affecting the insolvency resolution of the Corporate Debtor and within the powers of this Tribunal under section 60(5) of the IBC, 2016 read with Rule 11 of the NCLT Rules.

12.10 Such action squarely falls within the ambit of 'execution' barred under Section 14(1)(a) of the Code. Therefore, the objection on maintainability of the Application raised by the Respondent No.2 is rejected.

13. Issue No 2: Whether the Respondent No.2 was prohibited from issuing directions to Respondent No.1 for placing lien on all bank accounts of the Applicant with the Respondent No.1?

13.1 The respondent No.2 has submitted that it initiated recovery proceedings as entitled under Mines and

Minerals (Development and Regulation) Act, 1957 and the Rajasthan Minor Mineral Concession Rules, 2017 read with Rajasthan Land Revenue Act, 1956.

13.2 The Respondent No. 2 has contended that though a public announcement was made on 23.02.2018 and claims were to be filed on or before 08.03.2018, the Applicant failed to inform the Respondent qua CIRP of the Corporate Debtor in view of the fact that several correspondences were intimated including that of show cause notice and demand of liability. Despite several communications the Applicant did not intimate the initiation of the CIRP and Public Announcement under Form A. The Respondent has raised the issue of reasons for late filing of claims and its contention that the claims be treated as that of a secured creditor. This issue is separately discussed and decided below in this order.

13.3 Per Contra, the Applicant has argued that issue of instruction by Respondent No.2 to Respondent No.1 vide letter dated 25 August 2023 seeks to enforce the order dated 12 July 2018 has the effect of execution of a decree or court order and violates the prohibition imposed by section 14 of the IBC, 2016.

13.4 The said direction has the effect of earmarking the funds lying in such accounts for the benefit of the Mining Department in preference over all other stakeholders of the Corporate Debtor which is and disrupts the pari

passu distribution mechanism under the IB Code, 2016 and IBBI (CIRP) Regulations, 2016.

- 13.5 The Hon'ble Supreme Court had occasion to consider effect and consequence of imposition of moratorium. The Hon'ble Supreme Court in *Rajendra K. Bhutta v. Maharashtra Housing and Area Development Authority and Anr.*, (2020) ibclaw.in 27 SC, held that after the imposition of moratorium, a statutory freeze takes place. In paragraph 16 of the judgment, following was held:

"16. There is no doubt whatsoever that important functions relating to repairs and reconstruction of dilapidated buildings are given to MHADA. Equally, there is no doubt that in a given set of circumstances, the Board may, on such terms and conditions as may be agreed upon, and with the previous approval of the Authority, hand over execution of any housing scheme under its own supervision. However, when it comes to any clash between MHADA Act and the Insolvency Code, on the plain terms of Section 238 of the Insolvency Code, the Code must prevail. This is for the very good reason that when a moratorium is spoken of by Section 14 of the Code, the idea is that, to alleviate corporate sickness, a statutory status quo is pronounced under Section 14 the moment a petition is admitted under Section 7 of the Code, so that the insolvency resolution process may proceed unhindered by any of the obstacles that would otherwise be caused and that are dealt with by Section 14. The statutory freeze that has thus been made is, unlike its predecessor in the SICA, 1985 only a limited one, which is expressly limited by Section 31(3) of the Code, to the date of admission of an insolvency petition up to the date that the adjudicating authority either allows a resolution plan to come into effect or states that the corporate debtor must go into the

liquidation. For this temporary period, at least, all the things referred to under Section 14 must be strictly observed so that the corporate debtor may finally be put back on its feet albeit with a new management.”

13.6 The Hon'ble Supreme Court in ***Principal Commissioner of Income Tax v. Monnet Ispat and Energy Ltd. (2018) 18 SCC 786*** has categorically held that in view of Section 238 of the IBC, the provisions of the Code shall override anything inconsistent contained in any other enactment, including the Income Tax Act. Further, the NCLT and NCLAT have consistently taken the view that statutory authorities cannot invoke recovery or set-off mechanisms under their respective statutes once moratorium under the IBC is in force. It is settled law that statutory authorities, though entitled to determine dues, cannot enforce recovery during moratorium.

13.7 The Hon'ble Supreme Court in ***Ghanashyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd. (2021) 9 SCC 657*** has held that once the provisions of the Insolvency and Bankruptcy Code are triggered, statutory authorities are bound by the framework of the IBC and their claims must be dealt with strictly in accordance with the mechanism provided under the Code.

13.8 The Hon'ble Supreme Court in the case of ***Sundaresh Bhatt, Liquidator of ABG Shipyard vs. Central***

Board of Indirect Taxes and Customs (2023) 1 SCC 472 had held that once moratorium is imposed in terms of Section 33(5) of the IBC during liquidation, the Custom Department enjoyed limited jurisdiction to assess and determine quantum of tax dues but did not have power to initiate recovery of those dues. The Hon'ble NCLAT in the case of **Avil Menezes (Liquidator) v. Principal Chief Commissioner of Income Tax, Mumbai (2024) ibclaw.in 441 NCLAT** held that section 14 of the IBC, 2016 prohibits both institution and continuation of pending suits or proceedings against the corporate debtor.

13.9 Further, placing of lien and freezing of bank accounts constitutes 'execution' or enforcement of a claim against the Corporate Debtor, which is expressly prohibited under Section 14(1)(a) of the Code.

13.10 Therefore, we decide issue no.2 against the Respondent No.2 and in favour of the Applicant.

14. Issue No.3 Whether an order to defreeze the bank accounts of the Applicant with the Respondent No.1 can be issued?

14.1 The respondent No.1 has contended that it has frozen the bank account of the Corporate Debtor based on the instruction received from the Respondent No.2.

14.2 Based on our decision on Issue No.2 above, issue of instruction to the Respondent No.1 was in violation of the moratorium declared under section 14 of the IBC,

2016. The Respondent No.2 was required to follow the provisions of the IBC, 2016 by making claims for the dues quantified prior to the commencement of the CIRP by filing Form B to the Resolution Professional. The Respondent No.2 has submitted that it was unaware of the initiation of the CIRP, and the Applicant did not inform it of the CIRP. Be that as it may, the issue of instruction to create lien and freezing the bank accounts of the Corporate Debtor was in violation of the moratorium declared under section 14 of the IBC, 2016 and therefore we have no hesitation in directing the respondent No.1 to defreeze the bank accounts of the Corporate Debtor on which lien has been placed and are frozen and allow the Corporate Debtor to use the money lying in the bank accounts for running the Corporate Debtor as a going concern.

14.3 It is clarified that any lien or attachment created prior to commencement of CIRP shall be subject to the provisions of the Code and cannot be enforced during the moratorium period.

15. Issue No.4: Whether a direction can be issued to the Applicant to admit the claims filed by the Respondent No.2 and consider those as that of a “secured creditor”?

15.1 The Respondent No.2 has contended that it was not informed by the Applicant about the initiation of the CIRP and it could not file the claims in time and claims

were filed in Form B only on 07.02.2025. It has challenged the rejection in the Reply and has also stated that its claims be considered as that of a “secured creditor”.

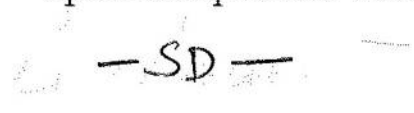
15.2 The issue relating to admission, classification or treatment of the claim of Respondent No.2 does not arise for consideration in the present application and is beyond the scope of adjudication under the present proceedings.

15.3 We are of the view that these are totally different matters and claims do not arise out of the Application filed by the Resolution Professional and therefore we desist from discussing and deciding this matter.

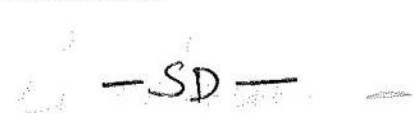
15.4 Accordingly, no findings are rendered on this issue. Respondent No.2 is at liberty to pursue appropriate remedies in accordance with law before the competent forum.

16. The moratorium under Section 14 is intended to preserve the assets of the Corporate Debtor and maintain it as a going concern. Any action resulting in freezing of bank accounts or restricting access to funds strikes at the core of the insolvency resolution process and cannot be permitted.

17. Accordingly, the present application **I.A. No.1278 of 2023 in CP (IB) No. 14 of 2018** is hereby **allowed**. The Respondent No.1 is directed to forthwith remove all liens and defreeze all bank accounts of the Corporate Debtor. All actions taken pursuant to the directions of Respondent No.2 resulting in freezing of accounts stand set aside. Respondents are restrained from taking any coercive or recovery action against the Corporate Debtor during the subsistence of moratorium under Section 14 of the Code.
18. This order shall not preclude the Respondent No.2 from pursuing its claim in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 subject to the applicable provisions of the limitation Act.
19. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.


SANJEEV SHARMA
MEMBER(TECHNICAL)

Alpesh/PS


SHAMMI KHAN
MEMBER (JUDICIAL)