NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)
Company Appeal (AT) (CH) (Ins) No. 387/2025
(IA Nos. 1133 & 1134/2025)

IN THE MATTER OF:

Trinox Infrastructure and Developers Pvt. Ltd.
(Successful Resolution Applicant)
Plot No. 64 & 71 (old), 255 & 256 new, Doyens habitat,
Flat No. 5C, Vth Floor, Hyderabad, Srinagar Colony,
Telangana, India - 500073. **… Appellant**

V

B Vinod Kumar,
Assistant Commissioner (Sales Tax)
Jangreddygudem Circle, Awaraopeta Road,
Jangreddygudem, Eluru District
Andhra Pradesh - 534447 **… Respondent No. 1**

Mr. Naga Bhushan Bhagwati
Resolution Professional of
Sindhura Paper Private Limited,
1-1-380/38, Ashoka Nagar Extension,
Hyderabad, Telangana - 500020 **… Respondent No. 2**

CoC of Sindhura Paper Private Limited,
D.No.1-115, Lakshminagar, H/O Marampalli(V)
Dwaraka Tirumala Mandal,
Andhra Pradesh, India - 534202 **… Respondent No. 3**

Present:

For Appellant	**:**	Ms. Vismaya, Advocate For Mr. VVSN Raju, Advocate
For Respondents	**:**	Ms. D. Kiranmaye, Advocate for R2

ORDER
(Hybrid Mode)

16.07.2026:

Oral Judgment: Justice Sharad Kumar Sharma, Member (Judicial):

The scrutiny under this Company Appeal, are the questions of procedural flaw that has chanced while adjudicating upon the IA, being IA No. 425/2024, that was preferred by the Respondent No. 1, in CP(IB)/60/9/AMR/2020.

2. The consequential effect of the same have been that, in the IA which was thus preferred by the Assistant Commissioner (State Tax), the principal relief that was prayed for was to the following effect,

> *''' A. Allow the present application.*
>
> *B. To recall the approved resolution plan order dated 15.12.2022 in IA(IBC)/367/2022;*
>
> ***C. To consider the Applicant's Claim as the Secured Creditor;***
>
> *D. Direct the COC to reconsider the plan after getting revised and;*
>
> *E. Pass such further orders and direction as this Hon'ble Tribunal may deem fit and expedient.'''*

3. We would be primarily concerned with regards to Relief No. 3 at this moment, where the Applicant/Respondent No. 1 had prayed for to **"consider"** the Applicant as a Secured Creditor, which required a determination on merits, of the status of the Applicant as to be a Secured Creditor. All these questions were mixed questions of fact and law, where facts were to be appreciated first before applying law, which were required to be judiciously considered by the Ld. Tribunal on its own merits, including the incidental question that would be arising therein pertaining to the question of limitation and maintainability. In the context of the said Relief, the Ld. Tribunal has proceeded to pass the following impugned order, which is extracted herein, in its entirety

> *''' Order pronounced and recorded vide separate sheets. It is **held** that the State Tax Department / Applicant shall be*

treated as a Secured Creditor. Further, it is clarified that all other issues, including the aspect of limitation and the maintainability of the application on other grounds, are kept open and shall be heard on 04.08.2025. '"

4. The Appellant had approached before this Ld. Tribunal, challenging the impugned order. We had issued notices to the Respondents and as per the report of the registry, the Respondent Nos. 1,2 & 3 had been served with the notices, but out of them Respondent Nos. 1 & 3 have not put an appearance, nor any Counter Affidavit has been filed. Hence, we have got no other option except to proceed to decide the Company Appeal itself on its own merits.

5. A simple law of adjudication contemplates that, when an Applicant has filed, an Application seeking a recall of the order of approved Resolution Plan, and there happens to be corresponding relief to consider the status of the Applicant/Respondent No. 1 as the Secured Creditor, in that eventuality, first there has to be a determination to be made on merits, by Ld. Tribunal as to whether at all the Applicant is entitled under law to be declared as to be the Secured Creditor for the purposes to sustain the Application seeking recall of the Resolution Plan, that already stood approved on 15.12.2022.

6. However, Ld. Tribunal has proceeded to pass an order wherein the status of the Applicant, without there being an adjudication on merits, has already been directed to be treated as the Secured Creditor. This process is unknown in the eyes of law because when it is already **'held'** by the Ld. Tribunal that Respondent No. 1 is a Secured Creditor, there is nothing left to be

decided by the Ld. Tribunal, in relation to Relief No. 2, which is to be read in the context of Relief No. 1, particularly on the aspects of limitation and maintainability of the Application which have also been agitated and which should have been considered, at the first available instance. However, Ld. Tribunal has chosen to deal with said aspects at a later stage, in which we don't see any judicial logic.

7. It's the settled principle that, in any principal proceedings or, for that matter even in miscellaneous proceedings where there arises a question of limitation or a question of maintainability, it is incumbent upon the Ld. Tribunal to first answer the question of limitation and maintainability, and then to proceed to determine the status of Applicant/Respondent No. 1 as to whether it can be called a 'Secured Creditor'. By holding the Respondent No. 1, as to be a Secured Creditor in the impugned order, without any determination on the aspect of limitation and maintainability, is a clear procedural flaw, which cannot be sustained in the eyes of law.

8. In the instant case, under common prudence, the adjudication required an advance consideration of an answer to the aspects of limitation and maintainability, and then only the subsequent reliefs that were claimed in the Application could have been considered. Therefore, the grant of final relief of determining the Respondent as to be a Secured Creditor makes the order to be non-sustainable.

9. The impugned order of 01.08.2025 would stand quashed. The matter is relegated back to the Ld. Tribunal to redecide IA(IBC)425/2024, on its

merits, but before venturing upon the same, it is expected that the Ld. Tribunal would first answer the question of limitation and maintainability and then venture upon to consider of the relief claimed on the merits of the matter pertaining to the entitlement for the recall of the approved Resolution Plan and for consideration of the Applicant's status as to be that of a Secured Creditor.

Subject to the above, the Company Appeal stands allowed. All Interlocutory Applications would stand disposed of.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

DD/MS/AK