NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1872 of 2025

[Arising out of the Impugned Order dated 16.09.2025 passed by the Adjudicating Authority, National Company Law Tribunal, Mumbai Bench-V in I.A. No. 4588 of 2024 in C.P. (IB) No. 1139(MB)/2020]

In the matter of:

M/s Dharampal Premchand Ltd.,
Through its Director,
Shashi Kumar Maheshwari,
Regd. Office: 4873, Chandni Chowk,
Delhi-110006
Corporate Office:
A-34 & 35, Sector 60,
Noida-201301 (Uttar Pradesh)

.... Appellant

Versus

1. **Mr. Jitendra Bhandari,**
'Kasturi Bangla' Sanmitra Housing,
Manmad Road, Savedi,
Ahmedabad-414003

....Respondent No.1/SRA

2. **Mr. Manoj Kumar Mishra,**
Resolution Professional of
Trimurti Foodtech Private Limited,
Office at 18, 3rd Floor, 84,
Dholakawala Building,
Janmabhoomi Marg, Fort,
Mumbai-400001

....Respondent No.2/RP

3. **Trimurti Foodtech Ltd.**
Through its Managing Director,
Shri Atul Dattatraya Banginwar,
Regd. Office at Plot No.
A-5, MIDC Area Railway Station,
Aurangabad-431005, Maharashtra

.... Respondent No.3/CD

Present:

For Appellant : Mr. Brajesh Kumar and Mr. Saurav Kumar, Advocates.

For Respondent : Mr. Amir Arsiwala and Ms. Neha Arya, Advocates.

J U D G M E N T

(25th May, 2026)

INDEVAR PANDEY, MEMBER (T)

The present Appeal has arisen from the order dated 16.09.2025 passed by the National Company Law Tribunal, Mumbai Bench-V (Adjudicating Authority) in I.A. No. 4588 of 2024 in CP (IB) No. 1139 of 2020, whereby the application filed by the **Appellant, M/s Dharampal Premchand Ltd. (Claiming to be an Operational Creditor)**, seeking recall of an earlier order passed by Adjudicating Authority in IA No. 1916 of 2022 dated 31.03.2023, whereby it approved the Resolution Plan of **Corporate Debtor-Trimurti Foodtech Ltd**., who is **Respondent No.3** herein, was dismissed.

2. The Appeal has been preferred against the said impugned order primarily on the ground that despite the operational debt claim of the Appellant being admittedly above the statutory threshold prescribed under Section 24(3)(c) of the Insolvency and Bankruptcy Code, 2016,(hereinafter referred to as '**Code**'), the Resolution Professional of the Corporate Debtor **Mr. Manoj Kumar Mishra/ Respondent No.2**, allegedly failed to issue notice of the Committee of Creditors meetings to the Appellant during the Corporate Insolvency Resolution Process. The Appellant has further alleged that although it had filed their claim in Form B during the CIRP, the same was

subsequently treated as a "contingent claim" on the basis of an alleged counterclaim raised by Respondent No.2/RP, resulting in complete denial of any payment to the Appellant under the Resolution Plan submitted by the **Successful Resolution Applicant-Mr. Jitendra Bhandari/ Respondent No.1**. The Appellant has also challenged the CIRP process on the ground that machinery and equipment belonging to the Appellant and merely leased to Respondent No.3/Corporate Debtor were unlawfully treated as assets of the Corporate Debtor during the insolvency proceedings, apart from alleging various procedural irregularities and arbitrary exercise of jurisdiction during the resolution process.

FACTS OF THE CASE

3. The facts relevant for deciding this matter are as given below:

(i) The Appellant, namely M/s Dharampal Premchand Ltd. (Claiming to be an Operational Creditor), is stated to be a well-established company operating in the FMCG sector for several decades and having diversified into manufacturing and marketing of fruit pulp-based jelly products and fruit bars. In connection with its business operations, the Appellant entered into commercial arrangements with Respondent No.3/Corporate Debtor namely Trimurti Foodtech Ltd. for manufacturing and packaging of fruit bars.

(ii) A fresh "Contract Manufacturing and Packaging Agreement" was executed between the Appellant and the Corporate Debtor on 20.08.2014, superseding an earlier agreement dated 28.11.2013. Under

the said arrangement, the Corporate Debtor undertook manufacturing and packaging activities for the Appellant's products. In furtherance of the arrangement, the Appellant extended substantial financial support to the Corporate Debtor in the form of mobilisation advance, security deposit, and advance towards procurement of raw material and packaging material. The total financial assistance extended under the arrangement was stated to be approximately Rs.6.25 Crores.

(iii) Simultaneously, assurances were allegedly extended by the Corporate Debtor regarding enhancement of manufacturing capacity and procurement of additional machinery for its Waluj Plant. Acting upon such assurances, the Appellant purchased necessary equipment and machinery worth approximately Rs.3.60 Crores and provided the same to the Corporate Debtor under an "Equipment Lease Agreement" executed on 20.08.2014. According to the Appellant, the ownership of the said machinery and equipment always remained vested with the Appellant and the same was merely leased to the Corporate Debtor for operational purposes.

(iv) Appellant terminated the above agreement on 20.12.2017 on grounds of non-adherence as per agreement unilaterally and sent the letter of termination to the Respondent No. 3/Corporate Debtor but Respondent No. 3 rebutted it and stated that it was invalid, as no notice was served to Respondent No. 3 as specified in the clause R of the above agreement and no mandatory written notice prior of 180 days as per clause N was given to Corporate Debtor.

(v) Subsequently, Sandhya Dinesh Sancheti & Ors. **(Financial Creditors)** of the M/s Trimurti Foodtech Pvt. Ltd. **(Corporate Debtor)** initiated insolvency proceedings under the Code against the Respondent No.3/Corporate Debtor. The Corporate Debtor was admitted in Corporate Insolvency Resolution Process (CIRP), vide order dated 11.08.2021 passed by the Adjudicating Authority in CP (IB) No.1139 (MB) of 2020 the Respondent No.2 was appointed as Resolution Professional (RP).

(vi) Pursuant to public announcement made during the CIRP, the Appellant submitted its claim as Operational Creditor before the RP in Form-B on 13.09.2021. The Appellant claimed an amount of Rs.6,81,21,070/- as payable by the Corporate Debtor and submitted supporting documents in relation thereto. The RP vide e-mail dated 02.12.2021 informed the Appellant that the claim was not tallying with books of account of the Corporate Debtor and the claim was under verification.

(vii) Respondent No.2/RP issued a legal notice dated 12.04.2022 to the Appellant, in the said notice, the RP expressly referred to the Appellant's claim and informed the Appellant that the erstwhile Directors of the Corporate Debtor had informed the RP that no valid termination notice had been issued by the Appellant in accordance with the contract. Further relying upon the renewal clause in the agreement, the RP asserted that the manufacturing agreement had automatically renewed itself and continued to remain operational even after expiry of its original tenure. The RP further alleged that due to non-adherence by the

Appellant to the "production commitment" obligations under the agreement, the manufacturing capacity of the Corporate Debtor remained underutilized, thereby causing massive financial losses to the Corporate Debtor. The RP computed such alleged losses for the period from January 2015 till March 2022 at approximately Rs.55.68 Crores and characterized the same as a "counterclaim" against the Appellant. It was further stated that although the Appellant's claim stood admitted, the same would remain contingent upon adjudication of the alleged counterclaim.

(viii) The Appellant denied the alleged counterclaim, and the Respondent No.2/RP therefore invoked the arbitration clause contained in the agreement and issued a notice dated 01.06.2022 under Section 11 of the Arbitration and Conciliation Act, 1996, calling upon the Appellant to appoint an arbitrator for adjudication of disputes arising out of the contract dated 20.08.2014. The Appellant, through a reply dated 08.07.2022, rejected invocation of arbitration and asserted that no arbitrable dispute existed since the agreements had already stood terminated long back and the claims raised by the RP were baseless and untenable.

(ix) The Resolution Process continued and the Resolution Plan submitted by Respondent No.1/SRA namely, Mr. Jitendra Bhandari, was approved by the Committee of Creditors in its 9th Meeting with 78.58% voting and thereafter it was approved by the Adjudicating Authority vide order dated 31.03.2023 passed in IA No.1916 of 2023. Respondent No. 2/RP vide

email dated 27.04.2023, informed the Appellant that 'NIL' amount was payable to him and this status was also published on the IBBI website on 23.05.2022.

(x) Aggrieved by the approval of the Resolution Plan, the Appellant initially preferred Company Appeal (AT)(Ins.) No.829 of 2023 before this Appellate Tribunal. However, during pendency of the proceedings, the Hon'ble Supreme Court in "Greater Noida Industrial Development Authority vs. Prabhjit Singh Soni & Anr." clarified the legal position regarding recall jurisdiction of the NCLT. In light of the said development and availability of alternative remedy, the Appellant sought liberty to withdraw the appeal and pursue recall proceedings before the NCLT. The said liberty was granted by this Tribunal by order dated 09.05.2024.

(xi) Thereafter, the Appellant filed I.A. No.4588 of 2024 before the Adjudicating Authority seeking recall of the order dated 31.03.2023 approving the Resolution Plan. In the reply affidavit filed by Respondent No.2/RP, several additional stands were taken. It was contended that as per the books of accounts and audit reports of the Corporate Debtor, the Appellant was actually a debtor of the Corporate Debtor and that an amount of approximately Rs.55.68 Crores was receivable from the Appellant. The RP also relied upon an alleged letter dated 12.03.2016 purportedly written by the erstwhile Managing Director of the Corporate Debtor demanding approximately Rs.698 Lakhs from the Appellant.

(xii) The Adjudicating Authority vide its order dated 16.09.2025, dismissed the Appellant's recall application. Aggrieved by the said dismissal order and reiterating allegations relating to violation of Section 24(3)(c), wrongful treatment of its admitted claim, illegal subsuming of leased machinery into CIRP assets, arbitrary conduct of the RP, and material irregularities in the resolution process, the Appellant has filed the present Appeal.

Submissions of the Appellant

4. Ld. Counsel for the Appellant submits that the prayer seeking recall of the Resolution Plan approved vide order dated 31.03.2023 came to be rejected on a fundamentally erroneous premise that the claim of the Appellant had not been admitted by the Resolution Professional, whereas the records unmistakably demonstrate that the claim of the Appellant had in fact been categorically admitted by the Resolution Professional himself.

5. He submits that the Appellant had entered into a "Contract Manufacturing & Packaging Agreement" dated 20.08.2014 with Corporate Debtor/Respondent No.3, for a fixed tenure of five years. In order to facilitate performance under the said agreement, the Appellant had also procured new Equipment and Machinery, which was provided to the Corporate Debtor on lease under a separate Equipment and Machinery Agreement executed on the same date. It is submitted that the contractual arrangement was purely commercial in nature and governed by specific terms and conditions relating to production commitments, duration and termination.

6. He further submits that owing to various defaults and operational difficulties attributable to Respondent no.3, the Appellant was constrained to prematurely terminate the said Contract on 20.12.2017. He submitted that such termination was duly communicated to the erstwhile Managing Director of the Corporate Debtor. Thereafter, the Appellant continuously followed up the matter through various communications dated 20.03.2018, 21.05.2018 and 14.06.2018, besides legal notices dated 30.11.2018 and 04.02.2019, reiterating and affirming the factum of termination of the Contract. Despite receipt of such communications, neither the Corporate Debtor nor its erstwhile Directors ever protested against the termination nor raised any grievance alleging any loss or damages on account of the said termination. It is submitted that the complete silence maintained by the Corporate Debtor over several years clearly establishes that the termination of the Contract had attained finality and stood accepted by all concerned.

7. Ld. Counsel submits that even otherwise, the original tenure of the Contract itself expired on 30.09.2019. Thus, by the time CIRP commenced against the Corporate Debtor on 11.08.2021, not only had the Contract already been terminated nearly four years earlier, but even the maximum contractual tenure had long expired. It is submitted that after expiry of the tenure, no fresh agreement was executed between the parties and no renewal document was ever brought into existence. Therefore, there remained no surviving contractual relationship capable of being revived, continued or renewed by the Resolution Professional.

8. He submits that in the course of CIRP, the Appellant submitted its claim amounting to approximately Rs. 6.81 Crores on 10.09.2021. Thereafter, on 10.01.2022, the list of claims uploaded by the Resolution Professional reflected that all claims, including the claim of the Appellant, were under verification. Subsequently, the Information Memorandum dated 28.02.2022, which was published on 01.03.2022, captured the claim of the Appellant in its entirety and Expressions of Interest were invited by 28.03.2022.

9. Ld. Counsel further submits that the Resolution Professional issued a legal notice dated 12.04.2022 to the Appellant. He submitted that by the said notice, the Resolution Professional unequivocally admitted the claim of the Appellant. However, in complete contradiction to the admitted factual position regarding termination and expiry of the Contract, the Resolution Professional proceeded to assert that the Contract should be assumed to be continuing. The Resolution Professional further unilaterally asserted that the Contract stood automatically renewed on the basis of a purported renewal clause, notwithstanding the fact that the contractual tenure had expired on 30.09.2019 itself.

10. He submits that the Resolution Professional further alleged that the Appellant had failed to comply with the production commitment clauses under the Contract since January 2015, due to which the Corporate Debtor allegedly suffered losses. On this basis, the Resolution Professional purportedly quantified alleged losses of approximately Rs.55 Crores to Rs.55.68 Crores for the period January 2015 till March 2022 and held the Appellant liable to compensate the same. The said alleged liability was described as a “Counter

Claim" and the Resolution Professional arbitrarily declared that the admitted claim of the Appellant would be treated as contingent upon such alleged counter claim. It is submitted that by such unilateral action, the Resolution Professional attempted to virtually set-off an admitted operational debt against an entirely unadjudicated and uncrystallized damages claim.

11. Ld. Counsel submits that even the correspondence attributed to the suspended directors of the Corporate Debtor does not deny the termination of the Contract. Rather, the only issue sought to be raised therein pertains to the mode of communication of termination, which itself implies acknowledgment and knowledge of such termination on the part of the Corporate Debtor and its directors. It is submitted that once the factum of termination stood acknowledged and remained unchallenged for years together, the Resolution Professional had absolutely no authority under law to revive, continue or renew a dead contract.

12. He further submits that the Sixth Meeting of the Committee of Creditors held on 20.04.2022 included an agenda item relating to the steps taken by the Resolution Professional for issuance of legal notice to the Appellant. However, the agenda notes and explanatory material placed before the CoC were deliberately vague and cryptic. It is submitted that the Resolution Professional suppressed crucial facts from the Committee of Creditors, namely, the earlier termination of the Contract and expiry of the contractual tenure on 30.09.2019. The Resolution Professional also failed to disclose before the CoC that the alleged action proposed against the Appellant was

founded entirely upon his own unilateral assumptions regarding continuation and automatic renewal of the Contract.

13. It is the submission of Ld. Counsel that the copy of the legal notice dated 12.04.2022 itself was not placed before the Committee of Creditors and neither were the relevant extracts or contemplated actions disclosed. Consequently, the CoC was never placed in a position to appreciate the illegality and arbitrariness of the action being taken by the Resolution Professional against the Appellant. It is submitted that such concealment of material information amounts to suppression of vital facts from the CoC and vitiates the entire CIRP process.

14. He further submits that Item No.11 of the Minutes of Meeting reveals that out of twenty-four applicants, only Respondent No.1 was ultimately declared eligible by the Resolution Professional. It is submitted that the competitive bidding process, which constitutes the essence of a fair insolvency resolution mechanism, was effectively eliminated in a highly deceitful manner. The steps taken by the Resolution Professional adversely affecting the Appellant, including the virtual disappearance of the Appellant's admitted claim by converting it into a contingent claim, were nowhere reflected in Version-1 of the Information Memorandum circulated to prospective applicants. Consequently, prospective bidders were deprived of accurate information necessary for assessing the true financial position and valuation of the Corporate Debtor.

15. Ld. Counsel submits that on 23.04.2022, the Resolution Professional circulated Version-2 of the Information Memorandum only to Respondent

No.1 along with other documents. The amended Information Memorandum was not circulated either to the Committee of Creditors or to other bidders who had responded pursuant to the first Expression of Interest. It is submitted that such selective disclosure clearly demonstrates collusion between the Resolution Professional and the Successful Resolution Applicant. Even in the amended Information Memorandum, the reasons for converting the admitted claim of the Appellant into a contingent claim were conspicuously absent. The Resolution Professional ought to have retained the status of the claim as "admitted" while merely indicating by way of note that a purported counter claim was being contemplated. Instead, the Resolution Professional deliberately altered the character of the claim itself in order to deprive the Appellant of its statutory rights under the Code.

16. Ld. Counsel further submits that thereafter the Resolution Plan submitted by Respondent No.1 was approved by the Committee of Creditors and subsequently by the Ld. Adjudicating Authority on 31.03.2023. However, although the claim of the Appellant had admittedly been accepted by the Resolution Professional through legal notice dated 12.04.2022, the status of the claim as "admitted" completely disappeared from the Resolution Plan and was instead reflected as "contingent".

17. Ld. Counsel submits that Section 24(3)(c) of the Code casts a mandatory obligation upon the Resolution Professional to issue notice of every meeting of the Committee of Creditors to operational creditors whose aggregate dues exceed the prescribed threshold. It is submitted that the admitted claim of the Appellant by itself crossed the statutory threshold and therefore the Appellant

was legally entitled to notice of CoC meetings. However, by artificially converting the admitted claim into a "contingent" claim through the device of an unadjudicated counter claim, the Resolution Professional sought to evade the rigours of Section 24(3)(c) and illegally deprived the Appellant of participation rights in the CoC meetings.

18. He submits that the mandate of Section 24(3)(c) is inviolable and mandatory in nature. He places reliance upon "*ANG Industries Ltd. Vs Shah Brothers Ispat Pvt Ltd. & Anr.*" and "*Bhushan Shringarpure & Ors Vs. B.K Mishra & Ors.*" wherein this Appellate Tribunal held that compliance with Section 24(3)(c) is mandatory and incumbent upon the Resolution Professional. It is submitted that once the Appellant stood excluded from the CoC process by an illegal device, the entire resolution process stood vitiated.

19. Ld. Counsel submits that the Equipment and Machinery leased by the Appellant to the Corporate Debtor always remained the property of the Appellant and never formed part of the assets of the Corporate Debtor. In terms of Section 18 of the Code, only assets belonging to the Corporate Debtor can form part of the insolvency estate. Therefore, the leased Equipment and Machinery could not have been appropriated or dealt with in the resolution process in the absence of any authority of law permitting such appropriation. He further submits that Article 300A of the Constitution of India guarantees that no person shall be deprived of property save by authority of law. It is submitted that such deprivation of property rights through the CIRP mechanism is wholly illegal and unconstitutional.

20. Ld. Counsel further submits that the Resolution Professional acted wholly beyond jurisdiction in assuming continuation of a contract that had already been terminated years prior to commencement of CIRP. He submitted that renewal of a contract or lease cannot take place automatically in the absence of execution of a fresh document evidencing such renewal.

21. Ld. Counsel places reliance upon **"*Hardesh Ores Pvt. Ltd. Vs. M/s Hede and Company*"** wherein the Hon'ble Supreme Court categorically held that in order to give effect to renewal of a lease, a document has to be executed evidencing renewal of the agreement and there exists no concept of automatic renewal merely by exercise of an option. It is submitted that in the present case there was not even any exercise of option, much less execution of a renewal document. Therefore, the entire basis adopted by the Resolution Professional for foisting liability upon the Appellant is contrary to settled law.

22. Ld. Counsel submits that the so-called counter claim raised by the Resolution Professional is entirely unadjudicated, hypothetical and unsupported by any evidence of actual loss. Until such adjudication takes place, they remain disputed and contingent in nature. In absence of any adjudication, evidence or determination of damages, the Resolution Professional sought to treat the alleged counter claim as a basis for converting the admitted operational debt of the Appellant into a contingent claim. Such action is arbitrary, illegal and contrary to settled legal principles. Reliance is placed upon ***CSA Corporation Private Limited vs. Mr. Rajiv Bhatnagar***, **Associate Builders vs. Delhi Development Authority** and ***M/S Embassy Property Developments Pvt. Ltd. Vs State of Karnataka***. It is submitted

that the Hon'ble Supreme Court in Embassy Property Developments has clearly held that the purpose of moratorium is merely to preserve status quo and not to create new rights. In the present case, the Resolution Professional has attempted to create entirely new rights and liabilities after commencement of CIRP.

23. Ld. Counsel submits that the Resolution Plan approved by the Ld. Adjudicating Authority was obtained by suppression of material facts and by playing fraud upon the Committee of Creditors as well as the Court. The Resolution Professional deliberately concealed the fact of termination of the Contract, expiry of its tenure, absence of any crystallized counter claim, and the actual status of the Appellant's admitted claim. The selective circulation of the amended Information Memorandum only to the Successful Resolution Applicant further establishes collusion and manipulation of the CIRP process.

24. Ld. Counsel submits that fraud vitiates every solemn proceeding and any judicial order obtained by fraud is a nullity in the eyes of law. Reliance is placed upon ***S.P. Chengalvaraya Naidu vs. Jagannath*** wherein the Hon'ble Supreme Court held that a judgment or decree obtained by playing fraud upon the Court is non-est and nullity in the eyes of law. It is therefore submitted that the impugned order rejecting recall of the Resolution Plan is unsustainable and deserves to be set aside.

Submissions of the Respondent 1/SRA and Respondent no.3/Corporate Debtor

25. Shri Amir Arsiwala Ld. Counsel appearing for Respondents No.1 and 3 most respectfully submits that Ld. Adjudicating Authority rightly dismissed

the Application filed by the Appellant after appreciating the factual and legal position in its correct perspective. He submitted that the Appellant never acquired the status of either a Secured Creditor or an admitted Operational Creditor during the CIRP. On the contrary, the Appellant's alleged claim was continuously treated as a contingent claim owing to the substantial counter-claims and disputes existing between the parties. The Appellant was aware of such classification throughout the CIRP period and yet consciously chose not to challenge the same at any relevant stage.

26. He submits that the commercial relationship between the parties was based upon a Contract Manufacturing and Packaging Agreement dated 28.11.2013 executed between, the Corporate Debtor/ Trimurti Foodtech Pvt. Ltd., and the Appellant/Dharampal Premchand Ltd., for manufacture of fruit bars. Thereafter, on 20.08.2014, a fresh Contract Manufacturing and Packaging Agreement came to be executed superseding the earlier agreement of 2013. Under the said agreement, the Appellant was obligated to place indents of 400 MT per month, subject to a minimum of 320 MT. It is submitted that the said agreement subsequently gave rise to reciprocal claims and counter-claims between the parties, including substantial receivables due to the Corporate Debtor from the Appellant.

27. The Ld. Counsel further submits that on 12.03.2016, the Corporate Debtor issued a demand notice upon the Appellant claiming an amount of Rs. 2698.05 lakhs on account of breach and non-performance of contractual obligations by the Appellant. The said notice was never effectively disputed and formed the foundational basis for the Corporate Debtor's counter-claim

against the Appellant. It is submitted that because of the subsisting disputes and counter-claims, the alleged claim of the Appellant could never have been treated as an admitted operational debt. The existence of such disputes fully justified the treatment of the Appellant's claim as contingent in nature during the CIRP.

28. The Ld. Counsel submits that by order dated 11.08.2021, the Ld. Adjudicating Authority admitted the Corporate Debtor into CIRP under Section 7 of the Code and appointed Respondent No.2 as the IRP, who was later confirmed as the RP. During the CIRP process, the RP examined the claims filed by various stakeholders, including the Appellant. Upon verification, the RP informed the Appellant on 02.12.2021 that its claim did not reconcile with the books and records of the Corporate Debtor. This communication itself clearly demonstrated that the claim was under verification and had not been admitted as a crystallized debt.

29. He submits that on 16.02.2022, the RP circulated Version-1 of the Information Memorandum to the Successful Resolution Applicant/Respondent No.1, wherein the admitted amount against the Appellant's claim was specifically reflected as "Rs. 0". This clearly establishes that at no stage was the Appellant treated as an admitted operational creditor entitled to any voting rights or participation rights in the Committee of Creditors meetings. The Appellant was therefore never entitled to receive notices or minutes of CoC meetings as claimed in the present Appeal.

30. It is submitted that on 14.03.2022, the suspended director of the Corporate Debtor addressed an email to the RP enclosing the earlier demand notice dated 12.03.2016 and reiterating that substantial amounts were due and payable by the Appellant to the Corporate Debtor. The said communication reaffirmed the existence of disputes and counter-claims against the Appellant and further justified the contingent classification accorded to the Appellant's claim.

31. The Ld. Counsel further submits that in the 5th meeting of Committee of Creditors (CoC) held on 17.03.2022, the CoC resolved to initiate recovery proceedings against the Appellant by issuance of a legal notice. The said resolution clearly demonstrates that the CoC was fully conscious of the fact that the Appellant was not a creditor, whose dues stood admitted, but rather a party against whom substantial recoveries were claimed by the Corporate Debtor. The collective commercial wisdom of the CoC therefore consistently treated the Appellant's claim as contingent and disputed.

32. He submits that on 12.04.2022, the RP issued a legal notice terminating the agreement dated 20.08.2014 and demanded an amount of Rs. 55.68 crores from the Appellant. Simultaneously, the suspended director confirmed that the agreement had not previously been terminated. The action taken by the RP was duly approved by the CoC and was entirely consistent with the materials available on record. It is specifically submitted that paragraph 13 of the said communication expressly records that the Appellant's claim was admitted only as a contingent claim due to the subsisting counter-claim of the

Corporate Debtor. Despite receiving this communication, the Appellant never challenged the classification accorded to its claim.

33. The Ld. Counsel submits that despite being fully informed that its claim had not been admitted in entirety and had only been considered as a contingent claim, the Appellant consciously failed to take any legal steps to challenge such classification either before the RP, before the CoC, or before the Adjudicating Authority during the CIRP period. Such prolonged silence and inaction clearly amount to acquiescence and acceptance of the contingent status recorded against the Appellant's claim.

34. It is further submitted that on 17.04.2022, the RP issued notice convening the 6th CoC meeting for the specific purpose of amending the Information Memorandum so as to incorporate the Corporate Debtor's counter-claim against the Appellant and to formally record the contingent classification of the Appellant's claim. Thereafter, on 20.04.2022, the 6th CoC meeting approved the proposed amendment to the Information Memorandum with the requisite majority. The decision was thus taken transparently and strictly in accordance with the commercial wisdom of the CoC.

35. The Ld. Counsel further submits that on 27.04.2022, the RP circulated Version-2 of the amended Information Memorandum to the CoC members. It is submitted that on the same date, the Hon'ble Tribunal passed an order in I.A. (IBC) No. 1055 of 2022 filed by another claimant, namely Ajit Kad, whereby delay in filing claim was condoned and liberty was granted to the RP to further amend the Information Memorandum. Pursuant thereto, the RP further revised the Information Memorandum and circulated Version-3 of the

amended Information Memorandum to the SRA on 21.05.2022. These repeated revisions and disclosures clearly establish that the entire process was conducted transparently and with full disclosure of the contingent nature of the Appellant's claim.

36. The Ld. Counsel submits that on 23.05.2022, the RP published the list of stakeholders on the official website of IBBI wherein the Appellant's claim was specifically reflected as "NIL amount admitted" and only a contingent amount of Rs. 6,81,21,070/- was recorded. Even at this stage, no challenge whatsoever was raised by the Appellant against the said classification. The Appellant therefore cannot now be permitted to reopen the concluded CIRP process after consciously accepting its position during the entire resolution process.

37. It is further submitted that the RP received the hard copy of the Resolution Plan submitted by Respondent No.1/SRA on 26.05.2022 through Blue Dart courier and thereafter received the password-protected electronic copy of the Final Resolution Plan on 27.05.2022 through email. The Resolution Applicant had thus prepared and submitted its plan with full knowledge of the contingent status accorded to the Appellant's claim as disclosed in the Information Memorandum.

38. The Ld. Counsel submits that on 01.06.2022, the RP invoked the arbitration clause contained in the agreement dated 20.08.2014 against the Appellant. The said action clearly demonstrates that the disputes between the parties were intended to be adjudicated through the agreed contractual dispute resolution mechanism. Once arbitration proceedings had already

been invoked, there was no occasion whatsoever for the Appellant to seek reopening or recall of the completed CIRP proceedings.

39. The Ld. Counsel further submits that on 31.03.2023, the Adjudicating Authority approved the Resolution Plan submitted by Respondent No.1/SRA. The approved Resolution Plan expressly treated the Appellant as an Operational Creditor whose claim was contingent and subject to the outcome of the arbitration proceedings. Thus, the Appellant's claim was neither ignored nor suppressed. In fact, the order approving the Resolution Plan specifically records the contingent nature of the Appellant's claim as well as the treatment accorded to such claim under the plan. Consequently, the allegation of suppression of the Appellant's claim before the Adjudicating Authority is entirely false and contrary to record.

40. It is further submitted that the RP subsequently issued a letter confirming that the Appellant's claim had been recognized in the approved Resolution Plan as a contingent operational creditor claim pending crystallization through arbitration proceedings. The said communication conclusively establishes that the status of the Appellant's claim was always transparent, known, and duly recorded in the CIRP records. Hence, the allegation that the Resolution Applicant or RP concealed any material fact is completely baseless.

41. The Ld. Counsel submits that on 19.08.2023, Respondent No.1/SRA initiated Arbitration Application No. 18 of 2023 before the Hon'ble Bombay High Court, Aurangabad Bench under Sections 11(5) and 11(6) of the Arbitration and Conciliation Act, thereby activating the contractual remedy

available between the parties. This clearly establishes that the disputes were always intended to be resolved independently through arbitration and not within the framework of the concluded CIRP proceedings.

42. The Ld. Counsel further submits that the Appellant had earlier filed Company Appeal (AT) (INS) No. 829 of 2023 challenging the approved Resolution Plan. However, on 09.05.2024, the Appellant voluntarily withdrew the said appeal. By withdrawing the earlier appeal, the Appellant effectively abandoned its challenge to the approved Resolution Plan and accepted the treatment accorded to its claim therein. Having once withdrawn its challenge, the Appellant cannot now be permitted to reagitate the same issues indirectly through the present Appeal.

43. It is submitted that throughout the CIRP process and even after approval of the Resolution Plan, the Appellant never took any steps to oppose the Resolution Plan or to challenge its classification as a contingent operational creditor. Such prolonged silence and complete inaction amount to unequivocal acquiescence. The Appellant consciously allowed the CIRP process to attain finality and implementation and therefore cannot now seek reopening of a settled process after substantial implementation of the Resolution Plan.

44. Ld. Counsel submits that on 29.08.2024, the Hon'ble NCLT recorded successful implementation of the Resolution Plan and dissolved the Monitoring Committee. Once the Resolution Plan stood fully implemented, the same attained complete statutory finality under Section 31 of the Insolvency and Bankruptcy Code, 2016. It is settled law that a successfully implemented

Resolution Plan cannot be lightly reopened at the instance of a party who had consciously accepted the process throughout the CIRP period.

45. Ld. Counsel further submits that on 05.05.2025, the Adjudicating Authority directed the RP to clarify how the SRA was aware of the contingent nature of the Appellant's claim before submission of the Resolution Plan. Pursuant thereto, on 28.06.2025, the RP filed an additional affidavit placing on record all contemporaneous communications including emails, CoC minutes, versions of the Information Memorandum, and the RP's confirmatory letters. The said affidavit conclusively proved that the Appellant's claim was duly disclosed, discussed, and treated in the approved Resolution Plan. Thus, the allegation that the Resolution Applicant lacked knowledge of the contingent claim is wholly incorrect and contrary to documentary record.

46. The Ld. Counsel submits that after considering all the above facts, documents, contemporaneous records, and the conduct of the parties, the Adjudicating Authority rightly dismissed I.A. (IBC) No. 4588 of 2024 by order dated 16.09.2025. The Ld. Adjudicating Authority correctly appreciated that the Appellant never held the status of an admitted operational creditor, that the Appellant's claim was consistently treated as contingent, and that the Appellant never challenged such classification during the CIRP process.

47. Ld. Counsel submits that the present Company Appeal (AT) (INS) No. 1872 of 2025 is nothing but a belated attempt to reopen a concluded and successfully implemented resolution process despite the Appellant having accepted its recorded position throughout the CIRP proceedings. The Appeal

is devoid of merit, contrary to the factual record, and liable to be dismissed with costs.

ANALYSIS AND FINDINGS

48. The principal issue which arises for consideration in the present Appeal is whether the Adjudicating Authority was justified in rejecting I.A. No. 4588 of 2024 seeking recall of the order dated 31.03.2023 approving the Resolution Plan, and whether the Appellant has been able to establish any material illegality, procedural irregularity, fraud, suppression of facts, or violation of mandatory provisions of the Code so as to warrant interference with the approved Resolution Plan which has already been implemented.

49. The above issue substantially covers all objections raised by the Appellant regarding non-service of notice of CoC meetings under Section 24(3)(c) of the Code, classification of its claim as "contingent", alleged wrongful assumption by the Resolution Professional regarding continuation and renewal of the contract, alleged suppression before the CoC, and challenge to the CIRP process itself. Since all these objections ultimately seek recall of the approved Resolution Plan and challenge the correctness of the Impugned Order, they are being considered together.

50. At the outset, it is necessary to note that the jurisdiction under Section 61 of the Insolvency and Bankruptcy Code is limited. Interference with an approved Resolution Plan can be made, only if the Appellant is able to show patent illegality, material irregularity, violation of mandatory provisions of law, or perversity in the findings of the Adjudicating Authority. Mere dissatisfaction with the outcome of the CIRP or disagreement with the manner in which a

claim was treated cannot by itself become a ground to reopen a completed insolvency process, particularly after approval of the Resolution Plan. The object of the Code is to ensure resolution, revival of the Corporate Debtor, and finality of the insolvency process within prescribed timelines.

51. The case of the Appellant is that its claim of approximately Rs. 6.81 Crores was categorically admitted by the Resolution Professional through legal notice dated 12.04.2022, yet the same was wrongly treated as "contingent" in the Resolution Plan. The Appellant contends that despite its admitted claim being above the statutory threshold prescribed under Section 24(3)(c) of the Code, no notice of CoC meetings was ever served upon it, thereby vitiating the entire CIRP process. The Appellant further argues that the Contract Manufacturing Agreement dated 20.08.2014 had already been terminated on 20.12.2017 and, in any case, the contractual tenure expired in 2019. Therefore, according to the Appellant, the Resolution Professional had no authority to assume continuation or automatic renewal of the contract after its termination and expiry. The Appellant has also alleged that an unadjudicated and uncrystallized counter-claim of the Corporate Debtor was illegally used to render its admitted claim contingent and thereby deprive it of its rights during CIRP. It is further contended that material facts regarding termination of the contract and the basis of the alleged counter-claim were not properly disclosed before the CoC and that the Resolution Plan was approved on a fundamentally erroneous basis.

52. Per contra, the Respondents submit that the Appellant never acquired the status of an admitted Operational Creditor during CIRP because its claim

was disputed and remained contingent on account of substantial counter-claims raised by the Corporate Debtor. According to the Respondents, the contractual disputes between the parties existed much prior to commencement of CIRP and notices had already been issued by the Corporate Debtor claiming damages and losses from the Appellant. It is their case that the Resolution Professional was justified in treating the Appellant's claim as contingent in view of the reciprocal claims and disputes between the parties. The Respondents further contend that the Appellant was fully aware since April 2022 that its claim was being treated as contingent, yet it never challenged such classification during CIRP and raised objections only after approval of the Resolution Plan. It is also submitted that there was no violation of Section 24(3)(c) because the Appellant was not treated as an admitted Operational Creditor for the purpose of participation in CoC meetings. The Respondents deny all allegations of fraud, collusion, suppression, or material irregularity and contend that the Impugned Order rightly rejected the recall application after considering all relevant facts and circumstances.

53. Upon consideration of the record, we find that the dispute between the parties arises out of the Contract Manufacturing and Packaging Agreement dated 20.08.2014 entered into between the Appellant and the Corporate Debtor. Under the said arrangement, advances and certain equipment were also provided by the Appellant to the Corporate Debtor. The Appellant claims that the contract was prematurely terminated on 20.12.2017 and, therefore, no contractual relationship survived thereafter. On the other hand, the Respondents consistently maintained that the alleged termination was not in

accordance with the contractual terms and that the Corporate Debtor had suffered substantial losses on account of non-fulfilment of production commitments by the Appellant.

54. It is not in dispute that when CIRP commenced against the Corporate Debtor on 11.08.2021, the Appellant submitted its claim in form B on 10.09.2021 for an amount of approximately Rs. 6.81 Crores as an Operational Creditor. The RP in its email dated 02.12.2021 informed the appellant that the claim was under verification and that RP was facing certain difficulties in verification as the claims were not tallying with the books of accounts of the company. A typed copy of the email dated 02.12.2021 sent by IRP to the appellant is extracted below:

> *"Information regarding amount of Rs.68121070/- receivable from Trimurti Foodtech Pvt. Ltd.-Reg*
>
> *Manoj Mishra rp.trimurtifoodtech@gmail.com*
> *To: Prashant Kumar prashant.swain@baba.in*
>
> *Dear Sir,*
>
> *Your claim is received and it is under verification. We are facing certain difficulties as the claims are not even remotely tallying with the books of account of the company.*
>
> *Let us revert to you once claim verification process is completed.*
>
> *Best Regards*
> *Team-IRP-Trimurti Foodtech Pvt. Ltd."*

55. The material placed on record shows that the said claim was never finally admitted as an undisputed operational debt payable to the Appellant. The record further shows that serious disputes and counter-claims existed between the parties arising from the same contractual arrangement.

56. We note that the Appellant has placed reliance on the legal notice dated 12.04.2022 issued by the Resolution Professional in regard to its claim being already admitted by the RP. According to the Appellant, paragraph 13 of the said notice clearly admitted its claim. However, on a complete reading of the notice, it becomes clear that the Resolution Professional simultaneously recorded the Corporate Debtor's counter-claim of approximately Rs.55 Crores and specifically stated that the Appellant's claim was being treated as contingent in view of the reciprocal liabilities and disputes between the parties.

57. In our considered view, the Appellant cannot rely upon one isolated portion of the communication while ignoring the overall context in which the notice was issued. The Resolution Professional never treated the Appellant as an Operational Creditor having an unconditional and crystallized payable debt. The claim always remained disputed because of the counter-claims asserted by the Corporate Debtor. Once such reciprocal claims and allegations of breach existed, the Resolution Professional was justified in classifying the claim as contingent pending adjudication of disputes between the parties.

58. It is also significant that despite being aware since April 2022 that its claim had been categorized as contingent, the Appellant admittedly did not challenge such classification during the CIRP period. No application was filed before the Adjudicating Authority seeking correction of the claim status or seeking participation rights in the CoC meetings. The Appellant remained silent throughout the CIRP process and chose to challenge the issue only after approval of the Resolution Plan. Such conduct assumes importance because

the insolvency process under the Code is strictly time-bound and is intended to attain finality within prescribed timelines.

59. The Appellant has strongly argued that Section 24(3)(c) of the Code required mandatory issuance of notice of CoC meetings since its claim exceeded the statutory threshold. However, applicability of Section 24(3)(c) presupposes that the claimant is recognized as an Operational Creditor with admitted dues above the prescribed threshold. In the present case, the Appellant's claim itself remained disputed and contingent. Therefore, the Resolution Professional did not treat the Appellant as an admitted Operational Creditor entitled to notice under Section 24(3)(c).

60. Even otherwise, it is now settled that participation rights under Section 24 do not confer voting rights upon Operational Creditors. More importantly, every procedural irregularity cannot automatically invalidate the CIRP, unless material prejudice affecting the resolution process is demonstrated. The Appellant has failed to show how non-service of notices altered the commercial wisdom exercised by the CoC or rendered the Resolution Plan illegal. The Appellant has also failed to demonstrate that any objection which it could have raised during CoC meetings would have materially changed the outcome of the CIRP process.

61. The submission of the Appellant that the Resolution Professional illegally revived a "dead contract" or wrongly assumed automatic renewal of the agreement also does not persuade us. Questions regarding validity of termination, continuation of the contract, interpretation of renewal clauses, and entitlement to damages are matters arising out of disputed contractual

rights requiring adjudication in appropriate proceedings. In fact, the record itself shows that arbitration proceedings were also contemplated between the parties.

62. The Resolution Professional, while verifying claims during CIRP, was not expected to conclusively adjudicate complicated contractual disputes in the manner of a civil court or arbitral tribunal. His role was limited to determining whether the claim was undisputed and payable or whether it was contingent and disputed in nature. In the facts of the present case, where substantial reciprocal claims existed between the parties, treatment of the Appellant's claim as contingent cannot be termed arbitrary or illegal.

63. The Appellant has also argued that an unadjudicated counter-claim could not have been used to render its claim contingent. While it is true that claims for damages ordinarily require adjudication before they crystallize, the same does not mean that the Resolution Professional was bound to treat the Appellant's claim as fully admitted and payable despite serious disputes existing between the parties. The Resolution Professional was not finally adjudicating liabilities between the parties; he was only classifying the claim for purposes of the CIRP process. Therefore, existence of serious reciprocal disputes itself justified cautious treatment of the claim.

64. We also find no merit in the allegation that material facts were suppressed from the CoC or that the Information Memorandum was manipulated to favour the Successful Resolution Applicant. The record indicates that the CoC was informed regarding the contingent nature of the Appellant's claim and the counter-claims asserted by the Corporate Debtor.

Mere disagreement with the commercial decisions taken during CIRP cannot by itself lead to an inference of fraud or collusion. Allegations of fraud must be supported by clear and cogent material, which is absent in the present case.

65. The Appellant has further argued that machinery and equipment leased to the Corporate Debtor remained its own assets and could not have been subjected to insolvency proceedings. However, such disputes regarding title, possession, ownership, or contractual rights cannot by themselves invalidate an approved Resolution Plan. The Appellant was always free to pursue remedies available in law regarding such assets. However, those disputes do not establish any illegality in the CIRP process itself.

66. Another contention raised by the Appellant is regarding change in composition of the Bench before pronouncement of the Impugned Order. We do not find any procedural infirmity on this ground. The matter was heard, documents were considered, and the succeeding Bench proceeded in accordance with law. The Appellant has failed to show any actual prejudice caused due to change in composition of the Bench.

67. The Appellant has relied upon the following judgements of this Appellate tribunal in *"ANG Industries Ltd. Vs. Shah Brothers Ispat Pvt. Ltd. & Anr., Company Appeal (AT)(Ins) No. 109 of 2018, 2018 SCC OnLine NCLAT 270"; and "Bhushan Shringarpure & Ors. Vs. B.K. Mishra & Ors., Company Appeal (AT)(Ins) No. 1504 of 2022".* We note that in the aforesaid judgments delivered by this Tribunal, the claims of Operational Creditors were recognized by the

RP and claims stood admitted during CIRP and, therefore, they were held entitled to notice under Section 24(3)(c) of the Code. In the present case, however, the Appellant's claim was never treated as an admitted operational debt. The Resolution Professional had consistently treated the claim as contingent because substantial counter-claims and contractual disputes were already existing between the parties arising out of the same agreement. The Appellant was informed about such contingent classification during CIRP itself, yet no challenge was made at that stage before the Adjudicating Authority. Therefore, the factual foundation necessary for invoking Section 24(3)(c), namely existence of an admitted operational debt, was itself absent in the present matter. Consequently, the ratio of the aforesaid judgments does not apply to the facts of the present case.

68. The Appellant has further cited the judgement of Hon'ble Supreme Court in "*Hardesh Ores Pvt. Ltd. Vs. M/s Hede and Company*, (2007) *5 SCC 614"*. In the Hardesh (Supra) the issue related to renewal of leasehold rights in immovable property and the requirement of execution of a fresh document for renewal of lease. In the present case, the Resolution Professional was not adjudicating final contractual rights between the parties nor granting a declaration that the contract stood legally renewed for all purposes. The Resolution Professional only considered the contractual clauses, conduct of parties, and stand of the suspended management, while examining whether reciprocal claims and liabilities survived between the parties for the purpose of claim verification during CIRP. The dispute in the present case concerns classification of claims during insolvency proceedings and not enforcement of

lease renewal rights under property law. Therefore, the observations made in *Hardesh Ores Pvt. Ltd.* are distinguishable and do not govern the controversy involved herein.

69. The appellant has further relied upon the judgement of this Appellate Tribunal in "*CSA Corporation Private Limited Vs. Mr. Rajiv Bhatnagar, Resolution Professional of UM Green Lighting Private Limited*, *Company Appeal (AT)(Ins) No. 1497 of 2024".* We note that the issue in CSA (supra) related to crystallization of damages claims in insolvency proceedings. In the present case, the Resolution Professional did not finally adjudicate the alleged counter-claim of the Corporate Debtor nor treat it as a decreed or crystallized liability recoverable from the Appellant. The counter-claim was only taken into consideration, while examining, whether the Appellant's own claim could be treated as fully admitted and undisputed for CIRP purposes. The Resolution Professional was performing only a claim verification exercise under the Code and not exercising powers of a Civil Court or Arbitral Tribunal. Since substantial reciprocal disputes existed between the parties regarding breach of contractual obligations and alleged losses suffered by the Corporate Debtor, the claim of the Appellant was treated as contingent pending adjudication of such disputes. Thus, the observations regarding crystallization of damages claims in the aforesaid judgment do not assist the Appellant in the facts of the present case.

70. The Appellant further places reliance upon the judgement of Hon'ble Supreme Court in "*Associate Builders Vs. Delhi Development Authority*, *(2015) 3 SCC 49".* The aforesaid judgement is in the context of challenge to an arbitral

award under Section 34 of the Arbitration and Conciliation Act, 1996. The observations therein relate to principles governing arbitral awards and assessment of damages by an Arbitral Tribunal. In the present case, the Resolution Professional was not adjudicating damages or determining final liabilities between the parties. He was only examining the nature of claims placed before him during CIRP. No arbitral determination or judicial adjudication was undertaken by the Resolution Professional. Therefore, the ratio laid down in *Associate Builders (supra)* do not apply to the present case.

71. Lastly the Appellant places reliance upon the judgeemt of Hon'ble Supreme court in *M/s Embassy Property Developments Pvt. Ltd. Vs. State of Karnataka, (2019) 17 SCC 653.* The aforesaid judgment deals with issues concerning mining lease approvals and exercise of statutory powers by government authorities during moratorium. In the present case, no new right was created by the Resolution Professional during CIRP. The Resolution Professional merely examined the existing contractual relationship and reciprocal claims between the parties while determining the status of the Appellant's claim. No fresh contractual right or ownership right was created in favour of the Corporate Debtor. The issue here is limited to treatment of the Appellant's claim as contingent in view of pending disputes and counter-claims. Therefore, the observations made in the aforesaid judgment are distinguishable from the facts of the present case.

72. The Impugned Order dated 16.09.2025 shows detailed consideration of the pleadings, conduct of the parties, claim status, and the stage at which the recall application was filed. The Adjudicating Authority correctly noted that

the Appellant never challenged the contingent classification of its claim during CIRP and approached the Tribunal only after approval of the Resolution Plan. The Adjudicating Authority also rightly held that the Appellant failed to establish fraud, suppression, or material irregularity warranting recall of the Resolution Plan.

73. We are also conscious of the larger object and scheme of the Insolvency and Bankruptcy Code. Once a Resolution Plan has been approved and implemented, judicial interference must remain extremely limited. The Hon'ble Supreme Court has repeatedly emphasized the importance of certainty and finality in the insolvency process. Endless reopening of approved Resolution Plans on the basis of disputed contractual claims would defeat the very object of the Code.

74. In the present case, the grievances raised by the Appellant essentially arise out of contractual disputes existing between the parties much prior to commencement of CIRP. Those disputes may survive independently in appropriate legal proceedings, subject to law, but they do not furnish sufficient ground to invalidate the CIRP process or recall the approved Resolution Plan. The Appellant has failed to establish any perversity, jurisdictional error, material irregularity, or violation of mandatory provisions of the Code in the Impugned Order.

75. Accordingly, after considering the entire factual matrix, submissions advanced by both parties, conduct of the parties during CIRP, the treatment of the Appellant's claim as contingent, and the reasoning adopted by the Adjudicating Authority, we are of the considered opinion that the Impugned

Order dated 16.09.2025 does not suffer from any infirmity warranting interference under Section 61 of the Insolvency and Bankruptcy Code, 2016.

76. In view of findings above, the Appeal is dismissed. Pending I.A.s, if any, are closed. No order as to costs.

[Justice Ashok Bhushan)
Chairperson

[Mr. Indevar Pandey]
Member (Technical)

Place: New Delhi

Harleen/
Pragya (LRA)