

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) No. 211 of 2023**

**IN THE MATTER OF:**

**Sonali Prashant Shinde**

**...Appellant(s)**

**Versus**

**Vikram Vilasrao Salunke**

**...Respondent(s)**

**Present:**

**For Appellant** : Mr. Sanjay Kumar Dubey, Mr. Sushil Nimbkar, Ms. Shuchi Singh, Mr. Ujjwal Kumar Dubey, Advocates.

**For Respondents** : Mr. Chinmoy Khaladkar, Mr. Anand Shankar Jha, Mr. Sachin Mintri, Mr. Shrenik Gandhi, Mr. Shubhank Sharma, Advocates.

**WITH**

**Company Appeal (AT) No. 212 of 2023**  
**& I.A. No. 5257 of 2023**

**IN THE MATTER OF:**

**Accurate Engineering Company Pvt. Ltd. & Ors.**

**...Appellant(s)**

**Versus**

**Vikram Vilasaro Salunke & Anr.**

**...Respondent(s)**

**Present:**

**For Appellant** : Mr. Sanjay Kumar Dubey, Mr. Sushil Nimbkar, Ms. Shuchi Singh, Mr. Ujjwal Kumar Dubey, Advocates.

**For Respondents** : Mr. Chinmoy Khaladkar, Mr. Anand Shankar Jha, Mr. Sachin Mintri, Mr. Shrenik Gandhi, Mr. Shubhank Sharma, Advocates.

**JUDGEMENT**

**JUSTICE YOGESH KHANNA, MEMBER (JUDICIAL)**

Both the appeals challenge an impugned order dated 03.10.2023 disposing of two IAs viz. IA No. 143/2023 in Transfer Company Petition No. 56/2014 and IA No. 147/2023 in Transfer Company Petition No. 56/2014.

By both these applications, the appellant sought declaration that the consent terms dated 07.01.2023, pursuant to the mediation proceedings held by Shri M. Raghunatha Bhat, the Ld. Mediator, be held to be unenforceable and be set aside.

**2.** Before coming to the impugned order it would be appropriate to state facts of the case:

**a)** On or about 14th June 2014, the Respondents filed a Petition No.56 of 2014 under Sections 397, 398, 402 and 403 of the Companies Act, 1956. The Appellant appeared in the said Petition and contested it by filing Replies. Vide Order dated 11th October 2022 passed in CA 1036/2020, the Ld. NCLT appointed Shri. M. R. Bhat as a Mediator and he commenced mediation;

**b)** the said mediation concluded in terms of the Minutes of Meeting dated 12th December 2022, but these Minutes even though were signed by the Appellant as well as by the Respondents were allegedly never acted upon and hence it is alleged the mediation failed;

**c)** on 9th January 2023, the Appellant sent an email to the Learned Mediator explaining the circumstances in which the mediation was carried out and raised objections. It is alleged on 14th January 2023 the Learned Mediator, without offering any opinion on the contentions raised by the Appellant, proceeded to finalise the Mediation by insisting upon the compliance of incomplete consent terms;

**d)** the Learned Mediator submitted three detailed Reports respectively of dated 27th November 2022, 24th January 2023 and 18th March 2023 to the Learned National Company Law Tribunal, Mumbai. The Appellants then preferred applications registered as IA No. 143/2023 and IA No.147 of 2023. The Respondents preferred not to file Reply to the said Applications;

e) Ld. NCLT, Mumbai heard the parties and passed a common Order dated 3rd October 2023, thereby rejecting the applications preferred by the Appellant and disposed the Transfer Company Petition No.56 of 2014. Hence the instant Appeal.

3. The Ld. NCLT has passed the following impugned order:

*“9. To our mind, the main thrust of argument of learned Counsel for the Applicants is that the whole process of mediation was vitiated as there was no free consent and the consent was marred by duress, coercion and undue influence. These are very serious allegations and need a guarded and closure scrutiny. Before that, we would like to have recourse to the relevant provisions of Indian Contract Act, 1972 (the Contract Act for short)*

*10. Under Section 10 of the Contract Act, for the validity of a contract, it is not only necessary that there should be a consent, but also the consent must be free. Sections 14-19 of the Contract Act deals with free consent, actions which vitiates consent and ultimately the status of and remedies against agreement made in this manner. Coercion, undue influence, misrepresentation and fraud are the named actions vitiating free consent. Pertinently enough, the duress as yet even one of these actions. Ordinarily the court presumes the consent, wherever it exists, to be free, unless there be some particular circumstances to justify and departure from a general rule.*

*11. If we consider the concept of coercion as is defined under Section 15 of the Contract Act, it only recognizes such actions to vitiate free consent if they are forbidden by Indian Penal Code, 1860. Since, duress has also been alleged by the Applicants, the same cannot be equated with coercion and the same would have to be ruled out.*

*12. The Applicants have not been able to demonstrate decisively any act on the part of respondents, during the course of execution of consent terms, such as to amount to an offence under the Indian Penal Code. The particulars of all facts which go to prove coercion and establish them are missing. Merely, saying that the Applicants were put under coercion would not tantamount to an offence under the Indian Penal Code as is contemplated by Section 15 of the Contract Act. This being so, element of coercion does not exists.*

*13. Next is undue influence. Section 16 of the Contract Act defines undue influence. It requires that one of the parties have real or apparent authority over the other and the said party is in a*

*position to dominate the will of the other and uses that position to obtain an undue advantage over the other. No such requirement of law, in the instant case, is forthcoming. Particulars of undue influence are not set-forth in the applications in sufficient details. All that the Applicants allege is that the Respondents kept on demanding over the Applicant no. 1 particularly and because of their pressure, anger, emotional outbreaks the consent terms came to be executed. There is absolutely no elaboration as to the kind and nature of pressure anger or emotional outbreaks. The allegations are quite vague and do not enable us to elucidate and entertain this terminology like anger, emotional outbreaks in their proper perspective. There is no evidence of over powering influence and that the consent terms that is brought about is immoderate and irrational.*

*14. On the contrary, we are mindful of the fact that in the case in hand parties stood in equal position. Having regard to the class of persons i.e. parties before us, who are none other than brothers, sisters and mother inter-se and of full age and sound mind and who executed consent terms are bound by their own act. If the Applicants want us to set-aside the consent terms, they must prove some substantial reasons why that should be done.*

*15. The last ground is that of duress. The party alleging duress needs to establish that the duress was cause of entering into the contract and show that had there been no ultimate pressure from the opposite party, the agreement could not have been executed at all or at least on the terms in which it was agreed.*

*16. We have already pointed out in the foregoing paragraphs that there is no satisfactory explanation of coercion, undue influence and the so is case of duress. Although it is also pleaded by the Applicants that if the consent terms are forced to be continued, the parties will never be able to conduct the business independent of each other. But the consent terms itself go to show and more particularly paragraph 11.8 allays the fears, harbored by the Applicants when it says that*

*"The parties agree, declare, confirm and acknowledge that, these Consent Terms are agreed and executed, to avoid any future dispute or differences, between the members of the Salunke Family and these Consent Terms are in the best interest of the entire Salunke family and each member thereof."*

*17 Having cleared the grounds raised in law by the learned Counsel for the Applicants, it is noteworthy that the consent terms were executed on 7th January, 2023 whereas an e-mail was shot down on 9th January, 2023 by one of the Applicant to the Mediator raising all the concerns. Why she kept quiet for two days is nowhere explained. It is also pointed out from the reply of the Mediator dated 14th January, 2023 that he was also not in*

*possession of certain annexures and on this ground also the Applicants not only questioned the role of the Mediator but also that no consent terms could have been arrived at in absence of those annexures.*

*18. We make it clear at the threshold that no specific or precise motive is attributed on the part of the Mediator by Applicants in her e-mail dated 9th January, 2023. If the reply of the Mediator is read carefully we notice that the annexures were not sent to him either by the Counsel of the Respondent or by the parties themselves. It cannot be said that parties were not aware of those annexures particularly when they whole heartedly signed the consent terms on 7th January, 2023. The Applicants cannot take the advantage of the reply of the Mediator now.*

*19. Consent terms is also assailed on the ground that it is against the directions of this Tribunal given in the order dated 23rd March, 2018. We have gone through the entire record and are unable to lay over hands on the said order. Assuming for the sake of argument that certain directions were given then ultimately the parties to the proceedings are the best masters of their interest and know what is good in their interest and in absence of any extraneous reasons, if they are able to arrive at consent terms then there is no reason to doubt the same. In the present case we have considered all the circumstances which are unsuccessfully raised by the Applicants herein.*

*20. The last ground banked upon by the Ld. Counsel for the Applicants is the judgment given in the case of Motiram (Supra). In the said case the Hon'ble Apex Court held that if the happenings in the mediation proceeding are disclosed, it destroys the confidentiality of the mediation process.*

*21. The Hon'ble Apex Court admittedly had given caution to the Mediators in respect of maintaining the confidentiality of mediation proceeding. In the said case also the mediator had mentioned the proposals made by the parties which was not liked by the Hon'ble Apex Court. However, it was not made a ground to reject the report of the Mediator. Therefore, this judgment does not further the case of Applicants.*

*22. From the above, we summarize that the Applicants have not been able to substantiate to the satisfaction of this Tribunal that the consent terms executed by the Parties are null and void, inoperative and incapable of being performed as the same violated the provisions under Section 14 to 19A of the Contract Act. We are unable to infer and comprehend anything from the terminology used by the Applicants such as undue influence, duress, coercion. These are only conjectures and mere probabilities or suspicion and do not take the place of proof.*

*23. For the aforesaid reasons, we are inclined to dismiss these applications. Hence following order.”*

**4.** It is the argument of the Learned Counsel for the appellants the consent terms dated 07.01.2023 were never complied with and referred to the following paragraphs of the said consent terms as under:

**1. MANUFACTURING BUSINESS:**

*1.1 The Plant and Machinery relating to the Manufacturing Business ASCPL and **listed specifically in Annexure 1 to these Consent Terms**, shall be transferred by AECPL to a private limited entity (to be incorporated) (hereinafter referred to as the "NewCo") of and to be controlled by Mr. Aditya Salunke, on the basis of Slump Sale as referred to in these Consent Terms. "Manufacturing Business" for these Consent Terms, shall mean that business of manufacturing of standard metrology products and custom gauging solutions relating to metrology products.*

**2. SERVICE BUSINESS:**

*2.1. The Plant and Machinery relating to the Service Business of AECPL and **listed specifically in Annexure 2 to these Consent Terms**, shall be transferred by ABCPL to ASSPL, on the basis of Slump Sale as referred to in these Consent Terms. "Service Business" for these Consent Terms, shall mean the business of rendering services in relation to third party inspection service and calibration laboratory(ies) including but not limited to the business which was transferred from AECPL to M/s Aditya Engineering (a partnership firm controlled by Mr. Aditya Salunke).*

*If AECPL has transferred to M/s Aditya Engineering and/or if M/s Aditya Engineering is in possession of any plant and machinery relating to the Service Business, then such plant and machinery shall also be transferred by such entity(ies) to ASSPL, at book value.”*

(Emphasis supplied)

**5.** It is the submission of the Learned Counsel for the appellant such annexures 1 and 2 were never a part of the consent terms, though described wrongly and further the correspondence between the parties and the Ld. Mediator would show said annexures 1 and 2 above were not even drafted as

on 07.01.2023 when such consent terms were signed, hence the consent terms were not final and not binding upon the parties.

6. The Learned Counsel for the appellant has also taken us to an email dated 14.01.2023 sent by the Ld. Mediator to the appellant herein as under:

*“Subject: Re: Mediation meeting on 07/01/2023 from 11 am to 8.30pm.*

*Without offering any opinion on the contentions raised by Smt. Sonali Shinde in the trail mail, I may place on record that various annexures mentioned in the Consent Terms which are integral to the said document signed on 07/01/2023 were not sent to me by courier as assured by Mr. Shrenik Gandhi as I have not received the same till date. The said annexures were not given on that day along with the copy of the main document stating that some of them were not readily available and as it was very late by then, we were told that it would be sent by courier. Hence, the parties to the dispute may arrange to send me the attested copies of the annexures at the earliest for further action.*

*Regards*

*MR Bhat  
Mediator”*

7. The appellant also referred to the Second report of dated 24.01.2023 of the Ld. Mediator which notes as under:

*“3. I had conducted two more physical meetings with the parties to the above Company Petition to iron out the differences between the Petitioner and the Respondents on 12.12.2022 and 07.01.2023 and substantial progress has been achieved. In fact, in the meeting held on 12.12.2022, a framework was arrived at for the settlement, which may kindly be perused from the document as Annexure-I hereto. Further, in the meeting held on 07.01.2023, even "Consent Terms" were drawn up, which may be perused from the document attached as Annexure-II. While signing the Consent Term on 07.01.2023, the parties to the litigation have decided to settle amongst the lists of planted machinery pertaining to manufacturing business and service business of Accurate Engineering Company Pvt Limited and attach the same to the consent Terms document subsequently, as the same could not be completed on 07.01.2023 due to dearth of time. Subsequently, Smt. Sonali Shinde, on of the Respondents*

*raised certain disputes on the Consent Terms through her mail dated 09.01.2023, a copy of which attached as Annexure III. I had also, on 14.01.2023, asked the Petitioner to provide the details of the plant and machinery or the two businesses of AECPL as signed by both the parties by mail, a copy of which is attached as Annexure IV. However, no reply has been received as yet from the Petitioner, till date. Thus, the Consent Terms entered on 07.01.2023 is **not complete/final yet**.*

*4. That, Sri Aditya Salunke, one of the Respondents, sent a mail on 16.01. 2023, a copy of which is attached as Annexure V, in which he stated that the entire lists that were to be attached to the Consent Terms, should be reviewed and signed in the presence of the Mediator and therefore, had requested for a meeting for further discussions after 'IMTEX exhibition', which was to be held and conclude on 25.01.2023."*

(Emphasis supplied)

**8.** On the basis of correspondence above, it is submitted by the Learned Counsel for the appellant the Ld. Mediator himself had treated the consent terms as not complete and thus shall not have any binding affect.

**9.** The Learned Counsel for the Respondents argued otherwise.

**10.** We have heard the arguments advanced by both the Learned Counsels. Admittedly, the signature of the appellants herein upon the consent terms dated 07.01.2023 are not denied by them. The dispute raised is only *qua* two annexures *viz a)* the plant and machinery etc. of the manufacturing business of AECPL; and *b)* relating to service business of AECPL, attached as annexures 1 and 2 to the consent terms dated 07.01.2023. The only contention raised before us is these lists were not finalized as is allegedly evident from an email dated 14.01.2023 and from second report dated 24.01.2023 of the Ld. Mediator.

**11.** It is the case of the Respondents such annexures were duly signed on 07.01.2023 itself but could not be attached with the consent terms dated

07.01.2023 due to unavoidable circumstances, as is evident from the language used in paras 1 and 2 of the consent terms dated 07.01.2023 (*supra*).

**12.** Further we have also perused the third and final report of the Ld. Mediator. Perhaps it gives a clue as to *if* annexures were agreed upon or signed by the appellants, and Shri Vikram Vilasrao Salunke. The third and final report dated 18.03.2023 is as under:

*"4. Subsequently, Smt Sonali Shinde, one of the Respondents raised certain issues on the "Consent Terms" through her mail dated 09.01.2023 which was also attached as internal annexure-III to the second report. It would be relevant to mention here that she, after signing the "Consent Terms" on 07.01.2023, wanted the settlement sum payable to her by Mr. Vikram Salunke and Mr. Aditya Salunke be treated as gift instead of as consideration for her shares. This mail dated 09.01.2023 was not replied as the "Consent Terms" dated 07.01.2023 have attained the finality except for attachment of lists of plant and machinery for manufacturing and service divisions. No further mail/communication was received from Smt Sonali Shinde thereafter.*

*5. It was also submitted in the second report that Shri Aditya Salunke, one of the respondents, sent a mail on 16.01.2023 to the Mediator which was attached as internal annexure-V to the second report, wherein he stated that, the two lists mentioning the plant and machinery for manufacturing division and for service division should be signed in the presence of the Mediator and therefore he requested that a meeting be held for that purpose after IMTEX Exhibition which was to conclude on 25.01.2023. From this communication, it may be noted that Mr. Aditya Salunke had no issues on the "Consent Terms" but was requesting for a meeting only for the purpose of signing the annexures relating to plant and machinery before the Mediator.*

*6. However, to the utter surprise of the Mediator, Mr. Aditya Salunke, who is presently controlling the Company as Managing Director of M/s Accurate Engineering Company Private Limited (R1) to the exclusion of Petitioner, had attempted to disown the "Consent Terms" signed on 07.01.2023 by terming the "Consent Terms" as a draft T & C, by his mail dated 07.03.2023, a copy of which is attached as "Annexure C" hereto. It may be noted that he attempted to wriggle out of the "Consent Terms" by stating that the parties are unable to agree on the contents the lists of*

plant and machinery for manufacturing and service divisions and therefore the same could not be prepared and attached to the terms and conditions He had also sought to raise a dispute that the "Consent Terms" would result in creation of 3 baskets instead of 2 equal baskets per directions of Hon'ble Tribunal It is further submitted in the penultimate paragraph to the attachment in the mail dated 07.03.2023 Mr. Aditya Salunke had requested to treat to the "Consent Terms" as draft till the Annexures (relating to plant and machinery of manufacturing and service divisions) are finalized and attached.

7. That upon receiving the mail dated 07.03.2023 from Mr. Aditya Salunke, I have sent an appropriate reply vide mail dated 06.03.2023, a copy of which is enclosed as "Annexure D" and made clear that the settlement of plant and machinery lists is a technical matter which are to be settled by the technical persons viz Mr. Aditya Salunke and Mr. Vikram Salunke and as Mr. Vikram Salunke and Mr. Aditya Salunke could not arrive at consensus on the lists of plant and machinery finalizing was proposed to be held only for the purpose of finalizing these lists and attaching them to the "Consent Terms", signed on 07.01.2023. The Petitioners and Respondents have been asked to deposit a further sum of Rs. 25,000 each as the initial deposit made by them was already exhausted, to enable convening the final mediation meeting.

8. I have by my mail dated 09.03.2023, a copy of which is attached herewith as "Annexure-E", convened the final mediation meeting on 16.03.2023 only for the limited purpose of settling the lists of plant and machinery of the manufacturing division and service division for appending to the "Consent Terms" executed by all the parties on 07.01.2023. Accordingly, the final mediation meeting was held on 16.03.2023 wherein all the parties viz Mr. Vikram Salunke, Mr. Aditya Salunke, Mrs Kalpana Salunke and Mrs Sonali Shinde were present. During the course of the meeting on 16.03.2023, several attempts were made by the Respondents group to alter/modify the "Consent Terms" signed on 07.01.2023 which was resisted by the Petitioner. The Mediator also counselled all the Respondents that they have signed the "Consent Terms" on 07.01.2023 after extensive deliberations over one month on various options and therefore any attempt by them would be treated as reneging on the "Consent Terms" signed on 07.01.2023 which is an enforceable and valid contract. Thereafter, the annexure 1 & 2 which were to be appended to the "Consent Terms" signed on 07.01.2023, were signed by the Managing Director and one of the Respondents Mr. Aditya Salunke. These lists were already signed by Mr Vikram Salunke, the Petitioner even before the meeting on 16.03.2023 The final copy of the "Consent Terms" dated 07.01.2023 along with all annexures is attached as "Annexure-F". Thus, I record with satisfaction that the settlement "Consent Terms" were drawn

*up and executed by all the parties after sustained efforts spanning over 5 months though the Hon'ble Tribunal initially fixed a time limit of one month and fee of Rs 3,50,000/- (Three Lakhs and Fifty Thousand Only) for this assignment.*

*9. I finally express my gratitude to the Hon'ble Tribunal for having given me this opportunity to assist this Hon'ble Tribunal in arriving at the settlement of dispute which is the subject matter of the applications mentioned in the title of this report."*

**13.** The third and final report makes it amply clear the consent terms were duly signed on 07.01.2023 and even Annexures 1 and 2 appended to the consent terms dated 07.01.2023 were also signed by both the brothers and thus a final copy of the consent terms dated 07.01.2023 along with its annexures; after according satisfaction to the process, was filed by the Ld. Mediator on record before the Ld. NCLT. Thus as is evident, the contesting parties *viz.* two brothers had signed such annexures and such properties *viz.* plant and machinery were only to be distributed between these two brothers. In fact, the consent terms not only dealt with the plant and machinery alone of the two business but was a wholesome settlement between the parties wherein two separate companies along with two separate properties were to be distributed amongst the two brothers and that the appellant Ms. Sonali Prashant Shinde was to get an amount in lieu thereof. Admittedly she got the money and raised a dispute only to an extent the amount given to her by her brothers be treated as a *gift* and hence cannot agitate issues not related to her to render a legal settlement void, especially when she had received the entire sum under the consent terms.

**14.** Lastly an objection was raised by the appellant that there was a breach of Rule 25 and 26 of the Mediation Rules, 2016 and as such the entire

settlement needs to be quashed. Rule 25 and 26 of the Mediation Rules, 2016 are as under:

**25. Settlement agreement:** (1) *Where an agreement is reached between the parties in regard to all the issues or some of the issues in the proceeding, the same shall be reduced to writing and signed by the parties and if any counsel has represented the parties, the conciliator or mediator may also obtain the signature of such counsel on the settlement agreement.*

(2) *The agreement of the parties so signed shall be submitted to the mediator or conciliator who shall, with a covering letter signed by him, forward the same to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be.*

(3) *Where no agreement is reached at between the parties, before the time limit specified in rule 19, or where the mediator or conciliator is of the view that no settlement is possible, he shall report the same to the Central Government or the Tribunal or the Appellate Tribunal as the case may be, in writing.*

**26. Fixing date for recording settlement and passing order:** (1) *The Central Government or the Tribunal or the Appellate Tribunal as the case may be, shall fix a date of hearing normally within fourteen days from the date of receipt of the report of the mediator or conciliator under rule 25 and on such date of hearing, if the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, is satisfied that the parties have settled their dispute, it shall pass an order in accordance with terms thereof.*

(2) *If the settlement disposes of only certain issues arising in the proceeding, on the basis of which any order is passed as stated in sub-rule(1), the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, shall proceed further to decide the remaining issues.*

**15.** A bare perusal of the above rules would show Rule 25 provides the settlement agreement shall be reduced to writing and signed by the parties. As per Rule 25(2), such agreed terms of the settlement agreement shall be submitted before the Ld. Tribunal (Ld. NCLT in the present case). Further, Rule 26(1) mandates the Ld. Tribunal to fix a date and record its satisfaction that the parties have settled their dispute. The Ld. Tribunal is also expected to pass an order to this effect.

**16.** Reading of Rule 25 stipulates following three factors; **a)** the agreement must be reduced to writing. **b)** it must be signed by the parties, and **c)** it must be submitted to the proper authority with a proper covering letter. In the instant matter, it is clear from the record after entering the duly signed consent terms by the parties, the mediator had forwarded the consent terms dated 7.1.2023 along with his letter dated 18.03.2023 to the Ld. NCLT. Rule 26 lays down the time frame requiring the Ld. Tribunal to fix a hearing date “normally within 14 days “of receiving the mediator’s report. This is to ensure the expeditious and quick disposal of the settled matters. This provision is directory and not mandatory in nature. Hon’ble Supreme Court in *State of UP vs Babu Ram Upadhyay, 1961 (2)SCR 679*, has held “*The question as to whether a statute is mandatory or directory depends upon the intent of the legislature and not upon the language in which the intent is clothed. The meaning and the intention of the legislature must govern, and these are to be ascertained not only from the phraseology of the provision, but also by considering its nature, its design, and the consequences which would follow from construing it one way or the other*”. Rule 26 is a logical corollary to Rule 25. Rasion d’etre and the scheme of the Mediation Rules 2016 is to give effect to the settlement as expeditiously as possible. Rule 26 cannot be interpreted narrowly.

**17.** On facts also, it is evident when the Tribunal was seized of the matter, both the Appellants in Company Appeals No. 211 and 212 had filed applications to revoke the consent terms on 15th May and on 8th July 2023. Thereafter, the Tribunal heard the entire matter, the mediator’s report and the applications to revoke the consent terms together and passed the impugned order on 03.10.2023. The Ld. Tribunal rather recorded in **Company Appeal (AT) Nos. 211 and 212 of 2023**

Paragraph 16 of the impugned order, that this is a *just settlement* between the parties. Thus, the requirement of Rule 25 and 26 stood satisfied, while passing the Impugned Order dated 03.10.2023.

**18.** Additionally the ground *qua* non-compliance of Rule 26 was never, till the date of the final hearing before NCLAT, was ever taken. This ground has no foundation in pleadings either. It was neither taken before Ld. NCLT nor in the present Appeals.

**19.** Thus on the basis of above we find no merit in these appeals and accordingly the appeals are dismissed.

**20** Pending application(s), if any, are also closed.

**[Justice Yogesh Khanna]  
Member (Judicial)**

**[Mr. Ajai Das Mehrotra]  
Member (Technical)**

***Dated: 15.10.2025***  
***RN/bm.***