

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

Comp. App. (AT) (Ins.) No. 489 of 2025

In the matter of:

Nicco and Associated Companies Senior Management Superannuation Fund Vs. Vinod Kumar Kothari, Liquidator of Nicco Corporation Ltd.	Appellant ...Respondent
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For Appellant	Mr. Utsav Mukherjee, Mr. Saksham Ahuja, Mr. Bhaskar, Mr. Mayukh Roy, Mr. Rahul Auddy, Mr. Tavish B. Prasad, Advocates.
For Respondent	Ms. Barsha Dikshit, PCS for liquidator

ORDER

(Hybrid Mode)

03.04.2025: This Appeal has been filed challenging the order dated 18.12.2024 passed by the Adjudicating Authority (National Company Law Tribunal) Division Bench- (Court-I), Kolkata in IA No.424/KB/2020. The Adjudicating Authority by the impugned order has disposed of the application. Aggrieved by the order, this Appeal has been filed.

2. Counsel for the Appellant submits that the superannuation amount towards superannuation fund was held up for the last eight years and was not paid and the amount which was initially claimed of Rs.50,99,000/- was modified by filing an affidavit. Adjudicating Authority committed error in confining only to the amount of Rs.50,99,000/-. It is submitted that the

superannuation amount was not part of the liquidation fund hence, Appellant was entitled to amount of Rs.1,08,88,875/- which was modified.

3. Counsel for the Liquidator opposing the submission of the Counsel for the Appellant submits that the amount of Rs.50,99,000/- was amount which amount was payable on liquidation commencement date which amount has already been paid to the appellant. No amount can be claimed after the liquidation commencement date.

4. We have considered the submissions of the Counsel for the parties and perused the record.

5. The Adjudicating Authority vide order dated 10.10.2019 has disposed of the application filed by the workmen where the amount of Rs.50,99,000/- was directed to be included in the earlier order dated 04.10.2019.

6. The application IA No.424 of 2024 was filed praying for direction which has been noticed in paragraph 1 of the order, which reads as follows:-

“(a) That directions be served upon the Respondent Liquidator appointed by this Hon'ble Tribunal to pay a sum of INR.50,99,000/- to the applicant trust;

(b) That directions be served upon the Respondent Liquidator to pay a sum of INR. 5,00,000/- to the Applicant Trust towards legal cost incurred;

(c) Ad-interim orders in terms of the prayers above;

(d) Such or other order or orders be made and/or directions be given as to this Hon'ble Tribunal may deem fit and proper.”

7. The application when initially filed claimed a payment for Rs.50,99,000/- which has already been allowed and paid. The grievance raised by the appellant is that the amount was not paid from 2017, hence, modified amount which was claimed of Rs.1,08,88,875/- ought to have been paid. The Adjudicating Authority has noticed the submission of the parties. Liquidation commencement date is a date where all claims are frozen. Adjudicating Authority has rightly taken the view that the amount of superannuation claim of superannuation fund is the workers'/employees' money held in trust by the employer and shall not form a part of the liquidation estate. Adjudicating Authority in paragraph 22 has issued following directions:-

“22. Next, we come to the issue of the amount of money to be deposited which has been variously represented. The liquidator is hereby directed to calculate the amount in keeping the rules of the superannuation scheme/fund, up to the date of the liquidation and deposit the amount in the fund. The amount of pension that would result would be accordingly re-calculated by the fund manager/LIC.”

8. The liquidator after recalculation has made the payment as has been submitted by Counsel for the liquidator, Appellant still feels dissatisfied. The direction of the Adjudicating Authority was to calculate the amount in keeping the rules of superannuation scheme/ fund, up to the date of the liquidation

and deposit the amount in the fund. Adjudicating Authority could not have issued any direction to compute the amount beyond the liquidation commencement date.

9. We do not find any infirmity of the order of the Adjudicating Authority calling for any interference in exercise of appellate jurisdiction. The appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**[Arun Baroka]
Member (Technical)**

Anjali/nn