



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

**IA(IBC)/427/KOB/2024
IN
IA(IBC)/152/KOB/2022
IN
IBA/41/KOB/2020
(Under Rule 11 of the NCLT Rules, 2016)**

In the matter of: -

M/s. Orma Marble Palace Private
Limited

Memo of parties: -

1. Mr. K.V. Tolin, Kalamparambil House, Kalady- 683 574. Email: - tolin@tolins.com.
2. M/s. Orma Marble Palace Private Limited, Angamaly, Ernakulam, Kerala, India- 683 572. Represented by its Managing Director, Jenet Jose, Email: - vijay@paulandco.in
... Applicants.

Vs.

1. The Tahsildar, Taluk Office, Third Floor, Municipal Town Hall Complex, Old Highway, Chalakudy, Thrissur, Kerala- 680 307. Email: - thlrckdy@gmail.com.
2. The Village Officer, Village Office, Angamaly Manjapra Road, Angamaly,



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Ernakulam, Kerala- 683 572. Email: -
ekm003vlg.rev@kerala.gov.in.

... Respondents.

Order pronounced on: 30.05.2025

Coram:

Smt. Madhu Sinha.

Shri. Vinay Goel.

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

Appearances:

For the Applicants

: Mr. Rojit Zachairach , Advocate.,

For the Respondents

: Mr. Arun Chandy, Government Pleader.

ORDER

Per: Coram

1. The application has been filed by Mr. T.V.Tolin, the Successful Resolution Applicant of M/s. Orma Marble Palace Private Limited Applicant, under Rule 11 of the NCLT Rules, 2016, seeking the following reliefs: -

- a) To quash Annexures A1, A2 and A9 communications dated 19.04.2018, 18.08.2023 and 26.02.2024 respectively, issued by the 1 Respondent;



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- b) To direct the Respondents not to take any coercive steps against the Applicants herein as indicated in Annexures A1, A2, and A9 communications dated 19.04.2018, 18.08.2023, and 26.02.2024 issued by the 1st Respondent.
2. The 1st Applicant is the Successful Resolution Applicant (SRA) in IA(IBC)/152(KOB)/2022 in IBA/41/KOB/2020. The 2nd Applicant is a private limited company which was put under CIRP by this Tribunal vide order dated 09.04.2021 in IBA/41/KOB/2020. The Resolution Plan submitted by the 1st Applicant was approved by this Tribunal in an order dated 23.12.2022 in IA(IBC)/152/2022 in IBA/41/KOB/2020. The 1st Applicant took over the management of the 2nd Applicant company on 16.06.2023.

SUBMISSIONS MADE BY THE APPLICANT

3. The Applicant stated that the 1st Respondent had on 19.04.2018 issued Order of Assessment under Rule 9(1) and notice of demand under Rule 10 of The Kerala Building Tax (Plinth Area) Rules, 1992 demanding an amount of Rs. 1,44,000/- (Rupees One Lakh Forty-Four Thousand Only) as Building Tax about the non-residential building situated in Perambra Village, Chalakudy in Thrissur District with Old Survey No. 47/1 and which is owned and possessed by the 2nd Applicant Company. The said amount was directed to be paid in four equal installments of ₹36,000/- each.



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4. On 18.08.2023, the 1st Respondent issued a revenue recovery notice to the 2nd Applicant Company concerning non-payment of the building tax amounting to Rs. 1,44,000/- with interest at 6% per annum, totaling to Rs. 1,88,597/- (Rupees One Lakh Eighty-Eight Thousand Five Hundred Ninety-Seven Only). The said notice demands immediate repayment of the dues, failing which the 2nd Respondent has been authorized by the 1st Respondent to initiate seizure proceedings against the assets of the 2nd Applicant Company.
5. It is stated that vide Order dated 09.04.2021 in IBA/41/KOB/2020 set in motion the Corporate Insolvency Resolution Process (CIRP) process against the 2nd Applicant Company (Corporate Debtor). Mr. Jasin Jose was appointed as the Interim Resolution Professional (IRP) and was later confirmed as the Resolution Professional (RP).
6. It is stated that the IRP made a public announcement in Form A on 21.04.2021, calling upon all the creditors of the Corporate Debtor to submit claims with proof on or before 04.05.2021. It is stated that despite the amounts demanded in the Order of Assessment and Notice of Demand bearing file no. G1-14870/17 dated 19.04.2018 from the 2nd Applicant/Corporate Debtor on the financial year 2018, the 1st Respondent did not participate in the CIRP and did not file any claim against the 2nd Applicant/Corporate Debtor before the IRP,



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concerning Order of Assessment and Notice of Demand bearing file no. G1-14870/17 dated 19.04.2018.

7. It is stated that on 05.12.2021, invitations were issued in Form G on Business Line (English) and Deshabhimani (Malayalam) for calling for an Expression of Interest ("EOI") from potential resolution applicants by the IRP. The IRP also made a pan-India advertisement of expression of interest in Business Standard (English) on 16.12.2021.
8. It is stated that, according to the publication of Form G, the 1st Applicant submitted a resolution plan. The Resolution Plan submitted by the 1st Applicant was approved with a 100% vote in the 9th Committee of Creditors' (COC) meeting dated 31.05.2022. Since the 1st Respondent never approached the Resolution Professional with any claim at any point in time, and failed to bring to the notice of the RP the existence of the Order of Assessment and Notice of Demand bearing file no. G1-14870/17 dated 19.04.2018, the amount owed by the 2nd Applicant to the 1st Respondent was not mentioned/included in the final Resolution Plan. It is stated that this Tribunal vide order dated 23.12.2022 in IA(IBC)/152/KOB/2022 approved the Resolution Plan.
9. It is stated that paragraph 18 of the IA(IBC)/152/KOB/2022 had granted certain concessions/reliefs to the 1st Applicant. The serial no.



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9 of the column in paragraph 18 shows that the 1st Applicant to release all encumbrances, charges, security interest etc. created on the assets of the Corporate Debtor and this Tribunal granted the same in terms of the Hon'ble Supreme Court in Ghanshyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd. 2021 SCC OnLine SC 313, and held that no recovery proceedings are possible from a claim which is not reflected in the approved Resolution Plan.

10. It is stated that soon after the 1st Applicant took over the management of the 2nd Applicant Company, the then managing director of the 2nd Applicant Company Smt. Jenet Renjith had replied to RRC No. 2023/12637/08 dated 18.08.2023 notice through a letter dated 20.12.2023 duly intimating that as per order in IA(IBC)/152/KOB/2022, approval of Resolution Plan by this Tribunal, the entire assets of the 2nd Applicant company have been assigned over to the 1st Applicant after having extinguished all liabilities pending as on the date of approval of the final resolution plan by the COC. Since all such claims, statutory or otherwise, have been extinguished, it was requested that the dues alleged in RRC No. 2023/12637/08 dated 18.08.2023 notice were not liable to be met by the 2nd Applicant and requested the same to be recalled.



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11. It is stated that on 26.02.2024, the 1st Respondent issued another letter stating that as per the Order of Assessment and Notice of Demand bearing file no. G1-14870/17, the Respondent had passed an order on 19.04.2018 imposing building tax amounting to Rs. 1,44,000/- on the non-residential building belonging to the 2nd Applicant company and the said order was received by the 2nd Applicant on 05.05.2018 and even after significant passage of time, the 2nd Applicant has not remitted the said amount and has neither intimated any stay order, and under such circumstances, the 1st Respondent cannot drop the revenue recovery proceedings initiated against the 2nd Applicant as per RRC No. 2023/12637/08 dated 18.08.2023 issued by the Deputy Tahsildar, Aluva Taluk.
12. It is stated that despite receiving the final resolution plan approved by COC and the Order dated 23.12.2022 in IA(IBC)/152/KOB/202, the 1st Respondent had incorrectly claimed in letter No. G1/14870/2017 dated 26.02.2024. It is also stated that the new administration and management took over the affairs of the 2nd Applicant Company and that the new management is not bound by any liabilities which arose before 23.12.2022 which is not included in final resolution plan since, as on the date on which final resolution plan came into force, all existing liabilities of the company were extinguished.



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13. Since the Respondents had failed to report the said liabilities before the RP, due to which the same were not made a part of the final resolution plan, they were not entitled to proceed against the Applicants anymore, going by the dictum of the Hon'ble Apex Court in Ghanshyam (supra).
14. The reply affidavit dated 26.11.2024 furnished by the 1ST Respondent states as follows: -
15. The 1st Respondent stated that the Commercial Building Tax is due from the commercial building owned by Mr. Lijo Joseph, Former Managing Director of Orma Marble Palace (Herein After called as Assessee) under the provisions of Kerala Building Tax Act 1975. Such a commercial building was constructed in Survey No. 48 of Perambra Village with a total plinth area of 555.75 m². A Hearing notice was issued to the assessee based on the Form 1 report submitted by the Perambra Village Officer under the Act 1975. The assessee appeared for the hearing on 23.11.2017. After the site inspection, the Charge Officer submitted a Report confirming the completion of the commercial building by the above assessee. The Assessment Order and Demand Notice dated 19.04.2018 for Rupees 1,44,000/was issued to the assessee. But, when the assessee was reluctant to remit the Building Tax in due time, Revenue Recovery steps were recommended against the defaulter of Building Tax based on the



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Report of the Village Officer Perambra dated 02.03.2020, under the RR Act. The said steps were delayed due to the Government's policy related to the pandemic, COVID-19. An RRC was issued to the District Collector, Thrissur, on 17.07.2023 for recovery of the said dues, and steps for recovery were taken through the Village Officer, Angamaly, Aluva Taluk. A letter was intimated that the Revenue Recovery steps have been initiated against Orma Marble Pvt. Ltd. to recover Rupees 1,88,336/-, including interest thereupon.

16. It is stated that the Commercial Building Tax /Government dues would always be reflected in the books of accounts/information Memorandum of the corporate debtor, and the RP/IRP would be required to take cognisance of the said dues as per the books of accounts. Moreover, the 1st Respondent has not received any communication/intimation from the RP regarding the initiation of CIRP against the Corporate Debtor.

17. It is stated that Section 19 of the Kerala Building Tax Act, 1975, enumerates that the tax payable under the said Act is to be the first charge on the property. The said provision reads that notwithstanding anything to the contrary contained in any other law for the time being in force, any amount of tax, interest and any other amount, if any, payable by an assessee or any other person under the



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Act shall be the first charge on the property of the dealer or such person.

18. The 1st Respondent stated that the State holds a first charge over the property, regardless of the sale conducted during the Corporate Insolvency Resolution Process (CIRP), as per the provisions of the Insolvency and Bankruptcy Code (IBC), 2016. Since the relevant Acts are central legislation, and in accordance with the prevailing rules, the Committee of Creditors (CoC) has the authority to sell the assets of the Corporate Debtor through a Resolution Plan and to prioritise the settlement of dues accordingly. However, the charge created under State laws would continue to be attached to the property. If and when any amounts become due under the provisions of the Kerala Building Tax Act, 1975, and proceedings are initiated, a charge is consequently created over the properties of the assessee. This charge continues to run with the property, even if the property is sold through the Corporate Insolvency Resolution Process (CIRP) for the recovery of dues. It is clear from Section 53 of the Insolvency and Bankruptcy Code (IBC), 2016, that it only establishes a priority of payment among certain entitled persons over other debts, including all revenues, taxes, cesses, and other rates payable to the Central Government, State Government, or local authorities. However, this priority in payment does not override or conflict with the first charge



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created over the properties under the provisions of the Kerala Building Tax Act, 1975.

19. It is stated that the provision contained in the Information Memorandum under Section 35 of the Kerala Building Tax Act, 1975, reflects the assets and liabilities of the Corporate Debtor. The role of SRA after making due enquiries concerning any encumbrance, or that the SRA has come forward to purchase the property after making due enquiries concerning any encumbrance on the property. This is more so when Section 3 of the TP Act, 1882, discussed above, makes it clear that any negligent act on the part of a purchaser of a property to make due enquiries would be deemed to be a proper notice regarding the encumbrances against the property.

20. It is stated that the Kerala Building Tax, 1975, and the Insolvency and Bankruptcy Code, 2016, have been enacted by the competent legislature for different purposes and operate in different fields. The Kerala Building Tax Act, 1975, is enacted by the State legislature under Entry 49 of List II in the seventh Schedule for the levy of Tax on land and Buildings. On the other hand, the Insolvency Bankruptcy Code, 2016 has been enacted by parliament under Entry 9 of List III in the seventh Schedule for Bankruptcy and Insolvency for regulating the Insolvency and Bankruptcy of Companies. There is neither any conflict in these two Acts nor can Section 19 of The Kerala Building



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Tax Act, 1975, be inconsistent with Section 238 of IBC, 2016. The area of operation is different, and there is no overlap anywhere.

21. It is stated that the levy and collection of tax, etc. is a sovereign function as well as necessity of the state and as such the has exclusively plenary power to legislate on that subject and in the absence of any provision in the IBC, 2016 and Securitisation Act creating first charge in favour of the Bank, etc., instead of dues, these legislations cannot be given overridden effect qua the pro-visions contained in the state legislation and right of the state to re-cover the dues of sale Tax, etc.. cannot be frustrated merely because a bank or financial Institutions or secured creditor has initiated action for recovery of debt, etc. by applying section 7 or 9 of the IBC, 2016 or by resorting to any of the procedure contained in the CIRP.
22. It is stated that the facts of the present case itself clearly show the lack of jurisdiction on the part of this Tribunal to interfere in any manner concerning the jurisdiction of the constitutional Court specially for directing the Respondents in implementation of the approved Resolution plan, which falls well outside the scope of the Companies Act or the Insolvency and Bankruptcy Code, 2016. In any case, the scope of an application under Section 60(5) of the Act by the petitioner cannot be so widened by this Tribunal to pass an order directing the Respondents to implement the approved Resolution



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plan. For directing the 1st Respondent in the implementation of the approved Resolution plan by a statutory authority under certain enactments, which fall in the realm of public law, and hence, this Tribunal would not have the power of jurisdictional review of such proceedings. Accordingly, if the Applicant is aggrieved by the steps/proceedings of the Respondents, the Applicant ought to have approached the Appellate Authority envisaged under Section 11 of the Kerala Building Tax Act, 1975.

23. The rejoinder dated 21.02.2025 furnished by the Applicant states as follows: -
24. The Applicant stated that the 1st Respondent has not challenged the order dated 23.12.2022 in IA(IBC)/152/KOB/2022 Order under Section 32 of the Code, and the same is binding on the 1 Respondent as mandated under Section 31(1) of the Code.
25. It is stated that upon approval of the Resolution Plan under Section 31 of the Code, all past tax claims which are not part of the Resolution Plan also stand extinguished.
26. It is stated that the 1st Respondent had never raised a claim before the RP, and as a result, the claim reflected in Annexure A1 did not find a place in the Resolution Plan.



ANALYSIS AND FINDINGS: -

27. We have heard learned counsel for the parties and perused the documents on record.
28. From the facts of the case, it is seen that the Resolution Plan in respect of the Corporate Debtor was approved by this Tribunal vide order dated 23.12.2022, and the Applicant No.1 herein is the successful Resolution Applicant.
29. In the present case, the Resolution Applicant has sought to quash the communications regarding the demand notices and any encumbrances created upon non-residential building situated in Perambra Village, Chalakudy in Thrissur District with Old Survey No. 47/1, should be extinguished on the ground that the claim was made after the timeline and the approval of Resolution Plan.
30. We would like to refer to Section 238 of the Code. The relevant portion of the same reads as under: -

"238. Provisions of this Code to override other laws.

- The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law."



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31. A plain reading of the above provision would reveal that the Code has an overriding effect on the other statutes and will override anything inconsistent contained in any other enactment. Admittedly, in this case, the Respondent has failed to file any claim with the Resolution Professional. The Resolution Professional has made a public announcement to call claims from creditors, and it is the duty of the concerned creditors to file their claims in accordance with the law. Had there been any claim with the Resolution Professional, the matter would have been different. But non-filing of the claim would have its own consequences upon the alleged demand raised by the Respondent after approval of the Resolution Plan.

32. In this connection, we gainfully refer to the decision of the **Hon'ble Supreme Court** in the matter of ***Embassy Property Developments Pvt. Ltd. -Vs- State of Karnataka and Ors; (2020) 13 SCC 308***, wherein it was held as follows: -

36. From a combined reading of Subsection (4) and Subsection (2) of Section 60 with Section 179, it is clear that none of them hold the key to the question as to whether NCLT would have jurisdiction over a decision taken by the government under the provisions of MMDR Act, 1957 and the Rules issued thereunder. The only provision which can probably throw light on this question would be Subsection (5) of Section 60, as it speaks about the jurisdiction of the NCLT. Clause (c) of Subsection (5) of Section 60 is very broad in its sweep, in that it speaks



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about any question of law or fact, arising out of or in relation to insolvency resolution. But a decision taken by the government or a statutory authority in relation to a matter which is in the realm of public law, cannot, by any stretch of imagination, be brought within the fold of the phrase "arising out of or in relation to the insolvency resolution" appearing in Clause (c) of Subsection (5). Let us take for instance a case where a corporate debtor had suffered an order at the hands of the Income Tax Appellate Tribunal, at the time of initiation of CIRP. If Section 60(5) (c) of IBC is interpreted to include all questions of law or facts under the sky, an Interim Resolution Professional/Resolution Professional will then claim a right to challenge the order of the Income Tax Appellate Tribunal before the NCLT, instead of moving a statutory appeal under Section 260A of the Income Tax Act, 1961. Therefore, the jurisdiction of the NCLT delineated in Section 60(5) cannot be stretched so far as to bring absurd results, It will be a different matter, if proceedings under statutes like Income Tax Act had attained finality, fastening a liability upon the corporate debtor, since, in such cases, the dues payable to the Government would come within the meaning of the expression "operational debt" under Section 5(21), making the Government an "operational creditor" in terms of Section 5(20). The moment the dues to the Government are crystallised and what remains is only payment, the claim of the Government will have to be adjudicated and paid only in a manner prescribed in the resolution plan as approved by the Adjudicating Authority, namely the NCLT.

(emphasis supplied)

33. The Hon'ble Supreme Court in the matter of ***Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd 2021***



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SCC OnLine SC 313 wherein it has been vociferously held that once the Resolution Plan is approved, all the claims of the Corporate Debtor, including that of its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders shall stand extinguished. The said extract is captured hereunder;

"58. Bare reading of Section 31 of the I&B Code would also make it abundantly clear, that once the resolution plan is approved by the Adjudicating Authority, after it is satisfied, that the resolution plan as approved by CoC meets the requirements as referred to in subsection (2) of Section 30, it shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors and other stakeholders. Such a provision is necessitated since one of the dominant purposes of the I&B Code is, revival of the Corporate Debtor and to make it a running concern.

60. Perusal of Section 29 of the I&B Code read with Regulation 36 of the Regulations would reveal, that it requires RP to prepare an information memorandum containing various details of the Corporate Debtor so that the resolution applicant submitting a plan is aware of the assets and liabilities of the Corporate Debtor, including the details about the creditors and the amounts claimed by them. It is also required to contain the details of guarantees that have been given in relation to the debts of the corporate debtor by other persons. The details with regard to all material litigation and an ongoing investigation or proceeding initiated by Government and statutory authorities are also required to be contained in the information memorandum. So also the details regarding the number of workers and employees and liabilities of the



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Corporate Debtor towards them are required to be contained in the information memorandum.

61. All these details are required to be contained in the information memorandum so that the resolution applicant is aware, as to what are the liabilities that he may have to face and provide for a plan, which apart from satisfying a part of such liabilities would also ensure, that the Corporate Debtor is revived and made a running establishment. The legislative intent of making the resolution plan binding on all the stakeholders after it gets the seal of approval from the Adjudicating Authority upon its satisfaction, that the resolution plan approved by CoC meets the requirement as referred to in sub section (2) of Section 30 is, that after the approval of the resolution plan, no surprise claims should be flung on the successful resolution applicant. The dominant purpose is, that he should start with fresh slate on the basis of the resolution plan approved.

86. As discussed hereinabove, one of the principal objects of 1&B Code is, providing for revival of the Corporate Debtor and to make it a going concern. 1&B Code is complete Code in itself. Upon admission of petition under Section 7, there are various important duties and functions entrusted to RP and CoC. RP is required to issue a publication inviting claims from all the stakeholders. He is required to collate the said information and submit necessary details in the information memorandum. The resolution applicants submit their plans on the basis of the details provided in the information memorandum. The resolution plans undergo deep scrutiny by RP as well as CoC. In the negotiations that may be held between CoC and the resolution applicant, various modifications may be made so as to ensure, that while paying part of the dues of financial creditors as well as operational creditors and other stakeholders, the Corporate Debtor is revived and is made an ongoing concern. After CoC



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approves the plan, the Adjudicating Authority is required to arrive at a subjective satisfaction, that the plan conforms to the requirements as are provided in subsection (2) of Section 30 of the I&B Code. Only thereafter, the Adjudicating Authority can grant its approval to the plan. It is at this stage. that the plan becomes binding on Corporate Debtor, its employees, members, creditors, guarantors and other stakeholders involved in the resolution Plan. The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.

95. In the result, we answer the questions framed by us as under:

(1) That once a resolution plan is duly approved by the Adjudicating Authority under sub section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees. members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;

(ii) 2019 amendment to Section 31 of the 1&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which 1&B Code has come into effect;

Consequently all the dues including the statutory dues owed to the Central Government, any State Government



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or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued."

(emphasis supplied)

34. We also place reliance upon the latest decision of the Hon'ble Supreme Court in ***Kalyani Transco.Vs. Bhushan Power and Steel Ltd. and Ors. (2025) ibclaw.in 173 SC*** order dated 02.05.2025, which held that:

*27. In this regard, it is pertinent to note that the NCLT and NCLAT are constituted under Section 408 and 410 of the Companies Act, 2013 and not under the IBC. The jurisdiction and powers of the NCLT and NCLAT are well circumscribed under Section 31 and Section 60 so far as NCLT is concerned, and under Section 61 of IBC so far as the NCLAT is concerned. Neither the NCLT nor the NCLAT is vested with the powers of judicial review over the decision taken by the Government or Statutory Authority in relation to a matter which is in the realm of Public Law. As held by a Three judge Bench in case of ***Embassy Property Developments Private Limited vs. State of Karnataka & Ors.***, the Section 60(5) speaks about any question of law or fact, arising out of or in relation to insolvency resolution, but a decision taken by the Government or a statutory authority in relation to a matter which is in the realm of Public Law, cannot be brought within the fold of the phrase "arising out of or in relation to the insolvency resolution" appearing in Section 60(5)(C) IBC. It has been further held therein ***that in the light of the statutory scheme as culled out from the various provisions of the IBC, it is clear that****



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wherever the Corporate Debtor has to exercise a right that falls outside the purview of the IBC, especially in the realm of the public law, they cannot take a bypass and go before NCLT for the enforcement of such a right. law, when the NCLT could not exercise the powers of judicial review falling outside the purview of the IBC, or falling within the purview of public law, the NCLAT also, being an Appellate Authority under Section 61 over the orders passed by the NCLT, could not exercise any power or jurisdiction beyond Section 61 of IBC.

(emphasis supplied)

35. In another case **WP(C) No. 39185 of 2022, Deputy Commissioner (Works Contract), Ernakulam v. National Company Law Tribunal, Kakkanad**, the Hon'ble High Court of Kerala held that the order passed by the National Company Law Tribunal, Kochi Bench, was preposterous and untenable. The Court observed that the National Company Law Tribunal has no power or authority under the Code to declare an assessment order as *void ab initio* and *non est* in law.
36. It is, however, significant to note that when the Adjudicating Authority approves the Resolution Plan, the plan becomes binding on the Corporate Debtor, its employees, members, creditors, guarantors, and other stakeholders involved in the Resolution Plan. The legislative intent behind this is to freeze all the claims so that the resolution applicant starts on a clean slate and is taken off guard



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by any surprise claims. If, after submission of the Resolution Plan, any claim pops out in respect of the Corporate Debtor, the very calculations based on which the Resolution Applicant has submitted its plans would go haywire, and the plan would be unworkable

37. Thus, it is clear that the object of IBC, 2016 is to envisage a clean state principle to the Resolution Applicant who takes over the Corporate Debtor under Section 31 of IBC, 2016 and the Judgment of the Hon'ble Supreme Court in the matter of **Ghanashyam Mishra**(*supra*) has made abundantly clear that the Resolution Applicant can be made liable for the dues which are forming part of the Information Memorandum and once the Resolution Plan is approved by this Adjudicating Authority, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued.
38. Notwithstanding the settled legal position that all claims, including statutory dues not forming part of the approved Resolution Plan, stand extinguished upon its approval under Section 31 of the IBC, 2016, it is imperative to clarify that this Adjudicating Authority,



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constituted under the Companies Act, 2013, does not possess jurisdiction to quash proceedings/demands issued by the Government or any statutory authority acting within the domain of public law. As held by the Hon'ble Supreme Court in ***Embassy Property Developments Pvt. Ltd.*** and reaffirmed in ***Kalyani Transco v. Bhushan Power and Steel Ltd.***, matters that fall within the realm of public law are outside the purview of the NCLT and NCLAT's jurisdiction. Accordingly, any relief sought against such governmental or statutory decisions must be pursued before the appropriate authority or forum empowered to exercise judicial review under public law, and not before this Tribunal.

39. In view of the foregoing, while the Successful Resolution Applicant is not liable for any statutory or other dues not forming part of the approved Resolution Plan under Section 31 of the IBC, 2016, this Adjudicating Authority has no jurisdiction to interfere with or quash proceedings initiated under statutes falling within the realm of public law, such as the Kerala Building Tax Act, 1975. As settled by the Hon'ble Supreme Court in ***Embassy Property Developments Pvt. Ltd.*** and ***Kalyani Transco v. Bhushan Power and Steel Ltd.***, such matters lie outside the scope of this Tribunal's powers and must be agitated before the appropriate forum vested with the power of judicial review. The appropriate remedy for the



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Applicant is to approach the appropriate authority/designated authority under the relevant municipal statute.

40. The present Application **IA(IBC)427/KOB/2024** is **disposed of** with the observations above.
41. The file will be consigned to record storage (current).
42. Let a copy of the order be served to the parties.

Sd /-
MADHU SINHA
(MEMBER TECHNICAL)

Sd /-
VINAY GOEL
(MEMBER JUDICIAL)

Signed on this the 30th day of May, 2025.

Rajasree R. Nair/LRA