

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)
Company Appeal (AT) (CH)(Ins) No.77/2025

In The Matter of:

Mr. Immaneni Eswara Rao

IBBI/IPA-001/IP-P001224/2018-19/11943

#40-26-22, Opp: Telephone Exchange,

Mohiddin Street, Chandramoulipuram,

Vijayawada - 520010

Andhra Pradesh.

Email id: ip.caier@gmail.com

Mobile No: 9248123333

... Appellant

Vs

Bank of India

10-1-1199/2, 3rd Floor, AC Guards,

PTI Building, Hyderabad - 500004

Email: assetrecoverybranch.telangana@bankofindia.co.in

... Respondent

WITH

Company Appeal (AT) (CH) (Ins) No.78/2025

In The Matter of:

Mr. Immaneni Eswara Rao

IBBI/IPA-001/IP-P001224/2018-19/11943

#40-26-22, Opp: Telephone Exchange,

Mohiddin Street, Chandramoulipuram,

Vijayawada - 520010

Andhra Pradesh.

Email id: ip.caier@gmail.com

Mobile No: 9248123333

... Appellant

Vs

1. Bank of India

18-1-24/C, Vaishnavi Towers KT Road,

Tirupathi, Andhra Pradesh – 517501.

Email: AssetrecoveryBranch.Telangana@bankofindia.co.in

Mobile No: 9263977427

... Respondent No. 1

2. State Bank of India

Vaishnavi Complex, Unit No. 5 & 6,

Third floor, door no.54-20-1b/3f/U6,

R.S. no. 448/2, KGO colony, Opp executive club,

Gurunanak Nagar colony road,

NH16, Gunadala, Vijayawada-520008.
Email id: sbi.64267@sbi.co.in

... Respondent No. 2

WITH

Company Appeal (AT) (CH) (Ins) No.80/2025

In The Matter of:

Mr. Immaneni Eswara Rao
IBBI/IPA-001/IP-P001224/2018-19/11943
#40-26-22, Opp: Telephone Exchange,
Mohiddin Street, Chandramoulipuram,
Vijayawada - 520010
Andhra Pradesh.
Email id: ip.caier@gmail.com
Mobile No: 9248123333

... Appellant

Vs

Bank of India

18-1-24/C, Vaishnavi Towers KT Road,
Tirupathi, Andhra Pradesh – 517501.

... Respondent

WITH

Company Appeal (AT) (CH) (Ins) No.81/2025

In The Matter of:

Mr. Immaneni Eswara Rao
IBBI/IPA-001/IP-P001224/2018-19/11943
#40-26-22, Opp: Telephone Exchange,
Mohiddin Street, Chandramoulipuram,
Vijayawada - 520010
Andhra Pradesh.
Email id: ip.caier@gmail.com
Mobile No: 9248123333

... Appellant

Vs

Bank of India

10-1-1199/2, 3rd Floor, AC Guards,
PTI Building, Hyderabad - 500004
Email: assetrecoverybranch.telangana@bankofindia.co.in

... Respondent

Present:

For Appellant : Mr. Y. Suryanarayana, Advocate

ORDER
(Hybrid Mode)

[Per: Justice Sharad Kumar Sharma; Member (Judicial)] :

The issue under consideration is four Company Appeals which are similar. Hence for the purposes of brevity, they are being decided together.

Company Appeal (AT) (CH) (Ins) No.77/2025:

1) In CA (AT) (CH) (Ins) No. 77/2025, the Appellant/Liquidator of the Corporate Debtor, has questioned the validity of the Impugned Order of 29.11.2024, as it was passed by the Learned Adjudicating Authority in IA(IBC)/196/2024, as preferred in CP(IB)No.157/10/AMR/2019. By preferring the aforesaid Application under Regulation 2(A) of Insolvency & Bankruptcy Board of India (Liquidation Process), Regulation Rules of 2016, the Appellant has raised his claim praying for a direction to the following effect : -

“a. To issue appropriate directions to the Respondent to contribute funds towards the Liquidation costs as per Regulation 2A along with an estimated liquidation cost of INR 1,50,000/- per month to meet incidental costs till filing the Liquidation Closure Application and Facilitate completion of the distribution without any further delay and to enable the Liquidator Closure Application.

b. To issue directions for filing for the dissolution of the Corporate Debtor immediately after the completion of the distribution of funds, under Section 54 of the Insolvency and Bankruptcy Code, 2016 along with Final Report and Form H for closure of Liquidation Process.”

2) The said Application stood disposed by virtue of the impugned order asking the SCC to consider and approve the fee of the Liquidator that is reasonable and to pay the same along with outstanding Liquidation costs. The argument of the Learned Counsel for the Appellant is from the perspective that, the conclusion, which has been drawn in the impugned order for determining the amount, which would be payable to the Appellant, will have no bearing as far as the instant controversy is concerned, in the light of the fact that in the earlier proceedings, which were carried before the NCLT, Amaravathi in CP (IB) 157/10/AMR/2019, Ms. Kalpana G., Liquidator Vs Bank of India, order has already been passed on 03.08.2022, in IA No. 150/2022, on the aspect of fee to be paid to the Liquidator while appointing him (Appellant herein) as Liquidator in place of Ms. G. Kalpana. What he refers to that according to the Para 4 of the order, as rendered on 03.08.2022, Learned Adjudicating Authority held that the fee claimed by the Liquidator at the rate of Rs. 1,00,000/- per month for himself and Rs. 25,000/- per month for support team is moderate and reasonable and thus directed that the SCC shall consider and approve the same as prayed for, if otherwise found feasible. The relevant paragraph of the directives given in the said Judgement while changing the Liquidator, is extracted hereunder –

“4. So far as the fee of the liquidator is concerned, the claim seems to be moderate and reasonable. Hence the SCC shall consider and approve the same, as prayed for, if otherwise

found feasible. The Application is accordingly allowed.

Accordingly, I.A.No.150/2022 in CP (IB) No.157/10/AMR/2019 is disposed of.”

3) Challenging the aforesaid Order, the Company Appeal being CA (AT) (CH) (Ins) No. 342/2022, was preferred before this Appellate Tribunal along with other connected Company Appeals, being CA (AT) (CH) (Ins) No. 343/2022 and CA (AT) (CH) (Ins) No. 344/2022, by the Respondent herein. This Appellate Tribunal took up these Appeals for consideration and issued the order on 19.06.2023, disposed the Appeals with the direction to the SCC to consider and approve the claims of the erstwhile Liquidator as directed by Learned Adjudicating Authority within a period of 4 weeks, as it was observed in the Para-7 of the said order. The Learned Counsel for the Appellant submits that, owing to the said directions, the fees of the erstwhile Liquidator was paid off, but the determination of the fee payable to the present Liquidator/Appellant herein was kept pending which ought to have been decided within the time period prescribed therein.

4) He has further argued that even though there may be a possibility that, the decision of determining the fee will be taken in pursuance to the direction issued by the Impugned Order dated 29.11.2024, but still he has got a right to put a question to the Impugned Order, with regards to the methodology to be adopted for determination of fee, as the same has already been decided and approved in the 14th SCC meeting of 08.11.2023, which is observed to be in

compliance with the provisions of the I&B Code, 2016, and the regulations framed there under. The Learned Counsel for the Appellant has contended that the relief sought by him in the Interlocutory Application, which has been decided by the Impugned Order that is being IA (IBC)196/2024, was for issue of appropriate direction to the Bank of India, the sole SCC member to contribute to the funds, the outstanding Liquidation cost as per Regulation 2(A) along with the estimated Liquidation cost of Rs. 1,50,000/- per month, which has already been decided so as to enable him to meet the incidental cost till filing of the Liquidation closure application, and that, the said relief as prayed for in the application is fully in line with the directions which had been already issued by the orders rendered on 03.08.2022, 19.06.2023 & 07.08.2023.

5) He contends that contrary to his prayers which was in line with earlier orders, the Application has been disposed of with a direction that, the claim which has been made by him for the remittance of the estimated Liquidation cost at the rate of Rs. 1,50,000/- per month to meet the Liquidation expenses till filing of the Closure Application, may be considered for determination in the light of the observations, made in the Impugned Order whereby, the Learned Adjudicating Authority has observed that there is no significant progress, in the liquidation proceedings of the Corporate Debtor, which will justify the claim of the Liquidator of a remuneration as it has been claimed in the IA(IBC)/196/2024.

6) Be that as it may, the Learned Adjudicating Authority has observed that though the Liquidation fee as prayed for in the Application would be coming under the ambit of Regulation 4(1A) and not under 4 (2) (b), and the same has been ratified by the stakeholders' committee, the realization from the assets of the Corporate Debtor is nil, no significant progress or substantial recoveries have been made & not much work is left in the Liquidation process of the Corporate Debtor, to remit a remuneration of Rs. 1,50,000/- per month and hence the claim of such remuneration in the absence of there being any significant advancement in the Liquidation process, would be completely unreasonable.

7) Based on such observations, certain directions, have been given by the Learned Adjudicating Authority in Para 13 & 14 of the Impugned Order, which are extracted hereunder: -

“13. In light of the foregoing, we direct that the SCC may consider and approve the fee that is reasonable, effective from the date of appointment of the Applicant as Liquidator of CD i.e., 14.09.2022 to filing of the Dissolution Application, along with clearing the outstanding liquidation costs as per Regulation 2A of the IBBI (Liquidation Process) Regulations, 2016.

14. The approval and payment of these amounts shall be completed within four (4) weeks from the date of this order, and SCC is directed to file a memo of compliance. The Applicant/Liquidator is further directed to file the Dissolution Application upon receipt of the aforementioned amounts, without any further delay.

Accordingly, the IA(IBC)/196/2024 in CP(IB)/157/10/AMR/2019 is disposed of."

8) In fact, in the observations which has been made by the Learned Adjudicating Authority, it has directed that the SCC may consider and approve the fee that, is reasonable and effectively could be paid from the date of appointment of the Applicant as a Liquidator of the Corporate Debtor i.e., 14.09.2022, till filing of the Dissolution Application, along with payment of the outstanding Liquidation cost as per Regulation 2(A) of IBBI (Liquidation Process) Regulations, 2016. It has further directed that, the directions as given in Para 13 of the Judgement, for approving the fees payable to the Liquidator would be ensured to be completed within the four weeks from the date of the order and the memo of compliance be filed. The Liquidator was further directed to file the Dissolution Application upon the receipt of the aforesaid mentioned amount without any further delay. The Learned Counsel for the Respondent submits that in fact there has been a procedural lapse on part of the Liquidator in arriving at a conclusion as to what amount would be made payable to the Liquidator, so as to meet the contribution to the remuneration payable to the Liquidator and the incidental cost which has been approved therein till filing of the Liquidation closure application.

9) As far as this observation which has been made in the Impugned Order is concerned, it disentitles the claim of the Appellant to be falling under Regulation 2(A), since, having not done any activity, which otherwise the

Liquidator being in his office, was required to perform towards the process of Liquidation. However, the Learned Adjudicating Authority by the Impugned Order, left it open for the decision be taken by the SCC for the purposes of the approving the fee that is to be determined, as to be reasonable and effective from the date of appointment of the Appellant as the Liquidator. Till the time the Appellant had preferred this Appeal, that is on 02.01.2025, no decision has been taken on the directions, which has been given by the Learned Adjudicating Authority.

10) In the light of the observations which had been made in Para 13 of the Impugned Order, which has been extracted above, as on 02.01.2025, there was no cause of action for the Appellant to approach this Appellate Tribunal, as against the Impugned Order, when the decision pertaining to the claim of the payability of remuneration and other incidental cost, was still yet to be taken by the SCC, as per the directions issued in the Impugned Order. If the challenge which has been given to the Impugned Order is taken into consideration from that limited perspective, the Appellant may not be having any cause as such to file the Appeal against the Impugned Order because the determination and quantification of the entitlement was yet to be made by the SCC as observed in the order based upon the period for, which the Appellant has worked as Liquidator and also based upon consideration of the nature of work he has performed. Hence, the Company Appeal dated 02.01.2025, would be a pre-

matured Appeal, as nothing material right has been decided against the Appellant to file the Appeal.

11) What becomes more important for consideration is that during the course of the argument of this Appeal as fresh, based upon the instructions supplied by the assisting counsel, the Learned Counsel arguing for the **Appellant submits that the decision in pursuance to the directions given in the Impugned Order has already been taken on 09.01.2025**, determining the remuneration and other incidental expenses which were required to be paid to the Appellant. The said determination as made on 09.01.2025, is not under challenge. In that eventuality, for all practical purposes, the challenge as confined to the order dated 29.11.2024, is no more relevant to the claim of the Appellant, since the consequential order of determination of the fee and the other incidental charges which has been held to be payable is not subject to challenge. In that eventuality, the Appeal in its present form, would be pre-matured and particularly in the absence of a challenge given to the decision taken by the SCC, the Appeal would not be tenable and the same deserves rejection. The Counsel for the Appellant has submitted that the Appeal would still to tenable because he is questioning the very procedure adopted by the Learned Adjudicating Authority while directing the matter to be decided by the SCC in relation to the aspect of remuneration and other incidental charges. As far as questioning of the procedure in the absence of putting challenge to the consequential result arrived at after following the procedure is concerned, the

same cannot be permitted to be put to challenge, in the absence of the actual challenge being given to the decision taken on 09.01.2025. Thus, the Company Appeal owing to the directives given in the Impugned Order as contained in Para 13, and owing to the fact as admitted and informed by the Counsel for the Appellant, that the decision has already been taken by SCC on 09.01.2025 and that the said decision is not under challenge, no cause as such survives as of now, in relation to the directions which have been given by the Impugned Order dated 29.11.2024. Thus, Company Appeal is misconceived and the same is accordingly dismissed.

Company Appeal (AT) (CH) (Ins) No.78/2025:

1) In CA (AT) (CH) (Ins) No. 78/2025, the Appellant/Liquidator of the Corporate Debtor, has questioned the validity of the Impugned Order of 29.11.2024, as it was passed by the Learned Adjudicating Authority in IA(IBC)/266/2024, as preferred in CP(IB)/174/10/AMR/2019. By preferring the aforesaid Application under Regulation 2(A) of Insolvency & Bankruptcy Board of India (Liquidation Process), Regulation Rules of 2016, the Appellant has raised his claim praying for a direction to the following effect :-

“to issue appropriate directions to the Bank of India & State Bank of India, the SCC members to contribute funds towards the outstanding liquidation costs as per Regulation 2A along with an imprest advance of Rs. 50,000/- each as per Sub-Regulation 3 to Regulation 41.”

2) He contends that contrary to his prayers which was in line with earlier orders, the Application has been disposed of with a direction that, the claim which has been made by him for the remittance of the estimated Liquidation cost at the rate of Rs. 1,50,000/- per month to meet the Liquidation expenses till filing of the Closure Application, may be considered for determination in the light of the observations, made in the Impugned Order whereby, the Learned Adjudicating Authority has observed that there is no significant progress, in the liquidation proceedings of the Corporate Debtor, which will justify the claim of the Liquidator of a remuneration as it has been claimed in the IA(IBC)/266/2024.

3) Be that as it may, the Learned Adjudicating Authority has observed that though the Liquidation fee as prayed for in the Application would be coming under the ambit of Regulation 4(1A) and not under 4 (2) (b), and the same has been ratified by the stakeholders' committee, the realization from the assets of the Corporate Debtor is nil, no significant progress or substantial recoveries have been made & not much work is left in the Liquidation process of the Corporate Debtor, to remit a remuneration of Rs. 1,50,000/- per month and hence the claim of such remuneration in the absence of there being any significant advancement in the Liquidation process, would be completely unreasonable.

4) Based on such observations, certain directions, have been given by the Learned Adjudicating Authority in Para 9 & 12 of the Impugned Order, which are extracted hereunder: -

“9. Upon perusal of the record, it is clear that the Liquidation costs which incurred is higher than that of the amount realized from the sale of the CD as a going concern. As the CD is already sold as a going concern and the same has been handed over to the successful bidder by June 2023, there isn't any more significant work for the Liquidator in the process of Liquidation of CD except for the filing of Liquidation closure Application.

10. In such scenario we have no doubt that there isn't any significant progress in the liquidation process of CD, for the Liquidator to be paid with an amount of INR 1,00,000/- per month as claimed, except for the filing of the Liquidation Closure Application. The Applicants claim for such remuneration, in the absence of significant advancement in the liquidation process is completely unreasonable.

11. In light of the foregoing, we direct that the SCC may consider and approve the fee that is reasonable, effective from the date of appointment of the Applicant as Liquidator of CD i.e. 14.09.2022 to filing of the Dissolution Application, and the 2nd Respondent is directed to contribute to their share in the outstanding dues. The 1st and 2nd Respondent are hereby directed to clear the outstanding liquidation costs as per Regulation 2A of the IBDI (Liquidation Process) Regulations, 2016.

12. The approval and payment of these amounts shall be completed within four (4) weeks from the date of this order, and SCC is directed to file a memo of compliance. The Applicant/Liquidator is

further directed to file the Liquidation Closure Application upon receipt of the aforementioned amounts, without any further delay.

Accordingly, the IA(IBC)/266/2024 in CP(IB)/174/10/AMR/2019 is disposed of.”

5) In fact, in the observations which has been made by the Learned Adjudicating Authority, it has directed that the SCC may consider and approve the fee that, is reasonable and effectively could be paid from the date of appointment of the Applicant as a Liquidator of the Corporate Debtor i.e., 14.09.2022, till filing of the Dissolution Application, along with payment of the outstanding Liquidation cost as per Regulation 2(A) of IBBI (Liquidation Process) Regulations, 2016. It has further directed that, the directions as given in Para 11 of the Judgement, for approving the fees payable to the Liquidator would be ensured to be completed within the four weeks from the date of the order and the memo of compliance be filed. The Liquidator was further directed to file the Dissolution Application upon the receipt of the aforesaid mentioned amount without any further delay. The Learned Counsel for the Respondent submits that in fact there has been a procedural lapse on part of the Liquidator in arriving at a conclusion as to what amount would be made payable to the Liquidator, so as to meet the contribution to the remuneration payable to the Liquidator and the incidental cost which has been approved therein till filing of the Liquidation closure application.

6) As far as this observation which has been made in the Impugned Order is concerned, it disentitles the claim of the Appellant to be falling under

Regulation 2(A), since, having not done any activity, which otherwise the Liquidator being in his office, was required to perform towards the process of Liquidation. However, the Learned Adjudicating Authority by the Impugned Order, left it open for the decision be taken by the SCC for the purposes of the approving the fee that is to be determined, as to be reasonable and effective from the date of appointment of the Appellant as the Liquidator. Till the time the Appellant had preferred this Appeal, that is on 02.01.2025, no decision has been taken on the directions, which has been given by the Learned Adjudicating Authority.

7) In the light of the observations which had been made in Para 11 of the Impugned Order, which has been extracted above, as on 02.01.2025, there was no cause of action for the Appellant to approach this Appellate Tribunal, as against the Impugned Order, when the decision pertaining to the claim of the payability of remuneration and other incidental cost, was still yet to be taken by the SCC, as per the directions issued in the Impugned Order. If the challenge which has been given to the Impugned Order is taken into consideration from that limited perspective, the Appellant may not be having any cause as such to file the Appeal against the Impugned Order because the determination and quantification of the entitlement was yet to be made by the SCC as observed in the order based upon the period for, which the Appellant has worked as Liquidator and also based upon consideration of the nature of work he has performed. Hence, the Company Appeal dated 02.01.2025, would be a pre-

matured Appeal, as nothing material right has been decided against the Appellant to file the Appeal.

8) What becomes more important for consideration is that during the course of the argument of this Appeal as fresh, based upon the instructions supplied by the assisting counsel, the Learned Counsel arguing for the **Appellant submits that the decision in pursuance to the directions given in the Impugned Order has already been taken on 09.01.2025**, determining the remuneration and other incidental expenses which were required to be paid to the Appellant. The said determination as made on 09.01.2025, is not under challenge. In that eventuality, for all practical purposes, the challenge as confined to the order dated 29.11.2024, is no more relevant to the claim of the Appellant, since the consequential order of determination of the fee and the other incidental charges which has been held to be payable is not subject to challenge. In that eventuality, the Appeal in its present form, would be pre-matured and particularly in the absence of a challenge given to the decision taken by the SCC, the Appeal would not be tenable and the same deserves rejection. The Counsel for the Appellant has submitted that the Appeal would still to tenable because he is questioning the very procedure adopted by the Learned Adjudicating Authority while directing the matter to be decided by the SCC in relation to the aspect of remuneration and other incidental charges. As far as questioning of the procedure in the absence of putting challenge to the consequential result arrived at after following the procedure is concerned, the

same cannot be permitted to be put to challenge, in the absence of the actual challenge being given to the decision taken on 09.01.2025. Thus, the Company Appeal owing to the directives given in the Impugned Order as contained in Para 11, and owing to the fact as admitted and informed by the Counsel for the Appellant, that the decision has already been taken by SCC on 09.01.2025 and that the said decision is not under challenge, no cause as such survives as of now, in relation to the directions which have been given by the Impugned Order dated 29.11.2024. Thus, Company Appeal is misconceived and the same is accordingly dismissed.

Company Appeal (AT) (CH) (Ins) No.80/2025:

1) In CA (AT) (CH) (Ins) No. 80/2025, the Appellant/Liquidator of the Corporate Debtor, has questioned the validity of the Impugned Order of 29.11.2024, as it was passed by the Learned Adjudicating Authority in IA(IBC)/191/2024, as preferred in CP(IB)No.158/10/AMR/2019. By preferring the aforesaid Application under Regulation 2(A) of Insolvency & Bankruptcy Board of India (Liquidation Process), Regulation Rules of 2016, the Appellant has raised his claim praying for a direction to the following effect :-

“a. To issue appropriate directions to the Respondent to contribute funds towards the Liquidation costs as per Regulation 2A along with an estimated liquidation costs of INR 1,50,000/- per month to meet incidental costs till filing the Liquidation Closure Application and Facilitate completion of the distribution without any further

delay and to enable the Liquidator Closure Application.

b. To issue directions for filing for the dissolution of the Corporate Debtor immediately after the completion of the distribution of funds, under Section 54 of the Insolvency and Bankruptcy Code, 2016 along with Final Report and Form H for closure of Liquidation Process.”

2) He contends that contrary to his prayers which was in line with earlier orders, the Application has been disposed of with a direction that, the claim which has been made by him for the remittance of the estimated Liquidation cost at the rate of Rs. 1,50,000/- per month to meet the Liquidation expenses till filing of the Closure Application, may be considered for determination in the light of the observations, made in the Impugned Order whereby, the Learned Adjudicating Authority has observed that there is no significant progress, in the liquidation proceedings of the Corporate Debtor, which will justify the claim of the Liquidator of a remuneration as it has been claimed in the IA(IBC)/191/2024.

3) Be that as it may, the Learned Adjudicating Authority has observed that though the Liquidation fee as prayed for in the Application would be coming under the ambit of Regulation 4(1A) and not under 4 (2) (b), and the same has been ratified by the stakeholders' committee, the realization from the assets of the Corporate Debtor is nil, no significant progress or substantial recoveries have been made & not much work is left in the Liquidation process of the Corporate Debtor, to remit a remuneration of Rs. 1,50,000/- per month and

hence the claim of such remuneration in the absence of there being any significant advancement in the Liquidation process, would be completely unreasonable.

4) Based on such observations, certain directions, have been given by the Learned Adjudicating Authority in Para 11 & 13 of the Impugned Order, which are extracted hereunder: -

“11. Though the same has been ratified by the SCC, upon perusal of the record, the realization from the assets of CD is nil as there are no fixed assets of CD except for Trademark "VARSHI" and the Applicant was unable to recover any monies. There were no auction of assets of CD conducted post July 2023 but significant time has been requested by the Applicant and the same was approved by this Tribunal with neither significant progress nor substantial recoveries. The extension sought were solely for the purpose of raising contributions from the Respondent to file the Dissolution Application but not for the progress of Liquidation.

12. We have no doubt that there isn't any substantial or significant progress in the liquidation process of CD, for the Liquidator to be paid with a remuneration of INR 1,50,000/- per month as claimed. The Applicants' claim for such remuneration, in the absence of significant advancement in the liquidation process is completely unreasonable. Furthermore, it has come to light that the most of the meetings of the SCC have been primarily held for the approval and disbursement of the Applicant's/Liquidator's remuneration along with the outstanding Liquidation costs and the delay in filing the Dissolution application is solely on such ground.

13. In light of the foregoing, we direct that the SCC may consider and approve the fee that is reasonable, effective from the date of appointment of the Applicant as Liquidator of CD i.e. 14.09.2022 to filing of the Dissolution Application, along with clearing the outstanding liquidation costs as per Regulation 2A of the IBBI (Liquidation Process) Regulations 2016. The approval and payment of these amounts shall be completed within four (4) weeks from the date of this order, and SCC is directed to file a memo of compliance. The Applicant/Liquidator is further directed to file the Dissolution Application upon receipt of the aforementioned amounts, without any further delay.

Accordingly, the IA(IBC)/191/2024 in CP(IB)/158/10/AMR/2019 is disposed of.”

5) In fact, in the observations which has been made by the Learned Adjudicating Authority, it has directed that the SCC may consider and approve the fee that, is reasonable and effectively could be paid from the date of appointment of the Applicant as a Liquidator of the Corporate Debtor i.e., 14.09.2022, till filing of the Dissolution Application, along with payment of the outstanding Liquidation cost as per Regulation 2(A) of IBBI (Liquidation Process) Regulations, 2016. It has further directed that, the directions as given in Para 13 of the Judgement, for approving the fees payable to the Liquidator would be ensured to be completed within the four weeks from the date of the order and the memo of compliance be filed. The Liquidator was further directed to file the Dissolution Application upon the receipt of the aforesaid mentioned amount without any further delay. The Learned Counsel for the Respondent

submits that in fact there has been a procedural lapse on part of the Liquidator in arriving at a conclusion as to what amount would be made payable to the Liquidator, so as to meet the contribution to the remuneration payable to the Liquidator and the incidental cost which has been approved therein till filing of the Liquidation closure application.

6) As far as this observation which has been made in the Impugned Order is concerned, it disentitles the claim of the Appellant to be falling under Regulation 2(A), since, having not done any activity, which otherwise the Liquidator being in his office, was required to perform towards the process of Liquidation. However, the Learned Adjudicating Authority by the Impugned Order, left it open for the decision be taken by the SCC for the purposes of the approving the fee that is to be determined, as to be reasonable and effective from the date of appointment of the Appellant as the Liquidator. Till the time the Appellant had preferred this Appeal, that is on 02.01.2025, no decision has been taken on the directions, which has been given by the Learned Adjudicating Authority.

7) In the light of the observations which had been made in Para 13 of the Impugned Order, which has been extracted above, as on 02.01.2025, there was no cause of action for the Appellant to approach this Appellate Tribunal, as against the Impugned Order, when the decision pertaining to the claim of the payability of remuneration and other incidental cost, was still yet to be taken by the SCC, as per the directions issued in the Impugned Order. If the challenge

which has been given to the Impugned Order is taken into consideration from that limited perspective, the Appellant may not be having any cause as such to file the Appeal against the Impugned Order because the determination and quantification of the entitlement was yet to be made by the SCC as observed in the order based upon the period for, which the Appellant has worked as Liquidator and also based upon consideration of the nature of work he has performed. Hence, the Company Appeal dated 02.01.2025, would be a pre-matured Appeal, as nothing material right has been decided against the Appellant to file the Appeal.

8) What becomes more important for consideration is that during the course of the argument of this Appeal as fresh, based upon the instructions supplied by the assisting counsel, the Learned Counsel arguing for the **Appellant submits that the decision in pursuance to the directions given in the Impugned Order has already been taken on 09.01.2025**, determining the remuneration and other incidental expenses which were required to be paid to the Appellant. The said determination as made on 09.01.2025, is not under challenge. In that eventuality, for all practical purposes, the challenge as confined to the order dated 29.11.2024, is no more relevant to the claim of the Appellant, since the consequential order of determination of the fee and the other incidental charges which has been held to be payable is not subject to challenge. In that eventuality, the Appeal in its present form, would be pre-matured and particularly in the absence of a challenge given to the decision taken by the

SCC, the Appeal would not be tenable and the same deserves rejection. The Counsel for the Appellant has submitted that the Appeal would still be tenable because he is questioning the very procedure adopted by the Learned Adjudicating Authority while directing the matter to be decided by the SCC in relation to the aspect of remuneration and other incidental charges. As far as questioning of the procedure in the absence of putting challenge to the consequential result arrived at after following the procedure is concerned, the same cannot be permitted to be put to challenge, in the absence of the actual challenge being given to the decision taken on 09.01.2025. Thus, the Company Appeal owing to the directives given in the Impugned Order as contained in Para 13, and owing to the fact as admitted and informed by the Counsel for the Appellant, that the decision has already been taken by SCC on 09.01.2025 and that the said decision is not under challenge, no cause as such survives as of now, in relation to the directions which have been given by the Impugned Order dated 29.11.2024. Thus, Company Appeal is misconceived and the same is accordingly dismissed.

Company Appeal (AT) (CH) (Ins) No.81/2025:

1) In CA (AT) (CH) (Ins) No. 81/2025, the Appellant/Liquidator of the Corporate Debtor, has questioned the validity of the Impugned Order of 29.11.2024, as it was passed by the Learned Adjudicating Authority in IA(IBC)/197/2024, as preferred in CP(IB)No.159/10/AMR/2019. By preferring the aforesaid Application under Regulation 2(A) of Insolvency & Bankruptcy

Board of India (Liquidation Process), Regulation Rules of 2016, the Appellant has raised his claim praying for a direction to the following effect : -

“a. To issue appropriate directions to the Respondent to contribute funds towards the Liquidation costs as per Regulation 2A along with an estimated liquidation costs of INR 1,50,000/- per month to meet incidental costs till filing the Liquidation Closure Application and Facilitate completion of the distribution without any further delay and to enable the Liquidator Closure Application.

b. To issue directions for filing for the dissolution of the Corporate Debtor immediately after the completion of the distribution of funds, under Section 54 of the Insolvency and Bankruptcy Code, 2016 along with Final Report and Form H for closure of Liquidation Process.

2) He contends that contrary to his prayers which was in line with earlier orders, the Application has been disposed of with a direction that, the claim which has been made by him for the remittance of the estimated Liquidation cost at the rate of Rs. 1,50,000/- per month to meet the Liquidation expenses till filing of the Closure Application, may be considered for determination in the light of the observations, made in the Impugned Order whereby, the Learned Adjudicating Authority has observed that there is no significant progress, in the liquidation proceedings of the Corporate Debtor, which will justify the claim of the Liquidator of a remuneration as it has been claimed in the IA(IBC)/197/2024.

3) Be that as it may, the Learned Adjudicating Authority has observed that though the Liquidation fee as prayed for in the Application would be coming under the ambit of Regulation 4(1A) and not under 4 (2) (b), and the same has been ratified by the stakeholders' committee, the realization from the assets of the Corporate Debtor is nil, no significant progress or substantial recoveries have been made & not much work is left in the Liquidation process of the Corporate Debtor, to remit a remuneration of Rs. 1,50,000/- per month and hence the claim of such remuneration in the absence of there being any significant advancement in the Liquidation process, would be completely unreasonable.

4) Based on such observations, certain directions, have been given by the Learned Adjudicating Authority in Para 11 & 14 of the Impugned Order, which are extracted hereunder: -

“11. Though the same has been ratified by the SCC, upon perusal of the record, the realization from the assets of CD is nil as the SCC considered the option of distribution of assets without consideration under Regulation 38 which was allowed by this Tribunal vide order dated 26.09.2024. There were no auction of assets of CD conducted post July 2023 but significant time has been requested by the Applicant and the same was approved by this Tribunal with neither significant progress nor substantial recoveries.

12. We have no doubt that there isn't any substantial or significant progress left in the liquidation process of CD, for the Liquidator to be paid with a remuneration of INR 1,50,000/- per

month as claimed. The Applicants' claim for such remuneration, in the absence of significant advancement in the liquidation process is completely unreasonable.

13. In light of the foregoing, we direct that the SCC may consider and approve the fee that is reasonable, effective from the date of appointment of the Applicant as Liquidator of CD i.e. 14.09.2022 to filing of the Dissolution Application, along with clearing the outstanding liquidation costs as per Regulation 2A of the IBBI (Liquidation Process) Regulations, 2016.

14. The approval and payment of these amounts shall be completed within four (4) weeks from the date of this order, and SCC is directed to file a memo of compliance. The Applicant/Liquidator is further directed to file the Dissolution Application upon receipt of the aforementioned amounts, without any further delay.

Accordingly, the IA(IBC)/197/2024 in CP(IB)/159/10/AMR/2019 is disposed of."

5) In fact, in the observations which has been made by the Learned Adjudicating Authority, it has directed that the SCC may consider and approve the fee that, is reasonable and effectively could be paid from the date of appointment of the Applicant as a Liquidator of the Corporate Debtor i.e., 14.09.2022, till filing of the Dissolution Application, along with payment of the outstanding Liquidation cost as per Regulation 2(A) of IBBI (Liquidation Process) Regulations, 2016. It has further directed that, the directions as given in Para 13 of the Judgement, for approving the fees payable to the Liquidator would be ensured to be completed within the four weeks from the date of the order and the memo of compliance be filed. The Liquidator was further directed

to file the Dissolution Application upon the receipt of the aforesaid mentioned amount without any further delay. The Learned Counsel for the Respondent submits that in fact there has been a procedural lapse on part of the Liquidator in arriving at a conclusion as to what amount would be made payable to the Liquidator, so as to meet the contribution to the remuneration payable to the Liquidator and the incidental cost which has been approved therein till filing of the Liquidation closure application.

6) As far as this observation which has been made in the Impugned Order is concerned, it disentitles the claim of the Appellant to be falling under Regulation 2(A), since, having not done any activity, which otherwise the Liquidator being in his office, was required to perform towards the process of Liquidation. However, the Learned Adjudicating Authority by the Impugned Order, left it open for the decision be taken by the SCC for the purposes of the approving the fee that is to be determined, as to be reasonable and effective from the date of appointment of the Appellant as the Liquidator. Till the time the Appellant had preferred this Appeal, that is on 02.01.2025, no decision has been taken on the directions, which has been given by the Learned Adjudicating Authority.

7) In the light of the observations which had been made in Para 13 of the Impugned Order, which has been extracted above, as on 02.01.2025, there was no cause of action for the Appellant to approach this Appellate Tribunal, as against the Impugned Order, when the decision pertaining to the claim of the

payability of remuneration and other incidental cost, was still yet to be taken by the SCC, as per the directions issued in the Impugned Order. If the challenge which has been given to the Impugned Order is taken into consideration from that limited perspective, the Appellant may not be having any cause as such to file the Appeal against the Impugned Order because the determination and quantification of the entitlement was yet to be made by the SCC as observed in the order based upon the period for, which the Appellant has worked as Liquidator and also based upon consideration of the nature of work he has performed. Hence, the Company Appeal dated 02.01.2025, would be a premature Appeal, as nothing material right has been decided against the Appellant to file the Appeal.

8) What becomes more important for consideration is that during the course of the argument of this Appeal as fresh, based upon the instructions supplied by the assisting counsel, the Learned Counsel arguing for the **Appellant submits that the decision in pursuance to the directions given in the Impugned Order has already been taken on 09.01.2025**, determining the remuneration and other incidental expenses which were required to be paid to the Appellant. The said determination as made on 09.01.2025, is not under challenge. In that eventuality, for all practical purposes, the challenge as confined to the order dated 29.11.2024, is no more relevant to the claim of the Appellant, since the consequential order of determination of the fee and the other incidental charges which has been held to be payable is not subject to challenge. In that

eventuality, the Appeal in its present form, would be pre-matured and particularly in the absence of a challenge given to the decision taken by the SCC, the Appeal would not be tenable and the same deserves rejection. The Counsel for the Appellant has submitted that the Appeal would still to tenable because he is questioning the very procedure adopted by the Learned Adjudicating Authority while directing the matter to be decided by the SCC in relation to the aspect of remuneration and other incidental charges. As far as questioning of the procedure in the absence of putting challenge to the consequential result arrived at after following the procedure is concerned, the same cannot be permitted to be put to challenge, in the absence of the actual challenge being given to the decision taken on 09.01.2025. Thus, the Company Appeal owing to the directives given in the Impugned Order as contained in Para 13, and owing to the fact as admitted and informed by the Counsel for the Appellant, that the decision has already been taken by SCC on 09.01.2025 and that the said decision is not under challenge, no cause as such survives as of now, in relation to the directions which have been given by the Impugned Order dated 29.11.2024. Thus, Company Appeal is misconceived and the same is accordingly dismissed.

Thus, for the aforesaid reasons all the Company Appeals lack merit and the same are dismissed. All pending Interlocutory Applications, would stand closed.

Let the copy of this Judgement be placed on the records of each Company Appeals.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

10/03/2025
RO/TM/MS