

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-1, AHMEDABAD

ITEM No.301
IA/235(AHM)2024
In
CP(IB) 497 of 2018

Proceedings under Sec 65(5)(c) & 74(3) of IBC
r.w. Rule 11 of NCLT Rules, 2016

IN THE MATTER OF:

Bhupendra Singh Rajput
Chairman of Managing Committee of
Alps Pharmaceuticals Pvt. Ltd.

.....Applicant

V/s

Civic Services Holding Pvt. Ltd. & Anr.

.....Respondents

Order delivered on: 04/02/2026

CORAM:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, COURT-I, AHMEDABAD**

IA/235(AHM)2024

In

CP(IB) No.497/NCLT/AHM/2018

*[An application under section 60(5)(c) and Section 74(3) of the
Insolvency and Bankruptcy Code, 2016 r/w Rule 11 of
National Company Law Tribunal Rules 2016]*

In the matter of

Bhupendra Singh Rajput

(Chairman of Managing Committee of
Alps Pharmaceuticals Pvt. Ltd.)

Having Address at:

A-309, ATMA House,
Opp. Old RBI, Ashram Road,
Ahmedabad

....Applicant

VERSUS

Rajendrakumar Joshi & Civic

Services Holding Private Limited

Successful Resolution Applicant namely

a) Civic Services Holding Pvt. Ltd.

Having address at:

B-702, 7th Floor Statesman House,
29 Barakhamba Road, New Delhi,
Central Delhi, DL 110001 IN

b) Rajendra Kumar Joshi

Having address at:

A-16, Gayatri Vihar,
Opp. Nanital Motors Pvt. Ltd.
BasaiPostChikiya Ramnagar,



Nanital-244715

... Respondent

Order Pronounced On: 04.02.2026

C O R A M:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E:

For Applicant: Ms. Pragati Tiwari, Proxy Advocate for

Mr. Nipun Singhvi, Advocate

For Respondent: Mr. Summit Kapoor, Advocate

O R D E R

(Per: BENCH)

1. This application is filed by **Bhupendra Singh Rajput** (Chairman of Managing Committee of Alps Pharmaceuticals Pvt. Ltd.) (hereinafter referred as "Applicant"), under Section 60(5)(c) and Section 74(3) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules 2016 seeking the following prayers:

- a. *to allow the present application;*
- b. *to direct the Resolution Applicant, namely Rajendrakumar Joshi & Civic Services Holding Private Limited, to implement*



the Resolution Plan approved by Hon'ble Adjudicating Authority vide order dated 06.07.2021 in IA 259 of 2021

- c. *to direct Respondent to pay expenses of monitoring committee and interest on delay payment as per resolution plan approved by Hon'ble Adjudicating Authority vide order dated 06.07.2021 in IA 259 of 2021*

OR

- d. *issue appropriate directions for breach of resolution plan in accordance with the law;*
e. *Pass any other order(s) that this Hon'ble Tribunal may deem fit.*

2. The Applicant has placed the facts through the I.A. and documents in the following manner: -

2.1. It is submitted that the present Interlocutory Application has been filed by Bhupendra Singh Rajput, Chairman of the Managing Committee of Alps Pharmaceuticals Pvt. Ltd. (Corporate Debtor), under Sections 60(5)(c) and 74(3) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016, seeking directions against the Successful Resolution Applicant (SRA), Mr. Rajendrakumar Joshi & Civic Services Holding Private Limited, to pay monitoring committee expenses and interest on delayed payment under the approved Resolution Plan.

2.2. It is submitted that the CIRP was initiated by this Tribunal on 06.11.2019 in C.P. (I.B) No. 497/NCLT/AHM/2018, appointing the IRP/RP;



thereafter, in the 12th CoC meeting on 04.03.2021, two revised resolution plans were received, and the plan submitted by Rajendrakumar Joshi & Civic Services Holding Private Limited was approved by 100% voting of the CoC.

- 2.3. It is submitted that the application for approval of the resolution plan was allowed by this Tribunal on 06.07.2021 (**Annexure-C**), thereby making the plan binding under the Code.
- 2.4. It is submitted that the SRA breached the approved Resolution Plan by failing to pay the requisite amounts within the timelines stipulated therein, including the stipulated amount of the plan, where Rs. 1,71,25,000/- was paid against the amount payable as per the plan, leaving the obligations unfulfilled.
- 2.5. It is submitted that the Applicant filed IA No. 172 of 2022 under Section 74(3), consequent upon the defaults stated in paragraph 2.4 above; by order dated 07.12.2022, this Tribunal ordered liquidation of the Corporate Debtor and appointed the Applicant as Liquidator (**Annexure-D**).
- 2.6. It is submitted that the SRA challenged the liquidation before the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No. 72 of 2023; the NCLAT initially stayed liquidation on 27.01.2023 (**Annexure-E**) and vacated the stay on 05.09.2023 (**Annexure-F**), whereupon



public announcement in Form-B dated 18.09.2023 was issued (**Annexure-G**).

- 2.7. It is submitted that by final order dated 11.10.2023, the Hon'ble NCLAT set aside the liquidation order and directed the SRA to implement the Resolution Plan (**Annexure-H**); the Applicant informed all stakeholders by email dated 13.10.2023 (**Annexure-I**). The relevant extract of the said order is as follows:

“In view of the developments which have taken place in the Appeal and the facts that entire amount has been deposited and initially protection was granted by this Tribunal, it is submitted that no steps have been taken in the liquidation so far except for inviting claims. We are of the view that the impugned order of liquidation dated 07.12.2022 deserves to be set aside and the Appellant may take steps for implementation of the Resolution Plan in accordance with law.”

- 2.8. It is submitted that the 5th Monitoring Committee meeting on 29.12.2023 recorded that the SRA was required to clear pending dues under the plan, namely: Principal (balance) Rs. 1,54,930/-, Interest @ 10% p.a. on delayed payment Rs. 79,42,382/-, and Monitoring Committee & Chapter-IV expenses Rs. 55,61,607/-, aggregating to Rs. 1,36,58,919/- (**Annexure-J**).
- 2.9. It is submitted that despite reminders and assurances (including minutes of the Monitoring Committee), the SRA denied liability and failed to pay the above sums; consequently, the Applicant invoked Sections 60(5)(c)



and 74(3) seeking directions for payment of monitoring expenses and interest for delay.

- 2.10. It is submitted that the Respondent's withdrawal of IA No. 834 of 2022 (order dated 22.11.2023, **Annexure-L**) does not absolve the SRA of its binding obligations under the approved plan.
- 2.11. It is submitted that Section 74(3) prescribes punishment for wilful contravention of the resolution plan; further, Section 60(5) vests this Tribunal with jurisdiction to entertain applications arising out of or in relation to the insolvency resolution or liquidation.
- 2.12. It is submitted that the Applicant has annexed judgments on breach of resolution plan (**Annexure-L**) to demonstrate that non-implementation and delayed performance of a binding plan attracts coercive directions and penal consequences.
- 2.13. The Applicant has relied upon the following judgements at **Annexure K** in the IA:
- i. Committee of Creditors of Amtek Auto Ltd. v. Dinkar T. Venkatasubramanian & Ors. Company Appeal (AT) (Insolvency) No. 442 of 2019
 - ii. State Bank of India v. Sudhakar H. Mulay and Anr. (M.A. Nos. 2276/2019 & 2277/2019)
 - iii. Mr. Sandeep Mahajan Monitoring Professional (Resolution Professional as appointed for Allied Strips Limited) v. G.P. Global Energy Pvt. Ltd. (C.A. No. 1246/2019 in (IB)-46 (PB) 2018)



3. In compliance with the order dated 05.02.2024, the Applicant filed a Pursis on 26.02.2024 vide Inward No. D-1675 to place on record the copy of IA no. 5586 of 2023 filed by Bank of Baroda in Hon'ble NCLAT along with its order dated 08.12.2023.
4. Furthermore, the Applicant filed Pursis on 13.08.2024 vide Inward No. 7060 to place on record the order dated 01.08.2024 passed in I.A. No. 5002 of 2024 in Comp. App. (AT) (Ins.) No. 72 of 2023
5. In compliance with order dated 09.12.2024, the Respondent filed its reply to the IA on 22.07.2025 vide Inward No. D-4678. The following contentions were raised by the Respondent: -
 - 5.1. It is submitted that the present application filed by the Applicant/RP under Sections 60(5) and 74(3) of the Insolvency and Bankruptcy Code, 2016 is a gross abuse of process, being founded on identical issues which have already been adjudicated and rejected by the Hon'ble NCLAT.
 - 5.2. It is submitted that IA No. 5586 of 2023 seeking review of the NCLAT's order dated 11.10.2023 was dismissed on 08.12.2023 on the ground that no power of review



exists under Rule 11 of the NCLAT Rules, 2016 (Annexure-R2).

- 5.3. It is further submitted that even IA No. 5002 of 2024 seeking “clarification” of the same order was dismissed by the Hon’ble NCLAT on 01.08.2024, holding that the judgment is clear and requires no clarification (Annexure-R3).
- 5.4. It is submitted that under the approved Resolution Plan, the Applicant/RP was bound to hand over business licenses, statutory permits, clear title documents, NOCs and discharge of encumbrances to the Successful Resolution Applicant (“SRA”) within one month of the implementation date. The Applicant failed to perform these mandatory obligations, including furnishing title deeds, providing business permits at no cost, and releasing encumbered assets, thereby frustrating implementation of the Plan.
- 5.5. It is submitted that the SRA submitted its Resolution Plan on the basis of Form-G dated 26.12.2020 and the Information Memorandum, wherein it was expressly represented that the Corporate Debtor had clear and marketable title over the Patal Devi, Almora land and that no encumbrances existed except those disclosed. However, it was subsequently discovered that the lease of the said land had already been cancelled by the District Magistrate, Almora vide order dated



05.03.2019, which material fact was deliberately concealed by the Applicant and the Bank of Baroda.

- 5.6. It is submitted that such suppression amounts to material fraud, as the Applicant and the Bank were fully aware of the said cancellation, yet falsely relied on the Hon'ble Uttarakhand High Court order dated 24.05.2019, while concealing the subsisting cancellation order of the District Magistrate. The SRA was thus fraudulently induced into submitting the Resolution Plan.
- 5.7. It is submitted that despite the SRA having paid 25% of the plan amount (Rs.1,71,25,000/-) after approval of the Plan on 06.07.2021, the Monitoring Committee and the Applicant failed to provide licenses, lease documents and utility clearances, forcing the SRA to itself bear expenses including utility dues.
- 5.8. It is submitted that the liquidation order dated 07.12.2022 was set aside by the Hon'ble NCLAT on 11.10.2023 after the SRA deposited the balance amount of Rs.73,75,000/- and filed its compliance affidavit. The NCLAT directed that the Resolution Plan be implemented in accordance with law.
- 5.9. It is submitted that the SRA has fully complied with its financial obligations, whereas the Applicant has neither discharged his duties under the Plan nor prevented fraud as Chairman of the Monitoring Committee.



Therefore, the Applicant is not entitled to claim any further sums or interest, and the delay in implementation is solely attributable to his own acts and omissions.

6. That, in compliance with the order dated 09.12.2024, the Applicant filed an Affidavit -in-Rejoinder on 13.08.2025 vide Inward No. D-5485 raising the following contentions:

6.1. It is submitted that the Applicant has at all times acted with full transparency and has disclosed the prior proceedings in IA 5586/2023 and IA 5002/2024, including the NCLAT orders dated 08.12.2023 (review dismissed) and 01.08.2024 (clarification dismissed). The Applicant filed pursis placing these orders on record on 24.02.2024 and 13.09.2024, evidencing clean hands and full disclosure.

6.2. It is submitted that the allegation that the Applicant was obliged to hand over “licenses” within one month is legally untenable. A plain reading of the approved Resolution Plan shows that such items fall under “Reliefs and Concessions (Part-B)”- i.e., requests to statutory/government authorities-and do not impose unilateral obligations on the RP/Monitoring Committee. The approval order dated 06.07.2021 also clarifies that such reliefs/concessions are subject to



approach before competent authorities and do not amount to automatic waivers or abatements.

- 6.3. It is submitted that Page 39 of the Plan similarly falls within Reliefs and Concessions (Part-B) and is not an operational obligation on the RP/Monitoring Committee; reliance on the same to allege default is misconceived.
- 6.4. It is submitted that Part-C of the Plan does not cast duties on the RP to issue NOCs or discharge security interests; such matters lie with financial creditors/competent authorities. The SRA's own timely payment and engagement with authorities is a precondition; having defaulted, the SRA cannot shift blame to the RP.
- 6.5. It is submitted that there was no concealment: the Information Memorandum disclosed all material litigations, including the Almora proceedings. The approved Plan itself acknowledges the pending cases before the District Court, Almora and the Hon'ble Nainital High Court.
- 6.6. It is submitted that the IM/RFRP expressly recorded that physical possession of the injection unit land (Plot No. 1908/1) had been taken by the District Magistrate, Almora pursuant to the 13.02.2019 order, and that the lease had not been renewed; these facts were known to and factored by the SRA.



- 6.7. It is submitted that the doctrine of caveat emptor applies; the SRA had a statutory and commercial obligation to undertake due diligence, and in fact acknowledged the encumbrances in its own Plan.
- 6.8. It is submitted that the SRA's repeated defaults and delayed payments constitute a material breach of a plan approved under Section 31 of the IBC, which is binding and must be implemented strictly and within timelines. Partial or belated compliance does not excuse default.
- 6.9. It is submitted that the SRA has no immunity from interest and monitoring costs. The Plan expressly provides for such liabilities and their computation; the SRA, having sought and obtained approval, cannot resile from binding terms.
- 6.10. It is submitted that wilful contravention of the Plan attracts consequences under Section 74(3), and the Adjudicating Authority is empowered to enforce the Plan, including recovery of unpaid interest and monitoring costs.
- 6.11. It is submitted that the Monitoring Committee functioned properly; minutes, emails and records are on file, and the allegation of "no documentation" is false.



- 6.12. It is submitted that the SRA's selective interpretation of the Plan is legally untenable; timelines are integral to the commercial bargain approved by the CoC and this Tribunal, and continued default undermines the CIRP's objectives.
7. In compliance with order dated 29.10.2025, the Applicant filed the Written Submission on 19.01.2026 vide Inward No. D-431 wherein the Applicant has relied upon the case laws.
8. Along with the same, in compliance with order dated 29.10.2025, the Respondent/SRA filed the Written Submission on 22.01.2026 vide Inward No. D-502 stating the following: -
- 8.1. It is submitted that the SRA has already deposited the balance plan amount of Rs. 73,75,000/- and filed a compliance affidavit before the Hon'ble NCLAT on 10.10.2023, and proof of payments is on record. By order dated 11.10.2023, the Hon'ble NCLAT affirmed complete payment, set aside liquidation, and directed implementation of the Plan; however, the RP's obligations under the Plan cannot be shifted to the SRA.
- 8.2. It is submitted that under the Resolution Plan, expenses beyond Rs. 38,00,000/- towards CIRP costs



were to be adjusted against secured creditors' dues; the said Rs. 38,00,000/- was already paid as part of the SRA's 25% payment. Consequently, utility bills were the RP's responsibility; yet the RP failed to pay, forcing the SRA to pay, including Rs. 1,54,930/- towards water bills, to be adjusted under the Plan.

- 8.3. It is submitted that the same issue has already been decided by the Hon'ble NCLAT:
- 8.4. (i) IA 5886/2023 (review by Bank of Baroda) seeking interest and monitoring expenses was dismissed on 08.12.2023 for want of review power; and (ii) IA 5002/2024 (clarification by RP) was dismissed on 01.08.2024, holding the order dated 11.10.2023 clear and requiring no clarification.
- 8.5. It is submitted that IA 834(AHM)2022 was withdrawn on 22.11.2023 as some prayers had become infructuous, with liberty to seek other reliefs; accordingly, the SRA filed IA 230 of 2024 for implementation of the Plan.
- 8.6. It is submitted that the present I.A. is not maintainable: neither the Code nor the Regulations mandate inclusion/payment of an Insolvency Professional in the Monitoring Committee; such engagement is contractual and post-resolution, not arising from insolvency. Disputes for services rendered after approval do not fall within Section 60(5), and



there is no provision in the Plan or approval order for monitoring fees.

8.7. Reliance is placed on: -

- (a) Order dated 25.09.2025, NCLT Mumbai, IA 1755/2025 in CP 1053/2017;
- (b) Order dated 28.05.2025, NCLT Mumbai, BDO Restructuring Advisory LLP v. Sharad Sanghi & Ors., IA 533/2024 in CP (IB) 1137(MB)2017 (p. 6).

8.8. It is submitted that on merits, the RP concealed material facts regarding ownership, encumbrances, third-party rights and statutory dues over the Almora lands/sheds in the IM/RFRP, and failed to implement the Plan; the present I.A. is a counterblast to IA 230/2024.

8.9. It is submitted that manufacturing licenses are land/address-specific; without the lands/leases, the business cannot exist, and no plan would have been submitted. The RP represented that permits, licenses and leases were in place and would be handed over, but later the SRA discovered assets still with other creditors and undisclosed third-party rights.

8.10. It is submitted that the SRA relies on DIC, Almora letter dated 03.01.2026 (Document-A), which lists multiple plots/sheds with mortgaged original lease deeds, departmental liabilities (total Rs. 9,60,605), and third-party rights; it also records that Field Nos.



1948M/1949M were allotted to Electronic Production Co-operative Society (1994) and taken over in 2005 without departmental formalities, evidencing concealment and fraud.

- 8.11. It is submitted that the Plan defines “Effective Date” as the date when management control and physical possession are handed over. The Applicant failed to perform mandatory obligations, inter alia: handing over licenses, providing permits at no cost, issuing NOCs and discharging assets, providing title deeds (Plan p.27; Addendum p.4), and ensuring clear title as represented in Form G/IM (Plan p.50).
- 8.12. It is submitted that the Plan extinguishes all other claims/liabilities upon approval (Clauses: IA p.67; IA p.80; IA p.78). The Monitoring Committee failed to document efforts or prevent fraud.
- 8.13. It is submitted that the SRA has complied by depositing the entire plan amount; the Applicant must also be bound by the Plan. Under Chapter IV, Part C-II, financial creditors must return title documents; this has not been done, as also evidenced by the DIC letter.
- 8.14. It is submitted that the lease on specified land was cancelled by the DM, Almora on 05.03.2019; when confronted, the RP/Bank of Baroda filed IA 172/2022 under Section 74 to cover up.



8.15. It is submitted that delay was caused by the Applicant's fraud; hence no interest is payable. The SRA seeks amendment under Part P of the Plan, and alternatively, initiation under Sections 70, 71 and 74 of the IBC with refund and costs.

9. We have heard Ld. Counsel for the Applicant, Ld. Counsel for the Respondent/SRA, considered the oral submissions of both parties and perused the material on record. The Observation and Directions by this Tribunal are as under:-

9.1. This Interlocutory Application has been filed by the Chairman of the Monitoring Committee of Alps Pharmaceuticals Pvt. Ltd., invoking Sections 60(5)(c) and 74(3) of the Insolvency and Bankruptcy Code, 2016, alleging wilful breach of the approved Resolution Plan by the Successful Resolution Applicant ("SRA"), Rajendrakumar Joshi & Civic Services Holding Private Limited, and seeking directions for payment of interest on delayed implementation and monitoring committee expenses.

9.2. This Tribunal notes that the following Interlocutory Applications (before this Tribunal) and Company Appeals (before Hon'ble NCLAT) has been filed with respect to CP (IB) No. 497 of 2018:

Sr. No.	Case / IA No.	Forum	Filed by	Date / Order	Purpose of Filing	Outcome / Status
1	CP (IB) 497 of 2018	NCLT, Ahmedabad	Bank of Baroda (earlier Dena Bank)	Admitted on 06.11.2019	Section 7 IBC application to initiate CIRP against Alps Pharmaceuticals Pvt. Ltd.	CIRP commenced on 06.11.2019
2	IA 259 of 2021	NCLT, Ahmedabad	RP / CoC	Allowed on 06.07.2021	Application for approval of Resolution Plan of Civic Services Holding Pvt. Ltd. & Rajendrakumar Joshi	Resolution Plan was approved on 06.07.2021 and the CoC had approved the plan on 04.03.2021
3	IA 172 of 2022	NCLT, Ahmedabad	Chairman of Monitoring Committee (RP)	Filed on 07.12.2022	SRA failed to pay balance amount after receiving possession- Chairman sought (i) liquidation, and (ii) prosecution under Section 74(3) for breach of Resolution Plan	NCLT held implementation of plan failed and ordered liquidation of Corporate Debtor on 07.12.2022.
4	CA (AT) (Ins.) 72 of 2023	NCLAT, Principal Bench	Successful Resolution Applicant	Filed 22.12.2022; Final order 11.10.2023	Appeal against liquidation order dated 07.12.2022	Liquidation stayed on 27.01.2023; Order of stay vacated on 05.09.2023, and on 11.10.2023, the liquidation order was set aside and ordered plan implementation. due to defaults
5(a)	IA 5586 of 2023 in CA 72/2023	NCLAT	Bank of Baroda (FC)	Dismissed 08.12.2023	Review of NCLAT judgment dated 11.10.2023 seeking enforcement of delayed interest &	NCLAT held it has no power to review its judgment; IA

IA 235 of 2024 in CP (IB) No. 497 of 2018
*Bhupendra Singh Rajput vs.
Rajendrakumar Joshi & Civic Services Holding Private Limited*

					supervision costs	dismissed
(b)	IA 5002 of 2024 in CA 72/2023	NCLAT	SRA (Civic Services)	Dismissed 01.08.2024	Sought review of the Judgment and Order of this Tribunal dated 11.10.2023 that SRA need not pay delayed-interest under the plan	NCLAT held order dated 11.10.2023 is clear; SRA must comply with plan "in accordance with law". No exemption from interest
6	IA 834 of 2022	NCLT, Ahmedabad	SRA (Civic Services)	Withdrawn on 22.11.2023	Filed alleging fraud / suppression by RP (licence & land issues) to avoid compliance of plan	Withdrawn by SRA on 22.11.2023

9.3. The following is the list of the events that have taken place during the course of the captioned Company Petition:

Date	Event
06.11.2019	This Tribunal admitted CP (IB) No. 497 of 2018 and initiated CIRP against Alps Pharmaceuticals Pvt. Ltd.; Applicant was appointed as IRP.
04.03.2021	12 th CoC meeting held; Resolution Plan submitted by Rajendrakumar Joshi & Civic Services Holding Pvt. Ltd. approved with 100% voting share.
06.07.2021	This Tribunal approved the Resolution Plan in IA 259 of 2021.
17.02.2022	IA 172 of 2022 filed by the Applicant for breach of the Resolution Plan, stating that only 25% of the plan amount had been paid by the Respondent.
07.12.2022	This Tribunal passed Liquidation Order in IA 172 of 2022, holding that the Resolution Plan failed due to breach by the SRA.
22.12.2022	Respondent (SRA) filed Company Appeal (AT) (Ins.) No. 72 of 2023 before the Hon'ble NCLAT challenging the liquidation order.
27.01.2023	The Hon'ble NCLAT directed the SRA to make entire payment and granted stay on liquidation.
05.09.2023	The Hon'ble NCLAT vacated the stay on liquidation in CA (AT) (Ins.) No. 72 of 2023 due to continued default by the SRA.



18.09.2023	Public Announcement (Form-B) issued by the Liquidator after the stay was vacated.
11.10.2023	The Hon'ble NCLAT passed final judgment in CA (AT) (Ins.) No. 72 of 2023, set aside the liquidation order and directed the SRA to implement the Resolution Plan.
13.10.2023	The Applicant informed all stakeholders about the NCLAT judgment directing implementation of the Resolution Plan.
29.12.2023	5 th Monitoring Committee Meeting held; Respondent was asked to pay delayed interest and monitoring-committee expenses, which he refused.
20 th January 2024	Since the Respondent continued to deny payment of interest and monitoring-committee costs, the Applicant filed the present IA under Sections 60(5)(c) & 74(3) IBC seeking enforcement of Resolution Plan obligations.

- 9.4. We consider it appropriate to look into prayers of the Applicant and working of the amount claimed. The prayers concern direction to the SRA to implement the resolution plan approved by this Adjudicating Authority vide order of 06.07.2021, payment of monitoring committee expenses, and interest on delay in payment as per resolution plan.
- 9.5. Although the Applicant has alleged breach and delay in implementation of the Resolution Plan, the substantive relief pressed before this Tribunal relates to payment of interest on delayed payments and monitoring committee expenses. Accordingly, this Tribunal confines its adjudication to those prayers.
- 9.6. Regarding the payment of monitoring committee expenses and interest for delayed payment, the Respondent has raised serious objections, including that the matter is already decided by the Hon'ble



NCLAT on the appeal filed by the Bank of Baroda on the same issues, invoking res judicata.

- 9.7. Pages 139 to 145 of the Application is a copy of the Minutes of the Fifth Managing Committee for the supervision of the resolution plan held on 29.12.2023 (Annexure-J). Three persons attended through video conference: RP, Chief Manager of Bank of Baroda, and member nominated by the RA. It notes that Bank of Baroda filed an IA No. 5586 of 2023 and the Hon'ble NCLAT refused to review the judgment. The RP submitted to the SCC that the RA is required to make the following payments. Principal amount Rs 1,54,930 (Annexure A), Interest @10% p.a. on delayed payment as per Chapter IV Part A of approved Resolution Plan (Annexure B), and Remuneration of chairman of managing committee Rs 79,45,820 (Annexure B), security expenses and other expenses w.e.f. 06.07.2021 to till date Chapter IV Part-N of approved resolution plan Rs 55,61,607 (Annexure C).
- 9.8. Annexure A shows that plan amount was Rs 6,85,00,000 and payments were made in the period 02.03.2021 to 10.10.2023 and the amount outstanding is Rs 1,54,930.
- 9.9. Annexure B shows working of interest for the delayed period. The payment has been made on various dates during the period 04.09.2021 to 9.10.2023. The



payments continued in 2021,2022, and 2023. The Applicant claims that interest is computed as per Part A of Chapter IV of the Plan.

- 9.10. Annexure C has working for Expenses incurred by the RP from CIRP account till 31.12.2023 and comprises of Security Bill Payment, Advocate Fees, RP Fees, Travelling Expenses, Form B Publication Payment, Repair of Factory etc. These expenses are for the period 12.08.2022 to 31.12.2023.
- 9.11. It is not in dispute that Part-A of Chapter-IV of the approved Resolution Plan contains a stipulation for interest at the rate of 10% per annum in case of delayed payment. However, the enforceability of such claim, along with claims towards monitoring committee expenses and alleged shortfall, stood raised and considered before the Hon'ble NCLAT in proceedings arising out of the same Resolution Plan. In view of the final judgment dated 11.10.2023 and subsequent dismissal of review and clarification applications, this Tribunal is restrained from re-adjudicating the said issues.
- 9.12. It is not in dispute that Bank of Baroda had filed an application (IA 5586 of 2023) before the Hon'ble NCLAT with prayers to review its order dated 11.10.2023 with status quo ante or in the alternate direct the appellant to pay amount of Rs 1,29,14,702 as detailed in



paragraph 17 of the review application. The same issues of interest amount, supervisory committee and security expenses and short fall in the payment as per resolution plan were raised before the Hon'ble NCLAT. It is noted that these orders and application filed by the BoB was not attached with the IA under consideration and these documents were filed before this Adjudicating Authority on 26.02.2024 based on the direction of this Adjudicating Authority.

- 9.13. The Hon'ble NCLAT vide order dated 08.12.2023 in IA No. 5586 of 2023 stated that this is an application praying for review of the order dated 11.10.2023. It is held that, "we are of the view that we do not have any power to review the judgment and the Review Application was rejected.
- 9.14. Paragraph 5 of the order dated 11.10.2023 passed by the Hon'ble NCLAT notes that, "Applicant case is that the entire amount under the plan has been paid in the designated account in terms of the Resolution Plan. Paragraph 9 notes that entire amount has been deposited. The liquidation order was set aside and the Appellant may take steps for implementation of the Resolution Plan.
- 9.15. Based on the documents filed by the Applicant concerning the review application filed by the Bank of Baroda and the order of the Hon'ble NCLAT passed on



08.12.2023, we find that the identical issues have already been decided by the Hon'ble NCLAT which is agitated before us by filing the present IA on 19.01.2024, after the Hon'ble NCLAT has already decided the issue. A comparison of the reliefs sought in IA No. 5586 of 2023 before the Hon'ble NCLAT and the present Interlocutory Application shows that the claims towards delayed interest, monitoring committee expenses and alleged shortfall in plan payments are substantially identical and arise from the same cause of action.

- 9.16. This Adjudicating Authority had ordered liquidation of the Corporate Debtor and the Hon'ble NCLAT set aside the liquidation order after the payments were made by the Resolution Applicant. The Hon'ble NCLAT also did not set aside the issues raised in the Application filed by the Bank of Baroda.
- 9.17. The jurisdiction under Section 60(5)(c) is supervisory and residuary in nature and cannot be exercised to reopen or circumvent findings rendered by the Appellate Tribunal, directly or indirectly.
- 9.18. Section 74(3) of the Code is penal in nature and requires proof of wilful and deliberate contravention of the Resolution Plan. In the present case, the record demonstrates that the Resolution Applicant deposited



the entire principal plan amount pursuant to directions of the Hon'ble NCLAT.

9.19. This Tribunal also notes that the pendency and dismissal of IA No. 5586 of 2023 before the Hon'ble NCLAT, though within the knowledge of the Applicant, was not specifically pleaded in the present Interlocutory Application. Such omission further supports the Respondent's contention that the present Application substantially overlaps with issues already placed before the Appellate Tribunal.

9.20. In view of the above, we decline to interfere with the settled issue.

10. Accordingly, **IA/235(AHM)2024** is **disposed of** in the above terms. No order as to costs.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)
Jeel/LRA

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)