

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL****PRINCIPAL BENCH****NEW DELHI****COMPANY APPEAL (AT) NO.34/2026**

(Arising out of judgement and order dated 28.11.2025 passed by National Company Law Tribunal, Mumbai in CP(CAA)/104(MB/2025)

**In the matter of:**

MMTC Limited  
Core I  
Scope Complex,  
7, Institutional Area,  
Lodhi Road,  
New Delhi-110003

Appellant

Vs

National Spot Exchange Ltd  
Malkani Chambers Condominium  
1<sup>st</sup> Floor Off, Nehru Road  
Near Hotel Orchid, Vile Parle ( E)  
Mumbai-400099

Respondent

For Appellant: Mr Vikramjit Banerjee, Ld. ASG, Mr. Anandh Venkataramani, Ms Ishita Thakur, Mr Sarthak Behera, Ms Kavya Kumar, Mr Naval Sharma, Ms Ghajasimini, Mr Abhijeet, Advocates.

For Respondent: Mr. Abhijeet Sinha, Sr Advocate, Mr. Ankur Saigal, Mr Shivam Shukla, Advocates for 63 Moon

Mr. Arun Kathpalia, Sr Advocate, Mr. Ranjan Kr Pandey, Mr. Sandeep Bisht, Mr Vikas Pahwa, Mr Jayant Mohan, Ms Manik Joshi, Ms Mantul Bajpai, Mr V Vig, Ms Tahira Kathpalia, Mr Prabhath Tiwari, Advocates.

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

This appeal is filed by the appellant against an impugned order 28.11.2025 whereby the Ld. NCLT in CP (CAA)/104(MB)2025 had approved scheme of

arrangement with creditors which seeks to settle the claim of specified creditors arising from August, 2013 payment default on the National Spot Exchange Ltd by proposing a capped settlement of Rs.31,950 crores. The scheme is challenged on the ground it is prejudicial to the public interest and opposed to the public policy.

2. Before the Ld. ASG would argue the matter on merits it was pointed out to him this Tribunal *vide* its Judgement dated 15.01.2026 had already sustained the order of Ld. NCLT which had approved the scheme and have rejected the objections raised by L.J. Tanna Enterprises Pvt Ltd and others in Company Appeal (AT) No.03/2026. Rather to the order dated 15.01.2026 passed by this Tribunal has since been affirmed by the Hon'ble Supreme Court in Civil Appeal No.1485/2026 decided on 09.03.2026.

3. Confronted with the above, the Ld. ASG had referred to A.V Papayya Sastry and others Vs Govt of AP and others (2007) 4 Supreme Court Cases 221 wherein the Hon'ble Supreme Court has held as under:-

*38.The matter can be looked at from a different angle as well. Suppose, a case is decided by a competent Court of Law after hearing the parties and an order is passed in favour of the applicant/plaintiff which is upheld by all the courts including the final Court. Let us also think of a case where this Court does not dismiss Special Leave Petition but after granting leave decides the appeal finally by recording reasons. Such order can truly be said to be a judgment to which [Article 141](#) of the Constitution applies. Likewise, the doctrine of merger also gets attracted. All orders passed by the courts/authorities below, therefore, merge in the judgment of this Court and after such judgment, it is not open to any party to the*

*judgment to approach any court or authority to review, recall or reconsider the order.*

*39. The above principle, however, is subject to exception of fraud. Once it is established that the order was obtained by a successful party by practising or playing fraud, it is vitiated. Such order cannot be held legal, valid or in consonance with law. It is non-existent and non est and cannot be allowed to stand. This is the fundamental principle of law and needs no further elaboration. Therefore, it has been said that a judgment, decree or order obtained by fraud has to be treated as nullity, whether by the court of first instance or by the final court. And it has to be treated as non est by every Court, superior or inferior.*

*Hence, the argument of Mr. Venugopal cannot be upheld. Even if he is right in submitting that after dismissal of SLPs, the respondent herein could not have approached the High Court for recalling its earlier order passed in April, 2000 and the High Court could not have entertained such applications, nor the recalling could have been done, in the facts and circumstances of the case and in the light of the finding by the High Court that fraud was committed by the land-owners in collusion with the officers of the Port Trust Authorities and Government, in our considered view, no fault can be found against the approach adopted by the High Court and the decision taken. The High Court, in our opinion, rightly recalled the order, dated April 27, 2000 and remanded the case to the authorities to decide the same afresh in accordance with law.*

4. Thus it was argued by the Ld. ASG the scheme even if is approved by Ld. NCLT and this Tribunal and affirmed by the Hon'ble Supreme Court, can be recalled if it is proved the scheme is vitiated by fraud. In support of his argument he referred to various paras of the impugned order viz paras 25.1, 25.2 as well as para 44 which are as under:-

*25.1. Ld. Counsel for Enforcement Directorate ("ED") appeared before the Tribunal and stated that the ED*

*objected to the Scheme, alleging that it aims to cleanse liabilities and attached assets under the PMLA and MPID Acts, disturb criminal cases, and undermine the Supreme Court-appointed Committee. In response, the Ld. Counsel for Petitioner Company clarified that the Scheme is a lawful, commercial settlement approved by a large creditor majority, which neither affects criminal proceedings nor violates any court orders. It stated that use of attached assets will occur only with approval from competent courts and that the Scheme complements, rather than contradicts, the Supreme Court's directions.*

*25.2. Ld. Counsel for Chief Investigating Officer, SIT NSEL, EOW, Mumbai ("EOW") appeared before the Tribunal and stated that the Deputy Collector/ Competent Authority under the MPID Act and the Chief Investigating Officer, EOW, Mumbai, have objected that the Scheme contravenes prior judicial directions, including the MPID Court's order dated 13th October 2022 and the Supreme Court's order dated 04th May 2022 constituting the Committee under Justice Pradeep Nandrajog (Retd.). The Ld. Counsel for Petitioner Company, in response, has clarified that the Scheme neither conflicts with nor derogates from any order of the MPID Court, the Hon'ble Bombay High Court, or the Hon'ble Supreme Court. It is stated that the order of 13th October 2022 merely directs graded distribution of sale proceeds of defaulters' attached properties under the MPID Act and does not preclude creditors from entering a civil compromise under Section 230. The Petitioner points out that the very creditors forming the Rs. 10-20 lakh category at whose instance that order was passed have themselves voted in favour of the Scheme. The Scheme, it is argued, operates independently of criminal proceedings, which remain unaffected, and its provisions expressly recognise the functioning of the Supreme Court Committee and the Competent Authority by ensuring that recoveries realised thereunder shall ensure to 63 Moons Technologies Ltd. as assignee of creditors' claims after the Settlement Trigger Event.*

*44. It is noted that, the **competent authority under MPID Act and EOW supported the scheme**, though they had reservations on compliance with Order dated 13th October 2022 of MPID Court has upheld vide Order dated 15th March 2023 by Hon'ble Bombay High Court*

*and Order dated 10th April 2023 passed by Hon'ble Supreme Court as well as discharge of specified persons from criminal action. As regards discharge of specified persons from criminal action, we have already noted in the preceding para that the approval of proposed scheme does not result into automatic discharge or release of specified persons from the criminal actions, which may lie against them, and such discharge or release is dependent on the Order(s), the courts or authorities may pass on an application to be filed in accordance with the Scheme. Accordingly, it is for the courts or relevant authorities, where such criminal proceedings against specified persons are pending, to examine whether the specified persons, including the petitioner and 63 moons can be relieved of criminal consequences arising from the events that led to payment default. It is relevant to note the decisions in case of K. Bharthi Devi & Anr. v. State of Telangana & Anr., SLP (Criminal) No. 4353 of 2018; Gian Singh v. State of Punjab & Anr., (2012) 10 SCC 303 wherein the Hon'ble Supreme Court held that the High Courts in exercise of their power under Section 482 of Cr.PC can compound or quash the non-compoundable offences to prevent abuse of the process of any court or otherwise to secure the ends of justice. Accordingly, such stipulation in the scheme cannot said to be against public policy or illegal.*

5. Thus it was argued the order notes wrong facts viz the EOW as well as the competent authority of MPID did not object to the scheme and these facts are wrongly recorded in paras 25.1 and 25.2 above of the impugned order, hence the impugned order is vitiated by fraud.

6. Heard.

7. Before proceeding further we need to point out the scheme was approved by the more than 90% of the creditors and between May, 2025 till November, 2025, the appellant did not assail the resolutions passed or the scheme except the appellants voted against the scheme in May, 2025. Admittedly no objections

were filed by the appellants before Ld. NCLT when the company petition was pending.

8. Further *qua* fraud we need to say the Ld. ASG had only pointed out to the above paras of the impugned order to show the fraud is committed upon the Ld. NCLT but to our considered view, at best it can be treated as an incorrect finding but not fraud. Even *qua* incorrect finding we need to note neither the *ED* nor *EOW* or *MPID* came up in appeal before this Court and none of these authorities even challenged the scheme before the Ld. NCLT. On the contrary, a caveat was filed by the competent authority under MPID Act before us. Further if one looks at the order dated 17.09.2025 of the Ld. NCLT, more specifically its para 2, it records the *learned counsel appearing on behalf of EOW as well as competent authority under the MPID Act has submitted they no objection to the proposed scheme.*

9. Further the order dated 16.12.2025 passed by the Hon'ble High Court of Judicature at Bombay in Cr. Writ Petition No.2187/2025 records the following:-

*“5. We have heard Mr. Nankani, learned senior counsel appearing for the applicant (original petition) as well as Ms Patil, learned SPP for the State through EOW. We find that in the proceedings before the NCLT, the pendency of the present writ petition bearing Criminal Writ Petition No.2187 of 2015 was divulged along with other pending proceedings and the response of the EOW was also sought while passing the order dated 28.11.2025 by the NCLT. In paragraph 44 of the said order, the NCLT specifically recorded that the EOW as well as the Competent Authority under the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 had supposed the scheme although they had*

*certain reservations above pending matters before this Court and the Supreme Court.*

*7. Clause (i) of paragraph 56, quoted hereinabove, does refer to the fact that sanction of the aforesaid Scheme of Arrangement would not in any manner, override orders passed by any Court, Tribunal or Authority and that, the same shall happen in accordance with orders that may be passed by such court, Tribunal or Authority on an application filed in terms of the Scheme.*

*8. We find that the application is one such application filed in pursuance of the Scheme of Arrangement that appears to have been approved by the NCLT, taking into consideration the interest of all the stakeholders.*

*9. We further find that allowing this application would facilitate the Scheme of Arrangement being taken to its logical end, which consequently, would satisfy the grievance of the creditors/investors to a large extent.*

*10. Having perused the Scheme of Arrangement and the order dated 28.11.2025 passed by the NCLT approving the same, we find that allowing this application would be in the interest of justice and in furtherance of settlement of the outstanding claims of the creditors/investors.*

10. Moreso, a bare perusal of our order dated 15.01.2026 in company Appeal (AT) No.3/2026 we have noted:-

*“12. Further an objection viz the scheme violates the provisions of MPID Act is also to our mind a frivolous argument since the competent authority under MPID Act as well as EOW has supported the scheme as is evident from the following paras of the impugned order”*

11. Further if one may peruse the appeal filed by the appellant, more specifically its para 7.4.7, it is recorded the appeal is *aligned in principle with the L.J. Tanna’s Appeal* challenge but is anchored, in its distinct status as (i) a Central Government PSU, dealing with public funds. Now this cannot be the ground to challenge the scheme on fraud. Even otherwise vide order dated

09.03.2026, the Hon'ble Supreme Court in Civil Appeal No.1485/2026 had held as under:-

*“Heard learned senior counsel appearing for the respective parties. Having considered the facts and circumstances of the case, we are of the opinion that the National Company Law Appellate Tribunal has not committed any error in law or fact.*

*2. The Civil Appeal is accordingly dismissed.*

*3. Pending application(s), if any, shall stand disposed of.*

12. A bare perusal of the order dated 09.03.2026 of the Hon'ble Supreme Court would show the Civil Appeal was also dismissed on merits. Now if the Civil Appeal is dismissed on merits, the order dated 15.01.2026 passed by this Tribunal merges with the order dated 09.03.2026 of the Hon'ble Supreme Court and hence on merit it cannot be assailed before us. Lastly if one peruse the Civil Appeal No.1485/2026 filed by the L.J. Tanna Enterprises Pvt Ltd, one may find the questions of law as raised in the said Civil Appeal No.1485/2026 were as noted below and considered:-

*“III. Whether the impugned scheme is ultra vires Section 230(1) of the Companies Act as it contains contingent conditions for the benefit of 63 Moons and Consenting Brokers which are extraneous entities and not the Applicant Company under Section 230(1) of the said Act?*

*VIII. Whether a Scheme that divests dissenting creditors the right to object to withdrawal/abatement of legal proceedings is illegal being violative of the CPC and BNSS and is unconstitutional being violative of Article 14 of the Constitution and is therefore liable to be rejected?*

*XI)Whether, in view of the fact that there are legal proceedings initiated prior to the institution of the Compromise Scheme, Section 230(6) accords jurisdiction to the Hon'ble NCLT/NCLAT to divest dissenting*

*creditors of their legal and constitutional right to continue to seek judicial redress in such subsisting proceedings in which they are plaintiffs/beneficiaries, the consequence of which is extinguishment of such proceedings?*

13. These aspects have been considered by the Hon'ble Supreme Court before dismissing Civil Appeal No.1485/2026 vide above cited judgement dated 09.03.2026.

14. Thus in view of the above, we are not inclined to entertain this appeal in view of the facts noted above and accordingly it is dismissed.

15. Pending applications No.726 and 727/2026 are also disposed of.

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

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

**Dated:30-03-2026**  
**BM**