



**NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT – II  
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL  
COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 02.04.2026 AT  
10.30 A.M. THROUGH VIDEO CONFERENCING:**

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**PRESENT: SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)  
SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)**  
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**APPLICATION NUMBER : IA(IBC)/784/CHE/2020**

**PETITION NUMBER : CP/540/IB/2017**

**NAME OF THE APPLICANT : Lakshmi Vilas Bank**

**NAME OF THE RESPONDENT(S) : Orchid Pharma Ltd & 2 others**

**UNDER SECTION : Sec 60(5) of IBC, 2016**  
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**ORDER**

Present: Ld. Counsel Mr.Kastubh Prakash for the Respondent.

Vide separate order pronounced in open court, IA(IBC)/784/CHE/2020 is  
Dismissed.

**Sd/-  
RAVICHANDRAN RAMASAMY  
Member (Technical)**

**Sd/-  
JYOTI KUMAR TRIPATHI  
Member (Judicial)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – II, CHENNAI**

**IA (IBC) 784/ (CHE)/ 2020**

**In**

**CP (IBC) 540/ (CHE)/ 2017**

*(Under Section 60(5)(a)(b) &(c) read with Section 30(2) & Section 53 of the Insolvency and Bankruptcy Code, 2016 Regulations 31(B), 31 33 (3) & 33(4) of The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process For Corporate Persons), Regulations 2016 r/w Rule 11 of the NCLT Rules, 2016)*

In the matter of *Orchid Pharma Limited*

**DBS BANK INDIA LIMITED,**

(Formerly known as Lakshmi Vilas Bank Limited)

Sardar Patel Road, Guindy,

Chennai – 600 032, Tamil Nadu.

Represented by Mr. S. Sriramakrishnan,

Vice – President, Estates.

*... Applicant*

**-vs-**

**1. ORCHID PHARMA LIMITED,**

Having its registered office at

"Orchid Towers", No.313,

Valluvar Kottam High Road,

Nungambakkam, Chennai – 600 034.

**2. MR. S.V. RAMKUMAR**

Monitoring Agent under the Resolution Plan &

Former Resolution Professional of Corporate Debtor

"Orchid Towers", No.313,

Valluvar Kottam High Road,

Nungambakkam, Chennai – 600 034.

**3. M/ s. DHANUKA LABORATORIES LTD**

7-km Old Manesar Road,

Village Mohammedpur,

Gurgaon, Haryana – 122 001.

*... Respondents*

**Order pronounced on 02.04.2026**



**CORAM**

**SHRI. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)**

**SHRI. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

*Present;*

*For Applicant: J. S. Prithvi Raj & Sarah Abraham, Advocates*

*For Respondent No.1 & 3: Kaustubh Prakash, Advocate*

*For Respondent No.2: Pradheep Joy, Advocate*

**ORDER**

*(Hearing through hybrid mode)*

The present application has been filed by **DBS Bank India Limited, (Formerly known as Lakshmi Vilas Bank Limited)**, the Applicant under Section 60(5)(a), (b) and (c) read with Sections 30(2) and 53 of the Insolvency and Bankruptcy Code, 2016, along with Regulations 31(b), 31(e), 33(3) and 33(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Rule 11 of the NCLT Rules, 2016, seeking appropriate directions for payment of amounts due to the Applicant towards reimbursement of Insolvency Resolution Process Costs (IRPC) incurred by the Applicant for initiating CIRP against the Corporate Debtor, and lease rentals payable by the Corporate Debtor for the period during which it occupied the Applicant's premises during the CIRP period, with the following reliefs:

***"VII. RELIEF'S SOUGHT FOR:***

*In view of the aforesaid facts and circumstances, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:*



- i. Direct the Respondents to jointly pay a sum of Rs. 34,12,810/- (Rupees Thirty-Four Lacs Twelve Thousand Eight Hundred and ten only) along with 12% interest thereon calculated from 01.04.2020 up to the date of actual payment to the Applicant towards re-imbusement of the Insolvency Resolution Process Costs incurred by the Applicant;*
- ii. Direct the Respondents to jointly pay a sum Rs. 46,36,74,226.00/- (Rupees Forty-Six Crores, Thirty-Six Lakhs, Seventy-Four Thousand, Two Hundred and Twenty-Six Only) along with 12% interest thereon calculated from 01.04.2020 up to the date of actual payment to the Applicant towards Insolvency Resolution Process Costs towards the lease rentals payable during the Corporate Insolvency Resolution Period; and*
- iii. Pass such other and further orders as this Hon'ble Tribunal may deem fit and necessary in the interests of the case and thereby, render justice."*

## **2. SUBMISSIONS OF THE APPLICANT:**

2.1. The Applicant is a Scheduled Commercial Bank and the owner/lessor of certain premises which were occupied by the Corporate Debtor. The Applicant had earlier initiated Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor as an Operational Creditor before this Tribunal in CP(IBC)540/(CHE)2017.

2.2. It is submitted that the Corporate Debtor has been in occupation of the Applicant's premises throughout the period during which moratorium under Section 14 of the Code was in force, and continued to



remain in possession of the said premises even after approval of the Resolution Plan.

2.3. It is submitted that the lease rentals payable by the Corporate Debtor to the Applicant for the period during the CIRP constitute a substantial amount of about Rs. 46,36,74,226/- together with interest at 12% calculated from 17.08.2017 to 31.03.2020.

2.4. It is submitted that the lease rentals payable for the CIRP period fall within the scope of “Insolvency Resolution Process Costs” under Regulation 31(b) of the CIRP Regulations, as the Corporate Debtor continued to occupy and utilize the premises during the CIRP period.

2.5. It is further submitted that the Corporate Debtor derived benefit from the continued occupation of the Applicant’s premises throughout the CIRP period without making payment of the lease rentals, and therefore the Applicant is entitled to recover such amounts as part of the CIRP costs.

2.6. It is submitted that under Regulation 33(3) of the CIRP Regulations, the Applicant, being the Operational Creditor who initiated the CIRP, had incurred expenses towards the process, which are required to be reimbursed by the Committee of Creditors to the extent ratified.



2.7. It is further submitted that Regulation 33(4) provides that the expenses ratified by the Committee of Creditors shall be treated as Insolvency Resolution Process Costs, which are to be reimbursed by the Resolution Professional.

2.8. It is submitted that claims reimbursement of the expenses incurred by them in initiating and pursuing the CIRP proceedings against the Corporate Debtor, treating the same as IRP costs.

2.9. It is further submitted that they had filed its claim in Form-B on 07.09.2017 before the Interim Resolution Professional claiming a sum of about Rs. 20,62,01,053.80 towards lease rentals payable by the Corporate Debtor up to the insolvency commencement date, i.e., rentals payable up to May 2017, while also claiming future rentals along with interest from June 2017 onwards.

2.10. It is submitted that even after the insolvency commencement date, the Corporate Debtor continued to occupy the scheduled premises of the Applicant during the moratorium period, and therefore the Resolution Professional ought to have ensured that the lease rentals payable for such continued occupation were duly paid.



2.11. However, despite the continued occupation and use of the premises by the Corporate Debtor, the lease rentals for the CIRP period have not been paid to the Applicant, which has necessitated the filing of the present Application.

2.12. It is further submitted that during the CIRP, the Committee of Creditors had initially approved a Resolution Plan submitted by Ingen Capital LLC on 21.06.2018, which was approved by this Tribunal on 17.09.2018. However, since the said Resolution Applicant failed to implement the plan within the stipulated time, this Tribunal annulled the said Resolution Plan by order dated 28.02.2019 and granted additional time to conduct a fresh process.

2.13. It is submitted that in the second round of the resolution process, the Resolution Professional received resolution plans from three applicants, including the third Respondent. The Committee of Creditors declared the third Respondent as the highest bidder and approved its Resolution Plan on 11.06.2019, which was subsequently approved by this Tribunal.

2.14. It is finally submitted that thus the Applicant seeks directions to the Respondents to pay the amounts due to the Applicant towards



reimbursement of CIRP expenses and lease rentals for the CIRP period, treating the same as part of Insolvency Resolution Process Costs in accordance with the provisions of the Code and the CIRP Regulations.

### **3. SUBMISSIONS OF THE RESPONDENT No.1 & 3**

3.1. The Respondents contends that the Application is misconceived, not maintainable in law, and liable to be dismissed.

3.2. It is stated that the Applicant has attempted to seek recovery of alleged lease rentals by wrongly characterizing the same as Insolvency Resolution Process Costs (IRPC), whereas in fact the claim of the Applicant arises out of a pre-existing lease arrangement and constitutes an operational debt.

3.3. It is contended that the Applicant had already filed its claim before the Interim Resolution Professional during the CIRP of the Corporate Debtor in Form-B, claiming lease rentals due up to the insolvency commencement date along with future rentals. The said claim was duly considered in accordance with the provisions of the Code.

3.4. It is further stated that once the Applicant had submitted its claim as an Operational Creditor in the CIRP process, the same is governed by



the framework of the Code and the treatment provided under the approved Resolution Plan.

3.5. It is further submitted that the Resolution Plan approved by the Committee of Creditors and subsequently approved by this Hon'ble Tribunal under Section 31 of the Code is binding on all stakeholders, including the Applicant. Therefore, any claim not provided for or settled in terms of the Resolution Plan stands extinguished.

3.6. It is stated that the Applicant cannot, after approval and implementation of the Resolution Plan, seek to recover additional amounts by invoking Section 60(5) of the Code, as such a course would defeat the finality and binding nature of an approved Resolution Plan.

3.7. It is further stated that the lease rentals claimed by the Applicant cannot be treated as Insolvency Resolution Process Costs. Under the CIRP Regulations, only those expenses which are incurred for running the Corporate Debtor as a going concern and which are approved or ratified by the Committee of Creditors can be treated as IRPC.

3.8. It is stated that the alleged lease rentals claimed by the Applicant were never approved or ratified by the Committee of Creditors as part of the CIRP costs, and therefore cannot be treated as IRPC.



3.9. It is further contended that the Applicant has not produced any material to demonstrate that the Resolution Professional had expressly retained or continued the premises under the lease in a manner that would make the lease rentals payable as CIRP costs.

3.10. It is also stated that the Applicant is attempting to bypass the mechanism provided under the Code by filing the present Application under Section 60(5), which is not intended to be used as a recovery forum for contractual dues.

3.11. It is further stated that the Applicant's claim is essentially contractual in nature arising from a lease deed and therefore the same cannot be adjudicated as CIRP costs in the present proceedings.

3.12. It is also stated that the Corporate Debtor has already undergone the CIRP process, and the Resolution Plan has been duly approved and implemented. Hence, the Applicant cannot reopen settled claims or raise fresh demands inconsistent with the Resolution Plan.

3.13. It is further stated that the present Application is barred by the principles governing finality of insolvency resolution and is contrary to the scheme and objectives of the Code.



#### **4. SUBMISSIONS OF THE RESPONDENT No.2**

4.1. The Respondent No. 2, the Monitoring Agent under the approved Resolution Plan of the Corporate Debtor, has filed the present objections opposing the Application filed by the Applicant under Section 60(5)(a), (b) and (c) of the Insolvency and Bankruptcy Code, 2016. At the outset, the Respondent denies all the averments, allegations and submissions made in the Application except those specifically admitted.

4.2. It is stated that the Application filed by the Applicant seeks directions for payment of (i) lease rent payable under the Lease Deed dated 24.05.2013 entered into between the Corporate Debtor and the Applicant for the CIRP period amounting to about Rs. 46,36,74,226/- together with interest, and (ii) reimbursement of certain alleged Insolvency Resolution Process Costs incurred by the Applicant in initiating CIRP against the Corporate Debtor.

4.3. It is stated that the Applicant has also claimed reimbursement of expenses allegedly incurred towards the CIRP process, including payments towards the Interim Resolution Professional, advisory services, publication expenses and valuation consultancy charges, totaling approximately Rs. 34,12,810/-.



4.4. It is further stated that the present Application is not maintainable and is barred by limitation, as the Applicant is fully aware of the entire CIRP process and the events that transpired during the insolvency proceedings.

4.5. It is contended that the Applicant is a beneficiary under the approved Resolution Plan and therefore has no right to reopen or challenge the Resolution Plan after its approval and implementation.

4.6. It is stated that the Respondent relies upon Section 31(1) of the Insolvency and Bankruptcy Code, 2016, which provides that once a Resolution Plan is approved by the Adjudicating Authority, the same becomes binding on the Corporate Debtor and all stakeholders, including creditors.

4.7. It is stated that the Applicant did not raise any objection during the approval of the Resolution Plan before this Tribunal nor did it file any appeal before the appellate forums within the statutory time limits challenging the approval of the Resolution Plan.

4.8. It is further contended that the present Application is nothing but an appeal in disguise, filed long after the approval and implementation of the Resolution Plan, and therefore the same deserves to be dismissed.



4.9. With respect to the claim for lease rent during the CIRP period, the Respondent submits that the Lease Deed dated 24.05.2013 had already expired in May 2016 and was never renewed thereafter, and therefore there existed no subsisting lease agreement between the parties during the CIRP period.

4.10. It is further stated that during the CIRP period, i.e., from 17.08.2017 (insolvency commencement date) till 28.02.2020, the Applicant had not raised any invoices upon the Corporate Debtor seeking payment of lease rent.

4.11. It is further stated that the Applicant was duly informed regarding the approval of the Resolution Plan submitted by Respondent No. 3 through communications dated 07.07.2019 following approval by this Tribunal and 21.03.2020 following the order of the Hon'ble Supreme Court.

4.12. It is also contended that the Applicant has not demonstrated that it had paid any GST in relation to the alleged lease rent, nor has it shown that such lease rent was accounted for as revenue in its financial statements or tax returns.



4.13. It is finally stated that the Applicant has failed to establish that the alleged lease rent constituted an expense incurred by the Resolution Professional in running the Corporate Debtor as a going concern during the CIRP period, and therefore the same cannot be treated as Insolvency Resolution Process Costs.

### **5. SUBMISSIONS OF THE RESPONDENT No.3**

5.1. The Respondent No. 3 states that the present reply is filed on behalf of the Successful Resolution Applicant, and all averments and allegations made in the Application are denied save and except those specifically admitted.

5.2. It is stated that the Applicant has sought directions for payment of lease rentals allegedly payable by the Corporate Debtor for the period during the Corporate Insolvency Resolution Process (CIRP) and has also sought reimbursement of certain expenses claimed as Insolvency Resolution Process Costs.

5.3. It is stated that the Applicant had already filed its claim before the Interim Resolution Professional in Form-B as an Operational Creditor for the alleged lease rentals due from the Corporate Debtor, and the said



claim was duly processed in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016.

5.4. It is further stated that the Resolution Plan submitted by Respondent No. 3 was duly approved by the Committee of Creditors and subsequently approved by the Adjudicating Authority under Section 31 of the Code, and therefore the Resolution Plan is binding on all stakeholders, including the Applicant.

5.5. It is contended that once the Resolution Plan has been approved and implemented, all claims which are not provided for in the Resolution Plan stand extinguished, and the Applicant cannot raise fresh claims or seek additional payments outside the framework of the approved Resolution Plan.

5.6. It is stated that the Applicant did not object to the Resolution Plan during the CIRP proceedings nor did it challenge the approval of the Resolution Plan before the appropriate appellate forum within the prescribed time.

5.7. It is further stated that the claim made by the Applicant towards lease rentals cannot be categorized as Insolvency Resolution Process Costs, as such expenses must be incurred by the Resolution Professional



for running the Corporate Debtor as a going concern and must also be approved or ratified by the Committee of Creditors.

5.8. It is contended that the alleged lease rentals claimed by the Applicant were never approved by the Committee of Creditors as CIRP costs and therefore cannot be treated as part of the Insolvency Resolution Process Costs.

5.9. It is also stated that the Applicant has failed to establish that the Resolution Professional had continued the lease arrangement in a manner that would make the lease rentals payable as CIRP costs.

5.10. It is further stated that the Application filed by the Applicant is an attempt to reopen settled issues after completion of the CIRP and approval of the Resolution Plan, which is contrary to the scheme and objectives of the Insolvency and Bankruptcy Code, 2016.

5.11. It is finally stated that the present Application is misconceived, not maintainable in law, and liable to be dismissed.

## **6. WRITTEN SUBMISSIONS OF THE APPLICANT**

6.1. The Applicant has filed the present written submissions in support of the Application under Section 60(5) of the Insolvency and Bankruptcy



Code, 2016 seeking directions for payment of the lease rentals payable by the Corporate Debtor for the period during the Corporate Insolvency Resolution Process (CIRP) and for reimbursement of the Insolvency Resolution Process Costs incurred by the Applicant.

6.2. It is submitted that the Corporate Debtor continued to remain in possession and occupation of the premises belonging to the Applicant throughout the CIRP period, and therefore the lease rentals payable for such period are liable to be treated as Insolvency Resolution Process Costs under the CIRP Regulations.

6.3. It is submitted that under Regulation 31(b) and 31(e) of the IBBI (CIRP) Regulations, 2016, the expenses incurred in running the Corporate Debtor as a going concern and other costs directly relating to the CIRP process form part of the Insolvency Resolution Process Costs.

6.4. It is further submitted that since the Corporate Debtor continued to occupy and utilize the Applicant's premises during the CIRP period, the lease rentals payable for such occupation constitute costs incurred for keeping the Corporate Debtor as a going concern and therefore fall within the ambit of IRPC.



6.5. It is submitted that despite the continued use and occupation of the premises by the Corporate Debtor during the CIRP, the Resolution Professional failed to make payment of the lease rentals payable to the Applicant.

6.6. It is further contended that the Resolution Professional was under a statutory duty to preserve and protect the assets of the Corporate Debtor and to manage the operations of the Corporate Debtor as a going concern, and therefore the expenses incurred for the use of the leased premises ought to have been treated as CIRP costs.

6.7. It is also submitted that the lease rentals payable for the CIRP period must be paid in priority in accordance with Section 30(2)(a) read with Section 53 of the Code, which mandate that Insolvency Resolution Process Costs must be paid in priority to all other claims.

6.8. It is further submitted that the Applicant had already filed its claim before the Interim Resolution Professional in Form-B as an Operational Creditor and had also indicated that lease rentals for the period subsequent to the insolvency commencement date would continue to accrue.



6.9. It is submitted that the fact that the Corporate Debtor continued to remain in occupation of the premises during the CIRP period is not disputed, and therefore the liability to pay lease rentals for such period cannot be denied.

6.10. It is further contended that the non-payment of lease rentals for the CIRP period has resulted in substantial financial loss to the Applicant, even though the Corporate Debtor derived benefit from the continued occupation and use of the premises.

6.11. It is also submitted that it had incurred certain expenses in initiating and pursuing the CIRP proceedings against the Corporate Debtor, including payments towards professional fees and other CIRP-related expenses, which are required to be reimbursed in accordance with Regulation 33 of the CIRP Regulations.

6.12. It is submitted that such expenses incurred by the Operational Creditor for initiating the CIRP proceedings are required to be reimbursed by the Committee of Creditors to the extent ratified and are to be treated as part of the Insolvency Resolution Process Costs.

6.13. It is further submitted that the Respondents have wrongly sought to characterize the Applicant's claim as an operational debt governed by



the Resolution Plan, whereas the claim for lease rentals during the CIRP period is in the nature of CIRP costs which must be paid in priority.

### **7. WRITTEN SUBMISSIONS OF THE RESPONDENTS No.1 & 3**

7.1. It is reiterated that Section 334 expressly empowers this Adjudicating Authority to permit transfer of shares after commencement of liquidation and does not impose any requirement that the Corporate Debtor must be a going concern.

7.2. The Applicant emphasizes that the intended share transfer is bona fide, undertaken solely to ensure compliance with the SEBI (Infrastructure Investment Trusts) Regulations, 2014, and is supported by consistent judicial precedents which hold that such transfers are permissible when they do not prejudice creditors or the liquidation process.

7.3. It is further submitted that the Share Purchase Agreement expressly makes the transfer subject to approval of this Tribunal, and affidavits have been filed by both the Applicant and the transferee reaffirming assumption of all shareholder obligations by the transferee.



7.4. The Applicant submits that no prejudice whatsoever will be caused to the liquidation process, stakeholders, or distribution under Section 53 of the Code, as the shares held by the Applicant are not assets of the Corporate Debtor and do not form part of the liquidation estate under Section 36 of the Code. It is highlighted that even the Respondent/Liquidator has admitted that the proposed transfer does not affect liquidation or recoveries. The objections raised by the Respondent and the Stakeholders' Consultation Committee are stated to be purely procedural and within the supervisory jurisdiction of this Tribunal.

7.5. It is further submitted that the Liquidator is in possession of the corporate records, is legally required to maintain capital structure details during liquidation, and can take the transfer on record upon directions of this Tribunal. Denial of permission would seriously prejudice the Applicant's ongoing SEBI-regulated restructuring, whereas allowing the application would not adversely affect any stakeholder of the Corporate Debtor.

## **8. FINDINGS OF THE TRIBUNAL**

8.1. We have heard the Learned Counsel appearing for the Applicant and the Learned Counsel appearing for the Respondents and perused the documents placed on record.



8.2. The present Application has been filed by the Applicant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking directions to the Respondents for payment of lease rentals allegedly payable by the Corporate Debtor for the period during the Corporate Insolvency Resolution Process (CIRP) and for reimbursement of certain expenses claimed as Insolvency Resolution Process Costs (IRPC).

8.3. The case of the Applicant is that the Corporate Debtor continued to remain in possession and occupation of the premises belonging to the Applicant during the CIRP period and therefore the lease rentals payable for such period ought to be treated as Insolvency Resolution Process Costs in terms of Regulation 31 of the IBBI (CIRP) Regulations, 2016 and that the expenses incurred by them in initiating the CIRP proceedings against the Corporate Debtor are liable to be reimbursed in accordance with Regulation 33 of the CIRP Regulations.

8.4. Per contra, the Respondents have opposed the Application contending inter alia that the claim of the Applicant arises out of a lease arrangement and constitutes an operational debt which was required to be dealt with within the framework of the CIRP. It is further contended that the Applicant had already filed its claim before the Interim



Resolution Professional in Form-B and therefore cannot seek additional relief outside the framework of the approved Resolution Plan.

8.5. The Respondents have also contended that the Resolution Plan submitted by Respondent No. 3 was duly approved by the Committee of Creditors and thereafter approved by this Adjudicating Authority under Section 31 of the Code, and therefore the same is binding on all stakeholders including the Applicant. According to the Respondents, any claim not provided for in the approved Resolution Plan stands extinguished and cannot be agitated subsequently.

8.6. Before examining the rival contentions of the parties, it is necessary to briefly examine the scope of jurisdiction of this Adjudicating Authority under Section 60(5) of the Insolvency and Bankruptcy Code, 2016.

8.7. Section 60(5)(c) of the Code confers residuary jurisdiction upon this Tribunal to entertain or dispose of any question of law or fact arising out of or in relation to the insolvency resolution process of the Corporate Debtor. However, such jurisdiction cannot be invoked in a manner that defeats the finality attached to a Resolution Plan approved under Section 31 of the Code. The Hon'ble Supreme Court in *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta* has held that once a



Resolution Plan is approved by the Adjudicating Authority, the same becomes binding on all stakeholders and all claims not forming part of the Resolution Plan stand extinguished.

8.8. Therefore, while this Tribunal has jurisdiction to adjudicate disputes arising out of the CIRP, such jurisdiction cannot be exercised to reopen or revive claims that stand settled in terms of an approved Resolution Plan.

8.9. The principal issue that arises for consideration in the present Application is whether the lease rentals claimed by the Applicant for the period during the CIRP can be treated as Insolvency Resolution Process Costs.

8.10. Regulation 31 of the IBBI (CIRP) Regulations, 2016 provides that Insolvency Resolution Process Costs include expenses incurred by the Interim Resolution Professional or the Resolution Professional for running the business of the Corporate Debtor as a going concern and for conducting the CIRP.

8.11. From a conjoint reading of the provisions of the Code and the CIRP Regulations, it is evident that for any expense to qualify as IRPC, the following conditions must ordinarily be satisfied:



(i) the expense must have been incurred by the Resolution Professional for the conduct of the CIRP or for running the Corporate Debtor as a going concern; and

(ii) such expense must have been placed before and ratified or approved by the Committee of Creditors.

8.12. In the present case, the Applicant has claimed lease rentals on the premise that the Corporate Debtor continued to occupy the premises during the CIRP period. Such claims ordinarily fall within the category of operational debt and are required to be dealt with in accordance with the provisions of the Code during the CIRP.

8.13. In the present case, it is not in dispute that the Applicant had filed its claim before the Interim Resolution Professional in Form-B as an Operational Creditor claiming lease rentals due from the Corporate Debtor. However, the material placed on record does not demonstrate that the Resolution Professional had formally continued the lease arrangement as part of the CIRP process or that the payment of such lease rentals was treated as an expense necessary for running the Corporate Debtor as a going concern.

8.14. We also find that no material has been placed on record to demonstrate that the Committee of Creditors had approved or ratified



the payment of such lease rentals as part of the Insolvency Resolution Process Costs.

8.15. In the absence of such approval or ratification by the Committee of Creditors, the claim of the Applicant cannot be treated as Insolvency Resolution Process Costs within the meaning of Regulation 31 of the CIRP Regulations.

8.16. Therefore, permitting the Applicant to recover the alleged lease rentals as IRPC at this stage would effectively amount to reopening claims after approval of the Resolution Plan, which is impermissible under the scheme of the Code.

8.17. The Applicant has also sought reimbursement of certain expenses allegedly incurred in initiating the CIRP proceedings against the Corporate Debtor.

8.18. It is to be noted that Regulation 33 of the CIRP Regulations provides that the applicant who initiates the CIRP shall bear the expenses incurred by the Interim Resolution Professional, which shall thereafter be reimbursed by the Committee of Creditors to the extent ratified by it.



8.19. In view of the facts and circumstances of the present case and the legal position discussed above, we are of the considered view that the Applicant has failed to establish that the amounts claimed by it constitute Insolvency Resolution Process Costs payable in priority under the provisions of the Insolvency and Bankruptcy Code, 2016.

8.20. The present Application filed under Section 60(5) of the Code is therefore misconceived and amounts to an attempt to reopen claims after approval of the Resolution Plan, which is impermissible in law.

8.21. Accordingly, the reliefs sought by the Applicant cannot be granted and the Application **IA(IBC)/784/(CHE)/2020** in **CP(IB)540/(CHE)/2017** is **dismissed**.

-Sd-  
**RAVICHANDRAN RAMASAMY**  
MEMBER (TECHNICAL)

-Sd-  
**JYOTI KUMAR TRIPATHI**  
MEMBER (JUDICIAL)