NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 251 of 2026

(Arising against the impugned order dated 27.11.2025 passed by the National Company Law Tribunal, Ahmedabad Bench in I.A. No. 47(AHM)/ 2024 in Company Petition (IB) No. 38 of 2020].

IN THE MATTER OF:

SUMEET INDUSTRIES LIMITED
Through its Resolution Professional,
Mr. Satyendra Prasad Khorania,
having registered office at 402, OK Plus,
DP Metro Pillar No. 94,
New Sanganer Road, Jaipur-302019

...Appellant

Versus

1. **DAKSHIN GUJARAT VIJ COMPANY LIMITED**
   Through its Managing Director
   Having registered office at:
   Urja Sadan, Nana Varachha Road,
   Kapodara Char Rasta, Surat-395006

2. **Eagle Group**
   Through Authorised Signatory
   Mr. Radheshyam B. Jaju
   Office Address at:
   201, Orleans, Sosyo Circle,
   Udhna Mangdalla Road, Surat,
   Gujarat- 395002

...Respondent No.1

...Respondent No.2

Present:

For Appellant: Mr. Ajit Kumar Sinha, Sr. Advocate with Mr. Srijan Sinha, Mr. Himanshu Chaubey, Mr. Siddharth Garg, Ms. Lihzu Shiney Konyak, Ms. Nitya Prabhakar and Mr. Rishi Chouksey, Advocates.

For Respondent: Ms. Srishti Khindaria, Advocate for R1.

Adv. Saumitra Chaturvedi, Advocate for R2/SRA.

J U D G M E N T

(25th May, 2026)

INDEVAR PANDEY, MEMBER (T)

The present Appeal has arisen out of the order dated 27.11.2025 passed by the National Company Law Tribunal, Ahmedabad Bench (Adjudicating Authority) in I.A. No. 47/2024 in CP(IB) No. 38/2020, whereby the application filed by Appellant-**Sumeet Industries Limited (Corporate Debtor)** through its **Resolution Professional Mr. Satyendra Prasad Khorania**, came to be dismissed. Through the said application, the Appellant had sought directions against **Dakshin Gujarat Vij Company Limited (DGVCL)/ Respondent No.1** herein, for restoration of the Security Deposit amounting to Rs.8,30,25,606/, which according to the Appellant had been illegally adjusted by the Respondent No.1 after commencement of the Corporate Insolvency Resolution Process ("CIRP"), and further sought re-credit/refund of an amount of Rs.3,78,78,845.48/- , which had allegedly been appropriated by the Respondent No.1 towards pre-CIRP electricity dues in violation of the moratorium imposed under Section 14 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as '**Code**'). The Eagle Group which is the Successful Resolution Applicant (SRA) in the aforesaid CIRP has been Arrayed as Respondent No.2. Aggrieved by dismissal of its application by the Adjudicating Authority, Sumeet Industries Limited/ Corporate Debtor has filed this appeal through the Resolution Professional before this Appellate Tribunal.

Brief Facts of the Case

2. The facts relevant for deciding this matter are as given below:

i. Proceedings against the Corporate Debtor were originally initiated by IDBI Bank through an application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, which came to be registered as CP (IB) No. 38/NCLT/AHM/2020 before the Ld. Adjudicating Authority.

ii. The CD was drawing electricity from the Respondent No.1. For the month of November 2022, the Energy Bill dated 02.12.2022 was issued by the Respondent No.1 for an amount of Rs.10,70,96,739.44/-. This included total monthly bill amount; outstanding arrears; and delayed payment penalty.

iii. The aforesaid electricity dues for November 2022 were not cleared within the stipulated period, and accordingly, the Respondent No.1 on 14.12.2022 issued a statutory disconnection notice under Section 56 of the Electricity Act, 2003, directing the Corporate Debtor to clear the outstanding dues within fifteen days from the date of issuance of the notice and further warning that, in the event of non-payment, the electricity supply would be disconnected without further notice upon expiry of the said period, i.e., on or after 29.12.2022.

iv. Adjudicating Authority vide its order dated 20.12.2022 admitted the Sec 7 petition filed by the IDBI Bank and initiated CIRP against Sumeet Industries Limited/Corporate Debtor. Consequent upon admission, the Adjudicating Authority by order dated 15.02.2023 confirmed appointment of Mr. Satyendra P. Khorania as Resolution Professional.

v. Following commencement of CIRP, a public announcement came to be issued on 28.12.2022 inviting claims from all creditors of the Corporate Debtor in accordance with the provisions of the IBC and CIRP Regulations. The Interim Resolution Professional (IRP) through a communication dated 29.12.2022, informed the Respondent No.1 regarding initiation of CIRP against the Corporate Debtor and specifically requested the Respondent to submit its claims relating to the period prior to the insolvency commencement date. The Respondent was further informed that uninterrupted electricity supply was necessary for keeping the Corporate Debtor operational as a going concern during CIRP and was therefore requested not to discontinue the electricity supply.

vi. The Respondent No.1 on 02.01.2023 issued another Energy Bill for the month of December 2022 reflecting a net payable amount of Rs.6,56,60,308/-. Significantly, the said bill also reflected that an "advance payment/security deposit adjustment" amounting to INR 8,29,34,548/- had been appropriated by the Respondent No.1.

vii. Pursuant to the public announcement inviting claims, the Respondent No.1 on 06.01.2023 submitted its proof of claim in Form-B before the Resolution Professional together with calculation sheets, consumer ledger report, December 2022 Energy Bill and Adjustment Details Report. After adjustment of Security Deposit of Rs.8,30,25,606/- the Respondent No.1 filed its net claim amount to Rs.3,03,78,845/-.

viii. The Corporate Debtor thereafter made payment of Rs.6,56,60,308/- on 11.01.2023 towards the December 2022 electricity bill. However, according to the Appellant, the Respondent No.1 illegally appropriated the entire amount towards dues for the whole month of December 2022 including dues relating to the period prior to 20.12.2022, i.e., the insolvency commencement date. It was specifically alleged that an amount of Rs.3,78,78,845.48/- paid after initiation of CIRP was unlawfully adjusted against pre-CIRP dues in violation of Section 14 of the IBC.

ix. Along with the May 2023 electricity bill dated 01.06.2023 an Adjustment Report was issued by the Respondent No.1. The said report reflected credit towards interest on the security deposit at the rate of 4.25% for Financial Year 2022-23 amounting to Rs.2,37,52,721/- and also reflected deduction and deposit of TDS with the Income Tax Department. According to the Appellant, if interest was calculated on the security deposit amount of Rs.8,30,25,606/- at the rate of 4.25%, it corresponded to

approximately 273 days, thereby demonstrating that the Respondent continued treating the security deposit as subsisting till 29.12.2022.

x. After noticing the alleged adjustment, the Resolution Professional on 03.06.2023 addressed a detailed communication to the Respondent No.1 raising objection to the deduction of security deposit after commencement of CIRP and sought clarification regarding the basis on which the adjustment had been carried out despite operation of the statutory moratorium. The Respondent No.1 on the other hand on 23.11.2023 demanded payment of alleged outstanding electricity dues pertaining to the CIRP period and threatened disconnection of electricity supply in the event of non-payment.

xi. The Resolution Plan of the Corporate Debtor, Sumeet Industries Limited, was approved by the Committee of Creditors ("CoC") on 21.10.2023. The Appellant on 05.01.2024 filed I.A. No. 47/2024 before the Ld. Adjudicating Authority seeking directions against the Respondent to restore the security deposit amount and refund/re-credit amounts allegedly adjusted against pre-CIRP dues in violation of Section 14 of the IBC.

xii. During pendency of the said application, the Respondent again issued a notice dated 15.01.2024 threatening discontinuation of electricity supply unless payment of Rs.1,76,76,153/- was made

within fifteen days. Aggrieved by the said notice and apprehending further disconnection, the Corporate Debtor approached the Hon'ble Gujarat High Court by filing Special Civil Application No. 1425 of 2025 seeking protection against disconnection and continuation of electricity supply.

xiii. The Ld. Adjudicating Authority by order dated 16.07.2024 approved the Resolution Plan submitted by Eagle Group.

xiv. After the approval of Resolution Plan, Ld. Adjudicating Authority vide the impugned order dated 27.11.2025 dismissed I.A. No. 47/2024 primarily on the grounds that the Resolution Professional had accepted the Respondent's residual claim of Rs.3,03,78,845/- after adjustment of the security deposit, that the filing of proceedings before the Gujarat High Court amounted to forum shopping, and that the application had been filed after approval of the Resolution Plan. Aggrieved by the said findings and dismissal of its application, The RP has preferred the present Appeal before this Appellate Tribunal.

Submissions of the Appellant/ RP of Sumeet Industries Ltd.

3. Ld. Counsel for the Appellant submits that the present Appeal has been validly instituted by the Corporate Debtor through its Resolution Professional, Mr. Satyendra Prasad Khorania. The institution and continuation of the present proceedings have been duly authorised by the Monitoring Committee in its 3rd Meeting dated 20.12.2025, wherein a

conscious decision was taken authorising the Chairman to sign, file and pursue the present Appeal, engage legal counsel in consultation with the Successful Resolution Applicant and bear litigation expenses through the SRA in accordance with the Approved Resolution Plan. It is further submitted that I.A. No. 47 of 2024 had originally been filed on 05.01.2024, much prior to approval of the Resolution Plan on 16.07.2024, at a stage when the Resolution Professional was exercising statutory powers under Sections 18 and 25 of the IBC for preservation and recovery of the assets of the Corporate Debtor. Even subsequent to approval of the Resolution Plan, the Monitoring Committee effectively steps into the shoes of the Resolution Professional and is competent to continue proceedings initiated for recovery of assets belonging to the Corporate Debtor. Reliance is placed upon the judgment of this Hon'ble Tribunal in *Mehsana Urban Co-operative Bank Ltd. v. Swastik Ceracon Ltd.*, Comp. App. (AT) (Ins.) No. 1956 of 2025 decided on 12.03.2026, wherein it has been categorically held that jurisdiction under Section 60(5)(c) of the IBC continues even after approval of the Resolution Plan and proceedings for recovery of amounts wrongfully adjusted during CIRP remain maintainable.

4. He submits that the present proceedings do not in any manner seek reopening, modification or alteration of the Approved Resolution Plan. The limited relief sought by the Appellant is restoration of amounts illegally appropriated by the Respondent in contravention of Section 14 of the IBC. The amounts in question were fully disclosed in the Information Memorandum and were consciously factored into the Resolution Plan

submitted by the Successful Resolution Applicant. It is submitted that Clauses 9.1.16 and 9.1.17 of the Approved Resolution Plan specifically preserve and authorise continuation of legal proceedings against the Respondent for recovery of such amounts for the benefit of the Corporate Debtor and all stakeholders. The very incorporation of these clauses clearly demonstrates that the issue was never treated as settled upon approval of the Resolution Plan. Clause 9.1.16 specifically records the prayer that DGVCL reverse the pre-CIRP adjustment made against payments effected by the IRP for running the Corporate Debtor as a going concern, whereas Clause 9.1.17 expressly preserves the right of the Resolution Applicant to initiate legal proceedings regarding wrongful adjustment of the Security Deposit. The stand taken by the Respondent that approval of the Resolution Plan extinguishes the present cause of action is therefore wholly untenable and contrary to the express terms of the Approved Plan itself.

5. It is submitted that the Respondent's defence that the Security Deposit amounting to Rs.8,30,25,606/- stood appropriated on 14.12.2022, i.e. prior to commencement of CIRP on 20.12.2022, is entirely false, unsupported and contrary to the documentary record. The Respondent has failed to produce even a single contemporaneous accounting record, ledger entry, debit advice, communication, adjustment memo or financial statement evidencing any such appropriation on 14.12.2022. The bald assertion made by the Respondent is merely an ipse dixit unsupported by legally admissible evidence. In absence of any

contemporaneous record establishing actual appropriation prior to commencement of CIRP, the Respondent cannot be permitted to defeat the statutory protection available under Section 14 of the IBC.

6. Ld. Counsel submits that in an attempt to fill the complete evidentiary vacuum surrounding the alleged adjustment, the Respondent has sought to rely upon an Office Note dated 14.12.2022. The said reliance is wholly misconceived and legally unsustainable. The Office Note merely records an internal proposal requiring "further deliberation and decision" and does not evidence any concluded or effectuated adjustment. The document at best reflects an internal discussion and not an actual appropriation of the Security Deposit. It is submitted that the said Office Note was never communicated to the Corporate Debtor and no contemporaneous action was taken pursuant thereto. More importantly, the said document was produced for the first time only through an affidavit dated 12.08.2025, i.e. more than two and a half years after the alleged adjustment. Such highly belated production itself creates serious doubt regarding its authenticity and evidentiary value. Had the appropriation genuinely occurred on 14.12.2022, contemporaneous accounting records and formal adjustment entries would necessarily have existed and been immediately produced before the Learned Adjudicating Authority.

7. Ld. Counsel further submits that the Respondent's own contemporaneous records completely demolish its stand that adjustment of the Security Deposit had occurred prior to commencement of CIRP. Firstly, the deduction of TDS amounting to Rs.2,63,919/- and

corresponding reflection in Form 26AS clearly establish that the Respondent itself treated the Security Deposit as subsisting and operative at least till 29.12.2022. The act of calculating, crediting and depositing TDS on accrued interest is wholly inconsistent with the Respondent's plea that the Security Deposit had already been adjusted six weeks earlier on 14.12.2022. Secondly, the Respondent's own Form-B dated 06.01.2023 records that adjustment of the Security Deposit was processed only on 06.01.2023, i.e. seventeen days after commencement of CIRP. This statutory document maintained by the Respondent itself conclusively proves that the appropriation was post-CIRP in nature. Thirdly, the electricity invoice dated 02.01.2023 constitutes the very first document reflecting reduction of the Security Deposit to "0" and simultaneously records an adjustment entry of Rs.8,29,34,546/-. Had the adjustment genuinely taken place on 14.12.2022, the Security Deposit would not have continued to appear in subsequent records till January 2023. These facts were specifically placed on record by the Appellant in the detailed Rejoinder dated 07.06.2024. However, despite existence of overwhelming documentary evidence, the Learned Adjudicating Authority erroneously recorded in Paragraph 16 of the Impugned Order that no evidence regarding such credit had been produced.

8. He submits that the Security Deposit amounting to Rs.8,30,25,606/- constitutes an asset of the Corporate Debtor and immediately upon commencement of CIRP on 20.12.2022 came under the full protection of the moratorium imposed under Section 14 of the IBC.

Section 14(1)(c) expressly prohibits any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property during the moratorium period. Reliance is placed upon the judgment of the Hon'ble Supreme Court in ***Central Transmission Utility of India Ltd. v. Sumit Binani*** **(2026 INSC 284 decided on 23.03.2026)**, wherein it has been categorically held that no enforcement or appropriation of a security deposit is permissible once the moratorium takes effect, even if such security could otherwise have been invoked prior to CIRP. The Hon'ble Supreme Court further reiterated the principle laid down in ***Bharti Airtel Ltd. v. Aircel Ltd.*****, (2024) 4 SCC 668**, that no form of set-off can be exercised during CIRP except where contractual set-off had already been completed prior to commencement of CIRP. The Respondent's alleged adjustment clearly falls outside this limited exception. The Hon'ble Supreme Court additionally observed that permitting such set-offs would defeat the pari passu distribution mechanism embedded within the IBC framework. Similar principles were also affirmed by this Hon'ble Tribunal in ***Central Transmission Utility of India Ltd. v. Summit Binani and Others*****, 2024 SCC OnLine NCLAT 1382** and ***Corob India Pvt. Ltd. Through its Authorized Signatory v. Birendra Kumar Agrawal and Others*****, 2024 SCC OnLine NCLAT 1267**, wherein unilateral appropriation of deposits during moratorium was held impermissible. The Respondent has failed to distinguish any of these binding precedents.

9. Ld. Counsel submits that the Respondent has further unlawfully appropriated an amount of Rs.3,78,78,845.48/- out of payments made by the Corporate Debtor during the CIRP period towards alleged pre-CIRP dues. The payments made by the Corporate Debtor during CIRP, including payment dated 11.01.2023, were specifically intended for discharge of current operational liabilities so as to ensure continuity of essential electricity supply and maintain the Corporate Debtor as a going concern. However, the Respondent illegally appropriated Rs.3,78,78,845.48/- from such CIRP-period payments towards liabilities relating to the period prior to commencement of CIRP. Such conduct is wholly impermissible in law. Firstly, appropriation of CIRP-period payments towards pre-CIRP liabilities constitutes indirect recovery during the operation of moratorium and therefore directly violates Section 14 of the IBC. Payments made during CIRP for current operational requirements cannot be diverted towards satisfaction of historical dues. Secondly, the Respondent has effectively secured a double recovery. The Respondent had already submitted Form-B before the Resolution Professional claiming the same pre-CIRP dues and thereafter participated in the resolution process as an Operational Creditor, ultimately receiving an amount of Rs.7.24 lakhs under the Approved Resolution Plan. Having already participated in the insolvency resolution mechanism and received distribution under the Resolution Plan, the Respondent cannot additionally appropriate CIRP-period payments towards the very same pre-CIRP liabilities.

10. He submitted that the Corporate Debtor vide letter dated 30.11.2023 specifically informed the Respondent that the electricity bill for December 2022 had already been paid and despite such payment, the Respondent had illegally adjusted an amount of Rs.3,03,78,845.60/- relating to the pre-CIRP period. Through the said communication, the Corporate Debtor expressly requested the Respondent to credit the said amount against current outstanding dues. Despite receipt of such objection and despite being fully aware of the legal embargo created by Section 14 of the IBC, the Respondent failed to rectify the wrongful appropriation.

11. Regarding the allegation of Forum shopping raised by the Respondent Ld. Counsel submits that the same is entirely misconceived. The Writ Petition filed before the Hon'ble Gujarat High Court, SCA No. 1425 of 2024, arose from an altogether distinct cause of action and sought entirely different reliefs. The said Writ Petition was necessitated by the second notice issued under Section 56 of the Electricity Act dated 15.01.2024 during CIRP, whereby the Respondent demanded payment of Rs.17,67,61,531.14/- within fifteen days while simultaneously threatening disconnection of electricity supply. The reliefs sought in the writ proceedings pertained to protection against coercive disconnection and invocation of writ jurisdiction on account of violation of statutory and constitutional safeguards.

12. Ld. Counsel submits that in contrast, the present Appeal concerns the first Section 56 Notice dated 14.12.2022 issued prior to commencement of CIRP and specifically challenges the illegality of

subsequent post-CIRP appropriations of the Security Deposit and CIRP-period payments in violation of Section 14 of the IBC. The causes of action, statutory framework, reliefs sought and jurisdictions invoked in both proceedings are therefore entirely distinct and independent.

13. He further submits that the Impugned Order suffers from grave and fundamental errors of fact as well as law, each of which independently renders the order unsustainable and collectively warrants interference by this Appellate Tribunal. The Learned Adjudicating Authority has failed to appreciate the documentary evidence placed on record by the Appellant and has overlooked binding legal principles governing the operation of Section 14 of the IBC.

14. It is submitted that the factual findings recorded in Paragraph 16 of the Impugned Order are demonstrably erroneous and contrary to the material available on record. The Appellant had specifically produced the Adjustment Report and Energy Bill dated 01.06.2023 recording payment of interest at 4.25% till 29.12.2022, Form 26AS reflecting deduction of TDS on the Security Deposit, the first Section 56 Notice demanding the entire outstanding amount, the invoice dated 02.01.2023 showing deduction of the Security Deposit only after commencement of CIRP, and the detailed Rejoinder dated 07.06.2024 explaining all relevant facts and chronology in detail. Despite such extensive documentary evidence, the Learned Adjudicating Authority erroneously proceeded on the basis that no evidence regarding continued existence of the Security Deposit had been

produced. The Impugned Order is therefore vitiated by complete non-consideration of material evidence placed on record and warrants interference by this Tribunal.

Submissions of the Respondent No.1/DGVCL

15. Ld. Counsel for Respondent No.1, Dakshin Gujarat Vij Company Limited ("DGVCL"), submitted that the present Appeal filed by the Appellant is wholly misconceived, devoid of merit and is liable to be dismissed at the threshold itself. It was submitted that the Resolution Plan in respect of the Corporate Debtor, Sumeet Industries Limited, already stands approved by the Committee of Creditors ("CoC") on 21.10.2023 and thereafter received approval from the Adjudicating Authority on 16.07.2024. It was further submitted that pursuant to the approval of the Resolution Plan, the Successful Resolution Applicant ("SRA") has already taken over the management and control of the Corporate Debtor and the Resolution Plan also appears to have been implemented, as reflected from Paragraph 5 of the Reply filed by the SRA. In such circumstances, the present Appeal is nothing but an attempt to unsettle a concluded CIRP and to deprive DGVCL of its legitimate and settled dues, which is impermissible in law.

16. The Respondent No. 1 raised a bill of Rs. 10,71,63,833.44/- for the month of November, 2022. The Corporate Debtor paid an amount of Rs. 4,45,00,000/- against such bill, leaving an outstanding amount of Rs. 6,25,96,739.44/-. Against such outstanding arrears, on 14.12.2022, the

Respondent No. 1 decided to adjust the security deposit amount of Rs. 8,30,25,606/- leaving a balance security deposit of Rs.2,04,28,866.56/.

17. Corporate Debtor was admitted into the CIRP on 21.12.2022. The Respondent No. 1 bifurcated the billing for the month of December into two parts, first being the period prior to the initiation of CIRP (01.12.2022 to 20.12.2022) and second period post the initiation of CIRP (20.12.2022 to 31.12.2022). The total bill amount for December 2022 was Rs. 7,86,57,116.68/- out of which Rs. 5,08,07,712/- was for the period prior to the initiation of CIRP (01.12.2022 to 20.12.2022) and Rs. 2,77,81,462.52/- was for the period post the initiation of CIRP (20.12.2022 to 31.12.2022).

18. The Respondent No. 1 adjusted the balance security deposit of Rs. 2,04,28,866.56/- against the dues of the period prior to the initiation of CIRP (01.12.2022 to 20.12.2022) of Rs. 5,08,07,712/-, further leaving a balance of Rs. 3,03,78,845.60/- as unpaid dues for the Pre CIRP period and the same remained due and payable to the Respondent No. 1 from the Corporate Debtor.

19. Ld. Counsel further submitted that the Hon'ble Supreme Court in ***Ebix Singapore v. Committee of Creditors of Educomp Solutions Ltd.*** has categorically held that the Code contains no provision permitting modification, withdrawal or reopening of a Resolution Plan after the same attains binding force under Section 31(1) of the Code. It was submitted that the Hon'ble Supreme Court, particularly in Paragraphs 157 to 159, 164 to 166 and 221 to 224 of the judgment, has clearly laid down that the

jurisdiction of the Adjudicating Authority is confined only to examining compliance with Section 30(2) prior to approval of the Resolution Plan and once the Plan is approved, even such limited jurisdiction stands exhausted. It was emphasized that the Hon'ble Supreme Court has further clarified that Section 31(1) cannot be interpreted to mean that a Resolution Plan remains indeterminate or open to modification or withdrawal. Therefore, once finality has attached to the Resolution Plan, particularly after approval by the Adjudicating Authority, the same cannot be reopened through the present proceedings.

20. Ld. Counsel further submitted that the Hon'ble Supreme Court in Paragraph 221 of the aforesaid judgment has specifically observed that permitting withdrawal or modification of a Resolution Plan after submission before the Adjudicating Authority would create an additional tier of negotiations not contemplated or regulated by the statute. It was therefore argued that the present attempt of the Appellant and the RP to revisit settled claims and adjustments after approval and implementation of the Plan is contrary to the scheme and object of the IBC.

21. Ld. Counsel submitted that in the present case, the Resolution Professional had filed IA No. 47 of 2024 after approval of the Resolution Plan by the CoC and that too without any authorization or mandate from the CoC. It was further submitted that despite the Adjudicating Authority recording findings against the RP on this aspect, the same has not been challenged in the present Appeal, nor was any rejoinder filed by the RP

when the issue regarding lack of authority was specifically raised by DGVCL in its reply.

22. Ld. Counsel further submitted that the RP has not challenged several crucial findings recorded in the Impugned Order. It was pointed out that the Adjudicating Authority has already recorded findings that: (a) the RP had accepted the Energy Bill of December 2022 along with adjustment details and admitted the claim form of DGVCL; (b) the RP had accepted the adjusted amount and continued making monthly payment bills thereafter; (c) the claim of DGVCL had already been considered under the Resolution Plan and approved by the CoC; (d) both the Information Memorandum ("IM") and the Resolution Plan proceeded on the basis of DGVCL's claim after adjustment of the security deposit; (e) IA No. 47 of 2024 was filed after approval of the Plan by the CoC; (f) there was no mandate from the CoC for reclassification or for seeking refund of the security deposit and the subsequent approval of the Monitoring Committee could not validate earlier unauthorized actions of the RP, especially when no Monitoring Committee existed at the relevant time; (g) the RP had also filed parallel proceedings before the Hon'ble High Court after approval of the Plan and without approval from the competent authority; (h) the RP was simultaneously seeking reversal of the security deposit adjustment while also retaining the claim amount already settled under the Plan, thereby depriving DGVCL of its legitimate dues; and (i) the RP failed to produce any evidence regarding the alleged credit in its account and the

bills only reflected adjustment. It was submitted that all these findings have attained finality.

23. Ld. Counsel submitted that the entire case of the Appellant is based upon an erroneous factual assumption that the adjustment of the security deposit was made after initiation of the CIRP. It was submitted that this assumption itself is fundamentally incorrect. Ld. Counsel clarified that the adjustment towards pre-CIRP dues was made by DGVCL on 14.12.2022, which was prior to the commencement of CIRP on 21.12.2022. It was submitted that this fact is clearly borne out from the office note of DGVCL at Page 236 as well as from the affidavit filed before the Adjudicating Authority at Page 235. It was further submitted that the Impugned Order itself specifically records this factual position in Paragraph 13 at Page 88. Thus, the adjustment was admittedly pre-CIRP in nature and cannot be assailed on the ground urged by the Appellant.

24. Ld. Counsel further submitted that the Corporate Debtor had furnished a security deposit of approximately Rs.8.30 crores with DGVCL, which remained available with DGVCL during November and December 2022. It was submitted that the details regarding adjustment of the said amount against electricity dues had already been set out by DGVCL in Paragraphs 15 to 20 of its reply. After such adjustment, the net pre-CIRP dues payable by the Corporate Debtor stood reduced to Rs.3.03 crores. Accordingly, DGVCL filed its Claim Form-B on 06.01.2023 only for the net amount of Rs.3.03 crores after enclosing complete adjustment details and the corresponding bill which reflected the security deposit balance as “Nil”.

It was submitted that the IRP accepted the said claim without any objection and with complete knowledge of all relevant facts and documents.

25. Ld. Counsel submitted that thereafter the Resolution Plan was approved and DGVCL ultimately received only Rs.7.24 lakhs against its admitted claim of Rs.3.03 crores. Therefore, both the adjustment as well as the admitted claim have attained finality and cannot now be reopened after conclusion of the CIRP process.

26. Ld. Counsel further relied upon Paragraph 100 of the judgment in Ebix Singapore v. Committee of Creditors of Educomp Solutions Ltd. wherein the Hon'ble Supreme Court emphasized that sanctity of the insolvency process and procedural certainty are essential to the functioning of the Code. It was submitted that the RP, having accepted DGVCL's adjusted claim, permitted the IM and Resolution Plan to proceed on that basis and allowed the CoC to approve the Plan accordingly, is now estopped from turning around and seeking reversal of the very same adjustment. It was argued that such conduct amounts to approbation and reprobation and cannot be permitted. It was further submitted that the present attempt is effectively aimed at denying DGVCL its legitimate claim despite the same having already been accepted throughout the CIRP process. It was also submitted that the SRA had proceeded strictly on the basis of the IM and has no right to seek any undue enrichment by reopening settled issues.

27. Ld. Counsel further submitted that the Adjudicating Authority has expressly recorded at Page 89 of the Impugned Order that IA No. 47 of 2024 had been filed by the RP without any authorization from the CoC. It was emphasized that this finding has not been challenged in the Appeal and therefore stands conclusive and binding. It was submitted that after approval of the Plan by the CoC, the RP could not have independently initiated such proceedings.

28. Ld. Counsel further placed reliance upon the judgment of the Hon'ble Supreme Court in *Greater Noida Industrial Development Authority v. P.S. Soni* and submitted that the Hon'ble Supreme Court has held that the RP is under a statutory obligation to collate all claims and the Information Memorandum prepared on that basis forms the foundation on which resolution applicants submit their plans. It was submitted that in the present case DGVCL had filed Claim Form-B on 06.01.2023 for ₹3.03 crores after adjusting the security deposit and disclosing the same as "Nil", with the adjustment having already been carried out on 14.12.2022, i.e., seven days before initiation of CIRP. The IRP/RP accepted the said claim without objection, prepared the IM on that basis, the SRA submitted its Resolution Plan accordingly and the CoC approved the Plan on the same footing. Hence, the RP is bound by its own acceptance and cannot now seek to reopen the issue.

29. Ld. Counsel further submitted that the RP is now attempting to selectively reverse the adjustment while simultaneously ignoring the consequence that the original claim amount of DGVCL would also have to

be restored in entirety. It was submitted that if such reversal is accepted, DGVCL's status as a secured creditor to the extent of Rs.8.30 crores would also revive, which position was never presented before the CoC during CIRP. Such restoration would necessarily vitiate the Resolution Plan itself and compel reopening of the entire CIRP process. It was therefore argued that the conduct of the RP lacks bona fides and is legally untenable.

30. Ld. Counsel submitted that in light of the aforesaid facts and settled legal position, there exists no statutory, inherent or residuary jurisdiction to interfere with the Impugned Order dated 27.11.2025 passed by the Adjudicating Authority. It was submitted that DGVCL's legitimate dues cannot be defeated by an application which itself was filed without authority and after conclusion of the CIRP process. It was further submitted that security deposit is statutorily recognized and the issue concerning interest had already been dealt with by DGVCL before the Adjudicating Authority by way of affidavit at Pages 223 and 228-229, particularly Paragraphs 12 and 13 thereof, after consideration whereof the contentions of the RP stood rejected.

31. Ld. Counsel further submitted that issuance of the Disconnection Notice dated 14.12.2022 does not in any manner preclude adjustment of the security deposit. It was submitted that the statutory period of fifteen days prescribed under the Electricity Act is relevant only for the purpose of disconnection of electricity supply and not for adjustment of security deposit. It was argued that even after adjustment of the security deposit, disconnection proceedings could still continue for any outstanding

amount. Further, the Disconnection Notice itself contemplates adjustment against part payment and therefore such adjustment does not invalidate or nullify the notice.

32. Ld. Counsel submitted that the Appellant has relied upon the judgment of the Hon'ble Supreme Court in *CTUIL v. Sumit Binani*. However, the said judgment is wholly distinguishable on facts. It was submitted that in the said case the adjustment had admittedly been carried out after initiation of CIRP and after filing of the original claim form without any adjustment. Further, the RP therein had immediately disputed the adjustment and the Information Memorandum also contained details regarding the disputed amounts. Therefore, the factual matrix of the said case is entirely different from the present matter.

33. Ld. Counsel further submitted that the SRA has relied upon the judgment of this Appellate Tribunal in Mehsana Urban Cooperative Bank Ltd. v. Swastik. It was submitted that the said decision is also distinguishable as in that matter the adjustment was made after initiation of CIRP and after filing of claims for the full amount without disclosing any mutual set-off or adjustment. It was further submitted that the claims therein had already been admitted and amounts were provided under the Resolution Plan. Moreover, the subject matter there related to dividend amounts and not electricity dues governed by the Electricity Act, 2003. It was argued that the said judgment does not deal with a situation where the RP had expressly accepted the adjustment, admitted only the net claim

amount and thereafter proceeded with the IM and Resolution Plan on that basis.

34. Ld. Counsel lastly submitted that unlike the present matter, there was no issue in the aforesaid cases regarding reopening of an already concluded Resolution Plan. Therefore, the said judgments have no applicability to the facts of the present case and do not assist the Appellant or the SRA in any manner. He therefore requested for dismissal of the appeal.

Submissions of the Respondent No.2/SRA

35. Ld. Counsel for Respondent No. 2/ Successful Resolution Applicant (SRA) submitted that he is supporting the Appellant who is seeking reversal of the post-CIRP appropriation of the Security Deposit amounting to INR 8,30,25,606/- by Respondent No. 1, Dakshin Gujarat Vij Company Limited ("DGVCL"), and also seeking re-credit of INR 3,78,78,845.48/- which had been appropriated from CIRP-period payments towards pre-CIRP dues. It is submitted that both these amounts formed part of the asset pool of the Corporate Debtor and were specifically reflected in the Information Memorandum. These amounts had also been factored into the Approved Resolution Plan submitted by the SRA. Therefore, the unilateral appropriation of the said amounts by DGVCL has caused direct and irreversible prejudice to the SRA and the stakeholders of the Corporate Debtor.

36. Ld. counsel submits that DGVCL's sole defence was that the adjustment of the Security Deposit had allegedly been carried out vide an Office Note dated 14.12.2022, i.e., seven days prior to commencement of CIRP on 21.12.2022. However, according to the Respondent No. 2, this plea stands completely demolished by DGVCL's own records and documents.

37. It was further submitted that DGVCL's own Form-B receipt dated 06.01.2023 records that the adjustment was processed on 06.01.2023, i.e., seventeen days after commencement of CIRP. Further, the Section 56 notice dated 14.12.2022 demanded the entire gross outstanding amount without giving any deduction or adjustment towards the Security Deposit, thereby clearly establishing that no actual appropriation had taken place on that date. The counsel further argued that even the Office Note relied upon by DGVCL merely referred to "further deliberation and decision" and did not record any final or concluded act of appropriation. The said Office Note was never communicated to the Corporate Debtor and was only produced belatedly through an affidavit dated 12.08.2025.

38. He further submitted that DGVCL had additionally appropriated an amount of INR 3,78,78,845.48/- from a post-CIRP payment dated 11.01.2023 towards the very same pre-CIRP dues which had already been claimed through Form-B dated 06.01.2023.

39. Ld. counsel submits that the objection raised by DGVCL regarding the locus of the Resolution Professional and Monitoring Committee was

completely baseless both factually and legally. It was submitted that the 3rd Monitoring Committee Meeting held on 20.12.2025 specifically authorised the Chairman to file and pursue the present Appeal before this Hon'ble Tribunal, with all litigation expenses being borne by the SRA. Further, I.A. No. 47/2024 had been filed on 05.01.2024, which was prior to approval of the Resolution Plan on 16.07.2024. Therefore, at the relevant time, the Resolution Professional was fully empowered under Sections 18 and 25 of the IBC to take all necessary steps for protection and preservation of the assets of the Corporate Debtor. It was further argued that even after approval of the Plan, the Monitoring Committee continued to possess the necessary locus for implementation of the Plan and protection of the Corporate Debtor's assets. The SRA had also been impleaded as a formal party by order of this Tribunal itself and was the real party in interest, since its financial entitlements exceeding Rs.12 crores were directly affected. Thus, any technical objection regarding the mode or nomenclature of filing stood cured.

40. Ld. counsel relied upon the judgment of this Appellate Tribunal in ***Mehsana Urban Co-operative Bank Ltd. v. Swastik Ceracon Ltd. decided on 12.03.2026***, wherein it was held that the NCLT retains jurisdiction under Section 60(5)(c) of the IBC even after approval of the Resolution Plan to adjudicate disputes arising out of insolvency proceedings. It was further held therein that an application filed by an SRA after Plan approval for recovery of assets adjusted during CIRP in violation of the moratorium is maintainable. The counsel submitted that Section

61(1) of the IBC confers a right of appeal upon "any person aggrieved", which expression is broad and cannot be interpreted narrowly. Thus, both the Corporate Debtor acting through the Monitoring Committee and the SRA were clearly entitled to maintain the present proceedings. Reliance is also placed upon the judgment of the Hon'ble Supreme Court in ***Central Transmission Utility of India Ltd. v. Sumit Binani decided on 23.03.2026***, which has also been relied upon by Appellant.

41. Ld. counsel further submitted that Clauses 9.1.16 and 9.1.17 of the Approved Resolution Plan specifically authorised the Resolution Professional and Monitoring Committee to continue and prosecute all litigations and legal proceedings initiated during CIRP or in furtherance of the Resolution Plan for the benefit of the Corporate Debtor and all stakeholders. Hence, the present Appeal was fully contemplated and protected under the Approved Plan itself.

42. Ld. counsel submits that the Security Deposit continued to remain an asset of the Corporate Debtor beyond 20.12.2022 and any appropriation after that date was expressly prohibited under Section 14(1)(c) of the IBC, which bars all actions for foreclosure, recovery or enforcement of any security interest against the assets of the Corporate Debtor after commencement of CIRP.

43. Ld. counsel further submits that the Office Note dated 14.12.2022 relied upon by DGVCL could not constitute a valid order of appropriation. Reliance was again placed upon *Mehsana Urban Co-operative Bank (supra)* wherein this Tribunal held that an internal office noting without

implementation cannot amount to adjustment of the Corporate Debtor's asset. It was argued that the Electricity Act, 2003 itself prescribes a statutory mechanism for passing orders by competent authorities and an internal, uncommunicated office note does not satisfy any such legal requirement. The counsel further submitted that DGVCL's own argument that the 15-day period under Section 56 of the Electricity Act was only for disconnection and not for adjustment actually defeats its own case because the Section 56 notice itself demanded the full outstanding amount without any deduction towards the Security Deposit, thereby proving that no appropriation had occurred on 14.12.2022. It was further argued that the said 15-day period expired only on 29.12.2022, i.e., after commencement of CIRP, and therefore any subsequent action stood prohibited by virtue of Section 14 read with Section 238 of the IBC.

44. Ld. counsel submits that the contention of DGVCL that the Resolution Professional stood estopped by acceptance of the adjusted claim and that approval of the Resolution Plan barred reopening of the issue was legally unsustainable. It was argued that there can never be any estoppel against a statute and any act which is void ab initio under Section 14 of the IBC cannot be validated merely because the Resolution Professional initially accepted the claim. The counsel pointed out that objections had in fact been raised by the Resolution Professional through letter dated 03.06.2023 and the Corporate Debtor itself had demanded restoration of the amounts through letter dated 30.11.2023. Therefore,

there was no acquiescence or waiver on part of the Corporate Debtor or the SRA.

45. He further submitted that the present proceedings do not amount to reopening or modification of the Approved Resolution Plan, rather, the present proceedings seek recovery of assets which always belonged to the Corporate Debtor and which were required to vest in the SRA under the Approved Plan. Thus, the judgment of the Hon'ble Supreme Court in Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Ltd. dealing with finality of Resolution Plans has no application to the facts of the present case. He also submitted that DGVCL's argument that its claim was duly reflected in the Information Memorandum and claim process and therefore the matter stood concluded upon approval of the Resolution Plan is fundamentally flawed. It was argued that consideration of DGVCL's claim during CIRP does not authorise DGVCL to unilaterally appropriate amounts in violation of the IBC. It was further submitted that if DGVCL's argument were accepted, there would have been no necessity for inclusion of Clauses 9.1.16 and 9.1.17 in the Approved Resolution Plan. The very inclusion of these clauses demonstrates that all stakeholders consciously intended recovery proceedings and litigation concerning such assets to continue even after Plan approval.

46. Ld. Counsel finally argues that in the light of the aforesaid submissions and the binding principles laid down in Central Transmission Utility of India Ltd. v. Sumit Binani and Mehsana Urban Co-operative

Bank Ltd. v. Swastik Ceracon Ltd., present Appeal is maintainable and the same be allowed.

Analysis and Findings

47. We have heard the counsels and gone through the records of the case including written submissions of the parties.

48. The sole issue which arises for consideration in the present Appeal is: 'Whether Respondent No.1–Dakshin Gujarat Vij Company Limited ("DGVCL") illegally appropriated the Security Deposit amounting to INR 8,30,25,606/- and wrongly adjusted CIRP-period payments amounting to INR 3,78,78,845.48/- towards pre-CIRP dues in violation of Section 14 of the Code".

49. Before dealing with the rival submissions, it is necessary to notice the relevant facts emerging from the record. The Corporate Debtor was admitted into CIRP on 20.12.2022, and simultaneously the moratorium under Section 14 of the Code came into operation. The electricity supply to the Corporate Debtor was being provided by DGVCL and substantial electricity dues had accumulated against the Corporate Debtor. Electricity bills dated 01.11.2022 and 02.12.2022 reflected continuing arrears and delayed payment charges. Since the outstanding dues remained unpaid, DGVCL issued a disconnection notice dated 14.12.2022 under Section 56 of the Electricity Act, 2003, calling upon the Corporate Debtor to clear the outstanding dues within fifteen days, failing which the electricity supply was liable to be disconnected.

50. The Appellant along with Respondent No. 2/SRA have argued that despite commencement of CIRP on 20.12.2022 and moratorium imposed thereafter, DGVCL appropriated the Security Deposit of Rs.8,30,25,606/- against pre-CIRP dues through the electricity bill dated 02.01.2023 and further reflected the same in Form-B filed on 06.01.2023. It has also been alleged that CIRP-period payments amounting to Rs.3,78,78,845.48/- were illegally adjusted towards pre-CIRP dues. It is their case that the Office Note dated 14.12.2022 relied upon by DGVCL does not constitute a concluded act of appropriation and merely records internal deliberation. It has further been argued that the disconnection notice dated 14.12.2022 demanded the entire gross outstanding amount without deduction of the Security Deposit, thereby demonstrating that no adjustment had actually taken place before commencement of CIRP. According to the Appellant, such adjustment amounts to indirect recovery during moratorium and is therefore prohibited under Section 14 of the IBC. The Appellant has relied upon the electricity bill dated 02.01.2023, the Form-B dated 06.01.2023, the alleged continuation of interest on the Security Deposit till 29.12.2022, and the deduction of TDS upon such interest, to contend that the Security Deposit continued to remain alive even after commencement of CIRP. Reliance has also been placed upon judgments including *Central Transmission Utility of India Ltd. v. Sumit Binani* and *Bharti Airtel Ltd. v. Aircel Ltd.* to contend that unilateral appropriation or set-off after commencement of CIRP is impermissible in law.

51. Per contra, the Respondent No.1 has contended that the decision to appropriate the Security Deposit had already been taken on 14.12.2022 itself, i.e., prior to commencement of CIRP, through an internal Office Note. According to the Respondent, the subsequent reflection of such adjustment in the electricity bill dated 02.01.2023 and in Form-B dated 06.01.2023 was only a consequential accounting exercise and not the actual date of appropriation. The Respondent has further contended that the Resolution Professional was fully aware of the adjustment during the CIRP period itself since the Respondent's claim along with adjustment details formed part of the CIRP record. It has also been argued that the Resolution Plan has already been approved on 16.07.2024 and implementation has commenced, and therefore reopening the issue at this stage would disturb the commercial finality attached to the approved Resolution Plan.

52. The Appellant has relied upon the electricity bill dated 02.01.2023 and Form-B dated 06.01.2023 to argue that the appropriation was admittedly post-CIRP. However, these documents merely indicate the stage at which the adjustment came to be reflected in the billing and claim records. They do not conclusively establish that the underlying decision regarding appropriation itself was taken for the first time after 20.12.2022.

53. The Respondent, on the other hand, has consistently relied upon the internal Office Note dated 14.12.2022 to contend that the decision regarding adjustment of the Security Deposit had already been taken prior to commencement of CIRP. The document forms part of the

contemporaneous internal record maintained by DGVCL prior to initiation of CIRP. The said Office Note also gains significance because it precedes the CIRP commencement date of 20.12.2022 as well as the expiry of the period granted under the Section 56 notice. In commercial functioning of public utility entities, administrative decisions and their eventual accounting implementation do not necessarily occur simultaneously. Therefore, merely because the consequential reflection of adjustment appeared subsequently in the bill dated 02.01.2023 or Form-B dated 06.01.2023 cannot, by itself, conclusively establish that the underlying decision regarding appropriation was first taken after commencement of CIRP.

54. The office Note dated 14-12-2022 is extracted below:

"DAKSHIN GUJARAT VIJ COMPANY LIMITED
CIN U40102GJ2003SGC042909
Regd. & Corporate Office "Urja Sadan", Nana Varachha Road, Kapodra
Char Rasta, SURAT- 395 006
Kadodara Division, 66 KV Substation Compound, Kadodara- 394327
Telephone (02622) 275911

Office Note: *Dt.: 14 Dec 2022*

Sub: Non-Payment of energy bills for the month of Nov-2022 by EHT consumer M/s Sumeet Industries Limited bearing HT Cons No. 11921.

In connection to above, M/s Sumeet Industries Limited is EHT consumer of DGVCL, Kadodara Division having contract demand of 13000 KVA bearing HT Cons No. 11921. This office has issued energy bill for the month of Nov-2022 amounting to Rs. 107096739.44 on Dtd 02.12.2022. M/s Sumeet Industries Limited is consistently failing to pay the full amount of its monthly energy bills by the due date, making it liable for disconnection as per applicable rules. The details are as under:

S. No.	Particulars	Amount
1.	Energy bill for the month of Nov-2022 billed in Dec-2022	67259893.71
2.	Outstanding Arrears	39088298.15
3.	Delayed Payment Charge	748547.58
4.	Total Arrears of energy bill	107096739.44

As per the consumer ledger, ***a Security Deposit of Rs.8,30,25,606/-*** *is available with DGVCL. Referencing Corporate Office Circular No. DGVCL/GM(F&A)/HT-SD-Adjustment/2020-21/06635 dated 30.04.2021, adjustment of the security deposit is permitted at the time of TDC, especially for HT consumers with substantial arrears.*

In light of the above, the following option is presented for consideration:

Adjustment of the Security Deposit against the outstanding arrears of the energy bills.

The matter is put up for ***deliberation and necessary decision.***

(Signed on 14-12-2022)
S.A (Rev)
Division Office, Kadodara.

(Signed on 14/12/2022) *Note: Adjust SD as per norms*
Ex. Engineer (O&M)
DGVCL, Division Office, Kadodara"

55. We can see from the office Note above that it was initiated by S.A. (Rev) on 14-12-2022 furnishing the details about outstandings of the Corporate Debtor amounting to Rs.10,70,96,739.44/- for the month of November, 2022 which is payable in December, 2022. The note proposed adjustment of Security Deposit (SD) against the outstanding arrears of the energy bills. The officer puts up the note for deliberation and necessary decision. The Executive Engineer in his noting on the note sheet, orders for adjustment of SD as per norms. The aforesaid office note was submitted

through an affidavit submitted by the Exe. Engineer on 12.08.2025 in compliance with the directions of the Adjudicating Authority. The relevant para 3 of the aforesaid affidavit is extracted below:

> *"3. In compliance with the direction contained in the aforesaid order, I am filing the present affidavit placing on record the file noting indicating that the decision to adjust the security deposit of the consumer, as available with the electricity distribution company, against the past unpaid electricity bills was taken on 14.12.2022. A copy of relevant page of the file containing official noting is annexed herewith and marked as Annexure -A. The original file shall be produced at the time of hearing of the application for perusal of the Hon'ble Tribunal."*

56. We note the following from the aforesaid documents:

(i) The Executive Engineer has approved the Note submitted by the SA and has ordered adjustment of SD as per norms; and

(ii) Executive Engineer has also undertaken to produce the original file containing the note sheet to the Adjudicating Authority at the time of hearing.

57. The Appellant has relied upon the last sentence of the office note recorded by SA (Rev) dated 14.12.2022 which reads as follows:

"The matter is put up for deliberation and necessary decision"

The Appellant argues that no decision could be taken on that date as the matter required deliberation. We are not in agreement with this argument of the Appellant. It is undisputed that the Executive Engineer (EE) is the competent Authority to order the adjustment of the Security Deposit. He

after due consideration, has ordered the adjustment of SD as per norms. This decision of EE cannot be questioned vis-à-vis his authority to take such decision as Competent Authority. The deliberation in administrative parlance is deliberation by the Authority competent to take such decision, accordingly, in this case the Competent Authority (EE) has ordered adjustment of SD towards outstanding dues. This document has been submitted by the competent authority (EE) through an affidavit before the Adjudicating Authority and its veracity has not been under question. The EE has also undertaken to produce the original file having the aforesaid office note before the Adjudicating Authority as and when required. In the functioning of the executive branch once a decision is taken by the competent authority, the decision becomes binding and comes into effect. In this case the security deposit was already lying with the Respondent No.1 and subsequent actions are to be taken by commercial/ accounting branch relate to making corresponding entries in the records. As the next bill for December, 2022 was due in January, 2023 only, the said adjustments of security deposit is duly reflected in the bill dated 02.01.2023. We therefore find no discrepancy in the submission of Respondent No.1 regarding the date of adjustment of security deposit, which in our view has been correctly stated as 14.12.2022.

58. The Appellant has also relied upon the disconnection notice dated 14.12.2022 issued under Section 56 of the Electricity Act to contend that as per the aforesaid section the disconnection was to be effective 15 days from the date of issue of notice i.e. on 29.12.2022, and therefore the

deduction could not have effected before that date. As the entire gross outstanding amount was demanded in the disconnection notice, appropriation could have taken place on the last date i.e. 29.12.2022, if the payment was not made by them. It is to be noted herein that disconnection notice is a statutory notice, which is issued to the consumers in default, giving them time to make payments of outstanding dues to prevent disconnection. The disconnection notice issued under Section 56 of the Electricity Act forms part of the overall recovery mechanism relating to electricity dues. Mention of the gross outstanding amount in such notice does not necessarily negate the Respondent's stand that an internal decision regarding adjustment had already been initiated or approved. The decision to adjust the Security Deposit, on the other hand is a commercial decision based upon the past payment behaviour of the consumer and is not linked to the statutory notice for disconnection under Section 56 of the 'Electricity Act'. There is no legal or administrative bar on initiation of both these actions independently and concurrently. We therefore find no infirmity in the actions of the Respondent No.1.

59. We now take a look at the computation of the claim filed by the Respondent No.1 in the CIRP Proceedings. The Corporate Debtor was admitted into the CIRP on 21.12.2022. The Respondent No. 1 raised a bill of Rs. 10,71,63,833.44/- for the month of November, 2022 against which the Corporate Debtor paid an amount of Rs. 4,45,00,000/, leaving an outstanding amount of Rs. 6,25,96,739.44/-. This amount was adjusted on 14.12.2022 from the security deposit of CD lying with Respondent No.1

amounting to Rs. 8,30,25,606/- leaving a balance security deposit of Rs. 2,04,28,866.56/.

60. The Respondent No. 1 bifurcated the billing for the month of December into two parts, first being the period prior to the initiation of CIRP (01.12.2022 to 20.12.2022) and second period post the initiation of CIRP (20.12.2022 to 31.12.2022). The total bill amount for December 2022 was Rs. 7,86,57,116.68/- out of which Rs. 5,08,07,712/- was for the period prior to the initiation of CIRP (01.12.2022 to 20.12.2022) and Rs. 2,77,81,462.52/- was for the period post the initiation of CIRP (20.12.2022 to 31.12.2022). The Respondent No.1 adjusted the balance security deposit of Rs. 2,04,28,866.56/- against the dues of the period prior to the initiation of CIRP (01.12.2022 to 20.12.2022) of Rs. 5,08,07,712/-, further leaving a balance of Rs. 3,03,78,845.60/- as unpaid dues for the Pre CIRP period and the same remained due and payable to the Respondent No. 1 from the Corporate Debtor. The Respondent No.1 filed its claim before the Adjudicating Authority in Form-B on 06.01.2023 for this amount of Rs.3,03,78,845.60/- which was admitted by the Resolution Professional. After the approval of the Resolution Plan by the Adjudicating Authority, the Respondent No.1 received an amount of Rs.7.24 lakhs under the approved resolution plan against the aforesaid admitted claim in the CIRP proceedings.

61. The Appellant has further relied upon the alleged calculation of interest on the Security Deposit till 29.12.2022 and the corresponding TDS deduction reflected in Form 26AS. According to the Appellant, such

accounting treatment conclusively proves that the Security Deposit continued to subsist beyond commencement of CIRP. However, we find merit in the Respondent's explanation that interest calculation and TDS reconciliation are annual/quaterly accounting exercises and cannot conclusively determine the precise date of the underlying appropriation decision. The appellant has made its own calculations, which in its view suggest that the aforesaid security deposit was adjusted after the initiation of CIRP on 20.12.2022. As we have already noted that date of adjustment of security deposit is to be considered as the date of approval by the competent authority. Further the claim submitted by the Respondent No.1 which had been duly accepted by the Resolution Professional and approved in the resolution plan was based upon the calculations of the Respondent No.1, which was never disputed by the Appellant till the plan approval by the CoC on 21.10.2023. Its only after the approval of the resolution plan by the CoC that the Appellant files the IA No. 47 of 2024 on 05.01.2024, before the Adjudicating Authority. We are not persuaded by the arguments of the Appellant at this stage. He could have included the claim of Respondent No.1 in the contingent claim category from the beginning and could have advised SRA/Respondent No.2 who is supporting the appeal, to provide "NIL" or a token amount in the plan.

62. Another important aspect is the conduct of the Resolution Professional during the CIRP. The record clearly shows that DGVCL filed its Form-B claim on 06.01.2023 along with the December 2022 Energy Bill and adjustment details. The Resolution Professional accepted the claim

form; admitted the claim; and continued making monthly electricity payments thereafter. The material on record further shows that the Information Memorandum and Resolution Plan proceeded on the basis of DGVCL's claim after adjustment of the Security Deposit and the dues of the Corporate Debtor for the remaining dues of December 2022 post CIRP initiation on 20.12.2022. Thereafter, the Information Memorandum was prepared, the resolution process continued. The Resolution Plan was approved by Committee of Creditors (CoC) on 21.10.2023 and ultimately by the Adjudicating Authority on 16.07.2024. The Successful Resolution Applicant has already taken over management of the Corporate Debtor and implementation of the Resolution Plan has commenced. The application I.A. No. 47 of 2024 was filed before the Adjudicating Authority after approval of the Resolution Plan by the CoC, despite the fact that the Appellant/RP was fully aware of the adjustment of the security deposit by the DGVCL and related issues.

63. We further note that the RP had filed the aforesaid I.A. after the approval of the plan by the CoC, pending its consideration of the Adjudicating Authority. The CoC was fully operation in this period but the RP did not seek the approval or the mandate from CoC before initiating IA No. 47 of 2024 to initiate action qua admitted claims which were already settled in the resolution plan. It is the submission of the RP that the Monitoring Committee has ratified such decision of the RP. We note that the CoC is a creature of the Act, while the Monitoring Committee derives its existence from the CIRP Regulations. A decision, which should have

been taken with the concurrence or at least the knowledge of CoC, could not be ratified by the Monitoring committee, which does not have the statutory powers like the CoC.

64. The material placed on record further shows that the Resolution Applicant and the stakeholders were fully aware of the issue regarding DGVCL even during CIRP. In fact, specific clauses were incorporated in the Resolution Plan preserving the right to pursue proceedings against DGVCL. This itself demonstrates that the dispute was not hidden, suppressed, or discovered subsequently after plan approval.

65. The Appellant has also argued that the present proceedings merely seek restoration of monies and do not amount to reopening of the Resolution Plan. However, we are unable to accept the contentions of the Appellant and ignore the practical consequences of the relief sought. The amounts involved exceeds Rs.12 crores. At a stage where the Resolution Plan has already attained finality and implementation has commenced, any direction for restoration of such substantial amounts would necessarily impact the financial assumptions and settled commercial rights arising out of the approved Resolution Plan. This would amount to modification of the plan after the approval of the same by the Adjudicating Authority.

66. The Appellant has also contended that the Resolution Professional had locus to file and maintain the present proceedings and that clauses 9.1.16 and 9.1.17 of the Resolution Plan specifically preserved the right to

pursue proceedings against DGVCL. While there may not be absolute merit in the Respondent's technical objections regarding maintainability, we find that the ultimate dismissal of the application by the Adjudicating Authority was not solely founded upon locus or forum shopping. The core findings recorded by the Adjudicating Authority are based upon appreciation of facts, timing of the alleged appropriation, conduct of the parties during CIRP, and the effect of the approved Resolution Plan. Therefore, even assuming that the proceedings were maintainable, the Appellant was still required to conclusively establish illegality in the Respondent's actions, which in our considered view has not been done.

67. We also find that the allegations relating to wrongful adjustment of CIRP-period payments amounting to Rs.3,78,78,845.48/- have not been supported by a clear and conclusive financial reconciliation. The transactions between the parties formed part of a running commercial account involving current charges, arrears, delayed payment charges, security deposit adjustments, and operational dues. It was necessary on the part of Appellant to provide a clear and detailed reconciliation was necessary before any finding of illegal double recovery or unjust enrichment could have been returned against the Respondent. On the other hand, Respondent No.1/DGVCL has furnished their calculations based on two energy bills for November and December, 2022 in a clear and succinct manner based on which their claim was admitted by the RP. The Adjudicating Authority considered these allegations of Appellant found no

sufficient ground to grant the relief sought. We do not find the said conclusion to be arbitrary or contrary to the material available on record.

68. The Appellant has also argued that the Adjudicating Authority wrongly observed that the filing of the writ petition before the Hon'ble Gujarat High Court amounted to forum shopping. It is true that the writ petition arose from the subsequent Section 56 notice dated 15.01.2024 and sought protection against threatened disconnection of electricity supply during CIRP. However, both proceedings substantially arose out of the same continuing dispute between the parties concerning electricity dues, adjustment of payments, security deposit, and continuation of electricity supply during CIRP. In any event, even if the observations regarding forum shopping are kept aside, the same do not affect the independent findings recorded by the Adjudicating Authority on merits.

69. The Appellant has relied upon various cases in their support. We now proceed to examine them in the present factual matrix.

70. In ***Central Transmission Utility of India Ltd. v. Sumit Binani*** **(2026 INSC 284)**, the Hon'ble Supreme Court held that appropriation of a security deposit after commencement of moratorium would be impermissible under Section 14 of the IBC. However, the said judgment proceeded on the basis that the post-CIRP appropriation stood clearly established from the record. In the present case, the findings are to the contrary as the security deposit has been adjusted based on the decision taken on 14.12.2022, prior to commencement of CIRP, and the subsequent

reflection in the electricity bill dated 02.01.2023 and Form-B dated 06.01.2023 was merely consequential accounting treatment.

71. In ***Bharti Airtel Ltd. v. Aircel Ltd.*****, reported in (2024) 4 SCC 668,** the Hon'ble Supreme Court observed that unilateral set-off during CIRP would defeat the scheme and pari passu principle under the IBC. However, in the said case, the set-off sought to be exercised during the subsistence of moratorium was not dependent upon any disputed prior decision or pre-CIRP appropriation process. In the present case, the adjustment of security deposit has taken place based on the Office Note dated 14.12.2022 and therefore the dispute is essentially factual in nature. Moreover, the present case also involves an approved Resolution Plan which has already attained finality, unlike the factual background in *Bharti Airtel*. Therefore, the ratio of the said judgment does not assist the Appellant in the peculiar facts of the present matter.

72. In ***Corob India Pvt. Ltd. through its Authorized Signatory v. Birendra Kumar Agrawal and Others*****, reported in 2024 SCC OnLine NCLAT 1267**, this Tribunal considered the legality of unilateral appropriation of deposits during the moratorium period and held such action to be impermissible under the IBC framework. However, the said judgment was rendered in the context of an admitted adjustment made during CIRP and did not involve a disputed factual issue regarding whether the appropriation decision itself had been taken prior to commencement of CIRP. The ratio of the aforesaid judgment is not directly applicable to the present case.

73. The Respondent has relied upon the judgment of the Hon'ble Supreme Court in ***Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Ltd., reported in (2022) 2 SCC 401***, to contend that once a Resolution Plan is approved by the CoC and thereafter attains approval under Section 31 of the IBC, the same cannot ordinarily be reopened or altered. The relevant paragraphs 166 and 167 of the judgment are extracted below:

> ***'166****. The binding nature, as between the CoC and the successful resolution applicant, of the resolution plan submitted for approval by the adjudicating authority is further evidenced from the fact that the CoC issues an LoI to a successful resolution applicant stating that it has been selected as the successful resolution applicant and its plan would be submitted to the adjudicating authority for its approval. The successful resolution applicant is typically required to accept the LoI unconditionally and submit a PBG. Sequentially, the issuance of an LoI is followed by its unconditional acceptance by the successful resolution applicant. In AMTEK Auto[1], this Court thwarted a similar attempt by a successful resolution applicant who had relied on certain open-ended clauses in its resolution plan to seek a direction compelling the CoC to negotiate a modification to its resolution plan. The resolution plan had been approved by the adjudicating authority and the resolution applicant's IA was not entertained. The resolution applicant had then sought to challenge the approval of the resolution plan under Section 61(3) IBC by seeking the same relief. This Court rejected the claim and observed that: (SCC p. 475, para 30)*
>
> *"30. To assert that there was any scope for negotiations and discussions after the approval of the resolution plan by the CoC would be plainly contrary to the terms of IBC."*
>
> ***167****. Regulation 38(3) mandates that a resolution plan be feasible, viable and implementable with specific timelines. A resolution plan whose implementation can be withdrawn at the behest of the successful resolution applicant, is*

inherently unviable, since open-ended clauses on modifications/ withdrawal would mean that the plan could fail at an undefined stage, be uncertain, including after approval by the adjudicating authority. It is inconsistent to postulate, on the one hand, that no withdrawal or modification is permitted after the approval by the adjudicating authority under Section 31, irrespective of the terms of the resolution plan; and on the other hand, to argue that the terms of the resolution plan relating to withdrawal or modification must be respected, in spite of the CoC's approval, but prior to the approval by the adjudicating authority. The former position follows from the intent, object and purpose of IBC and from Section 31, and the latter is disavowed by IBC's structure and objective. IBC does not envisage a dichotomy in the binding character of the resolution plan in relation to a resolution applicant between the stage of approval by the CoC and the approval of the adjudicating authority. The binding nature of a resolution plan on a resolution applicant, who is the proponent of the plan which has been accepted by the CoC cannot remain indeterminate at the discretion of the resolution applicant. The negotiations between the resolution applicant and the CoC are brought to an end after the CoC's approval. The only conditionality that remains is the approval of the adjudicating authority, which has a limited jurisdiction to confirm or deny the legal validity of the resolution plan in terms of Section 30(2) IBC. If the requirements of Section 30(2) are satisfied, the adjudicating authority shall confirm the plan approved by the CoC under Section 31(1) IBC.'

74. We note from the above, that the Hon'ble Supreme Court has specifically emphasized that once negotiations between the CoC and the Successful Resolution Applicant conclude and the Resolution Plan is approved by the CoC, the commercial terms underlying the Plan attain binding character and cannot remain uncertain or indeterminate thereafter. In the present case, the Resolution Professional, CoC, and the Successful Resolution Applicant were fully aware during CIRP of DGVCL's adjusted claim, the appropriation of the Security Deposit, and the details

of the claim filed by the Respondent. The Resolution Plan approved by the CoC on 21.10.2023 was based on full awareness of facts of the case by the concerned stakeholders. The same resolution plan was thereafter approved by the Adjudicating Authority on 16.07.2024. It is a case where the claims have been admitted and treated in the resolution plan with full knowledge of concerned stakeholders. The *Ebix Singapore* (*supra*) fully supports the contention of the Respondent No.1 that any changes to the resolution plan at this stage would be contrary to the binding agreement between the parties, and the completed resolution process cannot now be indirectly reopened through the present proceedings by the Appellant.

75. Upon an overall consideration of the factual matrix, we find that the Appellant has failed to conclusively establish that the appropriation of the Security Deposit was affected after commencement of CIRP in violation of Section 14 of the IBC. The material on record indicates that the Respondent No.1 had taken a decision regarding adjustment of security deposit through the Office Note dated 14.12.2022 prior to commencement of CIRP. The effect of such decision was immediate as the security deposit was lying with the Respondent No.1. It was subsequently reflected in the next billing cycle for which the bill was issued on 02.01.2023 and Form-B dated 06.01.2023.

76. We further note that the Resolution Professional, CoC, and subsequently the Successful Resolution Applicant were fully aware of the adjusted claim position during CIRP. The Resolution Plan came to be approved and thereafter implemented on that basis. Once the CoC, in

exercise of its commercial wisdom, approved the Resolution Plan after considering the financial provisions and claims placed before it, the same cannot ordinarily be unsettled at a later stage except within the limited framework permissible under the IBC, particularly in light of the principles of finality emphasized in *Ebix Singapore (supra)*. In the facts of the present case, any such action would amount to amendment to the approved resolution plan which would be in the teeth of Ebix (supra) and the factual matrix of the case.

77. In view of the findings above, we are of the opinion that the Appellant has failed to establish any legal or factual infirmity in the Impugned Order passed by the Adjudicating Authority. The findings recorded by the Adjudicating Authority are based upon proper appreciation of the factual matrix, the conduct of the parties during CIRP, and the legal principles governing insolvency proceedings.

78. We accordingly hold that the Impugned Order dated 27.11.2025 passed in I.A. No. 47/2024 in CP(IB) No. 38/2020 does not suffer from any infirmity The Appeal is accordingly dismissed. No order as to costs.

[Justice Ashok Bhushan)
Chairperson

[Mr. Indevar Pandey]
Member (Technical)

Place: New Delhi

Harleen/
Pragya (LRA)