



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/SPECIAL CIVIL APPLICATION NO. 11679 of 2024**

**With**

**CIVIL APPLICATION (FOR VACATING STAY) NO. 1 of 2024**

**In R/SPECIAL CIVIL APPLICATION NO. 11679 of 2024**

**With**

**CIVIL APPLICATION (FOR FIXING DATE OF HEARING) NO. 1 of 2025**

**In R/SPECIAL CIVIL APPLICATION NO. 11679 of 2024**

**With**

**CIVIL APPLICATION (FOR VACATING INTERIM RELIEF) NO. 2 of 2024**

**In R/SPECIAL CIVIL APPLICATION NO. 11679 of 2024**

**With**

**CIVIL APPLICATION (FOR DIRECTION) NO. 3 of 2024**

**In R/SPECIAL CIVIL APPLICATION NO. 11679 of 2024**

**With**

**CIVIL APPLICATION (FOR DIRECTION) NO. 4 of 2024**

**In R/SPECIAL CIVIL APPLICATION NO. 11679 of 2024**

**With**

**CIVIL APPLICATION (FOR DIRECTION) NO. 5 of 2024**

**In R/SPECIAL CIVIL APPLICATION NO. 11679 of 2024**

**With**

**R/SPECIAL CIVIL APPLICATION NO. 7966 of 2025**

**With**

**CIVIL APPLICATION (FOR VACATING STAY) NO. 1 of 2025**

**In R/SPECIAL CIVIL APPLICATION NO. 7966 of 2025**

**With**

**CIVIL APPLICATION (FOR ADDITIONAL EVIDENCE) NO. 2 of 2025**

**In R/SPECIAL CIVIL APPLICATION NO. 7966 of 2025**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE NIRAL R. MEHTA**

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Approved for Reporting	Yes	No
	✓	

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**ARCELORMITTAL NIPPON STEEL INDIA LIMITED (FORMERLY KNOWN AS ESSAR STEEL INDIA LIMITED)**

**Versus**

**NATIONAL COMPANY LAW TRIBUNAL ACTING THROUGH REGISTRAR & ORS.**



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Appearance:

MR MIHIR JOSHI SENIOR ADVOCATE WITH MR KEYUR GANDHI WITH MR RAHEEL PATEL WITH MR ISA HAKIM WITH MS ARADHANA JAIN ADVOCATES FOR GANDHI LAW ASSOCIATES(12275) for the Petitioner(s) No. 1

MR KSHITIJ M AMIN(7572) for the Respondent(s) No. 2

MR PY DIVYESHVAR(2482) for the Respondent(s) No. 1

MR DEEPAK KHOSLA ADVOCATE WITH MR. JAYDEEP M SHUKLA(6974) for the Respondent(s) No. 3,5,6

ADVOCATE NOTICE UNSERVED for the Respondent(s) No. 4  
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**CORAM:HONOURABLE MR. JUSTICE NIRAL R. MEHTA**

**Date : 16/10/2025**

**COMMON ORAL JUDGMENT**

[1] Since the issues raised in the captioned petitions are similar and the facts are identical in nature and also involved common question of law, those are heard analogously and are being disposed of by this common judgment and order.

[1.1] By way of these petitions, the petitioner invoking the jurisdiction of Article 226 of the Constitution of India has called in question the legality and the validity of various orders viz. the order dated 9<sup>th</sup> January 2024 passed by the National Company Law Tribunal – I, Ahmedabad (for short, “NCLT – I”) , the orders dated 23<sup>rd</sup> April 2024 and 24<sup>th</sup> April 2024 passed by the National Company Law Tribunal-II, Ahmedabad (for short, “NCLT - II) as



well as the orders dated 6<sup>th</sup> June 2024 and 10<sup>th</sup> February 2025 passed by the National Company Law Tribunal, Delhi (for short, “NCLT, Delhi”).

[1.2] In substance, the grievance and the challenge before this Court is the aforesaid orders, by which the NCLT - I and NCLT - II have recused themselves from the case and consequently, the NCLT, Delhi, in its administrative capacity, transferred those recused cases out of the territorial jurisdiction of Ahmedabad Bench to Mumbai Bench.

[2] Since the respondents have consented to allow the captioned petitions, facts, those are relevant to decide the questions of law, are stated hereunder:

[2.1] The NCLT, Ahmedabad, while disposing of the Company Petition, approved the Resolution Plan for ESSAR Steel India Limited, now the petitioner, vide judgment and order dated 8<sup>th</sup> March 2019. Against which, various appeals were filed before the National Company Law Appellate Tribunal, New Delhi (for



short, “the NCLAT, New Delhi”) and the NCLAT, New Delhi, vide its order dated 4<sup>th</sup> July 2019 passed in Company Appeal (AT) (Insolvency) No.242 of 2019, approved the Resolution Plan submitted by the petitioner with certain modifications. As against that, the matter reached upto the Hon’ble Supreme Court by way of Civil Appeals Nos.8766-8767 of 2019 filed by the Committee of Creditors of ESSAR Steel India Limited and Civil Appeals Nos.5716-5719 of 2019 filed by the petitioner herein. Finally, the Hon’ble Supreme Court, vide judgment dated 15<sup>th</sup> November 2019, reported in **(2020) 8 SCC 531**, made it clear that CIRP of ESSAR Steel India Limited will take place in accordance with the Resolution Plan of the petitioner dated 23<sup>rd</sup> October 2018 as amended and accepted by the COC on 15<sup>th</sup> October 2020. Before the Hon’ble Supreme Court, Review Petitions were filed, however, the same were dismissed on merits vide order dated 2nd June 2020. Pertinently, one of such Review Petitions was filed by the respondent No.3 herein – M/s. Palco Recycle Industries Limited, who happens to be the member of the respondent No.4 herein – Gujarat Operational Creditors Association.



[2.2] Similarly, the CIRP - Odisha Slurry Pipeline Infrastructure Limited, which now known as Utkal Pipeline Infrastructure Limited also stands concluded with the Resolution Plan submitted by the petitioner. Upon being approved by the learned National Company Law Tribunal, Cuttack, on 2nd March 2020, which order was also then upheld by the NCLAT and finally, by the Hon'ble Supreme Court vide orders dated 18<sup>th</sup> January 2022 and 10<sup>th</sup> November 2022 respectively.

[2.3] It further appears that the respondent No.4 herein approached this Court by way of Contempt Application being Criminal Miscellaneous Application (for contempt of Court) No.218376 of 2023. The crux of the said Contempt Application was that the respondents therein have obtained the order dated 8<sup>th</sup> March 2019 from the NCLT, Ahmedabad by practicing fraud. The Division Bench of this Court, vide its order dated 23<sup>rd</sup> January 2024, not only rejected the said Contempt Application, but imposed cost of Rs.50,000/-.

[2.4] Pertinently, the respondent No.4 herein and the



respondent No.5 herein approached the learned National Company Law Tribunal, Ahmedabad by way of two Contempt Petitions being Contempt Petition No.19(AHM)/2023 and Contempt Petition No.20(AHM)/2023. So far as Contempt Petition No.19(AHM)/2023 was concerned, it was on alleged non-compliance of certain directions contained in the order dated 8<sup>th</sup> March 2019 passed by the NCLT, Ahmedabad in the matter of ESIL CIRP. So far as Contempt Petition No.20(AHM)/2023 was concerned, it was on the allegation of non-compliance of the order dated 7<sup>th</sup> February 2019 passed by the NCLT in ESIL CIRP. However, the learned NCLT, Ahmedabad, vide its separate judgment dated 8<sup>th</sup> January 2024, dismissed the Contempt Petitions by imposing cost of Rs.25,000/- in each petition holding, *inter alia*, that the respondent No.4 herein and respondent No.5 herein have no locus to file the said Contempt Petitions. It appears that on 8<sup>th</sup> January 2024, further hearing was held by the NCLT, Ahmedabad on other pending applications / petitions in the Company Petition and thereafter, the said pending cases were adjourned on the next date for hearing on 26<sup>th</sup> February 2024.



[2.5] It appears that after conclusion of hearing on 8<sup>th</sup> January 2024, the learned counsel for the respondents Nos.4 to 7 herein addressed an Email to the Member (Judicial), NCLT, Ahmedabad. The said Email dated 8<sup>th</sup> January 2024 was marked to the Registrar, NCLT, Ahmedabad with a copy to the NCLT, Delhi as well as to the counsel for the petitioner herein. Thereafter, the application / petition appeared in the cause list on 9<sup>th</sup> January 2024 (for direction) instead of 26<sup>th</sup> February 2024, as ordered. On 9<sup>th</sup> January 2024, both the learned Members of the NCLT, Ahmedabad recused themselves from hearing the matters pertaining to disposal of the Company Petition in relation to ESSAR Steel India Limited – CIRP.

[2.6] In consequence to the aforesaid, the NCLT, Delhi issued an administrative order dated 17<sup>th</sup> January 2024 transferring those petitions / applications in relation to the Company Petition of ESSAR Steel India Limited – CIRP to a different Bench of the learned NCLT, Ahmedabad.

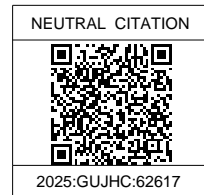
[2.7] The petitioner, being aggrieved by the order dated 9<sup>th</sup>



January 2024, approached the NCLAT by way of appeal, however, the learned NCLAT, vide its order dated 12<sup>th</sup> February 2024, rejected the appeal on the ground that recusal of the Members cannot be interfered with in exercise of the appellate jurisdiction.

[2.8] Subsequently, a recall application being I.A. No.2320 of 2024 was filed by the respondent No.5 herein seeking, *inter alia*, deletion of certain paragraphs from the order dated 12<sup>th</sup> February 2024 passed by the NCLAT, wherein observations with respect to Email dated 8<sup>th</sup> January 2024 was made. However, the learned NCLAT, vide its order dated 15<sup>th</sup> April 2024, dismissed the said review filed by the respondent No.5.

[2.9] It appears that thereafter, the respondents Nos.4 and 5 filed two applications being I.A. No.327 of 2024 in Company Petition No.20 of 2023 and I.A. No.328 of 2024 in Company Petition No.19 of 2023 seeking, *inter alia*, recall of the order dated 8th January 2024. The NCLT, Ahmedabad, Court No.2, vide its order dated 16<sup>th</sup> February 2024, dismissed the said applications as being not maintainable.



[2.10] It further appears that the respondents Nos.4 and 5 herein again moved an application being I.A. No.347 of 2024 in Contempt Petition No.19 of 2023 and Contempt Petition No.20 of 2023 to recall the order dated 16<sup>th</sup> February 2024. Alternatively, it was also prayed therein that to adjourn all matters relating to applicants therein sine die. Learned NCLT, Court No.2, Ahmedabad, vide its order dated 20<sup>th</sup> March 2024, rejected I.A. No.347 of 2024.

[2.11] However, the NCLT, Court No.2, Ahmedabad was pleased to adjourn sine die of all the matters of the respondents. Further, the learned NCLT, Court No.2, Ahmedabad appears to have started adjourning sine die of the applications which are being represented by the same learned counsel vide order dated 21<sup>st</sup> March 2024. On 23<sup>rd</sup> April 2024, approximately another 15 applications filed by the learned counsel for the respondents Nos.4 to 7 were also adjourned sine die in light of the order passed by the NCLT, Ahmedabad. The NCLT, Court No.2, Ahmedabad has also started recusing itself from hearing the matters where not even the present respondents Nos.4 to 7 are the parties, but because of the



same learned counsel who is representing the respondents Nos.4 to 7 herein. On 24<sup>th</sup> April 2024, the learned NCLT passed an order recusing themselves from hearing the matters pertaining to the pending applications in the Company Petition with respect to the present petitioner.

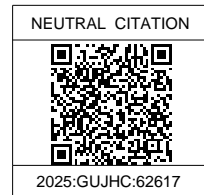
[2.12] Simultaneously, during the pendency of the aforesaid proceedings before the learned NCLT, Ahmedabad, one Transfer Application being Transfer Application No.31 of 2023 came to be filed by the respondent No.6 herein being represented by the same learned counsel. In the said Transfer Application, the respondent No.6 herein sought transfer of the Company Petition from learned NCLT, Ahmedabad to learned NCLT, Delhi. One another Transfer Application No.32 of 2023 was filed by the respondent No.6 herein being represented by the same learned counsel seeking transfer of the Company Petition pending in the learned NCLT, Cuttack to the learned NCLT, Delhi. Thereafter, another Transfer Application No.73 of 2023 was filed by the respondents Nos.4 and 5 herein seeking transfer of Company Petition from NCLT, Ahmedabad to NCLT, Delhi.



[2.13] It is the case of the petitioner that in Transfer Application No.31 of 2023, the petitioner, by way of affidavit dated 19<sup>th</sup> January 2024, brought to the notice of the NCLT, Delhi with regard to the facts and circumstances leading to the first recusal order dated 9<sup>th</sup> January 2024 passed by the NCLT, Ahmedabad. Thereafter, the petitioner filed another application being I.A. No.2084 of 2024 in Transfer Application No.31 of 2023 bringing record to the NCLT, Delhi with regard to the subsequent recusal made by the Bench of the NCLT, Court No.2, Ahmedabad. Pertinently, all the Transfer Applications Nos.31, 32 and 37 of 2023 along with I.A. No.2084 of 2024 are pending adjudication before the NCLT, Delhi.

[2.14] During the pendency of the aforesaid, the NCLT, Delhi, by way of administrative order dated 6<sup>th</sup> June 2024, transferred various petitions / applications filed in Company Petitions along with C.P. (IB) No.114 of 2024 and C.P.(I.B.) No.115 of 2015 to the NCLT, Court No.1, Mumbai.

[3] Being aggrieved and dissatisfied with the aforesaid, the



petitioner has approached this Court by way of this petition challenging, *inter alia*, the aforesaid orders passed by the learned National Company Law Tribunal, Ahmedabad as well as the learned National Company Law Tribunal, Delhi on administrative side with other appropriate writ, order or directions.

[4] Heard learned Senior Advocate Mr. Mihir Joshi for Gandhi Law Associates for the petitioner, learned advocate Mr. Deepak Khosla assisted learned advocate Mr. Jaydeep Shukla for the respondents Nos.3, 5 and 6, learned advocate Mr. P. Y. Divyeshvar for the respondent No.1 and learned advocate Mr. Kshitij Amin for the respondent No.2. So far as respondent No.4 is concerned, he has been said to have been represented through the learned advocate Mr. Khosla as per the order dated 3<sup>rd</sup> October 2024 passed by this Court.

[5] Learned Senior Advocate Mr. Mihir Joshi for the petitioner, while challenging the impugned orders, has made the following submissions:

[5.1] Learned Senior Advocate Mr. Mihir Joshi for the



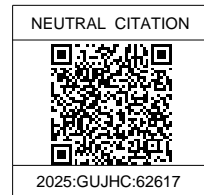
petitioner submitted that so far as the impugned orders passed by the learned NCLT – 1 and NCLT - 2, Ahmedabad with regard to recusal is concerned, are not in accordance with law being passed in violation of the Rule 62(1) of the National Company Law Tribunal Rules, 2016 (for short, “the NCLT Rules, 2016”). According to learned Senior Advocate Mr. Joshi, in view of Rule 62(1), the Tribunal could not have recused itself from hearing the case, except the reasons those are mentioned in Rule 62. According to learned Senior Advocate Mr. Joshi, therefore, in the facts of the present case, it was the NCLT – 1 and NCLT – 2 were not justified in recusing itself, which would amount to giving leverage to the unscrupulous lawyers and the litigants.

[5.2] Learned Senior Advocate Mr. Joshi further submitted that administrative order passed by the NCLT at Delhi in transferring the case from the NCLT, Ahmedabad to NCLT, Mumbai – 1 in view of Rule 16 of the NCLT Rules, 2016, is not tenable in the eye of law. According to learned Senior Advocate Mr. Joshi, Rule 16 gives powers to the NCLT, Delhi to transfer the case from one Bench to another Bench, however, the said Rule does not give

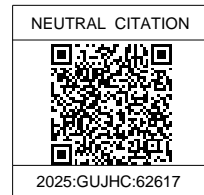


any competence to transfer the case beyond the territorial jurisdictional of the Tribunal. Learned Senior Advocate Mr. Joshi submitted that transferring the case from Ahmedabad to Mumbai is beyond the scope and ambit of Rule 16 of the NCLT Rules, 2016 and thereby, the impugned orders deserve to be quashed and set aside.

[5.3] Learned Senior Advocate Mr. Joshi further submitted that the NCLT, Delhi could not have exercised its jurisdiction when largely the issue of transfer of those applications along with the objections filed by the petitioner is pending before the Tribunal on judicial side. Learned Senior Advocate Mr. Joshi submitted that transferring the case from Ahmedabad Bench to Mumbai Bench has now in a way made all the proceedings infructuous on judicial side and virtually, allowed the prayer of the respondents herein with regard to transfer of cases. According to learned Senior Advocate Mr. Joshi, the learned NCLT, Delhi could not have exercised its administrative power in such a fashion which would render the judicial proceedings insignificant.

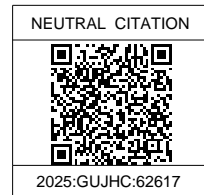


[5.4] Learned Senior Advocate Mr. Joshi further submitted that in the facts of the present case, consistently, it is the stand of the petitioner that the conduct of the respondents Nos.4 to 7 and its lawyer is illegal inasmuch as the same involves bench hunting, forum shopping and / or to the extent probity. Learned Senior Advocate Mr. Joshi submitted that for the very reason, the application filed by the petitioner in those pending Transfer Applications on judicial side of the NCLT, Delhi is also pending with appropriate prayer therein, however, by virtue of the transfer order passed by the NCLT, Delhi, on administrative side, virtually has rendered those proceedings as meaningless. Learned Senior Advocate Mr. Joshi, therefore, submitted that considering the facts of the present case, it is the most appropriate case where the Court should come heavily on those litigants and / or its lawyers who indulged in illegal tactics such as bench hunting, forum shopping and probity. According to learned Senior Advocate Mr. Joshi, the administrative order passed by the NCLT, Delhi would set a wrong precedent for those unscrupulous litigants such as respondents Nos.4 to 7 who would misconstrue it to be a license to indulge in



bench hunting, forum and probity. Learned Senior Advocate Mr. Joshi, therefore, requested this Court to quash and set aside the impugned orders by passing appropriate writ, order or directions.

[5.5] According to learned Senior Advocate Mr. Joshi, in the facts of the present case, before passing any transfer order, on administrative side, it was the duty on the part of the learned NCLT, Delhi to take into consideration series of orders passed on judicial side. Learned Senior Advocate Mr. Joshi submitted that such a formal and casual administrative order passed by the NCLT, Delhi has virtually rendered all the judicial orders passed by the Tribunal on judicial side insignificant and thereby, will lie on paper only. According to learned Senior Advocate Mr. Joshi, therefore, the Tribunal ought not to have passed administrative order in a matter where there is a chequered history of the party and the lawyers who consistently indulged in activity of forum shopping and bench hunting, however, by the impugned administrative transfer order, the learned NCLT, Delhi has casually transferred all those applications and in a way, allowed the design of the respondents Nos.4 to 7 and its lawyers to indulge in impermissible



tactics.

[6] By making above submissions, learned Senior Advocate Mr. Joshi for Gandhi Law Associates for the petitioner has prayed this Court to allow the present petition by quashing and setting aside the impugned orders in the interest of justice.

[7] *Per contra*, learned advocate Mr. Dipak Khosla for the respondents Nos.3, 4, 5 and 6, at the outset, has given consent without prejudice to his factual contentions / dispute to allow the present petitions in the larger interest of justice. Learned advocate Mr. Khosla also suggested an option that instead of transferring the case to Mumbai Bench, virtual Bench can also be constituted by nominating the Member from the different States for the Ahmedabad jurisdiction, as has been done in similar other cases. Therefore, learned advocate Mr. Khosla submitted that the learned NCLT, Delhi, in its administrative capacity, can constitute the Bench in the present case also. Learned advocate Mr. Khosla further suggested and submitted that consent draft order on 15<sup>th</sup> September 2025 with an intention to save the judicial time and that



the consent given by the learned advocates for the respondents be perceived in its letter and spirit in the judgment to be delivered by this Court. However, this Court does not approve the practice of submitting consent draft order without being asked, but at the same time, this Court would certainly try to see that the rights and contentions of both the parties, on facts and on law, would not be prejudice in the pending proceedings before the National Company Law Tribunals.

[8] Have heard learned advocates appearing for the respective parties and have gone through the material produced on record.

[9] The present case involves important and pure questions of law, thereby, same is otherwise not depending upon the consent of any of the parties, however, just to see that the consent does not prejudice the case of either of the parties on facts, this Court would straightway deal with the questions of law with limited and required assistance of facts of the case. According to this Court, the following questions are necessary to be decided by this Court:



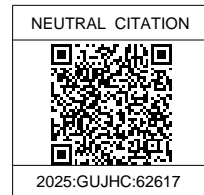
(i) Whether the orders of recusal passed by the NCLT – I, Ahmedabad and NCLT – II, Ahmedabad in light of the provisions under Rule 62 of the NCLT Rules, 2016 can be said to be justified and legal?

(ii) Whether the NCLT, Delhi, in its administrative capacity, was justified in transferring the cases from the jurisdiction of Ahmedabad Bench, NCLT to the jurisdiction of Mumbai Bench, NCLT, more particularly, when the issue of transfer of those cases along with the objections filed by the petitioners pending before the NCLT, Delhi on its judicial side?

[10] So as to decide the aforesaid questions, the provisions of Rules 62 of the NCLT Rules, 2016 are quoted hereinbelow:

*“62. Recusal.- (1) For the purpose of maintaining the high standards and integrity of the Tribunal, the President or a Member of the Tribunal shall recuse himself:-*

*(a) in any cases involving persons with whom the President or the Member has or had a personal, familial*



*or professional relationship;*

*(b) in any cases concerning which the President or the Member has previously been called upon in another capacity, including as advisor, representative, expert or witness; or*

*(c) if there exists other circumstances such as to make the President or the Member's participation seem inappropriate*

*(2) The President or any Member recusing himself may record reasons for recusal:*

*Provided that no party to the proceedings or any other person shall have a right to know the reasons for recusal by the President or the Member in the case.*

[11] On plain reading of Rule 62 of the NCLT Rules, 2016, at the threshold, makes it clear that the legislature has categorically specified the circumstances under which the President or the Member of the Tribunal shall recuse himself from a case allotted to it. Thus, on literal interpretation of the legislature intention would mean that the President or the Member of the Tribunal shall not recuse from any case, except in the circumstances constituted in



sub-sections (a), (b) and (c) of Rule 62 of the NCLT Rules, 2016. However, on further careful consideration of sub-section (2) of Rule 62 of the NCLT Rules, 2016, it confers discretion upon the President or the Members of the Tribunal for recording reasons for recusal by using word “may” therein. On further consideration of the proviso to sub-Rule (2) of Rule 62, it appears that parties to the proceedings shall have no right to know the reasons of recusal. Under the circumstances, although the legislature has specified the circumstances under which the recusal is said to be permissible, but, at the same time, by not mandating the President or the Members of the Tribunal to record reasons for such recusal, the legislature appears to have left the aspect of recusal upon the wisdom of the President or the Members of the Tribunal.

[12] Keeping in mind the aforesaid, so as to decide the question No.(i), whether the recusal order can be said to be justified and legal, it would be an apt to take notice of the order of recusal passed by the Tribunal. Accordingly, the order dated 9<sup>th</sup> January 2024 passed by the NCLT – I is quoted hereinbelow:



***“C.P. (IB) 40 of 2017***

***Proceedings under Section 7 IBC***

***IN THE MATTER OF:***

*State Bank of India*

*.....Applicant*

*V/s*

*Essar Steels Ltd*

*.....Respondent*

***Order delivered on: 09/01/2024***

**ORDER**

*Both the Members recuse themselves from these matters. The Joint Registrar is directed to place these matters before the Hon’ble Principal Bench for Administrative order in these matters.*

*-Sd-*

*SAMEER KAKAR*

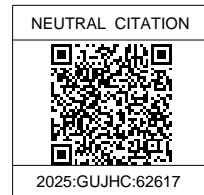
*MEMBER (TECHNICAL)*

*-Sd-*

*SHAMMI KHAN*

*MEMBER(JUDICIAL)”*

[13] On a plain reading of the order dated 9<sup>th</sup> January 2024 passed by the NCLT – I, Ahmedabad, it is apparent that the learned Members have not assigned any reason for their recusal. At this stage, it becomes relevant to take note of the immediate preceding event – namely the Email addressed by the learned advocate



appearing for the respondents to the Members of the NCLT – I. Though the order of recusal makes no reference to the said Email, this Court finds it difficult to discern any other apparent reason for the recusal. If any of the circumstances contemplated under Rule 62 of the NCLT Rules, 2016 were actually existing, the NCLT – I would have recused itself at the very outset. However, in the present case, the matter was already being heard, and the recusal followed immediately after the Email was received. In these circumstances, it appears that the recusal by the NCLT – I was influenced by the act of sending the Email, which, in the opinion of this Court, ought not to have affected the judicial functioning of the Tribunal.

[13.1] Thereafter, the NCLT, Delhi, vide its administrative order dated 17<sup>th</sup> January 2024, transferred various petitions / application to the another Bench being NCLT – II, Ahmedabad.

[13.2] The NCLT – II, Ahmedabad, vide its order dated 23<sup>rd</sup> April 2024 passed the following order:

***“C.P. (IB)/114(AHM)2024***



***Proceedings under Section 95 IBC***

***IN THE MATTER OF:***

*IDBI BANK LIMITED* .....*Applicant*

*V/s*

*PRASHANT RUIA* .....*Respondent*

***Order delivered on: 23/04/2024***

**ORDER**

***Interv.Pet/9(AHM)2024 & IA/623(AHM)2024***

*The contents of this application as well as oral submissions made by Ld. Counsel makes many allegations against both the members of the Tribunal & Registry as well as functioning of the Tribunal. Ld. Counsel also made some submissions which are not at all relevant to the matter. He has argued for about two hours in pre-lunch session and in his arguments, he has sought to interfere in administration of justice by questioning the procedure followed by this Tribunal including procedure mentioned in the IBC. As per his prayer, all his matters were kept sine-die by earlier order.*

*Before starting arguments, Ld. Counsel has informed that he kept some witnesses in the Court room to transcribe. He also stated that his office appearing on-line would be noting the*



*same to be furnished as evidence. This act of the counsel is not appreciated and it amounts to intimidation to the members of the Bench. In this circumstances, we are unable to conduct the hearing of matters of said counsel. It seems that the counsel has lost his faith in the Bench. So, in the interest of justice, we are recussing from all matters in which he has or would be appearing and matters connected to Essar Steels Ltd. & Arcelor Mittal Niippon Steel India Ltd.*

*-Sd-*

*DR. V. G. VENKATA CHALAPATHY  
MEMBER (TECHNICAL)*

*-Sd-*

*CHITRA HANKARE  
MEMBER (JUDICIAL)”*

[13.3] On 24<sup>th</sup> April 2024, the NCLT – II, Ahmedabad passed the following order:

***“CP(IB) 40 of 2017***

***Proceedings under Section 7 IBC***

***IN THE MATTER OF:***

*State Bank of India*

*.....Applicant*

*V/s*

*Essar Steels Ltd*

*.....Respondent*

***Order delivered on: 24/04/2024***

***ORDER***



*IA/66(AHM)2024, Cont.P/5(AHM)2022 in IA 419 of 2017, IA/757(AHM)2022 in Cont.P/5(AHM)2022 in IA 419 of 2017, IA/758(AHM)2022 in Cont.P/5(AHM)2022 in IA 419 of 2017, IA/794(AHM)2022 in Cont.P/5(AHM)2022 in IA 419 of 2017, IA/795(AHM)2022 in Cont.P/5(AHM)2022 in IA 419 of 2017, IA/873(AHM)2022 in Cont.P/5(AHM)2022, IA/866(AHM)2022, IA/867(AHM)2022, IA/874(AHM)2022, IA/760(AHM)2022 in Cont.P/5(AHM)2022 in IA 419 of 2017, IA/855(AHM)2022 in IA/832(AHM)2022, IA/1075(AHM)2022, IA/1107(AHM)2022, IA/1143(AHM)2022, IA/15(AHM)2023, IA/110(AHM)2023 in IA/832(AHM)2022, IA/288(AHM)2023, IA/991(AHM)2023 in IA/874(AHM)2022, IA/992(AHM)2023 in IA/758(AHM)2022, IA/994(AHM)2023 in IA/873(AHM)2022, IA/996(AHM)2023 in IA/757(AHM)2022*

*All the matters are recused by the Members vide order dated 23.04.2024.*

*-Sd-*

*DR. V. G. VENKATA CHALAPATHY  
MEMBER (TECHNICAL)*

*-Sd-*

*CHITRA HANKARE  
MEMBER (JUDICIAL)”*

[13.4] On a plain reading of the orders passed by the NCLT – II, Ahmedabad, particularly the order dated 23<sup>rd</sup> April 2024, it appears that the learned Members recused themselves mainly due to the conduct of the learned counsel who had made



allegations against the Members of the Tribunal and the Registry, and who had also arranged for certain persons to remain present in the courtroom to record the proceedings. It is thus evident that the recusal was not on account of any of the circumstances enumerated under Rule 62 of the NCLT Rules, 2016, but rather on account of the conduct of the advocate appearing before the Tribunal.

In my view, the NCLT – II ought not to have recused itself or yielded to such conduct of the parties. If Courts and the Tribunals begin to succumb to pressure or intimidation from counsel or litigants, it would only embolden those who seek to manipulate judicial proceedings and promote practices such as browbeating, forum shopping, and attempts to influence the Bench. Courts and Tribunals are expected to be magnanimous, but such magnanimity should never be at the cost of judicial dignity or independence.

It is increasingly being observed that when judicial officers do not align with the expectations of certain litigants, attempts made to browbeat or pressurize them to avoid the passing of unfavourable orders. Such conduct cannot be tolerated. Judicial magnanimity should never be mistaken for weakness. Courts and



Tribunals are not powerless to deal with such situations; they possess ample authority to take appropriate action against such misconduct. Therefore, instead of resorting to recusal in such circumstances, the proper course would be to take firm and lawful measures against the wrongdoers.

Ordinarily, orders of recusal are not open to judicial review. However, where the legislature has specifically prescribed the circumstances in which recusal is permissible, any order passed beyond those circumstances can certainly be scrutinized in judicial review. While recusal may be a matter of individual conscience, but at the same time, it is equally an aspect of institutional responsibility.

Particularly in this case, the NCLT – II, being the last available forum within its territorial jurisdiction, ought not to have recused itself except under the circumstances clearly provided in Rule 62. Applying the principle of necessity, the NCLT – II should have continued with the matter rather than recusing on account of the conduct of the parties. Judges and Members are bound by their oath to decide cases impartially, without fear or favour, affection or



ill will.

Accordingly, upon a comprehensive consideration of the facts and law, this Court finds that the recusal orders passed by the NCLT – I and NCLT – II, Ahmedabad, cannot be said to be legal or justified.

I answer the question No.(i) accordingly.

[14] So far as the second question is concerned, at the outset, order dated 6<sup>th</sup> June 2024 passed by the learned NCLT, New Delhi is extracted hereinbelow:

“Dated 6<sup>th</sup> June 2024

**ORDER**

1. *The following matters are pending before NCLT, Ahmedabad.*

S. No.	Case No.	Title
1	C.P. No.(IB) 40 /2017 (with all IAs)	State Bank of India Vs. Essar Steels Ltd.
2	C.P. No.(IB) 114(AHM)/2024 (with all IAs)	IDBI Bank Limited Vs. Prashant Ruia
3	C.P. No.(IB) 115(AHM)/2024 (with all IAs)	IDBI Bank Limited Vs. Ravikant Ruia

2. *Hon’ble President exercising powers conferred under Rule 16(d) of the NCLT Rules, 2016 has transferred the matter to NCLT Mumbai Court No.I the Bench is comprising of:*



(i) Hon'ble Member (J) Justice Mr. Virendrasingh Gyansingh Bisht

(ii) Hon'ble Member (T) Shri Prabhat Kumar

3. Henceforth the above matter shall be listed before NCLT Mumbai Bench, Court No.I.

4. This is issued with the approval of Hon'ble President, NCLT.

(Naveen Kumar Kashyap)  
Registrar”

[14.1] On 10<sup>th</sup> February 2025, the NCLT, Delhi passed the following order:

“Dated 10<sup>th</sup> February 2025

**ORDER**

1. The following matters are pending before NCLT, Ahmedabad – Court No.I & II:

S. No.	Case No.	Title
1	CP (IB) No.39 of 2017(with all connected IAs)	Standard Chartered Bank vs. Essar Steel India Ltd.
2	CP(CAA) 39 of 2021 in CA (CAA) 80 of 2020 (with all connected IAs)	Arcelor Mittal India Pvt. Ltd. AM Associates India Pvt. Ltd Arcelor Mittal Nippon Steel India Ltd.

2. Hon'ble President exercising powers conferred under Rule 16(d) of the NCLT Rules, 2016 has transferred the matter to NCLT Mumbai Court No.I the Bench is comprising of:



*(i) Hon'ble Member (J) Justice Mr. Virendrasingh Gyansingh Bisht*

*(ii) Hon'ble Member (T) Shri Prabhat Kumar*

3. Henceforth the above matters along with all the connected IAs including IA 168/NCLT/ALH/2025; IA 15/NCLT/ALH/2025; IA 167/NCLT/ALH/2025 shall be listed before NCLT Mumbai Bench, Court No.I.

4. This is issued with the approval of Hon'ble President, NCLT.

*(Utkarsh Yadav)  
Registrar”*

[15] Considering the aforesaid orders dated 6<sup>th</sup> June 2024 and 10<sup>th</sup> February 2025 passed by the learned NCLT, Delhi, in exercise of its administrative powers under Rule 16 of the NCLT Rules, 2016, transferred all the matters to the NCLT, Mumbai beyond the territory of the State of Gujarat. Thus, at this stage, Rule 16 of the NCLT Rules, 2016 is quoted hereinbelow:

***“16. Functions of the President.- In addition to the general powers provided in the Act and in these rules the President shall exercise the following powers, namely:-***

*(a) preside over the consideration of cases by the Tribunal;*



- (b) direct the Registry in the performance of its functions;*
- (c) prepare an annual report on the activities of the Tribunal;*
- (d) transfer any case from one Bench to other Bench when the circumstances so warrant;*
- (e) to withdraw the work or case from the court of a member.*
- (f) perform the functions entrusted to the President under these rules and such other powers as may be relevant to carry out his duties as head of the Tribunal while exercising the general superintendence and control over the administrative functions of the Members, Registrar, Secretary and other staff of the Tribunal.”*

[16] On a perusal of Rule 16(d) of the NCLT Rules, 2016, it becomes clear that the Rule defines the powers and functions of the President, Registrar, and Secretary. Under this provision, the President has the authority to transfer cases from one Bench to another within the same Tribunal when circumstances so require. However, the Rule does not confer any power to transfer a case beyond the territorial jurisdiction of a particular Bench. In other words, the President's authority to transfer matters is confined to



Benches falling within the same territorial limits.

In the present case, the NCLT, New Delhi, while acting on the administrative side, has committed a serious error by transferring the cases from the NCLT, Ahmedabad, to the NCLT, Mumbai. The President of the NCLT has no administrative power to alter or extend the territorial jurisdiction of any Bench. Such an administrative decision directly affecting pending judicial proceedings is, therefore, subject to judicial review. Accordingly, the orders dated 6th June 2024 and 10th February 2025 passed by the NCLT, New Delhi, on the administrative side, are without any legal authority and are liable to be quashed and set aside.

Moreover, since the issue of transfer of these petitions was already pending before the NCLT, New Delhi, on the judicial side, the exercise of administrative powers in this manner has rendered those proceedings ineffective, which further fortifies the impropriety of the orders.

I answer the question No.(ii) accordingly.



[17] For the foregoing reasons, present petitions deserve to be allowed in part. The orders of recusal dated 9<sup>th</sup> January 2024, 23<sup>rd</sup> April 2024 and 24<sup>th</sup> April 2024 respectively passed by the learned NCLT – I, Ahmedabad and NCLT – II, Ahmedabad deserve to be quashed and set aside and are hereby quashed and set aside. Consequently, the orders dated 6<sup>th</sup> June 2024 and 10<sup>th</sup> February 2025 passed by the NCLT, Delhi are also quashed and set aside. President of the learned NCLT, Delhi is hereby directed to decide under its administrative powers to allot the cases to any of the Bench at NCLT, Ahmedabad and / or if circumstances so warrant may also constitute virtual Bench, if otherwise permissible, for its expeditious adjudication.

[18] It is clarified that this Court has confined its decision only to the legal issues involved in the case and has not gone into the aspect of allegations and counter allegations of the parties. Both the parties shall, therefore, be at liberty to raise all their contentions in accordance with law before the Tribunal. The learned National Company Law Tribunal is also expected to deal with the issues and decide the proceedings without any undue



delay.

[19] Consequently, all the connected Civil Applications also stand disposed of.

CHANDRESH

**(NIRAL R. MEHTA,J)**