* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on: 24.07.2026**
Judgment pronounced on: 03.08.2026

\+ O.M.P. (COMM) 362/2018, I.A. 11178/2018, I.A. 33271/2024 I.A. 19620/2025 & I.A. 30842/2024

MCNALLY BHARAT ENGINEERING COMPANY LIMITED .....Petitioner

Through: Mr. Gopal Jain, Sr. Adv. with Mr. Udian Sharma, Mr. Sahil Saraswat, Mr. Prabal Pratap Singh, Ms. Harsha Sadhwani, Mr. Manav Mitra & Ms. Kriti Sharma, Advs.

versus

METSO INDIA PVT. LTD. .....Respondent

Through: Mr. Sumant Batra, Mr. Nitin Khare, Mr. Abhishek Kumar, Ms. Riya Arora, Mr. Sarthak Bhandari, Ms. Hemlata Rawat, Mr. Abhay Singh & Mr. Saurabh, Advs.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN

J U D G M E N T

1. This petition is filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short ‘the Act’) impugning the arbitral award dated 05.05.2018. During the pendency of the petition, the petitioner filed an application (I.A. 30842/2024) seeking dismissal of the petition under Section 34 of the Act having rendered infructuous and seeking refund of the amount deposited pursuant to the order dated 23.08.2018 of this court. The prayers are reproduced below:

"i. Releasing the sum of INR 5,52,30,693/- (Indian Rupees Five Crore Fifty-Two Lakh Thirty Thousand Six Hundred Ninety-Three only), deposited by the Petitioner *vide* an FDR dated April 03, 2021 of Bank of India issued in the name of 'Registrar General, High Court of Delhi' prepared from the bank account No. 404445110003480, LCB Branch, Kolkata along with interest accrued thereon;

ii. Dismissing the present petition, being O.M.P. (COMM) 362 of 2018 and the corresponding enforcement proceedings initiated by the Respondent herein, being O.M.P.(ENF.)(COMM) No. 270 of 2018 as infructuous by operation of law;

iii. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. The brief facts are that the Bharat Heavy Electrical Ltd. (for short 'BHEL') invited bids for two barrel type blender reclaimers. The petitioner, M/s McNally Bharat Engineering Company Limited (for short 'MBECL') had an agreement with the Metso India Private Limited (hereinafter referred to as 'respondent') for providing information through techno commercial offer for enabling MBECL to bid for notice inviting tender issued by BHEL. In turn it was agreed that MBECL shall sub-contract the work to the respondent. MBECL was the successful bidder and was awarded the work. On 12.07.2011, the agreement was entered between MBECL and the respondent for design, manufacture, supply and supervision of erection and commissioning of two barrel type blender reclaimers. On failure of the parties to resolve the differences, MBECL terminated the agreement on 21.11.2011.

2.1 The agreement provided for dispute resolution through arbitration and the respondent invoked arbitration on 05.12.2011 by issuing notice under Section 21 of the Act. The proceedings culminated in the impugned award dated 05.05.2018. The claim of the respondent to the tune of Rs.5,52,00,000/- (Rupees five crore fifty two lakh only) was accepted and post award interest @ 12% p.a. was awarded. MBECL challenged the award by filing a petition under Section 34 of the Act.

2.2 This court vide order dated 23.08.2018 directed MBECL to deposit the awarded amount as a condition for stay of the execution of the award. On 01.09.2021, the directions of this court were complied with and the awarded amount was deposited in the form of a Fixed Deposit Receipt (for short 'FDR') in the name of Registrar General of this court. On 29.04.2022, MBECL was admitted to the Corporate Insolvency Resolution Process (for short 'CIRP') proceedings by the National Company Tribunal, Kolkata. The Resolution Professional (RP) issued public notice on 07.05.2022 and the Resolution Plan (for short 'plan') submitted by BTL EPC Limited was approved on 19.12.2023. MBECL on 22.05.2024 filed an application seeking refund of the amount deposited. On 11.07.2024, the respondent filed an application for withdrawal of the deposited amount.

3. Learned senior counsel for the petitioner contended that after approval of the plan, the claim of the respondent in pursuance to the award no longer survives and the petition under Section 34 of the Act is rendered infructuous. The submission is that the respondent failed to submit the claim to the RP and the rights stand extinguished. The

prayer is that the amount deposited be ordered to be refunded. Reliance is placed upon the decisions of the Bombay High Court in **Reliance Naval and Engineering Ltd. v. M/s Afcons Infrastructure Ltd**., 2025 SCC OnLine Bom 6082 and **Garden Silk Mills Limited v. Gayatri Industries and Ors**., 2025 SCC OnLine Bom556.

4. *Per contra*, consequent to MBECL depositing the awarded amount before this court no claim was required to be made before the RP and the deposit of the awarded amount is payment to the respondent. To buttress the contention that the deposit of the amount in court tantamounts to payment to the judgment creditor, reliance is placed on the decision of the Supreme Court in **Himachal Pradesh Housing and Urban Development Authority & Anr. v. Ranjit Singh Rana**, 2012 4 SCC 505, of this court in **M/s Ramacivil India Constructions Private Limited v. Union of India** 2024:DHC:5343 and of the Division Bench of the Bombay HC in **Reliance Communication Limited v. Rajendra P. Bansal**, 2023 SCC OnLine Bom 33 dated 04.01.2023 in interim application no.1161/2020 in first appeal no.1539/2012.

4.1 The argument is that the amount deposited in this court was not reflected as an asset in the balance sheet of MBECL. Further that in violation of Section 29 of the Insolvency and Bankruptcy Code, 2016 (for short 'IBC') the deposited amount was not shown in the Information Memorandum prepared by the RP. It is contended that under Section 18 of the IBC, RP was required to take control and custody of the assets of the corporate debtor, however no application was filed for refund of the deposited amount. Submission is that if the amount deposited was taken into consideration while approving the plan, it would have gone to the creditors and now cannot be refunded to MBECL. The grievance is that the respondent was neither named in the list of creditors nor was a party to the CIRP proceedings.

5. The undisputed facts are that during the pendency of the petition under Section 34 of the Act, MBECL was admitted to CIRP proceedings and the plan was approved. The respondent had not made claim before RP of the amount awarded in the impugned award.

6. Before proceeding further, it would be apposite to reproduce the following sections of IBC-

> "3.**Definitions.**—In this Code, unless the context otherwise requires,—
> (6) "claim" means—
> (a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;
> (b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured;
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> (10) "creditor" means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree-holder;
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> (11) "debt" means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;"
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> "29. **Preparation of information memorandum.—(**1) The resolution professional shall prepare an information

memorandum in such form and manner containing such relevant information as may be specified by the Board for formulating a resolution plan.

(2) The resolution professional shall provide to the resolution applicant access to all relevant information in physical and electronic form, provided such resolution applicant undertakes—

(a) to comply with provisions of law for the time being in force relating to confidentiality and insider trading;

(b) to protect any intellectual property of the corporate debtor it may have access to; and

(c) not to share relevant information with third parties unless clauses (a) and (b) of this sub-section are complied with.

Explanation.—For the purposes of this section, "relevant information" means the information required by the resolution applicant to make the resolution plan for the corporate debtor, which shall include the financial position of the corporate debtor, all information related to disputes by or against the corporate debtor and any other matter pertaining to the corporate debtor as may be specified."

"31. **Approval of resolution plan**.—(1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, [including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed,] guarantors and other stakeholders involved in the resolution plan.

[Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation.]

(2) Where the Adjudicating Authority is satisfied that the resolution plan does not confirm to the requirements referred to in sub-section (1), it may, by an order, reject the resolution plan.

(3) After the order of approval under sub-section (1), —

(a) the moratorium order passed by the Adjudicating Authority under section 14 shall cease to have effect; and

(b) the resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to be recorded on its database.

(4) The resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later:

Provided that where the resolution plan contains a provision for combination, as referred to in section 5 of the Competition Act, 2002 (12 of 2003), the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of creditors."

7. Section 3(6) of the IBC defines 'claim' and includes a right to payment, whether or not such right is reduced to judgment. The creditor as per Section 3(10) of the IBC is a person to whom the debt is owed. Section 3(11) of the IBC defines debt to be an obligation in respect of the claim.

8. The amount due to the respondent was reduced to writing in the impugned award and was a claim. MBECL owed the debt and the respondent was the creditor. The respondent failed to raise the claim

before RP, in terms of Regulations 7 and 12 of Chapter IV of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

9. Section 31 of the IBC provides that an approved plan is binding on the corporate debtor, its employees, members and creditors to whom a debt was due. The Supreme Court in **Ghanashyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited**, (2021) 9 SCC 657 held that provision of Section 31 of the IBC was necessitated for revival of the corporate debtor and to make it a running concern. The decision in **Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors.**, (2020) 8 SCC 531 was considered wherein the concept that after approved plan corporate debtor starts with a fresh slate was laid. It was factored that if after approval of a plan the corporate debtor faces an undecided claim, it would remain in uncertainty. It was further held that the claims which do not form part of the approved plan shall stand extinguished and cannot thereafter be initiated or continued. It would be fruitful to reproduce the relevant paragraphs of the judgment-

> "65. Bare reading of Section 31 of the I&B Code would also make it abundantly clear that once the resolution plan is approved by the adjudicating authority, after it is satisfied, that the resolution plan as approved by CoC meets the requirements as referred to in sub-section (2) of Section 30, it shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders. Such a provision is necessitated since one of the dominant purposes of the I&B Code is revival of the corporate debtor and to make it a running concern.
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68. All these details are required to be contained in the information memorandum so that the resolution applicant is aware as to what are the liabilities that he may have to face and provide for a plan, which apart from satisfying a part of such liabilities would also ensure, that the corporate debtor is revived and made a running establishment. The legislative intent of making the resolution plan binding on all the stakeholders after it gets the seal of approval from the adjudicating authority upon its satisfaction, that the resolution plan approved by CoC meets the requirement as referred to in sub-section (2) of Section 30 is that after the approval of the resolution plan, no surprise claims should be flung on the successful resolution applicant. The dominant purpose is that he should start with fresh slate on the basis of the resolution plan approved.

69. This aspect has been aptly explained by this Court in *Essar Steel (India) Ltd. (CoC)* [*Essar Steel (India) Ltd. (CoC)* v. *Satish Kumar Gupta*, (2020) 8 SCC 531 : (2021) 2 SCC (Civ) 443] : (SCC p. 616, para 107)

"*107*. For the same reason, the impugned NCLAT judgment in *Standard Chartered Bank* v. *Satish Kumar Gupta* [*Standard Chartered Bank* v. *Satish Kumar Gupta*, 2019 SCC OnLine NCLAT 388] in holding that claims that may exist apart from those decided on merits by the resolution professional and by the adjudicating authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, NCLAT judgment [*Standard Chartered Bank* v. *Satish Kumar Gupta*, 2019 SCC OnLine NCLAT 388] must also be set aside on this count."

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74. As such, with respect to the proceedings, which arise after 16-8-2019, there will be no difficulty. After the amendment, any debt in respect of the payment of dues arising under any law for the time being in force including the ones owed to the Central Government, any State Government or any local authority, which does not form a part of the approved resolution plan, shall stand extinguished.

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102. In the result, we answer the questions framed by us as under:

102.1. That once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan.

102.2. The 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the I&B Code has come into effect.

102.3. Consequently all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued."

9.1 The Supreme Court in **M/s Tata Steel Ltd. v. Varsha & Anr.**, 2026 INSC 717 held:

> "55. This Court is further of the view that no Resolution Plan can succeed if uncertain or unquantified claims are permitted to linger and resurface against the Successful Resolution Applicant years after approval. Such a situation would be akin to a hydra-headed recurrence and is antithetical to the 'clean slate' principle.
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> 61. Consequently, upon a harmonious reading of the Resolution Plan, this Court is of the opinion that all legal proceedings, including arbitration and civil suits which had not culminated in determinable, quantifiable claims by the date of approval of the Resolution Plan by the NCLT stand abated, extinguished, waived or withdrawn. Only crystallised claims as on the effective date (i.e. 18th May 2018) are payable on a pro-rata basis. Accordingly, no amount beyond Rupee One (₹1) each was payable to Respondent No.1-Varsha and the Intervenor-Masyc, whose pending arbitration and civil proceedings stood abated/waived/ extinguished/withdrawn upon approval of the Resolution Plan."

9.2 In **JSW Ispat Special Products Ltd. V. Bharat Petroresources Ltd.**, 2025 SCC OnLine Del 6869 held:

> "39. It is thus clear from a conspectus of the aforementioned judgments that all such claims, which are not a part of the resolution plan on the date of approval, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect of claims,

which are not part of the resolution plan and so much so this would apply to the statutory dues owed to the Central/State Governments, local bodies, etc. In the instant case, the claims which were referred to arbitration were not part of the approved resolution plan and stood extinguished and were thus not arbitrable."

9.3 In **Akash Construction v. Indira Priyadarshini Hydro Power Pvt. Ltd**., (2024) SCC OnLine Del 3602 it was held as under:

> "18. The proposition of law having been crystallized that once a successful Resolution Plan is accepted, all the Claims against Corporate Debtor gets extinguished and only such debts which form part of Resolution Plan would be taken up by the Successful Resolution Applicant.
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> 19. The question which now arises is whether the petition under Section 34 challenging the Award, would become not maintainable. The scheme as envisaged in IBC is that a Notice is required to be given at various stages since the inception of the petition till the approval of the Resolution Plan, by the IRP. The Claims so submitted by the Operational Creditors before the Interim Resolution Professionals pursuant to these Public Notices, are then considered and made into *Information Memorandum* which becomes the basis for the Resolution Applicant to submit its plan. If any other claims after the acceptance of the Resolution Plan by the NCLT/NCLAT, are to be permitted to be agitated, it would completely derail the Plan submitted by the Successful Resolution Applicant, for the simple reason that such Claims are not in its contemplation and are beyond its assessment of the debts.
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> 20. The amounts as determined under the Arbitral Award and challenged under Section 34 are also qualified as *'claims'* as defined under Section 3(6) of IBC. The Award holder is, therefore, under an obligation to submit its Claims before the Interim Resolution Professional to be incorporated in the Information Memorandum, rather than

to wait for the adjudication of their application under Section 34 of the Act."

9.4 In **Vijay Prakash v. Alok Industries Ltd**., (2024) SCC OnLine Del 5068 it was held:

> "24. The Supreme Court has, therefore, clarified that on the approval of the Resolution Plan, all claims which were not part of the Resolution Plan stand extinguished and the plaintiff will not be entitled to initiate or continue the proceedings in respect of such claim which is not part of the Resolution Plan, as is the case herein."

10. The amount awarded to the respondent under the impugned award was not made part of the plan for failure of the respondent to raise a claim. In view of the provisions of the IBC and the authoritative decisions of the Supreme Court, the claim no longer survives and stands extinguished. The petition under Section 34 of the Act challenging the impugned award is rendered academic as the outcome would have no bearing on revival of the claim even if the award is upheld.

11. The issue to be determined is whether the amount deposited in this court during the pendency of the petition under Section 34 of the Act is to be refunded to MBECL.

12. For deciding the issue the effect of deposit of the amount in court during the pendency of the petition under Section 34 of the Act needs consideration.

13. The contention of learned counsel for the respondent that deposit of the amount tantamounts to payment to the decree holder is ill-founded. The deposit in court was a pre-condition for grant of stay

with the object of securing the amount due to the decree holder. The amount deposited is subject to the outcome of the challenge to the impugned award. The deposit of the amount in the court does not affect the ownership of the asset.

14. The matter needs to be considered from another angle that for release of the amount the respondent has to take permission of the court and the release may be made subject to a condition of securing the amount. With the change in circumstances the condition of deposit to secure the amount due can be modified by the court. There is no vested right created in favour of the decree holder for unconditional receipt of the amount deposited in the court. The deposit continues to remain in the form of security.

15. The reliance placed on **Himachal Pradesh Housing and Urban Development Authority & Anr.** (supra), **M/s Ramacivil India Constructions Private Limited** (supra) and **Reliance Communication Limited** (supra) by learned counsel for the respondent to contend that the amount deposited in court amounts to payment to the decree holder lacks merit. The issue in those cases was that whether the decree holder was entitled to interest after the deposit of amount till it is released. In this regard, the Supreme Court observed that the word 'payment' may have different meanings in different contexts. The observation that deposit of amount in court is a payment to decree holder was *qua* Section 37(1)(b) of the Act. The authorities cited are not applicable to the facts of the present case.

16. The reliance placed by the learned counsel for the respondent on the decision of the Bombay High Court in **Reliance**

Communication Limited (supra) does not enhance the case. Subsequently, the Division Bench of the Bombay High Court in **Siti Networks Limited v. Rajiv Suri** 2024 SCC OnLine Bom 3550 after considering the earlier decision and the provisions of the IBC held that the money deposited in court is an asset of the corporate debtor and remains in the custody of the court. The relevant paragraphs read as under-

> "53. ……..it is clarified that the ruling in *Rajendra Bansal* [*Reliance Communication Ltd.* v. *Rajendra P. Bansal*, (2023) 237 Comp Cas 30 (Bom); 2023 SCC OnLine Bom 33.] applies only to the parties in that case, although the statement of law as contained therein, has been overtaken, as explained above. Since the Supreme Court has conclusively released the ICICI guarantee in this very case, no question of law remains for reference to any larger Bench.
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> 54. In the result, we hold that taking into account the decision of the Supreme Court in respect of the ICICI guarantee, and that too based on similar pleadings made by the parties before the Supreme Court; and also taking into account the provisions of the Insolvency and Bankruptcy Code and its implications for decree-holders, the monies deposited in this court are indeed assets under the ownership of the applicant-appellant, with possession being in the hands of the court. No meaningful purpose would be served in continuing with the deposit, since even if the appeal were to fail, the respondent would need to be subjected to the corporate insolvency resolution process run by the committee of creditors through the resolution professional. If the resolution attempts fail, the respondent's rights under the impugned judgment would be subject to the waterfall mechanism for distribution of liquidation proceedings, stipulated under the Insolvency and Bankruptcy Code.

55. In the result, in view of the corporate insolvency resolution process proceedings pending in relation to the applicant-appellant:

(A) We hold that monies or any other asset deposited by a corporate debtor in court prior to commencement of the corporate insolvency resolution process by way of security (to protect against execution of any judgment or decree), would not cease to be the asset of the corporate debtor;

(B) Consequently, the monies deposited by the applicant-appellant in this court constitute assets owned by the applicant-appellant although they are not in possession of the applicant-appellant;

(C) Therefore, we hereby permit the applicant-appellant to withdraw Appeal No. 597 of 2016, and indeed withdraw the amounts deposited in this court in these proceedings, along with all earnings thereon. Refund of court fees shall be processed as per rules;

(D) The amounts deposited in court shall be released to the applicant-appellant within a period of two weeks from today, subject to compliance with the procedural rules of this court, administered by the Registry; and

(E) The substantive rights of the respondent who is the judgment creditor under the impugned judgment shall be subject to the provisions of the Insolvency and Bankruptcy Code."

17. The Bombay High Court in **Reliance Naval and Engineering Ltd.**(supra) while directing refund of the deposited amount to the corporate debtor observed as under-

"15. Based on the aforesaid provisions, in ***Siti Networks*** it was held that the cash deposited in court by the corporate debtor was an asset to which the corporate debtor had title, even while such asset was held in the custody of the court. If, pending hearing of the challenge under the court's consideration, the corporate debtor were to be admitted to CIRP, then during the CIRP, it was held, the assets of the corporate debtor deserved to be conserved. Therefore, the assets belonging to the corporate debtor were held to be liable to be returned to the custody of the resolution professional. If a resolution plan were to be approved, it would abide by the approved resolution plan, and if the resolution were to fail, the assets in question would form part of the liquidation estate of the corporate debtor.

16. The matter in hand is far more conclusive than the factual matrix obtaining in ***Siti Networks***. The resolution plan has indeed been approved and has been completed. Possession of the asset (the cash) had been handed over to the Court by Reliance, which later went insolvent. Before CIRP commenced, possession of the cash was further handed over to Afcons, taking care to ensure that Afcons provided a bank guarantee to secure the return of the amount so released should the need arise. This was a discretionary equitable measure permitted by the Court, pending and subject to the outcome in the Section 34 Petition.

17. The right to receive the amount awarded in the Arbitral Award was nothing but a “claim” of Afcons validly held against the debt declared as being payable by Reliance to Afcons, the creditor. The amount owed by Reliance (corporate debtor) to Afcons (judgment creditor) has since been effaced by the approved Resolution Plan. Therefore, the Section 34 Petition has been rendered infructuous.

18. Meanwhile, the amount deposited pending the hearing of the Section 34 Petition, has been released to Afcons. Now that the Section 34 Petition has been rendered infructuous, there is no prospect of execution of the Arbitral Award, and indeed the very challenge to the Arbitral Award is redundant. Therefore, with nothing being owed under the Arbitral Award (other than Re. 1) the amount withdrawn by Afcons ought to be brought back, failing which, the guarantee provided by Afcons would need to be invoked.

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23. Therefore, Afcons is directed to bring back the amount of Rs. 12,76,91,279 to the Registry. The Respondent must do so within a period of four weeks from the upload of this order on the website of this Court."

18. A similar view was taken by the Bombay High Court in **Garden Silk Mills Limited** (supra) wherein it was held as under-

"21. Resultantly, the inevitable conclusion is that as Respondent 1's claim did not form part of the resolution plan due to failure of Respondent 1 to lodge its claim with the resolution professional, upon approval of the resolution plan by the National Company Law Tribunal vide order dated 1-1-2021, the debt stood extinguished. Upon extinguishment of debt, no right vests in Respondent 1 in respect of the bank guarantees or to oppose the release of bank guarantees. Consequently, the interim application stands allowed in terms of prayer clauses (*a*) and (*b*) as under:

"(*a*) That this Court be pleased to direct that the order and decree dated 20-1-2023 stands extinguished and no proceeding in respect thereto can be continued and/or initiated.

(*b*) That this Court be pleased to release all bank guarantees issued by the appellants'-banks in favour of Registrar pursuant to the order dated 17-6-2003."

19. The contentions that there was non compliance of Section 29 of the IBC as the amount deposited in the court was not made part of the information memorandum; that RP failed to discharge the duties by not seeking refund of the deposited; that the amount deposited was not shown as an asset in the balance-sheet of the judgement debtor; that the respondent was neither named in the list of creditors nor was a party to the CIRP proceedings and lastly that the amount ought to

have gone to the creditors, need not be dilated upon. The grievance against the approved plan has to be raised under the provisions of the IBC and not in proceedings under Section 34 of the Act. Moreover, the amount was deposited with this court to secure the amount awarded and has been depicted as 'security' in the balance-sheet of the judgement debtor.

20. In view of the above discussion, the petition under Section 34 of the Act is dismissed having rendered infructuous. The application (I.A. 30842/2024) filed by the MBECL is allowed. The Registry is directed to release to MBECL the amount deposited along with the interest accrued thereon in FDR. Pending applications are also disposed of.

AVNEESH JHINGAN, J

AUGUST 3, 2026
Ch/Vasuda

Reportable:-**Yes**