

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) No. 383 of 2026

[Arising out of Order dated 10.09.2026 passed by the Adjudicating Authority
(National Company Law Tribunal, Jaipur Bench) in IA (CA) NO.
53/JPR/2026 in CP NO. 78/241-242/JPR/2018]

IN THE MATTER OF:

Shefali Agarwal

12, Kingswood Avenue, Hampton,
Middlesex, United Kingdom – TW12 3AU,
Through Power of Attorney Holder

Mrs. Chandra Mathur,

Flat 102, Tulip Residency,
C-19, Jagraj Marg, Bapu Nagar,
Jaipur, Rajasthan – 302015

...Appellant

Versus

M/s Stone Age Pvt. Ltd.

R/o: Gram Saipura, Post Shikarpura,
Diggi, Malpura Road, Sanganer,
Jaipur, Rajasthan

...Respondent No. 1

Mr. Sanjeev Agarwal

R/o: 9, NRI Colony, Sector 2,
Raj Angan, Pratap Nagar,
Tonk Road, Jaipur – 302033

...Respondent No. 2

Mr. Pawan Khandelwal

R/o: C-709-710, Felicity Emerald,
Sewage Farm, Opp. Shyam Nagar,
Sodala, Sanganer, Jaipur – 302015

...Respondent No. 3

Mr. Ghanshyam Agarwal

R/o: B-189A, University Marg,
Bapu Nagar, Jaipur – 302015

...Respondent No. 4

Shri Rama Krishna Stonex Pvt. Ltd.

R/o: F-87 & 88, Paryavaran Road,
IV Phase, RIICO Industrial Area,
Kishangarh, Rajasthan

...Respondent No. 5

Nandankanan Barter Pvt. Ltd.

R/o: 85, Netaji Subhas Road,
S. Hare Street, Kolkata,
West Bengal – 700001

...Respondent No. 6

Brett Plastics Pvt. Ltd.

5, Kitab Mahal, 192, Dr. D.N. Road,
Fort, Mumbai, Maharashtra – 400001

...Respondent No. 7

Mr. Anshu Pawan

R/o: C-709-710, Felicity Emerald,
Sewage Farm, Opp. Shyam Nagar,
Sodala, Sanganer, Jaipur – 302019

...Respondent No. 8

Mr. Sandeep Kumar Jain

(Registered Valuer, IBBI Regn. No.
IBBI/RV/03/2019/12410),
Company Secretary, Arms &
Associates LLP, E-252,
Vardhman Marg, Opp. Jyoti Nagar
Gate No. 2, Lalkothi Scheme,
Jaipur – 302005, Rajasthan

...Respondent No. 9

Present:

**For Appellan : Mr. Rahul Jajoo and Mr. Siddharth Bapna,
Advocates.**

**For Respondents : Mr. Shashank Sharma, Mr. Vishesh Kalra and Ms.
Malika Kumari, Advocates for R-2 to 8.**

J U D G M E N T

Per Justice Sharad Kumar Sharma, Member (Judicial)

1. The brief facts of the case are that the Appellant herein happens to be the Petitioner in the proceedings under Sections 241 and 242 of the Companies Act, 2013, which stood determined by the learned Tribunal by an Order that was passed on 12.10.2023. The learned Tribunal, while considering the respective status of the parties with

regard to the shareholding of the heirs, had ultimately decided the controversy by the said judgment dated 12.10.2023, observing thereof as under: -

“..49.1. The Respondent Company shall appoint a Registered Valuer, within 7 days from the date of this order for valuation of the shares of the Respondent Company as on 12.10.2023. For the purpose of valuation, the Registered Valuer shall not consider the acquisition of M/s Orvi Design Studio as the decision undertaken in the EOGM dated 18.11.2021 has not been implemented. Among other things, the valuation report shall include the price per share. The Registered Valuer shall provide a soft copy of the valuation report to respective parties and their counsels within a period of 10 days from the date of this Order. The same shall be placed before this Tribunal also. The fees of the Registered Valuer shall be borne by the Respondent Company in addition to any incidental expenses. The parties, if required, may make their respective submissions before the Registered Valuer, who shall make such independent enquiry. The Registered Valuer, as necessary for the limited purposes of valuation, shall have the liberty to use the requisite information from not only the professionals but also the respective personnel of the Respondent Company.

49.2. The Respondent Company and the other Respondents herein shall buy-out the entire shareholding of the Petitioner of 1,24,000 Equity Shares which includes the 62,000 equity shares, which the Petitioner possesses and 62,000 equity

shares which the Petitioner was entitled to at the time of issuance of rights issue on 07.07.2017.

49.3. The total amount payable to the Petitioner by the Respondents i.e. the Exit Consideration shall be computed as follows:

49.3.1. The value per share of the Respondent Company shall be based on the valuation report filed by the Registered valuer in compliance of Para 49.1. or the valuation as per valuation report dated 14.10.2021, whichever is higher. The Report dated 14.10.2021 mentioned the face value of the equity shares of the Respondent Company as Rs. 500/- (Rupees Five Hundred Only) per share. If the Report filed by the Registered Valuer, appointed by this Order, mentions any amount higher than Rs. 500/- (Rupees Five Hundred Only) per share, in that case, the said amount shall be considered as the value per share for the exit consideration.

49.3.2. The Petitioner shall be paid the amount equivalent for buyout of 62,000 shares on the basis of the value per share determined as above. (A)

49.3.3. For the 62,000 shares which the Petitioner was entitled to during the rights issue, the Petitioner shall be entitled to receive the enhanced value of the shares i.e. the value per share reduced by the amount which the Petitioner would have paid during the subscription of shares being Rs. 110/-. For ease of reference, it is elaborated that

assuming the value of one share is 'X', the Petitioner shall be paid an amount of Rs. X (-) Rs. 110/- per share. (B)

49.3.4. Thus, the exit consideration for the Petitioner shall be the sum of the following:

(A) the total value of shares for the 62,000 shares, the ownership of which lies with the Petitioner (Part I of Exit Consideration) and

(B) the total value of shares for the 62,000 shares, entitled to the Petitioner by rights issue, where the value per share is the enhanced value per share (Part II of Exit Consideration).

49.4. The Part I of the Exit Consideration shall be payable by the Respondents in the present matter. The First option to buy-back the 62,000 shares of the Petitioner shall lie with the Respondent Company; thereby leading to buy-back of shares and consequent reduction in share capital. If the Respondent Company does not wish to buy back the Shares of the Petitioner, the option would lie with the Respondent No. 2 or other Respondents to buy the 9.92% shareholding of the Petitioner at the exit consideration mentioned above. A detailed report regarding the payment schedule shall be placed before this Tribunal within 21 days from the date of this Order by the Respondents. It is also directed that the complete payment towards the exit consideration as mentioned in the report shall be made within 6 months from the date of the detailed report filed by the Respondents.

49.5. Part II of the Exit Consideration shall simultaneously be payable by the Respondent Company to the Petitioner within a period of 6 months from the date of this Order. The aforesaid direction shall include payment of dividends declared on 62,000 shares from the date of issuance of Rights Issue on 07.07.2017 till the date of this Order by the Respondent Company to the Petitioner. A detailed report regarding the payment schedule shall be placed before this Tribunal within 21 days from the date of this Order by the Respondents. It is also directed that the complete payment towards the exit consideration as mentioned in the report shall be made within 6 months from the date of the detailed report filed by the Respondents.

49.6. The Petitioner shall within 15 days from the date of this order, inform the details of a separate bank account, in which the Primary Holder is the Petitioner, to the Respondent Company for the payment of exit consideration.

49.7. The Petitioner shall deposit its entire shareholding i.e. the 62000 shares, along with duly executed transfer forms with the Respondent Company within 60 days from the date on which the Valuation Report is served upon them. The existing Statutory Auditors of the Respondent Company shall assist the parties to the present case in undertaking the said exercise.

49.8. The parties herein are directed to ensure proper functioning of the Respondent Company during the aforesaid period including carrying out the necessary duties towards statutory and financial compliances.

The representatives of the Respondent Company shall file bi-monthly reports informing this Tribunal of the ensuing developments.

49.9. Parties are at liberty to approach this Bench, as and when necessary, for any further orders and appropriate directions for the purposes of giving effect to this Order...”

2. In a nutshell, in the proceedings of the Company Petition, the learned Tribunal, while determining the rights of the parties, concluded and left it open for a registered valuer to be appointed for the purposes of current valuation of the shares of the Company, as it was standing on 12.10.2023, with certain exceptions those were carved out by the Order to not to consider the acquisition of certain assets and the decision of the EoGM as taken on 18.11.2021, which, according to the finding recorded, had never been implemented. However, so far as the directions given therein relate to the appointment of the registered valuer, the Tribunal observed that any changes which are made in the shareholding pattern of the Respondent, including for the purposes of the interlocutory applications, it was left open that the parties would be at liberty to approach the learned Adjudicating Authority for any further orders or appropriate directions. Based upon the directions given in the judgment dated 12.10.2023, a valuation report was submitted by the Registered Valuer on 14.07.2026.

3. Aggrieved by the Order dated 12.10.2023, as passed by the learned NCLT, Jaipur Bench, in CP No. 79/241-242/JPR/2018, a Company Appeal was preferred before this Tribunal, being **Company Appeal (AT) No. 225 of**

2023, wherein the Appellant, while expressing her grievances before this appellate tribunal against the Order dated 12.10.2023, submitted that since she was a resident of the United Kingdom, holding 31% shareholding in the Respondent No. 1 Company and being a whole-time director of M/s Stone Age Pvt. Ltd., she continued to enjoy the said position till 01.03.2017. But due to matrimonial discord between the Appellant and Respondent No. 2, her husband, divorce petition proceedings were taken up before the Family Courts of the United Kingdom on 25.05.2012, with parallel proceedings, being drawn in the Courts of India on 05.06.2012. As a result of the divorce having been granted between the Appellant and Respondent No. 2, who was the Chairman and Managing Director of the Respondent No. 1 Company, the Appellant was removed from the whole-time directorship of the Company. On 25.07.2012, and thereafter, the Appellant never offered herself for reappointment as director of the Company.

4. It is alleged by the Appellant in the proceedings of the Company Petition, as aforesaid, that the Respondent, as a consequence of the decisions taken in the divorce proceedings, with the intent to harass the Appellant, had further allotted 2 lakh 25 thousand shares to various allottees, to the exclusion of the Appellant, thereby diluting the shareholding standing of the Appellant from 17% to a meagre 9.92%, which, the Appellant contends that, that has been held to be illegal by the learned Tribunal, and the Appellant's shareholding was directed to be restored to 17%. The learned Adjudicating Authority, by the impugned Order dated 12.10.2023, had allowed the Company Petition in part, restored the shareholding of the Appellant to 17%,

and directed the Respondent to buy out the shareholding of the Appellant before any illegal dilution takes place. The challenge in the Appeal, to the impugned Order dated 12.10.2023 was limited to the extent of the findings recorded in the Order to the following effect:-

“...a. The Learned NCLT held that the burden of proof to show notice of meetings was not served on the Appellant for meetings where she was ousted from directorship and her shareholding was diluted lay exclusively on her;

b. The Learned NCLT held that since the Appellant did not offer herself to be re-appointed, the Appellant was legitimately not appointed as a Director of the Respondent No.1;

C. The Learned NCLT held that since the Appellant was diluted in the year 2013 on account of a business exigency of the Respondent No.1;

d. The Learned NCLT held that the issue of ouster from directorship and the issue of dilution of shares in the year 2013 was barred by the law of limitation; and that the Appellant had herself admitted that she was an ex-Director of the Respondent No. 1 Company in an email addressed by her;

e. The Learned NCLT held that the shares of the Appellant ought to be bought out by the Respondent No.1 Company...”

5. In the Company Appeal that was filed by the Appellant against the judgment dated 12.10.2023, the Appellant prayed for the following reliefs: -

“In view of the facts mentioned, the Appellant humbly prays for the following relief (s):

- a. Allow the present appeal;*
- b. This Hon'ble Tribunal be pleased to allow this Appeal and set aside the order dated 12.10.2023 passed by the National Company Law Tribunal, Jaipur Bench, in CP No. 79/241-242/JPR/2018 under the provisions of Section 421 of the Companies Act, 2013 to the extent that it adjudicates against the Appellant in respect of (a) ouster from directorship in the year 2012; (b) dilution of shares pursuant to the meeting dated 22.07.2013 and (c) to the extent of buyout of the Appellant's share by the Respondent No.1;*
- c. As a consequence of the order passed pursuant to prayers passed, restore the directorship of the Appellant in the Respondent No.1 and restore the shareholding of the Appellant to 31% as held by her as on 31.03.2012;*
- d. Pass such other order or orders as this Hon'ble Tribunal deems fit in the facts and circumstances of the matter.”*

6. Primarily, the relief that was sought was to set aside the Order dated 12.10.2023 to the extent it determined the ouster of the Appellant from the directorship in the year 2012, dilution of shares pursuant to the meeting of 27.07.2013 and, more importantly, the extent of buyout of the Applicant's shares by Respondent No. 1. Further, a consequential relief was sought, that an Order may be passed to restore the directorship of the Appellant, in

Respondent No. 1 Company and to restore the shareholding of the Appellant to 31%, as it was initially held by her as on 31.03.2012.

7. The Company Appeal (AT) No. 225 of 2023, challenging the impugned Order dated 12.10.2023, was considered by this Tribunal, and while considering the implication of what would be the scope of the appellate jurisdiction, as to whether the issues raised on the grounds agitated before the learned Adjudicating Authority, could be magnified or restricted to be considered in the appeal, this Tribunal observed that, in the light of the ratio propounded by the Hon'ble Apex Court in the judgment reported in **2010 Vol. IV SCC 518, State of Maharashtra v. Hindustan Construction Co. Ltd.**, the appeal itself cannot be placed beyond the ambit of the case, that was and has been considered by the learned Tribunal.

8. The issue with which we would be concerned, and which was touched upon in the earlier judgment of this Tribunal too, as rendered on 14.05.2026, was with regard to the finding recorded pertaining to the valuation made by the Registered Valuer for determining the fair value of shares. In relation thereto, this Tribunal in its judgment of 14.05.2026 had made the following observations: -

“29. Lastly on directions of the Ld. NCLT regarding valuation, we are of the view it requires no interference as it mandates the appointment of an independent registered valuer for determining the fair value of shares of Respondent No.1 as on 12.10.2023, which specifically excludes the acquisition of M/s Orvi

Design Studio, since was acquired later. In any case the Ld. NCLT had directed the appellant may make submissions, if any, before the Valuer or the Ld. NCLT, if any, further order or directions to give effect to the order are required.

30. Basis the impugned order, the appointment of the registered valuer was done and the exercise of valuation was carried out and a draft valuation report was placed before the Ld. NCLT with a copy to the Appellant. Despite the Ld. NCLT granting, inter alia, the Appellant two opportunities to make submissions before the registered valuer and before the Ld. NCLT, she chose not to avail any opportunity and on the contrary, had challenged the valuation before this Tribunal. The appellant has not made any substantive ground for deserving a relief with respect to the issue of valuation and the grounds raised are generic in nature. Even otherwise, the valuation report leaves no room for any further revaluation considering the methods which are prevalent have been adopted and adequately applied.

31. In such circumstances, the appellant cannot now be permitted to challenge the valuation mechanism at the appellate stage. The directions of the Ld. NCLT are clear and leave no scope for re-agitation of issues. The grievances taken afresh, ought to have been addressed before the Ld. NCLT itself. In view thereof, no interference in the impugned order is warranted by this Tribunal. Appeal is accordingly dismissed. Pending applications, if any, are also disposed of.”

9. Meaning thereby, from an overall prospective of the judgment, if we determine the consequential effect of the findings recorded in Paras 29, 30 and 31 of the judgment dated 14.05.2026, it would be, that this Tribunal has attached finality to the earlier valuation report submitted by the Valuer so appointed by the judgment dated 12.10.2023, by making a specific observation, that the appointment of the Registered Valuer was in consonance with the expressions given by the parties in the proceedings these were carried before the learned NCLT. It was observed therein that, since the Appellant was given two opportunities to make submissions before the Registered Valuer, but the Appellant had not availed of the opportunity to place their version before the valuer and had rather challenged the valuation, the Tribunal upon adjudication had attached finality to the valuation report, which was considered in the judgment of 12.10.2023. Hence, in view of the specific findings recorded by this Appellate Tribunal, despite the same being called for to be invited from the Appellant by the NCLT.

10. These findings recorded in Paras 29, 30 and 31 as recorded in the judgment of 12.10.2023, closes the controversy pertaining to the Valuer, including the aspects pertaining to appointment of the Valuer and the submission of its report in pursuance of the Order dated 12.10.2023, as passed in CP No. 79/241-242/JPR/2018. The same for all practical purposes would be deemed to have attained finality and cannot be permitted to be re-agitated at this stage. These findings recorded by this Tribunal vide its judgment dated 14.05.2026 were challenged by the Appellant before the Hon'ble Apex Court by filing **Civil Appeal No. 9015 of 2026**, Shefali Agarwal

v. M/s Stone Age Pvt. Ltd., and the Hon'ble Apex Court on 04.08.2026 has passed the following Order:-

“1. Having heard the learned counsel appearing for the appellant and having gone through the materials on record, we find no good ground to interfere with the impugned Order passed by the National Company Law Appellate Tribunal, Principal Bench, New Delhi in Company Appeal (AT) No.225/2023.”

11. It is argued by the Respondent that, owing to the findings recorded by this Appellate Tribunal and the Order that was passed by the Hon'ble Apex Court on 04.08.2026, there was no scope left open for the Appellant to re-agitate the cause or any issue that would be touching upon the Valuer's report or the valuation given therein. Hence, the said chapter cannot be permitted to recurringly agitated by the Appellant, owing to her own conduct of acceptance of the valuer's report in the earlier proceedings without raising any objection and having solicited the appellate judgment dated 14.05.2026, which has attained finality by virtue of the judgment of the Hon'ble Apex Court dated 04.08.2026, as rendered in **Civil Appeal No. 9015 of 2026**.

12. Learned counsel for the Respondent submitted, that whatsoever the reason be the reiteration of the entire issue is being sought by the Appellant by filing **IA (CA) No. 53/JPR/2026**, in fact, all the grounds that comprises the material those were already considered by this Tribunal in its Appellate judgment dated 14.05.2026, as well as by the Hon'ble Apex Court judgment of 04.08.2026, providing it a confirmation on merits. He submits that all grounds, documents and pleadings raised by the Appellant in **IA (CA) No.**

53/JPR/2026, they all found reference in the Appeal preferred by the Appellant before the Hon'ble Apex Court and, as such, those cannot be fished out from those proceedings which were agitated before the Hon'ble Apex Court, to be taken as the basis for filing IA (CA) No. 53/JPR/2026. In relation thereto, the relevant extract of the pleadings raised by the Appellant before the Hon'ble Apex Court, in the Civil Appeal No. 9015 of 2026, is given hereunder: -

“...c. The Appellant seeks leave of this Hon'ble Court to place on record the valuation of the four (4) properties, which as per the information of the Appellant, owned by the Respondent No. 1 company. The Respondent No. 1 company has not mentioned all the properties in the valuation report and the properties mentioned by the Respondent No. 1 company in valuation report are at book value not market value and some properties are omitted from the valuation report. If the market valuation of these four properties is used to correctly value the properties, the per share price would increase to INR 2,222.20/- per share i.e. a near four times increase from the current share price being given to the Appellant.”

“d. The Appellant is seeking to place on record a brief note, which has been prepared by a Chartered Financial Analyst (CFA), after going through the valuation report dated 22 October 2023. The Appellant does not have access to the exhaustive list of properties as she was kept out of the process of valuation. The purpose of this note is to enable this Hon'ble Court to understand the flaws in the valuation report prepared

at the instance of Respondent No. 2, who is the Chairman of the Respondent No. 1 company. The Hon'ble NCLAT has expressly observed in the Impugned Order that the Appellant is precluded from challenging the valuation report before the NCLT on account of delay in filing the objections. The Appellant had challenged the direction of the Ld. NCLT to enforce a compulsory buy out of the Appellant's shareholding of 17% by filing a company appeal before the Hon'ble NCLAT. Since the challenge to the compulsory buyout as well as the direction of the Ld. NCLT directing the Respondent No. 1 to appoint a valuer despite holding the same company guilty of oppression of the Appellant as minority shareholder of the said company, there was no reason for the Appellant to start parallel and contradictory proceedings before the Ld. NCLT. As the Hon'ble NCLAT has rejected the Appellant's challenge to the direction of the Ld. NCLT Jaipur, directing the Respondent No. 1 to appoint a valuer, the same is under challenge before this Hon'ble Court."

13. To meet the aforesaid objections raised by the counsel for the Respondent, that there had been a concurrent finding of facts which has been recorded by this Tribunal, as well as, by the Hon'ble Apex Court and that the said issue cannot be permitted to be rejuvenated now on the basis of the application preferred by the Appellant, it is argued to the contrary by the Appellant, contending that the judgment of the Hon'ble Apex Court dated 04.08.2026 cannot be taken as an adjudication that was made on merits and, hence, the determination made therein, since it was not a determination on

the merits of the matter, there would not bar in filing of an application, IA (CA) No. 53/JPR/2026. In relation thereto, the learned counsel for the Appellant had referred to the judgment rendered by the Hon'ble Apex Court, reported in **2000 Vol. VI SCC 359, Kunhayammed & Ors. v. State of Kerala**, and had particularly drawn the attention of this Tribunal to the ratio laid down in Para No. 40 and 41 of the said judgment, which is extracted hereunder:-

“40. A petition seeking grant of special leave to appeal may be rejected for several reasons. For example, it may be rejected (i) as barred by time, or (ii) being a defective presentation, (iii) the petitioner having no locus standi to file the petition, (iv) the conduct of the petitioner disentitling him to any indulgence by the court, (iv) the question raised by the petitioner for consideration by this Court being not fit for consideration or deserving being dealt with by the Apex Court of the country and so on. The expression often employed by this Court while disposing of such petitions are — “heard and dismissed”, “dismissed”, “dismissed as barred by time” and so on. May be that at the admission stage itself the opposite party appears on caveat or on notice and offers contest to the maintainability of the petition. The Court may apply its mind to the meritoriousness of the petitioner's prayer seeking leave to file an appeal and having formed an opinion may say “dismissed on merits”. Such an order may be passed even ex parte, that is, in the absence of the opposite party. In any case, the dismissal would remain a dismissal by a non-speaking order where no reasons have been assigned and no law has been

declared by the Supreme Court. The dismissal is not of the appeal but of the special leave petition. Even if the merits have been gone into, they are the merits of the special leave petition only. In our opinion neither doctrine of merger nor Article 141 of the Constitution is attracted to such an order. Grounds entitling exercise of review jurisdiction conferred by Order 47 Rule 1 CPC or any other statutory provision or allowing review of an order passed in exercise of writ or supervisory jurisdiction of the High Court (where also the principles underlying or emerging from Order 47 Rule 1 CPC act as guidelines) are not necessarily the same on which this Court exercises discretion to grant or not to grant special leave to appeal while disposing of a petition for the purpose. Mere rejection of a special leave petition does not take away the jurisdiction of the court, tribunal or forum whose order forms the subject-matter of petition for special leave to review its own order if grounds for exercise of review jurisdiction are shown to exist. Where the order rejecting an SLP is a speaking order, that is, where reasons have been assigned by this Court for rejecting the petition for special leave and are stated in the order still the order remains the one rejecting prayer for the grant of leave to appeal. The petitioner has been turned away at the threshold without having been allowed to enter in the appellate jurisdiction of this Court. Here also the doctrine of merger would not apply. But the law stated or declared by this Court in its order shall attract applicability of Article 141 of the Constitution. The reasons assigned by this Court in its order expressing its adjudication (expressly or by necessary implication) on point of fact

or law shall take away the jurisdiction of any other court, tribunal or authority to express any opinion in conflict with or in departure from the view taken by this Court because permitting to do so would be subversive of judicial discipline and an affront to the order of this Court. However, this would be so not by reference to the doctrine of merger.

41. Once a special leave petition has been granted, the doors for the exercise of appellate jurisdiction of this Court have been let open. The order impugned before the Supreme Court becomes an order appealed against. Any order passed thereafter would be an appellate order and would attract the applicability of doctrine of merger. It would not make a difference whether the order is one of reversal or of modification or of dismissal affirming the order appealed against. It would also not make any difference if the order is a speaking or non-speaking one. Whenever this Court has felt inclined to apply its mind to the merits of the order put in issue before it though it may be inclined to affirm the same, it is customary with this Court to grant leave to appeal and thereafter dismiss the appeal itself (and not merely the petition for special leave) though at times the orders granting leave to appeal and dismissing the appeal are contained in the same order and at times the orders are quite brief. Nevertheless, the order shows the exercise of appellate jurisdiction and therein the merits of the order impugned having been subjected to judicial scrutiny of this Court.”

14. What he intends to argue is that, where a decision is taken by the Hon'ble Apex Court in respect of an Order passed by a subordinate court, by way of summary dismissal, the principle of merger will not apply. As such, the Appellant argues that the Order of the Hon'ble Apex Court dated 04.08.2026 accordingly to appellant since is not a determination on merits, and the guiding principles laid down in Para 40 of the judgment in Kunhayammed & Ors. v. State of Kerala, supra, would apply, there would be no bar under law to sustain the subsequent applications for same or almost same application.

15. We are not in agreement with the Appellant for the following reasons:-

i. All the grounds that have been taken by the Appellant in the Application, which had been the subject matter of consideration in the impugned Order dated 10.09.2026, were already placed before the Hon'ble Apex Court, hence it will be deemed that the Hon'ble Apex Court was conscious of the grounds taken in the Civil Appeal and then only it had rendered its judgment on 04.08.2026. In view of the above, the same cannot be permitted to be re-agitated by Appellant by filing IA (CA) No. 53/JPR/2026.

ii. If the Order dated 04.08.2026 of the Hon'ble Apex Court, itself is taken into consideration, the Hon'ble Apex Court has made the following observations: **“Gone through material on record”** and **“we find no good ground to interfere”**. It gives sufficient expression, that there would be a deeming presumption that the Hon'ble Apex Court did

consider the material placed on record in the Civil Appeal before Hon'ble court and it had then recorded its finding after having considered the material on record for the purposes of dismissing the Civil Appeal by its judgment dated 04.08.2026. If that be the situation, the present Application, in the light of the findings recorded by the Hon'ble Apex Court, would not be maintainable, as it would be barred by the principles of *res judicata*.

iii. Since the issue has already been determined by the superior court, the same issue or subject cannot be permitted to be reopened for consideration by a subordinate Court by filing an application of the nature under challenge.

16. To answer the principle of merger, as argued by the learned counsel for the Appellant from the perspective, that the judgment of the Hon'ble Apex Court dated 04.08.2026 is not a determination on merits, and hence the ratio of Paras 40 and 44 of the judgment in Kunhayammed & Ors. v. State of Kerala & Anr. will apply, the same is absolutely a misconception, for the reason being that: (a) The Hon'ble Apex Court, in the said matter, while dealing with the principles of merger, as to whether the judgment under challenge before the Apex Court, would merge with the judgment of the Hon'ble Apex Court or not, therein the Hon'ble Apex Court was exercising its jurisdiction under Article 141, to be read with Article 142 of the Constitution of India. It was altogether an independent and distinct jurisdiction, unlike the appellate jurisdiction prescribed under Section 62 of the IBC. Thus, the principle of merger, as

determined therein, was in respect of orders where the proceedings were dismissed in limine by the Hon'ble Apex Court, these ratios would not be attracted particularly when the present proceedings happen to be under a special statute, covered by a special appellate jurisdiction under Section 62 of the IBC. Hence, the ratio therein would not apply.

17. In that view of the matter, the question that ultimately emerges for consideration is as to whether an application of the nature preferred by the Appellant could at all be held to be maintainable. It was that after the decision of the Hon'ble Apex Court dated 04.08.2026 in the earlier proceedings attaching finality to valuation report, that the Appellant, for ulterior motives, had filed the application, being IA (CA) No. 53/JPR/2026 in the Company Petition. In the application thus preferred by the Appellant, under the affidavit dated 25.08.2026, the Appellant had prayed for relief to the extent of issuing a direction to the Valuer, i.e., Respondent No. 9 therein, to rectify the mathematical error in the valuation report and also to undertake the valuation exercise afresh. The relief as modulated by the Appellant is the IA extracted hereunder: -

"It is, therefore, most respectfully prayed that the present Application may kindly be accepted and allowed and directions be issued to the registered valuer, Respondent No.9, to rectify the patent arithmetical error in the valuation report and also to undertake the valuation exercise afresh after taking into consideration the complete and accurate asset base of the Respondent No. 1 Company;

As a consequence thereof, the directions issued by this Hon'ble Tribunal vide Order dated 12.10.2023 for buyout of the shares held by the applicant be directed to be carried out in accordance with such revised valuation of shares having in arrived at after considering the complete and accurate asset Respondent No.1 Company and correcting the apparent arithmetic and mathematical error in valuation;

It is further prayed that in the meantime and call final adjudication of the instant Application the already determined by the valuer be remitted to the applicant forthwith in the Interest of justice.

In the event, the applicant is held entitled to any further sums/amounts as a consequence of disposal of the present application, the same be deposited at a later stage in pursuance to such directions as may be issued by this Hon'ble Tribunal.

It is further prayed that such further orders or directions be issued in favour of the applicant by this Hon'ble Tribunal as may be deemed just, fit and proper in the facts and circumstances of the case and in the interest of justice.”

18. On a simple logic, whether such an application at a belated stage would at all be maintainable, which tantamounts to tacitly sitting over the judicially determination already made qua the “Valuer’s Report”, by this Tribunal in its Appellate judgment dated 14.05.2026, as affirmed by the Hon’ble Apex Court by the judgment dated 04.08.2026, as it would amount to carrying out the proceedings contrary to the issue, that has already been affirmed up to the

Apex Court, and more particularly, in the light of the findings recorded in Paras 29 to 31 of the Appellate Court's judgment, affirmed by the Apex Court.

19. In fact, the sole objective of the Appellant, by filing such type of an application at a belated stage, had been to take a de novo advantage of reassessing the valuation has already been assigned in the Valuer's report in order to gain an untoward leverage, which otherwise the Appellant had already waived off by her conduct, as she had not availed the opportunity at the relevant stage when the Adjudicating Authority had called upon the Appellant to file her objections against the Valuer's report. The same was not availed by the Appellant, and she voluntarily carried on to face the proceedings on the basis of the valuation report, which culminated by the judgment of 12.10.2023.

20. Entertainment of such type of an application at this belated stage will be an apparent abuse of process, because all judicial proceedings are logically to be brought to an end at some point in time, and the attempt made to reopen the proceedings, particularly to solicit further observations on the Valuer's report, as intended to be ventured into by the application, was rightly declined to be interfered with by the learned Tribunal by the impugned Order dated 10.09.2026. As entertainment of the application would result in grafting in the valuation as already determined and considered, because it could not have been considered without disturbing the earlier valuation report.

21. Coming to the findings that has been recorded by the learned Tribunal, while determining the said application, the Ld. Tribunal, while passing the

impugned Order, took cognizance of the earlier determination made qua the Valuer's report, rejected the application, and rightly so, for the reason that, if at all any issue was required to be ventured into by the Appellant, it could have been on merits by invoking the observations made in Para 49.9 of the Order dated 12.10.2023, where the parties were given liberty to approach the Bench whenever any further orders or appropriate directions were required for the enforcement of the Order dated 12.10.2023, and not otherwise.

22. The avenue left open by virtue of Para 49.9 would be read into as being confined to the enforcement of the Order dated 12.10.2023, as affirmed up to the Apex Court vide judgment dated 04.08.2026, but it cannot be made open for its consideration with the objective of testing the Valuation Report, which has been accepted and affirmed up to the Apex Court.

23. Thus, the reasoning assigned by the learned Tribunal while rejecting the application, observing, that even in the Order dated 12.10.2023, at the stage when the Valuer was directed to be appointed and to conduct the valuation, the Appellant had an opportunity to make the respective submissions before the Valuer, which could have facilitated the Valuer in arriving at the appropriate valuation, was rightly considered in furtherance of Para 49.1 of the Order dated 12.10.2023.

24. Owing to the aforesaid facts, we are of the view that the proceedings before the Court cannot be permitted to be misused and abused. When the Appellant has filed and exhausted her judicial remedies against the Order appointing the Valuer and against the findings recorded with respect to the

Valuation Report, she cannot be permitted to reopen the same by filing an application being IA (CA) No. 53/JPR/2026. The same has been rightly rejected by the impugned Order. The Company Appeal lacks merit and is accordingly dismissed.

25. All pending interlocutory applications would stand closed.

**[Justice Sharad Kumar Sharma]
Member (Judicial)**

**[Arun Baroka]
Member (Technical)**

**[Indevar Pandey]
Member (Technical)**

NEW DELHI

29th October, 2026

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