



**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT II**

**Interlocutory Application No. 4874/2023**

**In  
CP(IB)No. 1624/MB/2017**

*Application filed under section 60(5)(c) of the  
Insolvency and Bankruptcy Code, 2016 r.w.  
Regulation 21A of the IBBI (Liquidation Process)  
Regulations, 2016.*

**CS Anagha Anasingaraju,**

**Liquidator for**

**Pandit Automotive Private Limited**

**...Applicant**

**V/s**

**1. Bank of Baroda (Earlier Vijaya Bank)**

**...Respondent No.1**

**2. Cosmos Co-operative Bank Limited**

**...Respondent No.2**

**3.SVC Co-operative Bank Limited**

**...Respondent No.3**

**4.JC Flower Asset Reconstruction Private  
Limited**

**...Respondent No.4**

**In the matter of**

**M/s. Reliance Commercial Finance Limited**

**...Financial Creditor**

**V/s**



**M/s. Pandit Automotive Private Limited**

**...Corporate Debtor**

**Order delivered on: 14.11.2024**

***Coram:***

**Anil Raj Chellan**

**Member Technical**

**Kuldip Kumar Kareer**

**Member Judicial**

**Appearances:**

**For the Applicant**

**: Adv. Avinash R Khanolkar a/w  
Adv. Khusbhu Bhanushali and  
Adv. Surekha Yadav**

**For the Respondent No.1**

**: Adv. Yogesh Mishra**

**For the Respondent No. 2 & 3**

**: Adv. Shadab S Jan a/w  
Adv. Shreyansh Desai**

**ORDER**

***Per: Kuldip Kumar Kareer, Member (Judicial)***

1. This is an application filed u/s 60(5) of the Insolvency and Bankruptcy Code, 2016 ("the Code") by CS Anagha Anasingaraju, Liquidator of M/s. Pandit Automotive Private Limited ("the Corporate Debtor") seeking contribution from secured financial creditors under section 21A(2).



**Submissions by the Applicant in brief:**

2. The Applicant submits that vide order dated 09.08.2018, the Liquidation process was started and the Applicant carried out the publication of notice inviting claims from the Stakeholders of the Corporate Debtor on 13<sup>th</sup> August 2018. The Respondents filed their respective claims as secured creditors with the Applicant, and after due verification, the Applicant admitted these claims.
3. The Applicant submits that the Respondents vide their respective letters addressed to the Applicant indicated that they wanted to realise their respective Security Interests on their own as per the provisions of S. 52 of the Code.
4. Thereafter, in accordance with the provisions of the Code, the Applicant verified the respective Security Interests of the Respondents and permitted the Respondents to realise the Security Interests.
5. The Applicant submits that the Corporate Debtor owned 14 assets at the time of admission of the Liquidation and all the assets were mortgaged to the Respondents. The Applicant further points out that there are no other assets lying with the Applicant in the Liquidation Estate and hence effectively the Applicant could not realise a single penny from the assets of the Corporate Debtor.
6. The Applicant submits that the Respondents have realised their Security Interests and the details of realised amount are as under:-

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT II**

**IA. No. 4874/2023**

**In**

**CP(IB) No. 1624/MB/2017**



Sr. No.	Respondent Name	Realised Amount	Total Claim
1.	Bank of Baroda (Earlier known as Vijaya Bank)	93,96,54,000 /-	1,19,70,90,550.91 /-
2.	Cosmos Cooperative Bank Limited	27,25,25,000 /-	60,50,02,033.71 /-
3	SVC Cooperative Bank Limited	22,23,90,000 /-	43,04,65,958.6 /-
4.	J C Flower Asset Reconstruction Private Limited (Debt Assigned by Yes Bank)	Nil	45,11,48,801.41/-

7. The Applicant submits that as stated herein-above, all the assets of the Corporate Debtor have been realised by the R 1 to R3 and now no asset is available with the Applicant. Pursuant thereto, the Applicant is not in a position to distribute any amount to other Stakeholders U/s. 53 of the Code, and even the liquidation costs have not been paid.
8. The Applicant relies upon a provision which is introduced by way of an amendment w.e.f. 25.07.2019 by Insolvency and Bankruptcy Board of India to the Liquidation Regulation. By virtue of the said provision i.e. Regulation 21A (2) (a) the Secured Creditors, who chose to realise the Security Interest as per the provisions of S. 52 of the Code, are bound to make contributions to the Liquidation Costs and Worker's dues as per the provisions of S. 53 (1) (a) and S. 53 (1) (b) (i) respectively.



9. The Applicant acknowledges that since the Amendment applies prospectively and the liquidation process began prior to the Amendment, the Applicant cannot ask the Respondents to comply with the provisions of Regulation 21A(2). Hence the application whereby prayer has been sought to direct the Respondents to make contributions as provided for in Regulation 21A (2).
10. The Applicant argues that the newly inserted Regulation 21A, though not applicable to the present liquidation process, should be applied in this case to ensure fairness, as otherwise, it will negatively impact the interest of the workers and even the liquidation cost would not be realised.
11. The Applicant highlights that worker dues, amounting to ₹11.29 crores, remain unpaid, though partial relief could be provided through compliance with Regulation 21A. The Applicant also notes that PF and gratuity dues also remain unpaid and references the Tribunal's ruling in M/s Precision Fasteners Limited (M.A. 283 OF 2019) that such dues, held in trust by the company, do not form part of the liquidation estate and must be prioritized.
12. The Applicant submits that despite generating funds through the sale of scrap materials and paying 40,93,543 toward PF dues, an outstanding 10,76,868 in PF, 1,66,92,192.50/- in gratuity, 1,43,10,000. in liquidator fees, and 11,29,34,274.91 in worker dues remain unpaid.



13. The Applicant has further submitted that the workers have not been paid their wages since June 2017 and have been consistently following up with the Applicant's office for payment of their outstanding dues. The Applicant states that unless the Respondents contribute to the outstanding dues, the Applicant will not be able to pay the workers' dues or cover the liquidation costs.
14. Accordingly, the Applicant submits that the Respondents are liable to make the contributions toward the outstanding amount, applying the principles of Regulation 21A(2) in the following table :-

Sr. No.	Respondent Name	Amount to be Contributed
1.	Bank of Baroda	9,49,83,734.70 /-
2.	Cosmos Co-operative Bank Limited	2,75,52,533.73 /-
3.	SVC Co-operative Bank Limited	2,24,77,066.99/-

15. The Applicant also submits that the Ld. Counsel for the R2 and R3, during the course of Arguments, has admitted that the R2 and R3 have realised their Security Interest by adopting the route provided by the SARFAESI Act, 2002 r.w S. 52 of the Code. The Applicant would like to also rely upon the provisions of Provisions of Section 13 (9) of the SARFAESI Act, 2002 wherein it is categorically provided that a Secured Creditor of a Company who is undergoing Liquidation shall make contribution towards the Worker's dues as per section 529 of the Companies Act, 1956. Furthermore, Provisions of Section 326 of



the Companies Act, 2013 are corresponding provisions to Section 529 of the Companies Act, 1956.

16. A perusal of the record reveals that despite service of court notice, none has come present on behalf of Respondent No. 1, hence this court vide order dated 20.12.2023 has proceeded ex-parte against Respondent No.1. Further despite several opportunities, no reply has been filed on behalf of Respondent No.4.

**Reply from Respondent No.2 and 3: -**

17. The Respondents submit that there is no provision in the Insolvency and Bankruptcy Code, 2016 ('IBC') or under the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, that obligates this Respondent to contribute the monies sought in the Interlocutory Application.
18. The Respondents submit that the newly inserted explanation, which came into force with effect from 28.04.2022, clearly states that the requirements of the newly inserted Regulation 21A shall apply only to liquidation processes commencing on or after the date of commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019. Furthermore, since the liquidation order for the Corporate Debtor was passed on 09.08.2018, much before the insertion of Regulation 21A, it is evident that the regulation is not applicable to the Corporate Debtor. Therefore, the Applicant is estopped from relying on the said Regulation.



19. The Respondents submit that it is a settled legal position that for a statute or a rule/regulation to be applied retrospectively, it must be expressly stated in the statute/rule/regulation that it will apply retrospectively. In the absence of such clarification by the legislature, it is presumed that the law will apply prospectively. In fact, the newly inserted explanation expressly clarifies that the requirements of Regulation 21A apply only to liquidation processes commencing on or after the date of commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019.
20. The Respondents submit that it is an admitted fact that this Respondent has exercised its rights under Section 52 of the IBC, pursuant to an order passed by this Hon'ble Tribunal. Therefore, under the provisions of Section 52, since the workmen's dues and the secured creditor's debt do not rank equally, the Applicant is not entitled to seek proportionate contribution from this Respondent.
21. The Respondents submit that under the provisions of Section 52(9) of the Code, if the proceeds from the realization of secured assets are insufficient to repay the secured creditor's debts, the unpaid debts shall be paid by the liquidator in accordance with clause (e) of sub-section (1) of Section 53. Furthermore, even after recovering monies from the sale of secured assets, the Respondents are still required to recover substantial outstanding dues amounting to (Respondent No.3) Rs. 20,80,75,958.68, plus interest from 01.09.2018 and (Respondent No.2) Rs. 23,20,38,385.18 plus interest from 24.03.2021.





22. The Respondents submit that the judgment in Precision Fasteners Ltd. does not establish that this Respondent is required to proportionately contribute towards PF dues, gratuity dues, liquidation costs, workmen's claims, etc., as sought by the Applicant. Instead, the judgment clarifies that EPF dues shall not be considered as assets within the liquidation estate, but rather as liabilities of the Corporate Debtor, to be paid by the liquidator as per Section 53 of the Code, and not by the secured creditor out of the proceeds from the sale of secured assets if they exercise their option under Section 52(1)(b) of the Code.

**Findings:**

23. We have heard the Counsel for the parties and gone through the record.

24. During the course of the arguments, Counsel for the Applicant/Liquidator has argued that Respondents No. 1 to 3 have realised their respective security interest and appropriated the entire realised amounts against their claims respectively. Counsel for the Applicant has further argued that as per the newly introduced Regulation 21 A of the Liquidation Regulations, 2016, the Respondents are liable to make contributions out of the realised amounts towards the liquidation cost of the Corporate Debtor as well as towards payments to be made to the workmen as per the provisions of Section 53 (1) (b) (i) of the Insolvency and Bankruptcy Code, 2016. In this regard, it has further been argued on behalf of the Applicant that though Regulation 21 A is not strictly applicable to the present case as the amendment introducing Regulation 21 A has only prospective



effect, even then in the given facts and circumstances of the case, the same ought to be applied. In support of his contention, Counsel for the Applicant has placed reliance upon *Vijay vs. State of Maharashtra & Ors., Appeal (Civil) 3164/2006 decided on 26.07.2006* whereby the Hon'ble Supreme Court categorically held that when a law is enacted for the benefit of the community as a whole, even in the absence of provision, the statute may be held to be retrospective in nature. According to the Counsel for the Applicant, since Regulation 21 A is for the benefit of the workers of the Corporate Debtor and also for the maximization of the value of the assets of the Corporate Debtor, it should be held to be applicable to the instant case.

25. Counsel for the Applicant has further argued that Respondents No. 2 and 3 have realised the security interest after having recourse to SARFAESI Act, 2002 read with Section 52 of the Code. Counsel for the Applicant has further pointed out that Section 13 (9) of the SARFAESI Act, 2002 categorically provides that a secured creditor of a company, who is undergoing liquidation, shall make contribution towards the workers' dues as per Section 529A of the Companies Act, 1956. The parallel provisions of Section 529A of the Companies Act, 1956 is Section 326 of the Companies Act, 2013. Therefore, even if Respondents No. 2 and 3 have realised their security interest as per the provisions of SARFAESI Act, 2002, even then in the light of the provisions of Section 13(9) of SARFAESI Act, 2002 read with Section 529A of the Companies Act, 1956/Section 326 of the Companies Act, 2013, the Respondents are liable to contribute and be made to contribute towards the liquidation cost as well as payment of the



workers' dues. Counsel for the Applicant has further argued that since the Respondents were the only members of the CoC before they opted to realise their security interest in accordance with the provisions of Section 52 of the Insolvency and Bankruptcy Code, 2016, therefore, they are liable to bear the litigation cost.

26. On the other hand, Counsel for Respondents No. 2 and 3 has argued that Regulation 21 A (2) of the Liquidation Regulations, 2016 cannot be applied to the instant case as the same was introduced by Notification dated 25.07.2019 and the Regulation itself explicitly provides that it would be applicable prospectively to the liquidation processes which commenced on or after 25.07.2019 whereas in the instant case, the liquidation order was passed on 09.08.2018. Counsel for Respondents No. 2 and 3 has further argued that the courts of law can only fill up the gap in any legislation but the courts cannot take upon themselves the legislative business and it is not the duty of the court to either to enlarge the scope of the legislation or re-write the same. In this regard, reliance has been placed on the law laid down in *Union of India vs. Deoki Nandan Agarwal (2004) 4 SCC 311*.

27. It has further been argued by the Counsel for Respondents No. 2 and 3 that it is well settled that the jurisdiction of the Adjudicating Authority under the IB Code is statutory in nature and there is no residual equity-based jurisdiction which vests with the Adjudicating Authority. In this regard, reliance has been placed on the law laid down in *E S Krishnamurthy vs Bharat High-Tech Builders Private Limited (2022) 3 SCC 161* whereby it has been held likewise. Therefore, according to the



Counsel for Respondents No. 2 and 3, this Tribunal lacks jurisdiction to grant the equitable relief sought by the Applicant.

28. Counsel for Respondents No. 2 and 3 has further argued that the Respondents have not relinquished their security interest over the respective properties to the liquidation estate and they have incurred their own cost and expenses for realising the security interest. Therefore, the provisions of Section 13 (9) of the SARFAESI Act, 2002 are not applicable nor the Respondents can be held liable to make any contribution either towards the liquidation cost or for workmen dues. Counsel for Respondents No. 2 and 3 has further argued that even otherwise, provisions of Section 13 (9) of the SARFAESI Act, 2002 are subservient to the provisions of the Insolvency and Bankruptcy Code, 2016 as indicated in the said section itself. Counsel for Respondents No. 2 and 3 has further argued that even otherwise provisions of Section 13 (9) of the SARFAESI Act, 2002 are applicable only to winding up proceedings under the Companies Act, 1956. In this regard, Counsel for the Respondents No. 2 and 3 has relied upon *Janta Chini Mill Mazdoor Sangh vs Industrial Financial Corporation Ltd. (2016) SCC Online Allahabad 3084* whereby it was held that Section 13 (9) of the SARFAESI Act, 2002 would not apply in case the company is not undergoing winding up under the provisions of Companies Act, 1956. In the light of the aforesaid circumstances, it has been urged by the Counsel for the Respondents that the present application is without any merit and deserves to be dismissed.



29. We have weighed the contentions raised by the Counsel for the parties and have also carefully gone through the record of this case.
30. So far as the facts of the case are concerned, there is not much of a dispute about the same. It is not disputed that Respondents No. 1 to 3 did not relinquish their security interest to the liquidation estate and rather preferred and opted to realise their security interest under Section 52 of the Insolvency and Bankruptcy Code, 2016.
31. The liquidator has candidly admitted that Regulation 21 A of the Liquidation Rules, 2016 was introduced only with effect from 25.07.2019 and the explanation to the said Regulation itself provides that the requirements of this Regulation shall apply to the liquidation processes commencing on or after the date of commencement of the said amendment i.e. 25.07.2019 whereas the liquidation in this case commenced much earlier on 09.08.2018. Now, the question arises as to whether under the circumstances, the Respondents can be made to contribute towards the liquidation cost and also towards the outstanding dues of the workmen or not.
32. If we look at the provisions of the Insolvency and Bankruptcy Code, 2016 as well as the Liquidation Process Regulations, 2016, prior to the amendment on 25.07.2019 whereby Regulation 21 A was introduced, there was no provision to define the time within which, a secured creditor was to exercise its right to relinquish security interest to the liquidation estate or to realise its security interest independently. There was nothing in the Code or the Regulations with regard to the fact that



a secured creditor proceeding to realise its security interest would make any contribution towards the liquidation cost or towards workmen dues for the period of 24 months preceding the liquidation commencing date. It appears that Regulation 21 A was introduced only to fill-up the gap or the void in the Code to meet situations where there is no other method or mode available for the payment of the worker dues as well as the litigation cost when all the secured creditors proceed to realise their security interest under Section 52 of the Insolvency and Bankruptcy Code, 2016. No doubt, the legislature, in its wisdom, has rendered an explanation with Regulation 21 A making the amendment effective with prospective effect only.

33. However, the question is that Regulation 21 A is not applicable to the instant case, being prospective in nature, and in the absence of the said Regulation, how and in what manner, the situation cropping up in this case has to be or can be resolved which should be fair and equitable to all the stakeholders. To our mind, even if, we presume that Regulation 21 A is not applicable to the present case, some solution has to be conjured up to meet the situation. The necessity for the introduction of Regulation 21 A also arose on account of the fact that the legislature must have been conscious of the absence of a provision to meet a situation when all the secured creditors have exercised their right under 52 of the Code and to device ways and means to close the liquidation process which may be fair and equitable to all the stakeholders.
34. We have deeply pondered over the matter and are of the considered view that in the absence of a specific provision, much less Regulation



21 A, which was introduced subsequently, it would be quite germane and apposite to bank upon the provisions of Section 13 (9) of SARFAESI Act, 2002. For the sake of convenience, the provisions of Section 13 (9) of the SARFAESI Act, 2002 are being reproduced hereunder;-

*[Subject to the provisions of the Insolvency and Bankruptcy Code, 2016, in the case of] [Substituted 'In the case of' by Insolvency and Bankruptcy Code, 2016, Section 251.] financing of a financial asset by more than one secured creditors or joint financing of a financial asset by secured creditors, no secured creditor shall be entitled to exercise any or all of the rights conferred on him under or pursuant to sub-section (4) unless exercise of such right is agreed upon by the secured creditors representing not less than [sixty per cent.] [Substituted for the words "three-fourth" by Act No. 1 OF 2013] in value of the amount outstanding as on a record date and such action shall be binding on all the secured creditors:*

*Provided that in the case of a company in liquidation, the amount realised from the sale of secured assets shall be distributed in accordance with the provisions of section 529-A of the Companies Act, 1956 ([1 of 1956](#)):*

*Provided further that in the case of a company being wound up on or after the commencement of this Act, the secured creditor of such company, who opts to realise his security instead of relinquishing his security and proving his debt under proviso to sub-section (1) of section 529 of the Companies Act, 1956 ([1 of 1956](#)), may retain the sale proceeds of his secured assets after depositing the workmens dues with the liquidator in accordance with the provisions of section 529-A of that Act:*

*Provided also that the liquidator referred to in the second proviso shall intimate the secured creditor the workmens dues in accordance with the provisions of section 529-A of the Companies Act, 1956 ([1 of 1956](#)) and in case such workmens dues cannot be ascertained, the liquidator shall intimate the estimated amount of workmens dues under that section to the*



*secured creditor and in such case the secured creditor may retain the sale proceeds of the secured assets after depositing the amount of such estimated dues with the liquidator:*

*Provided also that in case the secured creditor deposits the estimated amount of workmens dues, such creditor shall be liable to pay the balance of the workmens dues or entitled to receive the excess amount, if any, deposited by the secured creditor with the liquidator:*

*Provided also that the secured creditor shall furnish an undertaking to the liquidator to pay the balance of the workmens dues, if any."*

35. A perusal of Section 13 (9) of the SARFAESI Act, 2002 reveals that in the case of a company in liquidation, the amount realised from the sale of the secured assets shall be distributed in accordance with the provisions of Section 529A of the Companies Act, 1956. The second proviso of Section 13 (9) further provides that a secured creditor, who opts to realise his security interest instead of relinquishing his security and proving his debt under proviso to sub-section (1) of section 529 of the Companies Act, 1956 may retain the sale proceeds of his secured assets after depositing the workmen's dues with the liquidator in accordance with the provisions of Section 529A of that Act. Therefore, it is evident that provisions of Section 13 (9), which was in force even before the Code, clearly stipulate that even if the security interest is realised independently by a secured creditor, even in that situation, such a creditor is liable to contribute towards the workmen's dues in accordance with Section 529A of the Companies Act, 1956.





36. Here, a further reference can also be made to the provision of Section 19 (19) of the Recovery of Debts and Bankruptcy Act, 1993 which provides as under:-

Where a certificate of recovery is issued against a company as defined under the Companies Act, 2013 (18 of 2013) and such company is under liquidation, the Tribunal may by an order direct that the sale proceeds of secured assets of such company be distributed in the same manner as provided in section 326 of the Companies Act, 2013 or under any other law for the time being in force.]

Still further, Section 52(8) of the Code provides as under:

*(8) The amount of insolvency resolution process costs, due from secured creditors who realise their security interests in the manner provided in this section, shall be deducted from the proceeds of any realisation by such secured creditors, **and they shall transfer such amounts to the liquidator to be included in the liquidation estate.***

Such amounts to be transferred to the liquidation estate include the amounts to be distributed to workmen and liquidation costs.

The proceeds from asset realization are to be distributed either under Section 53 of the Code which lays out the waterfall mechanism for distributing assets during liquidation or under Section 529A of the Companies Act, 1956 (Section 326 of the Companies Act, 2013).

37. It has also been pointed out by the Counsel for the Applicant that Section 326 of the Companies Act, 2013 corresponds to Section 529A of the Companies Act, 1956. Section 326 (1) (b) of the Companies Act, 2013 also provides that where a secured creditor has realised a secured asset, so much



of the debts due to such secured creditor as could not be realised by him or the amount of workmen's portion in his security (if payable under the law), whichever is less, rank *pari passu* with workmen's dues.

38. On the contrary, it has been vehemently argued on behalf of the Respondents that the provisions of Section 326 of the Companies Act, 2013 and Section 529A of the Companies Act, 1956 are applicable only to winding up proceedings and the same cannot be applied to the liquidation proceedings under the Code, especially when there is no such parallel provision either in the Code or Regulations and the subsequently introduced Regulations 21A is also not applicable which was introduced prospectively much after the liquidation order was passed in this case.

39. We have considered the aforesaid contention raised by the Counsel for the Respondents. Here, it would be pertinent to refer to Section 2 (94A) of the Companies Act, 2013 which defines 'winding up' as under:

"winding up" means winding up under this Act or liquidation under the Insolvency and Bankruptcy Code, 2016, as applicable;

The above definition introduced w.e.f 15.11.2016 in the Companies Act, 2013 coming simultaneously in force with the IB Code makes it abundantly clear that the word 'winding up' mentioned in the Companies Act, 2013 is synonymous with the word 'liquidation', as mentioned in the Code. Therefore, the argument raised by the Counsel for the Respondents that the provisions of Section 529A of the Companies Act, 1956 or Section 326 of the Companies Act, 2013 are applicable to winding up proceedings only and not to liquidation cannot be sustained in the eyes of law and, is



therefore, hereby repelled. Here, one cannot be oblivious of the facts that as per Section 3 (37) of the Insolvency and Bankruptcy Code, 2016, if any word or expression used but not defined in the Code which has been defined in other legislation such as Companies Act, 2013, such word or expression shall have the same meaning assigned in the Companies Act.

40. Even otherwise, in our considered view, in the absence of a specific provision under the Code or the Regulations, the vacuum in the Code, which has been subsequently filled by Regulation 21A, can be supplanted in cases, prior to 25.07.2019 by banking upon the provisions of Section 13 (9) of the SARFAESI Act, 2002 read with Section 529A of the Companies Act, 1956 Act and Section 326 of the Companies Act, 2013 to do substantial justice, especially to the workmen who would be otherwise seriously prejudiced in case they are deprived of their outstanding dues and are not paid anything in the liquidation process. It is well settled that a distressed Corporate Debtor has to be liquidated by disposing of its assets and the money realised therefrom has to be applied towards meeting the costs of liquidation and the rest is to be appropriated by the creditors. It is equally well settled that workmen's due rank *pari passu* with the dues of the secured creditors as per Section 326 of the Companies Act, 2013, and, therefore, have to be shared proportionately. Accordingly, we proceed to hold that in order to meet the ends of justice, the Respondents are required to be made liable to bear the liquidation cost proportionately and the amounts realised by them under Section 52 of the Insolvency and Bankruptcy Code, 2016 shall also be appropriated by them only after paying proportionately the workmen's dues pertaining to 24 months immediately proceeding the date of liquidation which rank *pari passu* with



the outstanding claims of the secured creditors, as envisaged under Section 326 of the Companies Act, 2013.

41. In the light of the foregoing discussion, **IA No. 4874/2023 filed by the Liquidator is hereby allowed** to the extent that Respondents No. 1 and 2 shall make contribution out of the amount realised by them under Section 52 of the Code proportionately towards workmen's dues in accordance of Section 326 (1) (b) of the Companies Act, 2013 and also towards liquidation cost in terms of Section 52 (8) of the Insolvency and Bankruptcy Code, 2016. There shall be, however, no order as to cost.

Sd/-

**ANIL RAJ CHELLAN**  
**(MEMBER TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER**  
**(MEMBER JUDICIAL)**