

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No.1081 of 2024**  
**& I.A. No. 3905 of 2024**

**IN THE MATTER OF:**

**Paschimanchal Vidyut Vitran Nigam Ltd.**

**...Appellant**

**Versus**

**Sandeep Goyal**  
**Liquidator for Chaudhary Ingots Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant : Mr. Vivek Narayan Sharma, Ms. Prachi Johri, Ms. Abhipsa Sahu, Mr. Abhay Chitravanshi, Ms. Shruti Priya Mishra, Advocates.**

**For Respondent : Mr. Sandeep Goyal, Liquidator in person.**  
**Mr. Anil Kumar Bhatia, Mr. Mayank Singhal, Mr. Utkarsh Aswal, Mr. Mukul Bansal, Advocates for Liquidator.**

**O R D E R**  
**(Hybrid Mode)**

**08.11.2024:** Heard learned counsel for the Appellant as well as learned counsel appearing for the Liquidator. This appeal has been filed against order passed by the Adjudicating Authority dated 03.04.2024 in IA No.147/2022 by which the Adjudicating Authority has allowed the application filed by the Liquidator for refund of the security amount of Rs.1,04,00,000/-. Aggrieved by the order appeal has been filed by Paschimanchal Vidyut Vitran Nigam Ltd.

2. Learned counsel for the Appellant challenging the order submits that on commencement of the liquidation the Appellant has filed a claim on 24.12.2021 to the Liquidator for a total amount of Rs.4,04,19,294/- and in said claim it was mentioned that security amount has been adjusted. It is

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submitted that no response was given by the Liquidator to the claim submitted by the Appellant and the Liquidator has filed an application before the Adjudicating Authority in which impugned order has been passed.

3. Learned counsel for the Respondent opposing the submission of learned counsel for the Appellant submits that the Adjudicating Authority has rightly relied on judgment of Hon'ble Supreme Court in *Bharti Airtel Ltd. and Another vs. Vijaykumar V. Iyer and Others* and the said adjustment was not permissible as held by the Hon'ble Supreme Court.

4. We have considered the submissions of learned counsel for the parties and perused the record.

5. Learned counsel for the Appellant at the onset submitted that Appellant does not contend that provisions of Electricity Act shall override the IBC and the said view taken by the Adjudicating Authority is not being contested.

6. In Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, Regulation 29 provides for mutual credits and setoff. Regulation 29 is as follows:

***“29. Mutual credits and set-off.***

*Where there are mutual dealings between the corporate debtor and another party, the sums due from one party shall be set off against the sums due from the other to arrive at the net amount payable to the corporate debtor or to the other party.”*

7. The claim form which was filed by the Appellant as Annexure A-3 is as follows:

**“SCHEDULE II**

**FORM C**

**PROOF OF CLAIM BY OPERATIONAL CREDITORS  
EXCEPT WORKMEN AND EMPLOYEES**

*(Under Regulation 17 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016)*

24-12-2021

To

*The Liquidator  
Sh Sandeep Goel Insolvency Professional  
Regd. Office-410, Pratap Bhawan 5, Bahadur Shah  
Zafar marg. New Delhi-110002  
Regd E-mail-cmasandeepgoel@gmail.com*

From

*Anil Kumar Verma  
Executive Engineer  
Electricity urban Distribution Division III  
Pvval Muzaffarnagar-251001  
E-mail-eeeudd3mzn@gmail.com*

*Subject: Submission of proof of claim in respect of the liquidation of MS Chaudhary Ingot Pvt Ltd. Meerut Road Muzaffarnagar under the Insolvency and Bankruptcy Code, 2016.*

*Madam/ Sir,*

*Anil Kumar Verma hereby submits this proof of claim in respect of the liquidation of MS Chaudhary Ingots Pvt Ltd. Meerut Road Muzaffarnagar. The details for the same are set out below:*

1.	NAME OF OPERATIONAL CREDITOR (IF AN INCORPORATED BODY PROVIDE IDENTIFICATION NUMBER AND PROOF OF INCORPORATION, IF A PARTNERSHIP OR INDIVIDUAL PROVIDE IDENTIFICATION RECORDS* OF ALL THE PARTNERS OR THE INDIVIDUAL)	PVVNL MEERUT Registered Office – Executive Engineer Electricity urban Distribution Division III PvvnL Muzaffarnagar – 251001 E-mail - eeeudd3mzn@gmail.com
2.	ADDRESS OF OPERATIONAL CREDITOR FOR CORRESPONDENCE	Executive Engineer Electricity urban Distribution Division III – 16 Tikait Vihar near Vasundhara Residency Muzaffarnagar – 251001
3.	TOTAL AMOUNT OF CLAIM, INCLUDING ANY INTEREST, AS AT LIQUIDATION COMMENCEMENT DATE AND DETAILS OF NATURE OF CLAIM	PRINCIPAL : 3,48,44,219 INTEREST : 55,75,075 TOTAL CLAIM : 4,04,19,294
4.	DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE DEBT CAN BE SUBSTANTIATED	Electricity bills and detail of Claim amount
5.	DETAILS OF ANY DISPUTE AS WELL AS THE RECORD OF PENDENCY OF SUIT OR ARBITRATION PROCEEDINGS	NA
6.	DETAILS OF HOW AND WHEN DEBT INCURRED	Consumer Ms Choudhry Ingot Pvt. Ltd. did not pay their electricity bill dues
7.	DETAILS OF ANY MUTUAL CREDIT, MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE OPERATIONAL CREDITOR WHICH MAY BE SET-OFF AGAINST THE CLAIM	NONE
8.	DETAILS OF ANY RETENTION OF TITLE IN RESPECT OF GOODS OR PROPERTIES TO WHICH THE DEBT REFERS OR ANY OTHER SECURITY	Security Amount Adjusted in Claim
8A.	WHETHER SECURITY INTEREST RELINQUISHED	Yes/ No (for secured creditor)
9.	DETAILS OF ANY ASSIGNMENT OR TRANSFER OF DEBT IN HIS FAVOUR	NONE

10.	DETAILS OF THE BANK ACCOUNT TO WHICH THE OPERATIONAL CREDITOR'S SHARE OF THE PROCEEDS OF LIQUIDATION CAN BE TRANSFERRED	PNB VIKAS BHAWAN MEERUT ROAD MUZAFFARNAGAR ACCOUNT NO 6848002100001945 IFSC-PUNB0684800
11.	LIST OUT AND ATTACH THE DOCUMENTS RELIED ON IN SUPPORT OF THE CLAIM.	(i) Electricity Bills (ii) Consumer Ledger (iii) Calculation sheet

*Signature of operational creditor or person authorised to act on his behalf (Please enclose the authority if this is being submitted on behalf of the operational creditor)*

*Name in BLOCK LETTERS* ANIL KUMAR VERMA

*Position with or in relation to creditor* EXECUTIVE ENGINEER

*Address of person signing:* Executive Engineer Electricity urban Distribution Division III – 16 Tikait Vihar near Vasundhara Residency Muzaffarnagar – 251001.

*\*PAN, Passport, AADHAAR Card or the identity card issued by the Election Commission of India.*

8. When we look into Clause 8 of the Claim Form, in the claim itself the security amount was adjusted i.e. said amount was set off. The Adjudicating Authority in Para 27 of the judgment has referred to judgment of Hon'ble Supreme Court in *Bharti Airtel Ltd. and Another vs. Vijaykumar V. Iyer and Others*, which was a case of the CIRP. However, the judgment which has been extracted in Para 27 itself indicate that set off of account on mutual dealing is permitted under Regulation 29. It is submitted that the Adjudicating Authority has erred in observing that the amount set off by PVVNL against anticipated claim cannot be permitted. The present is not a case of anticipated claim but the claim filed by the Appellant is with adjustment of security claim. The view of the Adjudicating Authority that there could not have been set off/ adjustment of the claim by the Appellant cannot be

approved. We, thus, are of the view that direction of the Adjudicating Authority to pay Rs.1,15,33,600/- could not be sustained. The Appeal is partly allowed to the above extent.

**[Justice Ashok Bhushan]**  
**Chairperson**

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

*Archana/nn*