NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1,

MUMBAI BENCH

Item No. 27

IA(I.B.C)/3638(MB)2025 in C.P. (IB)/1900(MB)2019

CORAM:

SH. PRABHAT KUMAR **SH. SUSHIL MAHADEORAO KOCHEY**

HON'BLE MEMBER (TECHNICAL) **HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF THE HEARING ON **25.11.2025**

NAME OF THE PARTIES: **MUMBAI DISTRICT CENTRAL CO OP BANK LTD V/s LATAKISAN INFRA PRIVATE LIMITED**

Section 60(5) & 7 of the Insolvency and Bankruptcy Code, 2016 and Rule 154(1)

ORDER

IA(I.B.C)/3638(MB)2025 in C.P. (IB)/1900(MB)2019

1) Mr. Harsh Kesharia, Ld. Counsel for the Applicant is present. None present for the Respondent, viz. Commissionerate, Goods and Service Tax, Nagpur, Maharashtra, when the matter is called out.

2) Record reveals that the Respondent, though was granted opportunities to file Reply in the present matter, till date, chose not to appear before this

Adjudicating Authority and file Reply in the matter. The matter was listed on Board on 06.11.2025, on which date, it was recorded that *"Last opportunity is granted to the Respondent to enter appearance and file the reply, failing which the matter shall be proceeded further setting them ex-parte".*

3) Even after giving clear and categorical directions, the Respondent chose not to appear before the Bench and no Reply is available on record. In that view of the matter, the present Interlocutory Application against the Respondent is thus, proceeded *ex parte*.

4) Heard Ld. Counsel for the Applicant after proceeding the Respondent *ex parte*. We have perused the present Interlocutory Application and observed as under:

i. The Respondent, is one of the 4 Executive Commissionerate of Nagpur Zone, having jurisdiction over the eastern districts of the Vidarbha Region in the state of Maharashtra for collection of due government revenue under GST.

ii. The Corporate Debtor on 21.12.2018, had entered into a Revenue Sharing Agreement with Royal Orchid Hotels Ltd (ROHL), wherein, wherein it was agreed between the Parties that ROHL shall run certain parts of building on the premises as a hotel and shall share some percentage of its revenues from such hotel with the Corporate Debtor.

iii. Thereafter, the Corporate Insolvency Resolution Process against the Corporate Debtor was initiated *vide* its Order dt. 06.11.2019 and subsequently, the Resolution Plan in the case of the Corporate Debtor was approved *vide* Order dt. 07.01.2025.

iv. In accordance with the provisions of the Agreement, ROHL had made a total payment of Rs. 17,54,16,055.19 to the Corporate Debtor during the period of Corporate Insolvency Resolution Process i.e. from 06.11.2019 to 07.01.2025, however, ROHL did not make any payments (Rs. 3,15,74,889.93) towards Goods and Service Tax applicable on the payments made in accordance with the Revenue Sharing Agreement.

5) It is submitted that due to delay in payments of these liabilities, the Financial Creditors are apprehensive that the Respondent Department would levy various interest and penalties for the period of delay in payment of the GST Liabilities of the Corporate Debtor in relation to the CIRP Period.

6) It is further submitted that, the GSTIN number of the Corporate Debtor was deactivated by the Respondent Department for non-filing of GST returns during the CIRP period. However, the Applicant, in accordance with provisions of the Resolution Plan, had duly approached the Respondent Department and had sought activation of the said number on 28/03/2025.

7) It is further submitted that the said application was made during the subsistence of the GST Amnesty Scheme, 2025 rolled out by the said

department wherein the Respondent Department was granting waiver of a significant portion of the interest and penalties levied by it on delayed GST payments by making full payment of unpaid tax amounts by 31-03- 2025.

8) However, as the Respondent Department did not reactivate the GSTIN number of the Corporate Debtor, before the deadline of 31-03-2025, the Applicant could not make an application to reap the benefits of the said Amnesty Scheme.

9) As per the terms of the approved Resolution Plan, the liability of the Resolution Applicant towards the CIRP costs has been expressly capped at Rs. 18 Lakhs and in terms of the approved Resolution Plan, any CIRP cost incurred beyond the said amount has to be deducted from the amounts earmarked for distribution to the Financial Creditors under the Plan. Any Additional Financial Burden such as interest and penalties arising from the GST liabilities of the Corporate Debtor would directly reduce the recoveries available to the Financial Creditors. The Applicant through this Application seeking waiver of interest and penalties on the outstanding GST dues of the Corporate Debtor, so as to preserve and maximise the value available for distribution to the Financial Creditors.

10) Hence, this Application. Heard Ld. Counsel for the Parties and perused the material available on record.

11) It is undisputed fact that the liability for payment of GST on the amounts paid by ROHL arose during the CIRP period, and it is for the

negligence of the Applicant that the said liability remained undischarged and necessary filing in relation to return of taxable services and annual return were also not filed for the CIRP period, though the Applicant was obligated to do so, as no provision exempts the Applicant as resolution professional not to file GST returns for the CIRP period, in case the Corporate Debtor incurs any liability under GST law during the CIRP period. It is trite law that the CIRP dues are payable in precedence of any debt due from the Corporate Debtor, accordingly, GST dues falling due during CIRP period does not extinguish consequent upon approval of resolution plan, and the same are required to be paid before any payment can be made to any creditors.

12) The Applicant has sought waiver of interest and penalty accruing on such unpaid dues as well as late fine arising on account of non-filing of periodic returns as well as Annual return for the CIRP period contending that such liability shall cause reduction in the amounts payable to the Financial Creditors. Though, this obligation cannot be fastened upon the Successful Resolution Applicant, however, this Tribunal can not grant any immunity from payment of these dues and complying with the obligations arising during the CIRP period. It is trite law that Applicant Resolution Professional is duty bound to ensure compliance with the laws during the CIRP period, and for such responsibility, the Resolution Professional is also paid the remuneration. Accordingly, we consider it appropriate to hold that

such interest, penalty or fine ought to be payable for his negligence from the 50% of professional fees received by the Resolution Professional. In case, the amount of GST was payable by ROHL as contended by the Applicant, there should not be any incidence of tax on the Corporate Debtor. The Applicant shall be, at liberty, to raise these issues before the appropriate forum.

13) Having said so, it is further noted the Applicant has contended that the benefit of immunity scheme announced by CBIC could not be taken as the the Respondent Department did not reactivate the GSTIN number of the Corporate Debtor, before the deadline of 31-03-2025 for which necessary request was made on 28.3.2025 only. As regards relaxation of conditions for taking benefit under immunity scheme, this Tribunal can not grant any relief and such relief can only be granted on equitable grounds by the writ courts. Accordingly, the Applicant shall be at liberty to approach the writ court for the purpose. Nonetheless, the Applicant may file a representation with the GST department after depositing the principal amount of tax with the GST department within 30 days from the date of communication of this Order along with returns for the relevant period as required under the GST law with a request to consider its case under immunity scheme and take appropriate remedial action, in case such request is not acceded. In the meanwhile, the Respondent GST department shall activate the log in credential of the Corporate Debtor upon payment of principal amount of

GST by the Corporate Debtor and shall not take any precipitative action till the representation filed by the Corporate Debtor is disposed of.

14) In terms of the above, IA (IBC) 3638 of 2025 is disposed of.

Sd/- **Sd/-**

PRABHAT KUMAR
MEMBER (TECHNICAL)

SUSHIL MAHADEORAO KOCHEY
MEMBER (JUDICIAL)

Vedant Kedare
(Stenographer)