IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

IA(I.B.C)/4463(PB)2024
&
IA(I.B.C)/4471(PB)2024
&
IA(I.B.C)/251(PB)2025
In
CP (IB)/639(PB)/2018

Order under section 60(5) of the Insolvency and Bankruptcy Board Code 2016.

IN THE MATTER OF: IA(I.B.C)/4463(PB)2024

M/S TENERON LIMITED
... APPLICANT

VERSUS

SURENDRA RAJ GANG
RESOLUTION PROFESSIONAL
M/S METENERE LIMITED ...RESPONDENT

AND

IN THE MATTER OF: IA(I.B.C)/4471(PB)2024

M/S TENERON LIMITED
... APPLICANT

VERSUS

SURENDRA RAJ GANG
RESOLUTION PROFESSIONAL
M/S METENERE LIMITED ...RESPONDENT

AND

IN THE MATTER OF: IA(I.B.C)/251(PB)2025

M/S TENERON LIMITED
... APPLICANT

VERSUS

MONITORING COMMITTEE (M/S METENERE LIMITED) & ORS.
...RESPONDENT

IN

IN THE MATTER OF: CP (IB)/639(PB)/2018

STATE BANK OF INDIA ….FINANCIAL CREDITOR

VERSUS

M/S METENERE LIMITED ….CORPORATE DEBTOR

Order Pronounced On: 02.12.2025

CORAM:
CHIEF JUSTICE (RETD.) RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SHRI RAVINDRA CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

Appearances:

For the Applicant	:	Sr. Adv. P. Nagesh, Adv. Akshay Sharma, Adv. Doel Bose, Adv. Srijesh Kumar Singh
For the erstwhile RP	:	Sr. Adv. Sunil Fernandes, Adv. Nikhil Mathur

ORDER

IA (I.B.C)/4463(PB)2024

This application has been filed on 03.09.2024, with the following prayer:

(i) Directing the Respondent No.1 to release the sums to the Applicant as detailed above;

Or, in the alternative,

Directing that the sums detailed above (as payable to the Applicant) shall be treated as Insolvency Resolution Process Cost to be disbursed in priority, upon approval and implementation of the Resolution Plan.

(ii) Any other order that this Hon'ble Tribunal may deem fit and proper in the current facts and circumstances.

IA (I.B.C)/4471(ND)2024

This application has been filed on 05.09.2024, with the following prayers:

(i) Directing the Resolution Professional of the Corporate Debtor to render accounts on the receipt and return of material;

(ii) Holding that the additional material due as per job work agreement in possession of the Corporate Debtor belongs to the Applicant and the Corporate Debtor is liable to the Applicant towards such additional material in its possession and any shortfall should form part of the CIRP cost;

(iii) Pass any other order or direction that this Hon'ble Tribunal may deem fit in the facts and circumstances of this case.

This application pertains to the rights and obligations of the parties under the job work agreement as amended from time to time by the way of Addenda.

IA (I.B.C)/251(PB)2025

The application has been filed on 13.01.2025, with the following prayers:

(i) Directing the Respondents to release sums to tune of INR 3.32 crores being the CIRP Cost admitted by the Resolution Professional; and

(ii) Pass any other and further order that this Hon'ble Tribunal may deem fit and proper in current facts and circumstances.

2. The Applicant in all three Applications, namely M/s Teneron Limited (**Teneron**), is a company incorporated on 11.04.2017 under the Companies Act 2013, having a registered Office at Survey No. 107/1, 107/2, VILL – Naviyani, TA- Dasada, Surendra Nagar, Gujarat, India 363750. The Applicant is stated to be engaged in the business of production and sale of aluminium alloy ingots and products.

3. It has been submitted that the applicant entered into a job work agreement dated 01.04.2019, with the M/s Metenere Limited, Corporate Debtor (**CD/Metenere**). This agreement was valid for five years initially. Scope of work and consideration, therefore, under the job work agreement included as follows:

> **4. SCOPE OF JOB WORK:**
>
> 4.1. That the First Party shall arrange and deliver, as per its requirements, all type of aluminum ingots/products or scraps of various types at its own cost and expenses at the Industrial Units of the Second Party. All types of aluminum ingots, scraps, etc. shall hereinafter be referred to as "material".
>
> 4.2. That the Second Party shall process the said material at the Industrial Units by using labour, machinery, electricity, fees, charges on Security staff, charges and other facilities/resources at the Industrial Units and after processing the same, provide the goods in the form as mentioned in **Annexure A to the Job Work Agreement.** After sorting of said material by the second Party, if the First Party, deems fit to sell the same in market, the First Party after intimating the same to the Second Party, may lift such sorted material. (All above processing/sorting work hereinafter referred as **'Job Work'**).
>
> 4.3. That after processing the said material and job work done; the materials / sorted goods and all attachments shall be collected by the First Party from the Industrial Units at its own cost and expenses.
>
> **5. CONSIDERATION:**
>
> 5.1. The First Party, against the processing of said material and providing materials as per **Annexure A to the Job Work Agreement,** shall pay to the Second Party as per rates agreed mentioned in **Annexure A** as **"Agreed Rates"**. It is also agreed between the parties hereto that while processing the said material, some melting loss would also happen, the normal melting loss as per market trend is mentioned in **Annexure B to the Job Work Agreement**, any percentage of melting loss beyond melting loss mentioned in the **Annexure B** will not be acceptable, any deficit in this regard shall be compensated by the Second Party only. After sorting of said material by Second Party, if the First Party, deems fit to sell the same in the market, the First Party may lift the sorted material for sale and pay to the Second Party sorting charges at the rates agreed in **Annexure C to the Job Work Agreement**. The Agreed Rates as mentioned in Annexure shall remain fixed and shall not be modified/verified during the tenure of this agreement in any manner whatsoever and howsoever."

4. In terms of the business understanding between the parties, M/s Teneron would supply raw material to the CD, who in turn would process the raw material on job work and thereafter would supply finished goods to M/s Teneron, against which CD would raise invoices which shall be paid by M/s Teneron to CD at the agreed rates as mentioned above, within 30 days of invoice raised. The payment against said invoices was to be adjusted in a running account maintained by the parties. M/s Teneron also paid for the operations, maintenance and upkeep of the plants to ensure that the industrial plants of CD remained functional and a going concern, being critical to its supply chain.

5. Subsequently, CD was admitted to the Corporate Insolvency Resolution Process (**CIRP**) by this Adjudicating Authority (**AA**) vide an order dated 25.09.2020 (**Admission Order**). Mr Surendra Raj Gang was appointed as Resolution Professional (**RP**).

6. After the admission order, various addendum were executed to the job work agreement between the CD through RP and the applicant. Since the term of the Job Work Agreement was coming to an end, Teneron and Metenere, under the control and management of the Resolution Professional, executed another Job Work Agreement dated 13.06.2024 to continue the job work for another 2 years.

7. It is the first submission of the applicant that, since the commencement of CIRP, the Applicant has paid an amount of around INR 224.31 crores to the CD. However, in return, the applicant has received goods under the

agreement only for around INR 217 crores. Therefore, the applicant is entitled to a refund of around INR 7.11 crores along with the interest at the rate of 12%.

8. The second submission of the applicant is that under the job work agreement, finished products from the raw material supplied to the CD by the Applicant were to be supplied back to the Applicant in finished form. However, 'Dross' generated during the processing of material was sold by the Resolution Professional in the market in breach of the job work agreement. As per the Agreement, 'Dross' with metal content was required to be returned to the Applicant, and one with no metal content was required to be disposed of by the CD in compliance with the environmental laws. This has also been submitted by the Applicant that the CD did not even have requisite environmental clearances for selling the product Dross in the market. Applicant has also raised objections in this respect with the RP vide email dated 11.09.2023, 14.09.2023, 28.03.2024, however, the same were of no avail to the Applicant. The Applicant apprehends that the unlawful gains of the Corporate Debtor as a result of such sales is in the range of INR 7.15 Crores, which the Applicant is entitled to recover from the Corporate Debtor.

9. It has been further submitted that the applicant had also rejected some defective and substandard products for which the payment was already made by the Applicant to the CD. Upon rejection, CD supplied the goods again, after rectification back to the applicant, for which the Applicant was

charged again and therefore the applicant has been charged twice for the same product(s). Applicant also issued debit notes on this premise which was shared with the RP wide email dated 10.04.2024, but the same has not been cleared by the RP so far.

10. It is another submission of the Applicant that certain consumable / packing materials were supplied to the CD for usage and processing under the job work agreement. The same has been processed and consumed by the corporate debtor, and has also been accounted in the books of the CD; however, the CD has not made a corresponding adjustment in payments to be made by the applicant to the CD. The Applicant has also tried to engage with RP seeking an account of these consumables and packing materials. However, the same has not been to any avail to the Applicant. The supply of these consumables and packing materials, which have been duly processed and consumed by the CD, should have been accounted and adjusted in determining the liability of the Applicant under the job work agreement and by not adjusting the same, CD has overcharged the Applicant for an amount of around INR 42.63 lakhs, which is therefore liable to be refunded to the Applicant.

11. It is further the claim of the Applicant has paid certain expenses and Gram Panchayat Tax on behalf of the CD to comply with the local laws. These expenses so paid on behalf of the CD are towards maintenance security, consumables, hotel expenses, hire charges of equipment, staff, welfare, conveyance etc. These payments were made on behalf of the CD to enable it to function as a going concern during the CIRP.

12. Further, an equipment rental agreement dated 07.04.2022 and 01.07.2022 was executed between the Applicant and the CD wherein the Applicant is stated to have leased out certain equipment to the CD, which was fundamental to the operations of the CD, with the motive to keep the CD as a going concern during the CIRP. The applicant accordingly raised invoices for these lease rentals, which have not been honoured by the Resolution Professional.

13. All the above payments pending on behalf of CD and overcharged done by RP on behalf of the CD constitute the CRP cost as each such agreement, transaction of supply was pursuant to keep the CD as a going concern. Therefore, these claims by the Applicant constitute CIRP cost.

14. In another application bearing IA(I.B.C)/4471(ND)2024, the applicant has submitted that the CD has no right or title to the material supplied to it by the Applicant under the job work agreement as amended from time to time by the Addenda.

15. CD is required to undertake only the job work upon the material supplied by the applicant. When the material has not been processed, CD does not have any right to dispose of the material in any manner whatsoever; thus, CD has no right to continue to retain the material supplied by the applicant. It is the Applicant's case that since CIRP and during the course of the Job Work Agreement, Applicant has supplied 1,16,899 MT of Material, and the Applicant apprehends that the CD has retained Material more than the permitted losses under the Job Work Agreement.

16. Therefore, the CD is required or is liable to return the material to the applicant, which has not been processed by the applicant under the job work agreement. Since the resolution plan is under consideration by the COC, the applicant apprehends that when the CD is acquired vide Resolution Applicant, the Applicant's right to seek return of its material will be hindered. Hence, the application bearing IA(I.B.C)/4471(ND)2024 has been filed seeking the return of the material.

17. The Applicant has submitted a chart containing particulars of claims and the same has been extracted below:

S. No.	Nature of CIRP Cost	Amount (INR)
1.	Supply of **consumables** (used in production processed) under Cl. 5.2 of the Job Work Agreement. [**@ Pg. 22, Vol I**]	84 lacs
2.	Supply of **packing materials** (used in production processed) under Cl. 5.2 of the Job Work Agreement. [**@ Pg. 22, Vol I**]	4.1 crores
3.	Supply of **Burnt Iron / Silicon Metals** (used in production processed) under Cl. 5.2 of the Job Work Agreement. [**@ Pg. 22, Vol I**]	
4.	Excess **Job Work Charges** under the Job Work Agreement. [**Clause 4 @Pg. 21, Vol I**]	6,98,95,108
5.	**Contractual Interest** payable on Job Work Charges paid in advance.	3,56,91,026
6.	Payment towards **Repair & Maintenance, Security, Hotel Expenses, Hire Charges of Equipments, High Speed Diesel, Staff Welfare, conveyance** etc. on behalf of the CD, in terms of Cl. 5.2 of the Job Work Agreement. [**@ Pg. 22, Vol I**]	47.91 lacs
7.	Payment towards **Gram Panchayat Tax** on behalf of the CD under Cl. 5.2 of the Job Work Agreement. [**@ Pg. 22, Vol I**]	22 lacs
8.	Payments of Lease Rentals under Equipment Rental Agreement dated 07.04.2022 and Equipment Rental Agreement dated 01.07.2022.	7.20 lacs
9.	Job Work Charges for **rejected materials**.	68,43,875
10.	**Freight Charges** on the rejected goods.	12,39,021
11.	CD has **overcharged** Teneron by not accounting for sale of residual consumables towards its invoices for **Job Work Charges**.	42.63 lacs

18. RP in its reply has submitted that he is not aware of any addendum agreement purported to have been entered in June 2020.

19. RP has submitted that the job work agreement list down specifically those finished products which the CD was required to deliver to the applicant.

20. RP has also submitted that the Applicant has never sought reconciliation of the sums before. No claim has been raised by the Applicant before with respect to any refund with respect to Dross sale amount, residual wastage amount, payment of Gram Panchayat taxes, which have been sought in the application only for the first time.

21. It is for the submission of the RP that regardless of the merit of the claim made by the applicant, the same does not constitute CIRP cost. CIRP cost has been defined under Section 5(13) of the code, which takes into account the amount which has been expanded on the business of the CD to run it as a going concern. To the contrary, in the present case, it is the CD who is the service provider to the Applicant, and therefore, consideration was being paid to the CD by the Applicant. Amount sought to be refunded by the Applicant would, at best, be treated only as an advance to the CD towards packaging, material and processing of the material cannot be considered a CRP cost. Regulation 31 of the CIRP regulations, which details the parameters of the CIRP cost, cannot be interpreted to include the amount sought by the applicant.

22. It has been contended by the Resolution Professional that the claim made by the Applicant is unsubstantiated, the manner in which a particular claim towards refund has not been properly valued. No calculation has been shown how the sum has been reached or reconciliated or valued by the Applicant.

23. So far as the claim of the Applicant for the refund of INR 7.11 crores is concerned, the Resolution Professional has submitted that the Applicant has failed to demonstrate that it has supplied more materials to the CD and CD failed to provide the corresponding processed goods. The applicant has not specified any material which has been over supplied to the CD. Also, there is no mention of the period for which the material allegedly over-supplied pertains. The Applicant has submitted that it has allegedly paid INR 224.31 crores to the CD for a period from CIRP commencement till 30.08.2024; however, on this date, i.e., 30.08.2024, the original job work agreement was not even persisting. The Original job agreement came to an end on 31.03.2024 itself and only in view of the expiry of the original job work agreement, another agreement for manufacturing of industrial goods on job work basis was entered into on 13.06.2024, therefore, the claim of the applicant dehors the contractual period between the parties.

24. The true facts are that in consideration, CD raised total billing of INR 215.91 crores for a period between 15.12.2022 and 31.03.2024 and after deduction of TDS applicable CD was entitled to receive INR 212.1 crores however applicant had only paid INR 208.6 crores, leaving balance of INR

3.48 crores. Owing to the nature of business, the Applicant had subsequently made certain payments towards packaging, material and burnt iron, which were therefore adjusted against the balance of INR 3.48 crores in the books of the CD.

25. In another application filed by the applicant bearing IA no. 4471 of 2024, the Applicant has sought a complete account of material supplied by the Applicant under the job work agreement and has sought a refund of the additional material supplied to the Resolution Professional. In response to the same, an account of the material so received from the applicant and goods processed thereupon, which are dispatched by the CD to the Applicant, has been annexed as Annexure R1 with the Reply in IA–4463/2024.

26. So far as the allegation pertaining to the sale of Dross by the CD in the market is concerned, Resolution Professional has submitted that the CD has been selling Dross since December 2020 however, the same has not been objected to by the applicant so far and the objection has been raised vide the present application only. Work agreement does not require the CD to deliver Dross in any form to the Applicant; it is only the listed finished product were to be delivered to the Applicant. The Applicant has failed to specify the clause under the Agreement under which Dross in any form was required to be delivered to the Applicant. Also, the allegation that the CD does not have the requisite environmental clearance is not coming from a valid source. Therefore, it is only a vague allegation and is not

substantiated with either the document or a provision under environmental laws, which allegedly has been violated. Further, how the claim has been arrived by the Applicant with respect to alleged unjust enrichment from the sale of Dross is unsubstantiated.

27. On allegation of the Applicant that RP charged Applicant twice for rectification of defective and substandard product which were returned to the CD, the Resolution Professional has submitted that the job work agreement does not quantify the charges which may be applicable for the reprocessing of goods by the CD after being returned by the Applicant, therefore, RP went on to apply the same charge rate for reprocessing as were charged originally at the first instance. A pertinent fact that has been concealed by the applicant is that applicant returned the purported defective goods only after 3 to 6 months from the date of first delivery, which was also highlighted by the respondent RP at the relevant time vide an email, whereby RP made it clear that since the return has been belated, product so returned cannot be termed as rejected. It was also made clear that since the agreement does not stipulate a scenario on return of product by the Applicant, debit note raised by the Applicant cannot be accepted.

28. Further on allegation of the applicant that it has paid some packaging consumable charges which were ought to be adjusted against the consideration to be paid by the Applicant submitted the same have been duly accounted in the books as well as running accounts and whatever the charges were paid by the Applicant on account of

consumables/packaging, the same have been set off against the receivables from the Applicant.

29. The RP has submitted that whatever was required to be delivered to the Applicant was already listed down in the agreement. Nothing else, including residual as claimed by the Applicant, was to be delivered to the Applicant. Rather clause 6.4 of the job work agreement itself, stipulates that the CD was responsible for disposal of waste, such as slurry, plastic, etc. It is therefore the CD who retains ownership over the residual material generated during the processing.

30. Further on allegation of alleged payment of expenses and taxes by the Applicant on behalf of the CD, it has been contended by the RP that upon commencement of CIRP, it is RP who takes management decision with respect to affairs of CD, including ones with regards to compliance requirements and at no point of time, occasion should have occurred for the erstwhile management to make a purported request to the Applicant to make such payments on behalf of the CD.

31. On claim of the Applicant for lease rentals, Resolution Professional submitted that the applicant has not raised invoice with the Resolution Professional and further that the CD would consider the claim once invoice along with the supporting documents are properly raised.

32. The Resolution Professional has produced a calculation chart showing reconciliation of account with the Applicant for the CIRP period, which is extracted hereinbelow:

Metenere Limited -Reconciliation of Teneron Ltd for the CIRP period (Running account)

(Amount in INR Crore)

Particulars	15Dec'20 to 31 Mar'24	Apr'24 to 12 Jun'24	13 Jun'24 to 4 Oct'24	Remarks
Total Billing	215.9	4.7	8.62	
Less TDS	3.9	0.08	0.15	
Total Receviables	212.1	4.58	8.46	
Receipt from customer	208.6	1.52	13.38	
Adjustments				
Purchases on behalf of CD	-4.1			
Disputed claims of purchases on behalf of CD	-2.59			Disputed purchases/other expenses claimed by Teneron done on behalf of Metenere limited via email dated April 10th 2024. Resolution professional has responded to each claim through email dated April 18th 2024. And acceptable claims have been considered in the reconciliation
Debit against Disputed purchases	1.75			Teneron has done purchases during FY 22-23 and thereafter , any such expense has to be charged back to Teneron with cost plus 7% mark up. Hence debit note to be raised on Teneron for that eligible component. Already informed them on 18 April 2024.
Net Receivables / (payable)	**-1.46**	**3.06**	**-4.92**	These net balances and reconciliation has been apprised to the SRA during meeting of the Monitoring Committee.
Net Receivables / (payable) as on 04 Oct 2024 (upon CIRP completion date)			**-3.32**	Net Payable to Teneron Limited as of 04 Oct 2024 as per reconciliation by the RP. To be adjusted against the billings done in future as per new Job work agreement dated 13 June 2024.

The perusal of the Chart above shows that the CD admittedly owes to the Applicant a sum to the tune of INR 3.32 crores for CIRP period.

33. Pursuant to the above admission of dues payable to the Applicant, the Applicant filed another Application bearing IA-251/2025 seeking direction of this AA to the Monitoring Committee of the CD to disburse INR 3.32 crores to the Applicant as CIRP Cost. The Applicant has contended that as per section 30(2)(a) of the Insolvency and Bankruptcy Code 2016, CIRP cost has to be paid in priority to any other payment. The Applicant has

supplied critical goods and payments to ensure that the Corporate Debtor remains a going concern and therefore claims made by the Applicant constitute CIRP Cost.

34. The claim of the Applicant for payment of admitted payment to the tune of INR 3.32 crores, has been opposed on behalf of the Monitoring Committee with the submission that the amounts payable were never meant to be paid in reality to the applicant rather under the agreement, they were meant to be adjusted only against the future invoices from the CD. The question of considering the amount so payable as a CIRP cost does not arise as the admission made by the RP in the reply to the IA bearing IA-4463/2024 has been misinterpreted by the Applicant. Parties were maintaining running accounts for the transactions under the job work agreement, which itself means that when the agreement is continuing, any amount payable, inter se, are to be adjusted against the future invoices. Since the resolution plan of the SRA was approved by the COC and subsequently by this AA, the same gave way to an understanding that the past contracts would continue, including one with the applicant.

35. It has been submitted by the monitoring committee that it is a CD who has provided services to the Applicant and therefore any amount remaining payable on account of transaction to the Applicant cannot amount to CIRP cost. No service was ever rendered by the Applicant and therefore, no cost can be said to have been incurred towards running the CD as a going concern at the behest of the Applicant.

36. It has been further submitted on behalf of the Monitoring Committee that the material supplied by the Applicant to the CD was solely in terms of the job work agreement and not in the form of supply of goods or services to the CD. Applicants claim to the tune of INR 3.32 crores in this IA have never been admitted by the RP as a CIRP cost claim.

37. This application has also been opposed by the Respondent No. 2 - National Asset Reconstruction Company Limited on similar grounds.

38. Heard Ld. Senior Counsels appearing for the Parties.

39. In light of the differences arising between the parties, we first answer the issue that whether the dues payable by the CD to the Applicant and which has been admitted by the Resolution Professional also, would amount to CIRP cost.

40. CIRP cost has been defined under section 5(13), which is further magnified by Regulation 31 of the CIRP Regulations 2016. Section 5(13) has been reproduced below:

> ***(13) "insolvency resolution process costs"*** *means—*
>
> ***(a) the amount of any interim finance and the costs incurred in raising such finance;***
>
> *(b) the fees payable to any person acting as a resolution professional;*
>
> ***(c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern;***
>
> *(d) any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and*
>
> *(e) any other costs as may be specified by the Board;*

Regulation 31 of the CIRP Regulations 2016 has been reproduced below

31. Insolvency resolution process costs.

"Insolvency resolution process costs" under Section 5(13)(e) shall mean- ***(a) amounts due to suppliers of essential goods and services under Regulation 32;***

(aa) fee payable to authorised representative under [sub-regulation (8)] of regulation 16A;

(ab) out of pocket expenses of authorised representative for discharge of his functions under [section 25A];

(ac) fee payable to facilitator under clause (c) of sub-regulation (1) of regulation 16C.

(b) amounts due to a person whose rights are prejudicially affected on account of the moratorium imposed under section 14(1)(d);

(ba) fee payable to the Board under regulation 31A;

(c) expenses incurred on or by the interim resolution professional to the extent ratified under Regulation 33;

(d) expenses incurred on or by the resolution professional fixed under Regulation 34; and

(e) other costs directly relating to the corporate insolvency resolution process and approved by the committee.

41. This is an inclusive definition, it includes any amount as interim finance and cost incurred in raising such finance; any cost incurred by the resolution professional in running the business of the CD as a going concern; and dues to suppliers of essential goods. The transaction as above clearly attracts section 5(13)(a) and (c) read with regulation 31(a) above. This is in scope of the job work agreement with the Applicant. It is not in dispute that the applicant had to provide raw material to the CD, which then were processed by the CD and sold as finished products. In the course of sale of the finished products under the job work agreement,

CD has admittedly raised invoices upon the Applicant and settled the advances given against the price of finished goods. Since CD is into business of manufacturing of non-ferrous products viz., aluminium flat rolled products through recycling route, and processing of the raw material into finish products, supply of finish products under the job work agreement were very much part of the core business of the CD, and only pursuant to the core business of the CD, the job work agreement in question was executed with the Applicant as a sole business enterprise. The core business of the CD is to receive raw material and convert to finished products under the job work agreement, which would not have been possible without being supply of the raw material, which was delivered only by the Applicant along with the finance. It also has not been disputed, nor it can be disputed that the supply of material by the Applicant to CD were critical to the business of the CD and it was kept as a going concern only because of the Applicant's initiative to get the finished goods through CD.

42. Even accepting the case of the RP, that the raw material supplied by the Applicant is to be regarded merely as an advance towards processing of finished goods, such advance would nonetheless constitute a supply to keep the CD as a going concern which squarely falls within the ambit of Corporate Insolvency Resolution Process (CIRP) cost. The finance given also covers the issue.

43. This job work agreement was entered into even prior to the admission of the CD into CIRP. The applicant did not terminate the agreement upon commencement of CIRP of the CD and continued with the agreement and further renewed on 13.06.2024 so that CD could continue processing finished goods as enlisted in the agreement and to be run as going concern. This has not been disputed on behalf the CD. The supply of raw material to the CD by the Applicant under the job work agreement, would be processed by CD to make the finished products and then sell it to the Applicant at profit margins. The transaction is commercial in nature profiting the CD in its regular course of business and by no stretch of imagination, it can be disputed. Therefore, the cost accruing on account of a transaction under the job agreement shall be considered a CIRP cost only.

44. It has been emphatically argued that since parties were maintaining running accounts for the transactions under the job work agreement, any amount payable, inter se, are to be adjusted against the future invoices. On this we are of the view that regardless of the nature of transactions being under job work agreement, CIRP cost has to be paid in priority in terms of section 30(2) and no exception can be made to this. When the RP has himself admitted the dues of INR 3.32 crores to be payable to Applicant for CIRP period as mentioned in paragraph 32 above, and the same also has been justified to be covered within the ambit of CIRP cost as discussed above, all other issues are irrelevant.

45. In view of the above discussions and findings, we find merit in the request of the applicant in IA(IBC)-251/2024 seeking release of ₹3.32 Crores as CIRP cost as per the calculations of the RP. Accordingly, we direct State Bank of India, CGO Complex, New Delhi, to release of ₹3.32 Crores from out of deposit made pursuant to our order dated 04.10.2024 which will be paid over to the Monitoring Committee and the Monitoring Committee will then pay the amount to the Applicant forthwith without any delay. The Application bearing **IA(I.B.C)/251/2025** is accordingly **Allowed**.

46. This IA (I.B.C)/4471(ND)2024 has been filed on 05.09.2024, with the following prayers:

(i) Directing the Resolution Professional of the Corporate Debtor to render accounts on the receipt and return of material;

(ii) Holding that the additional material due as per job work agreement in possession of the Corporate Debtor belongs to the Applicant and the Corporate Debtor is liable to the Applicant towards such additional material in its possession and any shortfall should form part of the CIRP cost;

(iii) *Pass any other order or direction that this Hon'ble Tribunal may deem fit in the facts and circumstances of this case.*

So far as, IA(I.B.C)/4471(ND)2024 is concerned, the same pertains to an issue of ownership/entitlement over certain material, consumables under job work agreement. The difference that arises between the parties is as to who (whether Applicant or CD) is the owner over claimed material / consumables is a contractual dispute having no relation with the CIRP of the CD. Hence, we refrain from any form of adjudication.

In this regard, we refer to a decision of Hon'ble NCLAT in ***SICOM Ltd & Anr. Vs. Kitply Industries Limited & Ors***. [Company Appeal (AT) (Ins) No. 849 of 2021, decided on 10.04.2023 wherein it was held as follows:

> *On the point of jurisdiction of NCLT or NCLAT in respect of interpretation of agreement/ contract which had already occurred prior to initiation of CIRP it has been held that neither NCLT nor NCLAT is having jurisdiction to adjudicate.*
>
> *In view of law settled by Hon'ble Supreme Court as incorporated hereinabove we are of the opinion that by order impugned the Learned NCLT has exceeded its jurisdiction in directing the appellant to transfer the property in question in favour of Corporate Debtor. The dispute whether agreement to sale which was entered in between the parties in the year 1998 was breached by the appellant or the respondent breached the agreement, may not be examined in a proceeding under the IBC.*
>
> *Such disputes are required to be examined by the court of competent jurisdiction. In view of admitted position that title of the property in respect of Igatpuri Unit still lies with the appellant, the Learned NCLT has committed error in allowing the application filed on behalf of the Respondent in directing for transferring the land in question and as such there is no option but to set aside the impugned order.*

Reference shall be made to the decision of the Hon'ble Supreme Court in ***Gujarat Urja Vikas Nigam Ltd vs Amit Gupta*** [(2021) 7 SCC 209], wherein it was held as follows:

> *72 Therefore, we hold that the RP can approach the NCLT for adjudication of disputes that are related to the insolvency resolution process. However, for adjudication of disputes that arise dehors the insolvency of the Corporate Debtor, the RP must approach the relevant competent authority…*
>
> *…*

87 The residuary jurisdiction of the NCLT under Section 60(5)(c) of the IBC provides it a wide discretion to adjudicate questions of law or fact arising from or in relation to the insolvency resolution proceedings. If the jurisdiction of the NCLT were to be confined to actions prohibited by Section 14 of the IBC, there would have been no requirement for the legislature to enact Section 60(5)(c) of the IBC. Section 60(5)(c) would be rendered otiose if Section 14 is held to be the exhaustive of the grounds of judicial intervention contemplated under the IBC in matters of preserving the value of the corporate debtor and its status as a _going concern'. We hasten to add that our finding on the validity of the exercise of residuary power by the NCLT is premised on the facts of this case. We are not laying down a general principle on the contours of the exercise of residuary power by the NCLT. However, it is pertinent to mention that the NCLT cannot exercise its jurisdiction over matters dehors the insolvency proceedings since such matters would fall outside the realm of IBC. Any other interpretation of Section 60(5)(c) would be in contradiction of the holding of this Court in Satish Kumar Gupta (supra).

While deciding contractual disputes, it has been well-established in a plethora of cases decided by the Hon'ble Supreme Court and Hon'ble NCLAT, that such disputes can only be adjudicated by the Tribunal if it is directly related to the insolvency of the Corporate Debtor. In this case, the Parties have to work out as per the agreement. Therefore, **IA(I.B.C)/4471(ND)2024** is **Dismissed**.

47. In IA(I.B.C)/4463(PB)2024, the claim has been made for a sum of ₹24 Crores on various heads as per the application. There is also a prayer for treating it as a CIRP cost on priority. As far as CIRP cost is concerned, we have allowed IA(IBC)-251/2024 treating the amount as calculated by RP to be a CIRP cost and the rest will be covered by the job work agreement

between the parties and they are free to reconcile the issues in accordance with law. Therefore, no further adjudication, in so far as IA(IBC)-4463/2024 is contemplated in view of the reasons given in IA-4471/ND/2024. **IA(I.B.C)/4463(PB)2024** is **Dismissed to an extent already allowed in IA(I.B.C)/251/2025.**

Sd/-
(RAMALINGAM SUDHAKAR)
PRESIDENT

Sd/-
(RAVINDRA CHATURVEDI)
MEMBER (TECHNICAL)