IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-08-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Revision Petition Nos.982, 1383, 1388, 1400, 1406, 1413, 1414, 1421, 1432, 1437, 1457, 1460, 1461, 1462, 1468, 1472, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1540, 1552, 1562, 1563 & 1564 of 2022

Charitra R Mardia	… Petitioner in C.R.P.No.982/2022
S.Pratapchand Jain	… Petitioner in C.R.P.No.1383/2022
D.Kirthi Kumar	… Petitioner in C.R.P.No.1388/2022
Manjula D Jain	… Petitioner in C.R.P.No.1400/2022
Ashwin H. Jain	… Petitioner in C.R.P.No.1406/2022
Jinen R Jain	… Petitioner in C.R.P.No.1413/2022
Bhavika Samkit Jain	… Petitioner in C.R.P.No.1414/2022
Manish Kumar Babulal	… Petitioner in C.R.P.No.1421/2022
Nikheel Kumar Mahendra Kumar	… Petitioner in C.R.P.No.1432/2022
Mayank Jain	… Petitioner in C.R.P.No.1437/2022
R.Jayabala Mardia	… Petitioner in C.R.P.No.1457/2022
Sailesh Kumar Mithalal	… Petitioner in C.R.P.No.1460/2022
K.Manjula Bai	… Petitioner in C.R.P.No.1461/2022
Nathmal	… Petitioner in C.R.P.No.1462/2022
Nirmala Jain	… Petitioner in C.R.P.No.1468/2022
Jayshree	… Petitioner in C.R.P.No.1472/2022
Divya C.Mardia	… Petitioner in C.R.P.No.1486/2022
Priya Jain	… Petitioner in C.R.P.No.1487/2022
Srawan Kumar	… Petitioner in C.R.P.No.1488/2022
Pushpa Kumari	… Petitioner in C.R.P.No.1489/2022
Hitendra	… Petitioner in C.R.P.No.1490/2022
Shrenikraj Vasant Mardia	… Petitioner in C.R.P.No.1491/2022

Sha Vasant Kumar Genmalji	… Petitioner in C.R.P.No.1492/2022
Kala V.Mardia	… Petitioner in C.R.P.No.1493/2022
Kaushik P.Jain	… Petitioner in C.R.P.No.1540/2022
Dimple R.Jain	… Petitioner in C.R.P.No.1552/2022
Sanghvi Chiraj Kumar Prakash Rajji	… Petitioner in C.R.P.No.1562/2022
Sonika R.Mardia	… Petitioner in C.R.P.No.1563/2022
Ramanlal	… Petitioner in C.R.P.No.1564/2022

vs.

1.M/s.AML Steel Limited,
No.9, 6th Street, AML Towers,
Gopalapuram, Chennai-600 086.
represented by its Managing Director
now known as Resolution Professionals
[*vide* Court order dated 14/07/2022 made in CMP No.11127/2022 in CRP No.1383/2022, C.M.P.No.11135/2022 in CRP No.1388/2022, C.M.P.No.11131/2022 in CRP No.1400/2022, C.M.P.No.11134/2022 in CRP No.1406/2022, C.M.P.No.11118/2022 in CRP No.1413/2022, C.M.P.No.11198/2022 in CRP No.1414/2022, C.M.P.No.11122/2022 in CRP No.1421/2022, C.M.P.No.11146/2022 in CRP No.1432/2022, C.M.P.No.11203/2022 in CRP No.1437/2022, C.M.P.No.11244/2022 in CRP No.1457/2022, C.M.P.No.11143/2022 in CRP No.1461/2022, C.M.P.No.11141/2022 in CRP No.1462/2022, C.M.P.No.11247/2022 in CRP No.1468/2022, C.M.P.No.11129/2022 in CRP No.1472/2022, C.M.P.No.11242/2022 in CRP No.1486/2022, C.M.P.No.11142/2022 in CRP No.1487/2022, C.M.P.No.11145/2022 in CRP No.1488/2022, C.M.P.No.11200/2022 in CRP No.1489/2022, C.M.P.No.11213/2022 in CRP No.1490/2022, C.M.P.No.11212/2022 in CRP No.1491/2022, C.M.P.No.11201/2022 in CRP No.1492/2022, C.M.P.No.11243/2022 in CRP No.1493/2022, C.M.P.No.11205/2022 in CRP No.1540/2022, C.M.P.No.11204/2022 in CRP No.1552/2022, C.M.P.No.11199/2022 in CRP No.1562/2022, C.M.P.No.11124/2022 in CRP No.1563/2022 & C.M.P.No.11245/2022 in CRP No.1564/2022 by RNMJ]

2. Ajay Agarwal

3. Ankit Agarwal

4. Anita Agarwal

...Respondents in all C.R.Ps.

Civil Revision Petitions filed under Article 227 of the Constitution of India praying to set aside the orders dated 28.10.2021 made in I.A.No.1617 of 2018 in O.S.No.1818 of 2017, I.A.No.1627 of 2018 in O.S.No.1951 of 2017, I.A.No.1621 of 2018 in O.S.No.1822 of 2017, I.A.No.1622 of 2018 in O.S.No. 1823 of 2017, I.A.No.1626 of 2018 in O.S.No.1827 of 2017, I.A.No.1624 of 2018 in O.S.No.1825 of 2017, I.A.No.1618 of 2018 in O.S.No.1819 of 2017, I.A.No.1623 of 2018 in O.S.No.1824 of 2017, I.A.No.1619 of 2018 in O.S.No.1820 of 2017, I.A.No.1625 of 2018 in O.S.No.1826 of 2017, I.A.No.1629 of 2018 in O.S.No.1952 of 2017, I.A.No.1630 of 2018 in O.S.No.1953 of 2017, I.A.No.1609 of 2018 in O.S.No.1495 of 2017, I.A.No.1637 of 2018 in O.S.No.1961 of 2017, I.A.No.1632 of 2018 in O.S.No.1955 of 2017, I.A.No.1635 of 2018 in O.S.No.1958 of 2017, I.A.No.1616 of 2018 in O.S.No.1503 of 2017, I.A.No.1615 of 2018 in O.S.No.1502 of 2017, I.A.No.1636 of 2018 in O.S.No.1959 of 2017, I.A.No.1633 of 2018 in O.S.No.1956 of 2017, I.A.No.1634 of 2018 in O.S.No.1957 of 2017, I.A.No.1611 of 2018 in O.S.No.1497 of 2017, I.A.No.1613 of 2018 in O.S.No.1500 of 2017, I.A.No.1610 of 2018 in O.S.No.1496 of 2017, I.A.No.1612 of 2018 in O.S.No.1499 of 2017, I.A.No.1638 of 2018 in O.S.No.1962 of 2017, I.A.No.1614 of 2018 in O.S.No.1501 of 2017, I.A.No.1608 of 2018 in O.S.No.1448 of 2017 and I.A.No.1631 of 2018 in O.S.No.1954 of 2017 on the file of learned XX Assistant Judge, City Civil Court, Chennai.

For Petitioners [in all petitions]	:	Mr.S.R.Rajagopal, Senior Counsel for Mr.Aditya Sarangarajan
For Respondents [in all petitions]	:	Mr.Jayesh B. Dolia, Senior Counsel for Natarajan.T for M/s.Aiyar And Dolia

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COMMON ORDER

The issue involved in all these revisions are common and hence, they are taken up together, heard and disposed of through this common order.

2. The particulars of the parties and proceedings in all these revisions are tabulated herein for easy reference:

S. No.	CRP. No.	Against I.A.No.	In O.S.No.	Amount Claimed in Plaint (In Rs.)	Plaintiff	Defendants
1.	CRP.No. 982 of 2022	Order dated 28.10.2021 passed in IA.No.1617 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1818 of 2017	Principal sum due: 2,50,000/- Interest: 90,000/- Total: 3,40,000/-	Charitra R.Mardia	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
2.	CRP.No. 1383 of 2022	Order dated 28.10.2021 passed in IA.No.1627 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1951 of 2017	Principal sum due: 3,00,000/- Interest: 1,08,000/- Total: 4,08,000/-	S.Pratapchand Jain	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
3.	CRP.No. 1388 of 2022	Order dated 28.10.2021 passed in IA.No.1621 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1822 of 2017	Principal sum due: 2,50,000/- Interest: 90,000/- Total: 3,40,000/-	D.Kirthi Kumar	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
4.	CRP.No. 1400 of 2022	Order dated 28.10.2021 passed in IA.No.1622 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1823 of 2017	2,00,000/-	Manjula D.Jain	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
5.	CRP.No. 1406 of 2022	Order dated 28.10.2021 passed in IA.No.1626 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1827 of 2017	2,50,000/-	Ashwin H Jain	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
6.	CRP.No. 1413 of 2022	Order dated 28.10.2021 passed in IA.No.1624 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1825 of 2017	2,50,000/-	Jinen R.Jain	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
7.	CRP.No. 1414 of 2022	Order dated 28.10.2021 passed in IA.No.1618 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1819 of 2017	Principal Sum due:1,00,000/- Interest: 36,000/- Total: 1,36,000/-	Bhavika Samkit Jain	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
8.	CRP.No. 1421 of 2022	Order dated 28.10.2021 passed in IA.No.1623 of 2018 passed by XX. Asst. City Civil Court, Chennai	OS.No. 1824 of 2017	2,00,000/-	Manish Kumar Ambalal	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
9.	CRP.No. 1432 of 2022	Order dated 28.10.2021 passed in IA.No.1619 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1820 of 2017	Principal sum due: 2,00,000/- Interest: 72,000/- Total: 2,72,000/-	Nikheel Kumar Mahendra Kumar	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal

S. No.	CRP. No.	Against I.A.No.	In O.S.No.	Amount Claimed in Plaint (In Rs.)	Plaintiff	Defendants
10.	CRP.No. 1437 of 2022	Order dated 28.10.2021 passed in IA.No.1625 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1826 of 2017	1,00,000/-	Mayank Jain	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
11.	CRP.No. 1457 of 2022	Order dated 28.10.2021 passed in IA.No.1629 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1952 of 2017	Principal sum due: 5,00,000/- Interest: 1,80,000/- Total: 6,80,000/-	R.Jayabala Mardia	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
12.	CRP.No. 1460 of 2022	Order dated 28.10.2021 passed in IA.No.1630 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1953 of 2017	Principal sum due: 3,00,000/- Interest: 1,08,000/- Total: 4,08,000/-	Sailesh Kumar Mithalal	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
13.	CRP.No. 1461 of 2022	Order dated 28.10.2021 passed in I.A.No.1609 of 2018 passed by XX. Asst. City Civil Court, Chennai	OS.No. 1495 of 2017	Principal sum due: 5,00,000/- Interest: 1,80,000/- Total: 6,80,000/-	K.Manjula Bai	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
14.	CRP.No. 1462 of 2022	Order dated 28.10.2021 passed in IA.No.1637 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1961 of 2017	Principal sum due: 2,00,000/- Interest: 72,000/- Total: 2,72,000/-	Nathmal	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
15.	CRP.No. 1468 of 2022	Order dated 28.10.2021 passed in IA.No.1632 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1955 of 2017	Principal sum due: 2,50,000/- Interest: 90,000/- Total: 3,40,000/-	Nirmala	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
16.	CRP.No. 1472 of 2022	Order dated 28.10.2021 passed in IA.No.1635 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1958 of 2017	2,50,000/-	Jayshree	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
17.	CRP.No. 1486 of 2022	Order dated 28.10.2021 passed in IA.No.1616 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1503 of 2017	Principal sum due: 2,50,000/- Interest: 90,000/- Total: 3,40,000/-	Divya C.Mardia	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
18.	CRP.No. 1487 of 2022	Order dated 28.10.2021 passed in IA.No.1615 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1502 of 2017	5,00,000/-	Priya Jain	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
19.	CRP.No. 1488 of 2022	Order dated 28.10.2021 passed in IA.No.1636 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1959 of 2017	Principal sum due: 2,00,000/- Interest: 72,000/- Total: 2,72,000/-	Srawan Kumar	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal

S. No.	CRP. No.	Against I.A.No.	In O.S.No.	Amount Claimed in Plaint (In Rs.)	Plaintiff	Defendants
20.	CRP.No. 1489 of 2022	Order dated 28.10.2021 passed in IA.No.1633 of 2018 passed by XX. Assistant City Civil Court, Chennai	OS.No. 1956 of 2017	Principal sum due:5,00,000/- Interest: 1,80,000/- Total: 6,80,000/-	Pushpa Kumari	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
21.	CRP.No. 1490 of 2022	Order dated 28.10.2021 passed in IA.No.1634 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1957 of 2017	Principal sum due: 2,50,000/- Interest: 90,000/- Total: 3,40,000/-	Hitendra	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
22.	CRP.No. 1491 of 2022	Order dated 28.10.2021 passed in IA.No.1611 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1497 of 2017	Principal sum due: 2,50,000/- Interest: 90,000/- Total: 3,40,000/-	Shrenikraj Vasath Mardia	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
23.	CRP.No. 1492 of 2022	Order dated 28.10.2021 passed in IA.No.1613 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1500 of 2017	2,50,000/-	Sha Vasant Kumar Genmalji	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
24.	CRP.No. 1493 of 2022	Order dated 28.10.2021 passed in IA.No.1610 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1496 of 2017	2,00,000/-	Kala V.Mardia	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
25.	CRP.No. 1540 of 2022	Order dated 28.10.2021 passed in IA.No.1612 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1499 of 2017	Principal sum due:5,00,000/- Interest: 1,80,000/- Total: 6,80,000/-	Kaushik P.Jain	1. M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
26.	CRP.No. 1552 of 2022	Order dated 28.10.2021 passed in IA.No.1638 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1962 of 2017	2,50,000/-	Dimple R.Jain	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
27.	CRP.No. 1562 of 2022	Order dated 28.10.2021 passed in IA.No.1614 of 2018 passed by XX. Assistant City Civil Court, Chennai	OS.No. 1501 of 2017	Principal sum due:2,50,000/- Interest: 90,000/- Total: 3,40,000/-	Sanghvi Chirag Kumar Prakash Rajji HUF	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
28.	CRP.No. 1563 of 2022	Order dated 28.10.2021 passed in IA.No.1608 of 2018 passed by XX. Assistant City Civil Court, Chennai	OS.No. 1448 of 2017	Principal sum due:3,00,000/- Interest: 1,08,000/- Total: 4,08,000/-	Sonika R.Mardia	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal
29.	CRP.No. 1564 of 2022	Order dated 28.10.2021 passed in IA.No.1631 of 2018 passed by XX Assistant City Civil Court, Chennai	OS.No. 1954 of 2017	5,00,000/-	Ramanlal, Proprietor M/s.Vardham an Finance	1.M/s.AML Steel Limited; 2. Ajay Agarwal 3. Ankit Agarwal 4. Anita Agarwal

3. The petitioners, in all these revisions, were plaintiffs in the summary suit filed before the Court below seeking recovery of money advanced against promissory notes. While the proceedings were pending, applications came to be filed by the defendants under Section 14(1)(a) of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC') to keep the suit in abeyance *sine die* till the moratorium period is in force.

4. The Court below passed the impugned order by closing all the suits on the ground that the same is barred under Section 63 IBC. Aggrieved by the same, these revisions have been filed before this Court by the respective plaintiff.

5. Heard Mr.S.R.Rajagopal, learned Senior Counsel appearing for petitioners and Mr.Jayesh B. Dolia, learned Senior Counsel appearing for respondents. This Court carefully perused the materials available on record. This Court also went through the order passed by the Court below.

6. The primary ground raised by learned Senior Counsel appearing for petitioners in all these revisions is that the defendants had moved the applications to keep the suit in abeyance, whereas, the Court below has proceeded to close all the suits on the ground that there is a bar under Section 63 IBC, which is patently erroneous. Learned Senior Counsel further submitted

that even if, on a demurer, the proceedings are barred as against the company due to moratorium, that will not in any way prevent the plaintiffs to proceed against the co-applicants, who were defendants 2 to 4 in all the suits and the Court below has virtually prevented the plaintiffs to even proceed as against the co-applicants to repay their money in their individual capacity. It is, therefore, contended that the impugned order passed by the Court below suffers from erroneous exercise of jurisdiction, which warrants the interference of this Court under Article 227 of the Constitution of India.

7. *Per contra*, learned Senior Counsel appearing on behalf of the respondents/defendants submitted there are certain subsequent developments, which will have a bearing in the present case. Learned Senior Counsel brought to the notice of this Court the scheme framed pursuant to the order passed by National Company Law Tribunal, Division Bench-I, Chennai, dated 12.03.2026. Learned Senior Counsel submitted that the National Company Law Tribunal has categorically stated that there are no outstanding amount pending towards financial creditors and there are no provisions for their payment made in the scheme and the scheme also does not provide for any provision for contingent liabilities and since this order has become final, the liability of the company is wiped off. Learned Senior Counsel further submitted that sub-clause 3 of Section 14 IBC was inserted and it came into effect only from 06.06.2018, whereas in the present case, it pertained to claim before that and therefore, the

said provision will not enure in favour of the plaintiffs. Learned Senior Counsel submitted that due to these subsequent developments, even if the suits are restored, nothing can progress since it has been held that there are no further claims that are payable under the scheme.

8. In reply to the above submission, learned Senior Counsel appearing on behalf of the petitioners submitted that 40 persons filed a claim petition in M.A.No.115 of 2018 before the National Company Law Tribunal, Chennai and the said application was allowed and the claim made by 40 persons, which includes the petitioner was admitted to the tune of Rs.1,50,94,000/-. A direction was given to the Resolution Professional to enter the names of the applicants in the list of financial creditors and allow their representatives to participate in the CoCs and exercise their rights attached thereto. In spite of such an order being passed, the National Company Law Tribunal, Division Bench-I, Chennai, has passed the order on 12.03.2026 by not even showing the names of the claimants in the scheme and therefore, the very scheme order passed by the National Company Law Tribunal, Division Bench-I, Chennai, suffers from illegality.

9. In the case in hand, the suits were filed for recovery of money based on loans advanced against promissory notes. The company was the main applicant and three individuals were the co-applicants. The summary suit was at the stage

of considering the applications filed for leave to defend. At that stage, the applications came to be filed under Section 14(1)((a) IBC to keep the suits pending *sine die* till the moratorium period is in force.

10. The Court below, while dealing with these applications, completely lost sight of the fact that at the best, the moratorium will only enure in favour of the company and the co-applicants, in their individual capacity, are not provided any protection under the IBC. In spite of the same, the Court below has closed all the suits on the ground that the very institution of the suits is not sustainable. Such finding rendered by the Court below is, on the face of it, perverse and illegal.

11. Even if, for the sake of argument, this Court takes the extreme position that the suits cannot be maintained against the first defendant, which is the company, which underwent the resolution process, that does not in any way take away the jurisdiction of the Court to deal with the claim made against the co-applicants in their individual capacity. Therefore, there was no bar for the Court below to proceed against the co-applicants, who did not get any protection under the IBC.

12. At this juncture, this Court has to deal with one of the submissions made on the side of respondents to the effect that such protection is available

even for the co-applicants since the amendment relied upon by learned Senior Counsel appearing for the petitioners came into effect only on 06.06.2018.

13. The law on this issue is no longer *res integra* and the Apex Court has already dealt with this issue in ***Civil Appeal No.3595 of 2018 dated 14.08.2018*** **[*State Bank of India v. V.Ramakrishnan & another*]** and the relevant portions are extracted hereunder:

> "27. We now come to the argument that the amendment of 2018, which makes it clear that Section 14(3), is now substituted to read that the provisions of sub-section (1) of Section 14 shall not apply to a surety in a contract of guarantee for corporate debtor. The amended Section reads as follows:
>
> "**14. Moratorium.—**
>
> xxx xxx xxx
>
> (3) The provisions of sub-section (1) shall not apply to—
>
> (a) such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
>
> (b) a surety in a contract of guarantee to a corporate debtor."
>
> 28. The Insolvency Law Committee, appointed by the Ministry of Corporate Affairs, by its Report dated 26.03.2018, made certain key recommendations, one of which was:
>
> "(iv) to clear the confusion regarding treatment of assets of guarantors of the corporate debtor vis-àvis the moratorium on the assets of the corporate debtor, it has been recommended to clarify by way of an explanation that all assets of such guarantors to the corporate debtor shall be outside scope of moratorium imposed under the Code;"
>
> The Committee insofar as the moratorium under Section 14 is concerned, went on to find:
>
> "5.5 Section 14 provides for a moratorium or a stay on institution or continuation of proceeding, suits, etc. against the corporate debtor and its assets. There have been contradicting views on the scope of moratorium regarding its application to third parties affected by the debt of the corporate debtor, like guarantors or

sureties. While some courts have taken the view that Section 14 may be interpreted literally to mean that it only restricts actions against the assets of the corporate debtor, a few others have taken an interpretation that the stay applies on enforcement of guarantee as well, if a CIRP is going on against the corporate debtor."

xxx xxx xxx

"5.7 The Allahabad High Court subsequently took a differing view in Sanjeev Shriya v. State Bank of India, 2017 (9) ADJ 723, by applying moratorium to enforcement of guarantee against personal guarantor to the debt. The rationale being that if a CRIP is going on against the corporate debtor, then the debt owed by the corporate debtor is not final till the resolution plan is approved, and thus the liability of the surety would also be unclear. The Court took the view that until debt of the corporate debtor is crystallised, the guarantor's liability may not be triggered. The Committee deliberated and noted that this would meant that surety's liabilities are put on hold if a CIRP is going on against the corporate debtor, and such an interpretation may lead to the contracts of guarantee being infructuous, and not serving the purpose for which they have been entered into.

5.8 In State Bank of India v. V. Ramakrishnan and Veeson Energy Systems, NCLAT, New Delhi, Company Appeal (AT) (Insolvency) No. 213/2017 [Date of decision – 28 February, 2018], the NCLAT took a broad interpretation of Section 14 and held that it would bar proceedings or actions against sureties. While doing so, it did not refer to any of the above judgments but instead held that proceedings against guarantors would affect the CIRP and may thus be barred by moratorium. The Committee felt that such a broad interpretation of the moratorium may curtail significant rights of the creditor which are intrinsic to a contract of guarantee."

5.9 A contract of guarantee is between the creditor, the principal debtor and the surety, where under the creditor has a remedy in relation to his debt against both the principal debtor and the surety [National Project Construction Corporation Limited v. Sandhu and Co., AIR 1990 P&H 300]. The surety here may be a corporate or a natural person and the liability of such person goes as far the liability of the principal debtor. As per section 128 of the Indian Contract Act, 1872, the liability of the surety is co-extensive with that of the principal debtor and the creditor may go against either the principal debtor, or the surety, or both, in no particular sequence [Chokalinga Chettiar v.

Dandayunthapani Chattiar, AIR 1928 Mad 1262]. Though this may be limited by the terms of the contract of guarantee, the general principle of such contracts is that the liability of the principal debtor and the surety is co-extensive and is joint and several [Bank of Bihar v. Damodar Prasad, AIR 1969 SC 297]. The Committee noted that this characteristic of such contracts i.e. of having remedy against both the surety and the corporate debtor, without the obligation to exhaust the remedy against one of the parties before proceeding against the other, is of utmost important for the creditor and is the hallmark of a guarantee contract, and the availability of such remedy is in most cases the basis on which the loan may have been extended.

5.10 The Committee further noted that a literal interpretation of Section 14 is prudent, and a broader interpretation may not be necessary in the above context. The assets of the surety are separate from those of the corporate debtor, and proceedings against the corporate debtor may not be seriously impacted by the actions against assets of third parties like sureties. Additionally, enforcement of guarantee may not have a significant impact on the debt of the corporate debtor as the right of the creditor against the principal debtor is merely shifted to the surety, to the extent of payment by the surety. Thus, contractual principles of guarantee require being respected even during a moratorium and an alternate interpretation may not have been the intention of the Code, as is clear from a plain reading of Section 14.

5.11 Further, since many guarantees for loans of corporates are given by its promoters in the form of personal guarantees, if there is a stay on actions against their assets during a CIRP, such promoters (who are also corporate applicants) may file frivolous applications to merely take advantage of the stay and guard their assets. In the judgments analysed in this relation, many have been filed by the corporate applicant under Section 10 of the Code and this may corroborate the above apprehension of abuse of the moratorium provision. The Committee concluded that Section 14 does not intend to bar actions against assets of guarantors to the debts of the corporate debtor and recommended that an explanation to clarify this may be inserted in Section 14 of the Code. The scope of the moratorium may be restricted to the assets of the corporate debtor only."

29. The Report of the said Committee makes it clear that the object of the amendment was to clarify and set at rest what the Committee thought was an overbroad interpretation of Section 14. That such clarificatory amendment is retrospective in nature, would be clear

from the following judgments:

(i) **CIT v. Shelly Products**, (2003) 5 SCC 461:

"38. It was submitted that after 1-4-1989, in case the assessment is annulled the assessee is entitled to refund only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee. But before the amendment came into effect the position in law was quite different and that is why the legislature thought it proper to amend the section and insert the proviso. On the other hand learned counsel for the Revenue submitted that the proviso is merely declaratory and does not change the legal position as it existed before the amendment. It was submitted that this Court in CIT v. Chittor Electric Supply Corpn [(1995) 2 SCC 430 : (1995) 212 ITR 404] has held that proviso (a) to Section 240 is declaratory and, therefore, proviso (b) should also be held to be declaratory. In our view that is not the correct position in law. Where the proviso consists of two parts, one part may be declaratory but the other part may not be so. Therefore, merely because one part of the proviso has been held to be declaratory it does not follow that the second part of the proviso is also declaratory. However, the view that we have taken supports the stand of the Revenue that proviso (b) to Section 240 is also declaratory. We have held that even under the unamended Section 240 of the Act, the assessee was only entitled to the refund of tax paid in excess of the tax chargeable on the total income returned by the assessee. We have held so without taking the aid of the amended provision. It, therefore, follows that proviso (b) to Section 240 is also declaratory. It seeks to clarify the law so as to remove doubts leading to the courts giving conflicting decisions, and in several cases directing the Revenue to refund the entire amount of income tax paid by the assessee where the Revenue was not in a position to frame a fresh assessment. Being clarificatory in nature it must be held to be retrospective, in the facts and circumstances of the case. It is well settled that the legislature may pass a declaratory Act to set aside what the legislature deems to have been a judicial error in the interpretation of statute. It only seeks to clear the meaning of a provision of the principal Act and make explicit that which was already implicit."

(ii) **CIT v. Vatika Township**, (2015) 1 SCC 1:

"32. Let us sharpen the discussion a little more. We may note that under certain circumstances, a particular amendment can be treated as clarificatory or declaratory in nature. Such statutory provisions are labelled as "declaratory statutes". The circumstances under which provisions can be termed as "declaratory statutes" are explained by Justice G.P. Singh [Principles of Statutory Interpretation, (13th Edn., Lexis Nexis Butterworths Wadhwa, Nagpur, 2012)] in the following manner:

> "Declaratory statutes The presumption against retrospective operation is not applicable to declaratory statutes. As stated in CRAIES [W.F. Craies, Craies on Statute Law (7th Edn., Sweet and Maxwell Ltd., 1971)] and approved by the Supreme Court [in Central Bank of India v. Workmen, AIR 1960 SC 12, para 29]: 'For modern purposes a declaratory Act may be defined as an Act to remove doubts existing as to the common law, or the meaning or effect of any statute. Such Acts are usually held to be retrospective. The usual reason for passing a declaratory Act is to set aside what Parliament deems to have been a judicial error, whether in the statement of the common law or in the interpretation of statutes. Usually, if not invariably, such an Act contains a Preamble, and also the word "declared" as well as the word "enacted".' But the use of the words 'it is declared' is not conclusive that the Act is declaratory for these words may, at times, be used to introduced new rules of law and the Act in the latter case will only be amending the law and will not necessarily be retrospective. In determining, therefore, the nature of the Act, regard must be had to the substance rather than to the form. If a new Act is 'to explain' an earlier Act, it would be without object unless construed retrospective. An explanatory Act is generally passed to supply an obvious omission or to clear up doubts as to the meaning of the previous Act. It is well settled that if a statute is curative or merely declaratory of the previous law retrospective operation is generally intended. The language 'shall be deemed always to have meant' is declaratory, and is in plain terms retrospective. In the absence of clear words indicating that the amending Act is declaratory, it would not be so construed when the pre-amended provision was clear and unambiguous. An amending Act may be purely clarificatory to clear a meaning of a provision of the principal Act which was already implicit. A clarificatory amendment of this nature will have retrospective effect and, therefore, if the principal Act was existing law which the Constitution came into force, the amending Act also will be part of the existing law."

The above summing up is factually based on the judgments of this Court as well as English decisions."

14. It is clear from the above judgment, that the provisions of Section 14(1) IBC will not apply to the surety in a contract of guarantee for corporate debtor even before the amendment came into force and the amendment had merely clarified this issue and therefore, it was held that this clarificatory amendment is retrospective in nature. Therefore, even though the claim is of the year 2017, the right available to the plaintiffs to independently proceed against the co-applicants was not barred under Section 14(1) IBC.

15. It is not necessary for this Court to go into the legality or otherwise of the order passed by the National Company Law Tribunal, Division Bench-I, Chennai, while confirming the scheme. It is beyond the remit of the present civil revision petitions. This Court is only testing the order passed by the Court below and this Court holds that the order passed in all the applications by the Court below closing all the suits, is perverse and illegal and the same has to be set aside by this Court.

16. In the light of the above discussion, the impugned orders are hereby set aside and there shall be a direction to the learned XX Assistant Judge, City Civil Court, Chennai, to restore all the suits on file and proceed further with the case on its own merits and in accordance with law. It will be left open to both parties to raise all the grounds before the Court below and the same will be dealt with on its own merits and in accordance with law.

In the result, all these civil revision petitions are allowed in the above terms. No costs.

13-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
gm

To
The XX Assistant Judge,
City Civil Court,
Chennai.

N.ANAND VENKATESH, J.

gm

Civil Revision Petition Nos.982, 1383, 1388, 1400, 1406, 1413, 1414, 1421, 1432, 1437, 1457, 1460, 1461, 1462, 1468, 1472, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1540, 1552, 1562, 1563 & 1564 of 2022

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