NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

09.09.2026

Present: JUSTICE N. SESHASAYEE, MEMBER (JUDICIAL)

ARUN BAROKA, MEMBER (TECHNICAL)

Company Appeal (AT) (Insolvency) No. 221 of 2026

(Arising out of Order dated 12.12.2025 passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench) in I.A. No. 5599 of 2023 in C.P. (IB) No. 1620 of 2017)

IN THE MATTER OF:

Mr. AMITKUMAR RISHI KUMAR BHABHDA
L-132, Nandawan Layout
Hasanbag Police Chouki , Nandanvan,
Ayodhya Nagar, Nagpur – 440 024,
Maharashtra.

Mr. AMOL VIRENDRA AGGARWAL
L-132, Nandanwan Layout
Hasanbag Police Chouki,
Nandanvan, Ayodhya Nagar,
Nagpur – 440 024, Maharashtra.

Mr. NITIN MURLIDHAR AGRAWAL
Plot No. 222, Opp. Gowardhan Haweli Mandir
East Wardhanam Nagar, Bhandewadi
Nagpur – 440 008, Maharahstra. **...Appellants**

Vs

Mr. AMIT CHANDRASHEKHAR PODDAR
Liquidator of Seam Industries Limited
Akshat, 7, Vijay Nagar, Katol Road,
Nagpur – 440 013, Maharashtra.

INCOME TAX DEPARTMENT
Through Commissioner/Principal Commissioner/
Asst. Commissioner, Central Circle (4)(2),
Air India Building, Nariman Point
Mumbai – 400 002, Maharashtra.

REGISTRAR OF COMPANIES
100, Everest, Marine Drive
Mumbai – 400 002, Maharashtra. **...Respondents**

Present:
For Appellant : Mr. Sandeep Bajaj, Mr. Vipul Jai, Ms. Charmi Khurana, Advocates

For Respondent : None

J U D G M E N T
(Hybrid Mode)

Per: Justice N. Seshasayee, Member (Judicial)

This appeal is preferred challenging an order of the Adjudicating Authority (NCLT, Mumbai), dated 12.12.2025 in I.A. No. 5599 of 2023 in CP (IB) No. 1620 of 2017.

Facts

2. The order falls within a very narrow compass:

a) the appellant herein has purchased the Corporate Debtor (CD) as a going concern in the liquidation proceedings. The liquidation proceedings commenced on 30.06.2021. On purchase, a sale certificate came to be issued on 07.08.2023. Subsequently thereto, the appellant has taken out I.A.No. 5599 of 2023 seeking concession and waiver, as well as protection in terms of Sec.32A of the IBC. The Adjudicating Authority in essence has held that the appellant is not entitled to any such benefit during the liquidation period, i.e. from 30.06.2021, the date on which the Adjudicating Authority passed the order directing liquidation of the CD, till the day before the sale certificate was issued. The relevant portion of the impugned order reads as below:

"…4.8 It is noted that 'the clean state' theory of resolution plan as recognized and propounded by the Hon'ble Supreme Court of India in Ghanashyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd. [6 2021 sec OnLine SC 313] has been extended in a few cases of sale of the corporate debtor as a going concern during the liquidation process even though statutory provisions supporting the clean slate theory are limited to resolution plan. Further, it is proposed to examine what reliefs and concessions, including waivers and exemptions from statutory and other liabilities can legitimately be granted by the Adjudicating Authority to facilitate the operation of the corporate debtor's business.

4.15 As far as Reliefs and Concessions in respect of past liabilities of the Corporate Debtor are concerned, the Hon'ble NCLAT in the matter of Shantech International Pvt. Ltd. vs. Devendra Singh, Liquidator of Venus Rolling Mills Pvt. Ltd. [Company Appeal (A T)(lnsolvency) No. 1520 of 2024] followed the principle that the waiver of liabilities with regard to dues of the corporate debtor should be dealt with according to the terms of the e-auction. In the present case, the Process Information Document states that the liabilities of the Corporate Debtor would be "settled, paid and extinguished" by the liquidator as per the provisions of Section 53 of the Code and the buyer would not be liable for such prior liabilities. Once the proceeds from sale of the Corporate Debtor as a going concern are distributed to all the stakeholders as per Section 53 of the Code, all claims and liabilities of the creditors, whether contingent or crystallized, known or unknown, disputed or undisputed, present or future stand settled. No entity including any Government entity can claim any past unpaid dues for pre-CIRP period from the Applicants as all claims stand settled in accordance with Section 53 of the Code. However, there can be no question of extinguishment of claims up to the date of sale of the Corporate Debtor as a going concern. When claims were filed as on the liquidation commencement date, during the liquidation process, the plea

that extinguishment of claims and liabilities should be granted till the date of sale as going concern is not in consonance with the statutory scheme contained in the Liquidation Process Regulations. In view of the above, we hold that the Applicants are not liable to this extent for past liabilities of the Corporate Debtor.

4.19 With respect to reliefs over immunity for past actions, Section 32A of the Code provides that the liability of a corporate debtor, for offences committed prior to the commencement of the CIRP will stand extinguished from the date a resolution plan is approved by the adjudicating authority or sale of liquidation assets, subject to certain conditions being fulfilled. This immunity under Section 32A is applicable once the approved resolution plan mandates a change in the management of the corporate debtor if such persons (1) were not directly or indirectly related to the old management of the corporate debtor; or (2) have not abetted or conspired for the commission of such an offence committed by the corporate debtor. Subsection (2) seeks to extend the warranty in respect of the properties of the corporate debtor upon approval of the resolution plan or sale of liquidation assets, while providing assurance against liability. Lastly, sub-section (3) obligates any such persons to aid any enforcement authority investigating under any applicable law. It is pertinent to observe that the immunity provided under Section 32A of the Code is premised on various conditions being fulfilled. Subject to those conditions, the immunity can be extended for the sale of liquidation assets…"

3. The operative portion is tabulated by the Adjudicating Authority, and the relevant portion necessary for the present purpose is given below: -

Sr. No.	***Reliefs, Exemptions and Concessions***	***Findings***
4)	*A direction to be issued by the Hon'ble NCLT stating all claims or demands made or all prior period liabilities and obligations owed or payable by the past management whether financial creditors or operational creditors or any other parties (including government dues, statutory dues such as Income Tax, GST, TDS, Land Rent, electricity dues Custom Duty, PF, ESIC, service tax etc.) whether known or unknown, crystallized or otherwise prior to the auction date of corporate debtor, to be considered settled as per the NCL T order and the balance amounts to be written off in full by the successful bidder and shall stand permanently extinguished and the sale proceeds shall be distributed in accordance to Section 53 of the Code. Also, if any balance of Credit whether*	*Allowed to the extent in Para 4.15 above. Balance reliefs Declined.*

	GST/Service Tax, Excise, Sales Tax, or any other tax credit of the Corporate Debtor lying with the Revenue authorities shall be allowed to be carried forward to the applicants.	
5)	*From the NCLT Approval Date, all inquiries, investigations and proceedings, whether civil or criminal, suits, claims, disputes, proceedings in connection with the Company or affairs of the Company, including proceedings before Debt Recovery Tribunal and consumer courts or any other court, pending or threatened, present or future in relation to any period prior to the NCL T order date, or arising on account of implementation of this Plan shall stand withdrawn and dismissed and all liabilities and obligations therefore, whether or not set out in the balance sheets of the Company or the profit and loss account statements of*	*Declined*

	the Company will be deemed to have been written off fully, and permanently extinguished and no adverse orders passed in the said matters should apply to the Company or the successful bidder. Upon approval of this auction sale, all new inquiries, investigations, notices, suits, claims, disputes, litigations, arbitrations or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against the Company in relation to any period prior to the NCL T order date.	
6)	*The relevant Governmental Authorities shall not initiate any investigations/actions or proceedings in relation to any non-compliance with Applicable Law by the Company during the period prior to the NCL T order date. Neither shall the successful bidder, nor the Company nor their*	*Declined*

	respective directors, officers and employees appointed on and as of NCL T order date be liable for any violation, liabilities, penalties or fines with respect to or pursuant to the Company not having in place the requisite licenses and approvals required to undertake its business as per Applicable Law, or any non-compliances of Applicable Law by the Company. Further, the relevant Governmental Authorities will provide a reasonable period of time after the NCL T order date, for the successful bidder to assess the status of any non-compliances under the Applicable Laws including and to procure that the Company regularizes such compliances under the Applicable Law existing prior to the NCLT order date.	

4. Placing reliance on the judgments in ***M/s Shiv Shakti Inter Globe Exports Pvt. Ltd. Vs. M/s KTC Foods Private Limited & another*** [Comp. App. (AT) (Ins.) No. 650 of 2020] and ***Paschimanchal Vidyut Vitran Nigam Ltd. Vs***

HSA Traders Through Sole Proprietor & others [Comp. App. (AT) (Ins.) No. 527 of 2023] of this Tribunal, the learned counsel for the appellant submitted that entitlement to avail protection under Section 32A even during the liquidation period has been recognized, and hence the Adjudicating Authority ought to have granted protection for the liquidation period.

5. We find considerable merit in the submission of the learned counsel for the appellant. So far as waiver and concessions are concerned, the appellant has to approach the concerned statutory authorities. So far as Section 32A is concerned, *clean slate theory* as developed in the ***Ghanshyam Mishra and Sons Private Limited Vs Edelweiss Assets Reconstruction Company Limited*** [(2021) SCC OnLine SC 313] is available even during liquidation.

6. This can be explained. When CIRP commences, unless the same is withdrawn in the manner contemplated under Section 12A of the Code, it may either conclude with the successful approval of a resolution plan under Sec. 31 of the Code or may proceed to liquidation under Section 33. So far as CIRP goes, the primary intent of the legislature is to sell the CD as a going concern. Reading Sec. 31 along with Sec. 14 implies that no liability can be created during the CIRP process and if at all anything is created by the Resolution Professional during the CIRP, the same is treated as part of CIRP cost. And, the clean slate theory implies that past liability, if any, of the corporate debtor, if remained unclaimed during CIRP or the liquidation cannot survive post successful completion of the CIRP or where the CD is sold as a going concern during liquidation. Indeed, it may not even be termed as waiver or concession

stricto sensu, as it is the legal consequence when the CD is sold as a going concern either during CIRP or during liquidation.

7. In conclusion, we allow this appeal and set aside that portion of the Order of the Adjudicating Authority in I.A. No. 5599/MB/2023 in C.P. (IB) No. 1620/MB/2017, dated 12.12.2025, where it has declined concession for two items, indicated as items 5 and 6 in paragraph 3 above, and it is held that the appellants will be entitled to the benefit of Section 32A of the Code for these two items and it is accordingly granted, subject however, to the fulfilment of the conditions prescribed therein. No costs.

[Justice N. Seshasayee]
Member (Judicial)

[Arun Baroka]
Member (Technical)

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