

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – II
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL
COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 19.06.2026 AT
10.30 A.M. THROUGH VIDEO CONFERENCING:

CORAM : SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)
SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)

APPLICATION NUMBER : IA(IBC)/1164(CHE)2025
PETITION NUMBER : CP(IB)/1423(CHE)2019
NAME OF THE APPLICANT : S.Shriram
NAME OF THE RESPONDENT(S) : Ebenezar Inbaraj Liquidator of Land Mark
Housing Projects Chennai Pvt Ltd
UNDER SECTION : Sec 42 of IBC,2016

ORDER

Present : Ld. Counsel Mr.S.Satish for the Applicant.

Ld. Counsel Mr.B.Thilak Narayanan for the Respondent.

Vide separate order pronounced in open court, **IA(IBC)/1164(CHE)2025**

is Dismissed.

Sd/-
RAVICHANDRAN RAMASAMY
Member (Technical)

Sd/-
JYOTI KUMAR TRIPATHI
Member (Judicial)

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**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – II, CHENNAI
IA (IBC) 1164/ (CHE)/ 2025**

**In
CP (IBC) 1423/ (CHE)/ 2019**

*(Under Section 42 of Insolvency and Bankruptcy Code, 2016 Read with Rule 11 of
the National Company Law Tribunal Rules, 2016)*

In the matter of *Landmark Housing Projects Chennai Private Limited (Under
Liquidation)*

S SHRIRAM,

56/50, Mandapam Ro, Kilpauk, Chennai – 600 010.

... Appellant

-vs-

EBENEZAR INBARAJ,

Liquidator of Landmark Housing Projects Chennai
Private Limited

397, Precision Plaza, No. 23, Third Floor, Anna Salai,
Teynampet, Chennai – 600 018.

...Respondent

Order pronounced on 19.06.2026

CORAM

SHRI. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

SHRI. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present:

For Petitioners: S. Satish and Hariprasad P, Advocates

For Respondent: B. Thilak Narayanan and P. Prasanth, Advocates

ORDER

(Hearing through hybrid mode)

This Appeal has been filed by **S Shriram**, under Section 42 of the
Insolvency and Bankruptcy Code, 2016 challenging the communication
dated 24.06.2025 forwarded through email dated 01.07.2025 issued by the

Respondent/ Liquidator rejecting the claim submitted by the Appellant during the liquidation process of **Landmark Housing Projects Chennai Private Limited**, seeking following reliefs:

“V. PRAYER:

It is most respectfully prayed that this Hon’ble NCLT may be pleased:

- a) To set aside the order of the Respondent/Liquidator dated 24.06.2025 bearing Lr.No.: Landmark/Claims/4 (communicated vide email dated 01.07.2025) rejecting the claim of the Appellant and consequently direct the Liquidator to process the claim of the Appellant in accordance with law*
- b) To pass such further orders as this Hon’ble Tribunal may deem fit and proper in the facts and circumstance of the case. “*

2. SUBMISSIONS OF THE APPELLANT

2.1. It is submitted that this Adjudicating Authority, by order dated 16.04.2025, ordered liquidation of the Corporate Debtor, namely Landmark Housing Projects Chennai Private Limited, and appointed the Respondent as Liquidator. In response thereto, the Appellant submitted its claim in Form-D as a Financial Creditor within the prescribed period.

2.2. It is submitted that he filed a claim before the Respondent by email dated 22.05.2025 in Form-G dated 19.05.2025 for a total sum of Rs.1,29,40,000/-, being service charges/incentives allegedly payable by the Corporate Debtor.

2.3. It is submitted that the Respondent, by email dated 02.06.2025, sought various clarifications in relation to the claim. The Appellant furnished detailed replies and explanations to each of the queries through email dated 06.06.2025 and subsequently provided further documents and supporting materials through email dated 18.06.2025.

2.4. It is further submitted that despite submission of the requisite clarifications and supporting documents, the Respondent rejected the claim by communication dated 24.06.2025 on the ground that the alleged disbursement and the Memorandum of Understanding dated 26.08.2010 were prior to incorporation of the Corporate Debtor, were entered into with Mr. T. Udayakumar in his personal capacity and that there was no proof substantiating the claim.

2.5. It is submitted that the Respondent failed to consider Clause 4 of the Memorandum of Understanding dated 26.08.2010, which specifically provided that an incentive/service charge at the rate of 0.5% per month would be payable on the outstanding investment amount brought through the efforts of the Appellant.

2.6. It is further submitted that the funds mobilised through the efforts of the Appellant continue to be reflected as outstanding in the books of

the Corporate Debtor and that the Corporate Debtor has continued to enjoy the benefit of such funds. Consequently, according to the Appellant, the contractual entitlement to service charges/incentives subsists and the amount claimed remains payable.

2.7. It is also submitted that the claim is not barred by limitation since the incentive/ service charge was linked to the outstanding investment amount and remained payable so long as the investment continued to remain outstanding.

2.8. Without prejudice to the above contention, the Appellant submits that CIRP against the Corporate Debtor commenced on 29.04.2021 and a moratorium came into effect from that date, which continued until approval of the Resolution Plan on 27.06.2022. According to the Appellant, the period during which the moratorium remained in force is liable to be excluded while computing limitation.

3. SUBMISSIONS OF THE RESPONDENT

3.1. The Respondent/ Liquidator submits that the present Appeal is devoid of merits and liable to be dismissed. It is contended that the Appeal proceeds on erroneous assumptions and fails to disclose any infirmity in the decision of the Liquidator rejecting the claim.

3.2. It is stated that the Corporate Debtor was admitted into CIRP on 29.04.2021 pursuant to an application under Section 9 of the Insolvency and Bankruptcy Code, 2016. A Resolution Plan submitted by the promoters of the Corporate Debtor, being an MSME, was approved by this Adjudicating Authority on 27.06.2022. However, upon failure of implementation of the approved Resolution Plan, liquidation of the Corporate Debtor was ordered on 16.04.2025 and the Respondent was appointed as Liquidator.

3.3. It is stated that pursuant to the public announcement dated 26.04.2025, the Appellant submitted a claim in Form-G on 22.05.2025 for a sum of Rs.1,29,40,000/- alleging entitlement to service charges/incentives in respect of investments brought into the project. The claim was subjected to verification in accordance with the provisions of the Code and the Liquidation Process Regulations.

3.4. It is further stated that the Respondent sought detailed clarifications from the Appellant by email dated 02.06.2025 and subsequently through emails dated 26.06.2025 and 01.07.2025. The Appellant furnished certain explanations and documents in response thereto.

3.5. It is further stated that the claim is founded upon a Memorandum of Understanding dated 26.08.2010 allegedly entered into between the Appellant and Mr. T. Udayakumar. However, the Corporate Debtor was incorporated only on 06.05.2013 and was not a party to the said Memorandum of Understanding. Therefore, the alleged contractual obligations arising under the MOU cannot automatically be enforced against the Corporate Debtor.

3.6. It is stated that the Appellant has failed to produce any documentary evidence establishing that the Corporate Debtor expressly assumed liability towards payment of the alleged service charges/ incentives claimed under the MOU dated 26.08.2010.

3.7. It is contended that the Appellant has not produced any agreement, correspondence, board resolution, acknowledgment, invoice or other contemporaneous record demonstrating that the Corporate Debtor agreed to pay service charges at the rate claimed by the Appellant.

3.8. It is further stated that no proof has been furnished to establish that the alleged incentive/ service charges continued to accrue after incorporation of the Corporate Debtor or that the Corporate Debtor accepted liability for such recurring payments.

3.9. It is stated that the Appellant has also failed to substantiate the basis on which the claim amount of Rs.1,29,40,000/- was calculated. According to the Respondent, no reliable material has been placed on record to establish the computation of the amount claimed.

3.10. It is further stated that the claim is barred by limitation. Even assuming that the MOU dated 26.08.2010 is genuine, the alleged cause of action arose several years prior to commencement of CIRP and liquidation proceedings. The claim was lodged only in 2025 and is therefore hopelessly delayed.

3.11. It further stated that the Appellant did not file any claim during the CIRP despite public announcements inviting claims from stakeholders. The Respondent contends that this conduct further casts doubt on the genuineness and enforceability of the alleged claim.

3.12. It is stated that the claim does not find support from the books of account, records or financial statements of the Corporate Debtor. According to the Respondent, there is no material available in the records of the Corporate Debtor evidencing liability towards the Appellant in the manner claimed.

3.13. It is further contended that the Liquidator examined the claim, sought clarifications, considered the documents furnished by the Appellant and thereafter passed a reasoned decision rejecting the claim. The rejection was neither arbitrary nor contrary to law.

4. SUBMISSIONS OF THE APPELLANT IN REJOINDER

4.1. The Appellant has filed the present Rejoinder denying the averments contained in the Reply and reiterating the submissions made in the Appeal.

4.2. It is submitted that the funds mobilised through his efforts were remitted through proper banking channels to M/s. Landmark Constructions and not to the personal account of Mr. T. Udayakumar. It is submitted that authenticated banking records evidencing such transactions were furnished to the Liquidator. The Appellant further asserts that the Corporate Debtor subsequently acknowledged and affirmed the liabilities owed to the investors through Memoranda of Understanding executed with the respective investors.

4.3. It is submitted that the Respondent cannot deny the claim merely on the ground that the Corporate Debtor was incorporated only on 06.05.2013. According to the Appellant, the Corporate Debtor had

acknowledged and assumed the liabilities relating to the investments mobilised through the Appellant and therefore remains bound by the obligations arising therefrom.

4.4. It is reiterated that Clause 4 of the Memorandum of Understanding dated 26.08.2010 specifically provided for payment of incentive/service charges at the rate of 0.5% per month on the amount of investment remaining outstanding. It is contended that the Respondent has completely disregarded the said contractual stipulation while rejecting the claim.

4.5. It is further submitted the investments mobilised through the efforts of the Appellant continue to remain outstanding in the books of the Corporate Debtor and that the Corporate Debtor continues to enjoy the benefit of such funds. Consequently, according to the Appellant, the entitlement to service charges/incentives continues to subsist and the claim cannot be treated as extinguished.

4.6. It is contended that he played a continuous role in coordinating between the Corporate Debtor and the investors by facilitating investments, updating investors regarding the status of the projects, persuading investors to refrain from coercive recovery measures and

assisting in efforts to achieve amicable settlement of liabilities. It is contended that the claim for incentive/service charges arises from these continuing obligations and services rendered for the benefit of the Corporate Debtor.

4.7. It is further submitted that the Appellant persuaded the investors and lenders to enter into Memoranda of Understanding with the Corporate Debtor and to grant additional time for repayment of the principal amounts and interest, thereby enabling the Corporate Debtor to continue its operations without immediate litigation or recovery proceedings.

4.8. It is submitted that the period granted by the investors for repayment was also applicable to his own claim for incentive/service charges and therefore the claim cannot be treated as barred by limitation. According to the Appellant, the cause of action continued so long as the investments remained outstanding and the repayment arrangements remained in force.

4.9. Without prejudice to the above contention, the Appellant submits that CIRP against the Corporate Debtor commenced on 29.04.2021 and the moratorium remained in force until approval of the Resolution Plan

on 27.06.2022. It is contended that the period covered by the moratorium is liable to be excluded while computing limitation.

4.10. It is submitted that details of the investments mobilised through his efforts together with authenticated bank statements of the respective investors were furnished to the Respondent. It is pointed out that certain investments were made even after incorporation of the Corporate Debtor, thereby negating the Respondent's contention that the claim relates solely to transactions predating incorporation.

4.11. It is submitted that the clarification sought by the Liquidator through email dated 02.06.2025 was duly answered by the Appellant through emails dated 16.06.2025 and 18.06.2025 and that the contents of those communications form an integral part of the Appellant's case.

5. WRITTEN SUBMISSIONS OF THE APPELLANT

5.1. The Appellant submits that he filed a claim before the Respondent/Liquidator by email dated 22.05.2025 in Form-G dated 19.05.2025 for a total sum of Rs.1,29,40,000/- towards service charges/ incentives allegedly payable by the Corporate Debtor. Thereafter, upon receipt of the clarification email dated 02.06.2025 from the Respondent, the Appellant

furnished detailed explanations and supporting documents through emails dated 06.06.2025 and 18.06.2025.

5.2. It is submitted that the Respondent rejected the claim on the ground that the disbursement and the Memorandum of Understanding dated 26.08.2010 were prior to incorporation of the Corporate Debtor, that the arrangement was entered into with Mr. T. Udayakumar in his personal capacity and that there was no proof substantiating the claim. According to the Appellant, the said rejection is unsustainable.

5.3. It is submitted that the Memorandum of Association of the Corporate Debtor specifically provides that the Corporate Debtor was incorporated to take over the assets and liabilities of M/s. Landmark Constructions as a going concern. It is therefore contended that the Respondent cannot deny liability on the ground that the monies were originally paid prior to incorporation or to the predecessor concern.

5.4. It is further submitted that Clause 4 of the Memorandum of Understanding dated 26.08.2010 specifically provides for payment of incentive/ service charges at the rate of 0.5% per month on the outstanding investment amount. According to the Appellant, the investments mobilised through his efforts continue to remain

outstanding in the books of the Corporate Debtor and, therefore, he remains entitled to the service charges/incentives claimed. The Corporate Debtor has continued to enjoy the benefit of the funds mobilised through the efforts of the Appellant.

5.5. It is further submitted that even the Resolution Plan submitted during CIRP earmarked approximately Rs.67.70 crores towards financial and operational creditors who had not filed claims before the Resolution Professional as on 29.04.2021. According to the Appellant, the Respondent cannot therefore feign ignorance regarding the liabilities payable by the Corporate Debtor.

6. FINDINGS OF THE TRIBUNAL

6.1. We have heard the Learned Counsel appearing for the Appellant and the Learned Counsel appearing for the Respondent/ Liquidator. We have also perused the pleadings, documents placed on record and the written submissions filed by the parties.

6.2. The Appellant claims a sum of Rs.1,29,40,000/- towards service charges/ incentives allegedly payable under a Memorandum of Understanding dated 26.08.2010. According to the Appellant, he had mobilised investments for the benefit of the project and was entitled to

incentive/ service charges at the rate of 0.5% per month on the outstanding investment amounts. It is further contended that the investments mobilised through his efforts continued to remain outstanding and that the Corporate Debtor continued to enjoy the benefit thereof.

6.3. The Respondent/ Liquidator, on the other hand, contends that the claim is unsupported by cogent documentary evidence, that the Memorandum of Understanding relied upon by the Appellant was entered into prior to incorporation of the Corporate Debtor, and that there is no material establishing that the Corporate Debtor assumed liability for payment of the alleged service charges. It is further contended that the claim is barred by limitation and that the Liquidator rightly rejected the same after due verification.

6.4. At the outset, it is necessary to note that the jurisdiction of this Adjudicating Authority under Section 42 of the Code is confined to examining the legality and correctness of the decision of the Liquidator in admitting or rejecting a claim. Interference is warranted only where the decision is shown to be arbitrary, perverse or contrary to the provisions of law.

6.5. The foundation of the Appellant's claim is the Memorandum of Understanding dated 26.08.2010. Admittedly, the said document predates the incorporation of the Corporate Debtor. The Appellant seeks to overcome this difficulty by contending that the Corporate Debtor subsequently took over the business, assets and liabilities of M/s. Landmark Constructions as a going concern.

6.6. While the materials relied upon by the Appellant may indicate a business takeover arrangement, no specific document has been placed before this Adjudicating Authority establishing that the Corporate Debtor expressly assumed liability towards payment of incentive/service charges to the Appellant under the MOU dated 26.08.2010. The existence of a general business transfer arrangement cannot, by itself, establish assumption of every contractual obligation in the absence of clear supporting evidence.

6.7. We further find that apart from the MOU, no contemporaneous correspondence, invoices, demand notices, acknowledgments, board resolutions or other records have been produced demonstrating that the Corporate Debtor recognised and accepted liability towards payment of the alleged incentive/ service charges over the years.

6.8. The Appellant has contended that the investments mobilised through his efforts continued to remain outstanding and therefore the entitlement to service charges continued to accrue. However, no satisfactory documentary material has been produced establishing the precise basis of computation of the claim amount of Rs.1,29,40,000/- or demonstrating continuous acknowledgment of such liability by the Corporate Debtor.

6.9. The claim also relates to a contractual arrangement allegedly entered into in the year 2010. Even assuming that the Appellant rendered services in connection with mobilisation of investments, the materials placed on record do not establish a continuing acknowledgment of liability towards payment of service charges by the Corporate Debtor sufficient to sustain the claim in the manner asserted.

6.10. The record discloses that the Liquidator sought clarifications and supporting documents from the Appellant and examined the materials furnished before arriving at a decision. The rejection was not mechanical but was preceded by verification of the claim and the supporting records produced by the Appellant.

6.11. Upon a cumulative consideration of the pleadings and documents on record, we are of the considered view that the Appellant has failed to establish a legally enforceable claim against the Corporate Debtor and has further failed to demonstrate that the decision of the Liquidator suffers from perversity, illegality or material irregularity warranting interference under Section 42 of the Insolvency and Bankruptcy Code, 2016.

6.12. Accordingly, **IA(IBC)/1164/(CHE)2025** stands **dismissed**.

-Sd-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-Sd-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)