IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.305

IA/176(AHM)2026 in CP(IB) 264 of 2018

Proceedings under Section 60(5) & 74(3) of the IBC,2016 r/w Rule 11 of the NCLT Rules,2016

IN THE MATTER OF:

Vikarm Ashok Kapasi & Others ....**Applicant**

V/s

Bank of India & Another ....**Respondent**

Order delivered on: 15/07/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

AD/AP

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)

IA No. 176 of 2026
In
CP (IB) No. 264/AHM/2018

(An Application filed under Section 60(5) and 74 (3) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016)

IN THE MATTER OF:

1 **Vikram Ashok Kapasi,**
Having address at: B/4 Nand Society
near AIMS Oxygen, Old Padra Road,
Vadodara- 390010

2 **Ashok Mansukhlal Kapasi**
Having address at: B/4 Nand Society
near AIMS Oxygen, Old Padra Road,
Vadodara- 390010

3 **Arun Mansukhlal Kapasi**
Having address at: 206,
Sukhdham Housing Society,
Plot No 21, GIDC New Colony,
Ankleshwar - 393002

...Applicants

Versus

1 **Bank of India**
Having address at:
Bank of India Building, 2nd Floor,
Raopura, Vadodara-390001

2 **Bhavi Shreyans Shah,**

Sd/-

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Chairperson of the Monitoring
Committee of Techno Forge Limited,
Having address at: C-201,
Embassy Apartment, Near Ketav
Petrol Pump, Dr. V.S. Road,
Ahmedabad, Gujarat - 380 015

.... Respondents

Order pronounced on 15.07.2026

Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Present:

For the Applicant : Mr. Keyur D. Gandhi, Adv., Ms. Rhea Sevak, Adv.
For the Respondent 1 : Mr. Vishwas K. Shah, Adv.

JUDGEMENT

1. The Applicants being the Joint Successful Resolution Applicants and erstwhile promoters/directors/guarantors of the Corporate Debtor have filed the Interlocutory Application under Section 60(5) read with Section 74(3) of the Insolvency and Bankruptcy Code, 2016 ("IBC") and Rule 11 of the National Company Law Tribunal Rules, 2016, *inter alia* seeking following reliefs;

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a. *To pass appropriate orders directing the Respondent No. 1 to comply with and implement the Final Resolution Plan dated 12.10.2021 along with Addendum dated 26.10.2021;*

b. *To pass appropriate orders and / or directions against Respondent No. 1 and / or its authorised officers and personnel, in terms of Section 74 (3) of the Insolvency and Bankruptcy Code, 2016, including the imposition of maximum penalty and/ or civil imprisonment, for wilful and deliberate non-implementation of the Final Resolution Plan dated 12.10.2021 along with the Addendum dated 26.10.2021;*

c. *To pass appropriate orders directing the Respondent No. 1 to forthwith release and discharge the personal guarantees furnished by the Applicants in favour of the Respondent No. 1, in terms of the Final Resolution Plan, without insisting upon any additional payment or conditions dehors the said plan;*

d. *To pass appropriate orders directing the Respondent No. 1 to forthwith release the property being Flat No. B/4, admeasuring 1100 sq. ft., super built up in the scheme known as Nand of Nand Cooperative Housing Society Limited, Ataldara, situated behind Aims Oxygen, Old Padra Road, Vadodara on the land bearing R.S. No. 392, 415, 416 & 417/1, bearing Final Plot No. 84, 93, 94 and 95 admeasuring 9404, 8802, 2850 and 1070 sq. m. included in T.P. Scheme No. 20 of Moje Village Atladara, in Vadodara of the Applicant No. 2 or any other security qua the Applicants, in terms of the Final Resolution Plan, without insisting upon any additional payment or conditions dehors the said Plan;*

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2. It is submitted that the Corporate Debtor, Techno Forge Limited being an MSME, underwent CIRP vide order dated 02.07.2020 wherein the Applicants submitted the sole Resolution Plan, which was approved by the CoC with 89.11% voting share of Respondent No. 1. The Resolution Plan specifically provided that upon payment of the entire resolution amount, all claims, security interests, mortgages and personal guarantees furnished by the Applicants would stand released and a No Due Certificate would be issued to the Corporate Debtor and its promotors and guarantors from the list of defaulters.

3. It is further submitted that while approving the Resolution Plan vide order dated 02.02.2024 passed in Interlocutory Application No. 864 of 2021 in Company Petition (IB) No. 264 of 2018, this Adjudicating Authority modified the clause relating to release of personal guarantees and an additional paragraph relating to the shareholding of the Corporate Debtor was inserted. Aggrieved thereby, the Applicants preferred an appeal before the Hon'ble NCLAT. During the pendency of the appeal, the Applicants continued implementation of the Resolution Plan by

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making payments to the creditors of the Corporate Debtor and also settled the objections Paisalo Digital Limited, the dissenting financial creditor, which thereafter consented to the release of the personal guarantees.

4. The Applicants contended that they fully discharged all obligations under the Resolution Plan by making payment of the entire resolution amount of Rs. 9,00,00,000/- along with an interest of Rs. 30,48,813 /- on 03.09.2025, which was acknowledged in the 6th meeting of the Monitoring Committee and further evidenced by the issuance of a No Due Certificate by Respondent No.1 in favour of the Corporate Debtor. It is submitted that in the said meeting of the Monitoring Committee, Respondent No. 1 demanded an additional sum of Rs. 22 lakhs for release of the personal guarantees, relying upon its internal memorandum of the Bank. Respondent No. 2 clarified that the approved Resolution Plan would prevail over the Bank's internal policy, whereupon Respondent No. 1 sought time to reconsider its stand.

5. It is alleged that despite complete implementation of the Resolution Plan, Respondent No.1 failed to release the

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personal guarantees, return the original title documents, remove the names of the Corporate Debtor and guarantors from the list of defaulters. It is further submitted that repeated communications by the Monitoring Committee and the Applicants requesting compliance remained unanswered.

6. The Applicants further submit that the Hon'ble NCLAT, vide order dated 05.01.2026, set aside the modifications made by this Adjudicating Authority and restored the Resolution Plan as originally approved by the CoC. Despite the said order and subsequent requests made by the Applicants, Respondent No.1 reiterated its demand for payment of Rs. 22 lakhs as a pre-condition for release of the mortgaged property and personal guarantee which according to the Applicants is contrary to the approved Resolution Plan.

7. It is submitted that the conduct of Respondent No.1 amounts to non-implementation of the binding Resolution Plan, defeats the objective of the CIRP, adversely affects the revival of the Corporate Debtor, and prevents the Applicants from obtaining fresh financial assistance as no

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new loans can be availed, no shares can be pledged, and no additional funding can be raised for the growth and sustenance of the business. The Applicants further rely upon Section 74(3) of the Code and the RBI Circular No. RBI/2023-24/60 DOR.MCS.REC.38/01.01.001/2023-24 dated 13.09.2023 as categorically mandated that banks and financial institutions are required to release all original movable and immovable property documents within a period of 30 days from the date of full repayment or settlement. It is stated that Respondent No.1 is liable for non-compliance with the approved Resolution Plan and for failure to release the original security documents within the prescribed period and further liable to compensate the Personal Guarantors at the rate of Rs. 5,000/- per day for each of the three Persona! Guarantors, multiplied by the number of days of delay in releasing and discharging the personal guarantees and associated documents as per circular.

8. On the aforesaid grounds, the Applicants have prayed for directions to Respondent No.1 to implement the Resolution Plan in its entirety by releasing the personal guarantees

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and mortgaged property without insisting upon any additional payment, to initiate action under Section 74(3) of the Code, to restrain Respondent No.1 from enforcing the guarantees or demanding any further amount, and to grant such other consequential reliefs as deemed fit.

9. The Respondent filed reply and submitted that no relief, as sought by the Applicants, can be granted inasmuch as the issue regarding release of the personal guarantees had already been the subject matter before the Hon'ble NCLAT in Company Appeal (AT) (Ins.) No. 643 of 2024, and no specific direction has been issued therein mandating release of the personal guarantees.

10. It is submitted that although the Applicants have completed payment under the approved Resolution Plan, the release of the mortgaged property and personal guarantees is subject to payment of additional charges amounting to Rs. 22 lakhs, which are recoverable in terms of the Bank's sanction memorandum and internal policy. According to the Respondent, the Applicants, being both the mortgagors and personal guarantors, were aware of

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such liability and are bound to discharge the same before release of the security.

11. Respondent No. 1 further contends that the demand of Rs. 22 lakhs communicated vide letter dated 17.01.2026 is neither arbitrary nor contrary to law, but represents legitimate charges payable for release of the mortgaged property and discharge of the guarantee. It is asserted that unless the said amount is paid, the Bank is not obliged to release the mortgage or personal guarantees.

12. The Respondent submits that the order of the Hon'ble NCLAT dated 05.01.2026 did not modify or restore any specific clause directing unconditional release of the personal guarantees. According to the Respondent, the only modification made by the Hon'ble NCLAT pertained to the direction regarding reservation of 5% equity in favour of the public, and therefore the Applicants cannot claim that the issue of release of guarantees stands concluded in their favour.

13. It is further submitted that the allegations regarding violation of the Resolution Plan, applicability of Section 74(3) of the Insolvency and Bankruptcy Code, 2016, and

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the RBI Circular dated 13.09.2023 are misconceived. The Respondent states that it has already issued the No Dues Certificate in compliance with the Resolution Plan and that the additional amount demanded constitutes lawful charges, due to which the provisions relating to penal consequences or compensation are not attracted.

14. The Applicants filed affidavit to bring on record the subsequent development in present case. The Applicants submitted that they filed an application before the Hon'ble NCLAT under Rule 11 of the NCLAT Rules seeking clarification of the judgment dated 05.01.2026 passed in Company Appeal (AT) (Ins.) No. 643 of 2024 with regard to the release of their personal guarantees. The Applicants further submitted that while disposing of the appeal on 05.01.2026, the Hon'ble NCLAT recorded that the issue concerning the personal guarantees stood resolved; however, no express direction was issued setting aside the operative portion of the NCLT order rejecting the release of the personal guarantees. According to the Applicants, this has resulted in ambiguity during implementation of the Resolution Plan, leading to the filing of IA No. 1676 of 2026

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before the Adjudicating Authority. Vide order dated 17.03.2026, the Hon'ble NCLAT clarified that the portion of the Adjudicating Authority's order rejecting the clause relating to release of the personal guarantees stands set aside since the issue had already been resolved, and further deleted the additional direction regarding reservation of 5% share capital, while directing that the remainder of the judgment dated 05.01.2026 shall continue to operate.

15. Heard the counsel for the applicant as well as the respondents. Perused the material available on record and written submission filed.

16. The applicant had relied upon the following judgments:

a. *SVA Family Welfare Trust and Another Vs. Ujaas Energy Ltd and Ors in CA (Insolvency) No. 266 of 2023.*
b. *Ghanshyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited, (2021) 9 SCC 657*

17. Observations:

a. The applicant seeks directions against R-1 to implement final resolution plan dated 12.10.2021 along with final addendum dated 26.10.2021. According to the applicant their obligations are fully

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discharged and implementation of the plan was completed, still R-1 did not release the mortgaged property of Applicant No. 2 and personal guarantor. This is breach of terms of final resolution plan.

b. The CD was admitted into CIRP on 02.07.2020. There are two COC members i.e. R-1 with 89.11% of voting share, Paisalo Digital Ltd with 10.89% voting share. The approval of the resolution plan is admitted by both the parties. It is approved by voting majority of 89.11% i.e. of R-1.

c. It is pertinent to note that in the approved final resolution plan, a condition is mentioned as *"secured Financial creditors shall release all existing personal guarantees of the existing directors or promoters or guarantors of the CD, if any, executed by the promoters/directors/guarantors of the CD on full and final payment of the amount as envisaged under this part."* A recital is also mentioned *that "Upon receipt of the full payment of amount, the Financial Creditor shall issue No Due Certificate to the CD and existing directors/promoters of the CD and also remove the*

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name of the CD and its promoters and guarantors from the list of defaulters."

d. This resolution plan approved by COC was finally approved by the Tribunal. These facts are admitted. While approving the resolution plan, the Tribunal had put certain conditions, however, those conditions were set aside by Hon'ble NCLAT in appeal against the said order. Thus the plan sanctioned by the COC is finally approved by the Tribunal.

e. From the approved resolution plan, it is clear that the Bank of India had no objection for release of guarantee as they have voted in favour of the plan and agreed to the same. At the time of voting only R-2 dissented from it and took objection regarding the release of the guarantee. However, during the pendency of the appeal, applicants resolved the issue with R-2 and subsequently R-2 also agreed for extinguishment of personal guarantee. Thus the position becomes that both the COC members agreed for extinguishing guarantee when the resolution plan was finally approved by Hon'ble NCLAT. It is also not

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in dispute that the applicants had made the full and final payment of Rs. 9.00 Crore along with interest of Rs. 30,48,813/- under the final resolution plan on 03.09.2025.

f. According to the applicant, the R-1 should have issued No Due Certificate effective from the same date. However, they have issued No Due Certificate dated 01.11.2025. The applicant therefore challenged further demand raised by the R-1 amounting to Rs. 22.00 Lakhs, being illegal.

g. In the written submissions filed by R-1, it is stated that in the 6th meeting of the monitoring committee, the R-1 specifically states that the release of personal guarantee would be subject to payment of Rs. 22.00 lakhs by the guarantor. While in the 7th meeting directed the applicant to approach R-1 for release of the personal guarantee.

h. However, the Resolution plan was finally approved in the 11th meeting of the CD. Thus whatever discussion took place earlier need not to be considered when the resolution plan was approved, what is mentioned in it

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is to be seen. The R-1 further stated in the written submission that payment under resolution plan is complete, however, additional Rs. 22.00 lakhs are demanded in view of bank's sanctioned memorandum, which they are entitled to and which as per the bank, guarantor was aware of. They further stated that the letter dated 17.01.2026, demanded same the amount is not arbitrary. It is further stated that section 74(3) and RBI circulars will not be applicable in the present case as justifiable charge is demanded by R-1. They have already issued No Due Certificate.

i. The respondent also stated that they have issued No due Certificate to the CD and mortgagor/ guarantor is not liable for charges as asked by R-1 for release of his properties. This statement appears to be contradictory to the earlier statement. When the R-1 clearly approved the release of Personal guarantees on full and final payment of the amount and they will issue No due Certificate to all, now they are estopped from stating otherwise.

Sd/- -SD-

j. Due to the confusion regarding order of Hon'ble NCLAT with the parties, the applicant filed IA 1676 before Hon'ble NCLAT for clarification of order dated 05.01.2026. On perusing the application filed before the Hon'ble NCLAT, it appears that they have specifically mentions that the resolution plan expressly contains a clause providing for release of personal guarantee furnished by applicants in favour of all the Financial Creditors forming part of COC upon full and final payment of the entire amount as agreed in the said plan. While R-3 approved the resolution plan, they had asked for clarification with respect to the issue of release of the personal guarantee of applicants by Financial Creditor. The Hon'ble NCLAT mentioned that there is no ambiguity in the order. However, as there was some confusion they have clarified the same as under:

"7. The appeal is disposed of in the following manner:

a. That para 25(iii) of the order of the Adjudicating Authority wherein the Adjudicating Authority has rejected the clause in the resolution plan relieving the personal guarantors of their liability will stand set aside since the issue has now ben resolved.

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b. The Term introduced by the Adjudicating Authority for keeping aside 5% of the share capital, the term which is not there in the resolution plan as approved by the COC but introduced by the Adjudicating Authority will now stand deleted.

No Costs."

k. In view of the above discussions, it is necessary that R-1 to comply with the conditions of the Resolution plan as approved. As per their submissions and conditions laid down in the resolution plan, guarantors are not liable to pay any amount interalia Rs. 22.00 lakhs for release of the properties and personal guarantee.

l. In their written submissions filed by way of affidavit at para 1.7 it is clearly stated that the guarantor is not liable for charges asked by the R-1 for release of properties. When the conditions were laid down in the plan approved by the COC, as well as by the Tribunal, the further memorandum if any issued by the bank need not to be taken into consideration.

18. Hence we pass the following order.

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ORDER

1. The application I.A. No. 176 of 2026 in CP (IB) No. 264 of 2018 is allowed.
2. R-1 to comply with and implement the final resolution plan along with the addendum.
3. R-1 is directed to release and discharge the personal guarantee furnished by the applicant without any further payment and also release the mortgaged properties.
4. R-1 is to pay the cost of the petition of Rs. 1.00 lakh to the applicant as the respondent has unnecessarily dragged the applicant into litigation. Hence, they are liable to pay cost to the applicant.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

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