IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.306
IA/742(AHM)2026
in
CP(IB) 35 of 2020

Under Rule 11 NCLT r/w Section 60(5) of IB Code, 2016

IN THE MATTER OF:

State of Chhattisgarh through District Magistrate District Balod & Anr ....**Applicant**

V/s

Truvisory Insolvency Professionals Pvt. Ltd through Mr. Rajeev Ranjan Singh Liquidator of Sunshine Hitech Infracon Limited ....**Respondent**

Order delivered on: 27/07/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

O R D E R
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet

-Sd-

SANJEEV SHARMA
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT–I, AHMEDABAD

IA No. 742 (AHM) of 2026
in
IA No. 1078 (AHM) of 2023
in
CP (IB) No. 35 of 2020

(An application filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016.)

In the matter of:

STATE OF CHHATTISGARH,
THROUGH DISTRICT MAGISTRATE
Office of Magistrate,
District – Balod, Chhattisgarh - 491226

.... Applicant No. 1

STATE OF CHHATTISGARH, THROUGH TEHSILDAR, GURUR, DISTRICT BOARD,
Court of Naib Tehsildar, Guroor,
District – Balod, Chhattisgarh - 491226

.... Applicant No. 2

VERSUS

TRUVISORY INSOLVENCY PROFESSIONALS PVT. LTD.
Liquidator of M/s. Sunshine Hi-Tech Infracon Ltd.
Through its Authorised Representative
Mr. Rajeev Ranjan Singh
Having Registered Office at:
410 A Wing, Bluerose Industrial Estate,
Off. WE Highway, Magathane, Near Metro Mall,
Boriwali East, Mumbai, Maharashtra - 400101

.... Respondent/Liquidator

Order pronounced on: 27.07.2026

CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Applicants : Mr. Bishwajit Dubey, Addl. A.G. a.w.
: Mr. Vinayak Sharma, Standing Counsel (State of Chhattisgarh)

For the Respondent : Ms. Mily Ghoshal, Advocate

ORDER

(*Per*: Bench)

1. This Interlocutory Application, registered on 12.05.2026, has been filed by the Applicants under Rule 11 of the National Company Law Tribunal Rules, 2016 read with Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 seeking recall of the order dated 15.04.2025 passed by this Adjudicating Authority in I.A. No. 1078 of 2023, and further seeking following reliefs: -

> A. *Allow the present Application and recall the order dated 15.04.2025 passed by this Hon'ble Adjudicating Authority in I.A. No. 1078 of 2023;*
>
> B. *Pass any other order as this Hon'ble Adjudicating Authority may deem fit.*

2. It is stated that Corporate Insolvency Resolution Process (hereinafter as, "the **CIRP**") against the Corporate Debtor, Sunshine HighTech Infracon Limited, was commenced vide order dated 05.10.2021 passed in CP (IB) No. 35 of 2020.

During the subsistence of the CIRP, proceedings were initiated by the State Authorities under the Chhattisgarh Protection of Depositors' Interest Act, 2005 (hereinafter as, "the **CPDI Act**") in respect of land bearing Khasra No. 391/1 admeasuring 0.62 hectare situated at Village Balodgahan, P.H. No. 29, Tehsil Gurur, District Balod, Chhattisgarh. Pursuant thereto, an ad-interim attachment order dated 04.02.2022 came to be passed by the Competent Authority, which was confirmed by the learned District and Sessions Judge (Special Court), Balod on 10.08.2022. Thereafter, auction notice dated 15.10.2022 was issued scheduling auction of the said property on 07.11.2022. It is further stated that in the said auction, one Mr. Pawan Sinha was declared as the successful bidder and deposited a sum of Rs. 30,00,000/- towards the total auction consideration of Rs.1,40,00,000/-.

3. The Applicants submit that, upon commencement of liquidation of the Corporate Debtor vide order dated 30.08.2023, the Liquidator instituted I.A. No. 1078 of 2023 before this Adjudicating Authority challenging the aforesaid proceedings under the CPDI Act and seeking, inter alia, quashing of the interim attachment order dated 04.02.2022, confirmation order dated 10.08.2022, auction sale notice dated 15.10.2022 and all consequential proceedings, besides a direction to hand over possession and title documents of the aforesaid property. The said application came to be allowed by this Adjudicating Authority vide order dated 15.04.2025 whereby the attachment order dated 04.02.2022, confirmation order dated 10.08.2022, auction sale notice dated 15.10.2022 and all consequential actions were set aside.

4. The Applicants have assailed the aforesaid order principally on the ground that this Adjudicating Authority lacked jurisdiction to adjudicate upon the validity of the proceedings initiated under the Chhattisgarh Protection of Depositors' Interest Act, 2005 ("CPDI Act"). It is contended that the Competent Authority and the Special Court constituted under the CPDI Act alone have jurisdiction over attachment and realisation of properties notified thereunder and, therefore, the legality of the attachment and auction proceedings could not have been examined by this Adjudicating Authority. It is further contended that, upon confirmation of attachment by the Special Court on 10.08.2022, the subject property vested in the Competent Authority for distribution amongst the depositors and consequently ceased to form part of the liquidation estate of the Corporate Debtor.

5. According to the Applicants, the CPDI Act and the Insolvency and Bankruptcy Code operate in distinct fields and there is no repugnancy between the two enactments warranting invocation of Section 238 of the Code. It is further contended that the order dated 15.04.2025 suffers from an error of jurisdiction falling within the limited parameters for exercise of the inherent power of recall under Rule 11 of the NCLT Rules, 2016. On these grounds, the Applicants seek recall of the said order.

6. The Respondent/Liquidator has filed a Reply opposing the present Application. At the outset, it is contended that the Application is not maintainable and amounts to an indirect attempt to seek review of a reasoned order which has attained finality. It is submitted that the Applicants actively participated in the proceedings in I.A. No.1078 of 2023 by filing their reply, additional affidavit and written submissions and, therefore, cannot invoke Rule 11 merely because the findings have gone against them.

7. The Respondent further submits that the order dated 15.04.2025 was passed in exercise of the jurisdiction conferred under Section 60(5)(c) of the Code, as the attachment and auction proceedings directly affected the assets of the Corporate Debtor undergoing liquidation. It is further submitted that the Applicants have failed to establish any recognised ground warranting recall, such as fraud, misrepresentation, violation of the principles of natural justice or patent lack of jurisdiction. The Respondent therefore submits that the proper remedy, if any, is an appeal under Section 61 of the Code.

8. Pursuant to the order dated 10.06.2026, the Respondent filed Written Submissions on 22.06.2026 vide Inward Diary No. D-4997. Thereafter, the Applicants filed their Written Submissions on 06.07.2026 vide Inward Diary No. D-4890. The same are taken on record.

9. We have heard the Counsel appearing for the Applicants as well as the Counsel appearing for the

Respondent/Liquidator and have perused the material placed on record.

Observation and Findings of this Tribunal: -

10. Before considering the rival contentions, it is necessary to identify the scope of the present proceedings. The Applicants seek recall of the order dated 15.04.2025 passed in I.A. No.1078 of 2023. The submissions advanced before this Tribunal primarily relate to the jurisdiction of this Adjudicating Authority to examine proceedings initiated under the CPDI Act, 2005, the applicability of Section 238 of the Code, the effect of attachment under the said Act and whether the subject property formed part of the liquidation estate. These issues were considered and adjudicated while deciding I.A. No.1078 of 2023.

11. Since the present Application has been filed under Rule 11 of the NCLT Rules, 2016, it would be apposite to first reproduce the said provision. Rule 11 of the 2016 Rules is reproduced hereinunder: -

> "**11. Inherent Powers**.- Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal."

12. A plain reading of the aforesaid Rule shows that it merely preserves the inherent powers of the Tribunal to pass such orders as may be necessary to meet the ends of justice or to prevent abuse of its process. The Rule neither creates an independent source of substantive jurisdiction nor enlarges the powers otherwise conferred upon the Tribunal under the Companies Act, 2013 or upon the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016. It only recognises the inherent powers possessed by every judicial forum to secure the ends of justice and cannot be invoked either to confer jurisdiction where none exists or to circumvent the statutory remedy of appeal provided under Section 61 of the Code.

13. One of the leading decisions explaining the scope of the power of recall is the judgment of the Hon'ble Supreme Court in ***Budhia Swain & Ors. v. Gopinath Deb & Ors.***, **(1999) 4 SCC 396**. In the said decision, the Hon'ble Supreme Court considered the distinction between the power to recall an order and the power to review a decision and identified the circumstances in which a judicial authority may recall its own order. The relevant observations of the Hon'ble Supreme Court are reproduced hereinbelow:

> "6. *What is a power to recall? Inherent power to recall its own order vesting in tribunals or courts was noticed in Indian Bank Vs. M/s Satyam Fibres India Pvt. Ltd. 1996 (5) SCC 550. Vide para 23, this Court has held that the courts have inherent power to recall and set aside an order (i) obtained by fraud practised upon the Court, (ii) when the Court is misled by a party, or (iii) when the Court itself commits a mistake which prejudices a party. In A.R. Antulay Vs. R.S. Nayak & Anr. AIR 1988 SC 1531 (vide para 130), this Court has noticed motions to set aside judgments being permitted where (i) a judgment was rendered in ignorance of the fact that a necessary party had not been served at all and was shown as served or in ignorance of the fact that a necessary party had died and the estate was not represented, (ii) a judgment was obtained by fraud, (iii) a party has had no notice and a decree was made against him and such party approaches the Court for setting aside the decision ex debito justitiae on proof of the fact that there was no service.*
>
> *7. In Corpus Juris Secundum (Vol. XIX) under the Chapter "Judgment- Opening and Vacating" (paras.265 to 284 at pages 487-510) the law on the subject has been stated. The grounds on which the courts may open or vacate their judgments are generally matters which render the judgment void or which are specified in statutes authorising such actions. Invalidity of the judgment of such nature as to render it void is a valid ground for vacating it at least if the invalidity is apparent on the face of the record. Fraud or collusion in obtaining a judgment is a sufficient ground for opening or vacating it. A judgment secured in violation of an agreement not to enter judgment may be vacated on that ground. However, in general, a judgment will not be opened or vacated on grounds which could have been pleaded in the original action. A motion to vacate will not be entered when the proper remedy is by some other*

proceedings, such as by appeal. The right to vacation of a judgment may be lost by waiver or estoppel. Where a party injured acquiesces in the rendition of the judgment or submits to it, waiver or estoppel results.

8. In our opinion a tribunal or a court may recall an order earlier made by it if (i) the proceedings culminating into an order suffer from the inherent lack of jurisdiction and such lack of jurisdiction is patent, (ii) there exists fraud or collusion in obtaining the judgment, (iii) there has been a mistake of the court prejudicing a party or (iv) a judgment was rendered in ignorance of the fact that a necessary party had not been served at all or had died and the estate was not represented. The power to recall a judgment will not be exercised when the ground for re-opening the proceedings or vacating the judgment was available to be pleaded in the original action but was not done or where a proper remedy in some other proceeding such as by way of appeal or revision was available but was not availed. The right to seek vacation of a judgment may be lost by waiver, estoppel or acquiescence."

(Emphasis Supplied)

14. The Hon'ble Supreme Court in ***Greater Noida Industrial Development Authority v. Prabhjit Singh Soni & Ors.*, 2024 SCC OnLine SC 122**, it was held that: -

"49. In a recent decision (i.e., Union Bank of India vs. Dinakar T. Vekatasubramanian & Ors.), a five-member Full Bench of NCLAT held that though the power to review is not conferred upon the Tribunal but power to recall its judgment is inherent in the Tribunal and is preserved by Rule 11 of the NCLT Rules, 2016. It was held that power of recall of a judgment can be exercised when any procedural error is committed in delivering the earlier judgment; for example, necessary party has not been served or necessary party was not before the Tribunal when judgment was delivered adverse to a party. It was observed that there may be other grounds

> *for recall of a judgment one of them being where fraud is played on the Court in obtaining a judgment. This decision of NCLAT was upheld by a two-Judge Bench of this Court vide order dated 31.07.2023 in Civil Appeal No.4620 of 2023 (Union Bank of India vs. Financial Creditors of M/s Amtek Auto Ltd. & Ors.).*
>
> *50. In light of the discussion above, what emerges is, a Court or a Tribunal, in absence of any provision to the contrary, has inherent power to recall an order to secure the ends of justice and/or to prevent abuse of the process of the Court. Neither the IBC nor the Regulations framed thereunder, in any way, prohibit, exercise of such inherent power. Rather, Section 60(5)(c) of the IBC, which opens with a non-obstante clause, empowers the NCLT (the Adjudicating Authority) to entertain or dispose of any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under the IBC. Further, Rule 11 of the NCLT Rules, 2016 preserves the inherent power of the Tribunal. Therefore, even in absence of a specific provision empowering the Tribunal to recall its order, the Tribunal has power to recall its order. However, such power is to be exercised sparingly, and not as a tool to re-hear the matter. Ordinarily, an application for recall of an order is maintainable on limited grounds, inter alia, where (a) the order is without jurisdiction; (b) the party aggrieved with the order is not served with notice of the proceedings in which the order under recall has been passed; and (c) the order has been obtained by misrepresentation of facts or by playing fraud upon the Court/Tribunal resulting in gross failure of justice."*
>
> (Emphasis Supplied)

15. The aforesaid judgments make it clear that the power of recall is an exceptional jurisdiction, exercisable only where the order suffers from a fundamental jurisdictional or procedural defect, such as patent lack of jurisdiction, fraud, misrepresentation or violation of the principles of natural justice. It cannot be invoked to re-open or reconsider the merits of a decision merely because another view is possible.

16. Furthermore, Hon'ble NCLAT in ***Aircastle (Ireland) Ltd. & Ors. v. Mr. Ashish Chawchharia, The Resolution Professional Of Jet Airways (India) Limited & Ors.*, Comp. App. (AT) (Ins) No. 1178 of 2024,** has held that: -

> *"58. The power to recall a judgment will not be exercised when the ground for reopening the proceedings or vacating the judgment was available to be pleaded in the original action but was not done or where a proper remedy in some other proceeding such as by way of appeal or revision was available but was not availed. The right to seek vacation of a judgment may be lost by waiver, estoppel or acquiescence.*
>
> *59. Generally speaking, review can be permitted, if found in the statute by the competent judicial forum. Review can be filed, if there is discovery of New and Important matter or evidence, which, after the exercise of due diligence was not within the knowledge of the person seeking review or could not be produced by him at any time when the decree was passed or order made or some mistake or error apparent on the face of the record or any other sufficient reason.*
>
> *60. We consciously note that the NCLT & NCLAT have inherent powers to recall order but have no power to review its order.*
>
> *61. We further note that in the case of Action Barter Pvt. Ltd. Vs Srei Equipment Finance Ltd., in IA Nos. 811/2020, 917/2020, 962/2020 & 1587/2020in*

Company Appeal (AT) (Ins.) No. 1434 of 2019, this Appellate Tribunal held that Rule 11 of the NCLAT Rules is merely declaratory in the sense that the NCLAT is armed with inherent powers to pass orders or give directions necessary for advancing the cause of justice or prevent abuse of the Appellate Tribunal's process. This Appellate Tribunal further held that even in absence of Rule 11, the Appellate Tribunal being essentially a judicial forum determining and deciding rights of parties concerned and granting appropriate relief has no limitations in exercise of its powers to meet ends of justice or prevent abuse of its process. Such powers being inherent in the constitution of the Appellate Tribunal, Rule 11 can merely be said to be declaring the same to avoid ambiguity and confusion.

62. However, the Rule cannot be invoked to revisit the findings and it is not open to re-examine the findings. The mistake/error must be apparent on the face of the record and must have occurred due to oversight, inadvertence or human error. It would be open to correct the conclusion if the same is not compatible with the finding recorded on the issues raised."

(Emphasis Supplied)

17. The aforesaid decisions further clarify that Rule 11 cannot be invoked as a substitute for review or appeal. Where the grounds urged were available during the original proceedings and the statute provides an efficacious remedy of appeal, the power of recall cannot be exercised to re-open findings already rendered on merits.

18. Having examined the legal principles governing the exercise of the power of recall, this Adjudicating Authority proceeds to determine whether the Applicants have established any recognised ground warranting recall of the order dated 15.04.2025. The scope of the present proceedings is confined to the maintainability of the recall application and not to the correctness of the findings recorded in the said order.

19. The principal grievance of the Applicants is that the findings recorded in the order dated 15.04.2025 are erroneous. However, the issues sought to be re-agitated were comprehensively considered and adjudicated while deciding I.A. No. 1078 of 2023. The legality or correctness of those findings falls within the domain of appellate scrutiny under Section 61 of the Code and cannot be re-examined in proceedings seeking recall under Rule 11 of the NCLT Rules, 2016.

20. The Applicants actively participated in the proceedings in I.A. No. 1078 of 2023 by filing their reply, additional affidavit and written submissions and were afforded full opportunity of hearing before the order dated 15.04.2025 came to be passed. They have neither alleged nor established that the said order was obtained by fraud or misrepresentation or that it suffers from any procedural irregularity or violation of the principles of natural justice. The grounds urged in the present Application merely seek reconsideration of the findings recorded on merits, which is impermissible in the exercise of recall jurisdiction.

21. It is well settled that recall proceedings cannot be converted into appellate or review proceedings and that the correctness of an order passed after due hearing can be examined only by the Appellate Authority in accordance with law. If the Applicants are aggrieved by the order dated 15.04.2025, the appropriate statutory remedy is an appeal under Section 61 of the Code. Accordingly, no case has been made out for recalling the said order.

22. In view of the foregoing discussion, **IA No. 742 (AHM) of 2026** in IA No. 1078 (AHM) of 2023 in CP(IB) No. 35 of 2020 is ***dismissed***, being devoid of merit. No order as to costs.

-Sd-

SANJEEV SHARMA
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

HG