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

ITEM No.305 - IA/1428(AHM)2026 in IA/1232(AHM)2023
With
ITEM No.306 - IA/1454(AHM)2026 in IA/1232(AHM)2023
in
CP(IB) 169 of 2019

IA/1428(AHM)2026 in IA/1232(AHM)2023

Under Rule 49(2) r/w Rule 11 of NCLT Rules, 2016

IN THE MATTER OF:

Mr. Raj Kumar Gupta **.....Applicant**
V/s
Mr. Ravindra Kumar Goyal Liquidator of M/s Nakoda Limited **.....Respondent**

With

IA/1454(AHM)2026 in IA/1232(AHM)2023

Under Rule 49(2) r/w Rule 11 of NCLT Rules, 2016

IN THE MATTER OF:

Mr. Ashok Kumar Jain **.....Applicant**
V/s
Mr. Ravindra Kumar Goyal Liquidator of M/s Nakoda Limited **.....Respondent**

Order delivered on: 14/09/2026

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

I.A. No. 1428 of 2026
along with
I.A. No. 1454 of 2026
IN
I.A. No. 1232 of 2023
IN
CP(IB) No. 169/7/AHM/2019

(Application under Section 49(2) r/w Rule 11 of the NCLT Rules, 2016)

In the Matter of:

I.A. No. 1428 of 2026

Raj Kumar Gupta
B-7, 302, Olive County,
Sector 5 Vasundhara,
Ghaziabad, Uttar Pradesh- 201012

... Applicant
(Original Resp. No.3)

VERSUS

Ravindra Kumar Goyal
Liquidator of Nakoda Limited
Having his office at Eden I-807,
Godrej Garden City, Jagat Pura,
S.G. Highway, Ahmedabad,
Gujarat - 382470

... Respondent

(Original Applicant)

I.A. No. 1454 of 2026

Ashok Kumar Jain

Residing at House No. 502,
Akshay Deep,
5th "B" Road, Sardarpura,
Jodhpur, Rajasthan - 342003

... Applicant
(Original Resp. No.4)

VERSUS

Ravindra Kumar Goyal
Liquidator of Nakoda Limited
Having his office at Eden I-807,
Godrej Garden City, Jagat Pura,
S.G. Highway, Ahmedabad,
Gujarat - 382470

... Respondent

(Original Applicant)

Order Pronounced On: 14.09.2026

C O R A M:

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

A P P E A R A N C E:

For the Applicant : Mr. Jaimin Dave, Advocate a/w.
: Ms. Hirva Dave, Advocate
For the Respondent :

C O M M O N - O R D E R
(Per Bench)

I.A. No. 1428 of 2026

1. This application has been filed by the Applicant/Original Respondent No.3 under Rule 49(2) Read with Rule 11 of the

NCLT Rules, 2016 seeking recall and setting aside the Ex-parte order dated 18.12.2025 passed I.A. No. 1232 of 2023 qua the Applicant with the following reliefs:

a) Your Lordships may be pleased to allow the present application;

b) Your Lordships may be pleased to recall and set aside the order dated 18.12.2025 passed in I.A. No. 1232 of 2023 in Company Petition (I.B.) No. 169 of 2019, in so far as it operates against the Applicant herein, and to restore the said Interlocutory Application to file qua the Applicant;

c) Your Lordships may be pleased to recall and set aside the order dated 12.07.2024 passed in I.A. No. 1232 of 2023 whereby the right of the Applicant to file a reply came to be closed and the Applicant was directed to be proceeded against ex-parte, and to grant leave to the Applicant to file his reply to the said Interlocutory Application;

d) Pending hearing and final disposal of this application, Your Lordships may be pleased to stay the further proceedings in Execution Application No. 677 of 2026, in so far as the same are sought to be prosecuted against the Applicant herein, pending the hearing and final disposal of the present application;

e) Your Lordships may be pleased to condone delay, if any, in filing the present application; f. To grant any other relief as may deem fit in the interest of justice.

f) Your Lordship may be pleased to allow the present application;

I.A. No. 1454 of 2026

2. This application has been filed by the Applicant/Original Respondent No.4 under Rule 49(2) Read with Rule 11 of the NCLT Rules, 2016 seeking recall and setting aside the Ex-

parte order dated 18.12.2025 passed I.A. No. 1232 of 2023 qua the Applicant with the following reliefs:

a) Your Lordships may be pleased to allow the present application;

b) Your Lordships may be pleased to recall and set aside the order dated 18.12.2025 passed in I.A. No. 1232 of 2023 in Company Petition (I.B.) No. 169 of 2019, in so far as it operates against the Applicant herein, and to restore the said Interlocutory Application to file qua the Applicant;

c) Your Lordships may be pleased to recall and set aside the order dated 12.07.2024 passed in I.A. No. 1232 of 2023 whereby the right of the Applicant to file a reply came to be closed and the Applicant was directed to be proceeded against ex-parte, and to grant leave to the Applicant to file his reply to the said Interlocutory Application;

d) Pending hearing and final disposal of this application, Your Lordships may be pleased to stay the further proceedings in Execution Application No. 677 of 2026, in so far as the same are sought to be prosecuted against the Applicant herein, pending the hearing and final disposal of the present application;

e) Your Lordships may be pleased to condone delay, if any, in filing the present application;

f) To grant any other relief as may deem fit in the interest of justice.

3. Since both Applications arise from the same proceedings and challenge the common order dated 18.12.2025 on substantially similar grounds, they are taken up together and are being disposed of by this Common Order.

4. The Applicant has placed the facts through the I.A.s in the following manner: -

4.1 Canara Bank, as Financial Creditor, filed CP(IB) No. 169/7/AHM/2019 under Section 7 of the Insolvency and Bankruptcy Code, 2016, which was admitted on 12.07.2021. Thereafter, by order dated 08.02.2023 in I.A. No. 119 of 2022, the Corporate Debtor was ordered to be liquidated and the Respondent was appointed as Liquidator.

4.2 During liquidation, M/s. Sahaj and Associates was appointed as Transaction Auditor and submitted its Transaction Audit Report dated 07.01.2023 for the period from 01.04.2012 to 12.07.2021, followed by an addendum dated 17.03.2023. The Liquidator thereafter filed I.A. No. 1232 of 2023 under Sections 66 and 67 read with Section 60(5) of the Code.

4.3 In I.A. No. 1232 of 2023, the present Applicants were arrayed as Respondent Nos.3 and 4 respectively, and contribution of Rs.760.66 Crores and Rs.82.65 Crores was sought against the Respondents jointly. The relevant extracts of the Application and Transaction Audit Report were relied upon as Annexure-C.

4.4 The Applicants contend that the transactions substantially relate to the period preceding their

respective appointments and that the Transaction Audit Report does not attribute any specific act, decision, instruction, signature, receipt or benefit to either Applicant. They further contend that they were Independent Directors and were not involved in the day-to-day affairs of the Corporate Debtor.

4.5 The Applicants further contend that they relied upon Mr. Babulal Jain, who was stated to be managing the affairs of the Corporate Debtor, upon an assurance that the proceedings would be attended to. On that basis, they submit that their non-appearance was bona fide and was neither wilful nor deliberate.

4.6 The right of the Applicants to file reply was closed and they were directed to be proceeded against ex-parte by order dated 12.07.2024. The said order has been placed on record as Annexure-D.

4.7 Thereafter, by order dated 18.12.2025, I.A. No. 1232 of 2023 was allowed and Respondent Nos.1 to 4 therein were directed jointly and severally to contribute Rs.760.66 Crores and Rs.82.65 Crores, together with simple interest at 12% per annum from the respective dates of transactions until realisation. The said order is Annexure-E.

4.8 The Applicants principally rely upon paragraph 12.2 of the order dated 18.12.2025, wherein it was recorded that Respondent Nos.3 and 4, being

Independent Directors, had been proceeded against ex-parte and that the report did not specify the individual role of each Respondent in the transactions.

4.9 According to the Applicants, the aforesaid observation, the dates and nature of their appointments and the contents of the Transaction Audit Report demonstrate absence of individual involvement. They therefore seek reopening of the concluded proceedings and reconsideration of their liability under Section 66 of the Code.

4.10 The Applicants further contend that Section 66(1) of the Code requires a person to be knowingly party to carrying on the business with intent to defraud creditors, while Section 149(12) of the Companies Act, 2013 restricts the liability of an Independent Director to the circumstances specified therein.

4.11 It is also contended that the Liquidator was aware of the dates and nature of appointment of the Applicants but allegedly failed to place the complete position before the Tribunal. Reliance has accordingly been placed upon *S.P. Chengalvaraya Naidu v. Jagannath,* (1994) 1 SCC 1, concerning suppression of material facts and the effect of fraud upon judicial proceedings.

4.12 The Applicants have relied upon *A. Murugesan v. Smt. Jamuna Rani*, (2019) 20 SCC 803; *M.K. Prasad v. P. Arumugam*, (2001) 6 SCC 176; and *G.P. Srivastava v. R.K. Raizada*, (2000) 3 SCC 54, on sufficient cause for non-appearance and the principles governing setting aside of ex-parte proceedings.

4.13 In *A. Murugesan v. Smt. Jamuna Rani*, (2019) 20 SCC 803, the Hon'ble Supreme Court held that sufficient cause for non-appearance is to be considered on the facts of each case and that procedural discretion should advance substantial justice.

4.14 In *M.K. Prasad v. P. Arumugam*, (2001) 6 SCC 176, the Hon'ble Supreme Court held that an application for condonation or setting aside of an ex-parte order is to be considered on the facts constituting sufficient cause and that the discretion must be exercised judicially.

4.15 In *G.P. Srivastava v. R.K. Raizada*, (2000) 3 SCC 54, the Hon'ble Supreme Court held that sufficient cause is to be construed so as to advance substantial justice, particularly where absence is not deliberate or attributable to gross negligence.

4.16 Reliance has also been placed upon *Parimal v. Veena @ Bharti*, (2011) 3 SCC 545, wherein the Hon'ble Supreme Court held that sufficient cause requires

absence of negligence or want of bona fides and that discretion concerning an ex-parte order must be exercised judicially.

4.17 Reliance has also been placed upon *Rafiq v. Munshilal*, (1981) 2 SCC 788, wherein the Hon'ble Supreme Court protected a litigant from consequences of an advocate's default where the litigant had acted reasonably. The said principle, however, does not confer a substantive power of review over a concluded adjudication.

4.18 In *Sangram Singh v. Election Tribunal, Kotah*, AIR 1955 SC 425, the Hon'ble Supreme Court held that procedural law is intended to advance justice and not defeat substantive rights. The judgment does not vest appellate or review jurisdiction where none exists in law.

4.19 The Applicants principally rely upon *Greater Noida Industrial Development Authority v. Prabhjit Singh Soni & Anr.*, (2024) 6 SCC 767, wherein the Hon'ble Supreme Court recognised the inherent power under Section 60(5) of the Code read with Rule 11 to recall an order in appropriate circumstances to secure the ends of justice.

5. We have heard the Learned Counsel for the Applicants and perused the present Applications, the record of I.A. No.

1232 of 2023, the orders dated 12.07.2024 and 18.12.2025, the Written Submissions and the judgments relied upon. The Written Submission filed on 09.09.2026 under Inward Diary No. D-7676 is also taken on record.

6. The limited question before us is whether the Applicants have established any circumstance warranting recall of the order dated 18.12.2025 under Rule 49(2) read with Rule 11. The power of recall is distinct from a power to review the correctness of an order already passed on merits.

7. In the present case, the Applicants have not demonstrated any inherent lack of jurisdiction, non-service of a necessary party, fraud, collusion or fundamental procedural defect which goes to the validity of the order dated 18.12.2025.

8. The Applicants were parties to I.A. No. 1232 of 2023 and their grievance principally concerns their having been proceeded against ex-parte and the findings recorded against them. Such grievance, by itself, does not constitute a recognised ground for recall.

9. The Applicants seek reconsideration of the Transaction Audit Report dated 07.01.2023, its addendum dated

17.03.2023, the relevant appointment periods, the transactions in question and their alleged individual role in the affairs of the Corporate Debtor.

10. Determination of these matters would necessarily require re-appreciation of the material and reconsideration of findings already recorded in I.A. No. 1232 of 2023. Such an exercise would, in substance, amount to review or rehearing of the concluded adjudication on merit.

11. The reliance upon paragraph 12.2 of the order dated 18.12.2025 also concerns the sufficiency and correctness of the findings on merits. Whether the material was sufficient to establish individual liability cannot be reopened in exercise of the limited jurisdiction of recall.

12. Likewise, the contentions based upon Sections 66(1) of the Code and 149(12) of the Companies Act, 2013 concern the substantive liability adjudicated in I.A. No. 1232 of 2023. Such contentions cannot convert a recall application into a proceeding for review.

13. The allegation that material facts concerning the Applicants were not brought to the notice of the Tribunal is also not

substantiated by material demonstrating fraud, deliberate suppression or misrepresentation of such nature as would vitiate the order dated 18.12.2025.

14. The judgments relied upon by the Applicants, including *A. Murugesan v. Smt. Jamuna Rani*, (2019) 20 SCC 803; *M.K. Prasad v. P. Arumugam*, (2001) 6 SCC 176; *G.P. Srivastava v. R.K. Raizada*, (2000) 3 SCC 54; and *Parimal v. Veena @ Bharti*, (2011) 3 SCC 545, lay down principles concerning sufficient cause and procedural discretion in appropriate cases.

15. The aforesaid judgments do not confer upon the Adjudicating Authority a substantive power of review over a final order where such power has not been vested by statute. Procedural discretion cannot be exercised so as to assume appellate jurisdiction over the Tribunal's own concluded adjudication.

16. Similarly, the principles in *Rafiq v. Munshilal*, (1981) 2 SCC 788 and *Sangram Singh v. Election Tribunal, Kotah*, AIR 1955 SC 425, concerning procedural fairness and advancement of substantial justice, cannot be construed as

conferring a substantive power of review upon this Adjudicating Authority

17. The power recognised in by the Hon'ble Supreme Court in ***Greater Noida Industrial Development Authority v. Prabhjit Singh Soni & Anr.,*** (2024) 6 SCC 767, wherein the inherent power of recall was recognised but was held to be exercisable sparingly in cases satisfying the recognised grounds for recall. It cannot be exercised merely because a party seeks a different appreciation of evidence or a different conclusion on merits.

18. In ***Sri Budhia Swain & Ors. v. Gopinath Deb & Ors.,*** (1999) 4 SCC 396, the Hon'ble Supreme Court held that recall may be exercised where the proceedings suffer from inherent lack of jurisdiction, fraud or collusion, a mistake of the Court prejudicing a party, or a judgment rendered in ignorance of non-service upon a necessary party. No such circumstance is established in the present case.

19. In ***Union Bank of India v. Financial Creditors of M/s. Amtek Auto Ltd. & Ors***., Civil Appeal No. 4620 of 2023, order dated 31.07.2023, the Hon'ble Supreme Court

affirmed that the Tribunal possesses inherent power to recall in appropriate circumstances, but such power does not confer jurisdiction to review its judgment on merits.

20. The Hon'ble NCLAT in ***Union Bank of India v. Dinakar T. Venkatasubramanian*****,** Judgment dated 25.05.2023, also distinguished recall from review and held that recall may be invoked for procedural defects, non-service of a necessary party or fraud, but cannot be employed for reappreciation of the merits of a concluded order.

21. In ***Civic Services Holding Pvt. Ltd. v. Bhupendra Singh Rajput & Ors.*****,** I.A. No. 5586 of 2023 in Company Appeal (AT) (Ins.) No. 72 of 2023, order dated 08.12.2023, the Hon'ble NCLAT held that Rule 11 does not confer power upon the Tribunal to review its judgment in the absence of a specific statutory provision.

22. Thus, it is a settled principle that an Adjudicating Authority cannot, in exercise of inherent powers, sit in appeal over its own order or assume a substantive power of review which has not been conferred upon it by statute.

23. We further take note of the statutory appellate remedy provided under Section 61 of the Code. An order of the Adjudicating Authority is appealable before the Hon'ble NCLAT within thirty days, and the Appellate Tribunal may entertain the appeal thereafter only upon sufficient cause, but not beyond a further period of fifteen days.

24. The order dated 18.12.2025 was a final adjudication in I.A. No. 1232 of 2023 and was therefore amenable to the statutory appellate remedy under Section 61 of the Code. The prescribed period, including the maximum permissible period for condonation, has elapsed if not assailed.

25. The statutory appellate mechanism under Section 61 cannot be circumvented by invoking Rule 11 merely because the period prescribed for an appeal has expired. The inherent power of recall cannot be employed to indirectly revive or extend a statutory appellate remedy which has become barred by limitation.

26. If the present Applications were entertained for re-appreciation of the merits of the order dated 18.12.2025, the same would effectively confer a review jurisdiction upon

this Adjudicating Authority and permit the Applicants to reopen and secure a fresh opportunity for fresh adjudication on issues already concluded.

27. Such an exercise would amount to permitting a party to achieve indirectly, through an application styled as one for recall, what could not be achieved directly by invoking the statutory appellate remedy within the prescribed period of limitation under Section 61. Rule 11 cannot be used as a device to circumvent the express appellate mechanism.

28. In view of the foregoing discussion, we hold that the present Applications, though styled as applications for recall under Rule 49(2) read with Rule 11 of the NCLT Rules, 2016, in substance seek reopening of the concluded adjudication, re-appreciation of evidence and reconsideration of the merits of I.A. No. 1232 of 2023.

29. No ground warranting exercise of the limited inherent power of recall has been established. Consequently, the prayer for recall and setting aside of the order dated 18.12.2025 and restoration of I.A. No. 1232 of 2023 qua the Applicants cannot be granted.

30. In consequence, the prayer for recall of the order dated 12.07.2024 and the prayer seeking permission to file replies do not survive independently. The consequential prayer seeking stay of further proceedings in Execution Application No. 677 of 2026 also cannot be granted.

31. Accordingly, **I.A. No. 1428 of 2026** and **I.A. No. 1454 of 2026** are **dismissed** as not maintainable and devoid of merit. The order dated 18.12.2025 passed in I.A. No. 1232 of 2023 remains undisturbed.

-Sd-

SANJEEV SHARMA
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

VP