ITEM NO.1501 COURT NO.6 SECTION XII-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.13536/2026
(@SLP(C)NO.25068 OF 2026)

MODERN ASSET **Appellant(s)**

VERSUS

KNK CONSTRUCTIONS PRIVATE LIMITED **Respondent(s)**

[HEARD BY : HON'BLE J.B. PARDIWALA AND HON'BLE K. VINOD CHANDRAN, JJ.]

IA No. 194522/2026 - EXEMPTION FROM FILING O.T., IA No. 194523/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 244645/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 08-10-2026 This matter was called on prouncement of judgment today.

For Appellant(s) : Mr. Tejas S.r., Adv.
Mr. Anirudh Arunkumar, Adv.
Mr. Thapo Shreshta, Adv.
Ms. Isika Agarwal, Adv.
M/S. Dua Associates- 1537, AOR

For Respondent(s) :Mr. Nikhil Nayyar, Sr. Adv.
Ms. Pritha Srikumar Iyer, Adv.
Ms. Mansi Binjrajka- 4338, AOR
Mr. Subham Jain, Adv.
Ms. Archita Sharma, Adv.

1. HON'BLE MR. JUSTICE K. VINOD CHANDRAN pronounced the judgment of the Bench comprising HON'BLE MR. JUSTICE J.B. PARDIWALA and His Lordship.

2. Leave granted.

3. The appeal is disposed in terms of the signed non-reportable judgment.

4. The relevant part of the non reportable judgment is as under:-

> ***"24. ..... we are of the opinion that just as in the decision in Ujaas Energy Ltd.[6], the appellant should be permitted to raise a counterclaim for the sole purpose of claiming set-off and the appellant would not derive any positive or affirmative relief of recovery on the basis of the counterclaim. However, in the more compelling circumstance of the SRA, being the very erstwhile promoters of the CD, who accepted the claim of the OC, in the CIRP with a major haircut by a Resolution Plan, the SRA is deemed to have accepted the entire claim of the appellant/OC. In the arbitration constituted, after considering the monetary claim raised by the respondent/SRA, the Arbitration Tribunal shall allow set-off to the extent of the entire claim raised by the appellant, before the RP in the CIRP, accepted in toto by the SRA in its resolution plan, favoured with a majority of the CoC and approved by the NCLT.***
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> ***25. The impugned order is sustained with only the above modification that the appellant would be***

entitled to raise the counterclaim as specified above only for the purpose of set-off. If any amounts are found due by the Arbitration Tribunal to be paid by the appellant to the respondent then there shall be a set-off to the extent of the entire counterclaim as put forth by the appellant. Even in the extreme event of the claim of the respondent being found untenable in toto the appellant cannot seek any payment on the basis of such award since his claim stands extinguished as against the CD and the SRA. The benefit granted of the set-off, is only to ensure equity and further the process of preservation of assets of CD in the hands of the SRA, within the contours of the IBC. Needless to observe that the issue raised by the respondent regarding the encashment of the bank guarantee furnished by the respondent, whether it was proper or improper, shall also be considered by the Arbitration Tribunal.

5. Pending application(s), if any, stands disposed of.

(CHANDRESH)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)

(Original signed non reportable judgment is placed on the file)