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

ITEM No.309
IA/527(AHM)2026
in
IA/31(AHM)2025
in
CP(IB) 141 of 2019

Under Rule 11 of NCLT Rules, 2016

IN THE MATTER OF:

Axis Bank Limited ....**Applicant**
V/s
CA Tejas K Shah Liquidator of Avantha Power and Infrastructure & Ors ....**Respondent**

Order delivered on: 13/07/2026

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. 527 of 2026
In
I.A. No. 31 of 2025
In
CP (IB) No. 141/NCLT/AHM/2019

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

In the matter of:

Axis Bank Limited
Having Branch Office at: -
Structured Asset Group
Ahmedabad Main Branch,
Trishul, 4th Floor, Law Garden,
Opp. Samartheshwar Temple,
Ellisbridge, Ahmedabad 380006

.... Applicant

Versus

1. **CA Tejas K Shah**
Liquidator of Avantha Power and Infrastructure Limited (In Liquidation)
Having registered address of the IP (with IBBI) at:
B-201, Narayan Krupa Avenue,
Opp. Prernatirth Derasar,
Satellite, Jodhpur
Ahmedabad 380015

.... Respondent No. 1

2. **Mr. Anil Bhargav**,
Suspended Management of
Avantha Power and Infrastructure Limited
Having residing at: -
C 2/5, 3rd Floor, Vasant Vihar-1,
South West,

New Delhi 110057
E-Mail id. Anil.Bhargava@avanthagroup.com

.... Respondent No. 2

3. **Chiranjiv Singh**
   Suspended Management of
   Avantha Power and Infrastructure Ltd
   Having Correspondence address at
   National High Way No. 836, Sector-21,
   Village Dundahera The. Gurgaon,
   Haryana 122016
   E-Mail ID: - Schiranjiv51@gmail.com

.... Respondent No. 3

4. **Janmejaya Mahapatra**,
   Suspended Management of
   Avantha Power and Infrastructure Limited
   Having Correspondence address at
   C-6/206, PWO Society,
   Near Huda Metro Station,
   Sector 43, Gurgaon,
   Haryana 122001

.... Respondent No. 4

5. **Avantha Holding Limited**
   Having Registered Office at:-
   Thapar House, 124, Janpath,
   New Delhi, Delhi,
   India, 110001
   E-mail ID:- sect.ahl@avanthaholdings.com

.... Respondent No. 5

Order Pronounced on: 13.07.2026

CORAM:

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

For Applicant/Axis Bank : Mr Sumit Parikh, Adv.
For Respondent/Liquidator : Mr Tejas Shah R-1
For the Respondents :Mr. Diwakar Maheshwari, Adv

for R-2, 3 & 5
: R-4 already **Ex-parte**

ORDER
(Per: Bench)

1. The present Interlocutory Application is filed by **Axis Bank Limited** under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 seeking amendment of the cause title and substitution of the Applicant in IA No. 31 of 2025 in CP (IB) No. 141/NCLT/AHM/2019, with the following reliefs: -

a. *Your lordship may be pleased to allow the present Application in the best interest of justice.*
b. *Your Lordship may be pleased to pass necessary direction/order permitting the applicant (viz. one of the Member of the Stakeholder Consultation Committee of the CD) herein to substitute the old/existing Applicant (viz. the Liquidator of the CD) of IA No. 31 of 2025 in CP (IB) No. 141 of 2024, to enable the Applicant herein to prosecute IA No. 31 of 2025, to meet the ends of justice;*

2. The Applicant has placed the **facts** through this petition in the following manner: -

2.1. It is stated that CP (IB) No. 141/NCLT/AHM/2019 was admitted on 16.08.2021, initiating the Corporate Insolvency Resolution Process against the Corporate Debtor. Subsequently, this Tribunal, by order dated 14.06.2024, directed initiation of liquidation proceedings against the Corporate Debtor. Thereafter, by order dated 09.03.2026, this Tribunal approved the sale of the Corporate Debtor as a going concern.

2.2. The Applicant submits that it is duly authorised to institute the present application on behalf of Axis Bank Limited. A copy of the Power of Attorney/Authority Letter authorising Mr. Jitendra Popat has been placed on record as **Annexure-A.**

2.3. It is averred that IA No. 31 of 2025 was originally filed by the Liquidator of the Corporate Debtor seeking directions against the suspended management for contribution to the assets of the Corporate Debtor in respect of alleged wrongful/fraudulent transactions.

2.4. During the pendency of IA No. 31 of 2025, this Tribunal, by order dated 25.02.2026, observed that since the Preferential, Undervalued, Fraudulent and Extortionate (PUFE) Transaction Application had been assigned by the Applicant/Liquidator to the Stakeholder Consultation Committee, Axis Bank Limited should take appropriate steps within seven days for substitution of the Applicant. The

Applicant has relied upon the said order as **Annexure-B**

2.5. It is further stated that the 23rd Meeting of the Stakeholder Consultation Committee was convened on 06.03.2026, wherein the members approved continuation of IA No. 31 of 2025 and resolved that Axis Bank Limited shall pursue the proceedings on behalf of all the members of the Stakeholder Consultation Committee. The minutes of the said meeting have been annexed as **Annexure-C**.

2.6. The Applicant submits that, although the Corporate Debtor has been approved for sale as a going concern, IA No. 31 of 2025 survives and requires adjudication for the benefit of the stakeholders. Therefore, instead of filing a fresh application, the present application has been preferred seeking amendment of the cause title by substituting the Applicant so that the pending interlocutory application may be prosecuted to its logical conclusion.

2.7. Accordingly, the Applicant has prayed for permission to amend the cause title in IA No. 31 of 2025 by substituting the existing Applicant (Liquidator) with Axis Bank Limited, being one of the Members of the Stakeholder Consultation Committee, and for such further orders as this

Tribunal may deem fit.

3. On 07.04.2026, the present application came up for hearing. The Learned Liquidator and Learned Counsel appearing for Respondent Nos. 2, 3 and 5 waived service of notice. The Respondents opposed the application, contending, inter alia, that the application seeking substitution of the Applicant was not maintainable, that Axis Bank Limited lacked locus to seek such substitution, and that no assignment deed or resolution of the Stakeholder Consultation Committee authorising such substitution had been placed on record.

4. In response to the above averments made by the Applicant a **reply** was filed by the **Respondent No. 2, 3 and 5** separately on 15.04.2026 vide Inward Diary No. D- 3207, D-3208 and D-3209 thereby denying all the averments and making following submissions:

4.1. The Respondents submitted that the Corporate Debtor was admitted into CIRP on 16.08.2021 and was ordered to be liquidated vide order dated 14.06.2024, pursuant to which Respondent No.1 was appointed as the Liquidator.

4.2. Thereafter, the Liquidator filed IA No. 31 of 2025 under Section 66 of the Code against the Respondents. It is further submitted that pleadings in the said application stood completed, additional documents were brought on record by the Liquidator by way of affidavit dated 20.11.2025, replies thereto were filed on 15.01.2026, and revised consolidated written submissions were directed to be filed pursuant to the order dated 16.01.2026.

4.3. The Respondents further submitted that during the hearing held on 25.02.2026, the Liquidator stated that:-

> *"... it has been apprised by the Applicant I liquidator that the PUFE Transaction Application has already been assigned by the SCC to Axis Bank. Let appropriate steps be taken by the Axis Bank for substitution of the same positively within a-period of seven days. The Applicant I Liquidator is directed to serve the copy of this order upon the said Axis Bank for compliance of order. "*

4.4. Thereafter, Axis Bank filed the present application seeking substitution of the Liquidator. The present application was first listed before this Tribunal on 07.04.2026. On that date, the Respondents raised preliminary objections regarding the maintainability of the application, whereupon this Tribunal granted them time to file their replies.

4.5. In support of the above, the Respondents have relied upon the orders dated 25.02.2026 and 07.04.2026, annexed as **Annexure-1** and **Annexure-2**, respectively.

4.6. It is submitted that the present application, though described as one seeking amendment of the cause title, in substance seeks substitution of the Applicant and is, therefore, not maintainable. According to the Respondents, the application ought to have been filed by the original Applicant, namely the Liquidator, whereas Axis Bank, being only a member of the Stakeholder Consultation Committee, has no independent statutory right under Section 66 of the Insolvency and Bankruptcy Code, 2016 to seek substitution or prosecute the proceedings.

4.7. The Respondents further submitted that the Applicant has failed to place on record any assignment deed, agreement, resolution or any other document evidencing assignment of IA No. 31 of 2025 in favour of Axis Bank. It is contended that the order dated 25.02.2026 merely records the submission made on behalf of the Liquidator and cannot, by itself, constitute proof of any assignment or confer any legal right upon Axis Bank to seek substitution.

4.8. It is further submitted that the Minutes of the 23rd Meeting of the Stakeholder Consultation Committee dated 06.03.2026 do not contain any resolution approving assignment of IA No. 31 of 2025, substitution of the Liquidator or amendment of the cause title.

4.9. According to the Respondents, the only reference to the substitution application relates to the proposed advocate's fees as liquidation costs, which itself was deferred for voting, and therefore the said minutes do not authorise the relief sought in the present application.

4.10. The Respondents lastly submitted that the Applicant's contention that IA No. 31 of 2025 survives the approval of the sale of the Corporate Debtor as a going concern is unsupported, since the order dated 09.03.2026 has not been annexed with the application.

4.11. It is submitted that the issue regarding continuation of proceedings under Section 66 of the Code after approval of the going concern sale and the manner of dealing with any recovery therefrom requires adjudication. Accordingly, the Respondents prayed for dismissal of the present application.

4.12. In support of the above, the Respondents have relied upon the orders dated 25.02.2026 and 07.04.2026, annexed as **Annexure-1** and **Annexure-2**, respectively.

5. To the above averments made by Respondent No. 2, 3 and 5, a common **rejoinder** affidavit was filed by the Applicant/Axis Bank on 15.04.2026 vide Inward Diary No. D-3258 stating following submissions: -

5.1. It is submitted that the objections raised by the Respondents are hyper-technical, misconceived and contrary to the record, including the orders passed by this Tribunal.

5.2. The Applicant further submitted that the Respondents have misconstrued the provisions of the Insolvency and Bankruptcy Code, 2016 and Regulation 44A of the IBBI (Liquidation Process) Regulations, 2016, and have wrongly alleged that Axis Bank, being one of the members of the Stakeholder Consultation Committee ("SCC"), is not entitled to pursue the present application.

5.3. The Applicant submitted that IA No. 31 of 2025 was instituted by the Liquidator under Section 66 of the Code for avoidance of fraudulent transactions for the benefit of all stakeholders. It is submitted that in the 10th Meeting of the Stakeholder Consultation Committee held on

11.03.2025, the SCC deliberated upon the future course of the PUFE application and resolved that the application would be pursued after closure of the liquidation process on behalf of all stakeholders.

5.4. The Applicant further submitted that, during the hearing held on 25.02.2026, the Liquidator informed this Tribunal that Axis Bank would pursue the PUFE application, pursuant to which this Tribunal directed Axis Bank to take appropriate steps for substitution.

5.5. It is further submitted that the Liquidator informed Axis Bank by e-mail dated 02.03.2026 regarding the said development, and thereafter the matter was deliberated in the 23rd SCC Meeting held on 06.03.2026 and again in the 24th SCC Meeting held on 09.04.2026, wherein the SCC resolved that Axis Bank would continue to prosecute IA No. 31 of 2025 on behalf of all stakeholders.

5.6. In response to the objection that the application is styled as one seeking amendment of the cause title while seeking substitution of the Applicant, the Applicant submitted that the object of the present application is only to obtain permission to amend the cause title so as to reflect that Axis Bank, being a member of the SCC, would pursue IA No. 31 of

2025 on behalf of all stakeholders. It is submitted that the prayer clause necessarily seeks substitution to give effect to the amended cause title and, therefore, the application is maintainable.

5.7. With regard to the objection that the application could only have been filed by the original Applicant, namely the Liquidator, the Applicant submitted that this Tribunal, vide order dated 25.02.2026, specifically directed Axis Bank to take appropriate steps for substitution and to file the necessary application.

5.8. It is further submitted that the Liquidator has accepted and communicated that Axis Bank shall pursue the proceedings and has not opposed the present application. Accordingly, it is contended that the objection regarding locus standi is without merit.

5.9. The Applicant denied the contention that no assignment document has been produced. It is submitted that there has been no assignment of IA No. 31 of 2025 by the SCC to Axis Bank. Reliance is placed upon Regulation 44A of the IBBI (Liquidation Process) Regulations, 2016, which provides that avoidance applications filed under Chapter III or Chapter VI of Part II of the Code shall continue to be pursued after dissolution or closure of the liquidation process in the manner decided by the consultation committee and that the proceeds, if any, shall be distributed in the manner determined by the Committee.

5.10. The Applicant submitted that the SCC, in its 10th Meeting held on 11.03.2025, resolved that. The relevant extract of the discussion is reproduced as under:-

> ***<u>AGENDA NO: 4</u>***
>
> ***<u>TO DISCUSS ON THE FUTURE COURSE OF ACTION FOR THE PUFE APPLICATION FILED BEFORE THE HON'BLE TRIBUNAL.</u>***
>
> *The Liquidator discussed with the SCC members that in view of Regulation 44A of Liquidation process regulations, 2016 that the liquidator shall on the advice of the consultation committee, provide in the application along with the final report filed under regulation 45 for the 45 manner in which proceedings in respect of fraudulent or wrongful trading transactions will be pursued after the closure of the liquidation process and the manner in which the proceeds, if any, from such proceedings shall be distributed.*
>
> *In this regard, the SCC Members suggested that since Axis Bank is the applicant to the company petition, the said Section 66 Application will be pursued by them after the disposal of the Discharge Application. The Axis bank conquered with the view and agreed to pursue the section 66 application after the disposal of discharge application.*
>
> The Liquidator took note of the same.

5.11. Replying to the contention that the Minutes of the 23rd SCC Meeting dated 06.03.2026 do not authorise substitution, the Applicant submitted that the decision authorising Axis Bank to pursue the avoidance application was initially taken in the 10th SCC Meeting held on 11.03.2025, wherein the provisions of Regulation 44A were discussed and the SCC resolved that Axis Bank would pursue the PUFE application.

5.12. It is further submitted that the decision was reaffirmed in the 24th SCC Meeting dated 09.04.2026, wherein, by a majority holding 85.62% voting share, the SCC resolved that Axis Bank shall continue to pursue IA No. 31 of 2025 on behalf of all stakeholders. It is also submitted that the advocate's fees relating to the substitution application, which had earlier been deferred, were approved by the SCC in the said meeting. The Applicant has relied upon **Annexure-A** and **Annexure-B** in support of the above contentions.

5.13. With regard to the objection concerning maintainability of IA No. 31 of 2025 after approval of the sale of the Corporate Debtor as a going concern, the Applicant submitted that the order approving the going concern sale and the proceedings under Section 66 of the Code are independent of each other.

5.14. It is submitted that Regulation 44A expressly recognises continuation of avoidance proceedings even after closure of the liquidation process and, therefore, the present application is maintainable. Accordingly, the Applicant prayed that the present application be allowed.

6. On 05.05.2026, this Tribunal observed that although Respondent No. 1 (Liquidator) had appeared in person on 07.04.2026, waived service of notice and was directed to file his reply within three days, no reply had been filed despite the matter having been adjourned on 15.04.2026. Accordingly, this Tribunal granted Respondent No. 1 a further period of seven days to file his reply, after considering the replies filed by Respondent Nos. 2, 3 and 5 as well as the rejoinder filed by the Applicant, with an advance copy to the Applicant and Respondent Nos. 2, 3 and 5.

7. Pursuant to the order dated 05.05.2026, **Respondent No. 1** (Liquidator) filed his **reply** on 29.05.2026 vide Inward Diary No. D-4293. The relevant submissions contained therein are summarised as under:

7.1. The Liquidator submitted that IA No. 31 of 2025 was instituted under Section 66 of the Insolvency and Bankruptcy Code, 2016 for avoidance of fraudulent transactions allegedly carried out by Respondent Nos. 2 to 5 for the benefit of all stakeholders.

7.2. It is submitted that the future course of the said application was deliberated upon in the 9th Meeting of the Stakeholder Consultation Committee ("SCC") held on 10.02.2025, wherein the members discussed the treatment of avoidance proceedings under the IBBI (Liquidation Process) Regulations, 2016. The Liquidator has relied upon the Minutes of the 9th SCC Meeting annexed as **Annexure-A**.

> "**AGENDA NO: 4**
>
> **TO DISCUSS ON THE FUTURE COURSE OF ACTION FOR THE PUFE APPLICATION FILED BEFORE THE HON'BLE TRIBUNAL.**
>
> *The Liquidator discussed with the SCC members that in view of Regulation 44A of Liquidation process regulations, 2016 that the liquidator shall on the advice of the consultation committee, provide in the application along with the final report filed under regulation 45 for the manner in which proceedings in respect of fraudulent or wrongful trading transactions will be pursued after the closure of the liquidation process and the manner in which the proceeds, if any, from such proceedings shall be distributed.*
>
> *In this regard, the SCC Members suggested that as the claim amount against the Corporate Debtor is on account of Corporate Guarantee to various other Companies, it is necessary to evaluate on the common lender. The SCC Members requested time to discuss on the same and the decision shall be conveyed to the Liquidator accordingly. Accordingly, the agenda item is deferred to next meeting.*
>
> *The Liquidator took note of the same"*

7.3. It is further submitted that in the 10th Meeting of the SCC held on 11.03.2025, the members considered the provisions of Regulation 44A of the IBBI (Liquidation Process) Regulations, 2016 and resolved that Axis Bank Limited would pursue IA No. 31 of 2025 on behalf of all the stakeholders after closure of the liquidation process. The Minutes of the 10th SCC Meeting dated 11.03.2025 have been placed on record as **Annexure-B**.

7.4. The Liquidator further submitted that when IA No. 31 of 2025 came up for hearing on 25.02.2026, he apprised this Tribunal that the PUFE Transaction Application would be pursued by Axis Bank on behalf of all stakeholders, whereupon this Tribunal directed Axis Bank to take appropriate steps for substitution. It is submitted that, pursuant thereto, the Liquidator addressed an e-mail dated 27.02.2026 to Axis Bank communicating the said development. A copy of the said e-mail has been annexed as **Annexure-C**.

7.5. It is submitted that the 23rd Meeting of the Stakeholder Consultation Committee held on 06.03.2026 was convened by the Liquidator, wherein the representative of Axis Bank participated and the developments relating to IA No. 31 of 2025 were discussed. The Applicant has relied upon the Minutes of the 23rd SCC Meeting dated 06.03.2026, annexed as **Annexure-D**.

7.6. The Liquidator submitted that, in view of the decision taken by the SCC, Axis Bank was required to seek appropriate permission from this Tribunal for carrying out the necessary amendment in IA No. 31 of 2025, and accordingly the present application came to be filed. It is further submitted that the present application is in conformity with Regulation 44A of the IBBI (Liquidation Process) Regulations, 2016, which provides that avoidance proceedings shall continue after dissolution or closure of the liquidation process in the manner decided by the Stakeholder Consultation Committee.

7.7. The Liquidator further submitted that after approval of the going concern sale of the Corporate Debtor, the matter was again placed before the 24th Meeting of the SCC held on 09.04.2026, wherein the members, holding 85.62% voting share, resolved that Axis Bank Limited shall continue to pursue IA No. 31 of 2025 on behalf of all the stakeholders. The Minutes of the 24th SCC Meeting dated 09.04.2026 have been annexed as **Annexure-E**.

7.8. The Liquidator lastly submitted that he is only a formal party in the present application and, in view of the decisions taken by the Stakeholder Consultation Committee as well as the provisions of Regulation 44A of the IBBI (Liquidation Process)

Regulations, 2016, the present application deserves to be allowed.

8. In compliance with the order dated 05.06.2026, the Applicant, Axis Bank Limited, filed its **written submissions** on 16.06.2026 vide Inward Diary No. D-4923. The same is taken on record.

9. Further, **Respondent Nos. 1, 2, 3 and 5** also filed their written **submissions**. Respondent No. 1 filed its written submissions on 16.06.2026 vide Inward Diary No. D-4858, while Respondent Nos. 2, 3 and 5 filed their respective written submissions on 15.06.2026 vide Inward Diary Nos. D-4779, D-4778 and D-4783, respectively. The same are taken on record.

Observation of this Tribunal:

10. We have heard the Learned Counsel appearing for the Applicant, the Learned Liquidator appearing in person and the Learned Counsel appearing for Respondent Nos. 2, 3 and 5. We have also considered the pleadings, rejoinders, written submissions, the Minutes of the Stakeholders' Consultation Committee meetings, the orders passed by

this Tribunal from time to time, and the documents placed on record.

11. The present Interlocutory Application has been preferred by Axis Bank Limited, one of the members of the Stakeholders' Consultation Committee ("SCC"), seeking substitution of the Liquidator as the Applicant in IA No. 31 of 2025 instituted under Section 66 of the Insolvency and Bankruptcy Code, 2016 ("the Code").

12. The principal issue that arises for consideration is whether the Applicant, namely Axis Bank Limited, possessed the requisite legal authority and locus standi to institute the present Interlocutory Application seeking substitution of the Liquidator as the Applicant in IA No. 31 of 2025.

13. The factual background is not in dispute. Pursuant to the liquidation order dated 14.06.2024, the Respondent No. 1 was appointed as the Liquidator of the Corporate Debtor. In discharge of the statutory duties entrusted upon him under the Insolvency and Bankruptcy Code, 2016, the Liquidator instituted IA No. 31 of 2025 on 10.12.2024 under Section 66 of the Code seeking appropriate reliefs against the respondents therein. The pleadings in the said application stood completed and the matter had substantially progressed for adjudication.

14. The record further discloses that the issue regarding the future course of the avoidance proceedings was deliberated upon during various meetings of the Stakeholders' Consultation Committee.

15. The Minutes of the 9th SCC Meeting dated 10.02.2025 merely record that the Liquidator apprised the members regarding the pendency of the avoidance application and the requirement prescribed under Regulation 44A of the IBBI (Liquidation Process) Regulations, 2016 concerning the manner in which avoidance proceedings were to be pursued after closure of the liquidation process. The said minutes neither record any decision authorising Axis Bank to prosecute the pending proceedings nor confer any authority upon it to institute an application before this Adjudicating Authority seeking substitution of the Liquidator.

16. Likewise, the Minutes of the 10th SCC Meeting dated 11.03.2025 indicate that the SCC members discussed that

Axis Bank may pursue the avoidance application after closure of the liquidation process on behalf of the stakeholders. However, a careful reading of the said minutes does not reveal any resolution authorising Axis Bank to step into the shoes of the Liquidator in the pending proceedings or empowering it to institute an application seeking substitution before this Adjudicating Authority.

17. It further emerges from the record that while IA No. 31 of 2025 was listed before this Tribunal on 25.02.2026, the Learned Liquidator submitted that the PUFE Transaction Application had been assigned by the Stakeholders' Consultation Committee to Axis Bank. This Tribunal merely recorded the aforesaid submission and observed that appropriate steps may be taken by Axis Bank for seeking substitution. The submission regarding assignment of the proceedings is distinct from substitution of the Applicant before this Tribunal.

18. It is, however, evident from the order dated 25.02.2026 that this Adjudicating Authority neither examined nor adjudicated upon the legality or validity of the alleged assignment. The order merely records the submission made on behalf of the Liquidator and grants liberty to take appropriate steps. Such recording of a submission cannot be construed as a judicial determination of any legal right in favour of Axis Bank.

19. Pursuant thereto, the present application came to be instituted by Axis Bank on 31.03.2026. The maintainability of the application is necessarily required to be examined with reference to the factual and legal position existing on the date of its institution.

20. Upon careful examination of the material available on record, this Tribunal finds that on 31.03.2026 there existed no document which vested Axis Bank with any legal authority to seek substitution of the Liquidator. No assignment deed, agreement, resolution, authority, instrument or any other legally recognised document evidencing transfer or conferment of the right to prosecute the proceedings under Section 66 of the Code has been produced before this Tribunal.

21. Equally, the Minutes of the 23rd SCC Meeting dated 06.03.2026, upon which considerable reliance has been placed by the Applicant, do not contain any agenda item, discussion or resolution authorising substitution of the Liquidator or empowering Axis Bank to institute the present application before this Tribunal.

22. The principal reliance of the Applicant is upon the Resolution passed in the 24th SCC Meeting dated 09.04.2026, whereby the SCC resolved that Axis Bank would pursue the proceedings under Section 66 on behalf of the stakeholders. However, it is an admitted position that the said Resolution came into existence subsequent to the institution of the present application.

23. It is a well-settled principle that the maintainability of a proceeding is ordinarily required to be examined with reference to the legal rights and authority existing on the date of its institution. An application which is incompetent at its inception cannot ordinarily be validated retrospectively by a subsequent authorisation unless the governing statute expressly permits such retrospective validation. No such statutory provision has been brought to the notice of this Tribunal.

24. The competence of a party to institute proceedings is required to exist on the date of institution. Subsequent authorization may cure procedural defects in appropriate cases; however, where the very locus to institute proceedings is absent, such defect goes to the root of maintainability unless the governing statute expressly provides otherwise.

25. This aspect assumes greater significance in the present case since the original proceedings under Section 66 were instituted by the Liquidator in exercise of powers specifically conferred upon him under the Code. The present application has not been preferred by the Liquidator seeking his substitution. Rather, it has been independently instituted by Axis Bank, which admittedly was only one of the members of the Stakeholders' Consultation Committee. In the absence of any subsisting legal authority in its favour on the date of filing, Axis Bank could not have assumed the status of a person competent to maintain the present application.

26. The Proceedings under Section 66 are ordinarily instituted by the Resolution Professional or Liquidator in discharge of their statutory duties under the Code. Unless the statute itself or a legally recognised authority permits substitution, a third party cannot assume the position of the Applicant merely because it may have an interest in the outcome of the proceedings. Consequently, the burden squarely lay upon Axis Bank to demonstrate the legal source of its authority existing on the date of institution of the present application. No such authority has been established from the record.

27. The subsequent Resolution dated 09.04.2026, even if accepted at its highest, cannot retrospectively cure the foundational defect that existed on 31.03.2026, namely the absence of locus standi to institute the proceedings. The defect goes to the root of the maintainability of the application and is not a mere procedural irregularity capable of being cured by subsequent events.

28. Regulation 44A of the IBBI (Liquidation Process) Regulations, 2016 provides as under:-

> ***Regulation 44A: Treatment of avoidance of transaction.***
>
> *[1][**44A.** The liquidator shall, [2][with the approval] of the [3][***] committee, provide in the application along with the final report filed under regulation 45 for the manner in which*

proceedings in respect of avoidance transactions, if any, under Chapter III or fraudulent or wrongful trading under Chapter VI of Part II of the Code, will be pursued after the dissolution or closure of liquidation process and the manner in which the proceeds, if any, from such proceedings shall be distributed.]

29. A plain reading of the aforesaid Regulation shows that it merely obliges the Liquidator, with the approval of the Stakeholders' Consultation Committee, to specify the manner in which pending avoidance proceedings are to be pursued after the dissolution or closure of the liquidation process and the manner in which any proceeds therefrom are to be distributed.

30. The Regulation neither expressly nor by necessary implication confers an independent statutory right upon any member of the Stakeholders' Consultation Committee to institute an application seeking substitution of the Liquidator in pending proceedings, nor does it dispense with the requirement that the applicant must possess the requisite legal authority on the date of institution of such proceedings.

31. In the facts of the present case, this Tribunal finds that when the application was instituted on 31.03.2026, no authority had accrued in favour of the Applicant by way of a resolution or any other legally recognised authority enabling it to seek substitution of the Liquidator. The subsequent Resolution dated 09.04.2026 cannot retrospectively cure the defect existing on the date of filing.

32. At the same time, this Tribunal is conscious that it is neither necessary nor appropriate in the present proceedings to render any final opinion on the larger questions as to whether, and in what circumstances, a person other than the Liquidator may be permitted to prosecute an avoidance application after completion of the liquidation process under the statutory framework. Those questions are expressly left open for consideration in an appropriate proceeding, if occasion so arises.

33. Accordingly, this Tribunal is of the considered view that the present application, as instituted on 31.03.2026, was not maintainable for want of locus standi and legal authority existing on the date of its institution and, therefore, is liable to be dismissed.

34. However, it is clarified that this Tribunal has neither examined the merits of the Applicant's claim nor expressed any opinion on

i. the legal effect or validity of the Resolution dated 09.04.2026;

ii. whether the said Resolution validly authorises Axis Bank to prosecute the proceedings under Section 66 of the Code; or

iii. Whether, after completion of the liquidation process, an avoidance application may lawfully be prosecuted by any person other than the Liquidator in accordance with the statutory framework.

iv. Nothing contained in this order shall affect the pendency of IA No.31 of 2025.

35. Accordingly, dismissal of the present application shall not preclude the Applicant from instituting an appropriate fresh application if otherwise permissible in law, founded upon the subsequent developments and supported by the requisite authority.

36. Accordingly, **IA No. 527 of 2026** stands **dismissed** as not maintainable. No order as to costs.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)
Aditi Jain/LRA

Sd/-

SHAMMI KHAN
MEMBER(JUDICIAL)