NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

10.08.2026

Present: JUSTICE SHARAD KUMAR SHARMA, MEMBER (JUDICIAL)

ARUN BAROKA, MEMBER (TECHNICAL)

Company Appeal (AT) (Insolvency) No. 383 of 2024
&
I.A. No. 1308, 1312 of 2024

(Arising out of Order dated 22.12.2023 passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench - III) in I.A. 1436 of 2021 in Company Petition (IB) No. 512/MB/C-III/2019)

IN THE MATTER OF:

Indrajit Mukherjee
Liquidator of DSK Motors Pvt. Ltd. & Anr. **...Appellants**
Versus

Deputy Director
Directorate Enforcement,
Mumbai Zonal Office II **...Respondent**
Present:

For Appellants	**:**	**Mr. Ashish Verma, Mr. Nikhil Thakur and Ms. Kirti, Advocates.**
For Respondent	**:**	**Mr. Arbaj Kumar and Ms. Vaishnavi Bhargava, Advocates for ED.**

WITH
Company Appeal (AT) (Insolvency) No. 469-470 of 2024
&
I.A. No. 1647, 1648 of 2024

(Arising out of Order dated 22.12.2023 passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench- III) In I.A. 1401 of 2021 & I.A. No. 1431 of 2021, in Company Petition (IB) No. 512/MB/C-III/2019)

IN THE MATTER OF:

Indrajit Mukherjee
Liquidator of DSK Motors Pvt. Ltd. & Anr. **...Appellants**
Versus

Deputy director
Directorate of enforcement,
Mumbai Zonal Office – II **...Respondent**
Present:

For Appellants : Mr. Ashish Verma, Mr. Nikhil Thakur and Ms. Kirti, Advocates.

For Respondent : Mr. Arbaj Kumar, Advocate.

J U D G M E N T

Per Justice Sharad Kumar Sharma, Member (Judicial)

1. This is a batch of two Company Appeals. The issues involved in both appeals are interlinked with one another. For the purpose of brevity, they are being taken up together for final disposal.

2. In Comp. App. (AT) (Ins.) No. 469-470 of 2024, the appellant is aggrieved by the adjudication made on I.A. No. 1401 of 2021. He seeks a suitable order against the Enforcement Directorate for non-adherence to the order passed by the Learned NCLT on I.A. No. 1854 of 2020. The proceedings in I.A. No. 1401 of 2021 and I.A. No. 1431 of 2021 were consolidated for consideration in C.P. No. (IB) 512/MB/C-III/2019. These proceedings were carried under Section 424 of the Companies Act, read with Rule 56 and 57 of the NCLT Rules.

3. The liquidator of M/s DSK Motors Pvt. Ltd. is stated to have invoked the proceedings under Section 424, praying for the following reliefs: -

> *"In view of the facts mentioned in Para VII above, points in dispute and questions of law set out in Para VIII above, the Appellant prays for the following reliefs:*
>
> *a. Set aside the impugned Order dated 22.12.2023 passed in I.A. 1401 and I.A. 1431 in Company Petition No. IB No. 512 (MB)/C-III/2019 by Ld. National Company Law Tribunal, Mumbai Bench.*
>
> *b. Pass such orders or further orders as this Tribunal may deem fit and proper."*

4. These reliefs sought to ensure enforcement of the Order dated 02.02.2021, said to have been passed in the appellant's favour. That order directed the Respondent to release and revoke the attachment of all assets and properties of the Corporate Debtor (CD), from the purview of the Prevention of Money Laundering proceedings, as ordered by the Adjudicating Authority to the Liquidator. Simultaneously, a prayer was also made for initiating appropriate proceedings against the wilful disobedience of the Order dated 02.02.2021.

5. The facts on record show that the Directorate of Enforcement had attached certain assets of M/s DSK Motors Pvt. Ltd. by invoking the provisions of the Prevention of Money Laundering Act. In those proceedings, I.A. No. 1431 of 2021 was preferred for taking cognizance of, and drawing up contempt against, the Government of Maharashtra through its Secretary, Home Department, for non-compliance with the Order passed by the Hon'ble NCLT in I.A. No. 1854 of 2020. This application was filed by the Liquidator, seeking release of the attachment made by the Government of Maharashtra over the assets of M/s DSK Motors Pvt. Ltd.

6. This application came up for consideration and was dismissed as infructuous, in light of the Order passed in I.A. No. 1436 of 2021. That Order is the subject matter of the connected Company Appeal, being Comp. App. (AT) (Ins.) No. 383 of 2024.

7. In the proceedings held before the Learned Tribunal on 02.02.2021, various IAs were consolidated and decided by a common Order. This Order also adjudicated I.A. No. 1854 of 2020. Since none had appeared to oppose the application, it was allowed in terms of the prayer at clause (a), directing the Deputy Director of Enforcement to release the attachment against the assets of the CD, i.e., M/s DSK Motors Pvt. Ltd. The liquidator was called upon to comply with this Order, along with furnishing details of the assets thus attached.

8. The relevant paras of the Order dated 02.02.2021 are extracted below:

> *"I.A. 1854/2020 None appeared for the respondent despite service of notice. Heard the counsel appearing for the liquidator in I.A. 1854/2020. I.A. 1854/2020 is allowed in terms of prayer clause 'a' directing Deputy Director, Directorate of Enforcement, to release the attachment against the assets of the Corporate Debtor M/s DSK Motors Pvt. Ltd. (in Liquidation) More fully described in Exhibit 'B' to the above application The liquidator shall communicate the order along with the details of the assets to the concerned authorities for releasing the*

attachment. With the above direction I.A. No. 1854/2020 stands disposed of"

9. After the Order dated 02.02.2021 was passed, the judgment-holder, i.e., the Liquidator, filed I.A. No. 1401 of 2021. He briefly contended that the Respondent, the Directorate of Enforcement, having been appointed under the Prevention of Money Laundering Act, 2002, was required to comply with the Order dated 02.02.2021. Accordingly, he filed an application under Section 424, read with Rule 56 and 57 of the NCLT Rules, seeking execution of the Order dated 02.02.2021 against the Respondent, praying for release of the assets already attached.

10. The Appellant's basis for enforcement was that he had filed I.A. No. 1854 of 2020, seeking directions to the Respondent to release the attachment of the properties attached under the Prevention of Money Laundering Act. When I.A. No. 1854 of 2020 came up for consideration, the Order dated 02.02.2021 was passed on it.

11. Thereafter, the Applicant/Liquidator filed I.A. No. 1401 of 2021, praying for execution of the Order dated 02.02.2021, and further seeking a direction to initiate disciplinary proceedings against the Respondent for deliberate disobedience of that Order. The reliefs prayed for in I.A. No. 1401 of 2021 are extracted hereunder:

"i. That Order dated 2^nd^ February, 2021 be duly executed in favour of the Applicant at the earliest and accordingly, the Respondent be directed to release/vacate the attachment of all

the assets and properties of the Corporate Debtor from Prevention of Money Laundering Adjudicating Authority to the Liquidator.

ii. That, disciplinary proceedings be initiated and any other appropriate action be taken against the Respondent for willfully disobeying the Order dated 2^nd^ February 2021 of this Hon'ble Tribunal.

iii. For such further reliefs as this Hon'ble Tribunal may deemed necessary in the facts and circumstances of the case.

iv. For cost of the present Application"

12. This application came up for consideration before the Learned Tribunal. While considering the propriety of the relief sought, the Learned Tribunal passed an Order on 22.12.2023. By this impugned Order, which is the subject matter of challenge in Company Appeal (AT) (Ins.) No. 469-470 of 2024, the Tribunal directed the Respondent to release the attachment of the assets of the CD and hand them over to the liquidator, in terms of the Order dated 02.02.2021.

13. This Order was challenged by way of the instant Company Appeal, accompanied by an application for condonation of delay, being I.A. No. 1648 of 2024, praying for condonation of a six-day delay in preferring the appeal. Since the reasons given therein appear logical and satisfactory, the delay of six days deserves to be condoned. Accordingly, the same is condoned, and I.A. No. 1648 of 2024 stands allowed.

14. The Liquidator, while questioning the Order dated 22.12.2023 passed in I.A. No. 1401 of 2021, contended that its propriety cannot be sustained. He submitted that the Order was passed without considering the entire factual controversy that was engaging consideration at that time. However, the Learned Tribunal, while passing the impugned Order dated 22.12.2023, had reiterated the requirement of ensuring compliance with the Order dated 02.02.2021 passed in I.A. No. 1854 of 2020.

15. Hence, the instant Company Appeal has been preferred against the order passed on 22.12.2023. While issuing directions for enforcement of the order dated 02.02.2021 in the order passed on I.A. No. 1401 of 2021, the Learned Tribunal had separately passed an Order in I.A. No. 1436 of 2021, setting aside the Order dated 02.02.2021. Consequently, the relief sought by the Liquidator was not granted.

16. The order dated 22.12.2023, passed in I.A. No. 1436 of 2021, is the subject matter of challenge in Comp. App. (AT) (Ins.) No. 383 of 2024. This appeal was also accompanied by an application seeking condonation of delay, being I.A. No. 1312 of 2024, wherein the Appellant sought condonation of six days' delay. Finding the reasons assigned therein to be satisfactory, we allow application I.A. No. 1312 of 2024 and proceed to decide the appeal on its own merits.

17. In I.A. No. 1436 of 2021, preferred by the Directorate of Enforcement in C.P. No. (IB) 512/MB/C-III/2019, the Deputy Director, Directorate of Enforcement, had prayed for setting aside or recalling the Order dated

02.02.2021, passed in I.A. No. 1854 of 2020. This Order had earlier been sought to be enforced by the Liquidator through I.A. No. 1401 of 2021. In I.A. No. 1436 of 2021, the Enforcement Directorate alleged complete non-compliance with the provisions of Section 32A of the IBC, and prayed for the following reliefs:

> *"In view of the facts mentioned at Para 7 & 8 above and grounds of appeal mentioned at Para 9 above, the appellant prays for the following relief (s):*
>
> *a) That the Ex-parte order dated 02.02.2021 may please be recalled and quashed and set aside;*
>
> *b) That the impugned order 02.02.2021 may please be Reviewed and quashed and set aside and the said I.A. No. 1854 of 2020 may please be heard on merits*
>
> *c) to pass such further or other order as deemed fit and proper in the facts and circumstances of the case."*

18. On a simple perusal of the relief sought in I.A. No. 1436 of 2021, preferred on 11.05.2021, the Directorate of Enforcement contended that the Order dated 02.02.2021, being an ex-parte Order, deserved to be reviewed and quashed. This application came up for consideration before the Learned Tribunal.

19. The Learned Tribunal proceeded to pass the impugned Order dated 22.12.2023, exercising its powers under Rule 49 of the NCLT Rules, for the relief prayed for in I.A. No. 1436 of 2021 by the Enforcement Directorate. By this Order, the Tribunal held that the principal Order passed on 02.02.2021 in I.A. No. 1854 of 2020 was in violation of the principle of natural justice, and deserved to be recalled. Accordingly, I.A. No. 1436 of 2021 was allowed, with a direction that I.A. No. 1854 of 2020 would be considered afresh on its own merits. Against this Order, the present appeal has been preferred, i.e., Comp. App. (AT) (Ins.) No. 383 of 2024.

20. Owing to the recall of the order dated 02.02.2021, passed in I.A. No. 1854 of 2020, by the order dated 22.12.2023 in I.A. No. 1436 of 2021, the consequential and legal effect was that the proceedings stood revived. I.A. No. 1854 of 2020 required fresh consideration on merits, as directed by the order dated 22.12.2023, which is under challenge in Comp. App. (AT) (Ins.) No. 383 of 2024.

21. During the pendency of these Company Appeals, the Learned Tribunal passed a fresh Order dated 29.11.2024 on I.A. No. 1854 of 2020. On its own merits, this Order rejected the release sought of the attachment of the CD's assets, holding that there was no bar against attachment under the Prevention of Money Laundering Act.

22. The subsequent Order passed on 29.11.2024 in I.A. No. 1854 of 2020, preferred in C.P. No. (IB) 512/MB/C-III/2019, is now independently under consideration in Comp. App. (AT) (Ins.) No. 176 of 2025, which is yet to be adjudicated on its merits.

23. The restricted question that falls for consideration now is whether the reliefs sought in I.A. No. 1401 of 2021 and I.A. No. 1436 of 2021 require consideration on merits at all. This is in view of the fact that the earlier Order dated 02.02.2021, passed in I.A. No. 1854 of 2020, has already lost its significance owing to the principle of merger, following the fresh Order passed on 29.11.2024 on I.A. No. 1854 of 2020, which is presently under challenge in the other connected Company Appeal.

24. On a simple ground, the issue agitated in I.A. No. 1401 of 2021 does not hold water and does not survive for consideration on merits in Comp. App. (AT) (Ins.) No. 469-470 of 2024. It was confined to the issue of non-compliance with the Order dated 02.02.2021, and that order now stands superseded by the fresh Order dated 29.11.2024 in I.A. No. 1854 of 2020. Accordingly, the cause perpetuated against the impugned Order dated 22.12.2023, passed in I.A. No. 1401 of 2021 and under consideration in Comp. App. (AT) (Ins.) No. 469-470 of 2024, has for all practical purposes been rendered infructuous. If any enforcement is now required, it must be of the order dated 29.11.2024, passed later in I.A. No. 1854 of 2020, and not of the earlier Order dated 02.02.2021, which was subsequently recalled by the Order dated 22.12.2023 passed in I.A. No. 1436 of 2021.

25. In continuation, since the recall made by the Order of 22.12.2023 in I.A. No. 1436 of 2021, preferred by the Directorate of Enforcement, has in effect recalled the order of 02.02.2021, the matter has been reconsidered and a fresh order has been passed on 29.11.2024. There would be no judicial purpose served in adjudicating upon the propriety of the recall made by the order dated 22.12.2023, passed in I.A. No. 1436 of 2021.

26. The entire controversy in these two Company Appeals may be summarized as follows: -

i. An order was passed on 02.02.2021 in I.A. No. 1854 of 2020, in the following terms: -

> *"I.A. 1854/2020 None appeared for the respondent despite service of notice. Heard the counsel appearing for the liquidator in I.A. 1854/2020. I.A. 1854/2020 is allowed in terms of prayer clause 'a' directing Deputy Director, Directorate of Enforcement, to release the attachment against the assets of the Corporate Debtor M/s DSK Motors Pvt. Ltd. (in Liquidation) More fully described in Exhibit 'B' to the above application The liquidator shall communicate the order along with the details of the assets to the concerned authorities for releasing the attachment. With the above direction I.A. No. 1854/2020 stands disposed of"*

ii. I.A. No. 1401 of 2021 was filed by the Liquidator for enforcement of the order dated 02.02.2021, passed on I.A. No. 1854 of 2020.

iii. I.A. No. 1436 of 2021 was filed by the Directorate of Enforcement to set aside the order dated 02.02.2021, passed on I.A. No. 1854 of 2020.

iv. By order dated 22.12.2023, the order dated 02.02.2021 passed in I.A. No. 1854 of 2020 was recalled, and a direction was issued to reconsider I.A. No. 1854 of 2020 afresh.

v. Thus, Comp. App. (AT) (Ins) No. 469-470 of 2021, challenging the order on I.A. No. 1401 of 2021, becomes a nonest exercise, owing to the order dated 22.12.2023 on I.A. No. 1436 of 2021. Likewise, Comp. App. (AT) (Ins) No. 383 of 2024 becomes a redundant proceeding, because the subsequent order dated 29.11.2024, passed on I.A. No. 1854 of 2020, is under challenge in Comp. App. (AT) (Ins) No. 176 of 2025.

27. For all practical purposes, the entire controversy now requires consideration from the perspective of the fresh Order passed on 29.11.2024, which is already being independently adjudicated in Comp. App. (AT) (Ins.) No. 176 of 2025. There is no purpose in keeping these two appeals pending, since under the principle of merger, as already observed above, the Order of recall dated 22.12.2023 has met its legal death. This is because the fresh order dated 29.11.2024 on I.A. No. 1854 of 2020 would supersede the judicial effect of the earlier order dated 02.02.2021 passed in I.A. No. 1854 of 2020.

28. No fruitful purpose would be attained by adjudicating upon these Company Appeals on merits. All rights are reserved for the parties to agitate their positions through their respective learned counsels in Comp. App. (AT) (Ins.) No. 176 of 2025, wherein the final order dated 29.11.2024, passed in I.A. No. 1854 of 2020 at the instance of the Directorate of Enforcement, is presently under challenge. That question is left open to be agitated by the parties on its own merits, subject to the aforesaid reservations. The instant two Company Appeals are accordingly required to be closed without adjudication on merits.

29. All other interlocutory applications pending in these two Company Appeals, being Comp. App. (AT) (Ins.) No. 383 of 2024 and Comp. App. (AT) (Ins.) No. 469-470 of 2024, shall also stand closed.

30. It is made clear that, while we have kept it open for the parties to raise their grievances regarding enforcement of the Order dated 29.11.2024, in the context of all the grounds taken in the other two connected Appeals now closed by this Order, any observations made by us in deciding these two Company Appeals on the basis of the principle of merger shall not, in any manner, influence the independent adjudication of Comp. App. (AT) (Ins.) No. 176 of 2025, which is to be decided independently. Subject to the above, the Company Appeals are closed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Arun Baroka]
Member (Technical)

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