

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING  
HELD ON **09.06.2026** THROUGH VIDEO CONFERENCE

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**CORAM:** HON'BLE SHRI SANJIV JAIN, MEMBER (JUDICIAL)  
HON'BLE SHRI VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

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**IN THE MATTER OF** : State Bank of India  
Vs  
Sri Venkatram spinners Pvt Ltd

**MAIN PETITION NUMBER** : IBA/216/2019

**(IA/MA) APPLICATION NUMBERS**

IA(IBC)/657(CHE)/2025; IA(IBC)/664(CHE)/2025; IA(IBC)/687(CHE)/2025

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**ORDER**

**IA(IBC)/657(CHE)/2025  
IA(IBC)/664(CHE)/2025  
IA(IBC)/687(CHE)/2025**

Present: Ms. Sushmitha, Ld. Counsel for Applicant / State Bank of India  
Ms. Asishwarya, Ld. Counsel for R2 / Bank of Baroda.  
Mr. A.G.Sathyanarayana, Ld. Counsel for the Liquidator.

Vide common order(s) pronounced in the open Court, all the three applications are dismissed.

-sd-

**[VENKATARAMAN SUBRAMANIAM]  
MEMBER (TECHNICAL)**

MS

-sd-

**[SANJIV JAIN]  
MEMBER (JUDICIAL)**

Date: 09.06.2026

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH – I, CHENNAI**

**IA/657/2024**

**in**

**CP/216/2019**

*(filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of the  
NCLT Rules, 2016)*

*In the matter of Sri Venkatram Spinners Private Limited*

**State Bank of India,**

SAM Branch,

1112, Raja Plaza,

Avinashi Road,

Coimbatore -641037.

... Applicant

Vs

1. CA Mahalingam Suresh Kumar,

Liquidator of Sri Venkatram Spinners Private Limited.

M/s. SPP Insolvency Professionals LLP,

2nd Floor, CODISSIA – GD Naidu Towers,

Huzur Road, Coimbatore – 641 018.

2. Bank of Baroda,

SAM Branch,

4th floor, JBAS Building,

No.45, Moore Street,

Chennai – 600 001.

... Respondents

And

**IA/664/2024**

**in**

**CP/216/2019**

*(filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of the  
NCLT Rules, 2016)*

*In the matter of Sri Venkatram Spinners Private Limited*

**State Bank of India,**  
SAM Branch,  
1112, Raja Plaza,  
Avinashi Road,  
Coimbatore -641037.

... Applicant

Vs

1. CA Mahalingam Suresh Kumar,  
Liquidator of M/s. Sri Venkatram Spinners Private Limited.  
M/s. SPP Insolvency Professionals LLP,  
2nd Floor, CODISSIA – GD Naidu Towers,  
Huzur Road, Coimbatore – 641 018.

2. Bank of Baroda,  
SAM Branch,  
4th floor, JBAS Building,  
No.45, Moore Street,  
Chennai – 600 001.

...Respondents

And

**IA/687/2024**  
**in**  
**CP/216/2019**

*(filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of the  
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*In the matter of Sri Venkatram Spinners Private Limited*

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2. Bank of Baroda,  
SAM Branch,  
4th floor, JBAS Building,  
No.45, Moore Street,  
Chennai – 600 001.

...Respondents

*Order pronounced on 9<sup>th</sup> June, 2026*

**CORAM:**

**SANJIV JAIN, MEMBER (JUDICIAL)**  
**VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

*Ld. Counsels Shri. Pranava Charan, Susmithaa for State Bank of India*

*Ld. Counsel. A.G. Sathyanarayana for Liquidator*

*Ld. Counsel Deepa Mariappan, Vidya for Bank of Baroda*

**COMMON ORDER**

(Heard through Hybrid Mode)

**Per: SANJIV JAIN, MEMBER (JUDICIAL)**

1. **IA 657 CHE 2024** is filed by State Bank of India seeking the following reliefs :

*Declare the decision as regards distribution of sale proceeds in stakeholders meeting dated 02.08.2024 as null and void; pass such further*

*or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.*

2. **IA 664 CHE 2024** is filed by State Bank of India seeking the following reliefs:

It is prayed that this Tribunal may be pleased to allow this Application and:

*a) Consequently, direct Bank of Baroda i.e., Respondent No.2 to return / refund a sum of Rs. 7,33,76,513 along with interest at 12% per annum from the date of the application until the date of payment.*

3. **IA 687 CHE 2024** is filed by State Bank of India seeking the following reliefs:

*a) Direct the liquidator to re-compute / re-distribute the proceeds from the sale of assets of the Corporate Debtor under liquidation, equally among all the secured creditors i.e. the SBI and Bank of Baroda of the Corporate Debtor as envisaged under Section 53 of the Insolvency and Bankruptcy Code.*

#### **4. SBI's submissions**

4.1. It is stated that the sale proceeds of the assets of the Corporate Debtor were not distributed equally among the secured financial creditors as per Section 53 of IBC. The Applicant is challenging the amount which is distributed by the liquidator.

4.2. It is stated that both the Secured Financial Creditors i.e. State Bank of India, and Bank of Baroda (2nd Respondent) relinquished their security interests under Section 52 of IBC. Thus, as per Section 53 of IBC the proceeds from the sale of the liquidation assets have to be distributed equally to the debts owed to a secured creditor when such secured creditors relinquish the security as mentioned in Section 52 of IBC.

The relevant portion of Section 53 of IBC is as below:

**Section 53. Distribution of assets:**

*(1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period and in such manner as may be specified, namely:-*

*(a) the insolvency resolution process costs and the liquidation costs paid in full;*

*(b) the following debts which shall rank equally between and among the following.*

*(i) workmen's dues for the period of twenty-four months preceding the liquidation commencement date: and*

*(ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52.*

4.3. It is stated that the use of the specific words in Section 53 i.e. "... Following debts which shall rank **equally** between and among the following" is important. Section 53(1) expressly does not provide / promote discrimination amongst secured creditors. Further, the Code does not state that the first charge holder has a superior right over the distribution compared to the second charge holder.

4.4. It is stated that Section 53(2) of IBC states that liquidator shall disregard any contractual arrangement between recipient under sub-Section 53(1) with equal ranking if disrupting the order of priority. Also, Section 53(1) very clearly defines the classes and order of water fall mechanism and has no scope for adding other sub-classes.

4.5. It is stated that the distribution as given effect to by the Liquidator is liable to be set aside in light of the judgment of the Hon'ble National Company Law Appellate Tribunal, dated 26.05.2022 in the matter of

*"Oriental Bank of Commerce vs Anil Anchalia and Anr. Being Comp. App. (AT) (Ins.) No.547 off 2022."*

4.6. Hon'ble Supreme Court in "**Resurgence ARC Private Limited vs. Amit Metalik Limited and Anr.- 2021SC OnLine SC 409**" has held that Secured Creditors after having relinquished their security interest, could not exclusively claim any amount realized from secured assets, once they have elected for relinquishment of security interest and thus, they would be governed by the waterfall mechanism as provided under Section 53 of the Code.

4.7. Hon'ble NCLAT, in *State Bank of India vs. IDBI Bank Limited & Ors.*, in Company Appeal (AT) (Insolvency) Nos. 321 of 2024 and 335 of 2024 "*(2025) ibclaw.in 81 NCLAT*" has taken a similar view held that distribution should be based on pro rata basis affirmed the directions issues in **Amit Metaliks Limited (supra)**.

4.8. It is stated that the distribution by the Liquidator being contrary to the law laid down by the Hon'ble NCLAT in the aforementioned judgment, is liable to be set aside and the excess amount be returned by the 2nd Respondent, Bank of Baroda.

4.9. It is stated that the Applicant is entitled to get a sum of Rs. 7,33,76,513 (Rs.13,89,48,652 – Rs. 6,55,72,139). The Applicant raised disputes on the distribution of the amounts by the liquidator in the 12th SCC meeting.

4.10. The Applicant has set forth the details of all the payments / distributed amounts to the Applicant and the 2nd Respondent in **Annexure 1** below and the details of the correct amount which is to be distributed by the 1st Respondent as per Section 53 of the IBC is also being shown in a separate column.

**Annexure 1.**

ANNEXURE 1

S.No.	Description of the asset	Forfeited amount / sale amount and Amount (in Rs.)	Date of sale and Lot No.	Amount distributed to BoB (in Rs.)	Amount distributed to SBI (in Rs.)	Correct amount to be received by BoB as per Section 53 (in Rs.)	Correct amount to be received by SBI as per Section 53 (in Rs.)
1.	Sale od CD as a going concern	17,81,00,000	30.04.2024 and Lot 1	15,12,74,928	1,95,73,883	8,54,24,405.50	8,54,24,405.50
2.	Vacant land at cholapuram	1,12,00,000	20.03.2024 and Lot 5	1,11,60,000	Nil	55,80,000	55,80,000
3.	Wind Mill land along with wind mill	4,70,00,000	20.03.2024 and Lot 4	4,70,00,000	Nil	2,35,00,000	2,35,00,000
4.	Amount received as part of resolution plan from Resolution applicant M/s Ansio industries	4,88,88,493	11.04.2022 and 23.04.2022	28,90,237	4,59,98,256	2,44,44,246.50	2,44,44,246.50
Total				21,23,25,165	6,55,72,139	13,89,48,652	13,89,48,652

## **5. Submissions by Liquidator**

5.1. It is stated the Applicant's prayer to re-compute and re-distribute the proceeds is extraordinary, impermissible, and seeks to unsettle distributions already effected pursuant to statutory processes namely, auction, confirmation by adjudicating authority, deposit in liquidation account, and recording in SCC minutes. The Application is not maintainable as it seeks to disturb distributions duly carried out and to impugn commercial decisions taken and recorded in SCC meetings.

5.2. It is stated that liquidator followed the statutory procedure like invitation of claims, SCC consultations, e-auctions confirmation by Tribunal and thereafter distribution in line with admitted claims and the statutory waterfall. Due regard was given to assets exclusively charged to particular creditors (e.g., assets exclusively first charged to Bank of Baroda). The SCC minutes and distribution workings were transparently placed before the stakeholders.

5.3. It is stated that where an asset was exclusively charged to a single creditor, its realisation was duly attributed to that security holder. The Liquidator accounted for the security architecture and made payments

accordingly. Segregation of amounts was also undertaken for instance, proceeds relating to land owned by promoters sold under a joint SARFAESI arrangement were separately paid to Bank of Baroda. These mechanics are reflected in the distribution table placed on record

5.4. It is stated that the Liquidator convened and recorded in multiple SCC meetings (7th through 12th SCC) decisions regarding reserve prices, mode of sale, and sale terms those were deliberated therein. The sale was subsequently placed before and approved by this tribunal, as required under law.

5.5. It is stated that the Applicant's allegation of non-disclosure of a letter or "conditional relinquishment" is misplaced. The matter was already addressed transparently on affidavit before this Tribunal in earlier proceedings.

5.6. It is stated that even in respect of the forfeiture amounts, 60% was distributed in accordance with the established ratio, and the matter was placed before the Stakeholders' Consultation Committee ("SCC"). In the 12th SCC meeting convened on 09.08.2024, all stakeholders including the Applicant were present and participated in deliberations.

5.7. It is stated that SBI representative requested liquidator to note the following comments in the minutes:

The representative of the SBI requested the liquidator to note the below comments:

*• The SBI representative requested, whether the distribution process will be based on the priority of charge held by each of the secured lenders or the sale proceeds will be distributed proportionately among the Secured Creditors on the basis of claim amount, irrespective of their priority of charge created? The liquidator clarified that amount realized from sale of each of the assets will be distributed to the secured lender based on the priority of charges held by them [Registered charge with MCA]. The SBI representative requested, whether the distribution process will be based on the priority of charge held by each of the secured lenders or the sale proceeds will be distributed proportionately among the Secured Creditors on the basis of claim amount, irrespective of their priority of charge created? The liquidator clarified that amount realized from sale of each of the assets will be distributed to the secured lender based on the priority of charges held by them [Registered charge with MCA].*

*• Further the BOB representative clarified that this was discussed earlier during the CIRP process of the Corporate Debtor and it was mutually agreed for distribution on the basis of priority of charge created and not in the pro-rata basis, which was the standard practice.*

*• The SBI representatives informed the SCC that they will be taking a legal opinion regarding distribution of the sale proceeds in pro-rata basis on the claim amount or on priority of charge.*

*The liquidator briefed the SCC that similar question of law has come before Adjudicating*

*Authority and the matter is pending before Hon'ble Supreme Court [Technology*

*Development Board Vs. Mr. Anil Goel Liquidator of Gujarat Oleo Chem Limited*

*(GOCL) (2021) — Order of NCLAT is stayed and is pending before Supreme Court of India].*

5.8. Details of distribution to secured creditors are as under:

13. Detailed of the Distribution made to the Secured FC as extracted hereunder: -  
(Refer Page No. 05 of the Reply)

Distribution details to the Secured FC:

Sr. No.	Particulars	Amount
1	BOB Bank	16,41,98,190
2	SBI Bank	3,96,76,381
3	Amount paid on forfeiture - BOB	5,17,93,087
4	Amount paid on forfeiture - SBI	2,91,81,540
	<b>Total</b>	<b>28,48,49,198</b>

5.9. It is stated that SBI was fully aware of the methodology adopted. It as present in the SCC meeting, and participated in the deliberations without raising any objection at the relevant time. Having acquiesced in the process, SBI cannot belatedly after six months from the date of distribution, seek to reopen settled issues. The doctrine of estoppel squarely applies, and the present Application is liable to be dismissed as an afterthought, lacking bona fides and legal sustainability.

## **6. Submissions of Bank of Baroda (BOB)**

6.1. It is stated that SBI was aware of the fact that BOB held the first charge on majority of the security assets of the Corporate Debtor while SBI held 2nd Charge over the same.

6.2. It is stated that during the CIRP, Aniso Industries, the Successful Resolution Applicant provided a Resolution Plan for Rs 22.03 crores, out of which, based on the charges created, the amount offered to SBI was Rs. 7.46 crores and the amount offered to BOB was Rs.13.25 crores. The Resolution plan was approved by the CoC comprising of SBI and BOB. However, as the Successful Resolution Applicant failed to pay an amount of Rs.13.20 crores, the CIRP failed and the CoC voted in favour of liquidation and this Tribunal vide Order dated 24.01.2023 ordered liquidation of the Corporate Debtor.

6.3. BOB sought clarification on the basis of distribution of sale proceeds in the 1st SCC Meeting held on 06.02.2023 and the liquidator clarified that the distribution of net sale proceeds would be based on the charge held by the respective lenders on the said assets. Based on the said clarification, the BOB relinquished the assets as per Section 52 of the IBC. Subsequently the net sales proceeds were distributed as per the terms agreed by all the parties including SBI.

6.4. It is stated that the prayers of SBI are in violation of *Inter Creditor agreement* and Principle of Estoppel. It is stated that in the 12th SCC

Meeting dated 02.08.2024, SBI enquired about the basis of distribution and upon the liquidator once again clarifying that the same was based on the charge held by the stakeholders, SBI merely stated that it would be taking legal opinion and accepted the amounts distributed.

6.5. It is stated that SBI did not object to this manner of distribution since inception and it was only by way of this application filed eight months after the 12th SCC Meeting, the objection on the methodology of distribution was raised. Thus, SBI having accorded its consent and also taken benefit by receiving amounts from the distribution of proceeds cannot now challenge the same. The principle of estoppel is applicable for this impugned matter and the Applicant has waived its right, if any, to demand equal distribution of the net sale proceeds.

6.6. In *IA/657/2025*, SBI prayed that this Tribunal should declare the decision taken in 12th SCC Meeting dated 02.08.2024 regarding distribution of sale proceeds as null and void. It is stated that the decisions taken in the said meeting were strictly in accordance with the provisions of IBC and as such the decisions of the 12th SCC Meeting cannot be declared null and void.

6.7. Reliance by SBI on **India Resurgence Arc Private Limited V. Amit Metaliks Limited and Anr [(2021) 19 SCC]**, may not be relevant to the present case as the crux of this judgement is based on Section 30(4) proceedings and the challenges posed to the commercial wisdom of CoC. The said judgement does not make any comments regarding distribution of liquidation sale proceeds between the secured financial creditors on proportionate basis. In view of the fact that neither the circumstances nor the subject matter and the findings of the aforementioned judgement are applicable to the present matter and the said judgement cannot come to the aid of SBI. Nevertheless, keeping in mind the importance given to the commercial wisdom of the COC in such matters, it is relevant to highlight that SBI who had majority voting rights of 75.11% in the COC readily approved the Resolution Plan of Aniso Industries in which resolution amount offered to the Applicant was Rs. 7.46 crores and to the 2nd Respondent was Rs.13.25 crores based on the charges created on the secured assets.

6.8. It is stated that the present issue of inter-se priorities among secured creditors in distribution of assets in liquidation was dealt with by the

NCLT, Ahmedabad Bench in **Technology Development Board v. Mr. Anil Goel & Ors. [I.A. No. 514 of 2019 in CP(IB) No. 4 of 2017]** wherein the Adjudicating Authority held that the inter-se priorities would remain valid in asset distribution in liquidation. This view was set aside by the **Hon'ble NCLAT, Principal Bench in Technology Development Board v. Mr. Anil Goel and Ors. [Comp App (AT) (Ins) No. 731 of 2020]** wherein it was held that all secured creditors who relinquished their secured interest would rank equally in distribution of assets under Section 53(1)(b)(ii). However, as the Hon'ble Apex Court stayed the judgement of the Hon'ble NCLAT, the view of the NCLT Ahmedabad Bench is to be considered. Moreover, the stay order dated 29.07.2021 granted by the Hon'ble Apex Court is subsequent to the pronouncement of the **Amit Metaliks (supra)** judgement dated 13.05.2021. Therefore, inter-se priorities would remain valid in asset distribution even after relinquishment of security by the secured creditors.

6.9. It is stated that in the **UNCITRAL Legislative Guide** on Insolvency Law, the issue of equitable treatment of similarly situated creditors was

discussed while giving importance to priorities and charges. The relevant portion of the Legislative Guide is produced below:

*"13. Recognition and enforcement in insolvency proceedings of the differing rights that creditors had with respect to the debtor and its assets before the commencement of insolvency proceedings will create certainty in the market and facilitate the provision of credit, in particular with respect to the rights and priorities of secured creditors. Clear rules for the ranking of priorities of both existing and post- commencement creditor claims are important to provide predictability to lenders, and to ensure consistent application of the rules, confidence in the proceedings and that all participants are able to adopt appropriate measures to manage risk....."*

6.10. It is stated that the Applicant failed to voice its objections at the relevant stage. It is reiterated that being a member of the Stakeholders' Committee having majority voting rights of 75.11% and being duly represented by its officials, SBI consistently agreed to the distribution based on charges, therefore, the Applicant cannot now raise objections and make arbitrary demands. It is stated that even in the judgments

relied on by the Applicant, the aggrieved party raised objections to the distribution immediately upon having knowledge of the same which the Applicant in the impugned matter failed to do. Allowing such belated application to have a retrospective effect on liquidation procedure would encourage other similar litigations and would invalidate the essence and efforts of the proceedings.

## 7. Analysis and findings

7.1. Heard the learned counsels and perused the submissions of both the parties.

### Relevant Details

7.2. Corporate Debtor was admitted into CIRP on 08.08.2019 and the liquidation order was passed on 24.01.2023. As on date of liquidation order, the following are the financial creditors of the Corporate Debtor:

SL NO	NAME	CLAIM (Rs in crore)	Percentage %
1	STATE BANK OF INDIA	44.32	75.11
2	BANK OF BARODA	14.69	24.89
	<b>Total</b>	<b>59.01</b>	<b>100.00</b>

7.3. Details of the assets in the name of Corporate debtor in liquidation estate and relevant charges which are created in respective assets by the financial creditors are as under:

d. The following are the details of assets in the name of the Corporate Debtor and the relevant charges which are created in the respective assets:

S.No.	Assets	SBI	BoB
1.	Land – Wind Mill – 4.57 Acres Vadi Village in S.No.253/1,2,3&5	Second Charge	First Charge
2.	Vacant land – 3.20 Acres Cholapuram Village in S.No.1239/1, 1239/2A	Second Charge	First Charge
3.	Yarn Godown Land – 7.65 Acres Cholapuram Village in S.No.1269/1, 1270, 1272/3A,3B, 1273/3B & 1274	First Charge	Second Charge
4.	Canteen Land – 15.61 cents Cholapuram Village in S.No.1225/1	Second Charge	First Charge
5.	Cotton Godown Land – 3.21 Acres Cholapuram Village in S.No.1264/2A1 TO 2A8, 1267/1B1,2A to 2E, 1268/3B2 & 3B2	Second Charge	First Charge
6.	Factory Land – 2.63 Acres Cholapuram Village in S.No.1268/1B, 1268/2, 3A,4, 1269/2B	Second Charge	First Charge
7.	Yarn Godown Building Cholapuram Village in 1269/1, 1270, 1272/3A, 3B, 1273/3B & 1274	First Charge	Second Charge
8.	Factory Building other than S.No.7	Second Charge	First Charge

	Cholapuram Village in 1225/1, 1264/2A1 to 2A8, 1267/1B1, 2A to 2E, 1268/3B2 & 3B2, 1268/1B, 1268/2, 3A, 4, 1269/2B		
9.	Plant & Machinery a) RSB Draw Frame LRSB 851 b) Speed Frame LF 1400A c) Testing Equipments d) Manual Cone Winding in Cholapuram Village	First Charge	Second Charge
10.	Plant & Machinery other than S.No.9 in Cholapuram Village	Second Charge	First Charge
11.	Current Assets in Cholapuram Village	First Charge	First Charge

7.4. It is stated that distribution was made as under:

Nature of Assets	Realisable/Realized Value	Amount (In Rs.)	
		BoB	SBI
Factory Land & Building	8.77		
- Asset 1 <sup>st</sup> Charge to BoB		6.98	
- Asset 1 <sup>st</sup> Charge to SBI			1.79
Plant & Machinery	8.31		
- P&M 1 <sup>st</sup> charge to BoB		8.15	
- P&M exclusive charge to CBI			0.17
Financial Assets	0.06		
- Stock & Books debts charge to SBI			0.06
Vacant Land	1.12		

कृते भारतीय स्टेट बैंक For State Bank of India  
 Authorised Officer & Assistant General Manager  
 प्राधिकृत अधिकारी & सहायक महा प्रबंधक  
 मनासमथन कारिनाया प्रबन्धन शाखा, कोयंबटूर  
 Crossed Assets Management Br. Coimbatore

7

- Asset 1 <sup>st</sup> Charge to BoB		1.12	
Wind Mill	4.70		
- Asset 1 <sup>st</sup> Charge to BoB		4.70	
<b>TOTAL</b>	<b>22.96</b>	<b>20.95</b>	<b>2.02</b>

## Contention of the parties

7.5. The contention of SBI is that liquidator should redistribute the proceeds realised from disposing assets in liquidation estate among the secured creditors in proportion to their claims instead of distributing based on their security interest.

SBI relies on **Section 53 (1) (b)** of IBC which states that

*(b) the following debts which shall rank equally between and among the following.*

*(i) workmen's dues for the period of twenty-four months preceding the liquidation commencement date: and*

*(ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52.*

7.6. Specifically it relies on the clause '*rank equally between and among the following*' to support its arguments saying that there can be no discrimination between secured creditors and there is no scope for adding further sub classes as first charge holder/ second charge holder.

It is contended that the distribution by the Liquidator being contrary to the law laid down by the Hon'ble NCLAT in *State Bank of India vs.*

*IDBI Bank Limited & Ors “(2025) ibclaw.in 81 NCLAT”*., is liable to be set aside and the excess amount be returned by the 2nd Respondent, Bank of Baroda.

**7.7. Per contra liquidator** contends that during the CIRP, Aniso Industries, the Successful Resolution Applicant provided a Resolution Plan for Rs 22.03 crores, out of which the amount offered to SBI was Rs. 7.46 crores and the amount offered to BOB was Rs.13.25 crores based on the security charge held. The Resolution plan was approved by the CoC comprising of SBI and BOB.

7.8. Liquidator contends that he followed the statutory procedures involved like invitation of claims, SCC consultations, conduct of e-auctions, confirmation by Tribunal, and thereafter distribution in line with admitted claims and the statutory waterfall. Due regard was given to assets exclusively charged to particular creditors (e.g., assets exclusively first charged to Bank of Baroda). The SCC minutes and distribution workings were transparently placed before stakeholders.

7.9. It is stated that the Liquidator convened and recorded multiple SCC meetings (7th through 12th SCC). Decisions regarding reserve prices,

mode of sale, and sale terms were deliberated. SBI was fully aware of the methodology adopted. It was present in the SCC meeting, and participated in the deliberations without raising any objection at the relevant time. Having acquiesced in the process, SBI cannot now, belatedly after considerable time after the distribution, seek to reopen settled issues. The doctrine of estoppel squarely applies, and the Applications are liable to be dismissed as an afterthought, lacking bona fides and legal sustainability.

7.10. He contends that SBI was aware of the fact that BOB held the first charge on majority of the security assets of the Corporate Debtor while SBI held 2nd Charge over the same.

7.11. He contends that the prayers of SBI are in violation of *Inter Creditor Agreement* and Principle of Estoppel. In the 12th SCC Meeting dated 02.08.2024, SBI enquired about the basis of distribution and upon the liquidator once again clarifying that the same was based on the charge held by the stakeholders, SBI merely stated that it would be taking legal opinion and accepted the amounts distributed. SBI did not object to this manner of distribution since inception and it was only by way of this

application filed much after the 12th SCC Meeting the objection on the methodology of distribution was raised. Thus, SBI having accorded its consent and also taken benefit by way of receiving amounts from the distribution of proceeds cannot now challenge the same. The principle of estoppel is applicable for this impugned matter and the Applicant waived its right, if any, to demand equal distribution of the net sale proceeds.

**7.12. Bank of Baroda** (Respondent No 2) submitted their response in similar lines. They rely on the **stay** of Hon'ble NCLAT's judgement in the case of **Technology Development Board v. Mr. Anil Goel and Ors. [Comp App (AT) (Ins) No. 731 of 2020]** by Hon'ble Supreme Court where it was held that all secured creditors who relinquished their secured interest would rank equally in distribution of assets under Section 53(1)(b)(ii) of IBC.

### **Legal provisions**

7.13. Hon'ble Supreme Court in *ICICI Bank v. SIDCO Leathers Ltd. and Ors. (2017) ibclaw.in 103 SC, Resurgence ARC Private Limited vs. Amit Metalik Limited and Anr.- 2021SC OnLine SC 409*" and Hon'ble NCLAT

in *Oriental Bank of Commerce v. Anil Anchalia* (2022) *ibclaw.in* 392 NCLAT dealt with distribution under Section 53 (1)(b). In *Resurgence ARC Private Limited vs. Amit Metalik Limited and Anr. Supra* Hon'ble Supreme Court deals with the claim of dissenting creditor in relation to the security interest held. Further Hon'ble Supreme Court stayed the order of Hon'ble NCLAT, Principal Bench in **Technology Development Board v. Mr. Anil Goel and Ors. [Comp App (AT) (Ins) No. 731 of 2020]** wherein it was held that all secured creditors who relinquished their secured interest would rank equally in distribution of assets under Section 53(1)(b)(ii).

## **8. Conclusion:**

8.1. It is observed from the submissions that there are only two secured creditors, SBI and BOB to the Corporate Debtor. Bank of Baroda had first charge in many of the assets and State Bank of India had the second charge. SBI had 75.11% voting right in CoC. During CIRP, in the resolution plan given by SRA and approved by CoC, distribution was based on the security interest and not on the basis of claim submitted.

Resolution plan failed as SRA could not bring the plan amount as scheduled and Corporate Debtor was admitted into liquidation.

8.2. In liquidation, 12 SCC meetings were conducted. SBI did not make any objection regarding the distribution pattern except for an observation made on 12<sup>th</sup> SCC meeting where when distribution pattern was discussed, SBI said, 'it would take legal opinion'. SBI did not revert with legal opinion. Instead it accepted the money distributed by liquidator based on security interest without raising any objection. We find that CoC while approving the resolution plan and liquidator while making distribution of sale of assets of liquidation estate consistently followed the principle of uniformly distributing the proceeds on the basis of security interest on various dates from 2022 to 2024 and the same was accepted by the secured lenders.

8.3. The present application has been filed after considerable delay after the 12<sup>th</sup> SCC meeting and disbursement. Hence this application suffers from delay and laches on the part of SBI which will disable SBI from claiming the reliefs. Hon'ble Supreme Court in *Chennai Metropolitan*

***Water Supply and Sewerage Board v. T.T.Murali Babu reported in (2014)***

**4 SCC 108**, held as follows:

*“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant - a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep*

and rise like a phoenix. Delay does bring in hazard and causes injury to the lis."

8.4. Hence the prayers in IAs regarding declaring distribution of liquidator as null and void, liquidator to recompute the distribution and Bank of Baroda to return the excess amount received with interest are rejected.

8.5. In view of the above, **IA 657 of 2024, IA 664 of 2024 and IA 687 of 2024** deserves to be dismissed.

## **ORDER**

**Per: VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

1. I have gone through the Order of Ld. Judicial Member. I respectfully agree with analysis, findings and conclusion drawn by my esteemed brother on the issue.

2. Recent amendment brought in Section 53 of IBC through IBC Amendment Act 2026 also support the decision of the judicial member.

Let us examine the legal provisions. There is a wide spectrum of judicial

pronouncements available in respect of distribution amongst secured creditors in liquidation under Section 53 of IBC.

3. Decision of Hon'ble Supreme Court in *ICICI Bank v. SIDCO Leathers Ltd. and Ors.* (2017) *ibclaw.in* 103 SC and the stay order dated 29.07.2021 of Hon'ble Supreme Court on Hon'ble NCLAT's judgement of **Technology Development Board v. Mr. Anil Goel and Ors.** [Comp App (AT) (Ins) No. 731 of 2020] are in favour of the distribution as per the security interest held under Section 53 of IBC.

4. Whereas , decision of Hon'ble Supreme Court in "**Resurgence ARC Private Limited vs. Amit Metalik Limited and Anr.- 2021SC Online SC 409**", Hon'ble NCLAT's decision in *Oriental Bank of Commerce v. Anil Anchalia* (2022) *ibclaw.in* 392 NCLAT, Hon'ble NCLAT, in *State Bank of India vs. IDBI Bank Limited & Ors.*, in Company Appeal (AT) (Insolvency) Nos. 321 of 2024 and 335 of 2024 "**(2025) ibclaw.in 81 NCLAT**" are in favour of distribution on pro rata basis of the claims submitted.

5. Dichotomy in the views arose due to interpretation of Section 53 (1) (b) of IBC which read as under:

*(b) the following debts which shall rank equally between and among the following:*

*(i) workmen's dues for the period of twenty-four months preceding the liquidation commencement date; and*

*(ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52;*

6. Before proceeding further, let us see the legislative intent from the narrations and commentaries given by various legislative committees. It is observed that honouring of inter creditor arrangement of security interest during insolvency process continuously engaged the **attention of the legislators.**

**7. The UNCITRAL Legislative Guide on Insolvency Law** emphasizes the principle of equitable treatment based on the idea that creditors with similar legal rights should be treated fairly, receiving distributions according to their respective rankings and interests. This principle acknowledges that creditors may have different agreements with the debtor, and they should be treated accordingly.

8. The 2018 Insolvency Law Committee Report and The 2020 Insolvency Law Committee Report also deal with inter se priority of lenders. IBC Amendment Act 2026 also gives a clarificatory note on this. Let us examine how the legislative narrations developed over a period of time.

**REPORT OF THE INSOLVENCY LAW COMMITTEE  
FEBRUARY, 2020**

**8. SUBORDINATION AGREEMENTS WITHIN THE  
LIQUIDATION WATERFALL**

8.1. Section 53(2) of the Code provides that any contractual agreement between parties having an equal ranking in the liquidation waterfall, which disrupts the order of priority laid down under Section 53(1), should be disregarded by the liquidator. In this regard, it was represented before the Committee that there is a degree of uncertainty regarding the correct interpretation of this provision.

8.2. The First ILC Report had clarified the application of this provision on inter- creditor or subordination contracts between secured creditors by stating the following:

*"the Committee was of the opinion that it is sufficiently clear from a plain reading of section 53(1)(b) that it intended to rank workmen's dues equally with debts owed to secured creditors who have relinquished their security. Section 53(1)(b) does not talk about priority inter-se secured creditors. Thus, valid inter-creditor/subordination agreements would continue to govern their relationship. Further sub-section (2) of section 53 must also be interpreted accordingly. For instance, applying section 53(2) in the context of section 53(1)(b), any agreements between workmen and secured creditors which disrupts their pari passu rights will be disregarded by the liquidator. However, agreements inter-se secured creditors do not disturb the equal ranking sought to be provided by section 53(1)(b) and therefore do not fall within the ambit of section 53(2)."*

8.3. Despite this clarification, it was represented before the Committee that the confusion regarding the applicability of Section 53(2) on inter-creditor or subordination agreements among secured creditors have persisted among various stakeholders. **Therefore, in order to clarify the correct interpretation of Section 53(2), the Committee decided that necessary clarification may be provided by inserting an Explanation under Section 53(2) to clarify the correct interpretation of the Section, as explained in the First ILC Report.**

9. **Notes on Clauses** in THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) BILL, 2025. The Notes on Clauses have been introduced to explain in detail the various provisions contained in the Bill. **Clause 32** of the Bill seeks to insert an explanation in sub-clause (ii) of clause (b) of sub-section (1) of section 53 of the Code to clarify that in cases where the value of the security interest that the secured creditor has relinquished to the liquidation estate. *Additionally, the clause seeks to insert illustrations after sub-section (2) to clarify the scope and application of sub-section (2) of section 53.*

10. The **Select Committee on the Insolvency and Bankruptcy Code Amendment Bill 2025 (Eighteenth Lok Sabha) Report** in Para 32.5 (ii) states that based on the suggestions by Ministry of Corporate Affairs seeks to insert illustrations after sub-section (2) to clarify the scope and application of sub-section (2) of section 53 as under:

The two illustrations clarify the application of sub-section (2) of section 53, which ensures that the order of priority amongst equally ranked class of stakeholders under section 53(1) (like workmen and secured creditor) is not disrupted by the contractual arrangement between stakeholders of such different classes having equal priority. Illustration I confirm this understanding. **Further, the proposed Illustration II confirms that valid inter-se arrangements among secured creditors are respected as they are within the same class of creditors, and also imply the restriction under sub-section (2) of section 53 does not apply to these contractual arrangements.**

11. In **IBC Amendment Act 2026**, an illustration has been added in Section 53 (2) regarding the pre-CIRP contractual agreements as under:

### ***Illustration II.***

*“X”, a secured creditor of the corporate debtor, has a contractual arrangement with “Y”, another secured creditor of the corporate debtor. As per the contractual arrangement, in the event of insolvency or liquidation of the corporate debtor, the debt owed to “X” shall be cleared before clearing any debt owed to “Y”. **Such a contractual arrangement shall not be disregarded.**’.*

The illustration clarifies that valid inter-se arrangements among secured creditors are respected as they are within the same class of creditors, and also imply the restriction under sub-section (2) of section 53 does not apply to these contractual arrangements.

12. From the above discussions, it is clear that legislative intent is to recognize the sanctity of existing inter creditor agreement should be recognized and continued during CIRP and liquidation period.

13. *Ministry of Corporate Affairs* through Gazette notification declared that various provisions of the **IBC Amendment Act 2026** including changes made in Section 53 will be **effective from 26<sup>th</sup> May 2026**.

14. Further 'Statement Of Objects And Reasons in THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) BILL, 2025' relating to Clause 32 of the Bill dealing with Section 53 of IBC states that: 'Additionally, the clause seeks to insert illustrations after sub-section (2) to clarify the scope and application of sub-section (2) of section 53.' Clarificatory amendments declare the meaning of the law already in place. Such regulations aim to resolve ambiguities in the existing statute by providing a definitive meaning. Unlike regular amendments, they do not substantively change the law; they merely clarify it. There usually exists a presumption of prospective application of statutes dealing with substantive rights (as opposed to merely procedural). However, clarificatory amendments are treated differently. Since they merely clarify or reinstate the existing law, they are given effect from the date of operation of the parent statute. Hon'ble Supreme Court in Sree Sankaracharya University of Sanskrit and Others v. Dr. Manu and Another in Civil Appeal No. 3752 of 2023, vide order dated 16.05.2023 observed that if any subsequent Order is passed clarifying the position of the previous Order, then the subsequent Order may be made applicable retrospectively.

15. Hon'ble High Court of Madras in *Avenue Realty v. Assistant Commissioner Srirangam (GST Circle) and Ors.*, (2026)ibclaw.in2350HC while dealing with Section 2 of the IBC Amendment Act 2026 amending Section 3(31) of the Insolvency and Bankruptcy Code clarifying the nature of "security interest" held that "Being a clarificatory amendment, there is no doubt that it will have retrospective application."

**16. As the illustrations given in Section 53 under IBC Amendment Act 2026 are clarificatory in nature, it is held that they are retrospective in nature and are applicable to the present case also.** Based on the illustration given, the existing contractual arrangements like first charge, second charge, priority of first charge holder over second charge holder will be honoured in Section 53 of IBC.

**17. In view of the above, it is observed that the distribution made by liquidator based on the security interest held by creditors by recognizing the priority of first charge holder is correct and is as per waterfall mechanism under Section 53 of IBC (amended as on 2026).**

18. I concur with the decision of Ld. Judicial Member.

**Final Conclusion:**

19. In light of the above, **IA 657 of 2024, IA 664 of 2024 and IA 687 of 2024 are dismissed.**

**-Sd-**

**VENKATARAMAN SUBRAMANIAM**  
MEMBER (TECHNICAL)

**-Sd-**

**SANJIV JAIN**  
MEMBER (JUDICIAL)