NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 482/2026
(IA Nos. 1359 & 1360/2026)

In the matter of:

G Balasubramaniam
Promoter/Suspended Director of
Shree Murugan Flour Mills
Pvt Ltd & Anr. **… Appellants**

Vs

P Eswaramoorthy
Liquidator for Shree Murugan Flour
Mills Pvt Ltd & 2 Ors. **… Respondents**

Present :

For Appellants	:	Mr. Sankaranarayanan, Senior Advocate For Dr. K S Ravichandran, PCS
For Respondents	:	Ms. Sangamithra Loganathan, Advocate for R1 Mr. P Eswaramoorthy, Liquidator Mr. ML Ganesh & Ms. Madhuvandi, Advocates for R2 Mr. T Jayashankar, Advocate for R3

With

Company Appeal (AT) (CH) (Ins) No. 483/2026
(IA Nos. 1366, 1367, 1368 & 1369/2026)

In the matter of:

G Balasubramaniam
Promoter/Suspended Director of
Shree Murugan Flour Mills
Pvt Ltd & Anr. **… Appellants**

Vs

P Eswaramoorthy
Liquidator for Shree Murugan Flour
Mills Pvt Ltd & 2 Ors. **… Respondents**

Present :

For Appellants	:	Mr. Sankaranarayanan, Senior Advocate For Dr. K S Ravichandran, PCS

For Respondents : Ms. Sangamithra Loganathan, Advocate for R1
Mr. P Eswaramoorthy, Liquidator
Mr. ML Ganesh & Ms. Madhuvandi, Advocates for R2
Mr. T Jayashankar, Advocate for R3

With

Company Appeal (AT) (CH) (Ins) No. 485/2026
(IA Nos. 1378, 1379 & 1380/2026)

In the matter of:

G Balasubramaniam
Promoter/Suspended Director of
Shree Murugan Flour Mills
Pvt Ltd & Anr. **… Appellants**

Vs

Coimbatore Child Trust Hospital
Pvt Ltd & 2 Ors. **… Respondents**

Present :

For Appellants : Mr. Sankaranarayanan, Senior Advocate
For Dr. K S Ravichandran, PCS

For Respondents : Mr. T Jayashankar, Advocate for R1
Ms. Sangamithra Loganathan, Advocate for R2
Mr. P Eswaramoorthy, Liquidator

ORDER
(Hybrid Mode)

24.09.2026:

This batch of appeals brings to light certain shocking and startling realities in the working of the Code by those whom the Code and the Court trust. The quintessence of the issue here is that the corporate debtor in this case is stated to have borrowed a sum of ₹32.32 crores from M/s. IOB, which is arrayed in these appeals as the second respondent, that in 2019 IOB has classified CD's account as NPA, but retrospectively from 2017.

2. It may be stated that the corporate debtor was engaged in the business of manufacture and sale of wheat flour and maida with its unit in Pollachi. The details which are relevant for the current purpose are as follows:

a) On 23.02.2021, the second respondent issued a notice under Section 13(4) of the SARFAESI Act for the sale of land and building in which the flour mill was operating.

b) Within a month, on 12.03.2021, the second respondent moved a petition under Section 7 of the IBC. And three days thereafter, the sale as contemplated by the notice under Section 13(4) referred to above took place, and IOB is stated to have realised the entire dues less ₹3.16 crores. We are told that this realisation of the amount was not informed by the IOB to the Adjudicating Authority in the pending petition under Sec.7 of the Code. The appellant herein, who is a suspended director of the CD, is stated to have raised this issue in their reply to the Section 7 petition. But the Adjudicating Authority is stated to have overlooked it. It cannot however be blamed for it since the debt was still above ₹.1.0 crore, and hence, there was still ground available for the Adjudicating Authority to admit the CD to CIRP.

c) This order of the Adjudicating Authority was challenged before this Tribunal in Company Appeal (AT) (CH) (Ins) No.141/2022, wherein arguments were completed, and the matter is reserved for pronouncing the Order.

d) It appears the second respondent IOB, notwithstanding the realisation of a substantial part of its dues through auction of land and building, is stated to have still made a claim for the entire sum before the resolution professional. That, however, make little difference since the resolution process failed and the Adjudicating Authority ordered liquidation of the CD on 06.03.2023.

e) At the relevant time, the CD had a credit balance of ₹82.35 lakhs, which is readily available for distribution to adjust against the outstanding debts of the corporate debtor. Indeed, there are only 3 creditors, which included the second respondent herein. This order of liquidation was attempted to be challenged before this Tribunal by the appellant, but that failed since it was barred by limitation.

f) What is intriguing in the whole exercise that has alerted our conscience commences from now. The liquidator, the first respondent herein, has chosen to sell the CD as a going concern when the CD has already been reduced to a shell namely the plant and machinery sans the land and building of which it is fixed, and still call it as a going concern. After all, the land and building have already been sold to a third party under Sec.13(4) of the SARFAESI Act, and the plant and machinery of the CD alone remains to be sold. Still, the liquidator chose to term it as a going concern. He would now go for an e-auction and sells it to the 3rd respondent. According to the 3rd respondent, it purchased the plant and machinery for manufacture of nutritional powder to support its hospital for children.

g) The appellant would now come out with IA 1306/2023 for setting aside the said sale *inter alia* on the ground that the CD no more remains as a going concern, but that was negatived. It may be stated that before IA 1306/2023 was ordered, the appellant herein had taken out IA 2103/2024 with an expert opinion that the plant and machinery could not be used for the manufacture or production of nutritional powder. It is also indicated that the auction purchaser, who has purchased the machinery for the manufacture of nutritional flour for its own purposes, has sold it as scrap.

h) On 12.11.2024, the tribunal below directed to post IA 2103/2024 along with IA 1306/2023. However, on 09.12.2024, IA 1306/2023 was disposed of, rejecting all the grounds and dismissing it. It may, however, be noted that before dismissing IA 1306/2023, the Adjudicating Authority has been cautious enough to obtain an assurance from the auction purchaser vis-à-vis the use of the plant and machinery which it has purchased. The auction purchaser is stated to have asserted its intention to manufacture nutritional flour because it also runs a hospital for children, for whose benefit it intends to manufacture flour.

i) Thereafter, the appellant has filed IA 16/2025 that also came to be dismissed. However, in its order, the Adjudicating Authority has noted that the assurance given by the auction purchaser was false but only imposed a cost of ₹1.0 lakh to be paid to the Prime Minister's Relief Fund. And these orders are now under challenge.

2. Ms. Sangamithra Loganathan, enters appearance for P Eswaramoorthy, Liquidator, Mr. M L Ganesh for Indian Overseas Bank and Mr. T. Jayasankar for Coimbatore Child Trust Hospital Private Limited.

3. We heard the learned counsel for the appellant briefly and went through the impugned orders. What pained us instantly is the falsehood which the auction purchaser has played despite the appellant crying from the rooftop that the machinery is not suitable for manufacture of nutritional powder. The second aspect that pains us is the conduct of the liquidator.

4. So far as the liquidator is concerned, for paying a few lakhs to the creditor, he has sold properties worth substantial value. Secondly, we still wonder how the liquidator believes that plant and machinery without land and building can be sold as a going concern. And when the appellant makes a statement about the non-suitability of the plant and machinery for making the nutritional powder, is it not necessary that the liquidator, as an officer of the Court and supposed to be a neutral party in the proceedings, to take such precautionary measures to evaluate the same? We feel something is amiss in the whole exercise.

5. We direct the liquidator to appear before us with all the minutes of the meetings of the CoC /SCC tomorrow (25.09.2026).

6. Prima facie, we consider that IBC and its purposes have not been handled well with the requisite care that it deserves. Fairness is a hallmark in the working of any enactment, and if fairness and integrity of the entire insolvency resolution process are sacrificed, it alerts us to step in. After all, the liquidation process aims to liquidate the debt of the corporate debtor and not the life of its promoters. It should not be forgotten that after settling all the debts through the insolvency resolution process, anything is left it should belong to the promoters and the shareholders of the corporate debtor. Are they not entitled to the right to life under Article 21 of the Constitution? There are larger questions. But these are still early days in these appeals, and our impressions are only preliminary, but they are serious enough to caution us. This is not the first time we hear such stories. All those who are engaged in the working of IBC at the ground level can write volumes on the misuse of the Code.

7. List these appeals on **25.09.2026**, under the same caption.

[Justice N. Seshasayee]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

DD/MS/AK