NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 262/2026
(IA Nos. 737, 738 & 740/2026)

In the matter of:

Mr. Debashis Bose **… Appellant**

Vs

State Bank of India & Anr. **… Respondents**

Present :

For Appellant	:	Mr. Vijay Narayan, Advocate General For Ms. Deepika Murali, Mr. Ankur Chawla, Mr. Kunal Vajani, Mr. Kanu Agarwal, Mr. Guneet Sidhu, Ms. Nivea, Advocates
For Respondents	:	Mr. Tushar Mehta, Solicitor General of India For Ms. Surabhi Khattar, Mr. Shivansh Vishwakarma, Ms. Pallavi Agarwal, Mr. Surya SP, Advocates for R1 Ms. MS Mano Ranjani, RP for R2

With

Company Appeal (AT) (CH) (Ins) No. 263/2026
(IA Nos. 1145, 742, 743 & 744/2026)

In the matter of:

Ms. Pragya Jhunjhunwala **… Appellant**

Vs

State Bank of India & Anr. **… Respondents**

Present :

For Appellant	:	Mr. Krishnendu Datta, Senior Advocate For Mr. Yash Tandon, Mr. Arun C Mohan, Ms. Swabhhi Tyagi, Mr. Anirban Bhattacharya, Advocates
For Respondents	:	Mr. Tushar Mehta, Solicitor General of India For Ms. Surabhi Khattar, Mr. Shivansh Vishwakarma, Ms. Pallavi Agarwal, Mr. Surya SP, Advocates for R1 Ms. MS Mano Ranjani, RP for R2

ORDER
(Hybrid Mode)

10.09.2026:

Heard Mr. Vijay Narayan, (Advocate General of Tamil Nadu) for the Appellant in Comp App (AT) (CH) (Ins) No.262/2026 party. Arguments of the learned counsel for the appellant to the extent we have heard today may be summarised below: -

(a) The appellant is a suspended director of M/s. India Power Corporation Limited (hereinafter will be referred to an IPCL), an electricity distribution licensee operating in West Bengal, and is stated to be in business since about 1920.

(b) Be that as it may, IPCL chose to invest in M/s. Meenakshi Energy Limited (MEL). It is a power generation company. MEL was promoted by M/s. Engie Global Investments B.V., from whom IPCL chose to purchase 97.5% of formers' shareholding.

(c) Earlier MEL had obtained certain loans from a few financial creditors, of whom SBI and REC are the principal creditors.

(d) To enable the transfer of shares, these financial creditors insisted that, from Engie to IPCL, that IPCL, the proposed transferee of the shares of MEL should provide a corporate guarantee. However, IPCL raised some objection to the execution of the corporate guarantee on the ground that it was against the provisions of West Bengal Electricity

Regulatory Commission (Licensing and Conditions of Licence) Regulations, 2004.

(e) These financial creditors would now obtain a couple of legal opinions according to which the provisions of West Bengal Electricity Regulatory Commission (Licensing and Conditions of Licence) bar only offering the core asset of the distribution licensee as security and not non-core assets. Indeed, the legal advisors of the lenders have given their choice expression to describe this as "regulated assets" and "non-regulated assets". Trusting the same, IPCL has executed a Deed of Guarantee as required, but according to them, it pertains only to its non-core assets.

(f) Subsequent thereto, the appellant moved the WBERC at least thrice for permission to execute the guarantee. It may be stated, in the context of the facts, that it is more about seeking ratification of what has already been done. On the first two instances, IPCL did not disclose the execution of the guarantee deed to WBERC, but on the last occasion, it indicated the same. However, it made no difference to the approach of the Regulatory Commission as it refused permission even on the third occasion. Indeed, the commission also issued a notice to initiate penal action for violating the provisions of the regulations and made this notice is made part of its order on the third occasion.

(g) In the meantime, MEL was exposed to CIRP, and it concluded successfully. Thereafter, the financial creditors turned their guns on the corporate guarantor. This was defended by the IPCL principally on two major grounds:

i) That inasmuch as the WBERC has denied permission for executing a Deed of Guarantee involving even the non-core assets of IPCL, the entire Deed of Guarantee has become void under Section 23 of the Indian Contract Act, 1872.

ii) That at any rate, only the non-core asset is liable and not the core asset, whereas the financial creditor also included the core asset of IPCL.

2. In the course of argument, a few questions crossed our mind. For the benefit of both the parties, we record the same:

a) When the WBERC has taken a decision on the issue of granting permission, is it permissible for the Tribunal constituted under IBC to sit in judgment over the same?

b) Inasmuch as the Electricity Act and the Regulations made therein have also made provision for dealing with the issue of indebtedness of the distribution licensee, will the same come in conflict with the IBC, and how far Section 238 can obliterate or supersede those provisions of the Electricity Act and the Regulations therein in dealing with an intended licensee.

3. For continuation of conclusion of arguments for learned counsel for the appellant in Comp App (AT) (CH) (Ins) No.262/2026. List this matter on **21.09.2026 @ 2 pm,** for the appellant in Comp (AT) (CH) (Ins) No.263/2026 on **23.09.2026 @ 2 pm.**

[Justice N. Seshasayee]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

VG/MS/AK