

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.807/2021

R AND M INTERNATIONAL PVT. LTD. Appellant(s)

VERSUS

ERCON COMPOSITES & ANR. Respondent(s)

WITH

CIVIL APPEAL No. 1781/2021

O R D E R

CIVIL APPEAL NO.807/2021

1. Having heard the learned counsel for the parties and having gone through the materials available on record, we find no good ground to interfere with the impugned order dated 13.01.2021 passed by the National Company Law Appellate Tribunal, Principal Bench at New Delhi in Company Appeal (AT)(Insolvency) No.159/2020.

2. The Civil Appeal is accordingly, dismissed.

3. Pending application(s), if any, also stand disposed of.

CIVIL APPEAL No. 1781/2021

1. The appellant is aggrieved by the observations made in paragraphs 60 and 61 of the order dated 13.01.2021 passed by the National Company Law Appellate Tribunal ('NCLAT' herein after), Principal Bench at New Delhi in Company Appeal (AT) (Insolvency) No.159/2020.

2. The relevant paragraphs are reproduced herein below:

"60. In view of the fact that in the instant case Section 8 notice under 'I&B' Code was not served upon the Second Respondent / Corporate Debtor and admittedly the same got returned as mentioned Supra, this Tribunal comes to a consequent conclusion that the impugned order dated 01.01.2020 passed by the Adjudicating Authority in CP (IB) No.749/MB/C-IV/2017 in admitting the petition is not legally tenable and the same is accordingly set aside by this Tribunal to secure the ends of justice. As a logical corollary, this Tribunal declares illegal the order passed by the 'Adjudicating Authority' in appointing the 'Interim Resolution Professional', declaring moratorium and all other orders passed by the 'Adjudicating Authority' pursuant to the impugned order and action, if any, taken by the 'Interim Resolution Professional' (including the advertisement, if any, published in the

newspaper calling for applications and all such orders) and that the petition/application filed by the First Respondent is dismissed as abated. The Adjudicating Authority is required to close the CIRP proceeding. The Second Respondent/Company is released from all the rigour of Law and is allowed to function independently through its Board of Directors with immediate effect. The Adjudicating Authority will fix the fee of 'Interim Resolution Professional' and the 'Expenses' incurred and that the Appellant will pay the fees of the said Resolution Professional for the period functioned.

61. In fine, the instant Appeal is allowed with aforesaid observations and directions. No costs. IA 389/20(Stay Application) is closed. Before parting with the case, this Tribunal grants liberty to the First Respondent/Operational Creditor to issue fresh notice to the Second Respondent/Corporate Debtor as per Section 8(1) of the 'I&B' Code and on receipt of service of such notice if there is 'Debt and Default', to file a fresh application u/s 9 of the Code before the 'Adjudicating Authority' and to seek redressal of grievances in accordance with law. It is made quite clear that when such fresh application is projected by the First Respondent/Operational Creditor the same is to be determined by the Adjudicating authority on merits, of course in a fair, just and dispassionate manner uninfluenced and untrammelled with any of the observations made by this Tribunal, in the instant Appeal. "

3. According to the learned counsel for the appellant, the position of law is otherwise. He seeks to rely upon the order dated 21.02.2023 passed by the NCLAT, Principal Bench at New Delhi in Company Appeal (AT) (Ins) No.976/2022 which according to him, came to be affirmed by the Supreme Court vide order dated 15.05.2023 passed in Civil Appeal No.3227/2023.

4. If that be so, the appellant could go back to the NCLAT with an appropriate review application and point it out to the appellate tribunal. We do not express any opinion in this regard.

5. With the aforesaid observations, the Appeal stands disposed of.

6. It shall be open for the appellant to come back to this Court, if the adverse orders are made.

7. Pending application(s), if any, shall stand disposed of.

. ,J
[J.B. PARDIWALA]

. , J
[K. VINOD CHANDRAN]

NEW DELHI;
JULY 28, 2026

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.807/2021

R AND M INTERNATIONAL PVT. LTD.

Appellant(s)

VERSUS

ERCON COMPOSITES & ANR.

Respondent(s)

IA No. 32583/2021 - STAY APPLICATION

WITH

C.A. No. 1781/2021 (XVII-B)

IA No. 61802/2021 - EX-PARTE STAY

IA No. 61800/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENTIA No. 61803/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

Date : 28-07-2026 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Appellant(s) : Mr. Sanyat Lodha, AOR
Ms. Navya Goel, Adv.

Mr. Lakshmeesh S. Kamath, AOR
Ms. Samriti Ahuja, Adv.
Ms. Aditi Prakash, Adv.
Ms. Anushka Singhal, Adv.

For Respondent(s) : Mr. Lakshmeesh S. Kamath, AOR
Ms. Samriti Ahuja, Adv.
Ms. Aditi Prakash, Adv.
Ms. Anushka Singhal, Adv.

Mr. Sanyat Lodha, AOR
Ms. Shagun Matta, AOR

UPON hearing the counsel the Court made the following
O R D E R

CIVIL APPEAL NO.807/2021

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed
of.

CIVIL APPEAL No. 1781/2021

The appeal is disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(KRITIKA TIWARI)
COURT MASTER (SH)

(POOJA SHARMA)
COURT MASTER (NSH)

{signed order is placed on file}