NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 611 of 2025

(Arising out of Order dated 09.04.2025 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench-VI in CP(IB) No.1260/MB/2022 with IA No.18/2023, IA No.29/2023 & IA No.4417/2024)

IN THE MATTER OF:

Anil Biyani
Suspended Director of Future Ideas Company Ltd. ...Appellant

Versus

Axis Trustee Services Ltd. & Anr. ...Respondents

Present:

For Appellant	**:**	**Mr. Arun Kathpalia, Sr. Advocate with Ms. Petrushka Dasgupta, Mr. Harsh S. Moorjani, Mr. Mridul Yadav, Ms. Krishna Baruah, Mr. Anand Singh Sengar, Mr. Raghav Mittal, Advocates**
For Respondents	**:**	**Mr. Krishnendu Datta, Sr. Advocate with Ms. Suchitra Valjee, Mr. Varun Nathani, Mr. Sanidhya Kumar, Mr. Ankit Lohia, Ms. Palak Damani, Mr. Kartik Nagarkatti, Ms. Rajyi Shah, Advocates for R1.** **Ms. Priyanka Jain, Ms. Swastika Mukherjee, Advocates for R-2 (IRP).**

J U D G M E N T

ASHOK BHUSHAN, J.

This Appeal by a Suspended Director of the Corporate Debtor ("**CD**") - Future Ideas Company Ltd. has been filed challenging the order dated 09.04.2025 passed by National Company Law Tribunal ("**NCLT**"), Mumbai Bench-VI admitting Section 7 Application filed by Axis Trustee Services Limited. IA No.18 of 2023 and IA No.29 of 2023 filed by the Appellant

were also dismissed and IA No.4417 of 2024 was disposed of by the same order.

2. Brief facts of the case necessary to be noticed for deciding the Appeal are:

(i) A Debenture Trust-cum-Mortgage Deed ("**DTMD**") dated 15.10.2018 was signed and executed between Debenture Trustee – Axis Trustee Services Ltd. (Respondent No.1 herein) and the Corporate Debtor – Future Ideas Company Limited. Schedule I of the DTMD mentions the names of the initial Debenture Holders.

(ii) A Public Announcement was made on 29.08.2020 by Future Group, which commenced a major reorganisation of its businesses, in which key companies in the Future Group were to be merged into Future Enterprises Limited ("**FEL**"). On 29.08.2020 an Acquisition Agreement was entered into between CD and Rivaaz Trade Ventures Pvt. Ltd. ("**RTVPL**"), where debt amounting to Rs.122.83 crores under the Non-Convertible Debentures ("**NCD**") issued by CD was acquired by RTVPL. In the Acquisition Agreement,

neither the Debenture Trustee nor the Debenture Holders were party.

(iii) On 31.08.2020 an email was sent on behalf of the Future Group to a representative of the Debenture Holders, informing them of the composite scheme of arrangement. It was also informed that by way of Acquisition Agreement, RTVPL had acquired the NCDs from FICL. Vide email dated 01.09.2020, representative of Debenture Holders asked for a copy of the Acquisition Agreement from the representative of the Future Group. Copies of the Acquisition Agreement were forwarded to the Debenture Holders on 02.09.2020.

(iv) On 22.10.2020, Financial Creditor issued a notice to the CD, asking for certain repayment. The CD on 20.01.2021 sent an email to the Debenture Holders seeking details regarding the balance outstanding details for the NCDs issued by RTVPL, FICL and NFDIL.

(v) On 27.07.2021 the proposed scheme of arrangement was filed before the NCLT, Mumbai. Debenture Holders voted in the Composite Scheme of Arrangement between Reliance Retail Ventures Ltd. ("**RRVL**"), Future

Group of companies and Reliance Retail and Fashion Limited ("**RRFIL**"). The Composite Scheme of Arrangement was disapproved.

(vi) Respondent issued a notice to the CD and Personal Guarantor. On 01.07.2022, a Demand Notice was issued by Debenture Trustee asking for full repayment of all dues pursuant to "event of default". On 20.10.2022, Financial Creditor filed an Application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "**IBC**") claiming debt and default amounting to Rs.122.83 crores as on 27.09.2022. An affidavit in reply was filed to the Application on 29.12.2022 by the CD, on which date, two IAs were also filed by the CD being IA No.29 of 2023 for dismissal of Section 7 Application on the basis that the debt under NCDs has been acquired by RTVPL and IA No.18 of 2023 for dismissal of the main petition on the ground that it is hit by Section 10A of the IBC. The Financial Creditor filed its rejoinder affidavit as well as reply to IA Nos.18 and 29 of 2023. Certain more affidavits were filed by Debenture Trustee and the CD. The Financial Creditor tendered the

Report on the Audit of the Financial Statements of Frankling Tempelton for the Financial Year 2023-24 at the end of hearing of the Company Petition. On 02.09.2024, the CD filed an IA No.4417 of 2024 seeking relief *inter alia* to not consider the Report for the Financial Year 2023-24 while deciding the main Company Petition. Debenture Trustee filed reply to IA No.4417 of 2024.

(vii) The hearing in all the IAs as well as Company Petition was concluded and the Adjudicating Authority by the impugned order rejected IA No.18 of 2023 and IA No.29 of 2023 and disposed of IA No.4417 of 2024, taking on record the Financial Statement for the year 2023-24 and by the same order admitted Section 7 Application filed by the Debenture Trustee and appointed Mr. Ritesh Agarwal, as an IRP. Aggrieved by the order dated 09.04.2025, this Appeal has been filed.

3. We have heard learned Counsel for the Appellant as well as learned Counsel for the Debenture Trustee and learned Counsel for the IRP on 23.04.2025, when judgment was reserved and it was directed that Committee of Creditors, if not constituted, shall not be constituted till delivery of the judgment.

4. We have heard Shri Arun Kathpalia, learned Senior Counsel appearing for the Appellant and Shri Krishnendu Datta, learned Senior Counsel appearing for the Financial Creditor and Priyanka Jain, learned Counsel appearing for the IRP.

5. Learned Counsel for the Appellant challenging the impugned order submits that after execution of the Acquisition Agreement dated 29.08.2020, the Debenture Holders were intimated of the acquisition by email dated 31.08.2020 and on the request of the Debenture Holders, the Acquisition Agreement was also forwarded. The Debenture Trustee never disputed the Acquisition Agreement and vide email dated 05.10.2021 Debenture Holders sought confirmation of all NCDs issued by the three entities, RTVPL, the CD and NFDIL and evidence of acknowledgement and consent to the Acquisition Agreement. In the Balance Sheet of RTVPL acquisition of debt underlying the subject NCDs as on 31.03.2021 are clearly reflected and in the Balance Sheet of the CD, transfer of NCD to RTVPL is reflected. Debenture Holders has also voted on the scheme in exercise of their voting right on 22.04.2022 in respect of the units of debentures, which stood transferred to RTVPL. The voting by the Debenture Holders of the units transferred to RTVPL is also a clear acknowledgement of the Debenture Holders of transfer of debt under the NCDs to RTVPL. Debenture Trustee cannot dispute the Acquisition Agreement when Debenture Holders have accepted the Acquisition Agreement in various correspondence with the CD. The debts and

liabilities of the CD stood transferred under the Acquisition Agreement to RTVPL and Debenture Holders by their own admissions in contemporaneous correspondence not only acted, but also voted as a creditor of RTVPL. Hence, it is not open for the Financial Creditor to claim any debt with the CD. The CD is no longer a debtor of the Financial Creditor and the Application filed under Section 7 by Financial Creditor against the CD is not maintainable. The Adjudicating Authority erred in not adverting to all the correspondence exchanged between the parties. The Acquisition Agreement was ratified by the conduct of the Debenture Holders and constituted acceptance, waiver and acquiescence on their part, on the basis of which the CD and RTVPL altered their position. The Debenture Holders are bound by principle of waiver and acceptance and cannot claim now that CD is liable for NCDs. The Acquisition Agreement was a concluded contract and was not contingent upon the scheme being approved. The fact that scheme has not been approved by the NCLT, does not have any effect and consequence on the Acquisition Agreement dated 29.08.2020. The contractual issues between the Debenture Holders, the CD and RTVPL are the questions, which cannot be examined and decided by the Adjudicating Authority and the remedy lies in the Civil Court only. The Adjudicating Authority exceeded its jurisdiction in entering into contractual issues and declaring the Acquisition Agreement as void, which is beyond the jurisdiction of the Adjudicating Authority. The Adjudicating Authority cannot exercise jurisdiction of Civil Court in

declaring the Acquisition Agreement as void.

6. Shri Krishnendu Datta, learned Senior Counsel appearing for the Respondent refuting the submissions of the Appellant submits that as per the DTMD, the CD had no right to assign its rights and obligations under the Deed. The Acquisition Agreement relied by the Appellant itself in Clause 2.2 requires the CD to obtain approval/ no objection from the Debenture Trustee. No objection having not been obtained from the Debenture Trustee, the Acquisition Agreement has not even come into force. The purported Acquisition Agreement dated 29.08.2020 was part of composite scheme of arrangement as for the public statement dated 29.08.2020 by Future Group, the composite scheme of arrangement having not been approved, the Acquisition Agreement cannot be implemented. The composite scheme proposed that only upon scheme of arrangement sanctioned by NCLT, debt under the NCDs would be transferred to FEL through Rivaaz. The scheme was subject to regulatory and stakeholders' approval. The scheme ultimately having not been approved, the entire arrangement for acquisition has failed. The email dated 31.08.2020, which was sent to the Debenture Holders, clearly mentioned that FEL would discharge the liabilities under the NCDs and not Rivaaz. The composite scheme having failed, the debentures, which are statutory instruments/ contracts issued under the provisions of the Companies Act, 2013 and ruled framed thereunder, the CD cannot contract out of statutory liability. Reliance on email, which was sent to

Debenture Holders is misplaced. The said correspondence does not constitute any consent to transfer of liabilities to Rivaaz. In the Financial Statement of Financial Creditor, the debt is still shown with the CD and the Acquisition Agreement has never been reflected in the Financial Statement of the Financial Creditor. The email referred by the Appellant during the submission, does not constitute any consent to transfer of liabilities to Rivaaz. The consolidation of debt was only for voting purpose, which did not constitute any consent/ admission to transfer liabilities to Rivaaz. The Debenture Holders have voted against the composite scheme of arrangement. No act of waiver or acquiescence was done by the Debenture Holders to demonstrate that the Debenture Holders treated the assignment of the obligation from the CD to Rivaaz as only an intermediate step and only a part of what was originally envisaged under the scheme of arrangement. The Debenture Holders have never abandoned their right to take legal action to initiate proceedings against the CD for debt due under the NCDs. The Debenture Holders have never waived their right, nor they have agreed to transfer their liability to Rivaaz. The NCLT has considered all relevant judgments relied by the Appellant. The CD in its reply have relied on the Acquisition Agreement dated 29.08.2020 as a defence to Section 7 Application. The Adjudicating Authority did not commit any error in entering into Acquisition Agreement and returning finding as to whether debt under the NCDs stood validly

transferred to Rivaaz. The Adjudicating Authority has ample jurisdiction to consider and answer all issues raised before it.

7. Learned Counsel for the parties have also relied on various judgments of the Hon'ble Supreme Court and this Tribunal in support of their submissions, which shall be noticed hereinafter.

8. We have considered the submissions of learned Counsel for the parties and have perused the records.

9. As noted above, the Adjudicating Authority has decided IA No.18 of 2023, IA No.29 of 2023 as well as IA No.4417 of 2024 while deciding Section 7 Application filed by Debenture Trustee. The issues and objections raised in IA Nos.18 and 29 of 2023 were all objections to Section 7 Application and in the IAs, the CD has prayed for dismissal of Section 7 Application filed by Debenture Trustee.

10. From the submissions raised by learned Counsel for the parties and materials on record, following are the questions, which arise for answer in the present Appeal:

(1) Whether Section 7 Application filed by Respondent No.1 was barred by Section 10A of IBC in view of notice dated 22.10.2020 issued by the Financial Creditor seeking repayment under the mandatory repayment clause under Debenture Trust-cum-Mortgage Deed dated 16.09.2015?

(2) Whether by virtue of Acquisition Agreement dated 29.08.2020 the rights and obligations of CD under the NCDs issued by the CD, stood transferred to RTVPL?

(3) Whether the correspondence between the Debenture Holders and the CD brought on record demonstrate that Debenture Holders have ratified the Acquisition Agreement by their conduct and due to waiver and the acquiescence, they cannot question Acquisition Agreement?

(4) Whether the Adjudicating Authority had jurisdiction to look into the issues raised with regard to Acquisition Agreement and observation of the Adjudicating Authority that DTMD is a statutory contract and any Agreement contrary to the statutory mandate, will be void, are sustainable?

(5) Whether the Adjudicating Authority committed error in accepting the Financial Statements of Franklin Templeton India for Financial Year 2023-24 during the hearing of Section 7 Application?

(6) Whether the order of Adjudicating Authority dated 09.04.2025 is not sustainable?

11. Before we enter into various Questions noticed above, we need to notice certain Clauses of Debenture Trust-cum-Mortgage Deed dated 15.10.2018, which is basis of Application under Section 7 by the

Debenture Trustee. The DTMD dated 15.10.2018 was entered into between Future Ideas Company Limited, the CD and Axis Trustee Services Ltd. Clause 3 of the DTMD deals with 'Amount of Debentures and Covenant to pay Principal and Interest'. Clause 3.1 deals with Amount of Debentures. Clause 3.2 deals with 'Covenant to pay principal and interest'. Clause 10.2 contains certain 'Negative Covenants', which are as follows:

> "**10.2 Negative Covenants**
>
> The Company shall not, without procuring the prior written consent of the Debenture. Trustee (acting on the instructions of the Majority Debenture Holders):
>
> (a) undertake or enter into any amalgamation, demerger, merger or corporate restructuring or reconstruction scheme proposed;
>
> (b) incur any Financial Indebtedness;
>
> (c) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise encumber or dispose the Mortgaged Property or any part thereof,
>
> (d) It is being carried (d) make any change in the nature and conduct of its business (from what is t out as the date hereof);
>
> (e) voluntarily wind up, liquidate or dissolve its affairs;
>
> (f) purchase, redeem or buyback its shares or reduce its share capital;
>
> (g) enter into any agreement which conflicts with the provisions of this Deed or the other Transaction Documents;

(h) amend or modify the object clause set out in the memorandum and articles of association of the Company:

(i) make any changes to its accounting policies or accounting methods or change its financial year from April 1-March 31, unless otherwise required under Applicable Law;

(j) make any changes, amendments or modifications to any of the Master License Agreements, the Tri-partite Agreements or the Escrow Agreement or exercise any of the rights of the Company or grant any waivers or indulgences under the Master License Agreements, the Tri-partite Agreements or the Escrow Agreement;

(k) sell, transfer, assign or otherwise create any Encumbrance over the Future Trademarks (as defined in the Master License Agreement) and shall at all times continue to hold all right, title and interest in respect thereto.

12. Clause 13 deals with 'Event of default and remedies'. Clause 17 deals with 'Modifications to these presents', which is as follows:

"**17. MODIFICATIONS TO THESE PRESENTS**

The Debenture Trustee shall concur with the Company in making any modifications to these presents which in the opinion of the Debenture Trustee shall be expedient to make provided that the modification has been approved by the Majority Debenture Holders, the Debenture Trustee shall give effect to the same by executing necessary supplemental deed(s) to these presents."

13. Schedule-I, list four initial Debenture Holders and Number of Debentures and Series. Clause 12 of the Schedule-II, deals with 'Transfer of Debentures', where clause 12.2. deals with the Debenture Holders shall also have the right to novate, transfer and assign its rights and/ or the

benefits under the Transaction Documents with prior notice to the Company. Clause 12.3 provides that Company shall not be entitled to assign any of its rights, duties or obligations under the Transaction Documents or in relation to the Debentures. Clauses 12.2 and 12.3 are as follows:

> "12.2 The Debenture Holders shall also have the right to novate, transfer or assign its rights and/or the benefits under the Transaction Documents upon such transfer/transmission of the Debentures with prior notice to the Company and at the Debenture Holders' own cost and expense.
>
> 12.3 It is clarified that the Company shall not be entitled to assign any of the rights, duties of obligations under the Transaction Documents or in relation to the Debentures."

14. Schedule-IV of the Deed deals with 'Payment Dates'. Another document, which needs to be noticed is the Acquisition Agreement dated 29.08.2020, which is filed as Annexure A-5 to the Appeal. The Acquisition Agreement is entered between Future Ideas Company Limited, the CD and Rivaaz Trade Ventures Pvt. Ltd., who are referred to as Buyer and the Seller. It is useful to extract the opening part of the Acquisition Agreement, which is as follows:

> "**ACQUISITION AGREEMENT**
>
> This Acquisition Agreement (Agreement) is executed on this 29th day of August 2020 (Execution Date), between:
>
> (1) **FUTURE IDEAS COMPANY LIMITED**, a company incorporated under the laws of India, having its principal office at Knowledge House, Shyam Nagar, Off. JVLR,

Jogeshwari (East), Mumbai 400 060 (hereinafter referred to as the Seller, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors) of the **FIRST PART**; and

(2) **RIVAAZ TRADE VENTURES PRIVATE LIMITED**, a company incorporated under the laws of India, having its principal office at 101, Shivam Building. Mistry Complex, JB Nagar, Andheri East, Mumbai 400 059 (hereinafter referred to as the Buyer, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors) of the **SECOND PART**.

The Buyer and the Seller are collectively referred to as the Parties, and the term Party shall refer to any of them.

WHEREAS:

A. The Parties have agreed that the Seller shall sell and transfer to the Buyer, and the Buyer shall purchase and receive from the Seller, the Identified Assets (as defined below) and Identified Liabilities (as defined below) of the Seller, for consideration of an amount equivalent to the Consideration (as defined below) and upon the terms set forth herein.

B. The Parties have agreed that only the Identified Assets and the Identified Liabilities shall be transferred by the Seller to the Buyer and the remaining assets and liabilities of the Seller shall continue to remain with the Seller.

C. The Seller and the Buyer wish to record in this Agreement the terms of the proposed transfer of the Identified Assets and the Identified Liabilities."

15. Schedule-2 of the Acquisition Agreement deals with 'Identified Liabilities'. Schedule-2 of the Acquisition Agreement is as follows:

"**SCHEDULE 2**

IDENTIFIED LIABILITIES

1. The obligations of the Sellers in respect of repayment of outstanding amounts in relation to the non-convertible debentures issued to Franklin India, under financing documents executed by the Seller in respect thereof (including but not limited to Debenture Trust Deed cum Mortgage Deed dated 16 September 2015 executed by the Seller and Axis Trustee Services Limited (in its capacity as the debenture holder) and all documents identified as 'debenture documents therein), for which the total outstanding amounts as of the Execution Date is INR 30 Crores (NCDs I).

2. The obligations of the Seller in respect of repayment of outstanding amounts, in relation to the non-convertible debentures issued to Franklin India, under financing documents executed by the Seller in respect thereof (including but not limited to Debenture Trust Deed cum Mortgage Deed dated 15 October 2018 executed by the Seller and Axis Trustee Services Limited (in its capacity as the debenture holder) and all documents identified as 'debenture documents therein), for which the total outstanding amounts as of the Execution Date is INR 97.5 Crores (NCDs II)."

16. We may also notice the Part-IV of the Company Petition filed by the Axis Trustee Services Ltd under Section 7 against the CD. In the synopsis of Section 7 Application, the Axis Trustee Services Ltd. has given following brief facts:

"**SYNOPSIS**

The Applicant subscribed to 1000 (One Thousand) rated, unlisted, secured, redeemable non-convertible debentures each having a face value of Rs. 10,00,000/- (Rupees Ten Lakh Only) in 4 series viz. Series A, Series B, Series C, and Series D aggregating to Rs. 100,00,00,000/- (Rupees One Hundred Crores Only)]. As condition precedent to the issuance of the debentures by the Corporate Debtor, various documents were executed in favor of the Applicant including a Debenture Trust cum Mortgage Deed dated 15 October 2018 recording the terms of the debentures and creation of security including movable and immovable properties as mentioned therein. In accordance with the terms of the transaction Documents, the Corporate Debtor was required to redeem the Debentures and pay coupon at the rates and on the dates as specified therein.

There were certain defaults committed by the Corporate Debtor around 2020, due to which the Applicant was constrained to issue a Notice dated 22 October 2020 through their Advocates recording the defaults and calling upon the Corporate Debtor to make payment as mentioned therein. Considering the Corporate Debtor committed default in Redemption of the Debentures on the due date i.e., 30th March 2022, the same was construed as an Event of Default under the transaction documents. Applicant was constrained to issue a Notice dated 1st July 2022 calling upon the Corporate Debtor to make payment of all amounts under and in respect of the debentures. Instead of making payment of the amounts under said Debentures, the corporate debtor by its response dated 7th July 2022 raised frivolous defenses which was responded to by the Corporate Debtor by their Rejoinder dated 21st July 2022. Despite receipt of the Notices, the corporate debtor has failed to honor the Notices issued by the Applicant and comply with their obligations of payment. The present amount of Debt is Rs.

122,83,28,079/- as on 27th September 2022 which is much more than the mandated limited under the Code.

The debt and default are established, and the Corporate Debtor has even acknowledged its liability as recorded in the balance sheet for the year ended 21st March 2022.

In light of the above, the Corporate Debtor having defaulted in the repayment dues, the Applicant is constrained to file the present Application for triggering Corporate Insolvency Resolution process of the Corporate Debtor under the Insolvency & Bankruptcy Code, 2016.

Since the Registered office of the Corporate Debtor is situated in Raigad, Maharashtra, this Hon'ble Tribunal has the territorial jurisdiction to entertain the present Application."

17. Part-IV of Section 7 Application mentions the total amount of debt and defaulted amount as Rs.122,83,28,079/- and date of default is mentioned as 30.04.2021. Part-IV of Section 7 Application is as follows:

"PARTICULARS OF FINANCIAL DEBT		
1.	TOTAL AMOUNT OF DEBT GRANTED	**A. <u>Total Amount of Debt granted.</u>** Rs. 100,00,00,000/- (Rupees One Hundred Crores Only). [With respect to 1000 (One Thousand) rated, unlisted, secured, redeemable non-convertible debentures each having a face value of Rs. 10,00,000/- (Rupees Ten Lakh Only) in 4 series viz. Series A, Series B, Series C, and Series D

		aggregating to Rs. 100,00,00,000/- (Rupees One Hundred Crores Only)]. Purpose: For general corporate purposes including without limitation the acquisition of movable assets and repayment of existing borrowings.
	DATE(S) OF DISBURSEMENT	Date of Disbursement/ Subscription of NCDs: 28th September 2018.
2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKING FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM)	**A. <u>Default Amount:</u>** Total amount payable as on 27th September 2022 is Rs. 122,83,28,079 (One Hundred Twenty-Two Crores Eighty-Three Lakhs, Twenty-Eight Thousand and Seventy-Nine Only) **B. Date of Default:** 30th April 2021 [When Debentures were to be redeemed as per the Debenture Trust cum Mortgage Deed dated 15th October 2018] The Computation of Claim Amount has been annexed herewith at **<u>ANNEXURE 5</u>**."

18. After having noticed the Debenture Trust-cum-Mortgage Deed dated 15.10.2018, Acquisition Agreement dated 29.10.2020 and Part-VI of Section 7 Application, now we proceed to consider the Questions.

Question No.(1)

19. The CD by filing an IA No.18 of 2023 has prayed for rejection of Section 7 Application on the grounds of bar of Section 10A of the IBC. The basis of the Application – IA No.18 of 2023 is the notice dated 22.10.2020, by which according to the CD, the Financial Creditor sought repayment under the Mandatory Prepayment clause of previous Debenture Trust-cum-Mortgage Deed dated 16.09.2015, due to a default caused by the downgrading of debenture ratings between March and August, 2018. The notice dated 22.10.2020 is filed as Annexure A-7 to the Appeal. The said notice was issued in reference to downgrading of the ratings of debentures, which entitled the Financial Creditor – Debenture Holders to trigger the Mandatory Prepayment Option. It is useful to refer to paragraphs 12, 13 and 14 of the notice, which clearly indicate that Debenture Trustee reserve its right to accelerate the redemption of the Debentures. Paragraphs 12, 13 and 14 are as follows:

> "12. Further, per the Transaction Documents, in the event the rating of the Debentures, at any point in time until the Final Settlement Date, falls to or below BBB+, each of the Debentures Holders shall be entitled to exercise the Mandatory Prepayment Options and the Company shall be

obligated to comply with the Mandatory Prepayment Notice. Considering the present rating of the Debentures at D(CE) level which is below the Mandatory Prepayment Option Threshold, and which entitles our client to trigger the Mandatory Prepayment Option, and our client reserves its rights to exercise the same, as and when required.

13. From the foregoing, it is manifest that the Company has committed several breaches under the Transaction Documents and failed to make payment of the scheduled amount on the due dates. Our client is compelled to record that the above breaches are continuous, subsisting and un-remedied till date.

14. In view of what is stated hereinabove, the Event of Default has occurred under the Deed and our client, in accordance with the terms of the terms of Transaction Documents, reserves its right to accelerate the redemption of the Debentures."

20. The notice also referred to email dated 31.08.2020 sent on behalf of CD, the Issuer and Future group confirming that all the amounts due and payable by the Company shall be paid off upon completion of the ongoing transaction between Future Group and Reliance Retail Ventures Ltd. The said statement has been noticed in paragraph 15 of the notice, which is as follows:

"15. Our client finds it pertinent to· point out that by email dated 31st August 2020, Mr. Akhilesh Kalra, on behalf of the Issuer and Future group, had confirmed that all the amounts due and payable by the Company shall be paid off upon completion of the ongoing transaction between Future Group and Reliance Retail Ventures Ltd. The Company is,

> therefore, obligated to honor its commitment to our client in respect of the Debentures.

21. What was asked by the notice, was confirmation of full payment of all dues, which was consequent to communication dated 31.08.2020 that all amount due and payable by the Company shall be paid upon completion of ongoing transaction between Future Group and Reliance Retail Ventures Ltd. We have also noticed above that the scheme of composite arrangement, as was to enter into between Future Group and Reliance Retail Ventures Ltd., subsequently failed. We have also noticed Part-IV of Section 7 Application, which was basis of initiation of Section 7 Application. The date of default mentioned in Part-IV of the Application is 30.04.2021 and it also mentions that debentures were to be redeemed as per the DTMD dated 15.10.2018. The DTMD dated 15.10.2018 as noticed above contained a schedule regarding payment details. The date, 30.04.2021 is one of the dates of Redemption Schedule as per Schedule-IV 'Payment Dates' and amount of Rs. 5 crores were to be paid. The payment dates indicate that default in repayment also prior to 24.03.2021. It is well settled that Section 7 Application can very well be filed by a Financial Creditor on defaults committed by the CD, which defaults are committed subsequent to 10A period. The present is a case where Section 7 Application clearly mentions the date of default as 30.04.2021, hence, the Adjudicating Authority has rightly not accepted the submission of the CD that Application is barred by Section 10A. The

Adjudicating Authority in paragraph 8.7 has observed that Financial Creditor cannot be held to be barred from filing application under Section 7 on the basis of default subsequent to Section 10A period. Paragraphs 8.7 and 8.8 of the impugned order are as follows:

> "**8.7** Be that as it may, it is now well-settled that Section 10A will have no bearing on defaults occurring after the expiry of the prohibited period. We find merit in the Respondent's contention that since the Applicant/Corporate Debtor has committed multiple defaults not only during the suspension period covered by Section 10A but also beyond such period, there is no bar on the Respondent/Financial Creditor to prefer application under Section 7 based on the subsequent defaults not covered by the prohibited period. Merely because the Applicant/Corporate Debtor committed default during the Section 10A period, it cannot be said that the Respondent/Financial Creditor is now barred from filing application under Section 7 on the basis of default subsequent to Section 10A period. There is no embargo under Section 7 of the Code, which prevents the Respondent/ Financial Creditor from approaching the Adjudicating Authority on the occurrence of a default subsequent to the prohibited period. Section 10A has no application when an action is initiated for default which occurred subsequent to Section 10A period, as held by the Hon'ble NCLAT in its judgment on more or less similar facts in the matter of a related entity of the Applicant/ Corporate Debtor, namely, ***NuFuture Digital (1) Ltd. Vs. Axis Trustee Services Ltd.*** [(2023) SCC OnLine NCLAT 242]. Therefore, when a subsequent default takes place in the post-suspension period, the Applicant/Corporate Debtor cannot claim that the Respondent is attempting to shift the date of default or that the subsequent notice dated 01.07.2022 is contradictory to the previous notice dated 22.10.2020, because both these notices are in relation to two separate issues of the

> debentures as well as separate events of default giving rise to separate causes of action. In view of this position, reliance of the Applicant/Corporate Debtor on the decisions in ***ITC Ltd*** (supra) and ***Jagdish Prasad Sarada*** (supra) is misconceived and is accordingly of no avail."

22. We, thus, are of the view that Application filed under Section 7 by the Financial Creditor was not barred by Section 10A and Adjudicating Authority has rightly held that Application was not barred by 10A. There is no error in the order of Adjudicating Authority rejecting IA No.18 of 2023. Question No.(1) is answered accordingly.

Question Nos.(2) & (3)

23. Both the questions being interrelated are being taken together.

24. The Acquisition Agreement dated 29.08.2020 was entered between corporate debtor and Rivaaz Trade Ventures Private Limited (hereinafter referred to as 'RTVPL' or 'Rivaaz'). The financial creditor, debenture trustee or the debenture holder were not part to the Agreement. Clause 2.2 of the Acquisition Agreement provided that identified liabilities by the seller to the buyers shall be subject to receipt of approval/non-objection letters from Axis Trustee Service Limited, debenture trustee in respect of NCD 1 and NCD 2. The corporate debtor has not pleaded or claimed that any approval or no objection letter was received from Axis Trustee Service Limited. The case set up before the adjudicating authority by the corporate debtor in I.A. No.29/2023, as well as in reply to Section 7 application

based on email dated 31.08.2020 sent by the corporate debtor to the debenture holders and other correspondence exchanged between the parties on basis of which, according to the corporate debtor, transfer of liability is substantiated. In paragraph 4.1 of the impugned order, adjudicating authority has noticed the averments of the corporate debtor. It is useful to extract paragraph 4.1 of the impugned order, which is as follows:

> "4.1 The Respondent/Financial Creditor no longer qualifies as a creditor under Sections 3 and 5(8) of the Code, as the liabilities related to the NCDs have been acquired by RTVPL under an Acquisition Agreement dated 29.08.2020. The Respondent is no more a creditor also in the books of account of the Corporate Debtor. The Acquisition Agreement was communicated to the Debenture Holders by the Corporate Debtor vide email dated 31.08.2020, without any contemporaneous dispute being raised. The following correspondences and notices exchanged between the parties further substantiate the transfer of liabilities under the NCDs:-
>
> a. Emails dated 05.10.2021 titled "Future Group- NCDs and 31.03.2022 titled "Rivaaz- outstanding as of Jan 31, 2022" from the Debenture Holders to the Corporate Debtor confirmed the consolidation of NCDs under RTVPL, amounting to Rs. 1004,24, 16,661/-. In email dated 06.10.2021, a confirmation of the consolidation of NCDs with RTVPL was provided to the Debenture Holders.
>
> b. Email dated 31.03.2022, titled "Rivaaz - Outstanding as of Jan 31, 2022: The Debenture Holders acknowledged that the debt underlying the NCDs had vested in RTVPL as of 31.01.2022. An internal email dated 29.12.2021 from the Debenture Holders acknowledged their exposure to RTVPL regarding the NCDs in place of the Applicant.
>
> c. In the Notice dated 20.04.2022 addressed by the Financial Creditor to Mr. Kishore Biyani regarding invocation of Deed of Guarantee cum Undertaking dated 27.09.2018, the Debenture Holders, through paragraph 5 of the notice, admitted having knowledge of the Acquisition Agreement as far back as 31.08.2020.
>
> d. Additionally, the Applicant's balance sheet as on 31.03.2021 evidences the transfer of long-term borrowings amounting to Rs. 1,27,50,00,000/-, as the value under long-term borrowings became

> nil between 31.03.2020 and 31.03.2021. Correspondingly, RTVPL's balance sheet reflects the acquisition of the debt underlying the NCDs as on 31.03.2021.
>
> e. On 22.04.2022, the Debenture Holders after confirming the principal outstanding of Rs.1004,24,16,661/- voted on the Scheme regarding the transferred NCDs."

25. It is further pleaded by the corporate debtor that debenture holders have ratified the Acquisition Agreement through their conduct. The corporate debtor also pressed the waiver and acquiescence against the debenture holders. We have noticed the Debenture Trust cum Mortgage Deed (DTMD) dated 15.10.2018 and noticed certain relevant clauses of deed which was entered between the corporate debtor and financial creditor. Clause 10.1 of the DTMD contains affirmative covenants by the company. Positive covenants include Clauses (g) & (i), which is as follows:

> "(g) The Company shall discharge its obligations in connection with the Debentures in a reasonable and prudent manner.
>
> (i) The Company shall comply with any directions/guidelines issued by any Governmental Authority, in relation to the Debentures."

26. Clause 10.2 contains negative covenants. Negative covenants under clause 10.2 is as follows:

> **"10.2 Negative Covenants**
>
> The Company shall not, without procuring the prior written consent of the Debenture Trustee (acting on the instructions of the Majority Debenture Holders):
>
> (a) undertake or enter into any amalgamation, demerger, merger or corporate restructuring or reconstruction scheme proposed;
>
> (b) incur any Financial Indebtedness;

(c) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise encumber or dispose the Mortgaged Property or any part thereof;

(d) make any change in the nature and conduct of its business (from what is being carried out as on the date hereof);

(e) voluntarily wind up, liquidate or dissolve its affairs;

(f) purchase, redeem or buyback its shares or reduce its share capital;

(g) enter into any agreement which conflicts with the provisions of this Deed or the other Transaction Documents;

(h) amend or modify the object clause set out in the memorandum and articles of association of the Company;

(i) make any changes to its accounting policies or accounting methods or change its financial year from April 1-March 31, unless otherwise required under Applicable Law;

(j) make any changes, amendments or modifications to any of the Master License Agreements, the Tri-partite Agreements or the Escrow Agreement or exercise any of the rights of the Company, or grant any waivers or indulgences under the Master License Agreements, the Tri-partite Agreements or the Escrow Agreement;

(k) sell, transfer, assign or otherwise create any Encumbrance over the Future Trademarks (as defined in the Master License Agreement) and shall at all times continue to hold all night, title and interest in respect thereto."

27. We have also noticed Schedule II of the DTMD. Clause 12, which deals with transfer of debentures. Clauses 12.1, 12.2, 12.3 are extracted for ready reference, which are as follows:

"12. TRANSFER OF DEBENTURES

12.1 The Debentures shall be freely transferable and transmittable by the Debenture Holders in accordance with provisions of Applicable Law.

12.2 The Debenture Holders shall have the right to novate transfer or assign its rights and/or the benefits under the Transaction Documents upon such transfer/transmission of the Debentures

> with prior notice to the Company and at the Debenture Holders own cost and expense.
>
> 12.3 It is clarified that the Company shall not be entitled to assign any or the rights, duties or obligation under the Transaction Documents or in relation to the Debentures."

28. Clause 12.3 provides that company shall not be entitled to assign any of its right, duties or obligations under the transaction documents or in relation to the debentures. To the contrary Clauses 12.1 & 12.2 clearly provides debenture holders to transfer or assigned its rights under the transaction document which debentures were freely transferable by the debenture holders. Clear contrast in the above clauses indicate that DTMD never intended the company to assign any of its rights, duties or obligations. Despite the aforesaid clauses of the transaction, DTMD Acquisition Agreement was entered between Company and the Rivaaz. Clause 2.2 of the Acquisition Agreement contemplated that approval/no objection of debenture trustee was to be obtained. Clause 2.2 of the Acquisition Agreement is as follows:

> "2.2 The transfer of the Identified Assets and Identified Liabilities by the Seller to the Bayer shall be subject to receipt of approvals/no-objection letters from Axis Trustee Services Limited, debenture trustee in respect of the NCDs I and NCDs II pursuant to the financing documents executed in relation to NCDs 1 and NCDs II. The Seller shall also ensure that such waiver/approval shall contain approval for assignment of the Master License Agreements in favour of the Buyer."

29. There are no approval or no objection by debenture trustee pleaded or proved. Corporate debtor has endeavoured to treat conduct of debenture holders which, according to the corporate debtor has ratified the Ac-

quisition Agreement. Corporate debtor has relied on email dated 31.08.2020 sent by one Mr. Akhilesh Kalra of Future Group to one Mr. Arun Gupta of Franklin Templeton. Copy of which email was also sent to the directors of the corporate debtor. The email also referred to the Acquisition Agreement executed by corporate debtor with Rivaaz, whereas corporate debtor has transferred its obligation towards repayment of NCD 1 and NCD 2 to Rivaaz. It is useful to extract email dated 31.08.2020, which is as follows:

> "From: Akhilesh Kalra <Akhilesh Kalra@futuregroup.in>
>
> Sent: Monday, August 31, 2020 10:44 AM
>
> To: Gupta, Arun Arun.Gupta@franklintempleton.com
>
> CC: Kishore Biyani Kishore.Biyani@futuregroup.in; Vijay Biyani Vijay.Biyani@futuregroup.in; Kamath, Santosh Das Santosh.daskamath@franklintempleton.com
>
> Subject: Future Group Transaction Update and Franklin Templeton NCDs
>
> Dear Arun,
>
> Thanks for your continued support and co-operation extended to Future Group till date (including approval of 3-month moratorium earlier in April'2020).
>
> As outlined in our previous communication, we have now successfully finalized the terms of the strategic transaction. We sincerely thank you for your patience all the way through.
>
> **Following are brief details about the transaction and next steps vis a vis Franklin Templeton's NCO exposure to Future Group:**
>
> 1. Future Group has announced a major reorganization of its businesses on August 29, 2020 in which the key group listed entities along with few other entities (including Rivaaz Trade Ventures Private Limited {"**Rivaaz**"}) would get merged into Future Enterprises Limited ("**FEL**") {"**Composite Scheme of Arrangement**"}.

2. FEL will subsequently sell by way of a slump sale the retail and wholesale business to Reliance Retail and Fashion Lifestyle Limited ("**RRFLL**"), a wholly owned subsidiary of Reliance Retail Ventures Limited ("**RRVL**"). FEL will also sell the logistics and warehouse business to RRVL by way of a slump sale. RRFLL and RRVL will take over certain borrowings and current liabilities related to the business and discharge the balance consideration by way of cash.

3. Future Group will retain its **FMCG** and **Integrated Fashion Sourcing & Merchandising** businesses in FEL, and its **Insurance JVs** with Generali along with **NTC Mills JVs.**

4. FEL will have **strategic supply and distribution arrangements** for the FMCG and fashion businesses with Reliance Retail. RRFLL will additionally invest Rs. 2800 Cr in equity & warrants of FEL to acquire 13.15% stake, showcasing strategic intent.

5. With regards to NCDs issued by each of Future Ideas Company Limited ("**FICL**") and nuFuture Digital (India) Limited ("**NFDIL**") to Franklin Templeton ("**FT**"), please note:

a. FICL has executed an Acquisition Agreement with Rivaaz wherein FICL has transferred its obligations toward repayment of NCD-1 and NCD-2 (current o/s Rs. 127.5 Cr.) along with equivalent amount of identified assets to Rivaaz

b. Similarly, NFDIL has executed an Acquisition Agreement with Rivaaz wherein NFDIL has transferred its obligations toward repayment of NCD-1 and NCD-2 (current o/s Rs. 256.3 Cr.) along with equivalent amount of identified assets to Rivaaz

6. Since the acquirer was desirous of **purchasing all the assets pertaining to the retail, wholesale, logistics & warehouse businesses** ***(including those owned by Rivaaz, FICL and NFDIL)***, consequently, the equity shares of Rivaaz have been acquired by wholly owned subsidiary of FEL, Future Bazaar India Limited (FBIL), rendering Rivaaz a wholly owned subsidiary of FBIL.

7. As part of the Composite Scheme of Arrangement (subject to necessary regulatory and stakeholders' approvals), FBIL and its wholly owned subsidiaries (including Rivaaz) would be merging with FEL. Thereby, **the assets and liabilities with regards to the FT NCDs** would ultimately reside with FEL.

8. Upon completion of the aforementioned Composite Scheme of Arrangement, FEL would repay the obligations under the FT NCDs through the proceeds received from the slump sale consideration.

We would like to reiterate that it is Future Group's endeavour to honour and repay the obligations under the FT NCDs at the

> earliest. Accordingly, we will approach you over the coming week with additional details on the next steps."

30. The above email was sent on behalf of the Future Group informing the debenture holders about the Acquisition Agreement entered with corporate debtor with Rivaaz. It was also communicated that under the composite scheme of arrangement which is subject to necessary regulatory and stakeholders approvals, NFDIL and its wholly own subsidiary, including Rivaaz could be merging with Future Enterprises Limited (FEL), whereby the assets and liabilities with regard to financial creditors and corporate debtors could ultimately reside with FEL.

31. Now we need to look into other correspondence, which is relied including email dated 05.10.2021 and 31.03.2022 issued from the debenture holders to the corporate debtor and email dated 06.10.2021 regarding confirmation of the consolidation of NCDs with RTVPL. The email dated 05.10.2021 was sent from Franklin Templeton to Mr. Akhilesh Kalra, Future Group, by which email the audited financials were asked for with regard to three entities, Rivaaz, nuFuture and Future Ideas, which email reads as follows:

> "From: Gupta, Arun ArunGupta@franklintempleton.com
>
> Sent: 05 October 2021 16:10
>
> To: Akhilesh Kalra <Akhilesh. Kaira@futuregroup.in>
>
> Cc: Kamath, Santosh Das Santosh.daskamath@franklintempleton.com; Agrawal, Kunal kunal.agrowai@franklintempleton.com; Shah, Nischal Nischal.Shah@franklintempleton.com; Padmanabhan, Radhika Radhika.Padmanabhan@franklintempleton.com

Subject: Futura group NCDs

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.

Hi Akhilesh,

Thanks for the call earlier today

Request you to send across the audited financials for March 31, 2020 and audited/provisional financials for March 31, 2021 for all the three entities-Rivaaz/NuFuture and Future Ideas.

Also, as discussed please confirm that all NCDs issued by the above 3 entitles and held by FMF are consolidated under Rivaaz and are included in the March 31, 2022 financials of Rivaaz Trade Ventures.

Please respond to this priority. Thanks.

Regards,
Arun"

32. The above email cannot be read as giving any type of consent or approval of the Acquisition Agreement. The email dated 05.10.2021 was replied on 06.10.2021 informing that NCDs issued by the three entities and are consolidated under Rivaaz and are included in the March 31, 2021 financials of RTVPL. Another email replied on 21.03.2021, which was sent on behalf of the debenture holders to Future Group, which reads as follows:

"From: Akshay KUBDE akshaykubde@hsbc.co.in

Sent: Tuesday, December 21, 2021 4:32 PM

To: Vaidya, Mayur <Mayur Vaidya@franklintempleton.com>

Cc: #fundscsv fundscav@hsbc.co.in; Investment Ops IND AMC InvestmentOpsiNDAMC@franklintempleton.com

Subject: FW: EXTERNAL: Fw: Fw: Certificate

Hi Mayur,

As discussed, our Custody team in in receipt of below mail regarding amount Outstanding as on 31.03.21 for Rivaaz Trade Ventures Pvt Ltd.

Please check and confirm.

Thanks and regards,

Akshay Kubde

Fund Services, Securities Services
The Hongkong and Shanghal Banking Corporation Limited
11th Floor, Building #3, Nesco IT Park, W.E. Highway,
Goregaon (E), Mumbai 400053
Phone 91-22-45053453
Mobile 91-9892113490
Fax 91-22-66964470"

33. An internal email dated 29.12.2021 from debenture holders have also been referred to, which email has also been filed in I.A. 29/2022 and at page 2110 of the appeal paper book. It is useful to refer to the said email 29.12.2021, which was with respect to reference to certain balance confirmation request sent by internally. The email reads as follows:

"From: Gupta, Arun

Sent: Wednesday, December 29, 2021 10:30 AM

To: Vaidya, Mayur Mayur.Vaidya@franklintempleton.com; FIXED INCOME-INDIA FIXEDINCOME-INDIA@franklintempleton.com; rajwani1115@rediffmail.com>

Cc: Investment Ops IND AMC InvestmentOpsINDAMC@franklintempleton.com; akshaykubde@hsbc.co.in

Subject: RE: EXTERNAL: Fw: Fw: Certificate

Hi,

This is with reference to the balance confirmation request sent by you.

We note that the balance computed by the company is based on the scheduled payment and does not factor the interest impact for missed payments.

Please see below summary of our exposure outstanding to Rivaaz Trade Ventures Ltd. as of March 31, 2021.

O/S Claim against FT MF NCDs as on March 31, 2021	**TOTAL**
Principal Outstanding	10,042,416,667
Interest	1,253,809,741
Redemption Premium	64,180,561
Step-up Interest	216,047,981
Default Interest	19,848,741
Total	**11,596,303,690**

Will be happy to clarify further as required. Thanks.

Regards,
Arun"

34. It was next pleaded by corporate debtor that debenture holders after confirming the principal outstanding of ₹1004,24,02,661/- has voted on the scheme regarding the transferred NCD. All the above correspondence relied by the corporate debtor, cannot be read as giving any approval or no objection to the acquisition. In the internal email 29.12.2021 relied by the corporate debtor, summary of exposure outstanding to RTVPL was communicated in response to the balance confirmation request received internally from debenture holders. The other emails as noted above sent

by the debenture holders asked for the Acquisition Agreement, enquired about the exposures regarding NCDs in the Rivaaz. All those cannot be read to mean that at any point of time debenture holders have given their consent or no objection to the acquisition. We have noticed above, that Clause 2.2 of Acquisition Agreement itself required approval/no objection of debenture trustee. Neither any correspondence from debenture trustee has been referred or relied to claim that debenture trustee at any point of time gave its approval or no objection to the Acquisition Agreement. Thus, according to own case of the corporate debtor, there was no compliance of Clause 2.2 of the Acquisition Agreement. Reference of certain correspondence by the debenture holders in the above regard cannot be substituted as approval and no objection from the Axis Trustee Service Limited, the respondent herein which is specifically required under Acquisition Agreement Clause 2.2 as noted above. Thus, Acquisition Agreement itself having not been complied with insofar as obtaining approval or no objection of Axis Trustee Service Limited, there is no occasion to accept the case of the corporate debtor that obligation under the NCDs as per debenture trust DTMD stood transferred from corporate debtor to Rivaaz. As noted above the financial creditor or debenture holders were never party to the Acquisition Agreement 29.08.2020.

35. Learned counsel for the appellant submits that at no point of time, the respondent who was aware about the Acquisition Agreement or even

the debenture holders raised any objection to the Acquisition Agreement. It is further pleaded that in the balance sheets of the corporate debtor, the above NCD liabilities stand transferred to the Rivaaz, and in the annual statement of the Rivaaz, the said NCD liabilities are reflected. Adjudicating Authority has noticed in the impugned order that the liability of corporate debtor towards the NCDs is continuously reflected in the balance sheets of the financial creditors and in the balance sheets of the financial creditors, the obligations towards the NCDs has not been noticed towards Rivaaz, what is reflected in the balance sheets of the corporate debtor or Rivaaz are not binding to the financial creditors. Learned counsel for the appellant contended that debenture holders ratified the acquisition which constituted acceptance, waiver, and acquiescence on their part, the corporate debtor and Rivaaz altered their position which is demonstrated in their respective balance sheets. Hence on the principle of waiver and acceptance, both debenture holders and debenture trustees cannot take any contrary stand. Learned counsel for the appellant has relied on the judgment of the Hon'ble Supreme Court in the matter of ***'B.L. Sreedhar & Ors.' Vs. 'KM Munireddy & Ors.'*** reported in ***(2003) 2 SCC 355.*** Learned counsel for the appellant relied on paragraphs 24, 25 & 30 of the judgment, where following was laid down:

> **"24.** The following passage from the *Law Relating to Estoppel by Representation* by George Spencer, 2nd Edn. as indicated in Article 3 is as follows:

> "It will be convenient to begin with a satisfactory definition of estoppel by representation. From a careful scrutiny and collation of the various judicial pronouncements on the subject, of which no single one is, or was perhaps intended to be, quite adequate, and many are incorrect, redundant, or slipshod in expression; the following general statement of the doctrine of estoppel by representation emerges; where one person ('the representor') had made a representation to another person ('the representee') in words or by acts and conduct, or (being under a duty to the representee to speak or act) by silence or inaction, with the intention (actual or presumptive), and with the result, of inducing the representee on the faith of such representation to alter his position to his detriment, the representor in any litigation which may afterwards take place between him and the representee, is estopped, as against the representee, from making, or attempting to establish by evidence, any averment substantially at variance with his former representation, if the representor at the proper time, and in the proper manner, objects thereto."

25. In Article 1175 at p. 637 of *Halsbury's Laws of England*, 3rd Edn., Vol. 14, it is stated as follows:

> "*1175*. Waiver is the abandonment of a right, and is either express or implied from conduct. A person who is entitled to the benefit of a stipulation in a contract or of a statutory provision (*a*) may waive it…."
>
> > "The essence of waiver is 'estoppel' and where there is no 'estoppel' there can be no 'waiver', the connection between 'estoppel' and 'waiver' being very close. But, in spite of that, there is an essential difference between the two and that is whereas estoppel is a rule of evidence, waiver is a rule of conduct. Waiver has reference to man's conduct, while estoppel refers to the consequences of that conduct."

30. If a man either by words or by conduct has intimated that he consents to an act which has been done and that he will not offer any opposition to it, although it could not have been lawfully done without his consent, and he thereby induces others to do that which they otherwise might have abstained from, he cannot question the legality of the act he had sanctioned to the prejudice of those who have so given faith to his words or to the fair inference to be drawn from his conduct."

36. The above judgment of the Hon'ble Supreme Court has no application in the facts of the present case. Hon'ble Supreme Court in the above

case has occasion to elaborate the principles of waiver and acquiescence. It was held that if a man either by words or by conduct has intimated that he consents to an act which has been done and that he will not offer any opposition to it although it could not have been lawfully done without his consent, he cannot question the legality of the act he had sanctioned. The correspondence which we have noticed above on behalf of the debenture holders does not contain any approval or no objection by debenture holder to the Acquisition Agreement. Debenture holder were informed about the Acquisition Agreement by the corporate debtor, hence information regarding outstanding of NCDs in the Rivaaz were asked for and called for. No waiver or acquiescence can be pressed against even debenture holders in the present case. More so, Clause 2.2 of the Acquisition Agreement as noted above required approval or no objection of the debenture trustee. Present is not a case where any approval or no objection is even pleaded from the debenture trustee. Thus the submission advanced by the appellant on the principle of waiver and acquiescence are not attracted.

37. Another judgment relied by the counsel for the appellant is ***'Kalpraj Dharamshi & Anr.' Vs. 'Kotak Investment Advisors Ltd. & Anr.'*** reported in ***(2021) 10 SCC 401,*** where Hon'ble Supreme Court has occasion to consider as to whether there was waiver and acceptance by KIAL so as to stop it from challenging the participation of Kalpraj. Above was a

case where both Kalpraj where KIAL has submitted a resolution plan and belatedly Kalpraj was also permitted to participate, subsequently KIAL challenged the participation of Kalpraj, hence the question arose as to whether KIAL by principle of waiver and acquiescence is estopped from challenging the participation of Kalpraj. In the above context, Hon'ble Supreme Court had occasion to consider waiver in paragraphs 117, 118, 119, 122 and 124, which are as follows:

> **"117.** The word "waiver" has been described in *Halsbury's Laws of England*, 4th Edn., Para 1471, which reads thus:
>
> > "1471. *Waiver.*—Waiver is the abandonment of a right in such a way that the other party is entitled to plead the abandonment by way of confession and avoidance if the right is thereafter asserted, and is either express or implied from conduct. … A person who is entitled to rely on a stipulation, existing for his benefit alone, in a contract or of a statutory provision, may waive it, and allow the contract or transaction to proceed as though the stipulation or provision did not exist. Waiver of this kind depends upon consent, and the fact that the other party has acted on it is sufficient consideration. …
>
> It seems that, in general, where one party has, by his words or conduct, made to the other a promise or assurance which was intended to affect the legal relations between them and to be acted on accordingly, then, once the other party has taken him at his word and acted on it, so as to alter his position, the party who gave the promise or assurance cannot afterwards be allowed to revert to the previous legal relationship as if no such promise or assurance had been made by him, but he must accept their legal relations subject to the qualification which he has himself so introduced, even though it is not supported in point of law by any consideration."
>
> **118.** In *Halsbury's Laws of England*, Vol. 16(2), 4th Edn., Para 907, it is stated:
>
> > "The expression "waiver" may, in law, bear different meanings. The primary meaning has been said to be the abandonment of a right in such a way that the other party is entitled to plead the abandonment by way of confession and avoidance if the right is thereafter asserted, and is either express or implied

> from conduct. It may arise from a party making an election, for example whether or not to exercise a contractual right… Waiver may also be by virtue of equitable or promissory estoppel; unlike waiver arising from an election, no question arises of any particular knowledge on the part of the person making the representation, and the estoppel may be suspensory only… Where the waiver is not express, it may be implied from conduct which is inconsistent with the continuance of the right, without the need for writing or for consideration moving from, or detriment to, the party who benefits by the waiver, but mere acts of indulgence will not amount to waiver; nor may a party benefit from the waiver unless he has altered his position in reliance on it."

119. For considering, as to whether a party has waived its rights or not, it will be relevant to consider the conduct of a party. For establishing waiver, it will have to be established, that a party expressly or by its conduct acted in a manner, which is inconsistent with the continuance of its rights. However, the mere acts of indulgence will not amount to waiver. A party claiming waiver would also not be entitled to claim the benefit of waiver, unless it has altered its position in reliance on the same.

122. As such, for applying the principle of waiver, it will have to be established, that though a party was aware about the relevant facts and the right to take an objection, he has neglected to take such an objection.

124. However, in the proceedings initiated by the trade union, the retrenchment was held to be illegal and he was directed to be deemed to be in continuous service with all benefits. A writ petition was filed by the respondent before the High Court. The said writ petition was dismissed [*Purna Theatre* v. *State of W.B.*, 1996 SCC OnLine Cal 318] by the Single Judge of the High Court, upholding the findings of the Tribunal. In an appeal before the Division Bench, a plea was taken for the first time, that the workman had accepted the amount paid by the employer and as such, it amounted to waiver by the workman. The Division Bench allowed [*Purna Theatre* v. *State of W.B.*, 1999 SCC OnLine Cal 448] the appeal and set aside the award passed by the Tribunal and the judgment and order passed by the Single Judge. Setting aside the judgment of the Division Bench, this Court observed thus : (*Krishna Bahadur case* [*Krishna Bahadur* v. *Purna Theatre*, (2004) 8 SCC 229 : 2004 SCC (L&S) 1086] , SCC p. 233, paras 9-10)

> "*9.* The principle of waiver although is akin to the principle of estoppel; the difference between the two, however, is that whereas estoppel is not a cause of action; it is a rule of evidence; waiver is contractual and may constitute a cause of action; it is an agreement between the parties and a party

> fully knowing of its rights has agreed not to assert a right for a consideration.
>
> *10*. A right can be waived by the party for whose benefit certain requirements or conditions had been provided for by a statute subject to the condition that no public interest is involved therein. Whenever waiver is pleaded it is for the party pleading the same to show that an agreement waiving the right in consideration of some compromise came into being. Statutory right, however, may also be waived by his conduct."

38. Hon'ble Supreme Court laid down in paragraph 127 and ultimately after examining the facts of the said case held that KIAL was not estopped from challenging the process on the ground of acquiescence and waiver.

39. Debenture trustee was appointed to watch the interest of the debenture holders and DTMD was entered between the corporate debtor and the debenture trustee who was party to the Agreement dated 15.10.2018. Even in the Acquisition Agreement dated 29.08.2020 approval or no objection trustee was envisaged thus there is no occasion for pressing the waiver or acquiescence on the part of debenture holders in the facts of the present case.

40. We may also notice one more submission on behalf of the appellant that the debenture holders have exercised their voting rights in the composite scheme and has voted on 22.04.2022 against the scheme and the voting right was exercised as per their outstanding with respect to Rivaaz, who was part of composite scheme of arrangement. It is on the record that the debenture holders voted against the scheme and the outstanding in Rivaaz as on 31.03.2021 as was communicated to the debenture hold-

ers was for purposes of scheme voting. The debenture holders were opposed to the scheme arrangement and voted against it which scheme ultimately was not approved. The voting of debenture holders against the scheme with regard to which public statement was given by the Future Group as noted above no waiver or acquiescence can be treated against the debenture holders with respect to Acquisition Agreement. Adjudicating authority in the impugned order has also rightly observed that the Acquisition Agreement was part of the larger and composite scheme of transfer and merger of the Future Group entities into reliance and which composite scheme having failed to obtain the regulatory approval, the Acquisition Agreement has to be looked into as an step into the integral process.

41. In view of the forgoing discussions and conclusions, we are of the view that no approval or consent to the Acquisition Agreement can be imputed to the debenture holders, whereas, no approval or consent is even pleaded on the part of the debenture trustee.

42. In view of the forgoing discussions and conclusions, we answer Question Nos. (2) & (3) in following manner:

I. By virtue of Acquisition Agreement dated 29.08.2020 the rights and obligations of the corporate debtor under the NCD issued by the corporate debtor were not transferred to RTVPL.

II. From the correspondence between the debenture holders, and the corporate debtor brought on record, demonstrates that debenture

holders had never ratified or given their consent to the Acquisition Agreement, either by their conduct or by waiver and acquiescence.

Question No. (4)

43. Learned counsel for the appellant has submitted that adjudicating authority had no jurisdiction to look into issues with regard to Acquisition Agreement dated 29.08.2020 and observation of the adjudicating authority that DTMD being a statutory contract, any Agreement contrary to the statutory mandate will be void or unsustainable. The appellant has questioned the jurisdiction of the adjudicating authority to enter into various issues with respect to Acquisition Agreement dated 29.08.2020. It is submitted that adjudicating authority has exceeded its jurisdiction in observing that Acquisition Agreement is void. Learned counsel for the appellant has referred to paragraph 9.3 of the impugned order where adjudicating authority has made following observations:

> "9.3 Now, it is proposed to examine the merits of the Corporate Debtor's contentions that the outstanding debt or liability under the debentures no longer lies with the Corporate Debtor as the same has been transferred to RTVPL through an Acquisition Agreement dated 29.08.2020 and that the debenture holders had allegedly acquiesced to the said agreement and purportedly waived strict adherence to the provisions of the DTMD. As regards the validity of the Acquisition Agreement and the question whether it supersedes the provisions of the Companies Act, 2013, and the DTMD, it is necessary to examine the statutory provisions relating to the transfer of liability and the nature of the DTMD as a statutory contract. There is no doubt that Debentures are statutory instruments governed by the Companies Act, 2013, and related rules. Section 71(8) of the Companies Act, 2013, read with Rule 18(1)(c) and sub-rule (5) of the Companies (Share Capital and Debentures) Rules, 2014, mandates that the issuer of debentures remains liable to redeem the debentures. Form SH-12 requires an

> undertaking to pay interest and principal as per the terms of the offer, as reflected in Clause 3.2 of the DTMD, which contains a covenant to pay principal and interest. We find merit in the Financial Creditor's submission that the issuer of the debentures cannot contract out of a statutory obligation or liability by way of a private contract and any such contract being contrary to the statutory mandate will be void…"

44. The Acquisition Agreement was relied by the corporate debtor in its reply to Section 7 application, in I.A. 23/2023 filed by the corporate debtor, praying for dismissal of Section 7 application. It was case of the corporate debtor that on account of the Acquisition Agreement, the corporate debtor is no longer debtor and the obligation has been undertaken by Rivaaz, hence Section 7 application could not have been filed by the corporate debtor. In this context, we refer to paragraph 4 of the reply filed by the corporate debtor to Section 7 application where the Acquisition Agreement 29.08.2020 has been relied. Paragraph 4 of the reply is as follows:

> "4. Firstly, it is stated that, that the alleged liability of Rs. 122,83,28,079/- (Rupees One Hundred Twenty-Two Crore Eighty Three Lacs Twenty Eight Thousand Seventy Nine Only) for supposed dues arising out of certain Non-Convertible Debentures (NCDs) as more particularly enumerated in the captioned Petition, have been acquired by Rivaaz Trade Ventures Pvt. Ltd. (RVTPL) vide an Acquisition Agreement dated 29 August,2020 (Acquisition Agreement). This fact has been duly brought to the notice of the Financial Creditor on 31 August,2020 itself and no dispute with respect to the same was raised. It is pertinent to note that the Financial Creditor has even acknowledged that the debt has been assigned by the Corporate Debtor in terms of the Assignment Agreement by voting in the Composite Scheme of Arrangement meeting held on 22 April, 2022 with respect to RTVPL which included the acquired liabilities of the Corporate Debtor. Thus, the present Company Petition is filed without any application of mind and only with the intention to harass the Corporate Debtor.

> In view of the above, the Financial Creditor is no longer a creditor in terms of Section 3 and Section 5(8) of the Insolvency and Bankruptcy Code (2016) of the Corporate Debtor and has no right to enforce any debt/liabilities including inter alia the NCDs and/or Securities against the Corporate Debtor and needs to exercise its rights and remedies against RTVPL, if at all, which has acquired the liabilities in terms of the Acquisition Agreement and has therefore replaced the Corporate Debtor as the Obligor in terms of the liabilities under the NCDs."

45. When the corporate debtor in its reply has relied on Acquisition Agreement and pleaded that by virtue of Acquisition Agreement, the corporate debtor has no longer any obligation towards the NCD, the adjudicating authority for determining the question of default on the part of the corporate debtor has to go into the question related to the Acquisition Agreement and the submission of the appellant that adjudicating authority has no jurisdiction and it exceeded the jurisdiction by making observation that Acquisition Agreement is void cannot be accepted. We have noticed that Clauses of DTMD under which without procuring the prior given consent of the debenture trustee, the corporate debtor could not have entered into the Agreement which conflicts provisions of the deed or the other transaction document. The present is the case where no prior written consent of the debenture trustee has been obtained or even pleaded. We have further noticed Scheduled II Clause 12.3 which prohibited the company to assign any of its rights, duties, or obligations. Acquisition Agreement is thus clearly not in conformity with the DTMD and thus is clearly void being in contravention of the DTMD. We thus sustain the

finding of the adjudicating authority that Acquisition Agreement is void, but for the reasons as indicated above.

46. Learned counsel for the appellant to contend that adjudicating authority has exceeded its jurisdiction in delving issues or rendering finding that Acquisition Agreement is void relied on the judgment of the Hon'ble Supreme Court in ***'Embassy Properties Development (P) Ltd.' Vs. 'State of Karnataka & Ors.' (2020) 13 SCC 308,*** paragraph 30. In the above case, NCLT Chennai has passed an order directing the state of Karnataka to renew the mining lease of the corporate debtor and execute a supplemental lease deed, which was challenged before the High Court where an interim order was passed in the Writ Petition filed by the State of Karnataka, against which interim order, the matter was taken to the Hon'ble Supreme Court. In paragraph 30 of the judgment which is relied by the appellant, Hon'ble Supreme Court laid down following:

> "**30.** The NCLT is not even a civil court, which has jurisdiction by virtue of Section 9 of the Code of Civil Procedure to try all suits of a civil nature excepting suits, of which their cognizance is either expressly or impliedly barred. Therefore NCLT can exercise only such powers within the contours of jurisdiction as prescribed by the statute, the law in respect of which, it is called upon to administer. Hence, let us now see the jurisdiction and powers conferred upon NCLT."

47. There can be no quarrel to the proposition laid down by the Hon'ble Supreme Court in paragraph 9, adjudicating authority is not a civil court

nor can try all Suites of the civil nature. The jurisdiction and power of the NCLT has been dealt with by the Hon'ble Supreme Court in the above case where in paragraph 46, Hon'ble Supreme Court laid down following:

> "**46.** Therefore, in fine, our answer to the first question would be that NCLT did not have jurisdiction to entertain an application against the Government of Karnataka for a direction to execute supplemental lease deeds for the extension of the mining lease. Since NCLT chose to exercise a jurisdiction not vested in it in law, the High Court of Karnataka was justified in entertaining the writ petition, on the basis that NCLT was *coram non judice*."

48. The observations by the Hon'ble Supreme Court that NCLT have no jurisdiction were made in facts of the said case where Hon'ble Supreme Court had held that NCLT had no jurisdiction to entertain an application against the Government of Karnataka for direction to exclude the supplemental lease deed for the extension of mining lease. The present is a case where Section 7 application was filed by financial creditor, claiming debt and default on the part of the corporate debtor. Corporate debtor in its defence have come up with Acquisition Agreement, pleading that by Acquisition Agreement obligation of the corporate debtor has been transferred to the Rivaaz. The adjudicating authority was thus fully entitled to look into the Acquisition Agreement and considered the same in light of the principal document i.e., DTMD dated 15.10.2018.

49. Another judgment relied by counsel for the appellant is ***'Subodh Kumar Gupta' Vs. 'Shrikant Gupta & Ors.'*** reported in ***(1993) 4 SCC 1*** reliance has been placed on paragraph 3, which is as follows:

> "**3.** ...If it is the case of the plaintiff that this document was obtained by fraud or misrepresentation by suppression of material facts or for any other like reason he must have the agreement set aside through court and unless he does that he cannot go behind the agreement, ignore it as a void document and proceed to sue for dissolution of the partnership and rendition of accounts. It is not a matter of the volition of the plaintiff to disregard the document as void and proceed to ignore it altogether without having it declared void by a competent court. It, therefore, appears clear to us that no part of the cause of action arose within the territorial jurisdiction of the Chandigarh Court."

50. In the above observation, Hon'ble Supreme Court held that if the case of the plaintiff is that document was obtained by fraud or misinterpretation by suppression of material fact or for any other like nature Agreement was required to be set aside through court. The above observation has no application in the present case since financial creditors are not claiming that Acquisition Agreement was obtained by fraud or misrepresentation or by suppression of material facts. Appellant has contended that Acquisition Agreement is contrary to the DTMD, which question could have been very well be gone into by the adjudicating authority.

51. Next judgment relied by the appellant is ***'S. Chand & Co.' Vs. 'M/s. Bharat Carpets Ltd.'*** reported in ***2011 SCC OnLine DEL 4984,*** reliance has been placed on paragraph 37, which is as follows:

> "37. In any event, it is settled law that objectors cannot wish away a share purchase agreement/MoU/deed of arrangement by merely stating that they are void documents. They cannot rest content by alleging that the documents have no efficacy in law and must be ignored. If it is their case that these documents have been obtained by fraud or mis-representation by suppression of material facts or any other reason, they must have the agreements set aside through Court and unless they do that they cannot go behind the agreement and ignore them as void documents. [See : *Subodh Kumar Gupta* v. *Shrikant Gupta*, (1993) 4 SCC 1]."

52. In the above paragraph, the Hon'ble Delhi High Court has reiterated the same principles which have been laid down by the Hon'ble Supreme Court in ***'Subodh Kumar Gupta' (Supra).*** In the present case Acquisition Agreement are questioned on the ground that it is contrary to the DTMD with regard to which document Acquisition Agreement have been entered.

53. We thus are satisfied that adjudicating authority did not exceed its jurisdiction in entering into consideration of the Acquisition Agreement dated 29.08.2020. We, however, are of the view that Acquisition Agreement can be held to be void and contrary to DTMD as indicated above in this order.

54. We thus are of the view that submission of the appellant that adjudicating authority travelled beyond its jurisdiction to enter into Acquisition Agreement cannot be accepted.

We answer Question No. (4) in following manner:

I. Adjudicating authority has jurisdiction to look into the issues raised with regard to Acquisition Agreement and observations made by adjudicating authority that Acquisition Agreement is void are sustainable, for the reasons indicated above.

Question No. (5)

55. Adjudicating authority has noted that an application was filed by the appellant being I.A. No. 4417/2024, where the corporate debtor has objected to the bringing on record of Audited Financial Statements of the debenture holders. In paragraph 10 of the impugned order adjudicating authority has noticed the prayer made in the application, which is as follows:

> "10. The issues arising for consideration in this IA are (i) whether the audited financial statements of the Debenture Holder produced by the Respondent are admissible' (ii) whether certain schemes of the Debenture Holders had been liquidated as per order of the Hon'ble Supreme Court and the Respondent suppressed this fact from the Tribunal; (iii) whether pursuant to the liquidation the said trust/Debenture Trustee/Respondent stands extinguished in terms of provisions of the Indian Trust Act; and (iv) whether pursuant to the liquidation the Respondent/Financial Creditor has the

> authority or locus standi from SBI Funds or FTMF to file the Main Application."

56. Replying on the judgment of the Hon'ble Supreme Court in ***'Dena Bank (Now Bank of Baroda)' Vs. 'C. Shivakumar Reddy & Anr.'*** reported in ***(2021) 10 SCC 330,*** the adjudicating authority has rightly observed that additional document amended the pleading can be accepted and permitted by the Tribunal. With regard to balance sheets of debenture holders, adjudicating authority has held that corporate debtor has failed to show any grave prejudice or any unfair advantage was derived by the financial creditor due to non-production of the balance sheets of the debenture holders. It was held that balance sheets of the debenture holder which is a mutual fund being public documents are available on the website. Adjudicating Authority held that the balance sheets of the debenture holders need to be accepted on the record. In paragraph 10.7 following observations have been made by the adjudicating authority:

> "10.7 The Corporate Debtor has failed to show whether any grave prejudice was caused to it or whether any unfair advantage was derived by the Respondent/Financial Creditor due to non-production of the balance sheets of the Debenture Holders by the Debenture Trustee/Financial Creditor. It is also pertinent to note that the balance sheets of FTMF, being a mutual fund, are public documents available on their website. It is not the case of the Corporate Debtor that the balance sheets produced by the Respondent/Financial Creditor are different from the actual balance sheets. The Corporate Debtor's vehement objection stems from the fact that the balance sheets of the Debenture Holders very clearly show that they have not treated RTVPL as the obligor of the NCDs issued by the Corporate Debtor and that the said NCDs continue to be reflected therein in the name of the Corporate Debtor (as the issuer as well as obligor). Notwithstanding the winding up of six schemes of FTMF, the liability of the Corporate

> Debtor remains intact. The Corporate Debtor thus seems to be catching as straws in its attempt to escape the rigours of the Code."

57. As noted above, when the corporate debtor was relying on the conduct and correspondence by the debenture holders for relying on the consent of the debenture holders to the Acquisition Agreement, opposition to the receiving of the financial statements of the debenture holders is unexplainable. We thus are of the view that the adjudicating authority has rightly accepted the financial statements of the debenture holders and held that the objections raised by the corporate debtor were without any substance. In paragraph 10.15 following has been observed:

> "10.15 We head both the parties on the Main Application [C.P. (IB)/1260/2022] along with IA(IBC)18/2023 and IA(IBC)/29/2023, on 02.07.2024; 25.07.2024; 08.08.2024; and 29.08.2024; and also IA(IBC)/4417/2014, on 09.10.2024; and 21.10.2024. Considering the submissions of both the parties, the Applicant/Corporate Debtor was provided a fair opportunity hearing on IA(IBC)/4417/2014, challenging taking on record the Report on the Audit of the Financial Statements of FT for FY 2023-2024 (Report), produced by the Respondent/Financial Creditor. After hearing the Report is accepted on record having found that the same is essential in the adjudication of the Main Application. We hold that no prejudice would be caused to either of the parties, especially the Applicant/Corporate Debtor in taking on record the Report. The written submissions of the Applicant/Corporate Debtor and also the written submissions filed by the Respondent/Financial Creditor are duly considered by us. In the result, all four issues framed in para 10 above concerning admissibility of audited financial statements of the Debenture Holders, alleged suppression of facts relating to winding up of certain Schemes, extinguishment of the trust/Debenture Trustee pursuant to liquidation and lack of authority of the Respondent/Financial Creditor are found to be devoid of substance and are decided against the Applicant/Corporate Debtor. Accordingly, **IA No.4417/2024 is disposed of.**"

58. We fully concur with the view expressed by the adjudicating authority taking on record the report of the audit of the financial statements for Financial Year 2023-2024.

Question No. (5) is answered accordingly.

Question No. (6)

59. Now coming to the order of the adjudicating authority dated 09.04.2025, admitting Section 7 application, adjudicating authority has come to finding that there exist a financial debt within the meaning of Section 5(8) of the Code exceeding for the monetary default of ₹1 crore which is due and payable to the financial creditor. It was held that existence of financial debt and occurrence of default has been established by the financial creditor. Adjudicating Authority having returned the aforesaid finding, we do not find any error in the order of the adjudicating authority in admitting Section 7 application.

60. The order of the adjudicating authority dated 09.04.2025 indicate that adjudicating authority has elaborately considered all submissions raised by the parties, and after due consideration of all aspect to the matter has returned its finding and admitted Section 7 application. Order of the adjudicating authority dated 09.04.2025 is a well-considered order, which needs no interference by this Court in exercise of the Appellate Jurisdiction.

61. We do not find any substance in any of the submission of the appellant. The appeal is dismissed.

Parties shall bear their own costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

NEW DELHI

19th May, 2025

Ashwani/Himanshu