NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Interlocutory Application No. 254 of 2023

IN THE MATTER OF:

SREI Multiple Asset Investment Trust ... Applicant

Versus

Arcelormittal India (P) Ltd. & Ors. ... Respondents

&
Interlocutory Application No. 6020 of 2023

IN THE MATTER OF:

Mr. Vir Jai Khosla ... Applicant

Versus

Arcelormittal India (P) Ltd. & Ors. ... Respondents

in
Company Appeal (AT) (Insolvency) No. 1038 of 2020

IN THE MATTER OF:

Arcelormittal India Pvt. Ltd. ... Appellant

Versus

SREI Infrastructure Finance Ltd. & Ors. ... Respondents

Present:

For Appellant : Mr. Krishnendu Datta Sr. Advocate with Mr. Sanyat Lodha, Ms. Alina Merin Mathew and Ms. Yashika Bhardwaj, Advocates.

For Respondents : Mr. Neeraj Kishan Kaul, Sr. Advocate and Mr. Gopal Jain, Sr. Advocate with Mr. Ashim Sood, Mr. Deepak Joshi, Mr. Isha Khurana, Mr. Prateek Kundu, Mr. Varun Tyagi, Mr. Sanjeev Kumar, Mr. Anshul Sehgal, Mr. Pranshu Paul, Mr. Suvana Kashyap, Mr. Ankur, Ms. Maitreyee Mishra, Advocates for AMNS.

Cont'd.../

Mr. Sanjeev Sen, Sr. Advocate with Mr. Anirban Bhattacharya, Mr. Rajeev Chowdhary, Ms. Anjali Singh, Mr. Prahlad Balaji, Mr. Pragyan Mishra, Advocates for R-1.

Ms. Ruby Singh Ahuja, Mr. Vishal Gehrana, Mr. Varun Khanna, Ms. Aakriti Vohra and Mr. Devang, Advocates for R2.

Mr. Raunak Dhillon, Mr. Anchit Jasuja, Advocates for R-3.

Mr. Satish Kumar Gupta, RP.

Mr. Deepak Khosla, Advocate for the Applicant in IA No.6020 of 2023

Mr. Gaurav Mitra, Advocates for Applicant in IA No.254 of 2023.

Interlocutory Application No. 705 of 2022

IN THE MATTER OF:

SREI Multiple Asset Investment Trust ... Applicant
Versus
Arcelormittal Nippon Steel India Ltd. & Ors. ... Respondents

&
Interlocutory Application No. 217 of 2025

IN THE MATTER OF:

Gujarat Operational Creditors Association & Anr. ... Applicants
Versus
Arcelormittal Nippon Steel India Ltd. & Ors. ... Respondents

&
Interlocutory Application No. 6019 of 2023

IN THE MATTER OF:

Mr. Muhammad Ali Shaikh ... Applicant

Versus

Arcelormittal Nippon Steel India Ltd. & Ors. ... Respondents

in
Company Appeal (AT) (Insolvency) No. 1043 of 2020

IN THE MATTER OF:

Arcelormittal Nippon Steel India Ltd. ... Appellant

Versus

SREI Infrastructure Finance Ltd. & Ors. ... Respondents

Present:

For Appellant : **Mr. Neeraj Kishan Kaul, Sr. Advocate and Mr. Gopal Jain, Sr. Advocate with Mr. Ashim Sood, Mr. Deepak Joshi, Mr. Isha Khurana, Mr. Prateek Kundu, Mr. Varun Tyagi, Mr. Sanjeev Kumar, Mr. Anshul Sehgal, Mr. Pranshu Paul, Mr. Suvana Kashyap, Mr. Ankur, Ms. Maitreyee Mishra, Advocates for AMNS.**

For Respondent : **Mr. Sanjeev Sen, Sr. Advocate with Mr. Anirban Bhattacharya, Mr. Rajeev Chowdhary, Ms. Anjali Singh, Mr. Prahlad Balaji, Mr. Pragyan Mishra, Advocates for R-1**

Mr. Gaurav Mitra, Ms. Srishti Juneja, Ms. Suganda Kochar, Ms. Lavanya, Advocates for Applicant in IA. No. 705 of 2022

Mr. Sujeve Deora, Advocate in IA No.6019 of 2023.

Mr. Vishal Gehrana, Ms. Aakriti Vohra, Advocates for R2.

Mr. Raunak Dhillon, Mr. Anchit Jasuja, Advocates for R-3.

Mr. Satish Kumar Gupta, RP.

Mr. Deepak Khosla, Advocate for the Applicant in IA No.217 of 2025

Mr. Sanjeev Kumar, Mr. Anshul Sehgal, Mr. Piyush Raj, Advocates.

J U D G M E N T

ASHOK BHUSHAN, J.

IA No.705 of 2022, IA No.6019 of 2023 and IA No.217 of 2025 have been filed in Company Appeal (AT) (Ins.) No.1043 of 2020. IA No.254 of 2023 and IA No.6020 of 2023 have been filed in Company Appeal (AT) (Ins.) No.1038 of 2020. IA No.705 of 2022, IA No.254 of 2023 and IA No.217 of 2025 pray for impleadment in the respective Appeal(s). In IA No.6020 of 2023 several reliefs have been claimed. IA No.6019 of 2023 has been filed seeking intervention in Company Appeal (AT) (Ins.) No.1043 of 2020. Both the Appeal(s) - Company Appeal (AT) (Ins.) No.1038 of 2020 and Company Appeal (AT) (Ins.) No.1043 of 2020 have been filed challenging the same order dated 10.11.2020 passed by National Company Law Tribunal, Ahmedabad in IA No.245 of 2020, which IA was filed by SREI Infrastructure Finance Ltd. ("**SIFL**"). Before we notice the prayers made in the above mentioned IAs, it is necessary to notice background facts giving rise to Company Appeal (AT) (Ins.) No.1038 of 2020 and Company Appeal (AT) (Ins.) No.1043 of 2020, in which Appeal(s), the above mentioned IAs have been filed.

2. Corporate Insolvency Resolution Process ("**CIRP**") of Essar Steel India Ltd. ("**Essar Steel**") commenced by an order dated 02.08.2017 passed by

National Company law Tribunal, Ahmedabad Bench, in which CIRP a Resolution Plan was submitted by erstwhile Arcelor Mittal India Pvt. Ltd. (now known as Arcelormittal Nippon Steel India Ltd.), which was approved by Adjudicating Authority, NCLT Ahmedabad vide order 08.03.2019. This Appellate Tribunal vide order dated 04.07.2019 also approved the Resolution Plan with certain modifications. Order passed by this Tribunal as well as Adjudicating Authority was challenged before the Hon'ble Supreme Court by the Committee of Creditors ("**CoC**") of Essar Steel, which Appeal was decided by the Hon'ble Supreme Court on 15.11.2019 along with several other Appeals. The Hon'ble Supreme Court vide judgment dated 15.11.2019 approved the Resolution Plan submitted by Arcelor Mittal India Pvt. Ltd. without any modification, which judgment is reported in ***(2020) 8 SCC 531 – Committee of Creditors of Essar Steel India Ltd. vs. Satish Kumar Gupta and Ors.*** After the judgment of the Hon'ble Supreme Court, Essar Steel was acquired by the Resolution Applicant and its name was changed as Arcelormittal Nippon Steel India Ltd., who is the Appellant in Company Appeal (AT) (Ins.) No.1043 of 2020. After completion of the insolvency proceedings against the erstwhile Essar Steel, SIFL filed an IA No.245 of 2020 before the NCLT Ahmedabad, which application was allowed by an order dated 10.11.2020. The NCLT Ahmedabad vide its impugned order, directed Arcelormittal Nippon to pay right to use charges as CIRP cost.

3. For CIRP of another company – Odisha Slurry Pipeline Infrastructure Ltd. ("**OSPIL**"), IDBI Bank filed an under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") on 09.03.2018, which application was transferred to NCLT Cuttack and Adjudicating Authority, NCLT Cuttack passed an order on 14.05.2019, admitting Section 7 application filed by IDBI Bank and initiated CIRP. On 06.12.2019, the CoC of OSPIL approved the Resolution Plan submitted by Arcelor Mittal India Pvt. Ltd. by 100% vote shares. The Plan approval application filed under Section 31, was approved by NCLT Cuttack vide order dated 02.03.2020. Arcelor Mittal India Pvt. Ltd. - Successful Resolution Applicant nominated its wholly owned subsidiary to implement the OSPIL Plan. Srei Multiple Asset Investment Trust (Applicant in IA No.705 of 2022 and IA No.254 of 2023) filed a Company Appeal (AT) (Ins.) No.591 of 2020, challenging the same order dated 02.03.2020 before this Tribunal. Srei Infrastructure Finance Ltd. (Financial Creditors of OSPIL) also filed a Company Appeal (AT) (Ins.) No.593 of 2020. Both the Appeal(s) were dismissed by this Tribunal vide order dated 18.01.2022, which order was further challenged in the Hon'ble Supreme Court by SIFL, which Appeal was dismissed by the Hon'ble Supreme Court on 10.11.2022. However, Srei Multiple Asset Investment Ltd. did not challenge the order dated 18.01.2022 dismissing the Appeal.

4. The Resolution Plan of both Essar Steel and OSPIL were affirmed up to the Hon'ble Supreme Court. It was after the approval of Resolution Plans of Essar Steel and OSPIL, Srei Infrastructure Finance Ltd. filed IA No.245 of 2020. The Adjudicating Authority vide order dated 10.11.2020 has allowed the IA of Srei Infrastructure Finance Ltd. and directed the Arcelormittal Nippon Steel India Ltd., the Appellant in Company Appeal (AT) (Ins.) No.1043 of 2020 to pay Rs.1300 crores to OSPIL as CIRP cost for usage of the slurry pipeline. Aggrieved by which order, both the Appeal(s), i.e. Company Appeal (AT) (Ins.) No.1038 of 2020 and Company Appeal (AT) (Ins.) No.1043 of 2020 have been filed.

5. In the aforesaid Appeal(s), an interim order was passed by this tribunal in Company Appeal (AT) (Ins.) No.1038 of 2020 on 04.12.2020, staying the operation of the impugned order dated 10.11.2020. Against the interim order passed by this Tribunal, Civil Appeal Nos.1015-1016 of 2021 were filed by the erstwhile RP of Essar Steel. This Tribunal by its detailed order dated 02.08.2020 held that hearing in the Appeal needs to be deferred, awaiting the decision of the Hon'ble Supreme Court, where similar issues have been raised. The Hon'ble Supreme Court dismissed the Civil Appeals on 05.12.2024, observing that order impugned are in the nature of interim orders, which did not decide any issues. Appeals were dismissed without examining the merits of any of the issues, which were left open to be raised before the NCLAT. This

Tribunal on 10.01.2025, after noticing the order passed by the Hon'ble Supreme Court directed to hear the parties. Parties were also allowed time to file objections to the various applications for impleadment/ interventions pending in the Appeal.

6. Parties were heard on the aforesaid IAs. After hearing the parties on the aforesaid IAs, orders were reserved in IAs, except IA No.6019 of 2023, on 20.05.2023. Order was also reserved in IA No.6019 of 2023 on 22.05.2025. We now need to notice the details of the application and the prayers made in the above IAs.

Interlocutory Application No. 705 of 2022 in Company Appeal (AT) (Ins.) No.1043 of 2020

7. This application has been filed by Srei Multiple Asset Investment Trust praying for impleadment in Company Appeal (AT) (Ins.) No.1043 of 2020 with several other prayers. The Applicant – Srei Multiple Asset Investment Trust (hereinafter referred to as the "**Trust**") claims to be erstwhile shareholder of OSPIL, pre-CIRP, holding equity shares to the extent of 69.80%. The Applicant seeks impleadment in the Appeal pleading that under the impugned order dated 10.11.2020, the OSPIL has been directed to pay an amount of Rs.1300 crores as right to use charges of the slurry pipeline, which amount needs to be given to erstwhile shareholder of OSPIL, which includes the Applicant. In

the application it was pleaded that Srei Infrastructure Finance Ltd., had filed IA No.245 of 2020 being lender of OSPIL is no longer necessary party. It is pleaded that with the implementation of Resolution Plan, Essar Steel and OSPIL entire claim of SIFL as Financial Creditor stands satisfied. The Applicant claiming to be erstwhile shareholder of OSPIL, claims *locus* to be impleaded as one of the Respondent in the Appeal. The Applicant made allegations against erstwhile RP of OSPIL and pleads that the CIRP of OSPIL was fraudulently conducted. The Applicant in the Application has also pleaded that the Appellant – Arcelormittal Nippon Steel India Ltd. is liable to be liquidated under Section 33, sub-section (4) of the IBC. In the Application filed by the Applicant, it has also impleaded RP of OSPIL with several questions raised, to be answered by the RP of OSPIL. The Applicant pleads that the payment required to be handed over to the OSPIL is required to be given to pre-CIRP shareholders, which includes the Applicant. The objections are also sought to be raised to the approval of the Resolution Plan of OSPIL on 02.03.2020. It is pleaded that the said approval by the Adjudicating Authority, is *coram non judice*. The Applicant also pleaded that Applicant has filed Company Appeal, challenging the order dated 02.03.2020 in this tribunal, which was dismissed on 18.01.2022. The order of the NCLT, order of this Tribunal and the judgment passed by Hon'ble Supreme Court are nullity. Various allegations, ground of challenge and reasons for dismissal of the Appeal have been elaborated in the application and in the application, the

Applicant has prayed for impleadment as Respondent No.4. Various other prayers in the application are also made, including dismissal of the Appeal *in limine*.

8. In the Application, detailed reply has been filed by the Appellant objecting to the maintainability of the application and very *locus* of the Applicant. It is pleaded in the reply that CIRP of both Essar Steel and OSPIL have been completed and Plans which were approved by the Adjudicating Authority, were upheld by this Tribunal and the Hon'ble Supreme Court. Both the Plans have been fully implemented and the approval of Resolution Plan binds all the parties. The rights of shareholders of the company of pre-CIRP, have extinguished under the Resolution Plan. The Applicant is neither the necessary nor proper party to the proceedings. Application has been filed with *mala fide* intent to re-litigate the issues already decided and is nothing but abuse of process of law. The Applicant Trust having already challenged the Plan approval order dated 02.03.2020 of OSPIL unsuccessfully before this Tribunal, which Appeal was dismissed on 18.01.2022 and not further agitated by the Applicant, the Applicant cannot seek impleadment in these Appeal(s). It is pleaded that Appeal(s) arise out of an order passed on 10.11.2020 by the Adjudicating Authority on an application filed by Srei Infrastructure Finance Ltd., who is already contesting the Appeal and the Applicant has no right or interest in the subject matter of the Appeal and the application needs to be

rejected. It is further pleaded that Applicant is not a juristic entity and is barred from filing the impleadment application in its own name. It is pleaded that Applicant has made several reliefs in the application without being party to the proceedings, which is not permissible. It is pleaded that Applicant has filed various frivolous applications in various Forums with the intent to create obstacles in the running of the CD, who has been fully resolved. It is pleaded that Applicant has neither any right nor any *locus* to be impleaded in the Appeal.

9. A rejoinder has also been filed by the Applicant to the reply, reiterating its *locus* and entitlement to be impleaded in the Appeal. Reference is also made in the rejoinder to an earlier order dated 07.02.2018 passed by Adjudicating Authority in C.P. (IB) No.407 of 2017.

Interlocutory Application No. 254 of 2023 in Company Appeal (AT) (Ins.) No.1038 of 2020

10. This application has been filed by Srei Multiple Asset Investment Trust seeking impleadment in Company Appeal (AT) (Ins.) No.1038 of 2020. The Applicant in the application has prayed for similar reliefs as prayed in IA No.705 of 2022 noticed above. The averments made in the application – IA No.254 of 2023 are almost similar as have been made in IA No.705 of 2022, hence are not repeated for the sake of brevity. Reply has been filed by the

Appellant to the application, which is also similar to averments and pleadings as has been made in the reply filed in IA No.705 of 2022. Rejoinder has also been filed in IA No.254 of 2023 on the same lines. Pleadings in IA No.254 of 2023, reply and rejoinder are almost same as IA No.705 of 2022, it need no repetition.

Interlocutory Application No. 6020 of 2023 in Company Appeal (AT) (Ins.) No.1038 of 2020

11. This application has been filed by Mr. Vir Jai Khosla, claiming to be shareholder in Srei Infrastructure Finance Ltd. The Applicant has sought intervention in the Appeal under Order I (Rule 8A) of the CPC. It is pleaded that the Applicant seeks to address this Tribunal on two questions of law as has been captured in Paragraph-1 of the application. The Applicant pleads that the Appeal arises out of an order dated 10.11.2020 passed by NCLT Ahmedabad in IA No.245 of 2020 filed by Srei Infrastructure Finance Ltd. in CP (IB) No.39-40 of 2017 titled 'Standard Chartered Bank vs. Essar Steel India Ltd.', being a proceeding relating to the insolvency of the CD namely – Essar Steel India Ltd. (as was known prior to approval of the Resolution Plan under the IBC), which Company now known as M/s Arcelormittal Nippon Steel India Ltd. It is pleaded that the consequence of the order dated 10.11.2020 is that Company AMNSIL is to pay RTU charges to OSPIL. The Applicant pleads that the Appeal filed by the Appellant needs to be rejected *in limini* and the

Appellant is not a person aggrieved within the meaning of Section 61. The interim order dated 04.12.2020 passed in this Appeal is a nullity in law, void *ab initio*. In the application, the Applicant Mr. Vir Jai Khosla prays for following reliefs:

> *"i. Taking on record the submissions made by the intervenor, acting suo motu, recall the order dated 04-12-2020 passed in the present appeal, given that it was passed under Section 61 of the IBC 'without jurisdiction' at the instance of an appellant that cannot possibly claim to be 'a party aggrieved', but who played fraud upon this Hon'ble Tribunal, by knowingly making a false assertion to the effect that it is 'a person aggrieved' while knowing it to be false.*
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> *ii. Consequently, vacate also the stay order dated 08-12-2020 passed in Company Appeal (AT) (Ins.) No. 1043 of 2020, given that it was passed ex parte without examining the merits in that appeal, merely on the strength of the order dated 04-12-2020 passed in the present appeal, on the mischievously-advanced premise that the issues contained in that appeal are identical to the issues contained in the present appeal, when this is not so.*
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> *iii. Dismiss the present appeal, being infructuous, given that the appellant [M/s Arcelor Mittal India*

(P) Ltd], by order dated 15-03- 2023 passed by Hon'ble NCLT (Ahmedabad) (Annexure 1) made retrospectively effective from 16-12-2019, has merged into Arcelor Mittal Nippon Steel India Ltd, which is the appellant against the same impugned order dated 10-11-2020 in Company Appeal (AT) (Ins.) No. 1043 of 2020.

iv. *Pass ex-parte orders and/or directions as prayed for above.*

v. *Any further interim order or direction which this Hon'ble Appellate Tribunal may deem fit and proper in the circumstances of the case be issued in favour of the appellant."*

12. Written submissions opposing the application has been filed by the Appellant.

Interlocutory Application No. 217 of 2025 in Company Appeal (AT) (Insolvency) No. 1043 of 2020

13. This application has been filed by Gujarat Operational Creditors Association and another – M/s Sayam Shares & Securities (P) Ltd. The Applicant No.1 – Gujarat Operational Creditors Association, whose constituents were formerly recognized as Operational Creditor of Essar Steel, in the application pleads that Resolution Plan of Essar Steel approved by NCLT on 08.03.2019, which was carried upto the Hon'ble Supreme Court is void *ab*

initio as same was obtained by fraud. Applicant No.2 claims to be assignee and transferee of actionable claims from certain Operational Creditors and shareholders of ESIL. In the Memorandum of Application, the Applicants have impleaded various parties as Respondents, who are not party to the Appeal. The *locus standi* of the Applicants are on the premise that any party, who is not party to the Company Petition adjudicated by NCLT, but can show injury, can come forward and file an appeal claiming to be 'a person aggrieved'. Similarly, any person, who is not party to a Company Petition adjudicated by NCLT, but can show injury by an order passed by NCLT being potentially set aside by this Tribunal in an Appeal, can equally claim 'a person aggrieved' before this Tribunal and can claim impleadment in the Appeal. The Applicants claim to have filed application before the NCLT Cuttack for recall of the order dated 15.03.2020. Once the money is paid to OSPIL by the Lenders, 30% of the money is to come to the CD, which then must go for distribution to the Operational Creditors (like the Applicants), and the Resolution Plan for OSPIL must be set aside. It is pleaded in the application that order of the Hon'ble Supreme Court dated 15.11.2019 (supra) is flawed and needs intervention. The Applicants alleged certain errors in the judgment of the Hon'ble Supreme Court dated 15.11.2019 as referred to in the application. In the application, following prayers have been made:

i. *"Take judicial notice of the submissions made by the applicant (as an intervenor) in these proceedings that now already form part of the official record of this Hon'ble Tribunal, and pass appropriate orders on such submissions already placed on record, irrespective of whether the applicant is eventually permitted to be impleaded or not.*

ii. *Permit the applicant the exercise of his right under Order I (Rule 8A) of the CPC to take such further part in oral arguments on the questions of law that arise in these proceedings as may be deemed appropriate by this Hon'ble Tribunal.*

iii. *Allow impleadment of the applicant as Respondent No. 4 in the present appeal, in terms of (proposed) Memo of Parties (II) appended hereto, and marked as Annexure 1.*

iv. *Pursuant to impleadment, allow the appeal, set aside the order dated 10-11-2020, and direct for placement of the Corporate debtor into liquidation for breach of the Resolution Plan and / or for having obtained its approval by fraud and / or collusion.*

v. *In the alternative : Allow the appeal, set aside the impugned order, and then direct NCLT to re-hear IA No. 245 of 2020 to recalculate the amount payable*

to OSPIL (after hearing also the applicant), of which amount 30.20% then be paid by OSPIL to ESIL for further distribution to the OCs, such as the applicant.

vi. *INTERIM RELIEF : Direct NCLT to first decide the application preferred by the applicant (Annexure 2), seeking recall of the order dated 10-11-2020 (being passed 'without jurisdiction') and placement of the Corporate debtor into liquidation."*

14. Detailed reply has been filed by the Appellant in IA No.217 of 2025 opposing the application. It is pleaded that application filed by Gujarat Operational Creditors Association and another is not maintainable and is an abuse of process of law, which needs to be dismissed. It is pleaded that Applicant No.1, claims to be allegedly an Association of erstwhile Operational Creditors of Essar Steel and Applicant No.2 is allegedly an assignee of claims of certain erstwhile Operational Creditors and erstwhile shareholders of Essar Steel. It is pleaded that CIRP of Essar Steel having been concluded with the approval of a Resolution Plan upto the Hon'ble Supreme Court, all pre-CIRP dues stand extinguished and Applicants cannot be permitted to agitate any rights on the basis of those pre-CIRP dues. The Applicants have not challenged the order approving the Resolution Plan of Essar Steel, which was affirmed upto the Hon'ble Supreme Court vide judgment dated 15.11.2019 (supra), the Applicants are trying to agitate various issues, even challenging

the order of the Hon'ble Supreme Court dated 15.11.2019 in this application. The application is nothing but abuse of process of the Court. The Resolution Plans with respect to Essar Steel and OSPIL having been approved upto the Hon'ble Supreme Court and implemented, the Applicants are trying to ignore the effect of these final and binding decisions and filed this application, which is nothing but a vexatious application. It is pleaded that Applicants have filed similar applications before various other Fora with a similar attempt to reopen the Essar Steel and OSPIL, CIRP. Many of the applications have been dismissed and in certain applications, observations have been made that Applicants lack *locus*. The Applicants have not made out any case of agitating any interest in these proceedings. The Applicants right against Essar Steel as Operational Creditors stood extinguished, pursuant to approval of the Plan. The Applicants interpretation of Order I (Rule 8A) of the CPC would render the proceedings under the Code unworkable, as it would allow all and sundry to claim a right of hearing in any proceedings, regardless of whether they have any interest therein. It is submitted that Review Petitions against judgment of the Hon'ble Supreme Court dated 15.11.2019 were also dismissed on 02.06.2020. One Review Petition filed by one M/s PALCO Recycle Industries Ltd. ("**PALCO**") was also dismissed by Hon'ble Supreme Court on 02.06.2020, one of the Member of the Association as claimed in the application is PALCO, who has unsuccessfully filed the Review Petition before the Hon'ble Supreme Court. It is submitted that CIRP of the OSPIL also was completed by approval

of the Resolution Plan by order dated 02.03.2020 passed by NCLT Cuttack, which Plan was implemented on 08.07.2020, which led to extinguishment of OSPIL's erstwhile shareholding and the allotment of new shares to AMIPL and consequently, AM Mining Pvt. Ltd., a group Company of AMIPL, became the sole shareholder of OSPIL with effect from 08.07.2020. There is no locus to the Applicants to file this application. Several proceedings, including contempt proceedings, were initiated by the Applicants. The reply refers to various proceedings initiated by the Gujarat Operational Creditors Association. Reference has also been made to an order passed by the Gujarat High Court, dismissing the application with costs.

Interlocutory Application No. 6019 of 2023 in Company Appeal (AT) (Insolvency) No. 1043 of 2020

15. This application has been filed by one Mr. Muhammad Ali Sheikh. The Applicant seeks intervention in the Appeal and prays to set aside the order dated 10.11.2020. The Applicant's case in the application is that the Applicant is an investor in securities based in Toronto, Canada. He claimed to be shareholder of Arcelor Mittal SA (Luxembourg) ("**AMSA**"). He claimed to have obtained shares in parent Company of Arcelor Mittal Nippon Steel India Ltd. is aggrieved by the actions of the management of AMSA. The Applicant in the application has also made various allegations of fraud and allegations against CIRP of OSPIL, allegations against RP of the OSPIL and allegations

against several other officials of OSPIL have been made. Order of NCLT and judgment of Hon'ble Supreme Court dated 15.11.2019 has also been attacked, alleging various errors in the judgment of the Hon'ble Supreme Court.

16. Reply has been filed by the Appellant in IA No.6019 of 2023. It is pleaded that the application is sheer abuse of the process of law and is liable to be dismissed at the threshold. The Applicant is deriving his interest in the capacity of a shareholder of Arcelor Mittal SA (Luxembourg), which in turn is a parent Company of the Appellant. It is pleaded that according to own allegations of the Applicant, he acquired shares of Arcelor Mittal SA (Luxembourg) in June 2022, after the CIRP of the CD have been completed, according to the Applicant he owned 85 equity shares of Arcelor Mittal SA (Luxembourg), on behalf of which the Applicant is seeking intervention in a proceeding, who was never party to any proceedings before the NCLT. The Applicant according to own admission has become shareholder in June 2022, well after the completion of CIRP of Essar Steel and after passing of the order dated 10.11.2020, against which Appeal was filed and the issue sought to be raised by the Applicant is wholly outside the scope of the Appeal. The Applicant has no interest in the subject matter of the Appeal. The Applicant has failed to show any *bona fide* in the application. Various un-substantive, false and frivolous allegations have been made in the application, which has

no legs to stand. The Applicant is totally stranger as a third party. The application needs to be dismissed with exemplary cost.

17. We have heard Shri Gaurav Mitra, learned Counsel in IA No.705 of 2023 and IA No.254 of 2023 filed by Srei Multiple Asset Investment Trust; Shri Deepak Khosla, learned Counsel appearing in IA No.6020 of 2023 for Mr. Vir Jai Khosla and IA No.217 of 2025 filed by Gujarat Operational Creditors Association and Anr.; Shri Sujeve Deora, learned Counsel appearing in IA No.6019 of 2023; Shri Neeraj Kishan Kaul, learned Senior Counsel appearing for Appellants in the Appeal; Shri Sanjeev Sen, learned Senior Counsel appearing for Respondent No.1 (SREI Infrastructure Finance Ltd.) in the Appeal; and other learned Counsel appearing for Appellants and Respondents in the Appeal.

18. Shri Gaurav Mitra, learned Counsel appearing for Srei Multiple Asset Investment Trust submits that the Applicant is shareholder of 69.80% of pre-CIRP equity shareholding of OSPIL. It is submitted that the Applicant is supporting the impugned order dated 10.11.2020 passed by NCLT. Shri Mitra submits that in event the impugned order is upheld, there is no one, who can receive the money, hence, the money needs to be paid to erstwhile shareholder of the OSPL, of which the Applicant is a majority shareholder. Shri Mitra submits that Applicant as shareholder of the OSPIL has right to be impleaded in the Appeal. The Applicant being pre-CIRP equity shareholder may

ultimately receive the payments as directed by order dated 10.11.2020. Shri Mitra submits that the payout of Rs.1300 crores to be made to OSPL, eventually has to come to the benefit of Applicant. The Applicant belong to the residue class. Shri Mitra prays that Applicant be impleaded as Respondent in the Appeal.

19. Shri Deepak Khosla, learned Counsel appearing for Mr. Vir Jai Khosla and Gujarat Operational Creditors Association & Anr. has advanced his submissions in support of the respective Applicants. In support of the application filed by Mr. Vir Jai Khosla, Shri Khosla submits that the Applicant – Vir Jai Khosla is shareholder of Srei Infrastructure Finance Ltd. and SIFL is major contributor in SMAIT. It is submitted that Applicant has also filed application for recall of the Resolution Plan of SIFL, which is pending. The Applicant as an informant of wrongdoing, with regard to which there can be no bar. The Applicant is seeking intervention under the juridical principles and analogous to Order I (Rule 8A) of the CPC. It is submitted that under Order I (Rule 8A), the Court can permit a person or persons to present opinion or to take part in the proceedings on any question of law, which is directly and substantially in issue. It is submitted that above is *suo motu* power of the Court, with regard to which there is no adversarial lis. The prayer of the Intervenor can also be oral and can also be in the nature of an adversarial lis. It is submitted that the Intervenor's interest in intervening is purely related to

a question of law, hence, he can have no grievance with regard to final outcome of the matter. It is submitted that no *locus* is required to be demonstrated to report knowledge of breaches of law. If in any proceeding, there is illegality, any person can come forward to assist the Court without any *locus standi* being an issue standing in his way of being an informant. It is prayed that IA No.6020 of 2023 be allowed.

20. Shri Khosla in support of IA No.217 of 2025 filed on behalf of Gujarat Operational Creditors Association & Anr. Submits that it's constituents were all erstwhile Operational Creditors of Essar Steel, who received on 16.12.2019 only 20.50% of their admitted claims. Order approving Resolution Plan was passed without jurisdiction with collusion of CoC. The Appellant committed fraud in the CIRP of Essar Steel as well as OSPIL. Shri Khosla submits that the principles laid down by the Dehi High Court in ***Prem Kumar Gupta vs. Bank of India – (2015) 130 SCL 489 (Delhi)*** is to be applied. It is submitted that principles, which are laid down in the Code of Civil Procedure for conducting a proceeding, can very well be applied by this Tribunal and the principles as contained in Order 1 (Rule 10) and Order 1 (Rule 8A) can very well be applied. Although, this Tribunal is not constrained with the procedure provided in the Code of Civil Procedure, but this Tribunal can be guided by the principles contained in the Code of Civil Procedure. The CIRP cost in the Resolution Plan of Essar Steel was not correctly quantified. The SRA has

contrived with the RP regarding quantification of CIRP cost. It is submitted that Applicants, who are erstwhile Operational Creditors of the Essar Steel, are fully entitled to be impleaded as party. The Applicant has already filed an application before the NCLT Ahmedabad to recall of the Resolution Plan approval order dated 08.03.2019. The Applicant is also seeking recall of the order dated 04.07.2019 passed by this Tribunal. Applicant No.2 is assignee of the actionable claims of the erstwhile Operational Creditor of Essar Steel, hence, it has also *locus* to be impleaded. Applicant No.2 company, being a pre-CIRP creditor, whose interests are preserved to be adjudicated after completion of CIRP, is entitled to be impleaded. Applicant shall be directly and materially affected by the outcome of the Appeal. In event the appeal fails, the Appellant is directed to pay Rs.1300 crores to OSPIL, as this Rs.1300 crores will go to erstwhile stakeholders, since the OSPIL lenders have already given discharge of their entire debt. At least Rs.390 crores will come back to the Appellant, which will be nothing but 'unjust enrichment'. Learned Counsel has also referred to injunction order dated 22.12.2016.

21. Shri Sajeve Deora, learned Counsel appearing in IA No.6019 of 2023 filed by Mr. Muhammad Ali Sheikh submits that Muhammad Ali Sheikh is shareholder of parent company of the Appellant – Arcelor Mittal Nippon Steel India Ltd. The Applicant being shareholder of the holding company is fully entitled to intervene in the Appeal. Shri Deora submits that the Applicant had

85 equity shares of the parent company. It is submitted that RTU charges has to be paid as CIRP cost. If Bank returns the money to Essar Steel, the Essar Steel has to pay to the stakeholders and OSPIL and concerned sales valuation of the asset shall increase. Learned Counsel for the Applicant has referred to the order dated 10.11.2020 and also refers to computation of RTU charges/ CIRP cost. EBITDA was overstated to the extent of non-inclusion of the RTU charges payable to OSPIL as part of CIRP costs. Under order of the Hon'ble Supreme Court large amount being unduly collected by the Financial Creditors, even though they had no right to the entire amount. It is submitted that net actual debt was only Rs.4,754 crores. The lenders have appropriated larger amount. If the amount taken by lenders, comes back to the Essar Steel, the Essar Steel valuation shall increase.

22. Shri Neeraj Kishan Kaul, learned Senior Counsel appearing for the Appellant refuting the submissions of the Applicants contended that none of the Applicants are entitled to be impleaded or permitted to intervene in these Appeal(s). It is submitted that the Applicants are neither necessary nor proper parties to be impleaded, nor has any *locus* to intervene in the matter. Shri Kaul submits that all applications have been filed with *malifide* intention and deserve to be rejected with exemplary costs. Applicants have no interest in subject matter. Replying to the submission of Shri Gaurav Mitra made on behalf of SMAIT, it is submitted that Applicant SMAIT claim itself erstwhile

shareholder of OSPIL and by approval of the Resolution Plan of the OSPIL, which has been affirmed upto the Hon'ble Supreme Court, rights of all claimants, including erstwhile shareholders stand extinguished. The Review Petition filed before the Hon'ble Supreme Court to review the approval of Resolution Plan of Essar Steel as well as OSPIL, were all rejected. The treatment to Financial Creditors and Operational Creditors have become final by approval of Resolution Plan, any shareholding in the Essar Steel and OSPIL stand extinguished and all Operational Creditors of Essar Steel and OSPIL ceases to be Operational Creditors. It is submitted that for seeking impleadment, the Applicant has to show that presence of the Applicant is necessary to decide the Appeal. The Applicant has to establish its *locus* and legal right to intervene. Coming to the submissions of on behalf of Applicant - Vir Jai Khosla, it is submitted that Vir Jai Khosla claims to be shareholder of SREI Infrastructure Finance Ltd. SREI Infrastructure Finance Ltd. is a lender, who has been paid in CIRP of both Essar Steel and OSPIL. Order 1 (Rule 8A) cannot be relied by the Applicant and Applicant has no *locus* to say that Appellant is not an aggrieved person. Amalgamation and merger is done by the competent Court. There is no such concept like stale merger as contended by the Applicant. Vir Jai Khosla has no right in the subject matter of the Appeal and cannot be allowed to intervene in the matter. The interpretation, which is put on Order 1 (Rule 8A) CPC by the learned Counsel for the Applicant shall lead to an unworkable result. Permitting any Applicant,

who states that he has interest in question of law, cannot be made basis for permitting any such intervention. Order 1 (Rule 8A) gives discretion to the Court to ask for opinion from a person or body of persons. Mr. Vir Jai Khosla has neither any *locus* nor any interest in the subject matter of the Appeal. Shri Kaul replying to the submission of Shri Deepak Khosla made in support of IA No.217 of 2025 submits that Gujarat Operational Creditors Association claims to be consisting of erstwhile Operational Creditors of the Essar Steel. Applicant No.2 is assignee of erstwhile Operational Creditors. PALCO, who is referred to in the Application has filed the Review Petition, which was dismissed. The claim of Operational Creditors stands extinguished by approval of the Resolution Plan. Shri Kaul submits that large number of applications have been filed by Gujarat Operational Creditors Association before the NCLT Ahmedabad and the Gujarat High Court. The Applicant has unsuccessfully filed various applications, some of which were dismissed with costs. The Applicant, who has no *locus* to be impleaded in the Appeal, have been filing frivolous applications and is trying to re-agitate and litigate the issues, which have already become final upto the Hon'ble Supreme Court, cannot be allowed to reopen the issues. Replying to the submissions of Mr. Deora, learned Counsel for the Appellant submits that the Applicant - Muhammad Ali Sheikh according to own showing is shareholder of Arcelor Mittal SA (Luxembourg), the holding company of the Appellant and he has only 85 equity shares of Arcelor Mittal SA (Luxembourg), which he obtained

in June 2022. The Applicant has no *locus* to intervene in the CIRP of Essar Steel and OSPIL. The application filed by Muhammad Ali Sheikh is vexatious and frivolous and the application deserves to be dismissed with exemplary costs. Applicant has no right or interest in the present Appeal(s).

23. We have considered the submissions of learned Counsel for the parties and have perused the record. From the submissions of learned Counsel for the parties and material on record, following are the questions, which has arisen for consideration in these Applications:

(I) What are the requirements, which need to be fulfilled by a third-party to a proceeding, who is claiming impleadment in the present Appeal(s) as party-respondent?

(II) Whether the Applicant – SREI Multiple Asset Investment Trust has made out a case for impleadment in IA No.705 of 2022 and IA No.254 of 2023?

(III) Whether Applicant in IA No.217 of 2025 has made grounds for impleadment in Company Appeal (AT) (Ins.) No.1043 of 2020?

(IV) Whether Applicant in IA No.6019 of 2023 has made out grounds for impleadment in Company Appeal (AT) (Ins.) No.1043 for 2024?

(V) Whether Applicant - Vir Jai Khosla (IA No.6020 of 2023) is entitled to be permitted to intervene under Order 1 (Rule 8A) of the CPC?

Question No. (I)

24. We have noticed above that applicant in I.A. No.705/2022 and I.A. No.254/2023 - SREI Multiple Asset Investment Trust, applicant in I.A. No.217/2025 - Gujarat Operational Creditors Association & Anr. and applicant in I.A. No.6019/2023, Mr. Mohammad Ali Shaikh, who are praying for being impleaded in Comp. App. (AT) (Ins.) No.1043/2020 and Comp. App. (AT) (Ins.) No.1038/2020 are third party to the proceedings. The Comp. App. (AT) (Ins.) No.1038/2020 and Comp. App. (AT) (Ins.) No.1043/2020 have been filed against the order dated 10.11.2020 passed by NCLT, Ahmedabad, in I.A. No.245/2020 filed by SREI Infrastructure Finance Ltd. & Ors. The above named applicants were not the party to the proceedings in I.A. No.245/2020 which was filed by SREI Infrastructure Finance Limited giving rise to both the Comp. App. (AT) (Ins.) No. 1038/2020 and Comp. App. (AT) (Ins.) No.1043/2020. The applicants were also not party to the proceedings in the CIRP of Essar Steel India Limited, which CIRP process was completed by approval of the resolution plan by NCLT, Ahmedabad by order dated 08.03.2019, which plan was also approved by the NCLT order dated 04.07.2019 with certain modifications. Ultimately Hon'ble Supreme Court vide judgment dated 15.11.2019 in CoC of Essar Steel Vs. Satish Kumar

Gupta, RP of Essar Steel & Anr., approved the resolution plan as approved by the NCLT. Thus, CIRP of the Essar Steel came to an end was completed by approval of the plan by the Hon'ble Supreme Court. After plan was implemented, I.A. No.245/2020 was filed by the SREI Infrastructure Finance Limited giving rise to the impugned order. Applicant being not party to the proceedings before the NCLT, Ahmedabad has come up with the above mentioned applications in Comp. App. (AT) (Ins.) No.1038/2020 & 1043/2020, praying for impleadment as party respondent

25. Learned counsel for the applicant has relied on principles as enshrined in Order 1, Rule 10 (2) of the Code of Civil Procedure. It is submitted that under Order 1, Rule 10 of the Code of Civil Procedure, the Court can direct for joining a party as plaintiff or defendant who was present before the Court in order to enable the court effectually and completely to adjudicate upon and consider all questions involved in the suit.

26. NCLT & NCLAT are constituted under the Companies Act 2013. Section 424 of the Companies Act, 2013 provides for procedure before Tribunal and Appellate Tribunal. Section 424(1) and 424(2) are as follows:

> *"**424. Procedure before Tribunal and Appellate Tribunal.** – (1) The Tribunal and the Appellate Tribunal shall not, while disposing of any proceeding before it or, as the case may be, an appeal before it, be*

bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice, and, subject to the other provisions of this Act 1[or of the Insolvency and Bankruptcy Code, 2016 (31 of 2016)] and of any rules made hereunder, the Tribunal and the Appellate Tribunal shall have power to regulate their own procedure.

(2) The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act 1[or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016)], the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:--

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act,1872 (1 of 1872), requisitioning any public record or document or a copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) dismissing a representation for default or deciding it ex parte;

(g) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and

(h) any other matter which may be prescribed."

27. Sub-section (1) of Section 424 provides that Tribunal and the Appellate Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure but shall be guided by the principle of natural justice and subject to provisions of Companies Act, 2013 or the IBC 2016 and the rules made thereunder shall have power to regulate their own procedure. Sub-section (2) of Section 424 vests certain powers vested in Civil Courts while trying suits. The powers enumerated in sub-Section (2) of Section 424 does not include the procedure of impleadment as laid down in the Code of Civil Procedure.

28. Learned counsel Mr. Deepak Khosla appearing for some of the applicants have placed reliance on the judgment of the Hon'ble Delhi High Court in the matter of ***'Prem Kumar Gupta' Vs. 'Bank of India & Ors.'*** reported in [(2015) 130 SCL 489 DEL]. Hon'ble Delhi High Court was considering a writ petition challenging the order of the DRAT. In the above context, Hon'ble Delhi High Court has occasion to consider the provision of Section 19 and Section 22 of Recovery of Debts Due to Banks and Financial Institution Act, 1993 (hereinafter referred to as '1993 Act'). Section 22 of 1993

Act vested the same power of the Civil Court in the DRT & DRAT, which are *akin* to Section 424 sub-Section (2). In paragraphs 23 & 25 of the judgment following was laid down:

> *"23. The litigation brought before a Debts Recovery Tribunal essentially involves a civil dispute. It concerns primarily the claim of a bank or a financial institution to "a debt" which it seeks to recover from the person impleaded as a defendant. In dealing with such an application instituted before it by a bank or financial institution, the DRT may not be strictly bound by the procedure laid down in the Code o Civil Procedure or may have been vested with the power to regulate its own procedure. But there is nothing in the statutory provisions to indicate that the procedure which RT adopts may be what it fancies.*
>
> *25. The clauses (f) and (g) of Section 22(2) leave no room for doubt that for regulating the appearance of parties and consequences of their non- appearance, DRT (and DRAT) are to be guided generally by the provisions contained in order 9 of the Code of Civil Procedure. If the applicant under Section 19 fails to appear, the application may be dismissed in default. Conversely, if the defendant, duly served, does not appear, the proceedings on the application under Section 19 may be held ex parte. An application dismissed in default may be restored upon application being made on sufficient cause being*

> *shown for such order to be set aside. Similarly, the defendant having been set ex parte, may join the proceedings and may be permitted to participate and ex parte proceedings being set at naught subject of course to sufficient cause being shown for earlier non-appearance. This power also extends to setting aside of a judgment rendered ex parte resulting in the hearing on the application being reopened."*

29. With reference to appearance of parties, Hon'ble Delhi High Court has held that DRT & DRAT are to be guided generally by the provisions contained in Order 9 of the Code of Civil Procedure.

30. The principles enshrined in Code of Civil Procedure with regard to power of the court to strike off or to add a party to the proceeding also need to be followed while considering any application filed before this Tribunal. This Tribunal thus can usefully follow the principle, which are enshrined in Order 1, Rule 10 while considering application filed by a third party for adding party to the proceedings. Order 1, Rule 10 sub-Rule (2) of the Code of Civil Procedure, which is relevant for the present case is as follows:

> *"**Order 1 Rule 10:** Suit in the name of the wrong plaintiff or non-joinder and misjoinder of parties.*
>
> *2. The court may at any stage of the proceedings, either upon or without the application of either party,*

and on such terms as may appear to the court to be just, order that:

- The name of any party improperly joined, whether as plaintiff or defendant, be struck out, and

- The name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added."

31. The question which need to be considered is as to what are conditions for requirement which need to be fulfilled by a third-party for permitting it to be impleaded by Court in a proceeding pending before this Tribunal. The provisions of Order 1, Rule 10 sub-Rule (2) had come for consideration before Hon'ble Supreme Court in large number of cases. Hon'ble Supreme Court in various judgments has noticed the principles for exercise of discretion by the Court while considering an application for adding a party under Order 1, Rule 10 sub-Rule (2) of the Code of Civil Procedure.

32. The first judgment of the Hon'ble Supreme Court which we need to notice is the judgment of the Hon'ble Supreme Court reported in AIR [1958 SC 886] in the matter of ***'Razia Begum', Vs. 'Sahebzadi Anwar Begum & Ors.'.*** Hon'ble Supreme Court, while considering the provisions of the principles for

adding a party in proceeding had laid down that a person may be added as a party to a suit who has a **direct interest** in the subject matter of the litigation. In paragraph 9 of the judgment, it has been held:

> *"9. …There cannot be the least doubt that it is firmly established as a result of judicial decisions that in order that a person may be added as a party to a suit, he should have a direct interest in the subject-matter of the litigation whether it raises questions relating to moveable or immovable property…"*

33. After reviewing large number of earlier judgments, Hon'ble Supreme Court laid down its conclusion in paragraph 14. Paragraphs 14(1) & 14(2) which are relevant are as follows:

> *"14. As a result of these considerations, we have arrived at the following conclusions:*
>
> *(1) That the question of addition of parties under Rule 10 of Order 1 of the Code of Civil Procedure, is generally not one of initial jurisdiction of the court, but of a judicial discretion which has to be exercised in view of all the facts and circumstances of a particular case; but in some cases, it may raise controversies as to the power of the court, in contradistinction to its inherent jurisdiction, or, in other words, of jurisdiction in the limited sense in which it is used in Section 115 of the Code;*

> *(2) That in a suit relating to property, in order that a person may be added as a party, he should have a direct interest as distinguished from a commercial interest, in the subject-matter of the litigation;"*

34. Hon'ble Supreme Court in the above judgment categorically held that a person may be added as a party **he should have direct interest as distinguished from commercial interest in the subject matter of the litigation.**

35. The next judgment which need to be noticed is the 4 Judge Bench judgment of the Hon'ble Supreme Court in [AIR 1963 SC 786] in the matter of ***'Udit Narain Singh Malpaharia' Vs. 'Additional Member Board of Revenue, Bihar & Anr.'.*** The Hon'ble Supreme Court in the above case had occasion to consider principle to determine as to who is necessary party/or proper party in a proceeding. In paragraph 7 of the judgment, following was laid down:

> *"7. To answer the question raised it would be convenient at the outset to ascertain who are necessary or proper parties in a proceeding. The law on the subject is well settled, it is enough if we state the principle. A necessary party is one without whom no order can be made effectively; a proper party is one in whose absence an effective order can be made but*

> *whose presence is necessary for a complete and final decision on the question involved in the proceeding."*

36. Another judgment of the Hon'ble Supreme Court, which had elaborately dealt the subject is the judgment of the Hon'ble Supreme Court reported in [(1992) 2 SCC 524] in the matter of ***'Ramesh Hirachand Kundanmal' Vs. 'Municipal Corporation of Greater Bombay & Ors.'.*** Hon'ble Supreme Court in the above case had occasion to consider appeal where Trial Court had impleaded Respondent No. 2 in a suit instituted by the appellant challenging validity of notice issued by Municipal Corporation, in which R-2 who had given a lease of the land to appellant, had filed an application for impleadment, which was allowed. Writ petition challenging the said order was also dismissed by the Hon'ble High Court, which order was challenged. Only question which came for consideration has been noticed in paragraph 1 of the judgment, which is as follows:

> *"1. We have to consider in this appeal the question whether respondent 2 is a necessary or proper party to be joined as defendant under Order 1, Rule 10 of the Code of Civil Procedure, in the suit instituted by the appellant against respondent 1."*

37. Hon'ble Supreme Court held that if the intervenor has cause of action against the plaintiff relating to subject matter of the existing action, court has power to join the intervenor. In paragraph 8, following was laid down:

> *"8. The case really turns on the true construction of the rule in particular the meaning of the words "whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit". The Court is empowered to join a person whose presence is necessary for the prescribed purpose and cannot under the rule direct the addition of a person whose presence is not necessary for that purpose. If the inter-vener has a cause of action against the plaintiff relating to the subject matter of the existing action, the Court has power to join the intervener so as to give effect to the primary object of the order which is to avoid multiplicity of actions."*

38. Judgment of the Hon'ble Supreme Court in ***'Razia Begum' (Supra)*** was reiterated where it was held that in order a person may be added as a party to a suit, he should have a direct interest on the subject matter of the litigation. Paragraph 10 of the judgment is as follows:

> *"10. The power of the Court to add parties under Order 1 Rule 10, CPC, came up for consideration before this Court in Razia Begum [1959 SCR 1111 : AIR 1958 SC 886] . In that case it was pointed out that the courts in India have not treated the matter of addition of parties as raising any question of the initial jurisdiction of the Court and that it is firmly established as a result of judicial decisions that in order that a*

> *person may be added as a party to a suit, he should have a direct interest in the subject matter of the litigation whether it be the questions relating to movable or immovable property."*

39. It was laid down that in suit relating to property, the **rule of present interest as distinguished from the commercial interest is required to be shown**. In paragraph 13 of the judgment following was laid down:

> *"13. A clear distinction has been drawn between suits relating to property and those in which the subject matter of litigation is a declaration as regards status or legal character. In the former category, the rule of present interest as distinguished from the commercial interest is required to be shown before a person may be added as a party."*

40. Hon'ble Supreme Court held that it is not merely that he has an interest in solution or some question involved and he has thought of similar arguments to advanced. It was held that it is necessary that a person must be directly or legally interested in the action in the answer i.e., he can say that litigation may lead to a result which will affect legally that is by curtailing his legal rights. It was held that it is difficult to say that rule contemplates joining as a defendant a person whose only object is to prosecute his own cause of action. In paragraph 14 of the judgment, following has been laid down:

"14. It cannot be said that the main object of the rule is to prevent multiplicity of actions though it may incidentally have that effect. But that appears to be a desirable consequence of the rule rather than its main objective. The person to be joined must be one whose presence is necessary as a party. What makes a person a necessary party is not merely that he has relevant evidence to give on some of the questions involved; that would only make him a necessary witness. It is not merely that he has an interest in the correct solution of some question involved and has thought of relevant arguments to advance. The only reason which makes it necessary to make a person a party to an action is so that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party. The line has been drawn on a wider construction of the rule between the direct interest or the legal interest and commercial interest. It is, therefore, necessary that the person must be directly or legally interested in the action in the answer, i.e., he can say that the litigation may lead to a result which will affect him legally that is by curtailing his legal rights. It is difficult to say that the rule contemplates joining as a defendant a person whose only object is to prosecute his own cause of action. Similar provision was considered in Amon v. Raphael Tuck & Sons Ltd. [(1956) 1 All ER 273 : (1956) 1 QB 357] , wherein

> *after quoting the observations of Wynn-Parry, J. in Dollfus Mieg et Compagnie S.A. v. Bank of England [(1950) 2 All ER 605, 611] , that their true test lies not so much in an analysis of what are the constituents of the applicants' rights, but rather in what would be the result on the subject matter of the action if those rights could be established, Devlin, J. has stated:*
>
> *"The test is 'May the order for which the plaintiff is asking directly affect the intervener in the enjoyment of his legal rights'.""*

41. Hon'ble Supreme Court held that presence of Hindustan Petroleum Corporation is not necessary for the purpose of enabling the court to effectually and completely adjudicate and settle all the question involved in the suit. Following was laid down in paragraph 15:

> *"15. It has been strenuously contended before us that respondent 2 has no interest in the subject matter of the litigation and the presence of the respondent is not required to adjudicate upon the issue involved in the suit or for the purpose of deciding the real matter involved. It is pointed out that the subject matter in the suit is the notice issued by the Municipal Corporation to the appellant and the issue is whether it is justified or not. The Hindustan Petroleum Corporation Limited is interested in supporting the Municipal Corporation and sustaining the action taken against the appellant. But that does not amount to any legal interest in the*

subject matter in the sense that the order, if any, either in favour of the appellant or against the appellant would be binding on this respondent. It is true that being lessee of the premises, the Hindustan Petroleum Corporation Limited has an answer for the action proposed by the Municipal Corporation against the appellant, but for the purpose of granting the relief sought for by the appellant by examining the justification of the notice issued by the Municipal Corporation, it is not necessary for the Court to consider that answer. If that be so, the presence of the respondent cannot be considered as necessary for the purpose of enabling the Court to effectually and completely adjudicate upon and settle all the questions involved in the suit. The appellant is proceeded against by the Municipal Corporation for the alleged action in violation of the municipal laws. The grievance of the respondent against the appellant, if any, could only be for violation of the agreement and that is based on a different cause of action. The consolidation of these two in the same suit is neither contemplated nor permissible."

42. Hon'ble Supreme Court allowed the appeal and set aside the order impleading Hindustan Petroleum Corporation in a suit. The above judgment of the Hon'ble Supreme Court reiterates the principle that person seeking impleadment in a suit should establish that **he is directly and legally interested in subject matter of the litigation**. The mere fact that applicant

has set an argument to raise or he wants to prosecute his own cause of action, is not sufficient to permit impleadment.

43. Another judgment of the Hon'ble Supreme Court in the matter of ***'Anil Kumar Singh' Vs. 'Shivnath Mishra'*** reported in [(1995) 3 SCC 147] again reiterated the same principle. Judgment of the Hon'ble Supreme Court in ***'Razia Begum' (Supra)*** was reiterated that party must have a present or direct interest in the subject matter of the suit. A Three Judge Bench in (2005) 6 SCC 733 in ***'Kasturi' Vs. 'Iyyamperumal & Ors.'*** had again occasion to consider the salient principle for adding a third-party in the proceeding. Hon'ble Supreme Court laid down that two tests are to satisfy for determining the question who is ncecessary party. In paragraph 7, following was laid down:

> *"7. …From the above, it is now clear that two tests are to be satisfied for determining the question who is a necessary party. Tests are — (1) there must be a right to some relief against such party in respect of the controversies involved in the proceedings; (2) no effective decree can be passed in the absence of such party."*

44. It was further held by the Hon'ble Supreme Court that controversies raised between the parties to the litigation must be gone into only and Court

cannot allow adjudication of collateral matters. Following was held in paragraph 16:

> *"16. That apart, from a plain reading of the expression used in sub-rule (2) Order 1 Rule 10 CPC "all the questions involved in the suit" it is abundantly clear that the legislature clearly meant that the controversies raised as between the parties to the litigation must be gone into only, that is to say, controversies with regard to the right which is set up and the relief claimed on one side and denied on the other and not the controversies which may arise between the plaintiff-appellant and the defendants inter se or questions between the parties to the suit and a third party. In our view, therefore, the court cannot allow adjudication of collateral matters so as to convert a suit for specific performance of contract for sale into a complicated suit for title between the plaintiff-appellant on one hand and Respondents 2 and 3 and Respondents 1 and 4 to 11 on the other..."*

45. The next judgment need to be noticed is the judgment of the Hon'ble Supreme Court in the matter of ***'Mumbai International Airport Private Limited' Vs. 'Regency Convention Centre & Hotels Private Limited & Ors.'*** reported in [(2010) 7 SCC 417]. *Justice R.V. Raveendran* speaking for the Court has elaborately dealt the subject. A suit was filed by Airport Authority of India against Convention Centre & Hotel Private Limited. Mumbai

International Airport Private Ltd. was entrusted the work of modernisation of the Airport. Mumbai International Airport Private Limited filed an application for being added as a respondent in the suit alleging that its interest was likely to be directly affected if the relief is granted to the first respondent plaintiffs in the suit. Learned Single Judge dismissed the application filed by the appellant which order was also affirmed by the Division Bench. The question came for consideration before the Hon'ble Supreme Court was as to whether appellant was necessary or proper party to the suit of specific performance filed by first respondent. General Rule under Order 1, Rule 10 was noticed that plaintiff in a suit is *dominus litus*, which general rule is subject to provision of Order 1, Rule 10 sub-Rule (2). Explaining a necessary party and proper party following was observed in paragraph 15:

> *"15. A "necessary party" is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a "necessary party" is not impleaded, the suit itself is liable to be dismissed. A "proper party" is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him,*

> *against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance."*

46. Hon'ble Supreme Court has further held that if the Court find that addition will alter the nature of the suit or introduce a new cause of action it may dismiss the application even if he is found to be a proper party. In paragraph 24.4 following was held:

> *"24.4 If an application is made by a plaintiff for impleading someone as a proper party, subject to limitation, bona fides, etc., the court will normally implead him, if he is found to be a proper party. On the other hand, if a non-party makes an application seeking impleadment as a proper party and the court finds him to be a proper party, the court may direct his addition as a defendant; but if the court finds that his addition will alter the nature of the suit or introduce a new cause of action, it may dismiss the application even if he is found to be a proper party, ..."*

47. It was held that no one has right to insist that he should be impleaded as a party merely because he is a proper party. Ultimately, the Hon'ble Supreme Court held that appellant is not a necessary party. The appeal was dismissed. It was held that if Airport Authority of India succeeded in the suit,

the suit land may also be leased to the appellant is not sufficient to hold that appellant has any right or interest. In paragraph 29 following has been observed:

> *"29. …The fact that if AAI succeeded in the suit, the suit land may also be leased to the appellant is not sufficient to hold that the appellant has any right, interest or a semblance of right or interest in the suit property. When the appellant is neither claiming any right or remedy against the first respondent and when the first respondent is not claiming any right or remedy against the appellant, in a suit for specific performance by the first respondent against AAI, the appellant cannot be a party. The allegations that the land is crucial for a premier airport or in public interest, are not relevant to the issue."*

48. From the judgments of the Hon'ble Supreme Court as noted above, following are few principles which are discernible, which can be applied for exercise of discretion by the Court, while considering an application for impleadment of a third-party in a proceeding;

i. The party seeking impleadment must establish that it has a direct interest as distinguished from a commercial interest in the subject matter of the litigation. [Para 14(2) of ***'Razia Begum' (Supra)***]

ii. If the intervenor has a cause of action against the plaintiff related to the subject matter of the existing action, the Court has power to join the intervenor. [Para 8 of ***'Ramesh Hirachand Kundanmal' (Supra)***]

iii. The Court need not implead a party who has no direct interest in the subject matter of the litigation and addition of the respondent would result in causing serious prejudice to the Appellant and the substitution or the addition of new cause of action and would only widen the issue which is required to be adjudicated and settled. [Paragraph 18 of ***'Ramesh Hirachand Kundanmal' (Supra)***]

iv. The Court cannot allow adjudication of collateral matters. [Paragraph 16 of ***'Kasturi' (Supra)***]

v. If the Court finds that his addition will alter the nature of the suit or introduce a new cause of action, it may dismiss the application, even if he is found to be a proper party. [Paragraph 24.4 of the ***'Mumbai International Airport Private Limited' (Supra)***]

Question No.(II)

49. As noted above, IA No.705 of 2022 and IA No.254 of 2023 have been filed by SREI Multiple Asset Investment Trust in Company Appeal (AT) (Ins.)

No.1043 of 2020 and Company Appeal (AT) (Ins.) No.1038 of 2020, respectively. Applicant has prayed to be impleaded as party respondent in respective appeals. It shall be sufficient to refer to pleadings made in IA No.705 of 2022 to dispose of both the applications. Learned counsel for the Applicant during submission has emphasized that Applicant - SREI Multiple Asset Investment Trust was pre-CIRP shareholder of OSPIL to the extent of 69.80% of the pre-CIRP equity shareholding, the balance 30.20% being in the name of Essar Steel India Ltd. (ESIL). Learned counsel for the Applicant submits that under the impugned order dated 10.11.2020, the Appellant has been directed to make payment of RTU charges amounting to Rs.1300 Crores to the OSPIL. It is submitted that Applicant being pre-CIRP shareholder, in event the appeal is dismissed, shall be entitled to receive substantial amount which makes the Appellant a party having direct interest in the subject matter of the litigation and entitle it to be impleaded as party respondent.

50. The Applicant in the application has claimed it to be a trust registered under Indian Trusts Act, 1882. Applicant in Para 3(b) of the application has pleaded that SIFL, who had filed IA No.245 of 2017 is neither a necessary party in the appeal nor a proper party. It is further pleaded that with implementation of the resolution plan of ESIL and OSPIL, the entire claim of SIFL has been satisfied. It is further pleaded in Para 3(c) of the application that there is illegality committed by the Resolution Professional of OSPIL and

Resolution Professional of ESIL. The Appellant – ArcelorMittal Nippon Steel India Ltd. (AMNSIL) is liable to be liquidated under Section 33(4) of the Code and all respondents are liable to be criminally prosecuted. It is useful to extract following part of Para 3(c) of the application:

> *"If the former, then AMNSIL is liable to be liquidated immediately under Section 33 (4) of the Code (2016).*
>
> *And if the latter, then this orchestration of 'liquidation fraud' by all these Respondent companies and all the respondents arrayed herein, in criminally-prosecutable conspiratorial collusion with the 2 Resolution Professionals involved, renders all of them liable to the penal consequences of 'liquidation fraud'."*

51. The Applicant in the application has also pleaded that appeal need to be dismissed on several grounds as enumerated in the application. It further pleaded that Appellant – AMNSIL is not a person aggrieved so as to entitle to file an appeal under section 61 of the I&B Code. The reason it is pleaded that in event the appeal is dismissed, RTU charges to be paid by ESIL-AMNSIL to OSPIL has to be paid to the pre-CIRP shareholder i.e. Applicant, having 69.80% share, which allegation is made in Para 18 of the Application, which is as follows:

> *"18. That the relevance of paras 11-12 above to the present application for impleadment by the*

> *applicant is that if the challenge to the order dated 10-11-2020 is dismissed by this Hon'ble Appellate Tribunal, this means that the RTU charges to be paid by ESIL-AMNSIL to OSPIL, not having been included as receivables / assets in the Resolution Plan, perforce, will have to be made over to the pre-CIRP shareholders, meaning thereby that the applicant is entitled to 69.80% of such receipts when received in the hands of OSPIL."*

52. In the application, Applicant has also made various pleadings and allegations with regard to CIRP conducted of ESIL and OSPIL and the orders approving the resolution plan of ESIL and ISPIL has been questioned. Learned counsel for the Applicant has further pressed the application relying on the Applicant being pre-CIRP shareholder to the extent of 69.80% share in the OSPIL. We need to consider as to whether on the said ground it can be held that Applicant has direct and present interest in the subject matter of litigation so as to entitle the Applicant to be impleaded in the appeal.

53. In the application Reply has been filed by the Appellant. According to the Applicant's case Applicant was holding 69.80% share in OSPIL pre-CIRP. The CIRP of the OSPIL commenced by order dated 14.05.2019 passed by NCLT Cuttack. The CoC of OSPIL approved the Resolution Plan submitted by AMIPL on 06.12.2019 which plan claimed to be approved by the NCLT Cuttack vide

order dated 02.03.2020. The copy of the order dated 02.03.2020 has been brought on the record as Annexure 5 to the Reply filed in IA No.705 of 2022. The order approving the Resolution Plan has clearly noticed in paragraph 7 that Resolution Applicant i.e. AMIPL shall hold 100% of the shares of Corporate Debtor after approval of the Resolution Plan which has been noticed in paragraph 7 of the order dated 02.03.2020 which is as follows:-

> *"7. The Resolution Applicant has submitted eligibility under Section 29A of the Insolvency and Bankruptcy Code, 2016. Therefore, the Resolution Applicant alongwith its nominees shall hold 100% of the shares of the Corporate Debtor."*

54. In paragraph 3 of the order summary of the total financial proposal has been extracted. Final proposal in the Resolution Plan has been noticed with regard to SIFL in which following is noticed:-

Particulars	***Amount (INR)***
SIFL Debt to the permanently settled, discharged, and extinguished in full and reduced to NIL by payment of:	*INR 3,216,000,000.00 (**"Upfront SIFL Debt Discharge Amount"**) being 100% of the principal amounts verified and admitted by the Resolution Professional.*

55. It is relevant to notice that challenging the order dated 02.03.2020 passed by the NCLT, Cuttack approving the Resolution Plan of OSPIL, Company Appeal (AT) (Insolvency) No.593 of 2020 was filed being "SREI Multiple Asset Investment Trust VS IDBI Bank Limited & Ors.". In the appeal filed by the Applicant approval of Resolution Plan was challenged on the ground that the Resolution Plan has provided NIL payment to applicant who is shareholder of 69.80% shares of OSPIL whereas claim of another shareholder ESIL of 30.20% has been paid. The said appeal filed by the Applicant was dismissed by this Tribunal vide judgment and order dated 18.01.2022. It is useful to notice paragraph 11 of the judgment where contentions advanced by the Applicant regarding NIL payment to the Applicant has been noticed. Paragraph 11 of the order is as follows: -

> *"11. As stated supra, the shares of the 2nd Respondent are held by the Appellant constituting 69.8% and Essar constituting 30.2%. However, the Resolution Plan discriminates between the two shareholders as it pays NIL amount to the Appellant whereas it proposes to pay Essar 100% of its amount invested in Compulsory Convertible Debentures (CCD's) by treating it as Financial Debt, whereas the settled law is that CCD's are equity."*

56. The contentions of the Application questioning NIL payment to itself and payment to ESIL who was another shareholder, was dealt and rejected in paragraphs 53, 54 and 55 which are as follows:-

> *"53. The other contention of the Appellant is that the ESIL who is a 32% shareholder paid a sum of RS.501.01 Crore and the Appellant was not made any payment. It is to state that the ESIL who is a shareholder of the Corporate Debtor and having Compulsorily convertible Debentures and the ESIL was categorized as Financial Creditor of the Corporate Debtor. As per the approved Resolution Plan the 3 rd Respondent proposed a payout based on the admitted principal amount due to all Financial Creditors and would be paid in full in accordance with the List of Creditors. Further the Plan has ensured equal treatment of all admitted Financial Debtors of the Corporate Debtor by ensuring payment of Rupees 100% Principal admitted debt. It is also on record that the Resolution Professional in the present case admitted the claim of ESIL arising out of CCD's held by it as a Financial Debt and the payment of Rs.501 Crores made to ESIL in terms of the approved Resolution Plan. Therefore, the ESIL was treated as a Financial Creditor not only as a shareholder. Therefore, the stand of the appellant that the plan discriminating between the two similarly situated shareholders is far from truth and cannot be accepted.*

54. It is not out of place to mention that the debentures being treated as the Debt under the IBC and not as equity. Therefore, the payment made to the ESIL for the CCDs which was classified as a Financial Debt, cannot be equated as a payment made to ESIL in the capacity as an equity.

CONCLUSION:

55. All the issues answered against the Appellant. In view of the aforesaid reasons, the Appellant has not made out any case and a futile exercise in filing this Appeal. The Appeal is devoid of merit and liable to be dismissed. Accordingly, the same is dismissed. No orders as to cost. shareholder."

57. The judgment of this Tribunal dated 18.01.2022 was not further challenged by the Applicant and the said judgment became final between the Applicant and other Respondents who was arrayed in the Appeal. From the above, it is clear that Applicant as shareholder of OSPIL had agitated its claim of payment for its equity shareholding in the OSPIL in the CIRP of OSPIL which claim was negated and it was held that Applicant is entitled for NIL payment as against its shareholding of 69.80%. In the present application, Applicant is again agitating/raising issue regarding its entitled payment by virtue of its shareholding of 69.80%.

58. Hon'ble Supreme Court in ***"Ghanshyam Mishra and Sons (P) Ltd. v. Edelweiss Asset Reconstruction Company Ltd. & Ors. (2021) 9 SCC 657"*** had categorically laid down that all claims after approval of the Resolution Plan stand extinguished and the approval of the plan is binding on all including stakeholders. It was clearly held that no stakeholders shall be entitled to initiate or continue any proceeding with respect of any claim which is not part of the Resolution Plan. As noted above, in the Resolution Plan Applicant was provided for NIL payment against its shareholding in the OSPIL which plan being approved, all its right stand extinguished. It is useful to extract judgment of the Hon'ble Supreme Court in ***Ghanshyam Mishra (supra)*** in paragraphs 102.1 and 102.3:-

> *"**102.1.** That once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan.*

> ***102.3.*** *Consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued."*

59. The law laid down by the Hon'ble Supreme Court, thus, clearly categorically lays down that after approval of the Resolution Plan, all claims of all stakeholders stand extinguished. After approval of the Resolution Plan of OSPIL which has become final, Applicant cannot claim any right being ex-shareholder pre-CIRP of the OSPIL.

60. From the above, it is clear that Applicant cannot claim any interest in the subject matter of litigation, its all interests and rights having extinguished after approval of Resolution Plan of OSPIL as per law laid down by the Hon'ble Supreme Court in ***Ghanshyam Mishra (supra).*** Applicant had already agitated its right to receive payment under Resolution Plan and filed an appeal in this Tribunal being Company Appeal (AT) (Insolvency) No.593 of 2020 which was dismissed on 18.01.2022 and the said order having become final applicant cannot claim any interest in the subject matter of litigation. We have noticed above the contents of the application and various averments made in the application. In the application, applicant is raising question and challenged to CIRP of Essar and OSPIL which has already become final and

concluded. Various averments made in the application indicate applicant's clear attempt to reopen and re-agitate matters which have finally and conclusively decided. Applicant's endeavor is clear that it is trying to expand the contours of the present proceeding and trying to raise various issue which are not subject matter of present proceeding. While considering the Question No.1, we have already noticed the ratio of various judgments of the Hon'ble Supreme Court which lays down the conditions which need to be fulfilled by the Applicant seeking impleadment under Order 1 Rule 10 of CPC. Applicant does not fulfill the necessary conditions as enumerated above (para 48) to permit the applicant to be impleaded as party Respondent. The Applicant has not been able to establish any direct interest in the subject matter of litigation so as to direct impleadment of applicant as necessary or proper party. We, thus, are satisfied that no grounds have been made out to allow applications IA No.705 of 2022 and IA No.254 of 2023.

Question No.(III)

61. IA No.217 of 2025 has been filed by Gujarat Operational Creditors Association & Anr. for being impleaded as party respondent in Company Appeal (AT) (Insolvency) No.1043 of 2020. The ground on which the Applicants are seeking impleadment are that constituents of Applicant No.1 i.e. Gujarat Operational Creditors Association were erstwhile Operational Creditors of Essar Steel India Limited and Applicant No.2 is also assignee of erstwhile

Operational Creditors of Essar Steel. It is useful to notice pleadings in paragraphs 2, 3 and 4 where the Applicants have elaborated their grounds and basis for impleadment in the Appeal. Paragraphs 2, 3 and 4 of the Application are as follows:-

> *"2. That the Applicant No. I is the "Gujarat Operational Creditors Association, whose constituents were (or, arguably, still are) formally recognised as Operational Creditors of ESSAR Steels India Ltd (herein, ESIL), now re-named as Arcelor Mittal Nippon Steel India Ltd (herein, ESIL/AMNSIL, or AMNSIL). The word arguably has been used above, as the Resolution Plan approved by Hon'ble NCLT by order dated 08-03-2019, which was carried up all the way to the Hon'ble Supreme Court, and approved vide the judgement of the Hon'ble Supreme Court delivered on 15-11-2019, is void ab initio as if non est, as it was obtained by fraud practiced upon all the Hon'ble Courts Tribunals, going right up to the Hon'ble Supreme Court. Therefore, upon a finding of fraud being made by the Court of competent jurisdiction, the situation that would emerge is as if the Resolution Plan has not been approved at all, meaning thereby that the members of the Applicant No. 1 Association would have correctly described themselves as operational creditors', rather than 'erstwhile operational creditors of ESIL.*

3. It is relevant to highlight that Petitioner No. 1 (GOCA) includes as one of its members M/s Palco Recycle Industries Ltd, which is an allegedly-erstwhile 'operational creditor of ESIL (now re-named as AMNSIL), whose name figures at serial No. 1152 of the document titled List of Creditors of Essar Steel Ltd, ESSAR STEEL INDIA LIMITED, Summary of Status of Claims from Creditors as of 05 March 2019 (List of Creditors Version 17), and whose claim as on 02-08-2017, was acknowledged by the ESIL RP at Rs. 2.41 crores (precisely, at Rs. 2,40,66,551). Today, its claim, with interest, comes to Rs. 7.82 crores, for which a part stands irrevocably assigned /transferred to Petitioner No. 2 under Section 130 of the Transfer of Property Act (1882).

4. The Applicant No. 2 is M/s Sayam Shares and Securities (P) Ltd, herein, 'SSSL')], who is an assignee/ transferee of part of actionable claims from certain (allegedly-erstwhile) 'operational creditors' and (allegedly-erstwhile) shareholders' of ESIL under Section 130 of the Transfer of Property Act (1882), including assignment of part of actionable claim of M/s Palco Recycle Industries Ltd. The total value of claims of (allegedly-erstwhile) 'operational creditors and (allegedly-erstwhile) shareholders of ESIL comes to a cumulative amount of Rs. 164.15 crores. It respectfully refrains from revealing the details of the other assignors transferors, as these are commercial matters

> *that are confidential to it, and subject to correction by the superior wisdom of this Hon'ble Tribunal, are not necessary to be revealed to this Hon'ble Tribunal over and above the revelation pertaining to the assignment of part of 'actionable claim of the aforesaid M/s Palco Recycle Industries Ltd, which assignment /transfer alone is adequate to give Petitioner No. 2 adequate locus standi to join additional No. 1 in the present application."*

62. The other details of averments made in the Application has already been noticed above. We have noticed above that Applicants have made various allegations with regard to CIRP of Essar Steel and OSPIL in different paragraphs. Applicants in the Application have also referred to various reasons for dismissal of the Appeal. Averments have also been made that order dated 02.03.2020 passed by NCLT Cuttack was an order passed acting *coram non judice*. It is even alleged that initiation of CIRP proceeding of OSPIL was malicious. Applicants in the Application has prayed to be impleaded as one of the Respondents who has also prayed for various other reliefs. As noted above, the basis of the application is that the Applicants are association of erstwhile Operational Creditors of the Corporate Debtor Essar Steel. It is pleaded that constituents of Applicant No.1 Gujarat Operational Creditors' Association were erstwhile Operational Creditors of the Corporate Debtor- Essar Steel and Applicant No.2 is an assignee of some of erstwhile Operational Creditors. We

have noticed the judgment of the Hon'ble Supreme Court in ***Ghanshyam Mishra (supra)*** that all rights of stakeholders stand extinguished after approval of the plan except those which are provided in the Resolution Plan of the Corporate Debtor. This is the result and consequence of completion of the insolvency proceeding as per the scheme delineated in the I&B Code. The rights of the Operational Creditors were duly taken note of and after approval of the Resolution Plan of Essar, all rights of Operational Creditors stand extinguished and none of the rights of the erstwhile Operational Creditors survive after approval of the Resolution Plan. We, thus, are of clear opinion that Applicants have no direct interest in the subject matter of the litigation. Applicants, according to their Application, claiming to be Association of erstwhile Operational Creditors, they have no right and the prayer seeking impleadment cannot be acceded to. We have also noticed that Application contains various averments which are much beyond scope of the issues which are subject matter of litigation. Applicants' endeavor is to re-agitate and reopen the issues which have already become final between the parties. Any such endeavor by any such Applicants cannot be accepted to be basis for impleadment in the proceedings. In the reply file to the Application, Appellant has also referred to various proceedings which have been initiated by Applicants before the NCLT Ahmedabad and Gujarat High Court, including filing of various contempt proceedings. Contempt proceeding initiated by Applicants before NCLT Ahmedabad has been dismissed observing that

Applicant No.1 and 2 had no locus to maintain the said proceeding which details have specifically pleaded in paragraphs 39, 40, 41 and 42 of the reply. However, we, in the present application, have to consider the locus of the Applicants to be impleaded in the Appeal. While considering Question No.1, we have already noticed the necessary conditions, by a third party seeking impleadment, are to be fulfilled and applying the conditions as noticed above (para 48) Applicants does not satisfy necessary ingredients for impleadment in the present Appeal. We, thus, are of the view that no grounds have been made out to implead the Applicants as party Respondents in the Appeal.

Question No.(IV)

63. Applicant- Mr. Muhammad Ali Sheikh has filed IA No.6019 of 2023 praying for impleadment in Company Appeal (AT) (Insolvency) No. 1043 of 2020. Applicant in the Application itself has given 'Details of the Applicant' in paragraph No.1, which is as follows:-

> *"1.* ***DETAILS OF THE APPLICANT:*** *That the applicant is an investor in securities based in Toronto (Canada), and as part of his multiple holdings, he is also a shareholder of Arcelor Mittal SA (Luxembourg) (herein, AMSA). Believing in 'the India story, he commenced buying shares in AMSA in June 2022 mainly because AMSA is the parent Company of Respondent No. 1 [M/s Arcelor Mittal Nippon Steel India Ltd (herein,*

'AMNSIL')], earlier known as M/s Essar Steel India Ltd (herein, 'ESIL'), which is the Corporate Debtor acquired by the Arcelor Mittal group in December 2019, acting through Respondent No. 2, M/s Arcelor Mittal India (P) Ltd (herein, AMIPL). The Arcelor Mittal group has also acquired Respondent No. 3 [M/s Odisha Slurry Pipeline Infrastructure Ltd (Herein, OSPIL')), again, acting through AMIPL. As on date, however, he holds only 85 equity shares in AMSA, the substantive increase planned since June 2022 to at least around 100,000 shares being on hold ever since he heard about the controversy surrounding the acquisition of Essar Steel by the Arcelor Mittal group in December 2019 in terms of the Rs. 4,000 crore (USS 570 million) pipeline separately acquired by the group in July 2020 (by the acquisition of Respondent No. 3)."

64. The Applicant's case itself in the Application is that he has bought 85 shares of Arcelor Mittal SA (Luxembourg) in June 2022. Thus, Application is founded on his being shareholder of Company- Arcelor Mittal SA (Luxembourg) which company is not part of any proceeding before the NCLT or NCLAT. Applicant has not even any shareholding in the companies Essar Steel or OSPIL and according to Applicant, he has bought 85 equity shares in June 2022. In the Application, various pleadings have been made with regard to assets of the OSPIL and with regard to ownership of the pipeline. Admittedly, Applicant was not part of any proceedings before NCLT or NCLAT

and on basis of he being shareholder of Arcelor Mittal SA (Luxembourg) is claiming impleadment in present proceeding. The Appellant has filed detailed reply to the Application and it has been pleaded that the Applicant claims to be shareholder of foreign entity which is stranger to the proceeding. It is pleaded that Applicant lacks complete bonafide and it is nothing but abuse of process of the Court. We, thus, are fully satisfied that Applicant has no direct interest in the subject matter of litigation and is clear stranger to the entire proceeding emanating from impugned order dated 10.11.2020 passed by NCLT Ahmedabad as well as Company Appeal (AT) (Insolvency) No.1043 of 2020 filed in this Tribunal. Filing of such application by the Applicant is clearly an abuse of process of the Court. According to own case of the Applicant, he purchased 85 shares of foreign entity in June 2022. The order impugned was passed on 10.11.2020 and these Appeals have been filed in the year 2020 itself and pending in this Tribunal from 2020. After purchasing 85 equity shares in foreign entity i.e. parent company, we fail to see any locus of the Applicant to seek impleadment in the present Appeal. Claim of Applicant in the Application is based on conjecture and has no foundation for permitting any impleadment in the present Appeal. We have already noticed the necessary conditions which need to be fulfilled by a third party seeking impleadment in the Appeal (para 48). The Applicant does not fulfill necessary conditions, hence, Application IA No.6019 of 2023 deserves to be rejected.

Question No.(V)

65. IA No.6020 of 2023 has been filed by Mr. Vir Jai Khosla praying for various reliefs. Application is filed by the Applicant referring him to be an intervener. Prayers made in the application IA No.6020 of 2023 are as follows:-

"PRAYER

That in view of the above facts and circumstances of the matter, it is humbly prayed that this Hon'ble Appellate Tribunal may:

i. Taking on record the submissions made by the intervenor, acting suo motu, recall the order dated 04-12-2020 passed in the present appeal, given that it was passed under Section 61 of the IBC 'without jurisdiction' at the instance of an appellant that cannot possibly claim to be 'a party aggrieved', but who played fraud upon this Hon'ble Tribunal, by knowingly making a false assertion to the effect that it is a person aggrieved while knowing it to be false.

ii. Consequently, vacate also the stay order dated 08-12-2020 passed in Company Appeal (AT) (Ins.) No. 1043 of 2020, given that it was passed ex parte without examining the merits in that appeal, merely on the strength of the order dated 04-12-2020 passed in the present appeal, on the

mischievously-advanced premise that the issues contained in that appeal are identical to the issues contained in the present appeal, when this is not so.

iii. *Dismiss the present appeal, being infructuous, given that the appellant [M/s Arcelor Mittal India (P) Ltd), by order dated 15-03-2023 passed by Hon'ble NCLT (Ahmedabad) (Annexure 1) made retrospectively effective from 16-12-2019, has merged into Arcelor Mittal Nippon Steel India Ltd, which is the appellant against the same impugned order dated 10-11-2020 in Company Appeal (AT) (Ins.) No. 1043 of 2020.*

iv. *Passion purte orders and/or directions as prayed for above.*

v. *Any further interim order or direction which this Hon'ble Appellate Tribunal may deem fit and proper in the circumstances of the case be issued in favour of the appellant."*

66. Applicant in the Application claimed to be shareholder of SREI Infrastructure Finance Ltd. (SIFL). Applicant claims to be intervener intervening under Order 1 Rule 8A of CPC. It is useful to extract Paragraph 1 of the Application, which is as follows:-

1. That the applicant is Mr. Vir Jai Khosla, who is / was a shareholder in SREI Infrastructure Finance Ltd (Respondent No. 2 hereto). He is an intervenor, who is intervening in the present appeal under Order 1 (Rule 8A) of the CPC, as he is aggrieved by two questions of law that have arisen in the present appeal, which, in the public interest (i.e. conservation of judicial time), are imperative to be addressed by this Hon'ble Appellate Tribunal before proceeding further i.e.:

> ***Question No. 1:*** *Whether the appellant herein [M/s Arcelor Mittal India (P) Ltd), be allowed to maintain the present appeal after 15-03-2023, or in any event, any further, given that by order dated 15-03-2023 passed by Hon'ble NCLT (Ahmedabad) (**Annexure 1** hereto), it (the appellant herein) has merged into Arcelor Mittal Nippon Steel India Ltd, the merger being made retrospectively effective from 16-12-2019, and which Company happens to be the appellant against the same impugned order dated 10-11-2020 in Company Appeal (AT) (1ms) No. 1043 of 2020 also pending before this Hon'ble Appellate Tribunal?*
>
> ***Question No. 2:*** *De hors the dismissal of the present appeal pursuant to merger of the appellant herein with Arcelor Mittal Nippon Steel India Ltd (which happens to be the appellant against the same impugned order dated 10-11-*

> *2020 in Company Appeal (AT) (Ins.) No. 1043 of 2020), whether the appellant herein can claim to be a person aggrieved under Section 61 of the IBC, given that the direction in the impugned order dated 10-11-2020 is exclusively to the aforementioned Arcelor Mittal Nippon Steel India Ltd to pay Rs. 1,300 crores to OSPIL, and which direction, therefore, has absolutely nothing to do with the appellant herein?*

For the ease of reference, the provisions of Order 1 (Rule 8A) of the CPC are reproduced verbatim below:

> ***CPC-Order 1 (Rule 8A). Power of Court to permit a person or body of persons to present opinion or to take part in the proceedings.*** *While trying a suit, the Court may, if satisfied that a person or body of persons is interested in any question of law which is directly and substantially in issue in the suit and that it is necessary in the public interest to allow that person or body of persons to present his or its opinion on that question of law, permit that person or body of persons to present such opinion and to take such part in the proceedings of the suit as the Court may specify."*

67. As per the averments in the application, the Applicant claimed to be shareholder of SIFL. SIFL was creditor in CIRP of Essar Steel as well as OSPIL.

We have noticed above that SIFL in the CIRP has received amount as against its debt which was admitted in the CIRP. We have noticed order dated 02.03.2020 passed by the Adjudicating Authority approving Resolution Plan of OSPIL where SIFL was given pay out for its debt in the CIRP. CIRP of Essar and OSPIL has already been completed, Resolution Plan approved which was upheld upto Hon'ble Supreme Court. We fail to see any right in ex-shareholder of SIFL subsisting as on date to initiate any proceeding on the basis of such pre-CIRP shareholding. We have already noticed the judgment of the Hon'ble Supreme Court in ***Ghanshyam Mishra (supra)*** which clearly provides that the claims of all stakeholders stand extinguished except those provided in the Resolution Plan. SIFL as lender of the Corporate Debtors has received its payout under the plan, no rights of any pre-CIRP shareholder subsist after approval of Resolution Plan so as to initiate any proceeding.

68. Shri Deepak Khosla, Learned Counsel appearing for the Applicant- Mr. Vir Jai Khosla has relied on Order 1 Rule 8A of CPC to contend that by virtue of Order 1 Rule 8A, Applicant is entitled to advance his submission on question of law which has arisen in the Appeal. It is submitted that it is in the public interest that Applicant may be permitted to address on question of law. The question to be answered is as to whether intervention as allowed in Order 1 Rule 8A need to be accepted giving right to Applicant to make his submission on question of law as contended by Applicant. Order 1 Rule 8A in the Code of

Civil Procedure has been inserted by Code of Civil Procedure (Amendment) Act, 1976 w.e.f. 01.02.1977. Order 1 Rule 8A is as follows:-

> *"**ORDER 1***
>
> ***8A. Power of Court to permit a person or body of persons to present opinion or to take part in the proceedings. –** While trying a suit, the Court may, if satisfied that a person or body of persons is interested in any question of law which is directly and substantially in issue in the suit and that it is necessary in the public interest to allow that person or body of persons to present his or its opinion on that question of law, permit that person or body of persons to present such opinion and to take part in the proceedings of the suit as the Court may specify."*

69. We need to first notice the objects and reasons for insertion of Rule 8A in Order 1. The Bill which was introduced in Lok Sabha was published in Gazette on the 8th April, 1974 viz. 'A Bill further to amend the Code of Civil Procedure, 1908 and the Limitation Act, 1963'. The Bill mentions that 'Notes on clauses' explain in detail the important provisions of the Bill. Clause 55 sub-clause (v) with respect to New Rule 8A of 'Notes on clauses' mentions following:

> *"Sub-clause (v). – New rule 8A is being inserted to empower the Court to permit a person or body of*

> *persons interested in any question of law in issue in any suit to present his or its opinion before the Court and to take part in the proceedings in the suit."*

Notes on clauses, thus, clearly mentions that New Rule 8A is being inserted to empower the Court to permit a person or body of persons interested in any question of law in a suit to present his or its opinion before the Court.

70. The heading Order 1 Rule 8A itself begun with the words "power of court to permit a person or body of person to present opinion". The above provision is an enabling provision empowering the Court to seek opinion from person or body of persons on any question of law. The said provision cannot be read to mean that it has given any right to anyone to give its opinion on any question of law.

71. The Rule 8A, thus, empowers the Court to seek opinion from a person or body of persons on question of law, which is akin to appointing an Amicus Curiae to assist the Court. An Amicus Curiae is defined in *Advanced Law Lexicon, 6th Edition, Vol.I* in following words:

> *"An amicus curiae is heard only by the leave and for the assistance of the Court, and upon a case, already before it. An amicus curiae may instruct, inform, or move the Court on any matter of which the Court may take judi-cial cognizance. (Bouvier citing 8 Coke 15)"*

72. We, thus, are of the view that the power under Rule 8A empowers the Court to seek assistance on a question of law from a person or body of persons. This provision cannot be used as right for any person to claim that he is entitled to give its opinion to the Court on any question of law involved in a case. We, thus, are of the view that Rule 8A needs to be applied keeping the objects and reasons of rule as above.

73. From the facts as noticed in the Application, it is clear that Applicant who claim to be ex-shareholder of SIFL whose rights stand extinguished after approval of the Resolution Plan of Essar Steel and OSPIL and in the Resolution Plan SIFL's claim having fully satisfied, neither SIFL nor any of its pre-CIRP shareholder has any subsisting right to initiate any proceeding. When the Applicant has no direct interest in the subject matter of litigation, can Applicant be permitted to address submission on question of law under Order 1 Rule 8A is the question to be answered. When an Applicant cannot intervene in the proceeding directly since he has no direct or subsisting interest, the submission of the Applicant on the basis of Order 1 Rule 8A cannot be accepted that the said provision give Applicant right to advance submission on question of law. The power given to the Court to permit any person or body of persons to permit to advance submission is an enabling power to assist the Court in public interest to enlighten the Court on question of law. The said provision cannot be read to mean any right in any Applicant to thrust its

submission on suppose question of law. Order 1 Rule 8A comes for consideration before this Tribunal in **"Company Appeal (AT) No.59 of 2025, *Mrs. Ritu Khanna vs. Delhi Gymkhana Club Limited & Ors.*"** decided on 08.04.2025 where this Tribunal has held that the power under Order 1 Rule 8A is only enabling power. Following was observed in paragraph 16:-

> *"16. The above provision empowers a Court while trying a suit to allow a person or body of person to present case or his opinion on the question of law and to take parts in proceedings of the suit. If the Court is satisfied that person or body or person is interested in any question of law which is directly and substantially issued in the suit. The provisions of Rule 8A is enabling power which empowers the Court to permit person or body person interested in any question of law to present such opinion and to take part. …."*

74. The Applicant having no subsisting right with regard to subject matter of Appeal and being a stranger cannot be permitted to take part in the proceeding of the Appeal. It is also relevant to notice that in the prayers made in the Application, the Applicant has not even pleaded for impleadment or intervention. We, thus, do not find any locus in the Applicant to take part in the proceeding or address his submission on question of law under Order 1 Rule 8A of the CPC. Applicant is not entitled for any of the prayers made in the Application. Application deserves to be rejected.

75. In view of the foregoing discussions and our conclusions, IA No.705 of 2022, IA No.254 of 2023 filed by SREI Multiple Asset Investment Trust, IA No.217 of 2025 filed by Gujarat Operational Creditors Association & Anr., IA No.6019 of 2023 filed by Mr. Muhammad Ali Sheikh and IA No.6020 of 2023 filed by Mr. Vir Jai Khosla are rejected. Let the Appeals be listed for final hearing on 21.08.2025 at 02:00 PM as first case.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

NEW DELHI

24th July, 2025

Ashwani/Himanshu/Archana