

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

WPA No. 3755 of 2026

M/s. Jeel Kandla Service & Anr.

Versus

Union of India and Others

Mr. Ratnanko Banerjee, Sr. Adv.

Mr. Anirban Ray, Sr. Adv.

Mr. Biswaroop Bhattacharya

Mr. Arik Banerjee

Mr. Aman Agarwal

.....For the petitioners.

Mr. Subhankar Chakraborty

Ms. Sayani Gupta

Mr. Atindra Rai

.....For the respondent nos. 1 to 3.

Mr. Sudipto Sarkar

Mr. Rishav Banerjee

Ms. Pooja Chakraborty

Ms. Kiran Sharma

Ms. Arti Bhattacharyya

.....For the respondent no. 4.

Mr. Krishnaraj Thaker, Sr. Adv.

Mr. Rishav Banerjee

Ms. Pooja Chakrabarti

Ms. Kiran Sharma

Ms. Arti Bhattacharyya

Ms. Jiya Bose

Ms. Shreya Goenka

Ms. Surabhi Mehta

..... For the respondent no. 5.

Mr. Joy Saha, Sr. Adv.

Mr. Tanish Ganeriwala

Mr. Pujon Chatterjee

Mr. Sutosom Bhattacharyya

..... For the promoter.

Mr. Sakya Sen, Sr. Adv.

Ms. Shadma Manzar

..... For the Intervenor.

Mr. Ritzu Ghoshal

Mr. Victor Chatterjee

..... For the Soneco Marketing.

Hearing Concluded On : 25.02.2026

Judgment on : 27.02.2026

Krishna Rao, J.:

1. The petitioners have filed the present writ application challenging the order passed by the Regional Director, Eastern Region, Ministry of Corporate Affairs dated 4th February, 2026, wherein shifting of

Registered Office of the respondent no. 5 from the State of West Bengal to the State of Maharashtra is allowed.

- 2.** The respondent no. 4 is the successful resolution applicant whose resolution plan for the Corporate Debtor was approved by the Learned National Company Law Tribunal (hereinafter referred to as “NCLT”), Kolkata Bench on 14th August, 2025. The same is under challenge before the National Company Law Appellate Tribunal (hereinafter referred to as “NCLAT”) in various appeals.
- 3.** The petitioner no. 1 had pre-CIRP dues against the Corporate Debtor which were duly lodged and admitted in full in the sum of Rs. 4,14,97,803/-. During the CIRP period, the petitioner no. 1 raised invoices aggregating to Rs. 13,45,13,193/- for services rendered. As the payment was not made, the petitioner no.1 had filed an Interlocutory Application No. 26 of 2022 before the Learned Tribunal. The said application was disposed of on 14th August, 2025, directing for payment of Rs. 74,01,353/- to the petitioner no. 1. The claim of the petitioners that the statutory interest under Section 16 of the MSMED Act, 2006, was not granted and accordingly the petitioners had preferred an appeal before the Appellate Tribunal.
- 4.** The petitioners as well as the other stakeholders have challenged the approval of the resolution plan before the Appellate Tribunal. During the pendency of the appeals, the new management of the Corporate Debtor applied before the Regional Director for shifting of the registered

office from West Bengal to Maharashtra. The respondent no. 3 by a communication dated 11th December, 2025, kept the request for shifting in abeyance specifically on the ground that appeals against approval of the resolution plan were pending. The respondent no. 4 approached the Learned Appellate Tribunal seeking clarification that pendency of appeals should not obstruct shifting of the registered office. On 22nd December, 2025, the Appellate Tribunal passed an order by clarifying that there is no order passed in the appeal affecting the statutory authorities exercise of its jurisdiction in deciding the application for shifting the office of the Corporate Debtor, it was also clarified that the appeal is pending. After the order passed by the Appellate Tribunal, the respondent no. 3 has passed the impugned order.

5. Mr. Ratnanko Banerjee, Learned Senior Advocate, representing the petitioners submits that the impugned order dated 4th February, 2026, passed by the respondent no. 3 in violation of second proviso of sub-rule 9 of Rule 30 of the Companies (Incorporation) Rules, 2014.
6. Mr. Banerjee submits that as per second proviso of sub-rule 9 of Rule 30, the respondent no. 3 cannot pass an order for shifting of registered office as there is an appeal pending against the resolution plan before the Appellate Tribunal.
7. Mr. Banerjee submits that the respondent no. 3, by a communication dated 11th December, 2025, informed that an appeal to resolution plan

is pending before the Learned Appellate Tribunal and thus the application for shifting of registered office filed on 28th October, 2025, is kept in abeyance for consideration but inspite of the said communication, the respondent no. 3 has passed the impugned order.

- 8.** Mr. Banerjee submits that the Learned Appellate Tribunal by an order dated 22nd December, 2025, by taking into consideration of clause of second proviso of sub-rule (9) of the Rule 30 observed and clarified that the pending application for shifting of Registered Office of the Corporate Debtor can be considered by the respondent no. 3 in accordance with law but the respondent no. 3 has passed the impugned order without considering that an appeal is pending wherein second proviso of said rule provides that shifting of the Registered Office from one State or Union Territory to another State can be considered if no appeal against the resolution plan is pending but in the present case, admittedly there are several appeals pending before the Appellate Tribunal against the resolution plan.
- 9.** Mr. Sudipto Sarkar, Learned Advocate, representing the respondent no. 4 submits that the petitioners have furnished the address in the present writ application is of Mumbai City, Maharashtra and the order passed by the respondent no. 3 for shifting of registered office is also from the State of West Bengal to Maharashtra and thus there could be no problem for the petitioners for transfer of the registered office at the State of Maharashtra.

- 10.** Mr. Sarkar submits that the original claim of the petitioners is Rs. 4,14,97,803/- and the petitioners have raised invoices for a sum of Rs. 13,45,13,193/- i.e. including the interest and the Learned Tribunal has passed an order for payment of Rs. 74,01,353/- to the petitioner no. 1. He refers the ground of appeal preferred by the petitioners against the resolution plan wherein the petitioners are only aggrieved with the payment of interest. He further submits that in the prayer of the appeal, the petitioners have prayed for setting aside the orders dated 14th August, 2025, only to the limited extent that no amounts towards interests has been directed to be paid by the Adjudicating Authority.
- 11.** Mr. Sarkar submits that by an order dated 2nd September, 2025, the Appellate Tribunal made it clear that by issuance of notice, the Tribunal has not directed for stay of the impugned order dated 14th August, 2025. He further submits that the Appellate Tribunal by an order dated 26th November, 2025, further made it clear that the pendency of the appeal shall be no ground for non-compliance of any statutory requirement of the company.
- 12.** Mr. Sarkar submits that after the order passed by the respondent no. 3, the registered office has already been shifted. He further submits that second proviso of sub-rule (9) of Rule 30 does not provide that if appeal is filed, no order can be passed for shifting of registered office. He submits that the second proviso provides that no appeal against the resolution plan is pending which does not construed that no stay is required. He further submits that in an order dated 2nd September,

2025, the Appellate Tribunal has clarified that issuance of notice of appeal will not itself be treated as stay of the impugned order dated 14th August, 2025. He further submits that in an order dated 26th November, 2025, it is also clarified by the Appellate Authority that pendency of the appeal shall be no ground for non-compliance of the statutory requirement of the company.

- 13.** Mr. Krishnaraj Thaker, Learned Senior Advocate, representing the respondent no. 5 referred Section 12 of the Companies Act and submits that the respondent no. 4 is the successful resolution applicant and the resolution plan of the respondent no. 4 was approved by the Learned Tribunal by an order dated 14th August, 2025 and as such the respondent no. 4 has filed a proper application for shifting of registered office as the registered office of the respondent no. 4 at the State of Maharashtra.
- 14.** Mr. Thaker further submits that Sub-Rule (1) of Rule 30 provides that an application under sub-section (4) of Section 13 of the Companies Act is for the purpose of seeking approval for alteration of memorandum with regard to the change of place of the registered office from one State Government or Union Territory to another State and accordingly the respondent no. 4 has made an application for shifting of address for the State of West Bengal to the State of Maharashtra.
- 15.** Mr. Thaker submits that second proviso of Sub-Rule (9) of Rule 30 does not provide that mere filing of an appeal, the respondent no. 3 cannot

pass an order for shifting of the registered office. He further submits that the Learned Appellate Tribunal has categorically clarified that mere issuance of notice of appeal does not itself be treated any stay of the impugned order.

16. Mr. Thaker further submits that the petitioners have filed an appeal against the order dated 14th August, 2025 only with regard to the interest. Neither in the appeal or in the objection filed before the respondent no. 3 or in the present writ application the petitioners have shown any reason for which the petitioners are prejudiced by shifting of registered address of the respondent no. 5.
17. Mr. Thaker submits that the respondent no. 3 has passed a reasoned and speaking order by taking into consideration of the provisions of Rule 30 as well as the orders passed by the Appellate Tribunal wherein the Appellate Tribunal has categorically observed and clarified that the pending application for shifting of registered office of the Corporate Debtor can be considered by the Regional Director in accordance with law and accordingly the respondent no. 3 has passed the impugned order in accordance with law. In support of his submission, he has relied upon the judgment in the case of **West Bengal Central School Service Commission & Ors. vs. Abdul Halim & Ors.** reported in **(2019) 18 SCC 39** and submits that the Hon'ble Supreme Court has held that the High Court in exercise of jurisdiction under Article 226 of the Constitution of India does not sit in appeal over an administrative decision.

- 18.** Mr. Joy Saha, Learned Senior Advocate, representing the promoter who are not the party in the present case submits that in a petition filed under Section 7 of IB Code, 2016, before it is admitted and therefore, not yet and action in rem. He submits that if the promoter is given liberty, the promoter filed an application for addition of party in the present case.
- 19.** Mr. Sakya Sen, Learned Senior Advocate, prays for time for taking appropriate steps for filing an application to intervene the matter.
- 20.** Mr. Ritzu Ghoshal, Learned Advocate, appearing for Soneco Marketing also prays for time to take appropriate steps to be added as party respondent in the present case.
- 21.** Mr. Subhankar Chakraborty, Learned Advocate appearing for the respondent nos. 1 to 3 submits that the respondent no. 3 has passed the order in accordance with law and there is no illegality in the order and thus the writ petition is liable to dismissed.
- 22.** Heard the Learned Counsels for the respective parties, perused the materials on record and the judgment relied by the parties. The only question is whether the impugned order passed by the respondent no. 3 dated 4th February, 2026, is in violation of second proviso of Sub-Rule (9) of Rule 30 of the Companies (Incorporation) Rules, 2014.
- 23.** Rule 30(9) of the Companies (Incorporation) Rules, 2014, reads as follows:

“30. Shifting of Registered Office from one State or Union Territory to another State.

1.	*	*	*
2.	*	*	*
3.	*	*	*
4.	*	*	*
5.	*	*	*
6.	*	*	*
7.	*	*	*
8.	*	*	*

9. *The order passed by the Central Government confirming the alteration may be on such terms and conditions, if any, as it thinks fit, [***].*

Provided that the shifting of registered office shall not be allowed if any inquiry, inspection or investigation has been initiated against the company or any prosecution is pending against the company under the Act.

Provided further that where the management of the company has been taken over by new management under a resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and no appeal against the resolution plan is pending in any Court or Tribunal and no inquiry, inspection, investigation is pending or imitated after the approval of the said resolution plan, the shifting of the registered office may be allowed.”

24. The respondent no.5 being the Corporate Debtor admitted into Corporate Insolvency Resolution Process on 21st October, 2021. The respondent no.4 is the successful resolution applicant whose resolution plan for the Corporate Debtor was approved by the NCLT, Kolkata Bench on 14th August, 2025. The said resolution plan is under challenge before the NCLAT. During the pendency of the appeals, the new management of the Corporate Debtor applied before the

respondent no.3 for shifting of the registered office from the State of West Bengal to the State of Maharashtra. The respondent no.3 by a communication dated 11th December, 2025, informed that in view of the appeals pending before the Appellate Tribunal, the application is kept in abeyance.

- 25.** The respondent no.4 filed an application before the Appellate Tribunal praying for the following reliefs:

“a) Pass an order clarifying that the pendency of Appeals challenging the Impugned Order dated 14.08.2025 approving the resolution plan of INSCO shall not come in the way of Application (SRN No. AB8591403 dated October 28, 2025) filed by HNGIL (erstwhile Corporate Debtor) for changing its Registered Office from Kolkata, West Bengal to Mumbai, Maharashtra;

b) Pass any such other or further order(s) as this Hon’ble Appellate Tribunal may deem fit and proper in the interests of justice.”

- 26.** The Appellate Tribunal by an order dated 22nd December, 2025, passed the following order:

“4. The above application filed by the Appellant has been opposed by learned Counsel appearing for the Respondents as well as learned Counsel appearing for the Appellant. It is submitted by learned Counsel appearing for the Respondents that by virtue of Companies (Incorporation) Rule, 2014, Rule 30, sub-rule (9), this Appeal being pending against the approval of Resolution Plan, registered Office, cannot be permitted to be shifted. On the other hand, learned Counsel for the applicant submits that Rule 30, sub-rule (9) of the Companies (incorporation) Rule, 2014 is not attracted in the facts of the present case.

We, may quote Rule 30, sub-rule (9) of the Companies (Incorporation) Rule, 2014 for

ready reference, which is to the following effect:

“30(9) *The order passed by the Central Government confirming the alteration may be on such terms and conditions, if any, as it thinks fit:*

Provided that the shifting of registered office shall not be allowed if any inquiry, inspection or investigation has been initiated against the company or any prosecution is pending against the company under the Act.

Provided further that where the management of the company has been taken over by new management under a resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) and no appeal against the resolution plan is pending in any Court or Tribunal and no inquiry, inspection, investigation is pending or imitated after the approval of the said resolution plan, the shifting of the registered office may be allowed.

5. *the application filed by the Applicant for shifting of the Registered Office is admittedly pending for consideration before the Regional Director. In the present application, we need not enter into rival contentions raised by the parties regarding Rule 30, sub-rule (9) as noted above. We only observe and clarify that the pending application for shifting of Registered Office of the CD, can be considered by the Regional Director in accordance with law. We make no observations on merits of contentions raised by both the parties, and it is for the Regional Director, who is a Statutory Authority to examine the application to consider the submissions of the parties and take appropriate decision in accordance with law. We further clarify that there is no order passed in this Appeal affecting the Statutory Authority’s exercise of its jurisdiction in deciding the application filed by the Applicant*

for shifting the Office of the CD. The fact remains that the present Appeal is pending.”

- 27.** The respondent no.3 initially was of the opinion that an appeal is pending, thus the application for shifting of registered office of the company be kept in abeyance. Subsequently, as per the order passed by the Appellate Tribunal, the respondent no.3 proceeded with the application for shifting of registered office of the Company and passed the impugned order on 4th February, 2026.
- 28.** Rule 30 provides for shifting of the Registered Office from one State or Union Territory to another State. As per sub-section 4 of Section 13 of the Companies Act, 2013, the place of Registered Office from one State to another State shall not have any effect unless is it approved by the Central Government on an application as prescribed under law. The respondent no.5 filed an application for shifting of Registered Office of the Company from the State of West Bengal to the State of Maharashtra. The Learned Appellate Tribunal taking into consideration of Rule 30(9) has directed the respondent no.3 to examine the application and to take decision in accordance with law.
- 29.** The Appellate Tribunal consciously passed an order dated 22nd December, 2025 by taking into consideration of Rule 30(9). Before the order dated 22nd December, 2025, the Appellate Tribunal in an order dated 2nd September, 2025, clarified that no stay of the impugned order dated 14th August, 2025, is passed. By the subsequent order dated 26th

November, 2025, further clarified that the pendency of the appeal shall be no ground for non-compliance of any statutory requirements of the company.

- 30.** As per the case made out by the petitioner had pre-CIRP dues against the Corporate Debtor to the tune of Rs. 4,14,97,803/- and during the CIRP period, the petitioners have raised invoices aggregating to Rs. 13,45,13,193/-. The application of the petitioners was disposed of by the Tribunal on 14th August, 2025 for payment of Rs. 74,01,353/-. Interest under Section 16 of the MSMED Act, 2006, was not granted to the petitioners and the petitioners have preferred an appeal against the said order. In the appeal, the petitioners have prayed for setting aside the order dated 14th August, 2025, only to the limited extent that no amounts towards interest has been directed to be paid by the Adjudicating Authority.
- 31.** As per the relief in the appeal against the order dated 14th August, 2025, is only for grant of interest. The petitioners have not made out any case how the petitioners would be prejudiced if shifting of the address of the company is allowed.
- 32.** Second proviso of Sub-Rule (9) of Rule 30 is incorporated by a Notification dated 20th October, 2023. The petitioners had the knowledge that the respondent no.4 had filed an application before the respondent no.3 for shifting of the registered office of the company. The petitioners have not obtained any order of stay in an appeal filed before

the Appellate Tribunal. The petitioners had the knowledge that the Appellate Tribunal by an order dated 22nd December, 2025, allowed the application filed by the respondent no.4 and directed the respondent no.3 to consider the pending application for shifting of registered office of the Corporate Debtor in accordance with law. Even after the order passed by the Appellate Tribunal, the petitioners have not chosen to obtain an order of stay from the Appellate Tribunal against the order dated 14th August, 2025. The petitioners have also not challenged the order passed by the Appellate Tribunal dated 22nd December, 2025, wherein the Appellate Tribunal directed the respondent no. 3 to consider the pending application for shifting registered office of the Corporate Debtor.

33. It is settled law that mere filing of an appeal does not result in staying the impugned order or the proceeding. A specific order of stay is required to be obtained from the Appellate Court but in the present case though the petitioners have preferred an appeal but no order of stay is obtained. On the other hand, the Appellate Tribunal by an order dated 2nd September, 2025, clarified that by issuance of notice, the Appellate Tribunal has not directed for stay of the impugned order dated 14th August, 2025. Further by an order dated 26th November, 2025, clarified that pendency of the appeal shall be no ground for non-compliance of any statutory requirements of the company.

34. The respondent no.3 by an order dated 4th February, 2026, allowed the prayer for shifting of the Registered Office from the State of West Bengal

to the State of Maharashtra subject to outcome of all the Company appeals pending before the Appellate Tribunal with respect to the resolution plan. The respondent no.3 also imposed certain conditions while passing the impugned order which reads as follows:

“(i) Company to place copy of this order and bring it to the notice of Hon’ble NCLAT in Company Appeal (AT) (Insolvency) No. 1340 of 2025 & other connected matters and to comply with any further direction (if any) as may be issued by Hon’ble NCLAT in the matter.

(ii) That the shifting of registered office is being carried out for operationally efficiency and value maximization.

(iii) That no employee shall be retrenched as a consequence of shifting of the registered office of the company and that there will be no jurisdictional change in the legal proceedings pending if any, against the company on the date of this order.

(iv) That shifting of registered office does not result in any deviation from or non-compliance with the approved resolution plan.

18. It is made clear that this approval shall not be construed as a waiver of any obligation condition or compliance required under IBC, 2016 or any order passed therein under. In the event of any inconsistency between this order and any order passed by the Hon’ble NCLAT or any other court, the order of Hon’ble Tribunal or any other court shall prevail.”

35. Considering the above, this Court finds that the order passed by the respondent no.3 is not in violation of second proviso of Sub-Rule (9) of Rule 30 of the Companies (Incorporation) Rules, 2014.

36. In view of the above **WPA No. 3755 of 2026** is **dismissed**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)