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**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
COMMERCIAL DIVISION**

**IA No. GA-COM/3/2026
In APDT/30/2025**

N C INFRACON PRIVATE LIMITED

-Vs-

MANISH LUHARUKA AND ORS

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

For the Appellant : Mr. Swatarup Banerjee, Adv.
Mr. Subhasis Chakraborty, Adv.
Mr. Aditya Mondal, Adv.
Mr. Shankharit Chakraborty, Adv.

For the Respondent : Mr. Shyamal Sarkar, Sr. Adv.
Mr. Kumar Gupta, Adv.
Ms. Nibedita Pal, Adv.
Mr. Ananda Gopal Mukherjee, Adv.

HEARD ON : 09.03.2026

DELIVERED ON : 09.03.2026

DEBANGSU BASAK, J.:-

1. Learned Advocate appearing for the appellant on instruction submits that appellant is not pressing GA-COM/2/2026.
2. In such circumstances, GA-COM/2/2026 is dismissed as not pressed.

3. GA-COM/3/2026 is an application for recalling an order of dismissal of the appeal for default on February 5, 2026.
4. Grounds canvassed for absence of the appellant on February 5, 2026 are that, learned advocate for the appellant was engaged in another Court and that, the person looking after the affairs of the appellant was bed-ridden due to medical condition.
5. Respondents are represented.
6. For the interest of justice, causes shown in the application for restoration are accepted as sufficient. Order dated February 5, 2026 is recalled.
7. GA-COM/3/2026 is allowed.
8. APDT/30/2025 is restored to its file and number.
9. By consent of the appearing parties, the appeal from decree is taken up for final hearing.
10. Learned advocate appearing for the appellant submits that, the appellant raised a triable issue before the learned Single Judge. He submits that, the learned Single Judge, erred in allowing the application for judgment on admission.
11. Learned advocate appearing for the appellant submits that, the appellant was introduced by a company under the name and style of ILFS Engineering Limited (ILFS). ILFS suffered a proceeding under the Insolvency and Bankruptcy Code. In the Corporate Insolvency Resolution Process, the plaintiff/respondent filed a claim in respect of the very sum claimed as against the appellant, therein. He submits that, in the Corporate Insolvency

Restructuring Process creditors of ILFS received haircut of their claim. Therefore, since, the claim made by the plaintiff as against the appellant in the suit was included in the CIRP of ILFS, the same raised a triable issue at the very minimum.

12. Learned advocate appearing for the appellant draws attention of the Court to the various materials on record. He submits that, the purchase order dated September 27, 2017 was placed by the appellant upon the plaintiffs. He submits that, such purchase order was placed since ILFS introduced the plaintiff to the appellant. Pursuant to and in terms of such purchase order, certain bills were raised by the plaintiff on the appellant. ILFS discharged a part of the liability of the appellant in respect of such bills. Moreover, as contended above, with the ILFS undergoing CIRP, the plaintiff lodged its claim therein. He draws the attention of the Court to the list of creditors and liability of ILFS as on October 15, 2018 pursuant to claim received upto August 18, 2022 which was considered in the CIRP of ILFS.

13. Learned advocate appearing for the appellant draws the attention of the Court to the pleadings before the learned Single Judge. He submits that, the consistent case of the plaintiff is that, there was some internal arrangement between the ILFS and the appellant due to which, certain part payments were made by ILFS. He submits that on the conspectus of the facts as narrated above, a triable issue was raised and thereafter an application for judgement on admission was required to be disallowed. He points

out that all the above contentions were taken in the written statement filed by the appellant.

- 14.** Learned advocate appearing for the respondent/plaintiff submits that, the plaintiff placed a purchase order on the appellant. The purchase order constitutes an independent contract between the plaintiff and the appellant. So far as the contention of the appellant that, the plaintiff lodged a claim with the CIRP of ILFS in respect of the transaction between the plaintiff and the appellant is concerned, learned advocate appearing for the plaintiff submits that the same was in respect of different claims.
- 15.** Learned advocate for the plaintiff submits that, appellant acknowledged its liability to the plaintiff unconditionally in its balance sheet till March 31, 2023. Therefore, he contends that, the defence sought to be raised presently, by way of written statement or in this appeal, are moonshine.
- 16.** Appellant placed purchase order dated September 27, 2017 on the plaintiffs for Structural Material Launching Girder of MEGA Project. Court is informed that the project relates to a Metro Railway in the city of Ahmedabad.
- 17.** ILFS underwent a CIRP where, apparently, the plaintiff lodged certain claims against the ILFS. Appellant claimed that it is the same claim of the plaintiff as against the appellant which was lodged in the CIRP of the ILFS. Plaintiff claims otherwise. Appellant is however unable to entertain that the claim lodged by the plaintiff

in CIRP of ILFS was in respect of the claim of the plaintiff against the appellant.

- 18.** Claim in the CIRP of ILFS was for claims upto October 15, 2018 pursuant to invitation of claims received upto August 18, 2022 as appearing from the report dated September 30, 2022 prepared by the resolution professional in such proceedings.
- 19.** Balance sheet of the appellant dated March 31, 2023 acknowledges a liability of 65.29 lakhs as against the plaintiff. The balance sheet is an unconditional acknowledgement of liability vis-a-vis the appellant and the plaintiff, more so, since, the acknowledgement of liability is not qualified by any notes in the balance sheet. The acknowledgment in the balance sheet appears in Schedule E to G to the balance sheet under the sub heading of other current liability.
- 20.** Learned Single Judge noted acknowledgement of liability in the balance sheet to be unconditional. No other view is plausible in the facts of the present case.
- 21.** The plea that the appellant seeks now to raise, that is, of internal arrangement, and claim being wiped off in the CIRP of the ILFS, cannot be accepted in view of the unconditional acknowledgement of liability in the balance sheet of the appellant which is subsequent to the CIRP. Moreover the acknowledgement in the balance sheet were made by the appellant consistently over a period of time.
- 22.** In such circumstances, we find no merits in the present appeal.

23. APDT/30/2025 is dismissed without any order as to costs.

(DEBANGSU BASAK, J.)

24. I agree

(MD. SHABBAR RASHIDI, J.)

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