



THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 18.02.2026

Judgment pronounced on : 27.02.2026

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.6100 of 2025
& CMP.No.30039 of 2025

M/s.Capricorn Food Products Indian Limited,
Kalaguddapatti,
Kaveripattinam (Via),
Krishnagiri – 635 106.
Represented by its Authorised Signatory.

.. Petitioner

Vs.

M/s.Conveyor Engineering Systems,
2/214-1, Maruthi Nagar,
Near Anjineyar Koil,
Zuzuvadi, Sipcot,
Hosur 635 216,
Krishnagiri District,
Represented by Proprietor,
Vijayalakshmi w/o Duraisamy.

.. Respondent

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the order dated 31.10.2025 in E.P.No.92 of 2024 in MSEFC.No.88 of 2021 passed by the Principal District Judge, Krishnagiri and dismiss the execution petition.



For Petitioner : Mr.T.Ravichandran

For Respondent : Mr.V.Kadhirvelu

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ORDER

The respondent/judgment debtor in E.P.No.92 of 2024 is the revision petitioner.

2.I have heard Mr.T.Ravichandran, learned counsel for the revision petitioner and Mr.B.Kadhirvelu, learned counsel for the respondent.

3.Mr.T.Ravichandran, learned counsel for the revision petitioner would attack the order of the executing Court allowing the execution petition, without appreciating the valid and tenable objections, with regard to the effect of the proceedings before National Company Law Tribunal (NCLT). He would first and foremost contend that the respondent had approached MSME Council, which passed an award for Rs.34,53,303/- and for recovery of the said amount alone, the execution petition has been filed. However, it is the primordial submission of Mr.T.Ravichandran that the execution petition itself was not maintainable since the petitioner was under Corporate Insolvency Resolution Process (CIRP) under the provisions of the Insolvency and Bankruptcy Code (IBC), 2016. He would state that the resolution plan was also approved by the National Company Law Tribunal, Chennai on 12-07-2023 and when the respondent had admittedly failed to submit his claim, pending the CIRP process, the claims of the petitioner would automatically stand extinguished. Once the resolution plan is approved

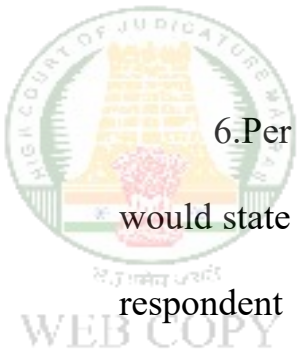


and the new management cannot be saddled with a liability of past or extinguished and dead claims in terms of Section 31 of the IBC.

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4.The learned counsel for the revision petitioner would also invite my attention to the portions of the order dated 12-07-2023, where the NCLT has specifically stated that all proceedings, prior to the effective date, would stand abated, withdrawn, settled and/or extinguished. Mr.T.Ravichandran, learned counsel would therefore state that even though the respondent may have obtained an award from the MSME Council, in view of the award having been passed before the approval of the resolution plan and not recognized, the said claim becomes inexecutable and extinguished.

5.The learned counsel for the petitioner would further state that without properly appreciating the import of the ratio laid down by the Hon'ble Supreme Court and the decisions relied on by the learned counsel for the petitioner before the executing Court, the executing Court has erroneously held that the insolvency proceedings cannot be a valid defence in execution of an arbitration award. He would therefore pray for the revision petition to be allowed. In fact, he has relied on the decision of the Hon'ble Supreme Court in *Electrosteel Limited Vs. Ispat Carrier Private Limited*, reported in 2025 INSC 525 and *Ghanashyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited*, reported in 2021 SCC Online SC 313.



6. Per Contra, Mr.V.Kadhirvelu, learned counsel appearing for the respondent would state that the petitioner has suppressed the valid award passed in the favour of the respondent in the insolvency proceedings and therefore, the petitioner cannot take advantage of his own wrong and contend that the claim has not been brought to the notice of the resolution professional and it does not form part of the resolution plan. He would also invite my attention to the exchange of emails between the parties with regard to the payment of the award amount. He would therefore pray for dismissal of the revision petition.

7. I have carefully considered the submissions advanced by the learned counsel on either side.

8. No doubt, the respondent was successful in obtaining an award in its favour before the MSME Council on 25-02-2022. However, proceedings were set in motion before the National Company Law Tribunal, Special Bench, Chennai in IBA/386/2020 even in November 2020. An order was passed by the Tribunal, appointing an interim resolution professional. The moratorium period under Section 14 of the IBC also kicked in. A public notice in Form-A was also issued on 14-11-2022, following the order of the NCLT on 13-11-2020.



9. In fact, I find that the interim resolution professional has also sent an email to the respondent/decree holder bringing it to its notice on 15-11-2021 that the petitioner Company is under corporate insolvency before the NCLT, Chennai and that moratorium period is prevailing. She has also informed the Council that she will appear in person or through Video Conferencing and submit her defence in detail. Thereafter, the resolution plan has also been approved by the NCLT, Division Bench I, Chennai under Sections 30(6) and 31(1) of the IBC in the said order. The Tribunal acknowledged the initiation of the corporate insolvency process on 13-11-2020. Therefore, on the date of the award by the MSME, the moratorium period was in force and the award itself should not have been passed in the first place.

10. On 12-07-2023, the adjudicating authority/ NCLT, Chennai I, has also approved the resolution plan. Though it is contended by Mr.V.Kadhirvelu, learned counsel for the respondent that in view of non-compliance of Section 42 of IBC, the respondent has lost an opportunity to lodge his claim, I am unable to countenance the said submission since the effective date was 13-11-2020 and the respondent should have lodged his claim in time before the adjudicating authority.

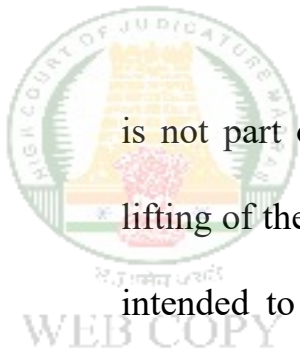
11. Section 42, as rightly contended by Mr.T.Ravichandran, learned counsel for the petitioner, will not have any application, once the resolution plan is finalized. Section 42 provides for an appeal against the decision of the liquidator. Any decision, accepting or



rejecting a claim by the adjudicating authority, has to be appealed by the aggrieved within 14 days of receipt of such decision. Here, admittedly, the respondent has not filed his claim or objections before the adjudicating authority, despite knowledge of the pendency of the CIRP proceedings, which has already been discussed herein above, in the light of the exchange of emails between the parties.

12. Coming to the decisions relied on by the learned counsel for the petitioner, in *Ghanashyam Mishra's case*, the Hon'ble Supreme Court held that once the resolution plan is approved, it will be binding not only prospectively, but also prior to the amendment coming to effect that is before 16-08-2019 and the claims, as provided in the resolution plan, shall stand frozen and that all claims, which are not a part of the resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect of a claim, which is not part of the resolution plan.

13. In *Electrosteel's case*, the Hon'ble Supreme Court held that even if an award was not challenged by invoking Section 34 of the Arbitration and Conciliation Act, it would not preclude the appellant to approach the executing Court to declare the award, as void and non-executable. The Hon'ble Supreme Court further held that once the resolution plan is duly approved by the adjudicating authority under Section 31(1), then all claims, which are not part of the resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceeding in respect of a claim, which



is not part of the resolution plan. The Hon'ble Supreme Court further held that even lifting of the moratorium would not revive the claim of the creditor, as the moratorium is intended to ensure that no fresh or further demands are raised or adjudicated upon, during the process of corporate insolvency, to ensure that the process is completed smoothly and without any complications. In the light of the above decisions of the Hon'ble Supreme Court, the award passed by the MSME Council in favour of the respondent cannot be executed, as it has not being recognized in the final approved resolution plan.

14.In the light of the above, the executing Court clearly erred in not properly appreciating the ratio laid down by the Hon'ble Supreme Court with regard to the effect of a moratorium period, as well as the claims not forming part of the approved resolution plan. In the light of the above discussion, the petitioner is entitled to the relief.

15.In fine, the Civil Revision Petition is allowed and the order dated 31.10.2025 in E.P.No.92 of 2024 in MSEFC.No.88 of 2021 passed by the Principal District Judge, Krishnagiri, is set aside. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

27.02.2026

Neutral Citation Case : Yes / No
Speaking / Non-speaking order
Index : Yes/No
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P.B.BALAJI.J.

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To

The Principal District Judge, Krishnagiri.

Pre-delivery order made in
CRP.No.6100 of 2025
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