

# **NATIONAL COMPANY LAW APPELLATE TRIBUNAL**

## **PRINCIPAL BENCH**

## **NEW DELHI**

## **COMPANY APPEAL (AT) NO.03/2026**

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**IA NO. 20/2026**

(Arising out of judgement and order dated 28.11.2025 passed by National Company Law Tribunal, Mumbai in CP(CAA) / 104(MB)2025)

**In the matter of:**

LJ Tanna Enterprises Pvt Ltd & Ors

Appellant

Vs

## National Spot Exchange Ltd

## Respondent

For Appellant: Mr Vaibhav Gaggar, Sr Advocate with Mr Rohit Gandhi, Mr Abhishek Nair, Mr Dhruv Dewan, Ms Aananya Daniel, Ms Sanchita Makkar, Mr Shubham Bhati, Mr Hargun S Kalra, Mr V Marwah, Mr Varun Trivedi, Advocates.

For Respondent: Mr Arun Kathpalia, Sr Advocate with Mr Ranjan Kumar Pandey, Mr Sandeep Bisht, Mr Sahil N, Ms Diksha, Advocates for R1.

Mr Abhijeet Sinha, Sr Advocate with Mr Ankur Saigal, Mr Shivam Shukla, Advocates for 63 Moons.

Mr Krishnendu Datta, Sr Advocate with Mr Siddharth Mehta, Mr Siddhartha Pythoora, Alina Merin Mathew, Advocates.

## JUDGEMENT

## **JUSTICE YOGESH KHANNA, MEMBER (JUDICIAL)**

The present Appeal is preferred under Section 421 of the Companies Act, 2013, challenging the Impugned Order dated 28.11.2025 passed by the Ld. National Company Law Tribunal, Mumbai Bench, in C.P. (C.A.A)/ 104 (MB) 2025. The Appellants are aggrieved by the NCLT's approval of the Scheme of Arrangement ("Scheme") proposed by the Respondent *viz* National Spot Exchange Limited ("NSEL"), as the said Scheme is legally unsustainable and

constitutes a calculated attempt to bypass statutory attachments under the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 ("MPID Act") and override solemn undertakings given to the Hon'ble Bombay High Court and the Hon'ble Supreme Court.

2. It was argued the Ld. NCLT ignored the fact the Respondent had suppressed material facts in the Scheme, specifically the binding nature of the Hon'ble Supreme Court's judgment dated 22.04.2022 which upheld the attachment of assets of NSEL's promoter *viz 63 Moons Technologies Ltd.*, under the MPID Act. The Impugned Order dated 28.11.2025 erroneously approves a Scheme that purports to deal with and release assets that are already custodia legis of the Designated Court under the MPID Act.

3. It was argued the Respondent and its promoters are Financial Establishments that defaulted in repayment of approximately Rs. 5,600 Crores to 13,000 depositors in the year 2013. The Appellants herein are depositors who have been pursuing their remedies in various forums, including filing Civil Suit Suit No. 121/14 before the Hon'ble Bombay High Court. In these proceedings, the Respondent and its promoters had given categorical undertakings not to encumber or alienate assets, which the present Scheme seeks to violate.

4. It was argued the Impugned Scheme proposes to pay a meagre 42.34% of the admitted claims to the creditors, forcing them to waive the balance amount and withdraw all pending legal proceedings. This is an attempt to forcefully

compromise the Appellants' claims which are subject matters of independent civil suits and statutory criminal proceedings under the MPID Act.

5. It was argued the Ld. NCLT failed to appreciate a Scheme under Section 230 of the Companies Act cannot supersede the special provisions of the MPID Act or nullify the attachments confirmed by the Hon'ble Supreme Court. The approval of such a Scheme renders the ongoing proceedings before the Designated MPID Court and the Hon'ble High Court infructuous and leaves the dissenting creditors without a remedy.

6. Thus, it was argued this Tribunal should interfere with the Impugned Order dated 28.11.2025 and set it aside, or alternatively, declare the Scheme is not binding upon the appellants who are the dissenting creditors with independent subsisting claims.

7. Thus the crux of the argument as raised by the learned senior counsel for the appellant is the Ld. NCLT had exceeded its jurisdiction and had approved a scheme which violates MPID Act and it compels the dissenting creditors to withdraw the criminal cases, which violates their rights under Article 14 and Article 21 of the Constitution of India. It is the submission of the learned senior counsel for the appellant that Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 is a Special Act and it shall prevail over the General Act *viz* the Companies Act and where the proceedings are pending under the MPID Act, the Ld. NCLT shall have no jurisdiction to interfere in such proceedings to take away the rights of the depositors under the said Act. It is

argued a party cannot be compelled/forced to withdraw its criminal proceedings filed by him against the company, on the basis of a compromise under Section 230 of the Companies Act, 2013.

8. We have heard the learned senior counsel for the appellant as also the learned senior counsel for the Respondent. It is evident to mention the scheme is backed by 91.35% votes in value and above 90% votes in numbers and more than 75% total number of creditors have accepted the scheme. The appellant constitutes mere 0.26% of voting rights and as such has no locus to challenge the scheme. We have already held in *Manu Rishi Guptha Vs ICICI Securities Ltd and Another, 2025 SCC Online NCLAT 502*, a person who does not meet the threshold under Section 230(4) of the Companies Act, 2013, he cannot maintain an appeal as an *aggrieved person*. Para 13 of the said judgement is as follows: -

*13. Lastly we may note, the Appellant does not meet the 10% threshold under Section 230(4) of the Companies Act, 2013 (Act) to object to the Scheme. As of 20 March 2024, Manu Rishi Gupta, the appellant, RG held 0.002% of ICICI Securities' shares. Section 230(4) is a mandatory provision, introduced pursuant to the recommendations contained in the 2005 Expert Report on Company Law to prevent frivolous objections by shareholders with minuscule shareholdings. It is settled law that 'what cannot be done directly cannot be done indirectly'—since the Appellants have no right to object, they cannot maintain the Appeals as "aggrieved persons," in terms of Section 421 of the Act. In this regard, it may be noted that 93.82% of equity shareholders and 71.89% of public shareholders have approved the Scheme way back in March 2024. However, it is only at the instance of the Appellant, who holds a minuscule 0.002% shares, the implementation of the Scheme is being delayed and the majority shareholders are being deprived of the benefits of the Scheme. This militates against the basic principle of shareholder's democracy, which permeates through all corporate actions.*

9. Hence at the outset we may hold the appellant has no locus standi to object to the scheme but nevertheless we are aware of the fact the scheme of compromise must satisfy the requirement of *public interest, fairness and transparency* and the Court cannot sanction the scheme that defeats such statutory rights. Thus we need to look into the merits of the scheme too to find if it passes such a test.

10. The major issue raised is a scheme under Section 230 of the Act cannot supersede the special provisions of MPID Act and even cannot direct the creditors to withdraw their criminal matters. Now firstly we may note the appellants have not filed any criminal case/complaint against the company. The appellants are neither the first informants of the FIR nor are the complainants and no criminal proceedings have been initiated by them. Even no case under the MPID Act has been initiated by them. As submitted by the Respondent, for over 12 years the investors have been waiting for their money and it was only at the instance of investor's forum comprising of 3500 investors approximately, the scheme was formulated and approved. Now it has to be funded from the attached assets, which would be got released from the authorities and thereafter the payments to an extent of 42.34% of the admitted claims shall be made to the creditors of the company.

11. Now, section 230 (6) of the Companies Act, 2013 makes a duly sanctioned compromise binding upon all the stakeholders *viz* the company and its creditors *including* the dissenting ones. The impugned order does not envisage the Ld.

NCLT has exercised power of any authority under any other Act(s). The scheme is only for the class of creditors by virtue of which their entitlement is limited to a particular extent. The scheme does not exercise the powers of criminal or civil court to pass orders on the FIR(s) or criminal cases and it leaves it to the discretion of the concerned court/authorities under the Act(s) to deal with the matters before it. If one read the impugned order, more specifically the following paras, one would find the Ld. NCLT has not exceeded its jurisdiction and has never directed the quashing of the criminal cases pending against the company; as is evident from the following paras:

*35. As regards discharge from the criminal liability of specified persons contemplated in the proposed scheme, we find that the proposed scheme obligates the Petitioner to approach and obtain appropriate directions from each concerned Court or Tribunal or Authority in respect of orders passed by various courts and they are required to approach and obtain appropriate directions from each concerned Court or Tribunal or Authority in respect of attached properties.*

*36. It is pertinent to refer to Clause 24.6 of the proposed scheme which provides that “After the Settlement Trigger event, the Consenting Brokers, Consenting Brokers’ Associates, Persons in the 63 moons Group past and present employees of 63 moons and NSEL (to the exclusion of Amit Mukherjee, Jai Bahukhandi, Anjani Sinha and Manishchandra Pandey), and Specified Creditors, through the persons mentioned in Clause 24.14, shall jointly apply to respective Courts for quashing/compounding/dismissal /discharge of criminal proceedings.”*

*37. In our considered view, the quashing or termination of any criminal proceedings pending before any Court or before any quasi-judicial/ non quasi-judicial authorities is dependent on the order(s) passed by such Court or quasi-judicial/ non-quasi-judicial authorities and the approval of the proposed scheme does not discharge the specified persons from any criminal action which may lie against them pursuant to orders of such Court or quasi-judicial/ non-quasi-judicial authorities on an*

*application before such forums pursuant to approval of the proposed scheme. Instead, all such proceedings shall be dealt with by the Appropriate Authority/Court in accordance with law and the Petitioner as well as specified persons are bound by it. Accordingly, we do not find such scheme against public policy on this ground.*

38. It is also pertinent to refer to Clause 24.5 obligating the specified creditors providing that “On and from the Settlement Trigger Event, the Specified Creditors, including but not limited to their successors, assigns, or representatives, shall not pursue, initiate, or threaten to initiate any legal, arbitral, civil or criminal or other proceedings or actions against Persons in 63 moons Group, Consenting Brokers or Consenting Brokers' Associates in respect of matters arising out of, relating to or touching upon Payment Default.”

39. It is also relevant to refer to Clause 24.10 of the proposed scheme providing that “Without limiting the foregoing, the Specified Creditors, after the Settlement Trigger Event shall also write to Appropriate Authorities or file pleadings in Courts, as and when required, seeking withdrawal or disposal of any proceeding relating to penal, preventive, confiscatory, prohibitory or any other action against Persons in 63 moons Group and Consenting Brokers and Consenting Brokers' Associates as may be legally permissible.”

40. Further, clause 24.8 of the proposed scheme obligates the specified creditors not to oppose, whether in their capacity as victims or otherwise, such quashing / compounding / discharge/ dismissal of criminal proceedings. Clause 24.14 of the proposed Scheme authorises Mr. Harpreet Kaur Dang and Mr. Anand Ladsariya irrevocably on behalf of specified creditors to act or perform task in relation to any obligations, actions, or duties cast upon the Specified Creditors under this Scheme.

41. These clauses only take away right of the specified creditors in relation to criminal action against the specified creditors in relation to payment default. It is pertinent to note that, consequent upon occurrence of payment default, various government authorities have filed proceedings before various forums which entail criminal actions against specified persons, but these clauses do not, in any manner, take away the right of State to prosecute criminal proceedings against such specified persons in case such forum does not quash or discharge such specified persons from criminal liability in such

*proceedings. These clauses only obligate specified creditors not to pursue any civil or criminal action against specified person, which in our considered opinion, arises from the reasonable expectation of a debtor from its creditors while such debtor seeks to settle their dues and is part of complete package to which the specified creditors have consented by requisite majority.*

*42. For the aforesaid reasons, the scheme obligating the specified creditors for not opposing quashing or their consent to such quashing cannot said to be against the public policy as it is the specified creditors, who by majority, are agreeing to, and they ought to bind themselves in terms of the majority consent in terms of Scheme of arrangement having statutory force. The decision in case of Union Carbide (Supra) is not applicable to the present case. Distinguishable, as the Scheme does not seek quashing of criminal proceedings consequent to approval of proposed scheme.*

*56. It is submitted that all the requisite statutory procedure has been fulfilled, the Company Petition is made absolute in terms of the prayer clause of the Petition. However, it is clarified that*

- i. The sanction of the present Scheme shall not, in any manner, override, dilute, or affect the operation of any subsisting attachment orders issued by any Court, Tribunal, or Authority, and the same shall happen in accordance with the Order passed by such Court, Tribunal, or Authority on an application filed in terms of the Scheme.*
- ii. The sanction of the Scheme shall not be construed the quashing, withdrawal, or termination of any criminal proceedings pending before any judicial, quasi-judicial, or other competent authorities, and the same shall be decided in accordance with the Order passed by such Court, Tribunal, or Authority on an application filed in terms of the Scheme.*

12. Further an objection *viz* the scheme violates the provisions of MPID Act is also to our mind a frivolous argument since the competent authority under MPID Act as well as EOW has supported the scheme as is evident from the following paras of the impugned order: -

44. It is noted that, the **competent authority under MPID Act and EOW supported the scheme**, though they had reservations on compliance with Order dated 13th October 2022 of MPID Court has upheld vide Order dated 15th March 2023 by Hon'ble Bombay High Court and Order dated 10th April 2023 passed by Hon'ble Supreme Court as well as discharge of specified persons from criminal action. As regards discharge of specified persons from criminal action, we have already noted in the preceding para that the approval of proposed scheme does not result into automatic discharge or release of specified persons from the criminal actions, which may lie against them, and such discharge or release is dependent on the Order(s), the courts or authorities may pass on an application to be filed in accordance with the Scheme. Accordingly, it is for the courts or relevant authorities, where such criminal proceedings against specified persons are pending, to examine whether the specified persons, including the petitioner and 63 moons can be relieved of criminal consequences arising from the events that led to payment default. It is relevant to note the decisions in case of *K. Bharthi Devi & Anr. v. State of Telangana & Anr.*, SLP (Criminal) No. 4353 of 2018; *Gian Singh v. State of Punjab & Anr.*, (2012) 10 SCC 303) wherein the Hon'ble Supreme Court held that the High Courts in exercise of their power under Section 482 of Cr.PC can compound or quash the non-compoundable offences to prevent abuse of the process of any court or otherwise to secure the ends of justice. Accordingly, such stipulation in the scheme cannot be said to be against public policy or illegal.

45. Further, the above said Order(s) passed by the MPID Court only mandates settlement of claims of creditors having outstanding amount between Rs.10 lakhs to Rs.20 lakhs from the proceeds of attached properties in priority over other depositors and were passed in order to protect their interest. Further, the Order passed by Hon'ble Supreme Court in execution proceedings against defaulters under consent constituted a High powered Committee of Hon'ble Justice Pradeep Nandrajog (Retd.) for speedy recovery of the outstanding amounts to be distributed to the investors. The scheme also contemplates the same by utilizing the proceedings thereof for the settlement. The proposed scheme contemplates the settlement of their claims in full by offering them approx. 41% of their claims within period specified in the scheme after fulfillment of conditions enumerated in clause 14 of the proposed scheme. Accordingly, the proposed scheme, in no way, is in contradiction of these orders, instead, the scheme

*facilitates the intent and object of these orders. It is pertinent to note that the majority Specified Creditors, which includes creditors having claims up to Rs.20 lakhs, have voted in favor of the Scheme, thus, the above said orders seeking payment of their dues is, on the contrary, in sync with the spirit and object of such orders. Needless to say, the attachment over the properties is to be dealt in accordance with the orders passed by respective court/authority, hence, the proposed scheme is not in contradiction or in violation of the said orders.*

*46. It was also contended that the Scheme shall prejudice the proceedings initiated by ED, EOW, SFIO and MPID Competent authority and the attachment order(s) passed by these authorities ought to be dealt with in accordance with the respective law. In our considered view, the Scheme does not contemplate vacation of attachment or closure of any proceedings filed by these authorities as a consequence to the approval of proposed scheme.*

13. Though the learned senior counsel for the appellant has relied upon IMP Powers Ltd (Scheme of Arrangements) Vs. Board of Industrial and Financial Reconstruction and others (2007) SCC *OnLine Bom 284* to say a dissenting creditor is not obliged to adhere to the scheme but we have gone through the judgement and we find the said scheme contained positive directions/additional obligations upon the financial institution and it could have an effect of amending the terms of their agreement(s) and only in these circumstances the scheme was modified. Thus the judgement cited is not applicable to the facts of this case.

14. Rather in Sequent Scientific Ltd in Re (2009) 151 *Comp Cas 1* the Bombay High Court has held as under: -

*20. Similarly, the apex court in the case of J.K. (Bombay) P. Ltd. v. New Kaiser-I-Hind Spinning and Weaving Co. Ltd. reported in [1970] 40 *Comp Cas 689*: AIR 1970 SC 1041 in paragraph 29 has observed that a scheme sanctioned by the court does not operate as a mere agreement between the parties; it becomes binding on the company, the creditors and the*

*shareholders and has statutory force. It went on to observe that by virtue of section 391 of the Act, a scheme is statutorily binding even on the creditors and shareholders who dissented from or are opposed to its being sanctioned. It has statutory force and cannot be affected except with the sanction of the court.*

15. Further in Criminal Writ Petition No.2187/2015 titled Financial Technologies Ltd, now known as 63 Moons Technology Ltd Vs State of Maharashtra, the Hon'ble Division Bench of Bombay High Court examined the scheme *vis a vis* the provisions of the MPID Act and High Court held as under:-

5. *We have heard Mr. Nankani, learned senior counsel appearing for the applicant (original petitioner) as well as Ms. Patil, learned SPP for the State through EOW. We find that in the proceedings before the NCLT, the pendency of the present writ petition bearing Criminal Writ Petition No.2187 of 2015 was divulged along with other pending proceedings and the response of the EOW was also sought while passing the order dated 28.11.2025 by the NCLT. In paragraph 44 of the said order, the NCLT specifically recorded that the EOW as well as the Competent Authority under the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 had supported the scheme although they had certain reservations about pending matters before this Court and the Supreme Court.*

6. *It appears that, taking into consideration the pendency of numerous proceedings on the civil and criminal sides concerning the National Spot Exchange Limited, while disposing of the proceedings, the NCLT in the operative portion observed as follows:-*

*“56. It is submitted that all the requisite statutory procedure has been fulfilled, the Company Petition is made absolute in terms of the prayer clause of the Petition. However, it is clarified that*

*i. The sanction of the present Scheme shall not, in any manner, override, dilute, or affect the operation of any subsisting attachment orders issued by any Court, Tribunal, or Authority, and the same shall happen in accordance with the*

*Order passed by such Court, Tribunal, or Authority on an application filed in terms of the Scheme.*

ii. *The sanction of the Scheme shall not be construed the quashing, withdrawal, or termination of any criminal proceedings pending before any judicial, quasijudicial, or other competent authorities, and the same shall be decided in accordance with the Order passed by such Court, Tribunal, or Authority on an application filed in terms of the Scheme.”*

7. Clause (i) of paragraph 56, quoted hereinabove, does refer to the fact that sanction of the aforesaid Scheme of Arrangement would not, in any manner, override orders passed by any Court, Tribunal or Authority and that, the same shall happen in accordance with orders that may be passed by such Court, Tribunal or Authority on an application filed in terms of the Scheme.

8. We find that this application is one such application filed in pursuance of the Scheme of Arrangement that appears to have been approved by the NCLT, taking into consideration the interest of all the stakeholders.

9. We further find that allowing this application would facilitate the Scheme of Arrangement being taken to its logical end, which consequentially, would satisfy the grievance of the creditors / investors to a large extent.

10. Having perused the Scheme of Arrangement and the order dated 28.11.2025 passed by the NCLT approving the same, we find that allowing this application would be in the interest of justice and in furtherance of settlement of the outstanding claims of the creditors / investors.

11. In view of the above, Interim Application (St.) No.24405 of 2025 is allowed in terms of prayer clause (a), which reads as follows:-

a) *Dispose of the present Writ Petition No.2187 of 2015 by quashing and setting aside the Impugned Notice dated 28.02.2015 issued by the Respondent with a direction that within a period of 7 days from the date of filing of the Compliance Affidavit by the Applicant / Petitioner before this Hon’ble Court as per Clause 15.1.2 of the Scheme, the Registry of this Hon’ble Court shall transfer the amount of Rs.84 Crores along with accrued interest thereon - which was deposited by the Applicant / petitioner pursuant to Order dated 12.06.2015 of this*

*Hon'ble Court in the present Writ Petition No.2187 of 2015 - to the Settlement Account as defined in the Scheme;"*

12. As a consequence, this application and Writ Petition No.2187 of 2015 stand disposed of. All other pending applications are also disposed of.

16. At the end we may place an order dated 16.12.2025 by the Supreme Court Committee comprising of Justice (Retd) Pradeep Nandrajog, constituted by an order dated 04.05.2022 of the Hon'ble Supreme Court in WP(C) No.995/2019 and it notes the following: -

1. *The Applicants have placed on the record of this Committee order dated 28.11.2025 passed by the Ld. NCLT Mumbai passed under Section 230, Companies Act 2013, approving the Scheme of Arrangement ("the Settlement Scheme") between the Applicants and the Specified Creditors. While the Scheme pertains to several other aspects/proceedings before other Fora, the Committee is primarily concerned with Clauses 14.8 and 21, which pertain to the present proceedings. The Committee is given to understand that a similar application has been filed before the learned court MPID Act.*

2. *The Committee notes that the Competent Authority and the EOW, Mumbai have primarily supported the Scheme as set out in Para 44 of the order dated 28.11.2025 passed by the Ld. NCLT Mumbai and reservations, if any were in relation to the criminal proceedings with which the Committee is not concerned with.*

3. *Hence, in terms of and as a consequence of the judicial approval of the Settlement Scheme by the Ld. NCLT Mumbai's order dated 28.11.2025, the Committee takes on record the said Settlement scheme and order dated 28.11.2025 passed by the Ld. NCLT, the Committee directs that:*

a. *the Competent Authority transfer the amounts recovered by this Committee along with the accrued interest lying in A/C No. 001720110001136, Bank of India, D.N. Road, Mumbai and A/c No. 920020070306078, Axis Bank, Fort Branch, Mumbai to the Settlement Account being A/c No. 925020055573742 with Axis Bank, Ackruti Centre*

*Branch, MIDC, Andheri, Mumbai 400093, for payment to the Specified Creditors/ Investors, in terms of the Settlement Scheme.*

- b. in terms of the assignment clause contained in Clause 21 under the Settlement Scheme, on and with effect from the Settlement Trigger Event, all recoveries made by this Committee, including recoveries from properties attached pursuant to the provisions of the Prevention of Money Laundering Act, 1999 and/or the Maharashtra Protection of Interests of Depositors (in Financial Establishments) Act, 1999, shall enure solely for the benefit of the 63 Moons Technologies Ltd., in its capacity as the Assignee of Specified Creditors' Claims in terms of the Settlement Scheme.*
- 4. The above directions shall take effect upon the filing of the affidavit as contemplated in Clause 15.1.2 of the Settlement Scheme.*
- 5. Parties to act on a digitally signed copy of this order.*

17. Thus the objections raised by the appellants to our mind is frivolous and coupled with the fact they have no locus standi to maintain/file objections; we are not inclined to allow this appeal and accordingly the same is dismissed.

18. IAs No. 21, 22, 23 of 2026 are also dismissed.

**(Justice Yogesh Khanna)  
Member (Judicial)**

**(Mr. Ajai Das Mehrotra)  
Member (Technical)**

**Dated:15-01-2026  
BM**