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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 27th June, 2025

+ W.P.(C) 8531/2025 & CM APPL. 36968/2025

MR. SHAILESH AGARWALPetitioner

Through: Mr. Paras Mithal, Mr. Prakhar
Mithal, Mr. Arjun Katyal,
Advs.

versus

M/S COSMO WORLD & ORS.Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE RENU BHATNAGAR

RENU BHATNAGAR, J. (ORAL)

1. The present writ petition has been filed invoking the extraordinary jurisdiction of this Court under Article 226 read with 227 of the Constitution of India, seeking the following reliefs:

*“(a) Appropriate writ, order or direction in the nature of mandamus upon the interim resolution professional of respondent no. 2 to not take any steps in furtherance of order dated 12.06.2025 in CP(IB) No. 10 (MP) 2024 passed by the ld. national company law tribunal, Indore bench till the appeal is heard by ld. National Company Law Appellate Tribunal, New Delhi
or/ in the alternative*

(b) The respondent no. 3 be directed to list the appeal before the Ld. NCALT any day before 28.06.2025 in order to prevent grave and irretrievable prejudice to the corporate debtor and to uphold the sanctity of the judicial process’



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(c) Pass such further orders or directions as this Hon'ble Court may deem just, fit and proper in the interest of justice and to prevent irreparable harm to the Petitioner and Respondent No. 2."

2. Brief facts which give rise to the instant petition are that the respondent No. 1 and respondent No. 2, entered into an Exclusive Original Equipment Manufacturing Agreement dated 16.01.2021, for providing two and three-wheeler electric vehicles to the respondent No. 1. However, due to the default in payments, respondent No.1 issued a demand notice dated 22.03.2023 to respondent No.2, claiming an unsubstantiated amount of Rs. 1,09,11,600.92/- due from the respondent No. 2.

3. Subsequently, respondent No. 1 approached the Adjudicating Authority, i.e., the learned National Company Law Tribunal, Indore, (hereinafter referred to as 'NCLT') by filing an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'IBC') seeking initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as 'CIRP') against the respondent No. 2/Corporate Debtor for the default of the aforesaid amount. In light of the same, the learned NCLT, Indore, *vide* its order dated 12.06.2025 passed in CP(IB) No. 10 (MP) 2024, admitted respondent No. 2 in insolvency, thereby, initiating CIRP against it.

4. Aggrieved by the aforesaid Order, the petitioner herein, who is the member of the suspended management of respondent No. 2, invoked the statutory remedy provided under Section 61 of the IBC and proceeded to file an appeal on 17.06.2025 before the learned



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National Company Law Appellate Tribunal, New Delhi (hereinafter referred to as 'NCLAT').

5. It is pertinent to mention herein that on 18.06.2025, the matter was mentioned before the learned NCLAT for its urgent listing on 23.06.2025 or any day before 28.06.2025, however, the relief seeking early listing of the matter was rejected on the said date by the learned NCLAT.

6. In view of the peculiar facts and urgency of the matter, the petitioner has approached this Court *inter alia* seeking a direction to the Interim Resolution Professional (hereinafter referred to as 'IRP') of respondent No. 2 to not take any steps in furtherance of the Order dated 12.06.2025, passed by the learned NCLT, Indore, till the appeal is heard by the learned NCLAT, New Delhi, or, in the alternative, seeks a direction to the respondent No.3, i.e., the Registrar of learned NCLAT, to list the appeal before it on any day before 28.06.2025.

7. The learned counsel appearing on behalf of the petitioner has apprised this Court that the appeal pending before the learned NCLAT is listed on 30.06.2025, as a result of which, the present writ petition is of utmost urgency inasmuch as the IRP of respondent No.2 has issued a public announcement dated 17.06.2025, calling for submission of claims till 28.06.2025. He submits that after 28.06.2025, the Committee of Creditors (hereinafter referred to as 'COC') will be constituted which can take possession of the company of the petitioner, i.e., respondent No.2. It is, therefore, submitted that unless either of the prayers sought, are not granted by this Court, the whole purpose of the appeal filed under the provisions of the IBC will stand



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defeated, thereby, causing corporate death of the petitioner's company.

8. Learned counsel for the petitioner further submits that this Court, under its extraordinary jurisdiction under Article 226 read with 227 of the Constitution of India, is empowered to direct the respondent No. 3 to urgently list the matter any day before 28.06.2025, or, direct the IRP of respondent No. 2 to not proceed with the directions passed by the learned NCLT, Indore, till the appeal is heard by the learned NCLAT.

9. This Court has heard the learned counsel for the petitioner and has meticulously perused the relevant material placed on record.

10. Inasmuch as the prayer that the respondent No. 3 be directed to list the appeal before the learned NCLAT any day before 28.06.2025, is concerned, it is a settled position of law that High Courts are generally discouraged from interfering with the routine functioning of a Tribunal such as the NCLAT. The extraordinary jurisdictional powers of a High Court are to be exercised with great caution and the same does not merit unnecessary interference in dictating the NCLAT's operational procedure.

11. Furthermore, the IBC, which is a special act, establishes the framework as to how its Tribunals should emphasize a time-bound process for adjudicating insolvency matters. It is also pertinent to state that the proper recourse as per IBC's hierarchy is for the aggrieved party to approach NCLAT as against the findings of NCLT, and thus, filing a writ petition, disguised as an appeal, in the High Court against the order of NCLT, is not the proper course of law and the same is

