

ORDER SHEET

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL – Cum – LABOUR COURT,  
JABALPUR (M.P.)

| Date of Order of Proceeding  | Order Or Proceeding with Signature of Presiding Officer   | Remark |
|--|---|--------|
| Case No. CGIT/LC/R/80/2021<br>Union (AITUC) V/S. M/s Bhilai Jaypee Cement Ltd. |   |        |
| 09.09.2025   | <p>Matter taken up.</p> <p>Learned Counsel for the Workman Union filed reply to the application of management, filed by them on 06.08.2025, seeking order to hold the proceedings till final verdict from the National Company Law Tribunal (NCLT) as delivered, taken on record copies served.</p> <p>I have heard argument for Learned Counsel for Workman Union, Mr. Uttam Maheshwari and Mr. R. B. Tiwari, Learned Counsel present for Management, perused the record.</p> <p>The present dispute has been referred to this Tribunal by Appropriate Government on the prayer of the Workman Union. The case of the management is that insolvency proceedings under the <b><i>Insolvency and Bankruptcy Code, 2016</i></b> (the ‘Code’ in short) has been preferred by the Financial Creditor, ICICI Bank against M/s Jaiprakash Associates Ltd. which is registered at C.P. (IB) No. 330/ALD/2018 and is pending before the Allahabad Bench of the Tribunal. An order has been passed by the Tribunal on 03.06.2024 in which Moratorium Order in terms of section 14 of the Code has been imposed with following conditions mentioned in section 14 of para 102 of the order-</p> <p><b><i>“As a necessary consequence of the moratorium in terms of Section 14, the following prohibitions are</i></b></p> |        |

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|                             | <p><b><i>imposed, which must be followed by all and sundry:</i></b></p> <p><b><i>a. The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;</i></b></p> <p><b><i>b. Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;</i></b></p> <p><b><i>c. Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the <u>Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002</u>;</i></b></p> <p><b><i>d. The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the corporate debtor.</i></b></p> <p><b><i>e. It is further directed that the supply of essential goods or services to the corporate debtor as may be specified, shall not be terminated or suspended or interrupted during the moratorium period.</i></b></p> <p><b><i>f. The provisions of Section 14(3) shall, however, not apply to such transactions as may be</i></b></p> |        |

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|                             | <p><i>notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a corporate debtor.</i></p> <p><i>g. The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33 as the case may be.”</i></p> <p>It has been prayed from the side of management that in view of the said order, proceedings before this Tribunal be kept in abeyance till the matter is decided finally by the National Company Law Tribunal.</p> <p>The case of the Workman Union, taken by them is mainly that <i>firstly</i>, the present case before this Tribunal between the Union and <b>M/s Bhilai Jaypee Cement Ltd. &amp; Ors.</b>, whereas the insolvency proceedings have been filed against the <b>M/s Jaiprakash Associates Ltd.</b>, hence the management in the present dispute before this Tribunal is not a party before the National Company Law Tribunal because the proceedings have not been filed against them, <i>secondly</i>, <b>M/s Jaiprakash Associates Ltd.</b> was constituted in the year 1995 and <b>M/s Bhilai Jaypee Cement Ltd.</b> are two different registered companies. <b>M/s Bhilai Jaypee Cement Ltd.</b> was</p> |        |

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|                                | <p>incorporated as an independent company since 2007, they have separate CIN number &amp; separate registration before Registrar of Companies, hence on this ground also the Moratorium Order will not apply in the case in hand and <b>thirdly</b>, if it is found that the Moratorium Order shall apply in the case in hand also their request will be to relegate their claim before the National Company Law Tribunal in the aforesaid pending case as provided under <b>Regulation 9 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016</b>, which is reproduced as under:-</p> <p><b>“9. Claims by workmen and employees.</b></p> <p><b>(1) A person claiming to be a workman or an employee of the corporate debtor shall submit proof of claim to the interim resolution professional in person, by post or by electronic means in Form D of the Schedule:</b></p> <p><b>Provided that such person may submit supplementary documents or clarifications in support of the claim, on his own or if required by the interim resolution professional, before the constitution of the committee.</b></p> <p><b>(2) Where there are dues to numerous workmen or employees of the corporate debtor, an authorised representative may submit one proof of claim for all such dues on their behalf in Form E of the Schedule.</b></p> <p><b>(3) The existence of dues to workmen or employees</b></p> |        |

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|                             | <p><i>may be proved by them, individually or collectively on the basis of –</i></p> <p><i>(a) records available with an information utility, if any;</i></p> <p><i>or</i></p> <p><i>(b) other relevant documents, including –</i></p> <p><i>(i) a proof of employment such as contract of employment for the period for which such workman or employee is claiming dues;</i></p> <p><i>(ii) evidence of notice demanding payment of unpaid dues and any documentary or other proof that payment has not been made; or</i></p> <p><i>(iii) an order of a court or tribunal that has adjudicated upon the non-payment of a dues, if any.</i></p> <p><b>9A.Claims by other creditors.</b></p> <p><i>(1) A person claiming to be a creditor, other than those covered under regulations 7, 8, or 9, shall submit proof of its claim to the interim resolution professional or resolution professional in person, by post or by electronic means in Form F of the Schedule.</i></p> <p><i>(2) The existence of the claim of the creditor referred to in sub-section (1) may be proved on the basis of –</i></p> <p><i>(a) the records available in an information utility, if any, or</i></p> <p><i>(b) other relevant documents sufficient to establish the</i></p> |        |

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|                             | <p><b><i>claim, including any or all of the following:-</i></b></p> <p><b><i>(i) documentary evidence demanding satisfaction of the claim;</i></b></p> <p><b><i>(ii) bank statements of the creditor showing non-satisfaction of claim;</i></b></p> <p><b><i>(iii) an order of court or tribunal that has adjudicated upon non-satisfaction of claim, if any.”</i></b></p> <p>It has been submitted from the side of management that the umbrella company is <b>M/s Jaiprakash Associates Ltd.</b> of which the <b>M/s Bhilai Jaypee Cement Ltd.</b> is a subsidiary sister concern, which is managed and governed by mother organization <b>M/s Jaiprakash Associates Ltd.</b>, he has referred to photocopy of detailed invitation of expression of interest dated <b>09.02.2025</b> issued by the Resolution Professional appointed by the National Company Law Tribunal in the aforesaid case in which they have included the <b>M/s Bhilai Jaypee Cement Ltd.</b> also. This fact makes unacceptable the argument submitted by Learned Counsel for Workman Union that since <b>M/s Jaiprakash Associates Ltd. and M/s Bhilai Jaypee Cement Ltd.</b> are two distinct companies, the said Moratorium Order would not apply to <b>M/s Bhilai Jaypee Cement Ltd.</b></p> <p><b>As regards, the third argument</b> from the side of Workman Union that their claim be relegated to the National Company Law Tribunal/ Resolution</p> |        |

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|                                | <p>Professional as provided under the Rule 9 as mentioned above, it has substance. It will be in the interest of justice to relegate the claim of the Workman Union to the National Company Law Tribunal/ Resolution Professional as prayed from the side of Workman Union. <b>Hence, the claim of the Workman Union is relegated to National Company Law Tribunal/ Resolution Professional under Rule 9 as mentioned above for resolution. The application by management and objection both stands disposed accordingly.</b></p> <p>The records of the case be consigned to record room and shall not be destroyed/weeded except with the permission of this Tribunal.</p> <p><b>Upload this order.</b></p> <p><b>Presiding Officer</b></p> |        |