

Refunds claimed under the Vivad Se Vishwas-I Scheme, which allows MSMEs to seek return of most performance guarantees forfeited during the pandemic, cannot be enforced through insolvency proceedings under Section 60(5) of the IBC

The Chennai NCLT in the case of **R Venkatakrishnan (RP) Star Trace Pvt Ltd vs Hindustan Copper Ltd [IA/IB/2365/CHE/2024] dated December 16, 2025**, has held that refunds claimed under the Vivad Se Vishwas-I Scheme, a government COVID-19 relief measure that allows MSMEs to seek return of most performance guarantees forfeited during the pandemic, cannot be enforced through insolvency proceedings under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (IBC).

The NCLT observed that the determination of eligibility under the Vivad Se Vishwas-I Scheme, verification of entitlement, and assessment of amounts payable thereunder are matters falling squarely within the administrative domain, and not within the adjudicatory competence of this Tribunal under Section 60(5) of the IBC. Thus, Section 60(5) does not allow it to decide eligibility or grant refunds under the government scheme.

The NCLT said it could not act as an implementing authority for a government scheme or decide disputed contractual and policy issues under insolvency jurisdiction. Since the relief sought in the present Application is founded not on any provision of the IBC, but entirely on an executive policy scheme of the Government of India, the NCLT observed that it cannot issue a mandamus directing a refund under such a Scheme.

The Tribunal also observed that the bank guarantees were unconditional and lawfully invoked, and that “the mere fact that encashment occurred during the COVID-19 period cannot, by itself, render the invocation unlawful or obligate restitution.”