

**Non-inclusion of a claim in the resolution plan results in its extinguishment, and any claim which is not expressly included in the resolution plan, and which is not expressly barred as per such plan, cannot be inferred to have been included therein**

The **Supreme Court** in the case of **Ujaas Energy Ltd vs West Bengal Power Development Corporation [2026 INSC 268] dated March 20, 2026**, has clarified that non-inclusion of a claim in the resolution plan results in its extinguishment, and any claim which is not expressly included in the resolution plan, and which is not expressly barred as per such plan, cannot be inferred to have been included therein.

The Court held that the West Bengal Power Development Corporation (respondent), although not entitled to independently pursue its claim by way of counterclaim post-approval of the resolution plan, ought to be permitted to raise the plea of set-off at least by way of defence. Further, the respondent shall not derive any positive or affirmative relief on the basis of the said defence and may only defend itself against the claim raised by the appellant to the extent necessary to prevent the appellant from succeeding in the arbitration proceedings either entirely or in part.

In the event the amount claimed in the counterclaim of the respondent, or any part of it, is found to be due and payable to the respondent by the appellant and such amount exceeds the amount awarded to the appellant, the surplus amount shall not be recoverable by the respondent, added the Court.

Conversely, the Court clarified that if any amount remains payable to the appellant after adjustment of the respondent's defence plea, the same shall be recoverable by the appellant and the Tribunal may order accordingly. If the arbitration proceedings initiated by the appellant are withdrawn, the counterclaim of the respondent shall also fail, as the same is permitted only for the limited purpose of defence.

The Court observed that Section 31(1) of the IBC provides that the terms of an approved resolution plan are binding and attach finality to the plan. The terms are to be read strictly, given the binding nature and extinguishment of claims not part of it, which aligns with the resolution objective of the IBC.

Relying on the precedent set in *Ghanashyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.* [(2021) 9 SCC 657], the Court observed that on the date of approval of the resolution plan by the adjudicating authority, 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 to a claim which is not part of the resolution plan. The Court added that the respondent cannot seek any affirmative relief from the Tribunal because the respondent's claim, raised by way of counterclaim before the Tribunal, does not find a place in the resolution plan and hence stands extinguished.

On the Interpretation of the resolution plan and the plea of set-off, the Court noted three specific aspects: first, the respondent raised its counterclaim prior to the approval of the resolution plan; second, the Resolution Professional was aware of the counterclaim, yet it was

not made part of the resolution plan; and third, the resolution plan bars all future “payments/settlements” in respect of claims which were not raised before it.

The Court emphasised that Paragraph 12.4.1 of the resolution plan explicitly states that no other payments or settlements will have to be made in respect of claims against the Company, and all such claims, including counterclaims under pending arbitration proceedings, stand irrevocably and unconditionally abated, discharged, settled, and extinguished in perpetuity. Thus, going by the exact words employed in Paragraph 12.4.1 of the plan, it does not appear to bar a plea of set-off being raised as a ‘defence’ in any pending arbitral proceedings, although claims for any “payment” or “settlement”, including a counterclaim, not included therein are specifically not recoverable.