

**BEFORE THE LABOUR COURT AT VALSAD****[Presided over by Mr. Chaitanya V. Limbachiya, Judge]****Reference T (LCV) Case No. 60-2022****Exh-21****FIRST PARTY :****1. Manager/ Director****Maximaa Systems Limited**

Factory Plot No. 337/2, Village Bamti,

Tal. Dharampur, Dist. Valsad.

Present Address : B-3, Yashkamal, Tithal Road,

Tal. Dist. Valsad - 396001

**2. Manager/ Director****Maximus Storage Solutions Private Limited**

Survey No. 465/P 1, Pipala Faliya, Gundlav, Khergam Road,

At. Po. Ovada, Tal. Dist. Valsad.

**VERSUS****SECOND PARTY :****Ramubhai Manilal Patel**

R/o Kamthi Faliya, Balda, G.I.D.C. Road,

Balda, Tal.Pardi, Dist. Valsad.

C/o Guajrat Rajya Kamdar Seva Sangh,

Sai Plaza Complex, B/204, Second Floor,

Opp. Telephone Exchange, G.I.D.C. Char Rasta,

Tal. Vapi, Dist. Valsad

**Appearance :**

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**Mr. M.J. Panchal, Adv. for First Party No. 1 & 2 ,****Mr. R.M. Prajapati for Second Party.**

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**AWARD****Background & Proceedings :**

1. This is a reference filed by the Appropriate Government seeking adjudication of an industrial dispute concerning the termination of services of the claimant workman by the respondent management. To avoid ambiguity, the first party shall be referred as the management-1 & the management-2 whereas the second party shall be referred as the claimant.
2. The appropriate Government has sent the reference dated 16-12-2022 to this tribunal for adjudication as per Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as “the ID Act”) in the following words:

“Whether Ramubhai Manilal Patel is entitled to reinstatement with full back wages and other consequential benefits?”

**Statement of Claim :**

3. After receiving the said reference, notice was issued to both the parties. Both the parties have appeared. Claimant has filed a statement of claim at Exh-06 stating that the management-1 & 2 were covered by I.D. Act and are industry as per Section 2(j) of the ID Act whereas the second party is “workman” as per Section 2(s) of the ID Act. Claimant was working in the management-1 as a Operator from 02-12-1992 for last drawn daily wage of Rs. 530/-. His service records were clean. There are more than 100 workers were working. Management-1 had not been providing any legal facilities i.e. id card, salary slip, earned leave letter, sick leave, casual leave etc. The claimant went on job on 30-09-2019 whereas the owners of management-1 told him and other workman that they have established and started another company in name of management-2 in Gundlav. It is stated that all machineries have been shifted there. Management-2 had appointed few workman from the management-1 and told claimant and other workman to withdraw PF amount and started pension of few workman. Management-1 did not kept the claimant on work and his service was terminated by the management on 30.09.2019 without any notice, without making any payment, which is a violation of the terms of Section 25F of the ID Act.

4. After being terminated from the service, he also tried to get job but did not find the same. It is stated that closure of management-1 is illegal as per Section 25FF of the ID Act whereas the opening of new industry by management-2 is considered as transfer. Claimant had given complaint to the labour commissioner on 09-12-2021 and 29-08-2022. However, management-1 did not appear before the labour commissioner and the management-2 had filed false reply. Therefore, present reference had been arisen and therefore, he has filed his claim.

**Reply of the Management :**

5. Management-2 had filed reply at Exh-16 denying the facts of the claim. It is stated that it had nothing to do with the management-1. Both companies are different legal entities. It is stated that Maximus Storage Solution Private Limited has started in 2020. It has Licence No. 43565 issued by Directorate Industrial Safety & Health Gujarat State in Form No. 4 dated 01-12-2020. Claimant has no relation with the management-2. Claimant has no right to raise said claim against it as it is joined falsely. There is no relation of employer and employee between them. Hence, it is prayed to dismiss the reference.

6. Management-1 had produced copy of order passed on 19-04-2024 in IA/1005(AHM)2023 in CP(IB) 407 of 2020 by Division Bench of National Company Law Tribunal, Ahmedabad with Exh-20 stating that as said order is passed, the reference shall be dismissed.

**Submission of the parties:**

7. The Learned advocates for the Respondent Management have submitted that in view of the moratorium declared by the NCLT, the present proceedings cannot continue against the respondent company. On other hand, the representative for the claimant Workman submitted that while the workman's claim is genuine, he is constrained by the moratorium imposed under the IBC and prays to keep present matter in abeyance along with appropriate directions from this Court.

**Reasons & Analysis:**

8. It is quite clear from the record that the claimant workman had neither filed any rejoinder nor adduced any evidence in support of his claim. Even, no proof had been brought on record to establish that the Management-1 is take over by the Management-2 or in any manner related to each other. Therefore, no order can be passed against the Management-2 in absence of evidence.
9. As far as Management-1 company, **Maximaa Systems Limited** is concerned, from order produced along with Exh-20, it is clear that it has been admitted into the Corporate Insolvency Resolution Process (CIRP) by the Hon'ble National Company Law Tribunal, Ahmedabad, vide its Order dated 19-04-2024 in IA/1005(AHM)2023 in CP(IB) No. 407 of 2020. Now, in light of the undisputed fact of the Manafement-1 company into CIRP, a moratorium has been declared under Section 14 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the IBC"). Section 14 of the IBC, inter alia, prohibits:

(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;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(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.

10. Further, Section 63 of the IBC put exclusive bar over the jurisdiction of this court which is as under :

***Section 63: Civil court not to have jurisdiction.***

*No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which National Company Law Tribunal or the National Company Law Appellate Tribunal has jurisdiction under this Code. Civil court not to have jurisdiction.*

11. The moratorium imposed under Section 14 of the IBC and bar of Section 63 has the effect of staying all legal proceedings against the corporate debtor, including the present reference before this Labour Court, for the duration of the CIRP. The legislative intent behind Section 14 is to protect the assets of the corporate debtor during the CIRP and to facilitate a resolution process without hindrance from ongoing litigation.
12. This Court has taken judicial notice of the fact that the respondent company has been admitted into CIRP and a moratorium is in effect and therefore, order of reinstatement is not permissible. As far as the reliefs of back wages and outstanding monetary due is concerned, the claimant-workman is at liberty to file his claim before the Interim Resolution Professional (IRP) / Resolution Professional (RP) appointed by the NCLT in accordance with the provisions of the IBC, if so advised and permissible under law, upon the conclusion of the CIRP or liquidation proceedings, as the case may be, and subject to any orders passed by the NCLT.
13. In light of the aforesaid discussion and considering the mandatory provisions of Section 14 and 63 of the Insolvency and Bankruptcy Code, 2016, continuance of the present reference proceedings is not permissible. Hence, following order is passed :

#### **ORDER**

- (1) Present Reference T (LCV) No.60-2022 is hereby **DISMISSED** and disposed of in view of the order passed on 19-04-2024 in IA/1005(AHM)2023 in CP(IB) 407 of 2020 by Division Bench of National Company Law Tribunal, Ahmedabad.
- (2) It is clarified that this order does not prejudice the rights of the claimant-workman to pursue his claim for outstanding dues or compensation before the Interim Resolution Professional (IRP) / Resolution Professional (RP) as part of the CIRP of the respondent company **Maximaa Systems Limited**, within the stipulated time frame as per the provisions of the IBC, or before the appropriate forum as per law.

(3) Reference is answered accordingly.

(4) No order as to costs.

Pronounced in open Court on this 23<sup>rd</sup> day of June, 2025.

Place : Valsad  
Date : 23-06-2025

**[Chaitanya V. Limbachiya]**  
**Judge, Labour Court, Valsad.**  
**Code : GJ01556**