



06th July 2026

NCLT Kochi Bench Intervenes to Direct EGM in Pearl City Marine Products Dispute Over Requisitioned Meeting

The National Company Law Tribunal (“NCLT”), Kochi Bench, through its order dated June 22, 2026, has exercised its powers under Section 98 of the Companies Act, 2013, to direct the convening of an Extraordinary General Meeting (“EGM”) for M/s. Pearl City Marine Products Pvt Limited. The order follows a governance deadlock where the Board of Directors refused to act on a valid shareholder requisition to appoint new directors, leading the Tribunal to conclude that it was "impracticable" for the shareholders to hold the meeting through ordinary statutory channels.

Analysis

- Under Section 100 of the Companies Act, 2013, the Board is statutorily mandated to call an EGM upon receipt of a valid requisition from members holding at least one-tenth of the paid-up share capital.
- The Petitioner, holding 15.42% of the paid-up equity share capital, issued a requisition on January 20, 2026, to consider the appointment of two directors (Respondents 6 and 7).
- At a Board meeting held on February 9, 2026, the Board declined the requisition by a 3:2 majority, suggesting instead that the meeting be held after the close of the financial year 2025-26.
- The NCLT clarified that the Board cannot assume the role of a court or Tribunal to determine the "legality, correctness, propriety, or genuineness" of a requisition; it is bound to act if the requisition satisfies the requirements of Section 100.
- Invoking Section 98, the Tribunal held that "impracticability" to hold a meeting must be viewed from a "reasonable point of view," taking a "common-sense view" of the business situation.



Lex Favios
Advocates & Solicitors

- The Tribunal found that the existence of serious disputes between rival groups and the fact that the requisitioner lacks access to the company's statutory registers, records, and infrastructure made it impracticable for the Petitioner to convene the meeting independently under Section 100(4).
- To ensure transparency, the NCLT appointed Shri. Ganapathi KRK (a retired judicial officer) as the independent Chairman and Shri. Ramachandran Thekkumkat Madathil as the Scrutinizer to conduct the EGM.
- The order mandates that the existing Board and officers must provide all necessary records and cooperation to the Chairman for issuing notices to the 113 members of the company.
- The Tribunal further directed that the EGM be conducted within two months, with the Chairman required to file a report on the proceedings within seven days of the meeting's conclusion.
- **Key Takeaways**
 - NCLT Kochi Bench ordered the convening of an EGM under Section 98 due to the Board's failure to act on a valid shareholder requisition.
 - The Tribunal reaffirmed that the Board has no discretionary power to refuse a valid requisition made under Section 100.
 - "Impracticability" under Section 98 includes scenarios where requisitionists are denied access to statutory records and corporate infrastructure amidst shareholder hostility.
 - The appointment of an independent Chairman and Scrutinizer is a necessary safeguard to ensure a fair and legally unimpeachable meeting in contested environments.
- The notification is attached herein.

[Click Here](#)



Lex Favios
Advocates & Solicitors

RBI Establishes Comprehensive Regulatory Framework for Credit Derivatives: Master Direction on CDS, TRS, and Credit Index Futures

The Reserve Bank of India (“RBI”), through its Master Direction dated June 25, 2026, has introduced a formal regulatory framework for credit derivatives, including Credit Default Swaps (CDS), Total Return Swaps (TRS), and Futures on credit indices. Issued under Section 45W of the RBI Act, 1934, the directions aim to facilitate risk management and credit risk transfer while ensuring market stability through strict participant classification, reporting mandates, and a centralized dispute-resolution mechanism.

Analysis

- The framework applies to both Over-the-Counter (OTC) markets and recognised stock exchanges, bringing standardization to previously fragmented credit risk transfer mechanisms.
- Market-makers are strictly defined and limited to regulated entities such as Scheduled Commercial Banks (with specific exclusions), Standalone Primary Dealers, and certain NBFCs within the Upper and Middle layers.
- A User Classification Framework bifurcates participants into Retail and Non-retail. Resident retail users are legally restricted to buying protection solely for hedging purposes, whereas non-retail users have broader participation rights.
- From a consumer protection and regulatory risk standpoint, the RBI has explicitly prohibited market-makers from offering CDS or TRS contracts to individuals, effectively ring-fencing the complex derivative market to institutional and corporate entities.
- Eligible reference obligations are limited to dematerialized money market debt instruments, rated INR corporate bonds, and unrated bonds issued by infrastructure SPVs. Notably, Asset-backed securities (ABS) and Mortgage-backed securities (MBS) are strictly excluded from the scope of permitted reference assets.



Lex Favios
Advocates & Solicitors

- The Directions impose a Related Party Prohibition, preventing participants from entering into contracts if the reference entity is a related party to either counterparty, though an exemption is provided for transactions between government-related entities.
- For hedging transactions, the RBI mandates strict discipline: users must match the notional amount and tenor to the underlying exposure and are required to exit their credit derivative position within one month if the underlying exposure is liquidated.
- A significant governance feature is the establishment of the Credit Derivatives Determinations Committee by FIMMDA. This committee will make binding factual determinations on credit events, substitution events, and settlement procedures, providing a quasi-adjudicatory layer to minimize contractual disputes.
- Compliance and transparency are enforced through a 30-minute reporting window for all OTC trades to the Clearing Corporation of India Ltd. (CCIL).
- Non-compliance with these Directions may result in the RBI disallowing a participant from dealing in the credit derivatives market for up to one month at a time, with such enforcement actions being made public.
- **Key Takeaways**
 - RBI has issued a comprehensive regulatory code for credit derivatives under Section 45W of the RBI Act, effective June 25, 2026.
 - The framework enforces a hedging-only mandate for retail users and a total prohibition on individual participation.
 - Infrastructure SPV bonds (unrated) are included as eligible reference assets, supporting sector-specific risk management.
 - The FIMMDA Determinations Committee will issue binding rulings on credit events, ensuring market-wide uniformity in contract settlement.
 - Strict reporting timelines (30 minutes) and FPI investment caps (5%) serve as primary macro-prudential safeguards.
 - Enforcement powers include public debarment from the market for up to one month for violations.



Lex Favios
Advocates & Solicitors

- The notification is attached herein.

[Click Here](#)

Supreme Court Reaffirms: Arbitration Clause Cannot Oust Consumer Forum

Jurisdiction

T.K.A. Padmanabhan v. Abhiyan Cooperative Group Housing Society Ltd., Civil Appeal No. 10724 of 2016, Supreme Court of India, decided on 04 June 2026

The Supreme Court, in T.K.A. Padmanabhan v. Abhiyan Cooperative Group Housing Society Ltd., has once again reinforced the settled position that the existence of an arbitration clause in an agreement does not automatically oust the jurisdiction of consumer fora. The judgment is significant for housing and real estate disputes, where builders, developers and cooperative housing societies frequently invoke arbitration clauses to resist proceedings before consumer commissions.

The dispute arose from a consumer complaint filed by the appellant before the District Consumer Forum alleging deficiency in service on account of delay in handing over possession of a flat. The respondent-society relied upon the arbitration clause in the agreement and filed an application under Section 8 of the Arbitration and Conciliation Act, 1996, seeking reference of the dispute to arbitration. The District Forum eventually referred the parties to arbitration, and the said view was affirmed by the State Commission and the National Commission.

The Supreme Court set aside these orders and restored the consumer complaint for adjudication on merits. The Court held that the Consumer Protection Act, 1986 is a beneficial legislation intended to provide a simple, inexpensive, and expeditious remedy to consumers. Referring to Section 3 of the 1986 Act, the Court reiterated that remedies under the Consumer Protection Act are in addition to and not in derogation of other legal remedies.



Lex Favios
Advocates & Solicitors

Therefore, the availability of arbitration as a contractual remedy cannot deprive a consumer of the statutory remedy before the consumer forum. A crucial aspect of the judgment is the Court's interpretation of Section 12(4) of the Consumer Protection Act, 1986. The Court observed that once a consumer complaint has been admitted and notice has been issued, the complaint cannot be diverted to another court, tribunal, or authority. The proviso to Section 12(4) reflects a legislative intent that, after admission, the consumer forum must proceed with the complaint under the Act and cannot compel the consumer to begin afresh before another forum.

The Supreme Court relied upon its earlier decisions in *Fair Air Engineers Pvt. Ltd. v. N.K. Modi*, (1996) 6 SCC 385, *Secretary, Thirumurugan Cooperative Agricultural Credit Society v. M. Lalitha*, (2004) 1 SCC 305, *National Seeds Corporation Ltd. v. M. Madhusudhan Reddy*, (2012) 2 SCC 506, and *Emaar MGF Land Ltd. v. Aftab Singh*, (2019) 12 SCC 751, to reaffirm that an arbitration clause does not denude consumer fora of jurisdiction.

The Court also found fault with the National Commission's reasoning that the appellant was not a consumer merely because he had already taken possession of the flat. The Supreme Court clarified that the complaint was not merely for delivery of possession, but for compensation for delayed possession. Such a claim arises from the period prior to actual possession and the subsequent taking over of possession does not extinguish the allottee's right to claim compensation for delay.

Accordingly, the Supreme Court restored the complaint before the District Consumer Disputes Redressal Commission, Dwarka, and directed that the matter be decided on merits, preferably within one year.

Key Takeaway

This judgment strengthens consumer protection jurisprudence by making it clear that private contractual clauses cannot defeat statutory remedies. For homebuyers and allottees, it confirms that claims for delay, deficiency in service, compensation, waiver and acceptance of possession must be adjudicated on merits by the consumer forum, notwithstanding the existence of an arbitration clause. For developers and housing societies, the judgment serves as a reminder that arbitration clauses cannot be used as a threshold defence to derail consumer proceedings.



Lex Favios
Advocates & Solicitors

NCLAT Protects Employee Dues in Jet Airways Liquidation: PF, Pension and Gratuity Kept Outside Liquidation Estate

State Bank of India & Ors. v. Manoj Kumar Das & Ors., Company Appeal (AT) (Ins.) Nos. 419-420, 440 & 551 of 2026, NCLAT, Principal Bench, decided on 30 June 2026

The National Company Law Appellate Tribunal, Principal Bench, in the continuing Jet Airways liquidation proceedings, has delivered an important ruling on the treatment of employee and workmen dues under the Insolvency and Bankruptcy Code, 2016. The appeals arose from orders passed by the NCLT, Mumbai Bench, concerning payment of provident fund, pension fund and gratuity dues to the workmen and employees of Jet Airways after the Supreme Court had directed the corporate debtor to be taken into liquidation.

The principal issue before the NCLAT was whether sums due towards provident fund, pension fund and gratuity fund could be excluded from the liquidation estate under Section 36(4)(a)(iii) IBC even where no separate or segregated fund was actually available with the corporate debtor on the liquidation commencement date. SBI and the financial creditors argued that, in the absence of an identifiable fund, such claims could only be treated as “workmen’s dues” under the waterfall mechanism in Section 53 IBC. The workmen, on the other hand, contended that Section 36(4)(a)(iii) protects the dues themselves and not merely an existing fund.

The NCLAT rejected SBI’s argument and held that Section 36(4)(a)(iii) is “due-centric” and not “asset-centric”. In other words, the protection granted to workmen and employees cannot be defeated merely because the corporate debtor failed to maintain a separate provident fund, pension fund or gratuity fund. The Tribunal observed that accepting SBI’s interpretation would negate the statutory rights of workmen and employees and would be contrary to the legislative scheme of the IBC.

The Tribunal further held that the issue was no longer res integra, relying upon earlier decisions including ***Jet Aircraft Maintenance Engineers Welfare Association v. Ashish Chhawchharia***, the earlier Jet Airways decision where workmen and employees were held entitled to full payment of provident fund and gratuity, and ***SBI v. Moser Baer Karamchari Union***, which had been affirmed by the Supreme Court.



Lex Favios
Advocates & Solicitors

The NCLAT clarified that the judgment in ***Sunil Kumar Jain v. Sundaresh Bhatt, (2022) 7 SCC 540***, could not be read to mean that workmen lose their statutory entitlement unless a segregated fund is actually available.

Accordingly, the NCLAT held that dues towards provident fund, pension fund and gratuity do not form part of the liquidation estate and are not required to be distributed under the Section 53 waterfall mechanism. The direction of the NCLT requiring the Liquidator to pay such dues to the workmen and employees was therefore upheld.

The Tribunal also dealt with the workmen's prayer for exclusion of 1,656 days, being the period spent in litigation beyond the statutory 330-day CIRP period, for computing the 24-month look-back period under Section 53(1)(b). The NCLAT accepted this prayer and held that, for determining workmen's dues for the 24 months preceding liquidation commencement, the period of 1,656 days ought to be excluded. Consequently, the workmen's dues could not be treated as "nil" merely because liquidation formally commenced much later on 26.11.2024.

However, the NCLAT declined to keep the Recovery Certificate issued by the Deputy Labour Commissioner for salary dues of January to March 2019 outside the liquidation estate. It held that such dues were salary dues and would fall within workmen's dues under Section 53(1)(b), and therefore had to be dealt with under the waterfall mechanism.

In the result, SBI's appeals were dismissed, while the workmen's appeal was partly allowed to the extent that the prayer for exclusion of 1,656 days was accepted.

Key Takeaway

This judgment is significant because it strengthens the statutory protection granted to employees and workmen in liquidation. The NCLAT has made it clear that provident fund, pension and gratuity dues cannot be diluted by treating them as ordinary liquidation claims merely because the employer failed to maintain a separate fund. The ruling also gives a purposive interpretation to Section 53 by preventing workmen's dues from being artificially reduced to nil due to prolonged insolvency litigation.



Lex Favios
Advocates & Solicitors

Relevant experience across transactions, regulation and Disputes

Lex Favios advises domestic and international clients across corporate transactions, private capital, banking and finance, securities regulation, restructuring and complex commercial disputes.

Our team regularly acts for banks, financial institutions, investment funds, listed entities and major corporates on regulatory strategy, enforcement, insolvency proceedings and arbitration. The firm is empanelled with and has acted for leading banks, financial institutions, hospitality brands and major corporates, and its work has been recognised by publications including India Business Law Journal, IFLR1000 and BW Legal

In case you have suggestions or do not wish to receive our newsletter,
please email us at info@lexfavios.com

Contact details

Sumes Dewan

Managing Partner

Lex Favios

Email: sumes.dewan@lexfavios.com

Tel: 91-11-41435188/45264524