

## Learning Curve-1039

May 06, 2024

### Adjudication of a dispute is not within the scope and ambit of the powers of the Liquidator.

CASE TITLE	M/s. FLSmith Private Limited Vs. Lanco Infratech Ltd.
CASE CITATION	Company Appeal (AT) (INS) No. 1353 of 2019
DATE OF ORDER	May 03, 2024
COURT/ TRIBUNAL	NCLAT, Chennai

#### BRIEF FACTS:

The CD went into liquidation as per orders of AA and the RP was appointed as the liquidator. Pursuant to the public announcement made by the liquidator, the Appellant submitted a claim for sum of Rs. 31.71 crores in Form-C. The said claim was rejected by the liquidator on the basis that there are disputed/counter claims. Challenging the rejection, the Appellant filed an I.A. which was dismissed by the AA.

#### DECISION:

The Hon'ble NCLAT, Chennai dismissed the appeal and held that,

*“The Respondent / Liquidator fairly addresses these points by stating that the items of claim not admitted by her as ‘due payable’ are those for which no documents such as invoice / dispatch documents were available in the records of CD and which were not also provided by the Appellant. She has also fairly answered the point by stating that the disallowed claims could be due to non-performance of CD which will require adjudication by a competent Civil Court / Arbitrator, before they can be translated into ‘Dues’ within the framework of IBC and has cited the relevant law in form of a decision by the Hon'ble Apex Court to support her assertion. It is also seen that the Respondent / Liquidator has given sufficient reasons for disallowing the claim of the Appellant in her letter to the Appellant.*

*It is also seen that the AA / NCLT, Hyderabad have dealt on these issues in detail and given succinct reasons as to why they have accepted the submission and reasoning of the Liquidator as to why she has rejected the claim of the Appellant. They have rightly held that **when claim and counter claims are involved Liquidator cannot decide the same** and therefore the Liquidator rightly rejected the claim.”*