



MAJESTY LEGAL

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THE NCLAT¹ HAS INHERENT POWER TO RECALL ITS JUDGMENTS

(UNION BANK OF INDIA vs. DINKAR T VENKATASUBRAMANIAN²)

The NCLAT held that as per the Rule 11³ of NCLAT Rules, 2016 it has the power to recall its judgments and the said power to recall judgment is part of its inherent power. Thereafter, The NCLAT overturned the two judgments delivery by three member benches which held that it does not have the power to recall its judgment.

HIGHLIGHTS OF THE CASE:

- In the abovementioned case, the matter was involved related to the CIRP⁴ initiated by Union Bank of India against Corporate Debtor Amtek Auto limited. Additionally, the bank had filed a recall application seeking recall of the order dated 27-01-2023 passed by the three members Bench of NCLAT.
- The Five-member Bench held that this Tribunal is not vested with any power to review the judgment; however, in exercise of its inherent jurisdiction this Tribunal can entertain an application for recall of judgment on sufficient grounds. Furthermore, The Bench placed reliance on judgment of the Apex Court in case of *Seri Infrastructure Finance Ltd vs. Tuff Drilling Pvt. Ltd*⁵ Wherein the Apex Court clearly laid down that there is a distinction between review and recall. Therefore, the power to review is not conferred upon this tribunal, however, the power to recall its judgment is inherent in this Tribunal.

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¹ The National Company Law Appellate Tribunal.

² Company Appeal (AT) (Ins.) 729 of 2020.

³ Inherent Powers.

⁴ Corporate Insolvency Resolution Process

⁵ 2018 11 SCC 470.

⁶ Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.