



IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, COURT-I

I.A. NO. 1123 OF 2025 IN

C.P. NO. (IB) 1241 (MB) OF 2022

*Under section 60(5) of the Insolvency
and Bankruptcy Code, 2016; and*

In the matter of

Sagar Sharma & Anr.

....Applicants

Versus

Pravin R. Navandar & Ors.

....Respondents

And

In the matter of

**Asset Care & Reconstruction
Limited**

....Financial Creditor

Versus

Hotel Horizon Private Limited

....Corporate Debtor

Order Pronounced on 12.01.2026



Coram:

Sh. Prabhat Kumar

Hon'ble Member (Technical)

Sh. Sushil Mahadeorao Kochey

Hon'ble Member (Judicial)

Appearances:

For the Applicant

: Mr. Sagar Sharma (virtually) Adv.
Askhay Petkar a/w Adv. Akash
Agarwal

For the Resolution Professional

: Sr. Adv. Gaurav Joshi, a/w Adv.
Rushabh J. Adv. Kriti Kalyani, Adv.
Ansh Kumar

For the COC

: Adv. Rohit Gupta, a/w Adv. Manaswi
Agrawal, Adv. Salni Kalwade

ORDER

Brief Facts:

1. The present Interlocutory Application No. 1123 of 2025 in CP (IB) No. 1241 of 2022 has been filed on 28.02.2025 by **Sagar Sharma & Anr.**, Suspended Director/Promoter of the **Horizon Private Limited** (“*Corporate Debtor*”) in the ongoing Corporate Insolvency Resolution Process (‘CIRP’), commenced in terms of order dated 19.11.2024 in C.P. (IB) 121 (MB)/2022 on an application filed by **Asset Care & Reconstruction Limited** (‘ACRA’), a Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“Code”), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, challenging the decision of the Pravin R. Navandar (“Respondent No.1/RP”), communicated vide his email dated 18.02.2025 rejecting the Expression of Interest ("EOI") submitted by the Applicants due to the Applicants not qualifying to submit the EOI because for not fulfilling the criteria of having adequate net worth. Respondent No. 2 to 5 are Financial Creditors



and Respondent No. 6 is erstwhile RP. The Application has made following prayers :

i) set aside the Impugned Email dated February 18, 2025, addressed by Respondent No.1 rejecting the Applicant's EOI.

ii) direct Respondent No.1 to accept the EOI submitted by the Applicants and include the Applicants in the list of final PRAs.

iii) declare that the net worth criteria approved by the CoC members to accept the EOI is not applicable to the Applicants considering the Corporate Debtor is a MSME;

iv) pending the hearing and final disposal, be pleased to direct the Respondents not to take any further steps until the issue of EOI Submitted by the Applicants are considered and decided including but not limited to share any confidential data of the Corporate Debtor;

v) Any other order that this Hon'ble Tribunal may deem fit in the facts and circumstances of this case.

2. The CIRP of the Corporate Debtor commenced pursuant to an admission order dated 19.11.2024, whereby the National Company Law Tribunal appointed an Interim Resolution Professional (“IRP”) to conduct the CIRP. In furtherance of the CIRP, a public announcement dated 22.11.2024 was issued by the IRP inviting claims from creditors, with 03.12.2024 being the last date for submission of claims.
3. On 27.11.2024, the Applicants filed an appeal before the Hon'ble NCLAT challenging the admission of the Corporate Debtor into CIRP. The first meeting of the CoC was held on 18.12.2024, wherein the CoC, in exercise of its powers under Section 25(2)(h) of the IBC read with Regulation 36A



of the CIRP Regulations, approved the eligibility criteria for PRAs and decided to issue Form-G.

4. Pursuant thereto, Form-G inviting EOI was published on 19.12.2024, initially fixing 10.01.2025 as the last date for submission of EOIs. On 23.12.2024, the IRP requested the Applicants, being the suspended management, to hand over books, records, and assets of the Corporate Debtor. The second CoC meeting was held on 09.01.2025, wherein the Applicants were again requested to extend cooperation and provide documents and access to the assets of the Corporate Debtor. In the said meeting, the IRP informed the CoC that five EOIs had been received and the CoC approved extension of time for receipt of EOIs up to 24.01.2025. By order dated 23.01.2025, this Tribunal replaced the IRP and appointed Respondent No.1 as the Resolution Professional (“RP”) to continue the CIRP.

5. On 24.01.2025, the Applicants submitted their EOI along with annexures and deposited a refundable amount of Rs.50,00,000/-. The Applicants claimed exemption from net worth requirements on the ground that the Corporate Debtor is an MSME and that they are promoters thereof. On 03.02.2025, the RP addressed an email to the Applicants pointing out deficiencies in their EOI and specifically called upon them to submit a net worth certificate in terms of Clause 3(A) of the EOI document, along with a missing page in Annexure-A.

6. On the same day, i.e., 03.02.2025, the RP issued a provisional list of PRAs, categorising applicants whose documents were complete and those from whom further information was awaited. On 06.02.2025, the Applicants responded by reiterating that the Corporate Debtor is an MSME and sought exemption under Section 240A of the IBC, contending that the net worth requirement was inapplicable to them. On 08.02.2025, the RP replied to the Applicants clarifying that the MSME exemption



under Section 240A is limited to certain clauses of Section 29A and does not dispense with compliance of eligibility criteria fixed by the CoC, including net worth requirements.

7. The fourth CoC meeting was held on 12.02.2025, wherein the RP informed the CoC that a total of 45 EOIs had been received in respect of the Corporate Debtor. On 14.02.2025, the RP rejected the Applicants' EOI on the ground that the Applicants did not meet the eligibility criteria approved by the CoC, particularly the net worth requirement.
8. In the fifth CoC meeting held on 18.02.2025, the RP informed the CoC that out of 45 EOIs received, 40 EOIs were included in the final list of Prospective Resolution Applicants. During the said meeting, the Applicants objected to rejection of their EOI. It is also recorded therein that the Applicants continued to withhold cooperation and refused to provide documents and assets of the Corporate Debtor. The decision rejecting the Applicants' EOI was formally communicated to them by the RP vide email dated 18.02.2025, which forms the subject matter of challenge in the present Application. Aggrieved by the said rejection, the Applicants filed the present Interlocutory Application on 28.02.2025 under Section 60(5) of the IBC.
9. Subsequently, by order dated 06.03.2025 passed in a separate application under Section 19(2) of the IBC, this Tribunal directed the Applicants to hand over the documents and assets of the Corporate Debtor to the RP.
10. The Respondent RP submits that since commencement of CIRP, the Applicants have failed to hand over any documents, records, or assets of the Corporate Debtor to the Resolution Professional, in violation of their statutory duty under Section 19 of the IBC. Despite repeated directions, the Applicants have not cooperated and have openly breached multiple orders passed by this Tribunal dated 06.03.2025, 12.03.2025, 12.04.2025,



23.04.2025, and 03.06.2025. This Tribunal, in its order dated 10.07.2025, has already recorded that the Applicants were attempting to stall the CIRP, and some of their applications have been dismissed as frivolous with costs imposed.

11. It is further submitted by the RP that although the Applicants filed the present Interlocutory Application ('IA') in February 2025, they deliberately allowed it to remain pending and sought hearings only after the resolution plan was approved by the CoC, as evident from orders passed on the above-mentioned dates. On one hand, they have challenged the issuance of Form G by filing I.A. No. 197 of 2025, while on the other hand, they seek participation in the same CIRP process initiated through Form G. They have further challenged dismissal of the said IA before the NCLAT by filing Company Appeal No. 1201 of 2025, thereby refusing to accept the validity of Form G.
12. Additionally, the Applicants filed I.A. No. 219 of 2025, challenging the entire claims of financial creditors and asserting that no debt is payable, while simultaneously seeking to participate as PRAs to repay those very creditors. The partial dismissal of IA 219 of 2025 has also been challenged before the NCLAT through Company Appeal No. 1126 of 2025. Further, the Applicants have filed I.A. No. 4621 of 2025 seeking recall of the CIRP admission order dated 19.11.2024, while at the same time seeking entry into the CIRP as resolution applicants. These contradictory stands clearly show an intention to delay and defeat the insolvency process.
13. The Respondent RP submits that the Applicants are ineligible under Section 29A(e) of the IBC, as they have failed to file financial statements of the Corporate Debtor from FY 2016-17 to FY 2023-24, attracting disqualification under Section 164(2)(a) of the Companies Act, 2013. The Applicants' reliance on Section 240A of the IBC is misplaced, as the MSME exemption applies only to Section 29A(c) and (h) and does not



extend to Section 29A(e) or relax net worth requirements. The eligibility criteria, including net worth, were validly fixed by the CoC under Section 25(2)(h) of the IBC and Regulation 36A of the CIRP Regulations, and such commercial decisions are non-justiciable.

14. Due to continued non-cooperation, the RP has been unable to examine potential preferential, undervalued, fraudulent, or extortionate ('PUFE') transactions, which may further disqualify the Applicants under Section 29A(g) of the IBC, as noted by this Tribunal in its order dated 12.03.2025. Without full disclosure of records and assets, the Applicants' eligibility cannot be determined, and they cannot be allowed to participate as PRAs.
15. The Applicants also submitted a settlement proposal under Section 12A of the IBC by email dated 11.07.2025, which was considered and rejected by the CoC. The proposal itself acknowledges the validity of the creditors' dues and was conditional in nature, reflecting continued intent to litigate rather than resolve insolvency. The Respondents submit that the Applicants have engaged in prolonged litigation with financial creditors for nearly 10 years, failed to repay dues, and have lost the trust of the CoC. Accordingly, the present IA deserves to be dismissed with costs.

FINDINGS & ANALYSIS:

16. We have heard the counsels and perused all the submissions available on record.
17. Indubitably, the applicants have been non-co-operative in the CIRP process, and have not handed over the possession and control of the assets the Corporate Debtor. Nonetheless, the RP's decision is required to be examined on the date of his decision and subsequent instances of non-cooperation may be relevant for the appreciating the conduct of the applicant and cannot justify the decision of RP, if it is not in accordance with the provisions of the Code. It is also pertinent to note that, the regular



books of account of the Corporate Debtor were not maintained by them, and it is recorded by this Tribunal in its order dated 17.07.2025 passed in I.A. No. 219 of 2025 at para 8.a that “*The Applicants had admittedly provided the Books of Accounts of the Corporate Debtor only up to 31.03.2017 and no Books of Accounts of the Corporate Debtor have been stated to have been maintained thereafter.*”

18. Being conscious of decision of Hon’ble NCLAT in case of ***Saravana Global Holdings Ltd. v. Bafna Pharmaceuticals Ltd., being Company Appeal (AT) (Insolvency) No. 203 of 2019*** holding that “*in exceptional circumstances, if the ‘Corporate Debtor’ is MSME, it is not necessary for the Promoters to compete with other ‘Resolution Applicants’ to regain the control of the ‘Corporate Debtor’.*” and decision in case of ***R. Raghavendran vs. C. Raja John in Civil Appeal No.2552/2022 reported in (2023) ibclaw.in 107 SC*** also holding that “*in exceptional circumstances, if the ‘Corporate Debtor’ is MSME, it is not necessary for the Promoters to compete with other ‘Resolution Applicants’ to regain the control of the ‘Corporate Debtor’*”, the applicants was asked by this Tribunal on 15.7.2025 whether they are willing to match the last offer made by other Resolution Applicant(s) for consideration of their plea for participation in the resolution process after their insistence that they are willing to match the bid on 8.7.2025, even though they are not meeting net worth criterion. However, the applicants were non-committal on that day and insisted upon correct adjudication of claims of financial creditors first before making an offer, even in subsequent hearings on this aspect as well. This demonstrates the applicant’s intent was only to derail and delay the CIRP process than to actually resolve the Corporate Debtor for its revival.
19. It is also relevant to refer to our order dated 12th March, 2025, the relevant part of which reads as follow :



3) It is further noted that the Suspended Board has responded to Expression of Interest and has submitted their expression to participate in the submission of Resolution Plan, as they are entitled to do so in terms Section 29A of the Insolvency and Bankruptcy Code, 2016, being the Micro, Small and Medium Enterprises Entity. However, we feel that in case of non-provision of Books of Account and access of all records of the Company, the Resolution Professional is disabled from examining these records and cannot make determination of Avoidance Transactions, if any. It is relevant to note that, in case, any avoidance transaction is found and this Tribunal passes an order upholding such determination, it may disentitle the Suspended Board to submit the Resolution Plan. Accordingly, it becomes more relevant to have co-operation of suspended board in this relation. It may be inferred from such conduct that the alleged non-cooperation is to disable the Resolution Professional to determine any Avoidance Transaction on the part of the Suspended Board so as to not make them ineligible to participate in terms of Section 29A of the Insolvency and Bankruptcy Code, 2016.”

20. It is noted that the approved eligibility criterion applicable to ‘Corporates, partnerships, trusts, government organizations, limited liability partnerships (LLPs) and Individuals (Category I)’ was set by CoC in its first meeting held on 18th December, 2024 as “*A minimum tangible net worth ("TNW") of INR 100 crore or more as per the latest available audited financial statements which shall not be earlier than March 31, 2024 along with a certificate of a Chartered Accountant that the said TNW of the entity or Individual has not eroded below the minimum eligibility criteria as on September 30, 2024 The Applicants were present in the said CoC meeting and did not raise any objection to the eligibility criteria at that stage.*”



21. Section 25(2)(h) of the Code provides that Resolution Professional shall *invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regards to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.* It is clearly showing that, CoC is vested with power to decide the minimum eligibility criterion, which it did in its commercial wisdom in the first CoC meeting. The Applicants were also in attendance in the said meeting, and had not objected to non-exclusion of Applicants being promoter of MSME from applicability of minimum net worth criterion.
22. The jurisdiction of the Adjudicating Authority under the IBC is limited. The commercial wisdom of the Committee of Creditors, when exercised in conformity with the provisions of the Code, is not open to judicial review as held in ***K. Shashidhar v. Indian Overseas Bank*** [Civil Appeal No.10673 Of 2018] and ***Essar Steel v. Satis Kumar Gupta*** [Civil Appeal No. 8766-67 Of 2019]. Interference is permissible only where there is a clear violation of statutory provisions or material irregularity in the process.
23. It is also pertinent to note that a settlement proposal under Section 12A of the IBC sent by the Applicants vide email dated 11.07.2025 was considered and rejected by the CoC. The proposal itself acknowledges the validity of the creditors' dues was conditional in nature, reflecting continued intent to litigate rather than resolve insolvency. The records further reveals that the Applicants have engaged in prolonged litigation with financial creditors for nearly 10 years, failed to repay dues, which has led to erosion of trust and confidence in the Applicant's intent to resolve the Corporate Debtor. It is pertinent to note that, even if the MSME promoters may not be required to compete with other Resolution



Applicants, however, Section 30(4) of the Code requires the CoC to consider considering its feasibility and viability of the Resolution Plan(s) placed before it, and this requirement cannot be dispensed with even in case of MSME promoters. Continued resistance of the Applicants to the CIRP process and recalcitrant approach to the obligations towards financial creditors since so many years cannot pass the muster of viability of their plan and the CoC is well within its right to ask for minimum comfort from the applicants in the present case by not exempting them from net worth criterion.

24. In view of foregoing, we are of considered view that there does not exist exceptional circumstances in the present case necessitating exemption to the Applicants from complying with the necessary eligibility criterion approved by CoC. Accordingly, we do not find any reason to interfere with the decision of the RP and to allow the applicants to participate in the resolution process by exempting them from minimum net worth criterion.
25. For the aforesaid reasons, **I.A. No. 1123 of 2025 in C.P. No. (IB) 1241 of 2022** is hereby **dismissed**.
26. Ordered accordingly.

Sd/-

Prabhat Kumar
Member (Technical)

/VB/

Sd/-

Sushil Mahadeorao Kochey
Member (Judicial)