



**NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH**

IA (IB) Plan No. 1/CB/2024

IA (IB) No.242/CB/2024

IA (IB) No. 121/CB/2025

In

CP (IB) No. 7/CB/2023

In the matter of:

STATE BANK OF INDIA

..... Financial Creditor

Vs.

SWARNA HOSPITAL PRIVATE LIMITED

..... Corporate Debtor

IA (IB) Plan No. 1/CB/2024

An Application under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the IBBI (Resolution Process for Corporate Persons) Regulations, 2016

In the matter of:

CHAITANYA KUMAR RAY

(Resolution Professional of Swarna Hospital Private Limited)

MIG-26, Manarama Estate, Rasulgarh,

Bhubaneswar, Odisha

Email- cma.chaitnay@yahoo.com and swarnahospital2015@gmail.com

..... Resolution Professional/Applicant

IA (IB) No.242/CB/2024

An Application under Section 60(5)(a) and (c) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016

In the matter of:

Dr. CHITA RANJAN DAS

(Suspended Director of Swarna Hospital Private Limited)

MIG-25, Samant Vihar, Chandrasekharapur,

Bhubaneswar, Disty- Khurda, Odisha

Also At: N-1/141, IRC Village,

P.O./P.S.- Nayapalli, Bhubaneswar, Dist-Khurda, Odisha

Email- drchittadas@gmail.com

..... Suspended Director/Applicant

Vs.

Sd

Sd



CHAITANYA KUMAR RAY

(Resolution Professional of Swarna Hospital Private Limited)

MIG-26, Manarama Estate, Rasulgarh,

Bhubaneswar, Odisha

Email- cma.chaitnay@yahoo.com and swarnahospital2015@gmail.com

..... **Resolution Professional/Respondent No. 1**

And

STATE BANK OF INDIA

Stressed Asset Recovery Branch,

Plot No.778, 1st Floor, Saheed Nagar,

Near Maharshi College, Bhubaneswar-751007

Email- sbi.05174@sbi.co.in

..... **Financial Creditor/Respondent No. 2**

And

SPARSH HOSPITALS & CRITICAL CARE PRIVATE LIMITED,

Plot No. A/407, Saheed Nagar,

Bhubaneswar-751007

Email- info@sparshhospitals.com

..... **Successful Resolution Applicant/Respondent No. 3**

IA (IB) No.121/CB/2025

*An Application under Section 60(5) of the Insolvency and Bankruptcy Code,
2016 read with Rule 11 of National Company Law Tribunal Rules,2016*

In the matter of:

Dr. CHITA RANJAN DAS

(Suspended Director of Swarna Hospital Private Limited)

MIG-25, Samant Vihar, Chandrasekharapur,

Bhubaneswar, Disty- Khurda, Odisha

Also At: N-1/141, IRC Village,

P.O./P.S.- Nayapalli, Bhubaneswar, Dist-Khurda, Odisha

Email- drchittadas@gmail.com

..... **Suspended Director/Applicant**

Vs.

CHAITANYA KUMAR RAY

(Resolution Professional of Swarna Hospital Private Limited)

MIG-26, Manarama Estate, Rasulgarh,

Bhubaneswar, Odisha

Email- cma.chaitnay@yahoo.com and swarnahospital2015@gmail.com

..... **Resolution Professional/Respondent No. 1**

And

Sd

Sd



STATE BANK OF INDIA

Stressed Asset Recovery Branch,
Plot No.778, 1st Floor, Saheed Nagar,
Near Maharshi College, Bhubaneswar-751007
Email- sbi.05174@sbi.co.in

..... **Financial Creditor/Respondent No. 2**
And

CENTRAL BANK OF INDIA

Plot No.108-B, Unit-VII, 1st Floor,
Surya Nagar, Gopabandhu Square,
Bhubaneswar, Odisha-751003
Email- recoverybhubbrow@centralbank.co.in

..... **Financial Creditor/Respondent No. 3**
And

STATE OF ODISHA

Represented Through the Chief Secretary
At- Odisha State Secretariat, Bhubaneswar, Odisha,
Email- csori@nic.in

..... **Respondent No. 4**

And

**THE DIRECTOR OF THE ESTATES AND EX-OFFICIO ADDITIONAL
SECRETARY TO THE GOVERNMENT,**

General Administration and Public Grievance Department
At- Odisha State Secretariat, Bhubaneswar, Odisha,
Email- publicgrievance.od@gmail.com

..... **Respondent No. 5**

And

SPARSH HOSPITALS & CRITICAL CARE PRIVATE LIMITED,

Plot No. A/407, Saheed Nagar,
Bhubaneswar-751007
Email- info@sparshhospitals.com

..... **Successful Resolution Applicant/Respondent No. 6**

DATE OF PRONOUNCEMENT: 19.08.2025

CORAM: DEEP CHANDRA JOSHI (MEMBER JUDICIAL)

BANWARI LAL MEENA (MEMBER TECHNICAL)

Sd

Sd



APPEARANCE:

FOR RESOLUTION PROFESSIONAL: SHAUNAK MITRA, ADVOCATE

FOR DR. CHIITA RANJAN DAS: SASWAT KUMAR ACHARYA, ADVOCATE

NALINI KANTA SAHOO, ADVOCATE

FOR STATE BANK OF INDIA: SHWETA DUBEY, ADVOCATE

KANISHKA PRASAD, ADVOCATE

FOR SRA: D.K. MOHAPATRA, ADVOCATE

ORDER

1. The application IA(IB) Plan 1/CB/2024 ("**Plan Application**") has been filed by Chaitanya Kumar Ray, ("**Resolution Professional/RP**") Resolution Professional of Swarna Hospital Private Limited ("**Corporate Debtor/CD**") on 18.03.2024 under the provisions of Section 30(6) of the Insolvency & Bankruptcy Code, 2016 ("**The Code/IBC**") read with Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("**CIRP Regulations**") for approval of the Resolution Plan submitted by Sparsh Hospitals & Critical Private Limited ("**SRA**").

BRIEF SUMMARY OF THE CIRP AS PER THE MINUTES OF COC MEETINGS AND OTHER DOCUMENTS BROUGHT ON RECORD BY RESOLUTION PROFESSIONAL:

2. The Corporate Debtor was incorporated on 02.12.2005 as a company limited by shares having its registered office at C-1, Jayadev Vihar Po-RRI, Bhubaneswar, Orissa, India – 751013. The authorized capital is Rs. 3,00,00,000/- and Paid-Up capital is Rs. 1,98,62,000/-. It is involved in Health Care

3. Before dwelling into the issue, it is relevant to mention the brief facts of the case resulting into the present application. State Bank of India, ("**Financial Creditor**") filed a petition under section 7 of The Code for seeking initiation of CIRP against CD. That pursuant to order dated 08.05.2023, this adjudicating authority admitted CD into Corporate Insolvency Resolution Process ("**CIRP**") and accordingly Chaitanya Kumar Ray was appointed as Interim Resolution Professional ("**IRP**") in terms of Section 16 of the code. The applicant was confirmed as RP in the **1st meeting of the COC** held on

Sd

Sd



06.06.2023 with 100% vote share **but it is noted that no application was filed before this Adjudicating Authority under Section 22(3)(a) of the Code to take on record the appointment of RP.** Be that as may, the IRP carried on its functions as RP.

4. The applicant after being appointed as IRP **issued public announcement in Form-A** in terms of Regulation 6 of the CIRP Regulations, 2016 intimating the public about the commencement of CIRP against the CD and inviting the creditors to submit their claims and **Form-A was published on 11.05.2023** in two newspapers namely The Statesman (English) and Pragativadi (Odia) specifying the **last date for submission of claims as 22.05.2023**. The same was also published on the website of Insolvency and Bankruptcy Board of India but the same could not be published on the website of the Corporate Debtor as the CD does not have any official website.

5. The IRP, as then he was, received claims from **3 (Three) Secured Financial Creditors i.e. State Bank of India, Central Bank of India and Odisha State Cooperative Bank Limited**. The applicant, in terms of Section 18(1)(b) read with Regulation 13(1) of CIRP Regulations, 2016, verified the claims of the creditors based on the documents and information submitted by creditors and after verifying the same prepared the list of creditors. In compliance of Regulation 13(2)(d) of CIRP Regulation, 2016 **"List of creditors"** and in term of Regulation 17(1) of CIRP Regulation, 2016 the **"Report on Constitution of Committee of Creditors"** was filed vide **IA(IB) 162/CB/2023** which was taken on record vide order dated 19.06.2023.

Sl. No.	Name of the Financial Creditor (Unsecured)	Claim Amount (in INR)	Claim Amount Admitted (in INR)	Voting Percentage (%)
1.	State Bank of India	51,22,96,136	51,22,96,136	56.44%
2.	Central Bank of India	30,97,93,199	30,73,38,118	33.86%
3.	Odisha State Cooperative Bank Limited	8,85,66,120	8,80,11,678	9.70%
		91,06,55,455/-	90,76,45,932/-	100%

Sd

Sd



VALUATION OF CORPORATE DEBTOR:

6. The RP on 23.06.2023 convened the **2nd Meeting of CoC** wherein in terms of Regulation 27 of the CIRP Regulations, 2016 Two Registered valuers for each of the category of assets were appointed to carry out the valuation of the assets. The Registered valuers submitted the following valuations of the assets of the Corporate Debtor:

SI No	NAME OF VALUER (IBBI REGISTRATION ID) (DATE OF REPORT)	CATEGORY	FAIR VALUE (IN INR)	LIQUIDATION VALUE (IN INR)
1.	Bidhu Bhusan Rath (IBBI/RV/11/2021/13883) (19.07.2023)	Land & Building	14,79,60,000	13,31,65,000
2.	Satyanarayan Sahoo (IBBI/RV/01/2018/0009) (10.07.2023)	Land & Building	14,68,41,442	12,21,47,831
3.	K Sanmukha Patra (IBBI/RV/01/2020/13323) (20.07.2023)	Plant & Machinery	1,76,28,715	1,41,02,972
4.	Sujit Ghosh (IBBI/RV/02/2022/14613) (20.07.2023)	Plant & Machinery	1,74,62,120	1,30,96,965
5.	Swapnabrata Dash (IBBI/RV/06/2020/13069) (20.07.2023)	Financial Assets	0	0
6.	Kasivajjula Shriramrao (IBBI/RV/05/2019/12224) (08.05.2023)	Plant & Machinery	0	0

The **average Fair value and Liquidation of different category of assets** as per Regulation 35(1) of CIRP Regulations as calculated by RP is as follows:

Sl No.	Category	Average Fair Value (In INR)	Average Liquidation Value (In INR)
1	Land & Building	14,74,00,721/-	12,76,56,416/-

Sd

Sd



2	Plant & Machinery	1,75,45,418/-	1,35,99,969/-
3	Financial Assets	0	0

The RP has filed a Compliance Certificate in prescribed form, i.e., **Form 'H'** in compliance with regulation 39(4) of the CIRP Regulations, 2016 and as per Form-H attached with the application, **the Fair Value of the CD is Rs.16,49,46,139/-** (Rupees Sixteen Crores Forty Nine Lakhs Forty Six Thousand One Hundred and Thirty Nine Only) and **the Liquidation Value of the CD is Rs.14,12,56,314/-** (Rupees Fourteen Crores Twelve Lakhs Fifty Six Thousand Three Hundred and Fourteen Only).

7. The RP convened the **3rd Meeting of CoC** on 04.07.2023 wherein discussion was held in regard to the eligibility criteria as per Regulation 36A for the Prospective Resolution Applicants and it was resolved by the CoC that the Net Worth eligibility for PRAs shall be reduced from Rs. 5 Crores to Rs. 3 Crores as on FY ending 2022-23. The timeline of 60 days to issue Form-G was scheduled to expire on 07.07.2023 and the **RP published Form-G on 06.07.2023** in newspaper namely Business Standard (English) and Samaja (Odia) respectively for Expression of Interest ("**EOI**") wherein the **last date to receive EOI from interested Prospective Resolution Applicant (PRA) was 21.07.2023** and to issue Provisional List of PRAs was 31.07.2023.

8. The RP convened the **4th Meeting of CoC** on 31.07.2023 wherein discussions were held regarding the EoIs received in response to Form-G and it was informed by RP that 2 PRAs have submitted the EoI documents and they were found eligible (**The names of the Eligible PRAs are not recorded in the Minutes of the meeting**). As per the minutes of the meeting, the RP also presented to the CoC members that they can take decision further extend the time by publishing again 'Form G' as per regulation 36A(4A) of CIRP regulations and also apprised the CoC that the approved EoI documents specified that the RP/CoC reserves the right to cancel/modify the process /application without assigning any reason and without any liability whatsoever and the CoC with 100% vote also resolved to **further reduce the**

Sd

Sd



Net Wortheligibility Criteria from Rs.3 Crores to Rs. 2.5 Crores and keeping all other eligibility criteria as it is accordingly CoC resolved to **re-publish Form-G on 01.08.2023** and the **last date to receive EOI from interested PRA was 07.08.2023** and to issue Provisional List of PRAs was 14.08.2023.

9. The RP convened the **5th Meeting of CoC** on 14.08.2023 wherein the RP in accordance with Regulation 36A (10) of CIRP regulations presented the list of PRAs. The **PRA list dated 14.08.2023** as presented in the 5th CoC meeting and **annexed as A-14** with the Plan Application is as under:

SL No.	NAME	NATURE	CIN/PAN
1	Sparsh Hospital & Critical Care private Limited	Health Care	U85110OR2007PTC00923
2	Sunrise Industries	Real Estate	ADCFS395F
3	ESKAG Sanjeevani Private Limited	Hospital/Health Care	U8519WB2008PTC124543
4	Bimal Industries	Trading Companies	ABMPA9753F

As recorded in the Minutes, the RP in the meeting has confirmed that all the 4 PRAs are found eligible u/s 25(2)(h), 29A and other eligibility criteria as specified in the invitation documents. **No final List of PRAs, in compliance of Regulation 36A(12) of the CIRP Regulation, 2016 after this provisional List has been brought on record by the RP.**

10. The RP in compliance of Regulation 36 of the CIRP Regulation, 2016 read with Section 25 (2)(g) of the Code and Section 29, prepared Information Memorandum ("IM") based on the information available and convened the **6th Meeting of CoC** on 19.08.2023 wherein the IM, Evaluation Matrix, Request For Resolution Plan ("**RFRP**") was discussed and approved by the CoC and the same was circulated with all the PRAs on 19.08.2023 . In the said meeting the CoC resolved to appoint one Pinaki Shah, Insolvency Professional as

Sd

Sd



Process Adviser and it was stated by the RP that his relation with the proposed Process adviser is in accordance with Regulation 27(3) of CIRP regulations and **Pinaki Shah was appointed as a Process Advisor.**

11. The The RP convened the **7th Meeting of CoC** on 24.08.2023, wherein upon the advice of the Process Advisor, the RFRP and Evaluation Matrix was modified as per Regulation 36B (5) of CIRP Regulations and subsequently approved by the CoC. The RP in compliance of Regulation 36B (1) of CIRP Regulation, 2016 shared IM Evaluation Matrix and Request for Resolution Plan ("RFRP") with the PRAs wherein the last date to submit the Resolution Plan for all PRA's was 23.09.2023.

12. The The RP convened the **8th Meeting of CoC** on 06.10.2023 wherein the RP apprised the CoC that **only 2 out of 4 PRAs i.e. (i) ESKAG Sanjeevani Private Limited and (ii) Bimal Industries had filed Resolution Plans.** The RP also informed the CoC that as per the due diligence conducted by RP in accordance with Regulation 36A(8)(b) of CIRP regulations he found the plans in order barring few differentiations from the RFRP and IM. **The CoC in quest to maximise the value of the CD resolved in accordance with Regulation 39(1A) of CIRP regulations decided to give opportunity to the PRAs to modify the plan.**

The RP also informed the CoC that the CIRP period was due to get expired on 04.12.2023 and hence considering the decision to give opportunity for modification of plan, it is imperative to seek an extension of 90 days from the Adjudicating Authority to complete the CIRP. The CoC with 100% vote resolved to seek an extension of 90 days and in pursuance of the same the RP filed **IA(IB) No.318/CB/2023** seeking an extension of CIRP period from 04.11.2023 till 02.02.2024 and the same was allowed by the Adjudicating Authority vide order dated 01.11.2023 and the **CIRP period was extended up to 01.11.2023.**

13. The RP convened the **9th Meeting of CoC** on 02.11.2023 as per its Reply filed in IA(IB) 142/CB/2024 but the **minutes of the said meeting is**

Sd

Sd



not annexed with the plan application or brought on record in any prior instance.

14. The RP convened the **10th Meeting of CoC** on 09.11.2023 wherein the RP apprised the CoC that the Plan received from the 2 (Two) PRAs are found non complied u/s 30(2) of the Code, applicable IBBI rules and conditions specified in RFRP and hence the same cannot be put to vote and are rejected. State Bank of India proposed to issue fresh Form-G and the CoC with 100% vote decided to **re-issue Form-G on 14.11.2023** to attract more Resolution Applicants and the same was published in newspaper namely Business Standard (English) and Samaja (Odia) respectively wherein the **last date to receive EOI from interested PRA was 29.11.2023. The copy of the Form-G dated 14.11.2023 is not annexed with the Plan Application.**

In response to Form-G dated 14.11.2023, Five PRAs submitted their EoI Documents and the **RP issued a fresh provisional PRA list on 03.12.2023** as under:

SL No.	NAME	NATURE
1	Sparsh Hospital & Critical Care private Limited	Health Care
2	Stalwart Projects Private Limited	Real Estate
3	ESKAG Sanjeevani Private Limited	Hospital/Health Care
4	Bimal Industries	Trading Companies
5	New Born and Pediatric Health Centre	Health Care

15. The RP convened the **11th Meeting of CoC** on 02.12.2023 wherein the fresh Provisional PRA list was taken on record by the CoC and it was resolved to issue the same Information Memorandum, Evaluation Matrix and RFRP shall be continued by incorporating minor factual changes considering the fresh issuance of Form G on 14.11.2023. The RP in compliance of Regulation 36A (12) of the CIRP Regulation, 2016 issued **final list of PRAs to COC members on 08.012.2023 annexed at Page 139 of the Plan Application.**

Sd

Sd



16. The RP convened the **12th Meeting of CoC** on 28.12.2023 wherein the RP conveyed to the CoC that in accordance with Regulation 36B (1) of CIRP Regulation, 2016 IM, EM and RFRP has been communicated to all the PRAs on 08.12.2023 with the **last date for submission of resolution plan being 07.01.2024**. The CoC also deliberated on the issue that the RP might be required to seek a further extension of CIRP period as the CIRP period is due to expire on 02.02.2024.

17. The RP convened the **13th Meeting of CoC** on 16.01.2023 wherein the RP apprised the CoC that **5 (Five) Resolution Plans were received from the 5 PRAs within the allotted time frame, which are of higher value as compared to the earlier Rejected Plans and 'most' of the plans were found in compliance with the code and terms of RFRP** but as the CIRP period is due to expire in 17 days and time will be required for deliberation and voting on the plan by the CoC members and minimum 7 days is needed to be given to provide Performance Guarantee as per RFRP and IBC, hence a further extension of 60 days of CIRP period is inevitable and furthermore the PRAs had also sought opportunity to modify their plan if required be. In light of the same in the 13th CoC Meeting the CoC with 100% vote resolved to seek an extension of 60 days from the Adjudicating Authority. The RP subsequently filed **IA(IB) No. 23/CB/2024** seeking an extension of 60 days from 02.02.2024 up to 02.04.2024, which was allowed vide order dated 31.03.2024 and the CIRP period was extended up to 02.04.2024.

18. The RP convened the **14th Meeting of CoC** on 20.01.2024 wherein the RP presented that out of the 5 (Five) Resolution Plans received only 3 (Three) plans complied with the requirements provided u/s 30(2) and section 30(1) of Code and other applicable regulations and terms and conditions of RFRP.

The PRAs whose plans were found complied with the necessary requirements are as follows:

Sd

Sd



Sl No.	NAME	PLAN VALUE
1.	New Born and Pediatric Health Centre	Rs. 13.62 Crores
2.	Sparsh Hospital & Critical Care private Limited	Rs. 14.15 Crores
3.	ESKAG Sanjeevani Private Limited	Rs. 10.71 Crores

The CoC decided to **offer an opportunity to 'all the Resolution Applicants' to revise their plan as allowed u/s 30(5) of the Code up to 6:00 PM on 29.01.2024.**

19. The RP convened the **15th Meeting of CoC** on 07.02.2024 wherein the RP presented 3 Resolution Plans for the consideration and voting of the CoC. **It is noted that in Para 4 of the minutes of the 15th meeting it is recorded that 4 (Four) Resolution Applicants had submitted plans in contrast to the minutes of the 14th meeting wherein at para 4 it was recorded that only 3 PRAs had submitted their plans.**

20. In the 15th CoC Meeting 3 Plans of the PRAs i.e. (i) New Born and Paediatric Health Centre, (ii) Sparsh Hospital & Critical Care private Limited and (iii) ESKAG Sanjeevani Private Limited were put before the CoC to evaluate the resolution plans, record its deliberations on the feasibility and viability of each plan and vote on the plans as per section 30(4) of the Code read with Regulation 39(3) of the CIRP Regulations.

The RP informed the CoC that there is no preferential, undervalued, fraudulent or extortionate i.e. PUF transactions u/s 66 of the Code as the CD had shut its business and has been under the control of the lenders since 2015. The RP also apprised the CoC that he has conducted due diligence of the plans as required under Regulation 36A (8) of CIRP regulations and found it in order.

21. The CoC Members resolved to discuss and record its deliberations as per Regulation 39(3) of the CIRP Regulations and simultaneously vote on the plans received through e-voting from 5 P.M. on 09.02.2024 till 5 P.M. on

Sd

Sd



28.02.2024. Upon the request of the CoC member the voting deadline was extended till 5 P.M. on 01.03.2024 as per IBBI Circular No. IBBI/PR/2024/09 dated 16.02.2024. The **Plan was approved with 90.3% Votes** in favour of the **Resolution plan of Sparsh Hospital & Critical Care Private Limited**, with One of the CoC member i.e. **Odisha State Cooperative Bank Limited having vote share of 9.70% 'Abstained from voting'** with the following resolution:

"It is resolved that , the Committee of Creditors after evaluating of all the above three resolution plans as per evaluation matrix, recording its deliberations on the feasibility and viability of each resolution plan as per section 30(4) of IBC, 2016 read with Regulation 39(3) of Insolvency Resolution Process for Corporate person have approved the resolution of M/s Sparsh Hospitals & Critical Care Private Limited by casting 90.3% votes which is more than 66% required votes."

It is also noted that no record of the deliberations of the CoC Members as required under Regulation 39(3)(b) of the CIRP Regulations is on record and neither it forms part of the Minutes of the meeting.

22. The **Letter of Intent ("LoI")** was issued in favour of Sparsh Hospital & Critical Care Private Limited i.e. Successful Resolution Applicant, by the RP on **01.03.2024** and asked the SRA to file its Performance Bank Guarantee by 08.03.2024.

The RP convened the **16th Meeting of CoC** on 13.03.2024 wherein CoC allowed the RP to take the Performance Bank Guarantee submitted by the SRA on 11.03.2024 i.e. beyond the allowed time, due to bank holidays. **The CoC did not make any assessment regarding the assessments required to be made under Regulations 39B (Estimation of Liquidation Cost), 39C (Assessment of Sale as a Going Concern of CD) and 39D (Assessment of Fees of Liquidator) of the CIRP Regulations, 2016 in event of Liquidation of the CD** as the CoC decided it will be premature to do the same at that stage.

Sd -

Sd



23. The CoC in the 16th Meeting also resolved that since **Odisha State Cooperative Bank Limited (OSCBL)** has abstained from voting hence will be treated as a '**Dissenting Financial Creditor**' and in accordance with Regulation 38(1)(b) of CIRP Regulations 2016 the dissenting FC will be paid in priority and as per section 53(1) of the code it will be paid the amount which it should have received in the event of liquidation. Hence it was resolved by CoC that **OSCBL will be paid Rs.1,37,01,862/- i.e. 9.70% of the Liquidation Value of the CD** and the left-over amount will be distributed among Central Bank of India and State Bank of India. The CoC also resolved and directed the RP to file application u/s 30(6) of the code r/w Regulation 39(4) of the CIRP Regulations before the Adjudicating Authority to seek approval of the plan and hence this present Plan Application.

24. Before we delve into the contents of the plan and adjudicate as to whether the plan approved by the CoC meets the requirements u/s 30(2), it is necessary to adjudicate on the objection to the Plan filed by a suspended Board of director of the CD in **IA (IB) No.242/CB/2024** alleging that the Resolution plan approved by the CoC pending for approval is in violation of section 29A of Insolvency Bankruptcy Code, 2016 and another application in the form of **IA (IB) No.121/CB/2025** alleging that the land on which the hospital of the CD is situated is on leasehold and in the plan the SRA has sought an waiver to deposit 200% consent fees which is a pre-condition for transfer of the said land.

IA (IB) No.242/CB/2024

25. The averments made by the applicant in the application is that:

- a. The resolution plan submitted and accepted by the resolution professional, wherein the resolution applicant is being one Sparsh Hospital and Critical Care Pvt. Ltd with its CIN No.U85110OR2007PTC009323 having its registered office at Plot No. A/407, Saheed Nagar, Bhubaneswar having its managing director namely Dr. Priyabrata Dhir and another director namely Debabrata Dhir are none other than the brothers of the one of the director of the

Sd

Sd



Corporate Debtor i.e. Satyabratta Dhir. Hence the resolution applicant for the corporate debtor is in contravention of the mandatory prohibited provisions as enshrined under Section 5(24) & (24-A) of the Insolvency and Bankruptcy Code, 2016

b. Satyabratta Dhir and the Directors of the SRA namely Priyabatra Dhir and Debabrata Dhir of the resolution applicant are brothers, and, all are sons of Nrushinga Charan Dhir having their common permanent address at N-3/338, IRC Village, Bhubaneswar, Orissa, Pin-751015

26. The Resolution Professional in his reply made the following contentions that:

a. The applicant in his petition has not alleged that, resolution applicant (Sparsh Hospital & Critical Care Private Limited coming under this section 29A and not eligible to be resolution applicant.

b. Sparsh Hospital and Critical Care Private Limited has submitted its affidavit stating that, it is eligible under section 29A and the RP conducted due diligence on the said affidavit and found the Resolution Applicant eligible u/s 29A.

c. Mr. Satyabrata Dhir has no share capital or less than two percentage share capital in the corporate debtor of M/s Swarna Hospital Private Limited. So, Mr Satyabrata Dhir not coming under the category of related party relating to the Corporate Debtor as per section 5(24) (d).

d. Mr. Satyabrata Dhir has also given his resignation from the position of director from Sparse Hospitals and Critical Care Private Limited from 20th July, 2023. So, at the time of submission of EOI documents on 29.11.2023 Mr. Satyabrata Dhir was not in position of director of Sparsh Hospitals and Critical Care, hence not covered under section 5 (24A) (d) related party

Sd

Sd



e. the corporate debtor has been closed their commercial business since the year 2015 onwards declared as non performing asset and comes under possession of Central Bank of India since 16th September, 2015 under SARFAESI Act, 2002 due to default for payment of loan amount instalments as per loan agreement. Mr. Satyabrata Dhir was not the director at this time. Again, this CIRP application was initiated on dated 5th January, 2023 at this time also Mr. Satyabrata Dhir was not the director in the corporate debtor of Swarna Hospital Private Limited. So, the management is not functioning for any commercial business and Mr. Satyabrata Dhir was not also involved in any management's decision making.

f. Mr. Satyabrata Dhir also have no control of accounts of the corporate debtor from after being the director of M/s Swarna Hospital Private Limited

g. RP submits that he has verified the civil report and other sources related to Mr. Satyabrata Dhir and his connected persons found that they are not coming under the category un-discharged insolvent as provided under section 29A(a) and they have good civil score. In the credit information report of resolution applicant M/s Sparse Hospital and Critical Care Private Limited asset classification showing as standard and hence not barred by Section 29A(a).

h. RP submits that he has verified the civil report and other sources related sources of Mr. Satyabrata Dhir and his connected persons found that they are not coming under the category wilful defaulter as per section 29A(b) in accordance with the guidelines of Reserve Bank of India ("RBI") issued under the Banking Regulation Act, 1949 (the "BR Act"); and they have also good civil score.

i. RP submits that he has verified all the documents regarding corporate debtors (CD) and found that, the corporate debtor has closed their commercial business activity since the year 2015 onwards and the account of the CD was declared as non performing asset and came

Sd

Sd



under possession of Central Bank of India since 16th September, 2015 under SARFAESI Act, 2002 due to default for payment of loan amount instalments as per loan agreement. Mr. Satyabrata Dhir was not the director at this time. Again, this CIRP application was initiated on dated 5th January, 2023 at this time also Mr. Satyabrata Dhir was not the director in the corporate debtor of Swarna Hospital Private Limited. So, according to the RP, the management was not functioning for any commercial business and Mr. Satyabrata Dhir was also not involved in any management's decision-making process. The applicant of this IA Mr. Chita Ranjan Das and her wife were sole responsible for default of the corporate debtor and they had given the bank guarantee to the financial creditors on behalf of the corporate debtor.

j. RP enquired into the administration of local authority and found that, Mr. Satyabrata Dhir and his connected person are not coming under this 29A(d) clauses.

k. Section 29A (e) states that "is disqualified to act as a direct or under the Companies Act, 2013 (18 of 2013)": (Provided that this shall not apply in relation to a connected person referred to in clause) - As per this clause is not applicable to the connected person of Mr. Satyabrata Dhir, so Sparsh Hospital & Critical Care Private Limited is not coming under this category

l. The RP further submits that Undersigned as RP enquired in SEBI and Civil score of Mr. Satyabrata Dhir and connected person & found that, Mr. Satyabrata Dhir and connected person not prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets, hence not barred u/s 29A(f).

m. RP had verified all the documents regarding corporate debtors (CD) on this clause and found that, Mr. Satyabrata Dhir and his connected persons are not involved in the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent

Sd -

Sd



transaction as taken place and in respect of which an order has been made by the Adjudicating Authority under this Code.

n. RP had verified all the documents regarding corporate debtors (CD) in regard to eligibility under section 29A(h) and found that, Mr. Satyabrata Dhir and his connected person has not given any guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code and such guarantee has been invoked by the creditor and remains unpaid in full or part.

o. RP verified all the documents regarding corporate debtors (CD) regarding eligibility under section 29A(i) found that, Mr. Satyabrata Dhir and his connected person is not subject to any disability, corresponding to clauses (a) to (h) under any law in a jurisdiction outside India.

p. As required under section 29A(j) based on all the verification reports on Mr. Satyabrata Dhir and his connected person Mr. Priyabrata Dhir, Mr. Debabrata Dhir and M/s Sparsh Hospital and Critical Care Private Limited, the RP found that none of the connected persons of the SRA is ineligible under section 29A clauses (a to i).

27. State Bank of India, the lead CoC member also filed a reply wherein the following objections were raised by the Bank:

a. Directors of the SRA and Mr. Satyabrata Dhir would not come under the purview of section 29A(j) read with section 5(24) and 5(24A) of the code as Satyabrata Dhir does not hold any shares of the CD, and hence has no control or management of the corporate debtor.

b. As per section 29A, the eligibility of an SRA shall be examined as existing at the time of submission of the resolution plan and in this case at the time of submission of EoI or the Resolution plan, Satyabrata Dhir was not a director in the Resolution Applicant and therefore, any

Sd

Sd



relation between the Directors of the Corporate Debtor and the Resolution Applicant ceased to exist prior to inviting the Resolution plans.

c. The Account of the CD was declared as NPA on 25.07.2014 and CIRP against the CD was initiated on 08.05.2023. Satyabrata Dhir resigned from the directorship of the SRA and Form-G inviting EoI was published on 14.11.202, hence at the time of publication of Form-G, Satyabrata Dhir was not in association with the SRA and had no effective control over the management/operations of the corporate debtor.

d. Satyabrata Dhir had no 'control' over the management of the company and the bank contended that in absence of definition of the term 'control', in IBC, the definition of 'control' provided under regulation 2(1)(c) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 shall be considered and according to which a person can be said to be in control of a company if he/she has (i) the right to appoint majority of directors or (ii) the ability to control the management or policy decisions by various means as refereed in the regulation.

e. The Bank also relied on the definition of 'Control' provided under the Black's Law Dictionary provided at page 354 and contended that a person is said to be in control if he/she has the direct or indirect power to direct the management and policies of a person or entity, whether through ownership of voting securities, by contract, or otherwise, the power or authority to manage, direct or oversee and since Satyabrata Dhir was one of the four directors of the CD and did not have any veto rights in the decisions relating to operations of the corporate debtor and therefore has no effective control.

f. The bank contended that as per the judgments of the Hon'ble Supreme Court and NCLAT the objective of Section 29A is to ensure that the persons responsible for pushing the corporate debtor into

Sd

Sd



insolvency shall not be allowed to get back into the management of the company. In the present case Satyabrata Dhir was not associated with the CD at the time the account of the CD became NPA and hence section 29A won't be applicable.

28. The applicant in response to the replies filed a rejoinder wherein it made the following averments:

a. The SRA was incorporated on 10.05.2007 and Satyabrata Dhir, Priyabrata Dhir and Debabrata Dhir, who are brothers from the same parents, were the subscribers to the memorandum and the first directors since its incorporation.

b. Satyabrata Dhir was inducted as a director of the CD on 28.02.2023 while he was also the director of the SRA and subsequent to the commencement of insolvency against the CD on 08.05.2023, Satyabrata Dhir without any conceivable reason resigned from the directorship of the SRA on 22.07.2023 i.e. approximately 2 and half months of insolvency commencement date.

c. The action of Satyabrata Dhir to resign from the directorship of the SRA after 16 years, immediately after the commencement of CIRP of the CD is done with malafide intention to bypass the Section 29A bar provided in the code. Furthermore, there is no restriction whatsoever in the Resolution plan to prevent the re-induction of Satyabrata Dhir into directorship of SRA in future.

d. Satyabrata Dhir who is a connected person of the SRA being the brother of the MD of the SRA, is a suspended director of the CD which had become insolvent and the accounts of the CD still remain under NPA status. Furthermore, at the time of commencement of insolvency Satyabrata Dhir was a director of the CD and hence the SRA is connected to Satyabrata Dhir cannot be allowed to submit a resolution plan.

Sd

Sd



FINDINGS IN IA(IB) 242/CB/2024:

29. We have heard the Ld. Counsels appearing for the parties and have perused the materials brought on record. Before we delve into the merits of the case, it is imperative to understand Section 29A and the conditions enumerated therein.

30. Section 29A of IBC provides a list of criteria which will make a resolution applicant ineligible to submit a resolution plan. Section 29A contains 10 sub sections from (a) to (j). Subsections (a) to (i) enumerate 9 (nine) different scenarios which shall make a resolution applicant ineligible and subsection (j) adds another category wherein if the resolution applicant though found eligible as per sub sections (a) to (i) will become ineligible if it has connected persons who are ineligible as per sub sections (a) to (i).

31. The Explanation I to Section 29A provides the term “connected person” to mean:

- i. Any person who is the promoter or in the management or control of the resolution applicant (“**Category-I Connected Person**”); or
- ii. Any person who shall be the promoter or in management or control of the Business of the corporate debtor during the implementation of the resolution plan (“**Category-II Connected Person**”); or
- iii. The holding company, subsidiary company, associate company, or related party of a person referred to in clauses (i) and (ii) (“**Category-III Connected Person**”)

32. To ascertain as to whether Mr. Satyabrata Dhir is a connected person to the SRA or not, we need to examine the facts in hand as per the information brought on record:

Sd →

Sd



SHAREHOLDING PATTERN OF THE SRA AS ON 31.03.2023

Name	No. of Shares	Value of total Shares	Percentage of Shareholding (approximately)
Priyabrata Dhir (Managing Director)	3,37,500	33,75,000	49.02%
Satyabrata Dhir	1,75,000	17,50,000	25.42%
Debabrata Dhir	75,000	7,50,000	10.89%
Ghansyam Biswas	50,000	5,00,000	7.26%
Bidhubhusan Nayak	50,000	5,00,000	7.26%
Nrusingha Chandra Dhir	500	5000	0.07%
Sutapa Biswas	500	5000	0.07%

33. List of Directors of the SRA as per Master Data of SRA as retrieved on 24.09.2024:

SL No.	NAME	DIN/PAN	DESIGNATION	DATE OF APPOINTMENT
1	Priyabrata Dhir	01728277	Managing Director	10/05/2007
2	Debabrata Dhir	01716654	Director	10/05/2007
3	Ghansyam Biswas	03512635	Director	10/05/2007
4	Bidhubhusan Nayak	02942718	Director	25/01/2023

34. From the perusal of the definition of Connected person as provided in Explanation I to section 29A, it is evident that a person who is the promoter or in the management or control of the resolution applicant is a connected person of the SRA. As per the information record and enumerated above it is clear that Priyabrata Dhir who is the biggest shareholder of the company and also the managing director of the company and accordingly is a person in 'management' of the potential Resolution Applicant is a Category-I Connected person of the SRA. Furthermore, as enumerated in Explanation -I to section

Sd

Sd



29A, any related part of Category I and Category -II connected person will be Category-III connected persons.

35. Section 5(24A) defines “related party” in respect to an individual and clause (a) of the section states that a person who is a relative of an individual is considered as a related party. Clause (xii) of the Explanation to section 5(24A) specifies that brother is a relative for the purpose of section 5(24A).

It is an undisputed fact that Satyabrata Dhir, i.e. the suspended director of CD and ex-director of SRA is the brother of Priyabrata Dhir i.e. the MD of the PRA, which conclusively shows that Satyabrata Dhir and Priyabrata Dhir are related parties and hence **Satyabrata Dhir is a Category-III Connected person of the SRA.**

36. Now we need to ascertain as to whether Satyabrata Dhir is ineligible under any of the criteria provided under section 29A. In this regard we are inclined to refer to section 29A(c).

29A. Persons not eligible to be resolution applicant.

A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person

(c) at the time of submission of the resolution plan has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949) or the guidelines of a financial sector regulator issued under any other law for the time being in force, and at least a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor:

Sd

Sd



Provided that the person shall be eligible to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of resolution plan

37. As per sub section (c) of Section 29A, if a person is in the management or is in control of a corporate debtor whose account has been classified as NPA in accordance with the guidelines of RBI and at least a period of I (one) year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the Corporate Debtor, then such person will not be eligible to submit a resolution plan.

The Hon'ble Supreme Court at para 44 and 45 of judgment in ***ArcelorMittal India Private Limited v Satish Kumar Gupta and Ors (Civil Appeal Nos. 9402-9405 of 2018)*** explained the concept of a CD under the management of a person in respect to section 29A(c):

44. The ingredients of sub-clause (c) are that, the ineligibility to submit a resolution plan attaches if any person, as is referred to in the opening lines of Section 29A, either itself has an account, or is a promoter of, or in the management or control of, a corporate debtor which has an account, which account has been classified as a non-performing asset, for a period of at least one year from the date of such classification till the date of commencement of the corporate insolvency resolution process. For the purpose of applying this sub-section, any one of three things, which are disjunctive, needs to be established. The corporate debtor may be under the management of the person referred to in Section 29A, the corporate debtor may be a person under the control of such person, or the corporate debtor may be a person of whom such person is a promoter.

45. The expression "management" would refer to the de jure management of a corporate debtor. The de jure management of a corporate debtor would ordinarily vest in a Board of Directors, and

Sd

Sd



would include, in accord with the definitions of “manager”, “managing director” and “officer” in Sections 2(53), 2(54) and 2(59) respectively of the Companies Act, 2013, the persons mentioned therein.

38. Satyabrata Dhir is a suspended director of CD and hence is part of the ‘de jure’ management of the CD and the account of the was classified as NPA on 25.07.2014 and the CIRP was initiated on 08.05.2023 hence the account of the CD was a NPA for a period of more than 1 year till the insolvency commencement as required under section 29A(c). Hence it is inferred that Satyabrata Dhir is ‘ineligible’ under 29A(c) of the code to submit a resolution plan.

39. However, as clarified by the Hon’ble Supreme Court judgment in the matter of **Swiss Ribbons Private Limited and Another v. Union of India and Ors.**” that disqualification of any relative may not be a ground of disqualification of a resolution applicant per se:

“We are of the view that persons who act jointly or in concert with others are connected with the business activity of the resolution applicant. Similarly, all the categories of persons mentioned in Section 5(24A) show that such persons must be connected with the resolution applicant within the meaning of Section 29A(). This being the case, the said categories of persons who are collectively mentioned under the caption -relative obviously need to have a connection with the business activity of the resolution applicant. In the absence of showing that such person is -connected with the business of the activity of the resolution applicant, such person cannot possibly be disqualified under Section 29A(j). All the categories in Section 29A(j) deal with persons, natural as well as artificial, who are connected with the business activity of the resolution applicant. The expression-related party, therefore, and relative contained in the definition Sections must be read noscitur a sociis with the categories of persons mentioned in Explanation I, and so read, would include only persons who are connected with the business activity of the resolution applicant.

Sd

Sd



40. Hence, a Resolution Applicant will 'not' be ineligible mere by virtue of the fact that it has a Category-III Connected Person, who is ineligible. The disqualification under Section 29A will apply only if such "related party" has some nexus or connection to business activity of the persons being tested under Section 29A of the IBC. Notably, the Supreme Court did not elaborate on what would be construed as "business connection"

NCLT, Mumbai while relying on the judgment of the Supreme Court in **Swiss Ribbons Private Limited and Another v. Union of India and Ors.** and **Income Tax, Punjab v/s, R.D. Aggarwal & Ors.** gave the following guiding principles to ascertain the existence of business connection at para 37 and 38 of its order:

37. The Supreme Court in *Commissioner of Income Tax, Punjab v/s, R.D. Aggarwal & Ors.* held as follows:

"8. The expression "business" is defined in the Act as any trade, Commerce, manufacture or any adventure or concern in the nature of trade, commerce or manufacture, but the Act contains no definition of the expression "business connection" and its precise connotation is vague and indefinite. The expression "business connection" undoubtedly means something more than "business". A business connection in Section 42 involves a relation between a business carried on by a non-resident which yields profits or gains and some activity in the taxable territories which contributes directly or indirectly to the earning of those profits or gains. It predicates an element of continuity between the business of the non-resident and the activity in the taxable territories: a stray or isolated transaction is normally not to be regarded as a business connection. Business connection may take several forms: it may include carrying on a part of the main business or activity Incidental to the main business of the non-resident through an agent, or it may merely be a relation between the business of the non-resident and the activity in the taxable territories, which facilitates or assists the carrying on of that business. In each case the question whether there is a business connection from or through which income, profits or gains arise or accrue to a non-resident must be determined upon the facts and circumstances of the case.

Sd

Sd



A relation to be a "business connection" must be real and intimate and through or from which income must accrue or arise whether directly or indirectly to the non-resident.

38. In light of the above, while the "business connection" has to be established on a case-by-case basis, some of the guiding principles are as below:

- (i) **Existence of close, real, intimate relationship and commonness of interest.**
- (ii) **Continuity of activity or operation and not a stray transaction,**
- (iii) **Control of management or finances or substantial holding of equity shares or sharing profits.**

41. In order to ascertain the business connection between the SRA and Satyabrata Dhir, we have perused the Incorporation Documents of the SRA i.e. Memorandum of Association and Article of Association available on the portal of Ministry of Corporate Affairs. Upon perusal of the MoA of the SRA it is noted that **Satyabrata Dhir was a Subscriber of the MoA with 1500 shares i.e. 15% out of the total 10000 shares of the SRA.**

We the several persons, whose name, addresses and descriptions are hereto subscribed, are desirous of being formed into a Company in pursuance of the **Memorandum of Association** and we respectively agree to take the number of shares in the capital of the Company, set opposite our respective names.

Sl. No.	Name, address, description & occupation of subscribers.	No. of Equity Shares taken by subscriber.	Signature of subscribers to the share capital.	Signature, name, address, description & occupation of witness.
1.	Satyabrata Dhir, Sp. Narsingha Ch. Dhir, W-3/338, IRC Village Nayapalli, BBSR. Khurda, Orissa. DOB - 27/04/1972 Business.	1500 (Fifteen hundred only)		WITNESSED ALL THE SIGNATURES, ADDRESS & HOLDINGS OF ALL RISHAB KUMAR PATNAIK (ATTENDRA KUMAR PATNAIK) MANAGEMENT CONSULTANT & ADVOCATE HIGH COURT OF ORISSA CS- PLOT NO- 950(P), NILAKANTHESWAR MARG, JUNDA, BHUBANESWAR, PIN- 751003, ORISSA DATE - 12/04/2007
2	DR. PRIYABRATA DHIR S/O NRUSINGHA CH. DHIR. PLOT - N-3/338 IRC Village Nayapalli - 751015 Dist - Khurda P.S - Nayapalli D.O.B - 1/08/1975	3500 (Three thousand five hundred only)		

Sd

Sd



42. Upon perusal of the Articles of Association of the SRA it is noted that **Satyabarata Dhir was appointed as one of the Founding and Permanent Directors of the SRA.**

BOARD OF DIRECTORS

50. The persons named below shall become and be the first Directors of the company and shall be permanent directors, unless and until they vacate the office by virtue of resignation or is/are removed by resolution of a general (Annual/Extraordinary) meeting or otherwise. The minimum and maximum number of directors shall be two and ten respectively including Managing director of the company.
51. The First Directors shall be:
1. Satyabrata Dhir
 2. Debabrata Dhir
 3. Priyabrata Dhir
 4. Gihanshyam Mrutyunjaya Biswas

43. We also perused the Annual Return filed by the SRA in Form MGT-7 for FY 2022-23, it is observed that as per the Annual Return, **the SRA had Five Directors and all of them were promoters** of the company and Mr. Satyabrata Dhir was one of them. The relevant extracts of the Annual Return for FY 2022-23 is reproduced herein for brevity:

Total number of shareholders (other than promoters)

Total number of shareholders (Promoters+Public/
Other than promoters)

VII. *NUMBER OF PROMOTERS, MEMBERS, DEBENTURE HOLDERS (Details, Promoters, Members (other than promoters), Debenture holders)

Details	At the beginning of the year	At the end of the year
Promoters	10	10
Members (other than promoters)	0	0
Debenture holders	0	0

VIII. DETAILS OF DIRECTORS AND KEY MANAGERIAL PERSONNEL

(A) *Composition of Board of Directors

Category	Number of directors at the beginning of the year		Number of directors at the end of the year		Percentage of shares held by directors as at the end of year	
	Executive	Non-executive	Executive	Non-executive	Executive	Non-executive
A. Promoter	5	0	5	0	99.64	0
B. Non-Promoter	0	0	0	0	0	0
(i) Non-Independent	0	0	0	0	0	0
(ii) Independent	0	0	0	0	0	0
C. Nominee Directors representing	0	0	0	0	0	0
(i) Banks & FIs	0	0	0	0	0	0
(ii) Investing institutions	0	0	0	0	0	0
(iii) Government	0	0	0	0	0	0
(iv) Small share holders	0	0	0	0	0	0
(v) Others	0	0	0	0	0	0
Total	5	0	5	0	99.64	0

Number of Directors and Key managerial personnel (who is not director) as on the financial year end date

Sd

Sd



(B) (i) *Details of directors and Key managerial personnel as on the closure of financial year

Name	DIN/PAN	Designation	Number of equity share(s) held	Date of cessation (after closure of financial year : If any)
PRIYABRATA DHIR	01728277	Managing Director	337,500	
DEBABRATA DHIR	01716654	Director	75,000	
BIDHUBHUSAN NAYAI	02942718	Director	50,000	
SATYABRATA DHIR	01722905	Director	175,000	20/07/2023
GHANASHYAM BISWA	03512635	Director	50,000	

(ii) Particulars of change in director(s) and Key managerial personnel during the year

2

Name	DIN/PAN	Designation at the beginning / during the financial year	Date of appointment/ change in designation/ cessation	Nature of change (Appointment/ Change in designation/ Cessation)
BIDHUBHUSAN NAYAI	02942718	Director	30/12/2022	CESSATION
BIDHUBHUSAN NAYAI	02942718	Director	25/01/2023	APPOINTMENT

44. We also perused the Annual Return filed by the SRA in Form MGT-7 for FY 2023-24, it is observed that as per the Annual Return, Satyabrata Dhir resigned from Directorship on 20.07.2023 but there has been no change in the Number of Promoters of the company or change in the shareholding of the company, which indicates that though Satyabrata Dhir has resigned from the position of Director of the SRA but still remains the second biggest shareholder and Promoter of the SRA as on the date of submission of resolution plan. The relevant extracts are reproduced for reference:

(B) (i) *Details of directors and Key managerial personnel as on the closure of financial year

Name	DIN/PAN	Designation	Number of equity share(s) held	Date of cessation (after closure of financial year : If any)
PRIYABRATA DHIR	01728277	Managing Director	337,500	
DEBABRATA DHIR	01716654	Director	75,000	
BIDHUBHUSAN NAYA	02942718	Director	188,025	
GHANASHYAM BISW	03512635	Director	50,000	

(ii) Particulars of change in director(s) and Key managerial personnel during the year

1

Name	DIN/PAN	Designation at the beginning / during the financial year	Date of appointment/ change in designation/ cessation	Nature of change (Appointment/ Change in designation/ Cessation)
SATYABRATA DHIR	01722905	Director	20/07/2023	Cessation

Sd

Sd



VII. *NUMBER OF PROMOTERS, MEMBERS, DEBENTURE HOLDERS
(Details, Promoters, Members (other than promoters), Debenture holders)

Details	At the beginning of the year	At the end of the year
Promoters	10	10
Members (other than promoters)	0	0
Debenture holders	0	0

VIII. DETAILS OF DIRECTORS AND KEY MANAGERIAL PERSONNEL

(A) *Composition of Board of Directors

Category	Number of directors at the beginning of the year		Number of directors at the end of the year		Percentage of shares held by directors as at the end of year	
	Executive	Non-executive	Executive	Non-executive	Executive	Non-executive
A. Promoter	5	0	4	0	99.64	0
B. Non-Promoter	0	0	0	0	0	0
(i) Non-Independent	0	0	0	0	0	0
(ii) Independent	0	0	0	0	0	0
C. Nominee Directors representing	0	0	0	0	0	0
(i) Banks & FIs	0	0	0	0	0	0
(ii) Investing institutions	0	0	0	0	0	0
(iii) Government	0	0	0	0	0	0
(iv) Small share holders	0	0	0	0	0	0
(v) Others	0	0	0	0	0	0
Total	5	0	4	0	99.64	0

Number of Directors and Key managerial personnel (who is not director) as on the financial year end date

Page 9 of 14

45. As already noted above Satyabrata Dhir was the founding director of the Resolution Applicant and was part of the Board of Directors for 16 years until his resignation on 20.07.2023 i.e. after insolvency commencement date of the CD, so much so, as noted in the preceding paragraph that **Form- G was issued for the first time on 06.07.2023 and the last date to submit EoI documents were 21.07.2023 and Satyabrata Dhir resigned from his Directorship on 20.07.2023.** It is unclear as to why no deliberations were undertaken by the CoC or the RP in regard to this fact while certifying the eligibility of the SRA u/s 29A of the Code. **Furthermore, at the time of the submission of the Resolution Plan, Satyabrata Dhir is also one of the Promoters of the SRA and his share in the company has increased over time from 15% the second biggest shareholder of the Resolution applicant holding approximately 25% of the shares, which gives him sufficient control on the management and finances of the Resolution Applicant.**

Sd

Sd



46. In light of the above discussion, it is inferred that Sparsh Hospitals and Critical Care Private Limited is eligible under section 29A for the following reasons:

- a. Satyabrata Dhir is a connected person to Sparsh Hospitals and Critical Care Private Limited.
- b. Satyabrata Dhir is ineligible under section 29A(c) for being a suspended director of the Corporate Debtor whose account has been classified as NPA for more than one year before commencement of insolvency.

IA (IB) No.121/CB/2025

47. This application has been filed by the suspended Director challenging a grant of waiver of payment of 200% Consent fees to State of Odisha as pre condition of transfer of the lease-hold land on which the hospital of the CD is situated. It is noted that State of Odisha is a beneficiary in the facts pleaded in the said application but no response has been filed by the state of Odisha and since the suspended director is challenging the grant of waiver in the plan with respect to the consent fees, the same shall be dealt separately while dealing with the approval of the plan application.

FINAL FINDINGS IN IA (IB) Plan No.1/CB/2024, IA (IB) No.242/CB/2025 and IA (IB) No.121/CB/2025:

48. In light of the above findings **SPARSH HOSPITALS & CRITICAL CARE PRIVATE LIMITED is found Ineligible u/s 29A of IBC,2016.**

49. In consequence, **IA (IB) No.242/CB/2024 is ALLOWED** and **IA (IB) Plan No.1/CB/2024 is REJECTED.**

50. Considering the rejection of the Resolution Plan, no adjudication of the application **IA (IB) No.121/CB/2025** is warranted and hence the is disposed of without any opinion on merits.

Sd

Sd



51. Since the extended CIRP period has ended on 02.04.2024 and more than 26 months have passed since 08.05.2023 i.e. the Insolvency Commencement Date hence, **SWARNA HOSPITAL PRIVATE LIMITED** is **Ordered to be Liquidated under section 33 of IBC,2016** and the following orders are passed:

a. Suresh Chandra Pattanayak, having registration **Id IBBI/IPA-002/IP-N00759/2018-19/12384** is appointed as Liquidator.

b. The Liquidator is directed to forthwith take into her custody all the assets, Properties, equipment, machineries, and actionable claims of the corporate debtor and take necessary steps to ensure preservation, protection security and maintenance of those properties as provided under section 35(1)(b) & (d) of IBC 2016.

c. The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC, 2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.

d. Public Notice as contemplated under section 33(1) of the Code shall be issued in one morning, English daily and in one morning regional language newspapers.

e. All the powers of the Board of Directors of the Corporate Debtor and of its key managerial personnel, shall cease to exist in accordance with section 34(2) of the Code. These powers shall henceforth vest in the Liquidator. The personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in the Liquidation process of the Corporate Debtor.

f. On initiation of the Liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor, save and except the liberty to the liquidator to institute a suit or other legal proceeding on behalf of the

Sd

Sd



Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.

g. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except to the extent of the business of the Corporate Debtor continued during the liquidation process by the liquidator.


h. In terms of Section 33(1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Odisha at Cuttack, within whose jurisdiction the Corporate Debtor is registered.


i. The fee of Liquidator to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation process) Regulation 2016.

j. As per Regulation 13 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the liquidator shall submit a preliminary report to the Adjudicating Authority within 75 days from the liquidation commencement date providing various details/information as mentioned in the said regulation.

52. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsels, the appointed Liquidator and to ROC, Odisha for information and for taking necessary steps.

53. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.


BANWARI LAL MEENA
Member (Technical)


DEEP CHANDRA JOSHI
Member (Judicial)