



IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, COURT-II

KOLKATA

I.A. (IB) No. 1547/KB/2025

AND

I.A. (IB) No. 869/KB/2025

IN

C.P. (IB) No. 200/KB/2023

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

IN THE MATTER OF

Indian Bank

... Financial Creditor

Versus

Bally Exports Ltd.

... Corporate Debtor

AND

IN THE MATTER OF:

Neeraj Kumar Sureka

... Applicant/Resolution Professional



AND

I.A. (IB) No. 869/KB/2025

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

IN THE MATTER OF:

Deutsche Bank AG

... Applicant

Versus

Neeraj Kumar Sureka, Resolution Professional of M/s. Bally Exports Ltd.

... Respondent

Coram:

Shri Labh Singh : Member (Judicial)

Ms. Rekha Kantilal Shah : Member (Technical)

Appearances (via physical mode/virtual mode)-:

Date of Pronouncement- 21.04.2026

ORDER

Per: Rekha Kantilal Shah, Member (Technical)

I.A. (IB) No. 1547/KB/2025

1. The instant application has been preferred by the Resolution Professional of the Corporate Debtor praying for the following reliefs:-


- “a) Allow the present Application; and / or*
- b) The Hon'ble Tribunal may be pleased to initiate liquidation proceedings of the Corporate Debtor or pass such other order / direction as this Hon'ble Tribunal may deem fit and proper in the interest of justice and / or*
- c) The Hon'ble Tribunal may appoint the applicant as the liquidator of the corporate debtor; and/ or*
- d) The Hon'ble Tribunal may be pleased to direct the CoC to pay the pending CIRP cost immediately; and/ or*
- e) Any other directions which the Hon'ble National Company Law Tribunal, Kolkata Bench may deem fit in the facts and circumstances of the matter.”*

2. BACKGROUND OF THE CASE

- 2.1 An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 was filed by the Financial Creditor before this Tribunal. The said application was allowed and the Corporate Debtor (hereinafter referred to as the “CD”) was admitted to Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) by this Tribunal vide order dated 14th August, 2024 and Mr. Neeraj Kumar Sureka was appointed as the Interim Resolution Professional vide the same order dated 14th August, 2024.
- 2.2 Thereafter, the IRP issued public notices inviting claims from creditors, with the last date of submission being 28th August, 2024.



- 2.3 The Committee of Creditors (hereinafter referred to as the “CoC”) was constituted on 04th September 2024 and its composition was revised on 17th September, 2024 and further on 25th November 2024 and thereafter on 19th May, 2025 due to additional claims received financial creditors, including Central Bank of India and Kotak Mahindra Bank Limited
- 2.4 Subsequently, valuers were appointed for valuation of the Plant & Machinery, Land & Building, and Securities or Financial Assets of the CD.
- 2.5 The Information Memorandum was prepared and circulated among CoC members, conditional upon receiving their confidentiality undertakings. Further, Expression of Interest for Prospective Resolution Applicants was published in two newspapers, Business Standard and Aajkal, on 09th October, 2024. However, as no EOI was received by the last date 25th October, 2024 the CoC resolved to extend the submission deadline by two weeks. The corrigendum to Form G was published on 25th October, 2024, extending the deadline to 08th November, 2024. In connection, therewith one EOI was received from a Prospective Resolution Applicant on 08th November, 2024, following which a Provisional List of Prospective Resolution Applicants was issued on 13th November 2024 as per Form G.
- 2.6 The Resolution Plan, submitted by M/s Ganesh Construct & Build Private Limited was opened during the 4th meeting of the CoC held on 06th January, 2025 and pursuant to a detailed examination and verification of the Plan, certain discrepancies were identified by the CoC, which were communicated to the PRA. The PRA provided clarifications along with revised annexures to the CoC on 22nd January, 2025. The PRA was thereafter invited to present the Resolution Plan during the 7th CoC meeting held on 13th March, 2025, pursuant to which, negotiations and discussions regarding



the resolution plan took place between the PRA and the CoC. Thereafter, the PRA submitted a revised financial proposal via email dated 17th March, 2025. Subsequently, on 21st March, 2025, the PRA further filed an addendum to the Resolution Plan. The PRA on 19th April, 2025 further clarified that the revised annexures submitted by it on 22nd January, 2025 and the addendum dated 17th March, 2025 have to be read in conjunction with the Resolution Plan and form a part of the Resolution plan.

- 2.7 The RP after verifying that the Resolution Plan is compliant with the provisions of IBC, placed the revised resolution plan in its 8th CoC meeting held on 08th May, 2025, and pursuant to detailed discussions held in the said meeting put up the plan for voting by the members of the CoC.
- 2.8 As per the voting results, Indian Bank holding 63.48% voting share, had voted in favour of resolution plan, while Central Bank of India holding 35.61% of the voting share had voted against the Resolution Plan. Kotak Mahindra Bank holding 0.91% share abstained from voting. As such, the Resolution Plan stood rejected as the Resolution Plan had failed to secure the statutory threshold of 66% voting share as stipulated under Section 30 of the IBC.
- 2.9 In view of the rejection of the Plan, 9th Meeting of CoC was convened by the Applicant on 07th August, 2025 for further deliberation regarding the course of action in respect of the CIRP of the CD. During the course of the Meeting, CBI requested that a resolution for liquidation of the CD be placed before the CoC which was opposed by Indian Bank. Furthermore, the CoC collectively decided not to proceed with publication of a fresh Form G. As the CIRP was scheduled to expire on 07th August, 2025, the CoC resolved to seek an extension of 15 days for the purpose of completing the CIRP.



2.10 As such, the RP filed an application for extension of the CIRP, which stood allowed by this Tribunal, and the time period for the CIRP stood extended until 22nd August, 2025. Subsequently, after getting approval from the CoC members through email, the applicant filed another extension application for 30 days for a fruitful conclusion of the CIRP and the same also stood allowed, extending the time period of the CIRP till 22nd September, 2025.

3. Submissions of the RP as per the application

3.1 It has been submitted that during the extended period the applicant had circulated the voting sheet of 9th CoC meeting through email on 09th August 2025 to all the COC members for the purpose of voting on agenda regarding initiation of liquidation of the CD. However, Indian Bank holding 63.48% of the voting share, voted against the agenda while CBI, holding 35.61% of the voting share, voted in favour of the Liquidation process of the CD and Kotak Mahindra Bank Ltd., holding 0.91 % of the voting share, abstained from voting. As such, it has been submitted that due to the deadlock, the agenda for initiation of liquidation in respect of the CD was rejected inasmuch as it could not attain the requisite majority of the 66% voting as mandated under Section 33 of the IBC 2016.


3.2 It has been submitted the Applicant thereafter convened the 10th CoC meeting on 09th September 2025. During the meeting, it was noted that despite multiple extensions of the CIRP no viable resolution outcome had materialized. It was further noted that Indian Bank, holding 63.48% voting share, had categorically expressed its unwillingness to initiate liquidation proceedings, and had requested that the RP approach this Tribunal seeking appropriate directions, as the CoC is unable to reach a conclusive decision despite exhaustive discussions.



3.3 The Applicant has further submitted that several other agendas were also placed before the CoC for voting during the 9th CoC meeting, inter alia, the agenda for (i) initiation of liquidation proceedings in respect of the CD and (ii) appointment of the Applicant, the present RP, as the Liquidator to ensure a smooth conduct of the liquidation process. However, due to the prevailing deadlock in the CoC, none of the said agendas could be approved with the requisite votes. As such, in the 10th CoC meeting, the CoC, taking note of the stalemate, resolved to seek appropriate directions from this Adjudicating Authority under the provisions of the IBC read with the regulations framed thereunder. The Applicant has further conveyed his consent to act as the Liquidator of the CD, subject to approval of this Tribunal.

3.4 It has been submitted that despite multiple meetings and deliberations the CoC has failed to arrive at a consensus decision to either approve any resolution plan or to resolve for liquidation. It has been submitted that extensions cannot be sought endlessly where the majority CoC member (Indian Bank holding 63.48% voting share) has categorically expressed its unwillingness to proceed with liquidation and has instead suggested that appropriate directions be sought from this Tribunal. As such, it has been submitted by the RP, that this Adjudicating Authority either pass orders for liquidation of the CD or pass any other appropriate orders as deem fit in the larger interest of all stakeholders and in furtherance of the objectives of the IBC, 2016.

3.5 It has been submitted that the entire cost of the CIRP has not yet been discharged in full by the CoC, and certain amounts remain outstanding, which are required to be contributed by the CoC members. It has been submitted that CIRP costs, as presented before the CoC from time to time, have already been duly ratified,



except for the costs placed in the 10th CoC meeting, which are presently under voting and yet to attain final approval.

3.6 It has been submitted that as per Section 33(1) of the IBC, the Adjudicating Authority is vested with the jurisdiction and authority to pass an order for liquidation before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process.


4. Analysis and Findings

4.1 We have gone through the case file carefully and perused the pleadings of the applicant, the documents placed on record, the arguments put forth by the counsel for the applicant and we shall now proceed to consider the present application on its merits.

4.2 We note that the RP had only received one Resolution Plan, from M/s Ganesh Construct & Build Private Limited which was voted upon by the CoC subsequent to the 8th Meeting. The said Plan did not attain the requisite voting share of 66% as prescribed under the IBC and as such stood rejected.

4.3 Subsequently, in the 9th CoC meeting the RP had put forward the agenda of initiation of Liquidation Proceedings in respect of the CD in view of the rejection of the Resolution Plan submitted by M/s Ganesh Construct & Build Private Limited. The said agenda again could not attain the requisite voting share of 66%, and as such the agenda for liquidation also stood rejected.

4.4 It is apparent that there is a deadlock in the CoC due to which no decisive step has been taken by the CoC as to how the CIRP of CD should proceed. Further, in the 10th CoC Meeting, Indian Bank, the member having the highest voting share (63.48%), requested



the RP to file an application before this Tribunal for appropriate directions.

4.5 It is also important to note that the last extension allowed vide order dated 02nd September, 2025, was for a period of 30 days commencing from 23rd August, 2025 and ending on 22nd September, 2025. Since 22nd September, 2025 no further extension has been granted by this Tribunal in respect of the CIRP of the CD. Further there is no Resolution Plan pending before this Tribunal in respect of the CD.

4.6 Section 33(1) of the IBC states as follows:-

“Section 33(1) Where the Adjudicating Authority-

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast-track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or


(b) rejects the resolution plan under section 31 for the noncompliance of the requirements specified therein, it shall-

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.”

4.7 The CIRP in respect of the Corporate Debtor was initiated vide order of this Tribunal dated 14th August, 2024. Accordingly, the maximum period permissible for completion of the CIRP under Section 12 of the IBC, i.e., 330 days, expired on 10th July, 2025. However, for successful conclusion of the CIRP of the Corporate Debtor, this Tribunal had granted various extensions upon applications filed by the RP, the last of which, as stated above, was granted vide order dated 02nd September, 2025 and the time




period of the CIRP based on the last extension ended on 22nd September, 2025.

4.8 Thus, it is clear that the maximum permissible time period for the CIRP of the CD has ended, and no resolution plan is pending before us for adjudication in respect of the CD. Section 33(1) provides that, in a case where the Adjudicating Authority does not receive any resolution plan within the maximum permissible time period of the CIRP, it shall initiate liquidation proceedings in respect of the CD in terms of the Section. As such, we deem it fit to initiate liquidation in respect of the CD as provided under Section 33(1) of the IBC.

5. ORDER

This Bench, therefore, hereby orders as follows:-

- 5.1 The prayers as sought for in **I.A. (IB) No. 1547/KB/2025** is allowed and **M/s Bally Exports Ltd.** (Corporate Debtor) is ordered to be liquidated in terms of section 33(2) of the Code.
- 5.2 In view of the fact that the RP has submitted his written consent to act as the liquidator for the liquidation process in respect of the CD, the RP namely Mr. Neeraj Kumar Sureka, having registration Number **IBBI/IPA-001/IP-P-01539/2019 - 2020/12517**, email id **ipneerajsureka@gmail.com** is hereby appointed as Liquidator as provided under section 34(1) of the Code subject to a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member.
- 5.3 The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

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- 5.4 The Liquidator fee is fixed as per Regulation 4(2)(b) of IBBI (Liquidation Process) Regulations, 2016.
- 5.5 The RP informed that agenda for meeting of liquidation cost as per regulation 39B of the CIRP Regulations 2016 was presented in 21st CoC meeting but no decision was made by CoC. Hence, as per Regulation 2A, the Financial creditor being the financial institutions shall contribute towards liquidation cost over the excess of liquid assets of the Corporate Debtor.
- 5.6 Public Notice shall be issued in the newspapers stating that the Corporate Debtor is in Liquidation.
- 5.7 All the powers of the Board of Directors, and of key Managerial Persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- 5.8 The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the Liquidation process of the Corporate Debtor.
- 5.9 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 suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
- 5.10 In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, within whose jurisdiction the Corporate Applicant is registered.
- 5.11 The instant application being **I.A. (IB) No. 1547/KB/2025** hereby stands **disposed of** in terms of the aforesaid directions.

I.A. (IB) No. 869/KB/2025

6. The instant application has been preferred by Deutsche Bank, claiming to be a Financial Creditor of the CD praying for the following reliefs:-


“1. To pass an order condoning the delay of 246 days in submitting the Applicant’s claim dated 30th April, 2025, alongwith the revised claim dated 06th May, 2025, before the Resolution Professional;

2. To direct the Resolution Professional to verify and admit the Applicant’s claim of Rs. 7,27,81,536.76 (Rupees Seven Crores Twenty-Seven Lakhs Eighty-One Thousand Five Hundred Thirty-Six and Seventy-Six Paisa Only) as stated in the proof of claim;

3. To pass such other and further order(s) as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the present case.”

The dispute in the present case arises out rejection of delayed claim of the applicant by the Respondent/RP. The facts of the case have been stated hereinbelow.

7. It is an admitted and undisputed fact that the applicant, received formal communication from the RP, informing it about the commencement of the CIRP and inviting submissions of claims in respect of the CD on 11th September, 2024.
8. However, in spite of such communication of the RP, and despite the initiation of the CIRP and the said matter being in records of the Applicant, the same was not acted upon due to oversight and inter-departmental miscommunication. The delay in submission of claim has further been attributed to multiple




credit facilities availed by the CD and the complex security arrangements, the collation of which required time. It has been stated that the submission of the claim got further delayed due to internal compliances and approvals and change in the managing personnel during the relevant period.

9. Due to the aforesaid reason the applicant could only submit its claim on 30th April, 2024. The RP vide an email dated 2nd May, 2025 acknowledge receipt of the claim of the Applicant and as the same had been filed beyond the period of 90 days as prescribed under Regulation 12 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, requested the applicant to provide the reasons for delay in submission of the claim. Further, through a different email on the same date, the RP due to some discrepancies in the claim filed by the Applicant, requested the applicant to provide the necessary clarifications and supporting documents with respect to the discrepancies identified by 12:00 p.m. on 3rd May, 2025.
10. As the applicant had not furnished the clarifications by the requisite time on 3rd May, 2025, the RP once again through an email dated 05th May, 2025 requested the applicant to submit its clarification at the earliest, as the Resolution Plan submitted by the PRA was to be placed before the CoC for approval and discussion on 6th May, 2025. The RP once again on 5th May, 2025, at around 4:40 p.m., through an email, requested the applicant, to submit its claim by 4:00 p.m. on 06th May, 2025 in view of the CoC meeting.
11. However, in spite of the aforesaid emails of the RP, the applicant submitted its revised claim along with clarification at around 07:00 p.m. of 06th May, 2025, i.e., beyond the time period specified by the RP of 4:00 p.m. on 06th May, 2025.




12. Thereafter, the RP vide an email dated 07th May, 2025 intimated the Applicant that the CoC meeting for discussion and approval of the Resolution Plan had already commenced at around 05:00 p.m. on 06th May, 2025, i.e., prior to submission of the revised claim by the applicant. As such, in consideration of the advanced stage of CIRP of the CD and the fact that the resolution plan was under consideration of the CoC for the purpose of voting, the RP intimated the Applicant that its claim could not be entertained by the RP. The RP in its email further stated that the reasons cited by the Applicant do not justify the inordinate delay in submission of the claim. As such, the claim filed by the applicant stood rejected by the RP.
13. It has been submitted by the Applicant that it had submitted its clarification by 06th May, 2025, “well before the stated deadline”. It has further submitted that the placement of the resolution plan before the CoC for voting, cannot render the CIRP incapable of accommodating genuine claims.
14. It has further submitted that “*despite timely clarification*” and material prejudice to the CIRP, the RP should not have rejected the claim as procedural timelines must not be applied so rigidly so as to defeat the objectives of the Code or to exclude legitimate stakeholders from resolution. It has been submitted that the delay was for bonafide reasons and no prejudice would be caused to the CIRP if the claim of the Applicant is included.
15. It has been submitted that the regulatory timelines prescribed for submission of claims has consistently been interpreted by adjudicating authorities as directory and not mandatory especially when the delay does not materially prejudice the process or the rights of the stakeholders.

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16. It has further been submitted that the RP in the present case should have exercised its discretion in a judicious manner and should not have adopted a hyper technical approach in rejecting the claim of the Applicant. If an FC demonstrates sufficient cause for delay, the RP should take a pragmatic view and permit such claims to be taken on record and verified, so long as this does not obstruct or delay the CIRP. As such, the Applicant has prayed for admission of the Applicant's entire claim of Rs. 7,27,81,536.76/- (Rupees Seven Crore Twenty-Seven Lakhs Eighty-One Thousand Five Hundred Thirty-Six and Seventy-Six Paisa Only).
17. Per contra on behalf of the RP/Respondent, it has been submitted that the Applicant had sufficient opportunity to submit its claim within stipulated timelines. Reliance has been placed on Regulation 12(1) of the CIRP regulations and it has been submitted that a creditor who fails to submit a claim within the period specified in the public announcement may still submit such claim to the RP on or before the date of issuance of the Request for Resolution Plan (RFRP), or within ninety days from the Insolvency Commencement Date, whichever is later.
18. It has been submitted that in the present case, the RFRP was issued on 28th November, 2024 as per the revised Form G, while the period of ninety days from the Insolvency Commencement Date expired on 12th November, 2024. As such, the extended deadline stood at 28th November, 2024, however, the applicant had failed to submit its claim even within the aforesaid extended period, and as a result of the said inordinate delay, the applicant cannot rely on any equity or indulgence under the CIRP framework.



19. It has further been submitted that despite being aware of the CIRP proceedings, the Applicant belatedly submitted its claim on 30th April, 2025, which was well beyond the timeline stipulated in regulation 12(1) of the CIRP regulations. However, in spite of such delayed submission, the RP upon preliminary scrutiny, initiated the process of verification and after such scrutiny, demanded necessary clarification and substantiating documents from the applicant on 02nd May, 2025 by 03rd May, 2025. Thereafter, the RP through multiple emails on 05th May, 2025 requested the Applicant to submit its clarification by 04:00 pm on 06th May, 2025 as the Resolution Plan was to be considered by the CoC on the same date. However, despite such follow up, the Applicant had failed to provide any response within the time period stipulated in its emails, demonstrating a casual and non-compliant approach towards the time bound nature of the CIRP.
20. It has been submitted that the RP had convened the 8th Meeting of the CoC on 06th May, 2025 primarily to consider the final Resolution Plan submitted by Ganesh Construct & Build Private Ltd. It has been submitted that during the said meeting, the RP had apprised the CoC members of the Applicant's belated claim submission, the repeated opportunities extended to the Applicant for furnishing clarifications and documents, and the lack of any response from the Applicant within the prescribed timelines and after considering the relevant facts and circumstances, the CoC unanimously rejected the said claim.
21. It has been submitted that the Applicant only submitted its revised claim on 06th May, 2025 at around 7:00 pm, i.e., after conclusion of the 8th CoC meeting. In terms of the resolution passed in the said CoC meeting, the RP had already rejected the



claim of the applicant in accordance with Regulation 13(1)(B) of the CIRP regulations.

22. It has further been submitted, that the applicant has deliberately suppressed material facts in its pleadings. Further, it has been submitted that the application is ex facie barred by limitation and is liable to be dismissed on this ground alone, without prejudice to the other grounds raised by the Respondent/RP.
23. We have gone through the case file carefully and perused the pleadings of the applicant and the respondent, the documents placed on record, the arguments put forth by the counsel for the applicant and the respondent and we shall now proceed to consider the present application on its merits.
24. It is pertinent to note that, the CIRP regulations specify that the applicant, if filing its claim beyond Ninety Days from the Insolvency Commencement date, has to provide reasons for such delay. However, the applicant, whilst submitting the claim did not provide any reason for the delay. Further, in spite of repeated communications from the RP, the applicant had not submitted its clarifications within the time specified by the RP and only submitted it after the 8th CoC meeting, by which time, the CoC in its meeting had already unanimously rejected the claim of the Applicant.
25. It is also pertinent to note that the applicant was fully aware of CIRP and has also admitted the same in its application. However, in spite of the same it did not any take any action to file its claim within the time period specified in Regulation 12(1) of the CIRP regulations. This inaction on the part of the Applicant to pursue its claim, shows the casual and lackadaisical approach taken by the Applicant. The casual and



lackadaisical of the applicant is further showcased by the delayed submission of clarifications by it in spite of repeated reminders by the RP. As such, we do not find any merit in the application. Inclusion of such delayed claims, which are submitted beyond the time periods specified in the regulations, in spite of clear knowledge of the CIRP, would result in disrupting the CIRP and the timelines provided in the Act and the regulations.

26. Further, rejection of the claim of the Applicant would not result in any material prejudice to the Applicant as, in view of the fact that the CoC has rejected the Resolution Plan and that we have, herein above, ordered the CD to be liquidated in terms of IBC and liquidation process regulations, the applicant would have the liberty to file its claim before the liquidator.
27. In light of the above, the Interlocutory Application being **I.A. 869/KB/2025**, is hereby dismissed, without there being any orders as to costs.
28. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

(Rekha Kantilal Shah)

Member (Technical)

(Labh Singh)

Member (Judicial)

Order signed on the 21st day of April 2026.

H.T. (LRA)