

# INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

## (Disciplinary Committee)

No. IBBI/DC/313/2026

30 March 2026

### ORDER

This Order disposes of the Show Cause Notice (SCN) No. COMP-11012/143/2024-IBBI/1043/987 dated 02.07.2025, issued to Mr. Vishnu Kant Kabra, who is an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) having Registration No. IBBI/IPA-001/IP-P-02178/2021-2022/13747 and a Professional Member of the Indian Institute of Insolvency Professionals of ICAI (IIIP-ICAI).

#### 1. Background

- 1.1 The National Company Law Tribunal, Mumbai Bench (AA) *vide* its order dated 02.08.2023, admitted the application filed by Millenium Enterprise, operational creditor (OC) under Section 9 of the Insolvency and Bankruptcy Code, 2016 (Code) for initiating corporate insolvency resolution process (CIRP) of M/s. Bombay Infrastructure India Limited (Corporate Debtor/CD). Mr. Vishnu Kant Kabra was appointed as Interim Resolution Professional (IRP) who was later confirmed as the Resolution Professional (RP). Later, Mr. Vishnu Kant Kabra was replaced by Mr. Kshitiz Gupta as the Resolution Professional of the CD.
- 1.2 The Board received a complaint against Mr. Vishnu Kant Kabra in respect of CIRP of the CD. The Board sought responses and certain additional information from Mr. Vishnu Kant Kabra through email dated 25.11.2024, 24.01.2025 and 20.03.2025 respectively. Mr. Vishnu Kant Kabra submitted his reply to the allegation in the complaint *vide* emails dated 25.12.2024, 24.01.2025 and 21.03.2025 respectively.
- 1.3 The allegations in the complaints were examined by the Board and based on the findings of the examination, the Board formed a *prima facie* view that Mr. Vishnu Kant Kabra contravened provisions of the Code and issued the SCN to Mr. Vishnu Kant Kabra on 02.07.2025 alleging contraventions of several provisions of the Code, the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 (CIRP Regulations) and the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations). The reply of Mr. Vishnu Kant Kabra to SCN was received by the Board on 02.07.2025 and 29.08.2025 respectively.
- 1.4 The SCN and its response by Mr. Vishnu Kant Kabra were referred to the Disciplinary Committee (DC) for disposal. Mr. Vishnu Kant Kabra availed the opportunity of personal hearing before the DC through virtual mode on 16.01.2026.

## 2. Alleged Contraventions, Submissions of Mr. Vishnu Kant Kabra, Analysis and Findings of DC.

The contraventions alleged in the SCN, submissions by Mr. Vishnu Kant Kabra, analysis and findings of the DC are summarized as follows:

### 2.1. Wrongful Constitution of Committee of Creditors (CoC).

2.1.1. Section 21(1) of the Code states that the IRP shall after collation of all claims received against the CD and determination of the financial position of the CD, constitute a CoC. Section 21(2) of the Code states that the CoC shall comprise all FCs of the CD. Regulation 13(1) of the CIRP Regulations requires the IP to verify the claims within 7 days from the last date of receipt of claims.

2.1.2. Mr. Vishnu Kant Kabra formed the CoC and conducted the 1<sup>st</sup> CoC meeting. The members of the CoC in its meeting conducted on 20.10.2023 were as follows:

S.No	Name of the Creditor	Percentage of Voting Share in the 1 <sup>st</sup> CoC meeting
1.	Vesta India Limited	56.53
2.	Invent Assets Securitization & Reconstruction Private Limited (Invent ARC)	31.32
3.	ETC- Energy Therapy Company Limited	4.72
4.	Pasad Impex Private Limited	0
5.	Nestler Limited	7.43

2.1.3. It was observed that Mr. Vishnu Kant Kabra constituted the CoC and conducted the meeting of the CoC by including a struck off entity viz. Vesta India Limited (hereinafter referred to as Vesta). The entity is marked as “Strike Off” as per MCA records. The company had been declared dormant by the MCA on 23.04.2016.

2.1.4. In his reply to the Board, Mr. Vishnu Kant Kabra stated that initially, the claim of Vesta was admitted as the MCA site was not working. He further stated that, upon subsequent verification, Vesta’s claim was entirely rejected.

2.1.5. It has been however observed from the order of the AA dated 08.12.2023 that the Invent ARC had filed an application no. IA/5001/2023 before the AA seeking direction to declare that the CoC was invalidly constituted by Mr. Vishnu Kant Kabra. In the Exhibit-N of the IA/5001/2023 Invent ARC had attached the company information of Vesta wherein Vesta’s status has been declared as struck off. The said application was filed on 23.10.2023 with the defects being cured on 31.10.2023. However, as per Mr. Vishnu Kant Kabra’s submissions before the AA, the CoC was only reconstituted on 16.01.2024 wherein Vesta was excluded from the CoC. Thus, it is clear that the removal of Vesta from the CoC of the CD by Mr. Vishnu Kant Kabra was subsequent to the said application filed by Invent ARC before the AA and above reply of Mr. Vishnu Kant Kabra to the Board in this regard seems to be an afterthought.

2.1.6. Further, it is observed that Mr. Vishnu Kant Kabra granted 56.53% voting rights to Vesta in the 1<sup>st</sup> CoC meeting held on 20.10.2023 and in the said meeting key decisions were taken including the IRP fee of Rs. 3 lakh per month, Mr. Vishnu Kant Kabra's appointment as RP and the CIRP expenses. The agendas were approved with 68.68% voting share (including the voting share of Vesta – 56.53%).

2.1.7. It was therefore *prima facie* observed that Mr. Vishnu Kant Kabra had wrongfully constituted the CoC by including a struck off entity in the CoC of the CD due to Mr. Vishnu Kant Kabra's failure to exercise due diligence in verification of claims of the member of CoC. Thus, the Board held *prima facie* view that Mr. Vishnu Kant Kabra had contravened Sections 21(1), 21(2) and 208(2)(a) & (e) of the Code, Regulation 13(1) of the CIRP Regulations, Regulation 7(2) (a) and (h) of IP Regulations read with Clause 14 of the Code of Conduct for Insolvency Professionals.

## **2.2.Submissions by Mr. Vishnu Kant Kabra.**

2.2.1. Mr. Vishnu Kant Kabra submitted that pursuant to the order dated 02.08.2023 passed by the AA initiating the CIRP against the CD, he was appointed as the IRP. Due to receipt of the said order on 07.09.2023 with a delay of 35 days, he immediately issued the public notice in Form-A under Regulation 6 of the CIRP Regulations informing the public at large that CIRP had been initiated against the CD and called upon all the creditors of the CD to file their respective claims with him.

2.2.2. Subsequently, as per Section 18 of the Code, he started to collect all the information relating to the assets, finance and operation of the CD, *inter alia*, to determine the financial position of the CD. He also took appropriate steps to ascertain whether the CD was a going concern or not and to ascertain the ownership rights of the CD in respect of the movable and immovable assets of the CD as mentioned in its balance sheets. He visited the registered office of the CD on 12.09.2023 along with his team to take control and possession of the books and accounts of the CD. At time of his visit, he was informed that the books of accounts had not been updated since 2018 and that the CD did not have any employees and would be provided with whatever data was available with them. He was not handed over the documents in respect of the loans and advances from various parties in order to verify the claims filed before him by the respective creditors. Mr. Vishnu Kant Kabra further submitted that he reached out to the promoters and erstwhile management of the CD on multiple occasions and also wrote a letter dated 27.09.2023. However, he did not receive any response from the promoters/ erstwhile directors of the CD.

2.2.3. Mr. Vishnu Kant Kabra submitted that in terms of the public announcement issued in Form-A dated 07.09.2023, the last date for submission of claims was 21.09.2023, pursuant to which claims were received from several financial creditors and one operational creditor. The claims received included those from Invent ARC (acting as trustee), ETC Energy Therapy Co. Private Limited, Pasad Impex Private Limited, Nestler Limited, Vesta, and the operational creditor Millenium Enterprises

2.2.4. Mr. Vishnu Kant Kabra submitted that owing to the continued non-cooperation of the promoters and the absence of primary records of the CD and considering the time-bound nature of the CIRP, he was constrained to verify claims strictly on the basis of documents furnished by the respective creditors.

- 2.2.5. Mr. Vishnu Kant Kabra submitted that the claim received from Vesta was complete in the form of documents produced alongwith the claim form and in light of no details provided by the erstwhile directors of the creditors of the CD, he had no other option but to admit the claims of Vesta. Moreover, when he tried to verify the details of the company on MCA website, the said website was non-operational and therefore, the same could not be verified.
- 2.2.6. Upon receipt of the claim filed by Invent ARC, he approved an amount of Rs. 1,59,05,11,684/- and kept an amount of Rs. 2,86,86,62,229/- under verification as he had addressed an email dated 13.10.2023, *inter alia*, calling upon Invent ARC to provide documents and further clarification in respect of the claim filed by it. Alongside the claim of the Invent ARC, Pasad Impex Private Limited had also filed their claim on 18.09.2023 for an amount of Rs. 2,35,16,95,222/- and due to the incomplete documents and information, even their entire claim was kept under verification.
- 2.2.7. Mr. Vishnu Kant Kabra submitted that based on the claims received and admitted basis the claim forms and the documents provided thereto, the CoC was constituted on 13.10.2023. On the same date, he issued a notice of the 1<sup>st</sup> CoC meeting of the CD to all the members of the CoC including the agenda for the CoC and the list of claims received and approved along with the percentage of voting shares. Thereafter, he received further documents and clarification from Invent ARC on 18.10.2023. However, since he had already constituted the CoC and issued the notice for the 1<sup>st</sup> CoC meeting, he could not verify the same before the 1<sup>st</sup> CoC meeting and thus, he informed the representatives of Invent ARC that their claim shall be verified subsequent to the 1<sup>st</sup> CoC meeting and the CoC shall be reconstituted once the claim is further admitted.
- 2.2.8. Mr. Vishnu Kant Kabra further submitted that the 1<sup>st</sup> CoC meeting, held on 20.10.2023, was attended by all FCs including Invent ARC having 31.32% voting share, Vesta having 56.53% voting share and the remaining with other financial creditors. At the time of the said CoC meeting, he informed the CoC of the actions he had taken subsequent to his appointment as the IRP. He submitted that Invent ARC from the 1<sup>st</sup> CoC meeting itself had started to disrupt the entire CIRP by not approving any resolution proposed to be passed by him for taking any action in respect of the CD. Moreover, the Invent ARC delayed in providing its voting sheets in respect of the resolutions proposed to be passed. However, in the 1<sup>st</sup> CoC meeting, the majority members of the CoC voted in favour of his appointment as the RP of the CD. Accordingly, he was appointed as the RP of the CD. He started to take appropriate steps in respect of the CIRP of the CD.
- 2.2.9. Mr. Vishnu Kant Kabra submitted that on 23.10.2023, he was served with an IA/5001/2023 filed by Invent ARC, *inter alia*, seeking various reliefs therein including seeking a declaration that the admission of claims of the creditors by him as null and void and the CoC of the CD being invalidly constituted. However, the said IA/5001/2023 was listed for hearing on 01.11.2023 before the AA whereby he undertook to verify the claim of Invent ARC within a period of 3 days. The said IA/5001/2023 was further listed for hearing on 09.11.2023 whereby his advocate undertook to verify the claims of the applicant within a period of 1 week therefrom.
- 2.2.10. In light of the resolution passed in the 1<sup>st</sup> CoC meeting of the CD, he filed an IA/5427/2023 through his advocate, *inter alia*, seeking confirmation of his appointment as the RP of the CD. That subsequent thereto, it came to his knowledge that Vesta was a struck-off company by the

Registrar of Companies (ROC) and therefore, the claim of Vesta could not have been admitted.

- 2.2.11. Mr. Vishnu Kant Kabra submitted that even though the claim of Vesta was inadvertently admitted by him in light of an overlook of the status of the company and solely relying on the documents provided alongwith the claim form by Vesta, shall in no manner be contrary to either Section 21 or 208 of Code, or Regulations 13(1), 7(2)(a) & (h) of the IP Regulations or Clause 14 of the Code of Conduct therein. The admission of claim of Vesta was not a mala fide attempt on his part and was merely an inadvertent error and overlook due to non-functioning of the MCA website coupled with non-availability of any documents on behalf of the CD/erstwhile Directors of the Corporate Debtor.
- 2.2.12. Mr. Vishnu Kant Kabra submitted that assuming but not admitting that if his intent was to admit the claim of Vesta in a mala fide manner, in order to get his fees and other CIRP expenses approved, he would have immediately upon coming to knowledge of the status of Vesta, not have removed Vesta from the CoC and reconstituted the CoC upon further verification of claims by other parties. Moreover, on 16.01.2024, he had himself addressed a letter to the CoC to relieve him of his duties as the RP of the CD and subsequently filed IA No. 2391 of 2024 before the AA. The wrongful constitution of CoC by admitting the claim of Vesta was not a failure to exercise due diligence but an inadvertent error due to non-availability of complete documents on behalf of the CD as well as the emergent position to constitute the CoC within the statutory timeframe.
- 2.2.13. Further, Mr. Vishnu Kant Kabra upon discovery of this fact, immediately rejected the claim of Vesta and reconstituted the CoC in good faith, strictly in compliance with undertakings given before the AA and to safeguard the interests of legitimate creditors. The reconstituted CoC was subsequently placed on record before and approved by the AA.

### **2.3. Analysis and findings.**

- 2.3.1. Sections 18(b) and 18(c) of the Code mandates an interim resolution professional to receive and collate the claims and constitute a CoC, as follows:

*“18. Duties of interim resolution professional. –*

*The interim resolution professional shall perform the following duties, namely: -*

*.....*

*(b) receive and collate all the claims submitted by creditors to him, pursuant to the public announcement made under sections 13 and 15;*

*(c) constitute a committee of creditors;.....”*

- 2.3.2. Regulation 13 of the CIRP Regulations provides as follows:

*“13. Verification of claims.*

*(1) The interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the insolvency commencement date, within seven days from the last date of the receipt of the claims, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it.....”*

2.3.3. After the verification of the claims received by it, the interim resolution professional must constitute a CoC in terms of Section 21 of the Code, as follows:

*“21. Committee of creditors. –*

*(1) The interim resolution professional shall after collation of all claims received against the corporate debtor and determination of the financial position of the corporate debtor, constitute a committee of creditors.*

...

*(2) The committee of creditors shall comprise all financial creditors of the corporate debtor:.....”*

2.3.4. Sections 18(b) and 18(c) of the Code, 2016 cast a statutory duty upon IRP to receive and collate all claims submitted by creditors pursuant to the public announcement and, thereafter, to constitute the CoC. This duty is further supplemented by Regulation 13(1) of the CIRP Regulations, which mandates that the IRP/RP must verify each claim within seven days from the last date of receipt of claims and maintain an updated list of creditors showing the amounts claimed and admitted. Upon completion of such verification and collation of claims, Section 21 of the Code requires the IRP to constitute the CoC, which shall comprise all the financial creditors of the CD. Thus, the scheme of the Code and Regulations made thereunder, makes it clear that proper verification of claims is a prerequisite to the lawful constitution of the CoC.

2.3.5. The timeline of the events is tabulated as below:-

<b>Date</b>	<b>Timeline</b>
02.08.2023	The Corporate Debtor was admitted into CIRP and Mr. Vishnu Kant Kabra was appointed as the Interim Resolution Professional.
07.09.2023	The admission order was received by Mr. Vishnu Kant Kabra and he issued Public Announcement in Form A, fixing 21.09.2023 as the last date for submission of claims.
18.09.2023 to 21.09.2023	Claims received from various financial creditors including Invent ARC, ETC Energy Therapy Co. Pvt. Ltd., Pasad Impex Pvt. Ltd., Nestler Limited and Vesta.
13.10.2023	CoC was constituted.
20.10.2023	1 <sup>st</sup> CoC meeting was held where resolutions like confirmation of Mr. Vishnu Kant Kabra as RP, approval of fees to IRP and RP to the tune of Rs. 3,00,000/- and out of pocket expenses were approved with 68.68% voting share, which included the 56.53% voting share of Vesta.
23.10.2023	Invent ARC filed IA/5001/2023 before the AA challenging the constitution of the CoC on the ground that Vesta was a struck-off entity. Mr. Vishnu Kant Kabra admitted that the application was served to him on same day.
07.11.2023	IA/5427/2023 was filed by Mr. Vishnu Kant Kabra seeking confirmation of his appointment as the RP of the CD
09.11.2023	IA/5001/2023 was listed where the AA recorded the undertaking of Mr. Vishnu Kant Kabra to verify the claims on merits and take a decision as per law within one week.
08.12.2023	Both the applications IA/5001/2023 and IA/5427/2023 were listed where the AA

observed as follows:

*“IA-5001/2023*

*2. This is an Application filed by the Invent Assets Reconstruction Company Private Limited seeking direction from this Bench to declare that the CoC is invalidly constituted by the Respondent. Ld. Counsel appearing for the Secured Financial Creditor seeks appropriate direction from this Bench in the Application filed for confirming the IRP as RP.*

*3. Ld. Counsel for Secured Financial Creditor/Applicant submits that the resolution confirming IRP as RP passed in 1st CoC meeting on 20.10.2023 is arbitrary and illegal since the IRP has now reconstituted the CoC on 04.12.2023 wherein upon verification, the voting share of the Secured Financial Creditor has come to 34.83%.*

*4. After noting down the submissions of the Ld. Counsel, this Bench is of the view that the resolution to whether confirm IRP as RP or appointing new RP for conducting CIRP proceedings is to be taken by the newly reconstituted CoC.*

*5. In view of the above, the COC to take appropriate action.*

*6. At the request of counsel for IRP, the IA 5427/ 2023 is disposed of.*

*IA-5427/2023*

*7. In view of aforesaid direction in IA-5427/2023, Ld. Counsel for the IRP seeks to withdraw of its Application.*

*8. At the request made by the Counsel, the IA is dismissed as withdrawn.”*

16.01.2024 Mr. Vishnu Kant Kabra reconstituted the CoC giving zero voting share to Vesta as per the affidavit sworn by him in application IA/1370/2024.

29.01.2024 2<sup>nd</sup> CoC meeting was held where the voting share of the FCs and their votes of respective proposal is as follows:

<b>Sr. No.</b>	<b>CoC Member</b>	<b>Voting Share</b>	<b>Resolution to replace Mr. Vishnu Kant Kabra</b>	<b>Resolution to appoint Mr. Vijay Pitamber Lulla as RP proposed by Invent ARC</b>	<b>Resolution to appoint Mr. Nitin Om Kothari as RP proposed by Pasad Impex Private Limited</b>
1	Invent ARC	34.83	Yes	Yes	No
2	Energy	1.97	Yes	No	Yes

		Therapy Co. Private Limited				
	3	Pasad Impex Private Limited	19	Yes	No	Yes
	4	Nestler Limited	3.11	Yes	No	Yes
	5	Orbiigo Heavy Lifters Private Limited	10.37	Yes	No	Yes
	6	Parekh Brothers	5.85	Yes	No	Yes
	7	Maharashtra Engineering	5.04	Yes	No	Yes
	8	Abhushan Ornaments Private Limited	19.50	Yes	No	Yes
		<b>Total voting in favour of the proposal</b>		100%	34.83%	64.84
03.02.2024	IA/1370/2024 was filed by Mr. Vishnu Kant Kabra before the AA placing on record the re-constitution of the CoC of the CD.					
07.03.2025	IA/2391/2024 was filed by Mr. Vishnu Kant Kabra to remove deadlock and appoint him as RP of the Corporate Debtor and/or to appoint Mr. Vijay Pitambar Lulla as the RP as nominated by Invent ARC (rejected by 65.17%) or Mr. Nitin Om Kothari [IBBI/IPA-001/IP-P-02310/2020-2021/134771] proposed by Pasad Impex, another member of the CoC as the RP of the CD (rejected by 34.83%);					
28.03.2024	The AA took on record the reconstituted CoC.					
29.01.2025	The AA disposed IA/2391/2025 by appointing Mr. Kshitiz Gupta from the IBBI empaneled list as RP to conduct the CIRP in time-bound manner.					

2.3.6. The DC notes the submission of Mr. Vishnu Kant Kabra that there was non-cooperation from the directors of the CD and he admitted the claim of Vesta on basis of the documents submitted along with its claim form. This submission does not fit with another one of his submission that he could not verify the claim of Vesta because the MCA portal was not working at the relevant time. The DC notes that the verification of the legal existence and status of a creditor is a fundamental duty of an IRP and cannot be dispensed on the ground of technical glitches in accessing a portal.

2.3.7. The DC further observes that as per MCA records, Vesta was a struck-off entity and had been declared dormant as early as 23.04.2016. A struck-off company does not have legal existence and therefore cannot be considered a valid financial creditor for the purposes of constitution of the CoC.

Despite this, Mr. Vishnu Kant Kabra admitted the claim of Vesta and allowed it to exercise majority voting rights in the first CoC meeting, thereby materially influencing crucial resolutions including approval of IRP fees, CIRP expenses, and confirmation of Mr. Vishnu Kant Kabra as the RP.

- 2.3.8. The DC further notes that the timeline of events further weakens the defence taken by Mr. Vishnu Kant Kabra. Invent ARC filed IA/5001/2023, before the AA on 23.10.2023 which was admittedly served on him on same date, annexing documents clearly evidencing that Vesta was a struck-off entity. Despite this information being placed on record before the AA, Mr. Vishnu Kant Kabra continued with the same constitution of the CoC and did not reconstitute the CoC immediately. The reconstitution of the CoC excluding Vesta was carried out only on 16.01.2024, i.e., after a lapse of nearly five months from the commencement of CIRP and almost three months after the issue had been formally raised before the Hon'ble AA.
- 2.3.9. The DC notes that the plea that the MCA website was not working cannot reasonably explain or justify the failure to verify the status of Vesta over such an extended period. The timeline clearly establishes that the alleged non-availability of the MCA portal could not have persisted continuously for more than five months. Therefore, Mr. Vishnu Kant Kabra's decision of admitting the claim of a struck-off entity, since MCA website was not working at that time does not seem to be a plausible submission, but also appears to be an afterthought to justify his decision regarding a improper constitution of the CoC.
- 2.3.10. The DC further notes that while Mr. Vishnu Kant Kabra exercised caution and placed the claims of other creditors such as Invent ARC and Pasad Impex Private Limited under verification citing incomplete documentation, similar caution was not exercised in the case of Vesta, notwithstanding the fact that its claim carried a majority voting share. Moreover, when additional information regarding its claim was given by Invent ARC on 18.10.2023, Mr. Vishnu Kant Kabra did not verify its claim and deferred it until after the 1<sup>st</sup> CoC scheduled on 20.10.2023. It was noted that in the 1<sup>st</sup> CoC meeting, Mr. Vishnu Kant Kabra was appointed as RP with 68.68% voting share, including Vesta's 56.53%. He filed IA/5427/2023 seeking confirmation of his appointment, which was later withdrawn by Mr. Vishnu Kant Kabra when Invent ARC, in IA/5001/2023, challenged the validity of the resolution on the ground of subsequent reconstitution of the CoC. Thus, the selective approach in claim verification, combined with the unreasonable delay following knowledge of Vesta's status in the ROC records, reflects a deliberate lack of due diligence undertaken for personal gain.
- 2.3.11. In view of the above, the DC notes that Mr. Vishnu Kant Kabra had wrongfully constituted the CoC by including a struck-off entity and permitting it to exercise decisive voting rights. The subsequent correction of the CoC composition was carried out only after judicial intervention in Invent ARC filed IA/5001/2023 that too after a significant lapse of time and hence it does not absolve Mr. Vishnu Kant Kabra of the initial laxity in verification of claims. Accordingly, the DC holds the contravention.

## 2.4. Acting beyond Authority.

2.4.1. It has been further observed from the report affidavit certifying reconstitution of CoC filed by Mr. Vishnu Kant Kabra before the AA that the CoC was reconstituted by Mr. Vishnu Kant Kabra on 16.01.2024 while the said report was filed before the AA on 30.01.2024.

2.4.2. It was observed that the CoC was reconstituted by Mr. Vishnu Kant Kabra without the approval of the AA in contravention of the established jurisprudence. The AA *vide* order dated 06.04.2021 in the matter of *Rajdeep Clothing & Advisory Pvt Ltd. & Ors v Brijesh Kumar RP of Krishna Knitwear Technology Pvt Ltd and Abhinandan Multitrade Private Ltd. v Brijesh Kumar Mishra RP of Krishna Knitwear Technology Pvt Ltd* observed that that the IP cannot change the constitution of CoC without the prior approval of AA. The relevant extract is reproduced below:

*“23A... We have found no provision in the CODE or Regulations which permit for review of status of a creditor as all provisions focus only on the amount of claim. Thus, IRP /RP cannot, on its own, review and reverse his own earlier decision without approval of Adjudicating Authority...”*

*“23B. The other important question is whether constitution of COC can be changed by RP and if so, under what circumstances and to what extent..... We are, however, of the view that this legal situation is subject to decision of the Adjudicating Authority which can correct or modify the constitution of COC, if facts and circumstances of case demand so and an appropriate application is made by RP to this effect..... Before leaving this issue we also consider it pertinent to mention that the power to constitute COC, as such, cannot include a power to re-constitute COC except as provided in the CODE or CIRP Regulations. Thus, the Financial Creditor who is a part of COC, cannot be removed by RP without prior approval of the Adjudicating Authority.”*

The said order of the AA was further upheld by the NCLAT *vide* order dated 05.12.2022 wherein the NCLAT had reproduced the aforementioned observation of the AA.

2.4.3. The NCLAT also in the matter of *Mr. K.N Rajkumar v V Nagarajan vide* order dated 30.04.2021 observed that the RP has no adjudicatory power to reconstitute a CoC in negation of the earlier constituted CoC. The relevant extract is reproduced below:

*“28. On a careful consideration of the respective contentions advanced on either side, this Tribunal is of the considered view that the ‘Resolution Professional’ has no ‘Adjudicatory Power’ under the I & B Code, 2016 and further that when once the ‘Committee of Creditors’ is/was formed, the ‘Resolution Professional’ cannot change the ‘Committee of Creditors’. Suffice it for this Tribunal to make a pertinent mention that the Resolution Professional/1st Respondent cannot constitute a ‘Committee of Creditors’ afresh, in negation of the earlier constituted ‘Committee of Creditors’.”*

2.4.4. In view of the above, it was observed that Mr. Vishnu Kant Kabra acted beyond authority by reconstituting the CoC without the approval of AA and subsequently conducting the 2<sup>nd</sup> CoC meeting held on 29.01.2024. Thus, the Board held *prima facie* view that Mr. Vishnu Kant Kabra had contravened Sections 208(2)(a) & (e) of the Code, Regulation 7(2) (a) and (h) of IP Regulations read with Clause 14 of the Code of Conduct for Insolvency Professionals.

## 2.5. Submissions by Mr. Vishnu Kant Kabra.

2.5.1. Mr. Vishnu Kant Kabra submitted that in order to remove Vesta from the CoC and further verify and admit the claims of other parties, he was constrained to reconstitute the CoC. Moreover, the said reconstitution was on the basis of the undertakings given before the AA. The order dated 09.11.2023 passed by the AA in IA/5001/2023 is reproduced herein below for reference :

*“Ld. Counsel for the RP submits that the claim of the Applicant is under consideration of the verification and they will verify the claims on merits and take a decision as per law. The verification of the claim should be completed by the RP within one week.”*

2.5.2. He also submitted that in December 2023, he received further claims from various parties and had to further verify the pending claim submitted by Invent ARC and other parties, as the same were kept under verification and thus, the same was duly verified by him and the following claims were admitted and the new CoC was constituted on 07.12.2023 with the following members and their respective voting shares:

Sr.	Name of FC	Voting percentage
1	Invent ARC	34.83
2	Energy Therapy Co. Private Limited	1.97
3	Pasad Impex Private Limited	19
4	Nestler Limited	3.11
5	Vesta India Limited	Nil
6	Orbiigo Heavy Lifters Private Limited	10.37
7	Parekh Brothers	5.85
8	Maharashtra Engineering	5.04
9	Abhushan Ornaments Private Limited	19.50
10	Premier Lighting Industries Private Limited	Nil
	Total	100

2.5.3. Mr. Vishnu Kant Kabra submitted that thereafter he filed IA/1370/2024 before the AA, *inter alia*, placing on record the reconstitution of the CoC of the CD. The said reconstitution of the CoC was not done without the approval of the AA but was conducted in good faith and in order to rectify the inadvertent error committed on his part of admitting the illegitimate claim of Vesta. He duly understood and acknowledged that it is a settled principle of law that RP does not possess any adjudicatory power to constitute the CoC in negation of the earlier constituted CoC. However, in light of the above-mentioned facts and circumstances and the undertaking given by him before the AA, he had, in order to protect the interest of the other members of the CoC, rejected the claim of Vesta and accordingly reconstituted the CoC.

2.5.4. Mr. Vishnu Kant Kabra submitted that on 08.12.2023, IA/5001/2023 was listed for hearing before the AA, wherein it was directed that the resolution whether to confirm his appointment as the RP of the CD or appointing a new RP for conducting of the CIRP proceedings was to be taken by the newly constituted CoC. In light of the said direction of the AA, his advocate withdrew the

IA/5427/2023 filed for his appointment as the RP of the CD. In light of the disagreement between the members of the CoC of the CD with respect to his appointment as the RP of the CD, on 16.01.2024, he addressed a letter to the CoC of the CD, *inter alia*, stating that he has apprehensions in respect of taking any action as RP of the CD and informed the CoC that he shall only continue in case appointed with complete majority

- 2.5.5. Mr. Vishnu Kant Kabra submitted that on 19.01.2024 Invent ARC filed Company Appeal (AT) No. 247/2024 before the NCLAT challenging the order dated 08.12.2023 of the AA. On 29.01.2024, the 2<sup>nd</sup> meeting of the CoC was held virtually, wherein all the members of the reconstituted CoC attended the said meeting. In the said meeting, the agendas discussed were “(i) to consider my confirmation as Resolution Professional and fix my remuneration; (iii) whether to appoint me and/or any other person as the RP of Corporate Debtor; (ii) to ratify and discuss the exclusion of time from the period of 1st November 2023 to 20th December 2023 due to the pending litigation and various other resolutions”. However, once again the members of the CoC were at logger heads and no majority could be arrived at for his appointment and/ or any person as the RP of the CD.
- 2.5.6. Mr. Vishnu Kant Kabra submitted that as there was complete uncertainty in respect of his appointment as the RP of the CD and the members of the CoC were time and again challenging his actions in respect of CIRP of the CD, he was unable to take any substantial actions and / or comply with his duties as the RP of the CD. In light of the resolution passed in the 2<sup>nd</sup> CoC Meeting on 29.01.2024, he filed IA/2575/2024 on 02.03.2024, *inter alia*, seeking exclusion of 35 days in light of delayed communication of the CIRP Order by the Millenium Enterprise to him. Due to persistent deadlock and disagreements between the members of the CoC regarding his appointment as RP, he filed IA/2391/2024 on 07.03.2024 praying for his removal as RP.
- 2.5.7. Mr. Vishnu Kant Kabra submitted that on 12.03.2024, the NCLAT disposed of Company Appeal (AT) No. 247/2024, holding that there was no reason to interfere with the order dated 08.12.2023 and clarified that the said IA/5001/2023 cannot be held as disposed by the said order dated 08.12.2023, as various prayers have not been considered and directed the AA to consider the said IA/5001/2023 and dispose the same expeditiously.
- 2.5.8. Mr. Vishnu Kant Kabra submitted that the AA, *vide* order dated 28.03.2024, approved IA/1370/2024 taking on record the reconstituted CoC. Further, *vide* order dated 08.01.2025, the AA disposed of IA/2391/2024 and replaced him as RP and appointed Mr. Kshitiz Gupta as RP of the CD.
- 2.5.9. Mr. Vishnu Kant Kabra submitted that the reconstitution of CoC was filed before the AA for its approval and in the said application placing on record the reconstitution, he had duly mentioned that the entire claim of Vesta was rejected due to the same being a company struck off from the records of ROC and the same was duly approved and taken on record by the AA. Therefore, it cannot be said that he has acted beyond his authority and could not have reconstituted the CoC in negation to the erstwhile CoC.

## 2.6. Analysis and findings.

- 2.6.1. The DC notes the submission of Mr. Vishnu Kant Kabra that subsequent to the initial constitution of the CoC, it came to his knowledge that Vesta was a struck-off company and, therefore, its claim could not have been admitted. He further submitted that in order to remove the said entity from the CoC and to verify and admit pending claims of other creditors, he reconstituted the CoC in good faith pursuant to the undertaking recorded before the AA in IA/5001/2023 to verify claims on merits. Upon completion of verification, CoC was re-constituted on 07.12.2023 and the same was subsequently placed on record before the AA through IA/1370/2024 filed on 03.02.2024.
- 2.6.2. The DC notes from the record that the CoC was initially constituted by Mr. Vishnu Kant Kabra on 13.10.2023 and the 1<sup>st</sup> meeting of the CoC was held on 20.10.2023. Thereafter, it is evident from the Report/Affidavit certifying reconstitution of the CoC that the CoC was reconstituted by Mr. Vishnu Kant Kabra on 16.01.2024. The DC further notes that although the reconstitution of the CoC was carried out on 16.01.2024, the application placing the reconstituted CoC on record, namely IA/1370/2024, was filed before the AA on 03.02.2024.
- 2.6.3. With regards to the submission that the CoC was reconstituted in light of undertaking before the AA, the DC notes that the AA through its order dated 09.11.2023 in IA/5001/2023 merely recorded the undertaking of Mr. Vishnu Kant Kabra to verify the claims on merits and take a decision in accordance with law. The said order did not confer any authority upon Mr. Vishnu Kant Kabra to unilaterally reconstitute the CoC, which involved removal of a FC, without approaching the AA for specific approval where there are judicial precedents to that effect.
- 2.6.4. The DC notes the legal position regarding the power of an IRP or RP to reconstitute the CoC is well settled. The AA, in its order dated 06.04.2021 in *Rajdeep Clothing & Advisory Pvt. Ltd. & Ors. v. Brijesh Kumar, RP of Krishna Knitwear Technology Pvt. Ltd. and Abhinandan Multitrade Pvt. Ltd. v. Brijesh Kumar Mishra, RP of Krishna Knitwear Technology Pvt. Ltd.*, has categorically held that there is no provision under the Code or the CIRP Regulations which permits an IRP or RP to review, reverse, or reconstitute the CoC on its own without prior approval of the AA, and that the power to constitute the CoC does not include the power to reconstitute it or remove a financial creditor once included. The said legal position was affirmed by the NCLAT vide its order dated 05.12.2022. The DC further notes the judgment of the NCLAT in *Mr. K.N. Rajkumar v. V. Nagarajan* dated 30.04.2021, wherein it was held that a Resolution Professional has no adjudicatory powers under the Code and that once a CoC is constituted, it cannot be changed or reconstituted by the RP in negation of the earlier constituted CoC, and that any modification in the constitution of the CoC must emanate only from an order of the AA.
- 2.6.5. In view of the facts on record and the settled legal position, the DC finds that Mr. Vishnu Kant Kabra reconstituted the CoC on 16.01.2024 without obtaining prior approval of the AA. The subsequent filing of IA/1370/2024 on 03.02.2024, seeking to place the reconstitution on record, does not cure the procedural impropriety, as the reconstitution had already been effected and acted upon, including by convening the 2<sup>nd</sup> CoC meeting on 29.01.2024.

2.6.6. In view of the above, the DC notes that by reconstituting the CoC without prior approval of the AA and by acting upon such reconstitution, Mr. Vishnu Kant Kabra, failed to exercise due care and diligence and acted beyond his authority. Accordingly, the DC holds the contravention.

### **3. Order.**

- 3.1. In view of the above, the DC held that Mr. Vishnu Kant Kabra committed serious professional lapses in the CIRP of Bombay Infrastructure India Limited by wrongfully constituting the Committee of Creditors and acting beyond his authority. Mr. Vishnu Kant Kabra admitted and granted majority voting rights to a struck-off entity, Vesta India Ltd., without proper verification, which materially influenced key decisions including his own appointment and fee approval, reflecting lack of due diligence. Further, Mr. Vishnu Kant Kabra reconstituted the CoC without prior approval of the Adjudicating Authority.
- 3.2. The DC is aware of the previous order dated 11.11.2025 where the registration of Mr. Vishnu Kant Kabra was suspended for a period of one year in the CIRP of M/s. Vjaydeep Developers LLP.
- 3.3. In view of the foregoing, the DC in exercise of the powers conferred under section 220 of the Code read with regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 suspends the registration of Mr. Vishnu Kant Kabra having Registration No. IBBI/IPA-001/IP-P-02178/2021-2022/13747 for a period of two year, which will run consecutive to suspension imposed and effected by the DC order dated 11.11.2025.
- 3.4. This Order shall come into force in light of paragraph 3.3 above.
- 3.5. A copy of this order shall be sent to the CoC/ Stakeholders Consultation Committee (SCC) of all the Corporate Debtors in which Mr. Vishnu Kant Kabra provides his services, if any, and the CoC/SCC may decide on the continuation of services of Mr. Vishnu Kant Kabra. In case the CoC/SCC has decided to continue with the services of Mr. Vishnu Kant Kabra, it may record reasons for the same.
- 3.6. A copy of this order shall be forwarded to the Insolvency Professionals of ICAI where Mr. Vishnu Kant Kabra is enrolled as a member.
- 3.7. A copy of this order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal, New Delhi, for information.
- 3.8. Accordingly, the show cause notice is disposed of.

Dated: 30 March 2026  
Place: New Delhi

Sd/-  
(Dr. Bhushan Kumar Sinha)  
Whole Time Member  
Insolvency and Bankruptcy Board of India