



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

IA(IBC)/31/KOB/2025
IN
CP(IBC)/21/KOB/2023
(Under Section 60(5) of the IBC, 2016)

In the matter of: -

M/s. Jupiter Leys Private Limited.

Memo of parties: -

Audit Officer, Kerala State Goods and
Services Tax Department, Division- 2, Aluva.

... Applicant.

Vs.

Mr. Dileep K.P., Resolution Professional,
M/s. Jupiter Leys Private Limited, Regn. No.
IBBI/IPA-001/IP-P01310/2018
2019/12220, Veluthedath House,
Ponnurunni, Vytilla P.O., Cochin, Kerala-
682 019. Email: - kpdileep57@gmail.com.

... Respondent.

Order pronounced on: 28.05.2025



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/31/KOB/2025
IN
CP(IBC)/21/KOB/2023
In re: - M/s. Jupiter Leys Pvt. Ltd..

Coram:

Smt. Madhu Sinha.

Hon'ble Member (Technical)

Shri. Vinay Goel.

Hon'ble Member (Judicial)

Appearances:

For the Applicant : Mr. Arun Chandy, Government Pleader.

For the Respondent : Mr. Vinod P V, Advocate.

ORDER

Per: Coram

1. The application has been filed by the Audit Officer, a statutory authority under the Government of Kerala under Regulation 31(A)(11) of the IBBI (Liquidation Process), 2016, seeking the following reliefs: -
 - a) To issue direction to the respondent/resolution professional to accept Annexure A2 claim submitted by the applicant in the interest of justice.

SUBMISSIONS MADE BY THE APPLICANT

2. This Adjudicating Authority has ordered the Corporate Insolvency Resolution process (herein it is referred to as CIRP) against M/s. Jupiter Leys Pvt. Ltd., (herein it is referred to as Corporate Debtor) vide order No. CP/IBC/21/KOB/2023 dated 22.12.2023 under



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/31/KOB/2025
IN
CP(IBC)/21/KOB/2023
In re: - M/s. Jupiter Leys Pvt. Ltd..

Insolvency and Bankruptcy Code 2016 (IBC) and subsequently, the Interim Resolution Professional/Resolution professional (IRP/ RP) has been appointed in pursuance of the above order.

3. M/s. Jupiter Leys Pvt. Ltd. (hereinafter referred to as "the Taxpayer") is a Private Limited Company that was selected for audit under Section 65 of the KSGST Act, 2017, by the Applicant's office. The Taxpayer holds GSTIN: 32AABCJ3476B1Z1. During the course of the audit, discrepancies were identified under Section 65 of both the CGST and SGST Acts, 2017. The following discrepancies were observed:

Sl. No.	Gist of objection	Revenue Implication (in Rs.)	Taxpayer's agreement (Yes / No)	Department's conclusion with the reason
1	RCM liability on Legal Charges [2017-18, 2018-19, 2019-20, 2020-21, 2021-22]	7,39,498/- [Tax : 375,696/-, Interest upto 08.07.2024 : 3,63,802/-]	Not agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
2	RCM liability on the services by Government or Local Authority [2017-18, 2018-19, 2019-20, 2020-21, 2021-22]	1,38,930/- [Tax : 74,598/-, Interest upto 08.07.2024 : 64,332/-]	Not agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
3	RCM under Section 9(4) of the CGST/SGST Act 2017 [2017-18]	4,22,960/- [Tax : 1,90,606/-, Interest upto 08.07.2024 : 2,32,354/-]	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
4	RCM on Security Service [2018-19, 2019-20, 2020-21]	2,39,472/- [Tax : 1,35,720/-, Interest upto 08.07.2024 : 1,03,752/-]	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
5	RCM on GTA Services [2020-21]	148/- [Tax : 90/-, Interest upto 08.07.2024 :]	Not Agreed	The para may kindly be accepted and recommended to



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/31/KOB/2025
IN
CP(IBC)/21/KOB/2023
In re: - M/s. Jupiter Leys Pvt. Ltd..

		58/-]		proceed with FAR and notice under Section 73 of Act
6	Other Income received – Sale of Scrap [2017-18]	39,190/- [Tax : 18,486/-, Interest upto 08.07.2024 : 20,704/-]	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
7	Other Income received – Sale of Motor bike [2019-20]	1,960/- [Tax : 1,114/-, Interest upto 08.07.2024 : 8,46/-]	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act with the FAR and notice to recover the outstanding amount.
8	Other Income received – Rent received [2017-18, 2018-19, 2019-20, 2020-21, 2021-22]	37,270/- [Tax : 19,800/-, Interest upto 08.07.2024 : 17,470/-]	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
9	Other Income received – Lab Test [2020-21]	714/- [Tax : 432/-, Interest upto 08.07.2024 : 282/-]	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
10	ITC on blocked credit [2017-18, 2018-19, 2019-20, 2021-21, 2021-22]	1,61,632/- [Tax : 92,414/-, Interest upto 08.07.2024 : 69,218/-]	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
11	Wrong availment of ineligible ITC in	14,93,579/- [Tax : 7,84,605/-,	Not Agreed	The para may kindly be accepted and



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/31/KOB/2025
IN
CP(IBC)/21/KOB/2023
In re: - M/s. Jupiter Leys Pvt. Ltd..

	violation of Section 16(2)(a) of GST Act [2017-18, 2018-19, 2019-20, 2020-21, 2021-22]	Interest upto 08.07.2024 : 7,08,974/-]		recommended to proceed with FAR and notice under Section 73 of Act
12	Non reversal of ITC for the goods lost in flood 2018-19 [2018-19]	1,95,800/- [Tax : 97,200/-, Interest upto 08.07.2024 : 98,600/-]	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
13	Excess ITC availed and utilized in violation of Section 16(2)(c)	26,57,886/- [Tax : 15,61,110/-, Interest upto 08.07.2024 : 10,96,776/-]	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
14	Short payment of output tax between GSTR 1 and GSTR 3B [2020-21]	24,12,062/- [Tax : 13,92,938/-, Interest upto 08.07.2024 : 8,79,830/- Penalty : 1,39,294/-]	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
15	Export of goods not proved [2019-20, 2020-21, 2021-22]	2,96,476/- [Tax : 1,79,148/-, Interest upto 08.07.2024 : 1,17,328/-]	Not Agreed	No tax implication under this para. The para may kindly be dropped.
16	Non payment of GST under RCM on Import of Services [2020-21]	94,429/- [Tax : 55,570/-, Interest upto 08.07.2024 : 38,859/-]	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
(PROCEDURAL PARA)				
17	Interest for belated filing of GSTR 3B	33,978/- Interest	Not Agreed	The para may kindly be accepted and



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/31/KOB/2025
IN
CP(IBC)/21/KOB/2023
In re: - M/s. Jupiter Leys Pvt. Ltd..

	returns – late payment of tax [2018-19, 2019-20, 2020-21, 2021-22]	upto 08.07.2024		recommended to proceed with FAR and notice under Section 73 of Act
18	Late fee for belated filing of Form GSTR-1 [2018-19, 2019-20, 2020-21, 2021-22]	38,250/- (Late fee)	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act
19	Late Fee on non filing of return in GSTR-9/GSTR 9C [2017-18, 2018-19, 2019-20, 2020-21]	5,04,400/- (Late fee)	Not Agreed	The para may kindly be accepted and recommended to proceed with FAR and notice under Section 73 of Act

4. That the above discrepancies were communicated to the Taxpayer through the Audit Observation issued under Section 65 of the KSGST Act, 2017, on 08.07.2024, and the same was uploaded on the common portal. Thereafter, the Petitioner filed a claim in **Form B**, dated 16.08.2024, enclosing the above Audit Observation, which was submitted before the Respondent on 17.08.2024. Subsequently, the Respondent rejected the Petitioner's claim in Form B without providing a valid reason, citing a delay in submitting the claim before the Resolution Professional. Thereafter, the Petitioner issued a Show Cause Notice to the Respondent through the common portal on 20.09.2024 for an amount of ₹90,73,228/-.
5. That, as per the new notification issued by the Government of India, the time limit for filing claims has been extended up to the



date of issuance of **Form G** under the Insolvency and Bankruptcy Code, 2016. It is further stated that all relevant documents have already been uploaded to the common portal. As of 18.04.2024, the Respondent has been the authorized signatory and, therefore, has access to all these documents.

6. That the Respondent has not disputed the tax assessment proceedings that form the basis of the present claim against the Corporate Debtor. The Corporate Debtor was admitted into the Corporate Insolvency Resolution Process (CIRP) on 22.12.2023. Accordingly, these facts should have reflected in the audited financial statements of the Corporate Debtor, which the then Interim Resolution Professional (IRP) or Resolution Professional (RP) ought to have taken cognizance of and included in the Information Memorandum.
7. That the legal position is that tax determination and assessments are not covered under the moratorium, and only recovery of tax under the CGST/SGST Act is prohibited under the moratorium under IBC. Therefore, the assessment order has legal validity as per the law.
8. That there was no willful delay or negligence on the part of the Applicant in filing the claim before the Resolution Professional. It is further submitted that the aforesaid claims are legally sustainable, and the Applicant is prepared to produce sufficient material to



substantiate the claim before the Respondent. The delay occurred due to the compliance audit procedure conducted under Section 65 of the KSGST Act, 2017. Subsequently, the Applicant filed the claim in **Form B** before the Resolution Professional. Hence, the Applicant has filed the present application seeking condonation of a total delay of 340 days in filing the claim before the Resolution Professional and for issuance of appropriate directions to the Respondent to accept the claim submitted by the Applicant.

9. The reply affidavit dated 18.03.2025 furnished by the Respondent states as follows: -
10. The Respondent stated that, according to the Public Announcement made by the Interim Resolution Professional on 25.12.2023, the Applicant, through the Sales Tax Officer, Perumbavoor, filed a claim for an amount of ₹27,04,693/- for the period up to the commencement of the Corporate Insolvency Resolution Process (CIRP). The Resolution Professional has admitted the entire claim.
11. It is stated that the Respondent issued the first Invitation for Expression of Interest (EOI) to submit a Resolution Plan on 10.07.2024, and subsequently received EOIs from three prospective resolution applicants. Thereafter, the Respondent issued a Request for Resolution Plan (RFRP) to the Prospective Resolution Applicants (PRAs) on 14.08.2024.



12. It is further stated that, under Regulation 12(1A) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, a creditor who has not filed a claim within the time stipulated in the public announcement, and beyond 90 days from the Insolvency Commencement Date, may still file the claim with supporting proof and a statement explaining the delay, up to the date of issuance of the Request for Resolution Plans under Regulation 36B of the said Regulations.

13. Regulation 12(1A) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 reads as follows:

1) A creditor shall submit claim with proof on or before the last date mentioned in the public announcement.

Provided that a creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit his claim with proof to the interim resolution professional or the resolution professional, as the case may be, up to the date of issue of request for resolution plans under regulation 36B or ninety days from the insolvency commencement date, whichever is later:

Provided further that the creditor shall provide reasons for delay in submitting the claim beyond the period of ninety days from the insolvency commencement.



-
14. It is stated that the Applicant did not file the present amended claim before the issuance of the Request for Resolution Plan. It is further stated that, following the issuance of the Request for Resolution Plan, the Resolution Applicant submitted its Resolution Plan to the Respondent. The Respondent, after verifying the claims already admitted and as reflected in the Information Memorandum, placed the Resolution Plan before the Committee of Creditors (CoC) for discussion and voting on 22.01.2025. The Committee subsequently scheduled the voting on the plan for 12.02.2025.
15. It is stated that the present claim of the Applicant was received on 19.08.2024, with a delay of 242 days. Furthermore, it is stated that the entire claim is based on an audit conducted in January 2024, during the moratorium imposed by this Tribunal. Therefore, the assessment made during the moratorium is illegal, and the claim is, consequently, not acceptable.
16. It is stated that the Committee has considered the Resolution Plan and already put the plan for voting, therefore, no further claim can be entertained at this stage. Therefore, the RP has rightly rejected the claim as belated on 23.08.2024. It is stated that the Applicant has already admitted a claim of Rs. 27,04,693/- received from the sales tax officer and is forming part of the information memorandum.
17. It is stated that if the claims of creditors are accepted at a belated stage after the stipulated time provided for submitting claims, then



the possibility of the resolution plan failing to materialize becomes very high and tantamount to defeating the objectives of IBC, making the CIRP a time-bound process.

18. It is stated that the Resolution Applicant cannot be expected to make provisions for any creditor or depositor who has failed to submit a claim within the stipulated period or the extended period permitted under Regulation 12. It has further been observed that a Successful Resolution Applicant cannot be suddenly burdened with undecided claims after the resolution plan submitted by them has been accepted, as this would be akin to a hydra-headed situation, creating uncertainty regarding the amounts payable by the prospective Resolution Applicant who is to take over the business of the Corporate Debtor.
19. It is stated that the Resolution Plan is put for voting on 22.01.2025, and at this stage, admission of any claim would jeopardize the whole CIRP process, and on this short ground, the application deserves to be dismissed as being without any merit.

ANALYSIS AND FINDINGS: -

20. We have heard both sides and also reviewed the records. Before proceeding further, we would like to reproduce the note sheet of the Respondent/RP, which states that the Respondent/RP rejected the Applicant's alleged supplementary claim.



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/31/KOB/2025
IN
CP(IBC)/21/KOB/2023
In re: - M/s. Jupiter Leys Pvt. Ltd..

JUPITER LEYS PVT LTD- UNDER CIRP- BELATED AND MULTIPLE CLAIMS RECEIVED FROM SAME CREDITOR

We refer to the additional claim documents submitted by you in the matter of Jupiter Leys Pvt Ltd which was received on 19th August 2024 by means of registered post (RL No 65431681N). In this connection it is advised as follows.

1. There was a claim of ₹2704693/- received from the sales tax officer Perumbavoor on 5/1/2024 under the Corporate Insolvency Resolution Process. This claim was already admitted by the Resolution Professional.
2. The CIRP commenced on 22/12/2023. The present claim of ₹29479157/- is received after 242 days from the insolvency commencement date from audit officer Aluva.



There is another unsigned claim form received from sales tax officer, 1st Circle Perumbavoor, by e mail on 17/8/2024 without any accompanying documents. The hard copies or full claim documents are not received. This claim form mentions 2 other claim amounts of ₹18896933- and ₹12092428/- .

4. It is seen that belated and multiple claims are received from **different places of the same creditor** after 240-242 days from the insolvency commencement date.

JJO MATHEW
State Tax Officer
Audit Division - 2
Karath State GST Department
Aluva - 683104

terms of subsection (1) of section 12 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The auditor shall submit claim with proof on or before the last date mentioned in the public announcement.,

It is provided that a creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit his claim with proof to the interim resolution professional or the resolution professional, as the case may be, up to the date of issue of request for resolution plans under regulation 36B or ninety days from the insolvency commencement date, whichever is later.

Your claims were received after 240-242 days from the insolvency commencement date. Further the process has reached the Resolution plan stage,

In view of the above, the Resolution Professional is not vested with any powers to accept claims beyond the prescribed dates mandated under IBC 2016 and

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

Accordingly, the belated and multiple claims received now from Audit officer , Aluva and sales tax officer, 1st Circle Perumbavoor are not admissible.

21. So, there is no doubt that Respondent/RP has already admitted the claim of Rs. 27,04,693/-, and during the subsistence of the moratorium period, the Applicant again submitted the 2nd claim of Rs. 2,94,79,157/- which was rejected by the Respondent/RP with



its observation and orders reproduced (supra). The Applicant has relied upon the judgment of the Hon'ble Supreme Court, ***Sundaresh Bhatt, Liquidator of ABG Shipyard Vs. Central Board of Indirect Taxes and Customs*** (Civil Appeal No. 7667 of 2021) and relied upon para 44 of the judgment wherein the Apex Court held as follows: -

44 Therefore, this Court held that the authorities can only take steps to determine the tax, interest, fines or any penalty which is due. However, the authority cannot enforce a claim for recovery or levy of interest on the tax due during the period of moratorium. We are of the opinion that the above ratio squarely applies to the interplay between the IBC and the Customs Act in this context.

22. We have also gone through the judgments relied on by the Applicant, i.e., Deputy Commissioner (Works Contract), Ekm Vs. National Company Law Tribunal, Kakkanad (2024 KHC Online 59), S.V. Kandekar Vs. V.M. Deshpande and another (1972(1) SCC 438), M/s. Embassy Property Developments Pvt. Ltd. Vs. The State of Karnataka and Others (2019 KHC 7197), Gujarat Urja Vikas Vs. Amit Gupta and Others (2021(7) SCC 209), Puneet Kaur Vs. K V Developers Private Limited (Company Appeal (AT) (Insolvency) No. 390 of 2022), State Tax Officer Vs Rainbow Papers Limited (2022 SCC Online SC 1162), relied by the Applicant about the statutory dues, duty of RP, rejection of the claim whether claim can



be rejected on account of delay or not, whether provisions of IBC will prevail over other acts.

23. It would be proper to observe that once the department submits a claim on Form B and after initiation of the moratorium period or during the subsistence of the moratorium period department can determine the tax, interest or penalties, but the department cannot implement or recover the same. The department would be bound by the effects and sanctity of the moratorium period. Considering all such circumstances and delay the Respondent/RP rejected the claim of the Applicant. Once the department itself, submitted a claim before the Respondent/RP, the Respondent/RP would be required to enquire about the validity of so submitted claim, and Resolution Professional would not be required or expected to act as an auditor to fish out latent violations of the provisions of the Goods and Services Act, 2017.

24. We have also gone through the judgment of the Hon'ble Supreme Court in ***State Tax Officer (1) Vs. Rainbow Papers Limited*** (Civil Appeal no. 1661 of 2020) wherein the Apex Court held as follows: -

39. The Adjudicating Authority (NCLT) and the Appellate Authority (NCLAT) have held that the claim of the State is belated. Regulation 12 of the 2016 Regulations deals with the time period for submission of a claim along with proof, as stipulated in the public announcement under Section 15



of the IBC. The time period is, however, not mandatory but only directory.

40. In the case of Vishal Saxena & Anr. v. Swami Deen Gupta Resolution Professional, the NCLT took the view that the time stipulation in Regulation 12 for submission of a claim is directory and not mandatory. Similar view was also taken by the NCLT in its judgment and order dated 10th June 2021 in Assistant Commissioner of Customs v. Mathur Sabhapathy Vishwanathan. The rejection of the claim of the State is unsustainable in law.

48. A resolution plan which does not meet the requirements of Sub Section (2) of Section 30 of the IBC, would be invalid and not binding on the Central Government, any State Government, any statutory or other authority, any financial creditor, or other creditor to whom a debt in respect of dues arising under any law for the time being in force is owed. Such a resolution plan would not bind the State when there are outstanding statutory dues of a Corporate Debtor.

52. If the Resolution Plan ignores the statutory demands payable to any State Government or a legal authority, altogether, the Adjudicating Authority is bound to reject the Resolution Plan.



57. As observed above, the State is a secured creditor under the GVAT Act. Section 3(30) of the IBC defines secured creditor to mean a creditor in favour of whom security interest is credited. Such security interest could be created by operation of law. The definition of secured creditor in the IBC does not exclude any Government or Governmental Authority.

25. We can also refer to the judgment of the Hon'ble Madras High Court in ***T.R. Rajakumari Vs. Motion Picture Producers Combine Ltd.*** (AIR 1942 Mad 349) wherein the Court held *that a creditor may come in and prove his debt any time before the final distribution of the assets. but he cannot disturb any dividend which has already been paid.*

In the case of the liquidation of a limited company, a creditor who has not filed his proof of claim within the time mentioned in the Official Liquidator 's notice for the purpose is entitled to an order from Court directing the Official Liquidator to admit the claim and pay the dividend due if he can do so without disturbing any previous dividend. Need for amendment of R.91 on the lines of S.65 of the English Bankruptcy Act pointed out.

26. It is profitable to quote Regulation 13 (1B) and (1C) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 is as follows: -



Regulation 13: Verification of claims.

13. (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.

¹[(1A) Where the interim resolution professional or the resolution professional, as the case may be, does not collate the claim after verification, he shall provide reasons for the same.

(1B) In the event that claims are received after the period specified under sub-regulation (1) of regulation 12 and up to seven days before the date of meeting of creditors for voting on the resolution plan or the initiation of liquidation, as the case may be, the interim resolution professional or resolution professional, as the case may be, shall verify all such claims and categorise them as acceptable or non-acceptable for collation.

(1C) The interim resolution professional or resolution professional, as the case may be, shall:-

(a) intimate the creditor within seven days of categorisation thereof under sub-regulation (1B) and provide reasons where such claim has been categorised as non-acceptable for collation; and

(b) put up the claims categorised as acceptable under sub-regulation (1B) and collated by him to:-



(i) the committee in its next meeting for its recommendation for inclusion in the list of creditors and its treatment in the resolution plan, if any; and

(ii) submit such claims before the Adjudicating Authority for condonation of delay and adjudication wherever applicable.]

27. Vide order dated 26.05.2025 on an application filed by the Resolution Professional as IA(IBC)/192/KOB/2025, this Adjudication Authority passed the following order: -

“This is an application filed by the Resolution Professional with the following reliefs: -

- a. Approve 46 days exclusion in the CIRP period from 16/3/2025 to 30/04/2025 in the CIRP process of Jupiter Leys Pvt Ltd.*
- b. Pass any other order or orders that this Hon'ble Tribunal may deem fit and proper in the interest of justice.*

Ld. Counsel, Mr. Vinod P V appears along with RP, Mr. Dileep K P through virtual mode.

Counsel for the applicant submitted that they have filed this application on the ground that one matter is pending before Hon'ble NCLAT, wherein the Hon'ble NCLAT has granted some interim protection in favour of the appellant therein. Applicant has also placed on record a memo for apprising this Tribunal about the stay granted by the Hon'ble NCLAT On the voting of the resolution plan.



Keeping in view of the exigencies claimed and being satisfied with the reasons stated by the Id. Counsel, the prayer for exclusion of time, ie., from 16/3/2025 to 30/04/2025 as sought for is granted.

With the aforesaid direction, this application is allowed and disposed of.”

28. So, the Resolution Plan is still under consideration with COC and as such the Regulation 13 (1B) and (1C) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 would have its own bearings on the decision taken by Resolution Professional vide which Resolution Professional opted to reject the claim of the Applicant.
29. The IBC prevails over all the other laws. During the moratorium imposed by the IBC, no legal proceedings can be carried out against the company. The said approach is balanced because the same would prevent the multiplicity of suits. Moreover, the said approach will also protect the company from unnecessary halts in the functioning, preventing losses, and the company would remain a going concern. At the same time, the IBC does not exclude the Government or Government Authorities from being secured creditors. Thus, claims such as tax dues or customs duties can be secured in nature and deserve consideration even if delayed. It is noted that the COC has not approved the Resolution Plan up to the filing of this application before this Adjudicating Authority. We also note that the claim of the Applicant was received by the Respondent on 19.08.2024, whereas the COC took



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/31/KOB/2025
IN
CP(IBC)/21/KOB/2023
In re: - M/s. Jupiter Leys Pvt. Ltd..

up the plan for discussion and voting only on 22.01.2025. Hence, there was ample time with the Respondent to take up the claim with the COC.

30. This Adjudicating Authority is bound to take care of the impartial implementation of provisions of IBC and rules framed thereunder. Therefore, we are directing the Respondent to put up the claim of the Applicant before the COC. Let COC take an appropriate decision in its own commercial wisdom.
31. Considering the foregoing findings, **IA(IBC)/31/KOB/2025 IN CP(IBC)/21/KOB/2023 is partly allowed and disposed of.**
32. The file will be consigned to record storage (current).
33. Let a copy of the order be served to the parties.

Dated this the 28th day of May, 2025.

-Sd/-

MADHU SINHA
(MEMBER TECHNICAL)

Sd/-

VINAY GOEL
(MEMBER JUDICIAL)

Rajasree R. Nair/LRA