



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH**  
**COURT-IV**

**I.A. NO. 6351 OF 2023**  
**IN**  
**C.P. IB NO 843 (ND) OF 2018**

**IN THE MATTER OF:**

**INGRAM MICRO INDIA PVT. LTD.**

**...Operational Creditor**

**Versus**

**DR. JAIN VIDEO ON WHEELS LTD.**

**... Respondent**

**AND IN THE MATTER OF:**

**PLUM SALONS PVT. LTD.**

**...Applicant**

**Versus**

**COMMITTEE OF CREDITORS, DR. JAIN VIDEO ON WHEELS LTD.**

**...Respondent No.1**

**MR. VIKRAM KUMAR,**

**Resolution Professional of Dr. Jain Video on Wheels Ltd.**

**...Respondent No.2**

**SPSS INFRASTRUCTURE PVT. LTD.**

**...Respondent No.3**

**Order Delivered on: 02.09.2025**

**CORAM:**

**SHRI MANNI SANKARIAH SHANMUGA SUNDARAM**  
**HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI**  
**HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

**For the Applicant** : Mr. Bhargav Thali, Advocate.

**For the RP** : Mr. Abhishek Anand, Mr. Karan Kohli, Ms.  
Vaishnavi, Advocates.



## **ORDER**

### **PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)**

1. The present Application is filed on behalf of Plum Salons Pvt. Ltd. under section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("Code") seeking the following reliefs:

- a. *Direct an inquiry and investigation in respect of the eligibility of the Respondent No 3 and the declarations and statements made by in the CIRP of the Corporate Debtor either through the Resolution Professional or appointment of an independent committee/forensic auditor/SFIO;*
- b. *Direct the Respondents to place on record before this Hon'ble Tribunal all records, including net-worth certificates of the Respondent No 3, reports prepared under S 29A of the IBC, 2016, minutes of the COC meetings pertaining to the financial eligibility and compliance of the Respondent No 3 under S 29A, IBC, 2016;*
- c. *Declare the Respondent No 3 to be ineligible to submit a Resolution Plan, and consequently reject the Resolution Plan of the Respondent No 3;*
- d. *Direct the CoC/Respondent No 1 to reconsider the Resolution Plan of the Applicant;*
- e. *In the interim, stay proceedings pertaining to the acceptance of the Resolution Plan of the Respondent No 3 during the pendency of the present Application;*
- f. *Pass ad-interim, including ad-interim ex-parte reliefs in terms of the above; and*
- g. *Pass any other/further order(s) as this Hon'ble Adjudicating Authority may deem fit and proper to secure the ends of justice.*

### **2. SUBMISSIONS OF THE APPLICANT:**

- i. The Corporate Insolvency Resolution Process of the Corporate Debtor commenced pursuant to the Order dated 03.06.2021 passed by this Hon'ble Tribunal in a Section 9 Application filed by Micro Ingram India Pvt. Ltd being CP (IB) No 843/ND/2018.



- ii.** Pursuant to the commencement of the CIRP of the Corporate Debtor, the Respondent No 2 came to be appointed as the Resolution Professional of the Corporate Debtor. The appointment of the Resolution Professional was confirmed by this Adjudicating Authority vide order dated 13.08.2021.
- iii.** Initially, pursuant to a Form G published by the Respondent No 2 in September 2021, the Applicant herein submitted its Resolution Plan, which came to be rejected by the Respondent No 1 on 01.04.2022, and the Respondent No. 1 voted in favour of liquidation of the Corporate Debtor.
- iv.** However, pursuant to an Application being IA No 2185/2022 filed by the Applicant herein, this Adjudicating Authority, vide Order dated 15.05.2023, directed the Respondent No. 2 to reconsider the Resolution Plan of the Applicant and also issue a fresh Form G for invitation of fresh Resolution Plans in respect of the Corporate Debtor.
- v.** On 14.06.2023, the Respondent No 2 published a fresh Form G in the Business Standard (Hindi and English Edition) New Delhi. Simultaneously, the Respondent No 2 also issued a Request for Resolution Plans (RFRP) dated 16.06.2023, setting out therein the parameters for participation by prospective Resolution Applicants. Clause 1.9.3 of the said RFRP mandates that only a body corporate (i.e. company) having a minimum net worth of Rs. 3 Crores and above for the Financial Year ending 31.03.2023 would be considered eligible to submit a Resolution Plan in respect of the Corporate Debtor. As such, it is clear that any company, which did not meet such eligibility criteria could not and would not have qualified to submit its Resolution Plan in the CIRP of the Corporate Debtor.
- vi.** Pursuant to the Form G dated 14.06.2023 and the RFRP dated 16.03.2023, the Applicant herein (being qualified to participate) submitted its Resolution Plan on 10.08.2023. Along with the Applicant, the Respondent No 3 and one Subhlaxmi Investment Advisory Pvt. Ltd. (Subhlaxmi) also submitted their respective Resolution Plans with the Respondent No 2 around the same time. It is a matter of record that pursuant to requests and suggestions by the Respondent No 1, the Applicant herein has revised its Resolution Plans on several occasions.



- vii.** Sometime in the beginning of September 2023, the Punjab National Bank (being lead members of the Respondent No 1- CoC), requested the Respondent No 2 to adopt an inter-se challenge method between the Resolution Applicants so as to presumable derive maximum value for the Corporate Debtor. The Applicant, along with the Respondent No 3 participated in the said inter-se challenge method. Accordingly, thereafter, the Applicant herein submitted its revised Resolution Plan in terms of the outcome of the said inter-se challenge, and remained under the belief that it has submitted the most competitive Resolution Plan. The Respondent No 3 also submitted its revised Resolution Plan with the Respondent No 2.
- viii.** The said plans were put to e-voting before the Respondent No 1 sometime towards the end of September 2023, and the Applicant thereafter awaited the outcome of such e-voting remaining under the belief that it was the highest/H-1 bidder in the process. The results of the voting were shared with the Applicant only after about a month of the voting, and only pursuant to repeated requests from the Applicant.
- ix.** While things stood thus, the Applicant herein received documents from an anonymous/unknown source which purport to suggest that the Respondent No 3 did not meet the minimum financial eligibility criteria to participate in the process and the Respondent No 3 is a benami company, with the real identity of its actual promoter being hidden. The said package contained documents which inter alia purport to be bank statements of the Respondent No 3 and the ITR statements of the alleged Promoter of the Respondent No 3. A perusal thereof would show the following:
- a. The bank statements show the entire capital structure of the Respondent No 3 is bogus which has been generated and increased by rerouting and laundering of monies through repeated cyclical bank transactions in the period between 12.06.2023 and 14.06.2023, i.e. immediately preceding the issuance of the Form G on 14.06.2023. A sum of Rs. 2 Crores appears to have been cycled between the Respondent No 3, the purported Promoter, and some third party about 10 times, between 12.06.2023 and 14.06.2023; and



- b. The ITR of the purported promoter of the Respondent No 3 for the last FY, whereunder it is clear that his declared income of Rs. 4.90 Lacs is not commensurate with his purported investment in the Respondent No 3.
- x.** Having been shocked upon a perusal of the said documents, yet being unsure, the Applicant conducted an inspection of the documents of the Respondent No 3 as available with the ROC. Upon perusal of the same, the following facts emerged:
- a.** The Respondent No 3 was only incorporated on 14.03.2023.
  - b.** A Form INC-20A and bank statement (of ICICI Bank) attached therewith, shows that the initial paid-up capital of Rs. 1,00,000/- (Rupees One Lacs) was paid-up into the bank account of the Respondent No 3 only on 12.06.2023. As such, it appears that between 14.03.2023 and 12.06.2023, the Respondent No 3 did not have any paid-up capital in the company with its bank account only having a sum of Rs. 40,000/- until such date.
  - c.** Furthermore, from a Form MGT-14 and a Form SH-7 (filed on 13.06.2023), and a notice attached therewith, it appears that it only on 22.05.2023, was the authorised capital of the Respondent No 3 was purported to be increased to Rs. 20 Crores.
  - d.** On 21.06.2023, the Respondent No 3 uploaded a Form PAS-3 whereby it appears that the paid-up capital of the Respondent No 3 was increased to Rs. 20 Crores pursuant to allotment of shares worth Rs. 19,99,00,000/- on a rights basis between the promoters. Coincidentally, the allotment of shares and increase in the share capital of the Respondent No 3 took place immediately pursuant to the multiple cyclical bank transactions of Rs. 2 Crores each between the Respondent No 3, its promoter and a third entity in the period between 12.06.2023 and 14.06.2023.
  - e.** The Applicant issued a Notice dated 15.11.2023 (through counsel) to the Respondent Nos 1-2, bringing the above-mentioned information to their notice, and requested them to look into the matter so as to avoid any derailment of the CIRP of the Corporate Debtor.



- f.** Despite the above being brought to the notice of the Respondent Nos 1-2, no action has been taken by them to inquire into the bona fides and eligibility of the Respondent No 3. Instead, the Respondents are choosing to ignore the serious apprehensions against the Respondent No 3 and have taken steps to seek approval of its Resolution Plan before this Hon'ble Tribunal.
- g.** It is evident from the above that the Respondent No 3, prima facie, appears to have participated in the CIRP of the Corporate Debtor on the basis of fraudulent and false declarations and statements. The facts set out above would show that the Respondent No 3 was not eligible in terms of the RFRP dated 16.06.2023, and that given the benami nature of its ownership, any due diligence conducted in respect of Section 29A of the IBC, 2016 also cannot be deemed to be correct. It would be evident that the benami owner has put up a front only to get over the rigours of Section 29A and consequently participate in the CIRP with extraneous and mala fide motives. As such, the participation of the Respondent No 3 in the CIRP of the Corporate Debtor, and its Resolution Plan are both non-est, and further render the Respondent No 3 to consequences under law.
- h.** It is further submitted that acceptance/ allowance of resolution plans of parties who actively attempt to mislead the CoC, Resolution Professional and this Hon'ble Tribunal must not and ought not to be permitted. The same is in gross contravention of the IBC, 2016 and its spirit. In the event such parties are permitted to participate in CIRPs and are rewarded with acceptance of resolution plans, the same would hamper the very purpose of the IBC, 2016, viz. a meaningful resolution of insolvent corporations for the benefit of its stakeholders.
- i.** The conduct of the Respondent No 3 in the instant process is deliberately aimed at defeating the objective of the IBC, 2016, and make unlawful gains at the cost and detriment to all stakeholders of the Corporate Debtor. It is submitted that the Applicant herein is also gravely prejudiced. It is the Applicant whose Resolution Plan stands prejudiced as a result of



the wrongful acceptance of the Resolution Plan of the Respondent No 3 on the basis of false declaration.

- j. It is further evident that the Respondent Nos 1-2, despite being in receipt of the such information, remain unfettered in attempting to further reward the malicious intent of the Respondent No 3. As such, the Applicant is constrained to file the instant Application.

xi. To buttress its arguments, the Applicant relied on the following cases:

- a. M.K. Rajagopalan v. Dr Periasamy Palani Gounder, (2024) 1 SCC 42.
- b. Kalyani Transco v Bhushan Power and Steel Ltd. & Ors, 2025 INSC 621.
- c. Rare Asset Reconstruction V. Mr. Subrata M Maity, I.A. (IBC)/105(CHE)/2021 in IBA/307/2019 before the Hon'ble NCLT, Chennai dt. 29.03.2022.
- d. Innoventive Industries v. ICIC Bank, (2018) 1 SCC 407.
- e. PRIO S.A. v Mr. Pravin R. Navandar, CA AT (INS.) No. 1650 of 2023 before the Hon'ble NCLAT, Delhi.
- f. Bipin Sharma v. Earth Infrastructure Ltd., CA AT (INS.) No. 1112 of 2020 before the Hon'ble NCLAT, Chennai dt. 27.04.2022.

### **3. SUBMISSIONS OF THE RESPONDENT NO. 2:**

- i. The 16<sup>th</sup> meeting of the CoC was convened by the Respondent No.2 on 16.06.2023, wherein, various matters were discussed by the Answering Respondent pertaining to approval of eligibility criteria for PRA's, approval of evaluation matrix, etc. Further, the Respondent No. 2 informed the members of the CoC with respect to Request for Resolution Plan ("RFRP") which is to be issued to the PRA's.
- ii. The 17<sup>th</sup> meeting of the CoC was convened by the Answering Respondent on 18.08.2023, wherein, the Answering Respondent intimated the members of CoC that 3 (three) Resolution Plans were received by the Answering Respondent:
  - Plum Salons Private Limited
  - SPSS Infrastructure Private Limited
  - Subhlaxmi Investment Advisory Private Limited



- iii. The 19<sup>th</sup> meeting of CoC was convened by the Answering Respondent on 28.08.2023 wherein, the Resolution Plan submitted by the PRA's were placed before the CoC for its approval and the said Resolution Plan were kept open for voting from 30.08.2023 to 08.09.2023.
- iv. The Resolution Plans as received from the PRAS were put to voting on the 21<sup>st</sup> meeting of the CoC as convened by the Answering Respondent on 06.09.2023. That the e-voting commenced on 06.09.2023 and ended on 10.10.2023. The members of the CoC unanimously approved the Resolution Plan submitted by SPSS Infrastructure Pvt. Ltd.
- v. It is submitted that the Appellant has no locus standi to seek the reliefs as sought in the present appeal. The Applicant submitted a resolution plan which was duly evaluated and analysed by the Committee of Creditors and the same was rejected by the Committee of Creditors, which is a commercial decision of the CoC and therefore, the Appellant has no locus standi to challenge the commercial decision of the Committee of Creditors. Reliance was placed on ***Shrawan Kumar Agrawal Consortium v Rituraj Steel Pvt Ltd, Company Appeal (AT) (INS) No. 1490 of 2019, IMR Metallurgical Resources AG V. Ferro Alloys Corporation Limited & Ors, Company Appeal (AT) (Insolvency) No. 272 of 2020, M.K. Rajagopalan v S. Rajendran & Ors, Company Appeal (AT) (CH) (INS) No. 58 of 2023.***
- vi. The Applicant being unsuccessful resolution applicant cannot challenge the commercial wisdom of the CoC as it is paramount with limited judicial intervention.
- vii. Reliance was placed on ***Arun Kumar Jagatramka Vs. Jindal Steel and Power Limited and Another, (2021) 7 SCC 474, Vallal RCK Vs. M/s Siva Industries and Holdings Limited and Others, Civil Appeal No. 1811-1812 of 2022, of IMR Metallurgical Resources AG Vs. Ferro Alloys Corporation Limited and Ors., C.A. (AT) (INS) No. 272 of 2020, Rajesh Kumar & Ors. Vs. Rabindra Kumar Mintri & Anr., C.A.(AT) (INS) No. 1489 of 2022, Committee of Creditors of Essar Steel India Limited Through Authorised Signatory v. Satish Kumar Gupta & Others, [2019 SCC Online SC 1478], Kalpraj Dharamshi & Anr. v. Kotak Investment***





***Advisors Ltd. & Anr., Civil Appeal Nos. 2943-2944 of 2020, Arun Mittal & Anr. v. Narmada Cereals Pvt. Ltd. & Ors., Company Appeal (AT) (Ins) No. 161 of 2022, K. Sashidhar v Indian Overseas Bank & Ors, Civil Appeal No. 10673 of 2018.***

- viii.** In view thereof, it is quite clear that the Applicant by way of the present Application is indirectly trying to raise the issue of Respondent No. 3 being barred under Section 29A of the Code by stating frivolous and ambiguous averments. It is further submitted that an undertaking qua eligibility of Respondent No. 3 on affidavit under Section 29A of the Code has also been filed after thorough check and consideration by the Answering Respondent herein.
- ix.** The Applicant has raised the following contentions in its application, which are neither maintainable nor the same holds any ground qua the objections raised by the Applicant: -

S.NO.	OBJECTION	SUBMISSION
1	Capital Structure of Respondent No.3 is bogus as the same has been generated and increased by rerouting and laundering of monies through repeated cyclical bank transactions	The Applicant has neither stated any ineligibility or disqualification of any of the provisions of the Code qua the Resolution Applicant. However, merely on apprehensions, without there being a judicial order passed any Court or Tribunal to declare that the Capital Structure of Resolution Applicant is bogus as the same has been generated and increased by rerouting and laundering of monies through repeated cyclical bank transactions has alleged the same. In the



		absence of any <b>order</b> by any Court of Law declaring the same, the objection raised by the Applicant is clearly misconceived and contrary to the provisions of the Code. Even otherwise, the issue that eligibility is to be tested on the date of submission of plan is not <i>res integra</i> .
2	ITR of promoter of Respondent No.3 for the last F.Y. has declared income of Rs. 4.90 lacs do not commensurate with the purported investment in Respondent No.3	That the contention of the Applicant to consider the ITR of the promoter of Respondent No.3 is clearly misconceived as the Resolution Applicant is a separate legal entity being SPSS Infrastructure Pvt Ltd and the promoter of Respondent No.3 is not the Resolution Applicant. Thus, the ITR of the promoter of Respondent No.3 has no bearing in so far as eligibility criteria is concerned or for the purposes of evaluating the sources of funds by the Committee of Creditors.
3	No paid-up capital between 14.03.2023 and 12.06.2023. Paid up Capital increased on Rs. 20 crores and consequential allotment of Shares	That the contention of the Applicant is further misconceived. As per the Hon'ble Supreme Court the eligibility is to be checked as on the date of submissions of resolution plan. Further, the Committee of Creditors in its commercial wisdom has approved the resolution plan.

- x. Respondent No.3 was incorporated on 14.03.2023 and therefore, as per Section 3(2) of the Income Tax Act it will be deemed that the said Assessee will have no previous year for the said assessment year and thus the same would not apply to Respondent No.3. Accordingly, the Respondent No.3 submitted its net-worth Certificate duly certifying the net-worth criteria as on 15.06.2023. Therefore, the contention of the Applicant is not only misconceived but the same is contrary to the position of law.



- xi.** Even otherwise, without prejudice to the above, it is submitted that the Hon'ble Supreme Court has settled the position of law that eligibility of a Resolution Applicant is required to be seen and considered at the time of submission of resolution plan.
- xii.** Reliance was placed on ***Hari Babu Thota, Civil Appeal No. 4422/2023, Arcelormittal India Private Limited Vs. Satish Kumar Gupta & Ors., (2019) 2 SCC 1.***
- xiii.** Admittedly, the Applicant was a Prospective Resolution Applicant and was granted an opportunity in terms of Regulation 36A(11) of IBBI (CIRP) Regulations, 2016 whereby the Applicant could have objected to the inclusion of SPSS Infrastructure Pvt Ltd in the Provisional List within a period of 5 days. However, admittedly, no objection was ever raised by the Applicant at the relevant period of time. It is submitted that the Provisional List was circulated on 08.07.2023 and the period to raise any objection expired 13.07.2023. Admittedly, no objection was ever raised by the Applicant at the relevant period of time. Reliance was placed on ***IDBI Trusteeship Ltd. v. Reliance Broadcast Network Ltd., CP(IB) No. 310 of 2022*** and ***Singh Raj Singh v. SRS Meditech Ltd. & Ors., Company Appeal (AT) (Insolvency) No. 522 of 2020.***
- xiv.** It is only for the first time, the Applicant raised the alleged and frivolous contentions on 15.11.2023 i.e. after the resolution plan of SPSS Infrastructure Pvt Ltd was approved by the Committee of Creditors and the resolution plan of the Applicant was rejected.
- xv.** The CoC already approved resolution plan and the same is pending approval before the Adjudicating Authority. Reliance was placed on ***Shrawan Kumar Agrawal Consortium v. Rituraj Steel Private Limited in Company Appeal (AT)(Ins) No 1490 of 2010.***
- xvi.** It has been held in a catena of judgments including the latest judgment of the Hon'ble Supreme Court in the matter of ***Ebix Singapore Private Limited versus Committee of Creditors of Educomp Solutions Limited & Anr. in Civil Appeal No. 3224/2020***, that time is of essence of the Insolvency and



Bankruptcy Code, 2016 and that CIRP process must be completed within the timelines provided in the code and underlying Regulations.

**xvii.** It is submitted that in fact the CoC in its 19<sup>th</sup> CoC meeting convened on 29.08.2023 considered the net worth of all the three PRA's wherein it was also discussed that while the net worth of Applicant is only Rs. 350.64 Lacs, however, the financial value of Resolution Plan of the Applicant is Rs. 982 Lacs. The CoC whilst approving the Resolution Plan of Respondent No. 3 took note of all the aspects of all the three Resolutions Plans and ultimately in its commercial *wisdom approved the Resolution Plan of Respondent No. 3.*

**4. SUBMISSIONS OF RESPONDENT NO. 3:**

- i.** The Resolution Plan submitted by the Successful Resolution Applicant (SRA)- Respondent No. 3 herein has been accepted by 100 % voting of the Committee of Creditors (CoC). It is a settled preposition of law that the Adjudicating Authority cannot under judicial review trespass upon a business decision of the majority of the Committee of Creditors. The CoC in its wisdom by taking all relevant factors into account with respect to the plans submitted by the Resolution Applicants have arrived at its commercial decision that the answering respondent would be in a better position to pay off the creditors of the Corporate Debtor and also will maximize the value of the assets of the corporate debtor. The law is well settled in this regard. As such, the applicant herein cannot seek to mark upon an enquiry by this Hon'ble Court into the commercial decision of the 100% of the COC. It is for the COC to decide as to which of the Resolution Applicant would be in a better position to pay of the creditors in a time bound and effective manner. Therefore, the application filed by the Unsuccessful Resolution Applicant deserves an outright dismissal on this legal ground itself.
- ii.** The eligibility criteria provided in the detailed expression of interest issued by the Resolution Professional (RP) did not provide any specific date and only mentioned the term “immediately preceding financial year”, contradictory to what the applicant has been alleging in this IA that the Net Worth should be as on 31-03-2023.



- iii.** The Applicant is harping upon the condition of having a minimum of 3 crores and above in the immediately preceding financial year. In this regard it is submitted that the SRA-Company was incorporated on 14.03.2023 as a new company, as such the said condition was 'preceding financial year' would not apply in case of the company which has been incorporated for the first time on 14.03.2023 i.e. just 16 days before 31.03.2023. Further, the net worth of SRA has been certified by the Chartered Accountant vide certificate dated 15.06.2023 as 19.80 crores and as per certificate dated 05.09.2023, it is 19.76 crores in comparison to the net worth of Unsuccessful Resolution Applicant, Applicant herein of just 3.5 crores. Further, the Applicant has conveniently referred to the condition of minimum net worth before this Adjudicating Authority, but has not referred to Clause B of the Expression of Interest (EOI) wherein the COC and RP has been provided with the power upon consideration of the entire facts and circumstances to waive off a particular condition in their best discretion and wisdom. The entire state of facts was available before the COC in the form of all requisite documents of the SRA and as such in its true wisdom, the COC by 100% majority has approved the Resolution Plan submitted by the SRA-Respondent No. 3.
- iv.** Even if the net worth as on 31.03.2023 is required to be considered in case of the SRA-respondent no.3, the last date for submission of Expression of Interest (EOI) as per FORM G dated 13.06.2023 was 03.07.2023 and the last date for filing objections was 08.07.2023. The said Resolution Plans were considered and approved by the COC in its 17<sup>th</sup> and 18<sup>th</sup> Meeting held on 18.08.2023 and 22.08.2023. As such, on the date of consideration by the COC, the SRA was meeting the net worth condition, as is clear on perusal of the certificates granted by the CA. The law is well settled in this regard. As such, the wisdom of the COC in ascertaining a commercial decision as to which of the Resolution Applicants would serve their interests in a better way cannot be questioned in a court of law and that too by an Unsuccessful Resolution Applicant. Therefore, the Application deserves to be dismissed on this score as well.



- v. The Applicant has further referred to various banking transactions of the promoter of the SRA-Respondent No. 3. In this regard it is submitted that such banking transactions cannot under any law of land can be made a ground to set aside a commercial wisdom of the COC, who by 100% vote have accepted the Resolution Plan submitted by the SRA-Respondent No. 3. The Applicant cannot by invoking the provisions of Section 60 (5) of the IBC, 2016 seek directions from this Hon'ble Court to set aside a commercial wisdom of the COC, who by 100% vote have considered and decided that the SRA-Respondent No. 3 would be most suitable to pay off the creditors of the Corporate Debtor. Such a direction sought by the Applicant is unknown to law, as such, the application filed by the applicant deserves to be dismissed.

#### **5. ANALYSIS AND FINDINGS:**

- i. We have heard the submissions made by the learned counsel for both the Applicant and the Respondents and have perused the documents placed on record.
- ii. The present Application has been filed by *Plum Salons Pvt. Ltd.*, an unsuccessful Resolution Applicant, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking, inter alia, inquiry into the eligibility of Respondent No. 3 – *SPSS Infrastructure Pvt. Ltd.*, a declaration of its ineligibility under Section 29A, rejection of its Resolution Plan, and reconsideration of the Applicant's own plan.
- iii. The Applicant contends that Respondent No. 3 was incorporated only in March 2023 and did not meet the eligibility criteria of minimum net worth of ₹3 crores as stipulated in the RFRP dated 16.06.2023. According to the Applicant, Respondent No. 3 inflated its share capital through circular banking transactions immediately prior to issuance of Form G. The Applicant submits that such acts were fraudulent and designed to circumvent Section 29A of the Code. It is argued that despite bringing these facts to the notice of the CoC and Resolution Professional, no inquiry was undertaken, and instead the CoC has proceeded to approve the plan of Respondent No. 3, thereby prejudicing the Applicant's plan.



- iv.** The Resolution Professional (Respondent No. 2) and Respondent No. 3 have opposed the application. It is submitted that three Resolution Plans were duly received and placed before the CoC, which after deliberation approved the plan of Respondent No. 3 by 100% voting share. The eligibility of Respondent No. 3 was considered by the CoC on the basis of documents and net worth certificates. It is further submitted that the Applicant, being an unsuccessful Resolution Applicant, has no locus standi to challenge the commercial wisdom of the CoC. Reliance is placed on several decisions of the Hon'ble Supreme Court and NCLAT to contend that judicial review cannot extend to questioning the merits of a commercial decision taken by the CoC. Respondent No. 3 additionally submits that its net worth stood at ₹19.80 crores as certified by a Chartered Accountant, which was considered by the CoC, and that the Applicant's allegations are misconceived and belated.
- v.** It is not in dispute that the Resolution Plan submitted by Respondent No. 3 has been approved by the CoC with 100% voting share, whereas the plan of the present Applicant did not find favour. It is now well settled through a catena of judgments including **K. Sashidhar v. Indian Overseas Bank [(2019) 12 SCC 150]**, **Committee of Creditors of Essar Steel v. Satish Kumar Gupta [(2019) SCC Online SC 1478]**, **Vallal RCK v. Siva Industries [(2022) 8 SCC 664]** that the commercial wisdom of the CoC is paramount and the Adjudicating Authority cannot sit in appeal over such decision, save and except on limited grounds provided in Section 30(2) of the Code.
- vi.** The above-quoted judgements make it clear that the "Commercial wisdom of CoC" is to be given paramount status. This Adjudicating Authority is not endowed with the powers of jurisdiction or authority to analyse or evaluate the commercial decision of the CoC.
- vii.** In the present case, the objections sought to be raised by the Applicant pertain to alleged financial ineligibility of Respondent No. 3 and supposed irregularities in its funding structure. These contentions were neither raised at the appropriate stage in terms of Regulation 36A(11) of the CIRP Regulations. The CoC, being fully aware of the documents and net worth certificates, deliberated



upon all plans and, in its commercial wisdom, chose to approve the plan of Respondent No. 3 unanimously.

- viii.** Further, the Applicant, being an unsuccessful Resolution Applicant, cannot claim any vested right to have its plan reconsidered. The settled position of law is that an unsuccessful Resolution Applicant has no locus to challenge the decision of the CoC once its plan has been rejected. Entertaining such belated challenges would derail the time-bound nature of the CIRP and run contrary to the very objective of the Code. This is rooted in the principle that CIRP must remain efficient and insulated from unwarranted challenges, ensuring the timely resolution of corporate insolvencies.
- ix.** Insofar as the judgments relied upon by the Applicant are concerned, the same are distinguishable on facts and do not advance the case of the Applicant in the present matter.
- x.** Accordingly, we find no merit in the present application.
- xi.** In view of the aforesaid facts and circumstances, especially that the Appellant do not have any locus standi to maintain the application bearing **I.A No. 6351 of 2023**, the Application stands **dismissed**.

No order as to costs.

-SD/-

**ATUL CHATURVEDI**  
**MEMBER (TECHNICAL)**

-SD/-

**MANNI SANKARIAH SHANMUGA SUNDARAM**  
**MEMBER (JUDICIAL)**