



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI, COURT - IV

I.A. (IB) NO. 1112 OF 2025

IN

C.P. (IB) NO. 40/MB/2022

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

In the matter of:

Jubin Kishore Thakkar

...Applicant

V/s.

Ashutosh Agarwala

(RP of Colour Roof (India) Ltd.)

...Respondent No. 1

Phoenix ARC Pvt. Ltd.

(CoC of Colour Roof (India) Ltd.)

...Respondent No. 2

In the matter of

Phoenix ARC Private Limited

...Financial Creditor

V/s.

Colour Roof (India) Limited

...Corporate Debtor

Pronounced: 17.09.2025

CORAM:

SHRI ANIL RAJ CHELLAN

HON'BLE MEMBER (TECHNICAL)

SHRI K. R. SAJI KUMAR

HON'BLE MEMBER (JUDICIAL)

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Appearances: Hybrid

For Applicant : Adv. Sanaya Patel i/b Indus Law.

For Respondent No. 1 : Adv. Pulkitesh Dutt Tiwari a/w Adv. Anjana Vijay i/b Menon and Mankava.

For Respondent No. 2 : Adv. Manaswi Agarwal.

ORDER

[PER: K. R. SAJI KUMAR, MEMBER (JUDICIAL)]

1. BACKGROUND

1.1 This IA is filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (IBC/Code), read with Rule 11 of the National Company Law Tribunal Rules, 2016, by Mr. Jubin Kishore Thakkar, erstwhile promoter of Color Roof (India) Limited, the Corporate Debtor (CD) herein, seeking direction to stay the Corporate Insolvency Resolution Process (CIRP) of the CD. The main prayer of the Applicant is that, the Committee of Creditors (CoC) of the CD is to be directed not to take any decision in the present CIRP or stay the CIRP, pending outcome of I.A. No. 59/2025 in CP No. 881/2023, being adjudicated by Court-III of this Tribunal.

1.2 In I.A. No. 59/2025 in CP No. 881/2023, CIRP of KLT Automotive and Tubular Products Limited (KLT) is under consideration of Court-III, and the present Applicant has made a prayer in that I.A, to remove the Resolution Professional (RP), Mr. Ashutosh Agarwala, who is Respondent No.1 herein. KLT is a group company of the present CD. Mr. Ashutosh Agarwala is the RP in both the CIRPs of KLT and of the CD herein. The allegation is that Mr. Ashutosh Agarwala has partly admitted claim submitted by KLT, in Form B, in the CIRP of CD herein, and admitted certain claim as contingent claim, and has not acted in good faith and in the best interests of KLT. Thus, the RP in the CIRP of KLT is not in a



position to challenge his own decision of partly admitting and admitting contingent claim of KLT in the CIRP of the CD herein.

1.3 The contention of the Applicant is that, if I.A. No. 59/2025 is allowed by Court-III, the RP of KLT, Mr. Agarwala (Respondent No.1 herein), would be replaced, and then, another RP would be able to take appropriate steps to challenge the decision of Mr. Agarwala (Respondent No.1 herein), in the CIRP of KLT. According to the Applicant, partly admitted claim and categorisation of contingent claim have resulted in value destruction of KLT, because the RP did not pursue the rejection of KLT's claim in the CIRP of the CD.

1.4 The present CD was admitted into CIRP by order dated 24.02.2023, passed by this Tribunal in CP (IB) No. 40 of 2022, in an application by Phoenix ARC Pvt. Ltd., Respondent No.2 herein. The Respondent No. 1 (Mr. Ashutosh Agarwala) was appointed as the RP. Phoenix ARC Pvt. Ltd., is the sole member of the CoC of the CD.

2. SUBMISSIONS OF APPLICANT

2.1 The Applicant is the erstwhile promoter of both the CD herein and KLT, a group entity, which is also presently undergoing CIRP before Court-III of this Tribunal. Pursuant to the public announcement and invitation of claims, KLT also submitted claim of Rs.12,69,19,52,745/- on 13.05.2023, in Form B. However, out of this amount, the Respondent No.1/RP admitted only a nominal claim of Rs. 1/- but rejected Rs.12,12,66,01,993/-, and categorised Rs. 56,53,50,750/- as contingent claim.

2.2 The Applicant contends that a significant portion of the above claim is reflected in the books of both the CD herein and KLT for the financial year 2021–2022. KLT was also admitted into CIRP on 26.09.2024, and Respondent No.1/RP was appointed as the RP of KLT. The Applicant submits that such dual role as RP of the CD herein, and of RP of KLT, gives rise to direct conflict of interest, as Respondent No.1/RP had rejected KLT's claim in the CIRP of the CD. The

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Applicant addressed email dated 21.10.2024 to Respondent No.1/RP and the CoC of KLT, pointing out the conflict and also suggesting appointment of a different resolution professional in the interest of all stakeholders.

2.3 Consequently, on 28.10.2024, Union Bank of India (member of KLT's CoC) sought clarification from Respondent No.1/RP. He responded by email, the same day, stating that his appointment was in compliance with the provisions of IBC, as he is not a related party and has not previously worked for either entity. The Applicant, however, by email dated 05.11.2024, reiterated the concern regarding conflict of interest of Respondent No.1/RP in adjudicating inter-company claims.

2.4 The Applicant states that Respondent No.1/RP, given his apparent conflict of interest in his role as RP for both the group companies and his failure to disclose the same to this Tribunal, has violated Paragraphs 1, 3, and 3A of the Code of Conduct for Insolvency Professionals under Regulation 7(2)(h) of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (IP Regulations).

2.5 Accordingly, the Applicant filed IA No. 59/2025 in CP No. 881/2023, now pending before Court-III of this Tribunal, against Mr. Ashutosh Agarwala, seeking his removal as the RP of KLT, on the ground of conflict of interest. The Applicant further states that a common RP ought not have been appointed, since there are competing claims between the two group companies. Hence, the present I.A. has been filed seeking, *inter alia*, stay of the CIRP of the CD herein until IA No. 59/2025 in CP No. 881/2023 is adjudicated by Court-III.

3. CONTENTIONS OF RESPONDENT NO.1/RP

3.1 The RP in his Affidavit-in-Reply submitted that the present I.A. is misconceived, vexatious, and intended solely to delay the CIRP of the CD. The Applicant is challenging Respondent No.1's appointment as RP through multiple applications on the same ground.

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- 3.2 This Tribunal admitted the C.P.(IB) No. 40/(MB)/2022 and appointed Mr. Hemant Kumar Shah as the IRP of the CD, *vide* order dated 24.02.2023. The IRP called for claims to be submitted by the creditors. In response, the Applicant, on behalf of KLT, submitted claim of Rs.12,69,19,52,744/- After perusing the claim, the IRP requested KLT to submit documents for substantiation of the claim. The Applicant gave undertaking to the IRP that he would provide the necessary documents as requested, *vide* email dated 30.05.2023. Despite this, the Applicant did not provide any document or submit the claim with proof.
- 3.3 Since Mr. Hemant Kumar Shah withdrew himself as IRP of the CD on personal grounds on 12.06.2023, this Tribunal accepted his withdrawal, *vide* order dated 30.06.2023. The Respondent No. 1 was then appointed as the new IRP of the CD, and later, by order dated 21.02.2024, he was confirmed as RP of the CD.
- 3.4 The RP took over the management and affairs of the CD. The RP intimated the Applicant, by email dated 27.11.2023, as regards his appointment and also requested the Applicant to provide clarification and proof regarding the claim, in addition to the information/clarification already sought by the erstwhile IRP. However, the Applicant failed to respond to the Respondent No.1's request to provide sufficient proof of his claim. Thereafter, the RP once again requested the Applicant to furnish the information/clarification within 7 days, by his email dated 02.04.2024. The Applicant was also informed that, in the absence of any response, verification and finalisation of the claim would be undertaken, based on the available information. However, despite receiving multiple opportunities, the Applicant failed to provide any documentary evidence supporting the claim. It was further informed that the claim would be revised in case any additional information is provided by the Applicant. However, the Applicant has not submitted sufficient evidence to substantiate the claim of KLT.
- 3.5 Multiple applications have been filed by the Applicant before Court-III and before this Court, on the same grounds, and such repetitive litigation is causing



unnecessary delay to the CIRP of the CD. As the CIRP of the CD is now at an advanced stage, any more delay would further prejudice the interests of all stakeholders.

3.6 The Respondent No.1/RP Submits that, to the query as to conflict of interest raised by the CoC of KLT and the Union Bank of India, he provided sufficient clarification by email dated 28.10.2024. Since his appointment did not involve any conflict of interest, the CoC of KLT unanimously approved his continuation as RP. The RP submits that KLT was not admitted to CIRP at the time of verifying KLT's claim in the present CIRP. The matters are, therefore, distinct and not overlapping. Hence, this I.A. only deserves to be dismissed.

4. CONTENTIONS OF RESPONDENT NO.2/CoC

4.1 It is submitted that the Applicant does not have *locus standi* or cause of action to seek any relief as prayed for. The promoters of the CD filed Company Appeal (AT) (Insolvency) No. 273/2023 before the Hon'ble NCLAT, against the admission of the CD into CIRP. A stay on the constitution of the CoC was ordered on 03.03.2023 but was later vacated on 22.12.2023, while dismissing the Appeal. During the pendency of the Appeal, Respondent No. 1 was appointed as IRP by order dated 30.06.2023 by the Adjudicating Authority, and later he was confirmed as RP of the CD, by order dated 21.02.2024.

4.2 Meanwhile, the group company, KLT was admitted into CIRP on 26.09.2024. The present Applicant, representing KLT, submitted claim to the RP at a belated stage. The Respondent No. 1/RP herein, partly rejected the claim submitted by KLT, and partly admitted contingent claim, by e-mail dated 19.04.2024. Between 19.04.2024, i.e., the date of rejection of claim in part, and 26.09.2024, i.e., the date of commencement of CIRP of KLT, the Applicant was in management of KLT. However, he did not choose to challenge the decision of Respondent No.1/RP. Further, KLT also failed to substantiate certain claim, which resulted in admitting the same as contingent claim. It was only after commencement of CIRP of KLT on 26.09.2024, that on 15.12.2024,



I.A. No. 59/2025 was filed by the Applicant in C.P. No. 881/2023, now pending before Court-III. That I.A. was filed, on the ground of conflict of interest of Respondent No. 1/RP to act as RP of the CD as well as RP of KLT. The Applicant has not taken any steps to expedite hearing of I.A. No. 59/2025 but deliberately delayed hearings. The Respondent No.1/RP was confirmed as RP of KLT in the first meeting of CoC itself on 22.10.2024, with 100% voting share. Filing I.A. No. 59/2025 in C.P. No. 881/2023 before Court-III, and filing the present I.A. before this Court are nothing but ploy to hinder CIRP of the present CD and that of KLT.

- 4.3 The Applicant has not alleged violation of any law committed by Respondent No.1/RP. Further, Respondent No.1/RP has not violated any code of conduct specified by the IBBI, affecting his eligibility or suitability to act as RP in both the CIRPs of the present CD and KLT. The Applicant does not have *locus* to challenge a decision taken by the CoC to appoint Respondent No. 1 as the RP of the CD and that of KLT. His appointments in both the CIRPs have been confirmed by both the respective Courts. There is no law barring Respondent No.1/RP from acting as RP of group companies. Rather, it would only aid in successful culmination of CIRP of both the CD herein and KLT. Hence, this I.A, being frivolous, is to be dismissed.

5. ANALYSIS AND FINDINGS

- 5.1 We have heard the Ld. Counsel for the Applicant and Respondents Nos. 1 & 2, perused the documents on record and considered all the pleadings and submissions. This I.A has been filed by the erstwhile managing director of the Corporate Debtor, to stay the CIRP of the CD, pending the outcome of I.A. No. 59 of 2025 in C.P. No. 881 of 2023, i.e., in the CIRP of KLT or for a direction against the CoC, not to take any decision in the CIRP of the CD. The sole reason stated in the I.A. is that there exists conflict of interest in the case of the CD and KLT by the same individual as RP. According to the Applicant, although the claim of KLT against the CD was partly rejected and admitted as



contingent claim, the RP could not have challenged his own decision rejecting the claim of KLT.

5.2 It is observed that the CD was admitted to CIRP pursuant to an order of this Tribunal on 24.02.2023, and Mr. Hemant Shah was appointed as the IRP. When KLT filed its claim against the CD, the Applicant was in the management and control of KLT. The IRP sought various documents in support of the claim of KLT. Subsequently, on 30.06.2023, the IRP was replaced by the Respondent No.1 herein, who also sought further documents in support of KLTs claim. The appointment of Respondent No. 1 as RP of the CD was confirmed by an order of this Tribunal on 21.02.2024. As sufficient documents were not furnished by KLT, the Respondent No.1 admitted the claim of KLT to the extent of Rs.56.53 Crore as contingent claim and rejected the remaining claim of KLT due to lack of any proof. Although the Applicant raised objection to the above treatment of the claim *vide* email dated 04.07.2024, the Applicant has not challenged the partial rejection of the claim of KLT. It is pertinent to observe that KLT was admitted to CIRP only on 26.09.2024, and hence, there is nothing on record to show that the Applicant was prevented, by sufficient cause, from challenging the partial admission / rejection of the claim of KLT. It is a fact that the Respondent No.1 has become the RP of KLT, after such rejection. But Even today, the Applicant has not challenged the partial admission / rejection of claim of KLT. The above conduct of the Applicant only indicates that he is not interested in challenging the partial admission / categorisation of the claim of KLT.

5.3 In view of the foregoing, the only issue raised for our consideration is, whether any conflict of interest is attracted in Respondent No.1, acting as RP in the CIRPs of the present CD and KTL, which is a group company of the CD.

5.4 The Ld. Counsel for Respondent No.1/RP submitted that the CoC of the CD, in its 13th meeting held on 23.04.2025, has already unanimously approved a resolution plan submitted by 'JSW Steel Coated Products Limited'.



- 5.5 As stated above, the main relief sought by the Applicant is to stay the CIRP of the CD herein, pending adjudication of I.A. No. 59/2025 in the CIRP of a group company KLT, in C.P. No. 881/2023, being considered by the coordinate Bench. Therefore, we cannot get into the merits of part admission or part categorisation of the claims of the Applicant by Respondent No.1/RP. The allegation by the Applicant is that by acting as RP for both the CD and KLT (group company of the CD), and rejecting KLT's claim in the CIRP of the CD, the RP has conflict of interest. It is observed that in terms of Section 18(1)(a) of the IBC, it is the duty of the IRP to receive and collate all the claims submitted to him by the creditors. Under Section 25(2)(e) of the Code, duties of the RP involve maintaining updated list of claims. Regulation 13 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations), requires the IRP or the RP, as the case may be, to verify every claim and maintain list of claims by creditors with requisite details.
- 5.6 The law is already settled that the job of an IRP or RP is administrative in nature and he does not possess any power to adjudicate, in the discharge of his duties. The role of RP is limited to receive, verify and collate the claims in a CIRP. The RP is supposed to discharge functions in a dispassionate manner without being influenced. Each CIRP is conducted by the RP as per the facts and circumstances of the CD, and based on the law for the time being in force. Partly admitting claim of a creditor or categorisation of the claim is based on substantiation of claim by the creditor. The IRP or RP, as the case may be, is entitled to call for evidence or clarification, as he deems fit, for substantiating the whole or part of the claim made by a creditor, under Regulation 10 of the CIRP Regulations. In the present matter, the Applicant has not made out a case that Respondent No.1/RP was influenced by extraneous considerations in partly rejecting and admitting contingent claim of KLT. Hence, simply because Respondent No.1/RP has partly admitted a claim or admitted contingent claim in the CIRP of the group company cannot be regarded as



conflict of interest. Since the two CIRPs are distinct, the admission or categorisation of claim is to be decided based on available proof of claim and substantiation of claim by the creditor. In the instant matter, the Applicant has not succeeded in attributing any personal bias or arbitrariness, pecuniary or other interest against Respondent No.1/RP, for rejecting certain claim and admitting some portion as contingent claim.

- 5.7 The Ld. Counsel for the Applicant has cited certain recommendations of committees, suggesting the need for non-engagement of the same RP in the CIRP of related companies. On the contrary, Ld. Counsel for Respondent No.1/RP also has referred to some discussion papers, working group recommendations, and proposed amendments to the CIRP Regulations and the regulations relating to Personal Guarantors, indicating engagement of same RP in the CIRP of group companies. He has also brought to our notice excerpts from the IBBI's newsletter, suggesting the requirement of group insolvency in certain matters. Be that as it may, these are only indicative of policy suggestions. It is for the IBBI to capture any of the recommendations or suggestions in the regulations. As per the extant regulations, there is no bar in the same RP conducting CIRP of related or group companies at a given time. Hence, CIRP of the CD herein cannot be stalled or suspended simply because of the fact that Respondent No.1/RP is conducting CIRP of KLT, a group company of the CD, and that he has partly admitted or categorised the claim of the Applicant. Mere apprehension of bias does not constitute conflict of interest. No convincing evidence is produced by the Applicant to indicate that Respondent No.1/RP is, or has been, in a position to derive personal benefit in the discharge of his duties undertaken in his official capacity under the law. There is no evidence to suggest that Respondent No.1 has compromised his official duties in rejecting some claims and admitting certain claims as contingent. In view of the above, we hold that in order to constitute conflict of interest, there must be personal interest in professional duties.



- 5.8 The Ld. Counsel for the Applicant has cited decision of the coordinate Bench of this Tribunal in *Mr. Dinesh Kishor Sawla & Ors. Vs. Mr. Dinesh Kumar Deora (RP)* [(2024) ibclaw.in 878 NCLT]. However, in that matter, the resolution professional acted as an adjudicator, by declaring certain documents fraudulent and invalid and mechanically rejected a claim. In the instant matter, the Applicant has no case that Respondent No.1/RP has acted in any arbitrary, unjustified or without application of mind. In the present matter, Respondent No.1/RP has partly rejected and categorised the claim of KLT as contingent claim. The only allegation against Respondent No.1/RP is a possible or probable bias since he is conducting CIRP of two group companies and that he could not have challenged his own action of treatment of the claim made by a group company, viz., KLT. In any case, we are not considering the merits or otherwise of the part rejection or categorisation of claims in the present I.A. There is no evidence against Respondent No.1/RP for acting under any external influence or that he has compromised his independent position as an officer of the Court. In short, the Applicant has not succeeded in establishing any bias, substantial conflict of interest, coercion or undue influence by Respondent No.1/RP, directly or indirectly, by any party to the present proceedings. He has not violated the Code of Conduct specified under Schedule I to Regulation 7(2)(h) of the IP Regulations. Moreover, since every assignment taken up by Insolvency Professionals is available on public domain and also hosted by the IBBI on their website, as well as on judicial records, Respondent No.1 was not required to make any express disclosure while he undertakes CIRP of two group companies.
- 5.9 It is seen that the appointments of Respondent No.1/RP have been made by the respective Committees of Creditors (CoCs), having different constitution. It is left to the CoCs to appoint any eligible Insolvency Professional to conduct the CIRPs. Therefore, the prayer of the Applicant for stalling CIRP of the CD, pending the outcome of I.A. No. 59/2025 in C.P. No. 881/2023, cannot be allowed. If such a prayer is allowed, it would cause unnecessary delay to the CIRP of the CD, which is sacrosanct and time bound. We are of the considered

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view that staying the CIRP of the CD on this ground would lead to serious consequence to its stakeholders, especially when a resolution plan has already been approved by the CoC. Therefore, the present Application is liable to be dismissed.

5.10 Accordingly, I.A. No. 1112 of 2025 stands **dismissed**. There shall be no order as to costs.

Sd/-

ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

Siddhi, LRA

Sd/-

K. R. SAJI KUMAR
MEMBER (JUDICIAL)