IN THE NATIONAL COMPANY LAW TRIBUNAL

BENCH-I

INTERLOCUTORY APPLICATION NO. 2785 OF 2026

IN COMPANY PETITION (IB) NO. 922 OF 2022

Shobhit J. Rajan

(Suspended Director of Corporate Debtor)

…..Applicant

Versus

M/s ARCK Resolution Professionals LLP & Anr.

(Resolution professional of the Corporate Debtor)

……Respondents

In the matter of;

Catalyst Trusteeship Limited

(Debenture trustee of Edelweiss Asset Company Limited)

.... Financial Creditor

Versus

Ecstasy Realty Private Limited

... Corporate Debtor

Order Pronounced on : 14.08.2026

Coram :

Shri Prabhat Kumar — Hon'ble Member (Technical)

Shri Sushil Mahadeorao Kochey — Hon'ble Member (Judicial)

Appearances:

For the Applicant : Adv. Aman Kacheria a/w Adv. Rishabh Dhanuka, Adv. Zaki Ansari, Adv. Khushi Nandu, Adv. Jasleen Virdi and Adv. Shivanshu Choudhary

For the Resolution Professional : Adv. Soummo Biswas a/w Adv. Abhilash Chaudhary, Adv. Shawaiz Nisar and Adv. Amandeep Saini

For Catalyst Trusteeship Limited: Adv. Aniket Dighe a/w Adv. Pinky Pawar

ORDER

1. The present application IA 2785 of 2026 was filed by Mr. Shobhit J. Rajan (Suspended Director of Corporate Debtor) (hereinafter referred to as "Applicant"), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("IBC") read with Rule 11 of the National Company Law Tribunal Rules, 2016 ("NCLT Rules") and Regulations 13 and 14 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations"), seeking following reliefs:-

   a. *Declare that the condition imposed by the Respondents in Expression of Interest i.e., submission of a 'net worth certificate' is inconsistent with Section 240A of the Code, to the extent it seeks to operate against promoters of an MSME entity undergoing CIRP;*
   b. *Set aside and quash the impugned rejection by the Applicant's Expression of Interest dated 22 May 2026 by the Resolution Professional vide letter dated 22 June 2026;*

c. *Direct the Respondent No. 1 to table and consider the Applicant's Expression of Interest dated 22 May 2026 submitted under Section 240A of the Insolvency and Bankruptcy Code, 2016 before the Respondent No. 2;*
d. *Direct the Respondents to include the Applicant in the final list of the eligible Prospective Resolution Applicants (PRAs) and permit the Applicant to participate in the Corporate Insolvency Resolution Process of the Corporate Debtor;*
e. *Pending the hearing and final disposal of the present Application, restrain the Respondents from acting in furtherance of the Form G, and stay the issue of Request for Resolution Plan (RFRP) and Evaluation Matrix and other consequential steps;*
f. *Pending the hearing and final disposal of the present Application, direct that the consideration and voting on any resolution plan by the Respondents be stayed;*
g. *Any other relief as this Hon'ble Tribunal deems fit in the acts and circumstances of the present case.*

Background facts of the case

2. The Applicant, being the original promoter of Ecstasy Realty Private Limited ("Corporate Debtor"), challenges the alleged arbitrary refusal and rejection by Respondent No. 1/ Resolution Professional ('RP') of the submission of the Expression of Interest dated 22nd May 2026 ("EOI") by the Applicant, on the ground of non-submission of a 'net worth certificate', which is inter alia contrary to the statutory right conferred by the Parliament under Section 240A of the Code, and seeks the aforestated reliefs.

3. The Corporate Debtor is a company engaged in construction and real estate development and registered under the provisions of the Micro, Small, Medium Enterprises Development Act, 2006 ("MSME Act") as on 27th February 2025, well prior to the commencement of the CIRP qua the Corporate Debtor on 09th March 2026.

4. The Committee of Creditors ("CoC") approved the eligibility criterion for the Prospective Resolution Applicants (PRAs) in terms of Section 25(2)(h) of the Code in its meeting held on 8th May, 2026, whereby the PRAs could participate in the Resolution process by submission of the Resolution Plan if it has minimum net worth of Rs. 400 Crores. The relevant part is reproduced hereunder :

   > *"B. ELIGIBILITY CRITERIA", a Category A threshold applicable uniformly to corporates, LLPs, body corporates, individual investors, HUFs, family trusts and partnership firms: a minimum standalone net worth of Rs. 400 Crores (or equivalent Tangible Net Worth at the consortium level), evidenced, in the case individuals, by "the latest Certificate of Net worth by practicing CA/CS not prior to March 31. 2025".*

5. The Applicant herein submitted its EOI on 22nd May 2026 in his capacity as the original promoter of an MSME Corporate Debtor without filing any net worth certificate claiming himself to be exempt from meeting net worth criteria on the proposition that MSME promoters can not be obligated to compete with other PRAs in terms of exception carved under Section 240A of the Code whereby the MSME promoters are exempted from the restrictions under Section 29A(c) and (h) of the Code.

6. The Resolution Professional rejected the EOI submitted by the Applicant on the sole ground that it does not meet the eligibility criteria due to the non-submission of an individual net worth certificate, as provided in the Detailed Expression of Interest ("Detailed EOI") and Form G published on 08th May 2026.

7. It is case of the Applicant that this criteria of non-submission of a 'net worth certificate' was introduced by the Respondent No. 2 in Form-G in order to oust and exclude the Applicant from participating in the CIRP, and as a consequence of the rejection of the EOI, the legislative mandate of Section 240A is being frustrated, despite the settled principle that the standard eligibility criteria

devolved under the Detailed EOI are not applicable to the original promoter of an MSME Corporate Debtor and the CoC need not follow all standard procedures under the CIRP framework. The Applicant vide the present Application, accordingly, inter alia seeks setting aside of the impugned rejection letter dated 22nd June 2026, independent consideration of his EOI strictly in accordance with Section 240A of the Code, and an urgent stay on all further consequential steps of the CIRP pending final disposal.

8. The Applicant herein submits that he is the original promoter of the Corporate Debtor, which was registered as an MSME prior to commencement of the CIRP. He submits that Section 240A confers a statutory right upon him to participate in the resolution process without any strings attached. He further submits that the exemption under Section 240A extends beyond Sections 29A(c) and 29A(h) and applies to the eligibility requirements under Section 25(2)(h) of the Code and Regulation 36A of the CIRP Regulations also. The Applicant submits that he submitted his EOI within the prescribed period and deposited an Earnest Money Deposit of Rs. 5 crores.

9. The Applicant submits that the requirement of a Net Worth Certificate and a minimum standalone net worth of Rs. 400 crores is contrary to Section 240A. He further submits that the eligibility criteria cannot nullify the statutory exemption as it defeats the statutory protection available to MSME promoters. He also states that he is not disqualified under Section 29A and is otherwise eligible to submit a resolution plan. He states that no material has been disclosed to justify the fixation of a threshold where the resolution plan will be rejected on the low net worth basis.

10. The Applicant ventures to override the generality and states that the commercial wisdom of the Committee of Creditors cannot override the statutory protection under Section 240A. The Applicant submits that rejection of his Expression of Interest was arbitrary and contrary to the objectives of the Code. He relies upon the Rs. 5 crore Earnest Money Deposit, Income Tax Returns and other financial credentials furnished by him as evidence of his financial capability and bona fides.

Submissions by the Resolution Professional

11. The EOI in the subject matter was rejected because the Applicant failed to submit the mandatory Net Worth Certificate required for individual investors under Category A of the Detailed Invitation for Expression of Interest. The Detailed EOI required every individual applicant to possess a minimum standalone net worth of Rs. 400 crores and to submit a certificate issued by a practising Chartered Accountant or Company Secretary. The Applicant did not submit the required certificate and instead marked the requirement as "not applicable." The Resolution Professional states that the Applicant claims exemption from this requirement by relying upon Section 240A of the Insolvency and Bankruptcy Code. The Resolution Professional argues that this claim is incorrect and contrary to the provisions of the Code. He submits that the Application is completely misconceived and is merely an attempt to override a decision that was taken strictly in accordance with the Insolvency and Bankruptcy Code, the CIRP Regulations, and the approval granted by the Committee of Creditors (CoC).

12. The Resolution Professional submits that the eligibility criteria were not fixed arbitrarily. They were discussed and approved by the Committee of Creditors during its second meeting held on 4th May 2026. The Committee considered the nature, value, and scale of the Corporate Debtor's project before fixing the eligibility requirements. The Corporate Debtor owns a valuable land parcel with a development potential exceeding Rs. 5,000 crores and approximately ten lakh square feet of developable area. Accordingly, considering this scale in mind, the Committee decided that every prospective resolution applicant (PRA) should possess a minimum standalone net worth of Rs. 400 crores so that only financially capable applicants could undertake such a large project.

13. The eligibility criteria published in detailed Invitation for Expression of Interest applied uniformly to companies, LLPs, body corporates, individuals, Hindu Undivided Families, family trusts, and partnership firms. Every individual

applicant was required to submit the latest Net Worth Certificate. Therefore, according to the Resolution Professional, the Applicant in the captioned matter was not treated differently from any other PRAs.

14. The Resolution Professional rebuts that instead of producing the net worth certificate, the Applicant simply struck off the requirement and described it as "not applicable." The Applicant also gave an undertaking that he fulfilled the eligibility criteria prescribed by the Committee of Creditors, even though he had not complied with the mandatory requirement. The Resolution Professional submits that he thereafter issued a letter dated 10th June 2026 asking the Applicant either to submit the Net Worth Certificate or explain why it was not applicable. In response, the Applicant claimed the exemption under Section 240A from the eligibility criteria. The Resolution Professional later submits that after due consideration he rejected the Expression of Interest and refunded the Earnest Money Deposit to the Applicant. The rejection letter specifically explained that Section 240A grants exemption only from Sections 29A(c) and 29A(h) and does not exempt an applicant from the eligibility criteria approved by the Committee of Creditors. He states that every prospective resolution applicant must first satisfy the eligibility criteria approved by the Committee of Creditors under Section 25(2)(h) of the Code.

Submission by Catalyst Trusteeship Limited

15. Catalyst Trusteeship Limited, who is the Debenture trustee of the Corporate Debtor submits that the minimum net worth requirement of Rs. 400 crores was not fixed arbitrarily. The Committee of Creditors approved this requirement during its second meeting after considering the scale and development potential of the Corporate Debtor's project. It submits that the eligibility conditions are fully consistent with the provisions of the Code and were framed after proper approval by the Committee of Creditors. CTL further denies that the requirement of submitting a Net Worth Certificate violates Section 240A or any other provision

of the Code. According to CTL, a plain reading of Section 240A clearly shows that the exemption is confined only to Sections 29A(c) and 29A(h). Therefore, the Applicant cannot avoid compliance with the independently prescribed eligibility criteria merely because he is the promoter of an MSME Corporate Debtor.

Findings

16. Indubitably, the Committee of Creditors, in exercise of its powers under Section 25(2)(h) of the Code, approved the eligibility criteria for prospective resolution applicants after considering the nature, scale and development potential of the Corporate Debtor's project. The minimum standalone net worth requirement of Rs. 400 crores was accordingly prescribed as a condition of eligibility. The said eligibility condition was incorporated in the Detailed Invitation for Expression of Interest and was made applicable uniformly to the specified categories of prospective resolution applicants, including individuals.

17. Accordingly, the Applicant was required to submit a net-worth certificate establishing his net-worth in terms of approved criterion, however, instead of doing so, the applicant insisted upon non-application of these criterion to MSME promoters, and even didn't file the required net worth certificate.

18. Section 240A(1) of the IB Code makes certain concessions to MSME Corporate person providing that "*Notwithstanding anything to the contrary contained in this Code, the provisions of clauses (c) and (h) of section 29A shall not apply to the resolution applicant in respect of corporate insolvency resolution process* [2]*[or pre-packaged insolvency resolution process] of any micro, small and medium enterprises*. Section 240A(2) of the Code vests powers in Central Government to direct in the public interest, by notification, that any of the provisions of this Code shall either not apply to micro, small and medium enterprises; or apply to micro, small and medium enterprises, with such modifications as may be specified in the notification, however, no notification has so far been issued in terms of Section 240A(2) of the Code. Accordingly, there is no statutory mandate relaxing the

provisions of Code in favor of MSME promoters, except the provisions u/s 29A(c) and (h). Accordingly, it cannot said that section 240A dispenses with an independently prescribed eligibility condition approved by the Committee of Creditors under Section 25(2)(h) of the Code.

19. It is noted that, in the case of ***Saravana Global Holdings Ltd. v. Bafna Pharmaceuticals Ltd., being Company Appeal (AT) (Insolvency) No. 203 of 2019***, the Hon'ble NCLAT held that "*in exceptional circumstances, if the 'Corporate Debtor' is MSME, it is not necessary for the Promoters to compete with other 'Resolution Applicants' to regain the control of the 'Corporate Debtor'.*" This decision was further followed by Hon'ble NCLAT in the case of ***Mr. C Raja John vs Mr. Raghavendran and Ors. Company Appeal (AT) (CH) (INS) No. 207***. However, the decision of Hon'ble NCLAT in Mr. C Raja John was assailed in appeal before Hon'ble Supreme Court in ***Civil Appeal No.2552/2022 {R. Raghavendran vs. C. Raja John reported in (2023) ibclaw.in 107 SC},*** *wherein*, the Hon'ble Supreme Court set aside paragraph nos. 32 and 34 of the impugned judgement. It is noted that the Hon'ble NCLAT in the impugned judgement at para 32 and 34 in case of Mr. C Raja John (supra) had held that it is not necessary for the promoters to compete with other Resolution Applicants. Accordingly, the law laid down in Mr. C Raja John by Hon'ble NCLAT does not have any binding effect after the Hon'ble Supreme Court decision. Further the Hon'ble Supreme Court in case of C. Raja John held that the judgement in Bafna's case in not the correct position of law and distinguished it stating that "*12. This is more so as in the factual scenario of Bafna's case, the observations were made in the context of (a) before the constitution of CoCs or (b) in terms of Section 12A of the Code on the basis of an offer given by the promoter in such a case*."

20. Section 25(2)(h) of the Code provides that Resolution Professional shall invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regards to the complexity and scale of operations of the business of the corporate debtor and such other

conditions as may be specified by the Board, to submit a resolution plan or plans. It is clearly showing that, CoC is vested with power to decide the minimum eligibility criterion, which it did in its commercial wisdom in the first CoC meeting. The Applicants were also in attendance in the said meeting, and had not objected to non-exclusion of Applicants being promoter of MSME from applicability of minimum net worth criterion.

21. The jurisdiction of the Adjudicating Authority under the IBC is limited. The commercial wisdom of the Committee of Creditors, when exercised in conformity with the provisions of the Code, is not open to judicial review as held in ***K. Shashidhar v. Indian Overseas Bank [Civil Appeal No.10673 Of 2018]*** and ***Essar Steel v. Satish Kumar Gupta [Civil Appeal No. 8766-67 Of 2019]***. Interference is permissible only where there is a clear violation of statutory provisions or material irregularity in the process.

22. Even if it is assumed that the MSME promoters may not be required to compete with other Resolution Applicants, however, Section 30(4) of the Code requires the CoC to consider considering its feasibility and viability of the Resolution Plan(s) placed before it, and this requirement cannot be dispensed with even in case of MSME promoters and the CoC is well within its right to ask for minimum comfort from the applicant in the present case by not exempting them from net worth criterion.

23. Since, the exemption contemplated under Section 240A operates in respect of the provisions expressly covered therein, hence, cannot, without any further statutory basis, be extended to override the eligibility criteria prescribed by the Committee of Creditors under Section 25(2)(h) of the Code. The status of the Corporate Debtor as an MSME, therefore, does not by itself exempt the Applicant from compliance with the prescribed net worth requirement.

24. In the circumstances, we are of the considered view that the rejection of the Applicant's Expression of Interest for failure to satisfy the prescribed net worth

requirement cannot be said to be contrary to Section 240A of the Code. The Applicant herein cannot claim exemption from the said requirement merely on the ground that he is the promoter of an MSME Corporate Debtor.

25. Accordingly, **IA 2785 of 2026 in CP (IB) No. 922 of 2022** is **dismissed**.

Sd/-
PRABHAT KUMAR
Member (Technical)

Sd/-
SUSHIL MAHADEORAO KOCHEY
Member (Judicial)

Vaishnavi B