

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 1367 of 2024**

**&**

**I.A. No. 4973 of 2024**

[Arising out of Order dated 14.05.2024 passed by the Adjudicating Authority  
(National Company Law Tribunal, Chandigarh Bench, Court – II), in I.A.  
No.863 of 2023 in C.P. (IB) No.131/Chd/Hry/2021]

**IN THE MATTER OF:**

**1. DKY Finance Pvt. Ltd.**

Regd. Address at:  
YFC House, B-14, Infocity,  
Sector-34, Gurgaon,  
Haryana-122001  
E-mail: [dkyfinance@gmail.com](mailto:dkyfinance@gmail.com)

**...Appellant No. 1**

**2. DKY Logistics Pvt. Ltd.**

Regd. Address at:  
House No.47, Sector-15,  
Part-I, Gurugram,  
Haryana-122001  
E-mail: [info@dkylogistics.in](mailto:info@dkylogistics.in)

**...Appellant No. 2**

**3. YFC Projects Pvt. Ltd.**

Regd. Address at:  
YFC House, B-14 Infocity,  
Sector-34, Gurgaon,  
Haryana-122001  
E-mail: [yfcprojects@hotmail.com](mailto:yfcprojects@hotmail.com)

**...Appellant No. 3**

**4. Yogesh Kumar**

R/o 820/16, Near Bhuteshwar Mandir,  
Basai Road, Gurgaon,  
Haryana-122001.  
E-mail: [yogeshkumar13265@gmail.com](mailto:yogeshkumar13265@gmail.com)

**...Appellant No. 4**

**Versus**

**1. Mr. Sanjay Garg,**

Registration No.IBBI/IPA-001/IP-P01865/2019-  
2020/12919  
R.P. for Suman Villas Pvt. Ltd.  
R/o at. 193, Agroha Kunj,

Sector 13, Rohini,  
Delhi-110085  
Email: [rp.sanjaygarg@gmail.com](mailto:rp.sanjaygarg@gmail.com)

...Respondent No. 1

**2. M/s. Max Heights Infrastructure Limited,**  
Successful Resolution Applicant,  
R/o SD-65, Pitampura,  
New Delhi – 110034.  
Email: [cs@maxheights.com](mailto:cs@maxheights.com)

...Respondent No. 2

**Present:**

**For Appellants : Mr. Abindra Maheshwari, Advocate.**

**For Respondents : Mr. Karan Gandhi and Mr. Sikhar Tiwari,  
Advocates for RP.**

**Mr. Abhishek Anand, Mr. Karan Kohli and Ms.  
Palak Kalra, Advocates for SRA.**

**WITH**

**Company Appeal (AT) (Insolvency) No. 1368 of 2024**

**&**

**I.A. No. 4976 of 2024**

[Arising out of Order dated 14.05.2024 passed by the Adjudicating Authority  
(National Company Law Tribunal, Chandigarh Bench, Court – II), in I.A.  
No.863 of 2023 in C.P. (IB) No.131/Chd/Hry/2021]

**IN THE MATTER OF:**

**Sh. Tribhawan K. Parnami**

S/o Lt. Sh. Dwarka Das Parnami,  
R/o 516/11, Parnami Bhawan,  
Rattan Garden,  
Gurgaon-122001, Haryana  
E-mail: [tkp7758@gmail.com](mailto:tkp7758@gmail.com)

...Appellant

**Versus**

**1. Mr. Sanjay Garg,**

Registration No. IBBI/IPA-001/IP-P01865/2019-  
2020/12919  
R.P. for Suman Villas Pvt. Ltd.  
R/o at. 193, Agroha Kunj,  
Sector 13, Rohini,  
Delhi-110085

Email: [rp.sanjaygarg@gmail.com](mailto:rp.sanjaygarg@gmail.com)

...Respondent

**2. M/s. Max Heights Infrastructure Limited,**

Successful Resolution Applicant,

R/o SD-65, Pitampura,

New Delhi – 110034.

Email: [cs@maxheights.com](mailto:cs@maxheights.com)

...Respondent No. 2

**Present:**

**For Appellant : Mr. Prayag Jain, Advocate.**

**For Respondents : Mr. Karan Gandhi and Mr. Sikhar Tiwari,  
Advocates for RP.**

**Mr. Abhishek Anand, Mr. Karan Kohli and Ms.  
Palak Kalra, Advocates for SRA.**

**WITH**

**Company Appeal (AT) (Insolvency) No. 1369 of 2024**

**&**

**I.A. No. 4979 of 2024**

[Arising out of Order dated 14.05.2024 passed by the Adjudicating Authority  
(National Company Law Tribunal, Chandigarh Bench, Court – II), in I.A.  
No.863 of 2023 in C.P. (IB) No.131/Chd/Hry/2021]

**IN THE MATTER OF:**

**Mohinder Kaur Sachdeva**

W/O: Om Prakash Sachdeva

R/O: 751/11, Behind Dayal Market,

Shiv Puri, Gurgaon,

Haryana-122001

E-MAIL- [sacson1953@gmail.com](mailto:sacson1953@gmail.com)

...Appellant

**Versus**

**1. Mr. Sanjay Garg,**

Registration No. IBBI/IPA-001/IP-P01865/2019-  
2020/12919

R.P. for Suman Villas Pvt. Ltd.

R/o at. 193, Agroha Kunj,

Sector 13, Rohini,

Delhi-110085

Email: [rp.sanjaygarg@gmail.com](mailto:rp.sanjaygarg@gmail.com)

...Respondent

**2. M/s. Max Heights Infrastructure Limited,**  
Successful Resolution Applicant,  
R/o SD-65, Pitampura,  
New Delhi – 110034.  
Email: [cs@maxheights.com](mailto:cs@maxheights.com)

**...Respondent No. 2**

**Present:**

**For Appellant : Mr. Abindra Maheshwari, Advocate.**

**For Respondents : Mr. Karan Gandhi and Mr. Sikhar Tiwari,  
Advocates for RP.**

**Mr. Abhishek Anand, Mr. Karan Kohli and Ms.  
Palak Kalra, Advocates for SRA.**

**J U D G M E N T**

**ASHOK BHUSHAN, J.**

These three appeals have been filed against the same order dated 14.05.2024 passed by the Adjudicating Authority (National Company Law Tribunal, Chandigarh Bench, Court – II) approving the resolution plan submitted by M/s. Max Heights Infrastructure Limited, the Successful Resolution Applicant (SRA). Appellant, unsecured Financial creditors of the corporate debtor aggrieved by the approval of the resolution plan has come up in these appeals.

**2.** Brief facts necessary to be notice for deciding the appeal are:

- i. On Section 7 Application filed by allottees of a housing project launched by corporate debtor, Suman Vilas Private Ltd., Corporate Insolvency Resolution Process (CIRP) against the corporate debtor commenced vide order dated 08.04.2022.
- ii. In pursuance of publication made by Interim Resolution Professional (IRP) on 10.04.2022, claim was filed by DKY Finance Private Limited &

Ors. (appellant in Comp. App. (AT) (Ins.) No.1367/2024) as a Financial creditor of the corporate debtor, in 'Form – C'. Tribhawan K. Parnami also filed claim as a Financial creditor in 'Form – C'. Mohinder Kaur Sachdeva, Appellant has also filed a claim. The claim of all the appellants as unsecured Financial creditor was admitted by the Resolution Professional (RP).

- iii. The RP published list of unsecured Financial creditor as on 25.06.2022, which included name of all the appellants along with the claims admitted.
- iv. In the CIRP of the corporate debtor, resolution plans were received.
- v. On basis of admitted claim of the appellant in Comp. App. (AT) (Ins.) No.1367/2024, appellants were collectively allocated 7.192% voting shares.
- vi. Appellant, Tribhawan K. Parnami was also admitted of Rs.5,06,06,100/- whereas claim of Mohinder Kaur Sachdeva was admitted for amount of Rs.77,50,000/-. The claim of Tribhawan K. Parnami was treated to be claim of related party.
- vii. The Committee of Creditor (CoC) by voting share of 85.56% approved the resolution plan, on the basis of approval of resolution plan by the CoC. On 31.01.2023, RP filed I.A. No. 863/2023, seeking approval of the resolution plan. Adjudicating Authority by the impugned order, 14.05.2024 has approved the resolution plan. The unsecured financial creditors which included appellants in the present appeal has been allocated total 13.81% vote shares.

viii. The appellants aggrieved by the impugned order approving the resolution plan have come up in these appeals.

**3.** All the appeals having been filed against the same order approving the resolution plan, it shall be sufficient to refer to the facts and pleadings in Comp. App. (AT) (Ins.) No. 1367/2024 for deciding all the appeals.

**4.** We have heard learned counsel for the appellants and learned counsel appearing for the RP as well as the learned counsel appearing for the SRA.

**5.** Counsel for the appellant challenging the order approving the resolution plan submits that the resolution plan was approved after expiry of CIRP period. Although application for extension of period was pending, but the resolution plan was approved by the Adjudicating Authority beyond 330 days. It is submitted that resolution plan approved by Adjudicating Authority is not in accordance with Section 30(2)(b) of the Insolvency and Bankruptcy Code, 2016, (for short 'the Code' or 'the IBC'). The appellant has not been allocated amount as per their entitlement under Section 30(2)(b). It is submitted that appellants in Comp. App. (AT) (Ins.) No. 1367/2024 have collectively 7.192% voting shares, but the allocation of the amount as per plan is not in accordance with the Section 30(2). It is further contended that the value of the corporate debtor was Rs.24,27,79,954/- and the liquidation value was Rs.20,84,20,076/- where the resolution plan has lesser value of only Rs.10 Crore. It is submitted that unsecured financial creditors have been allowed only 13.81% of the amount which is to be paid within 24 months from the effective date. It is submitted that allottee i.e., unitholders have

collectively 86.56% voting shares who have voted in favour of the resolution plan, have not been subjected to any haircut.

**6.** Learned counsel for the RP refuting the submissions of the appellant submits that in pursuance of the order of this Court dated 18.10.2024, in the present appeal, RP has filed an affidavit indicating the payment which is to be made to the dissenting financial creditor. It is submitted that the amount which is being paid to the dissenting financial creditor is in accordance with Section 30(2)(b). It is submitted that the homebuyers together hold 86.56% vote shares in the CoC. The only payment made in the plan is to the unsecured financial creditor who have been proposed payment of Rs.1.5 Crore and balance amount is used by the SRA in completing the pending constructions/improvement of the project of the corporate debtor. The claim admitted of the homebuyer is to the tune of Rs.77 Crore whereas admitted claim of unsecured financial creditor excluding the related party is Rs.10,97,00,000/- corresponding to 13.44 voting share and they have been proposed payment of Rs.1.5 Crore in the plan. It is submitted that the payment is to the unsecured financial creditor who are dissenting financial creditor is according to the Section 30(2)(b).

**7.** Learned counsel for the SRA also supported the submission of the RP and contended that homebuyer constitute more than 85% of total financial creditors and their admitted claim is Rs.77.12 Crore against the claim of non-related unsecured creditors claim of Rs.10.94 Crores have been admitted corresponding to 13.44% voting shares against the claim of Rs.10.47Crore they are being paid Rs.1.50 Crore. It is submitted that resolution plan is

compliant, SRA is spending Rs.25 Crore towards the construction cost and has paid CIRP cost of Rs.5,37,77,326/-.

**8.** We have considered the submission of counsel for the parties and perused the record.

**9.** The list of unsecured financial creditors has been brought on the record in Comp. App. (AT) (Ins.) No.1367/2024 as (Annexure A – 4), the list contains the admitted claim of all the appellants. Admitted claim of all unsecured financial creditors constitute 13.81% which vote share has been allocated to the unsecured financial creditor. The plan has been approved with the majority of 86.67% of vote shares. Plan having been approved by majority of votes, the dissenting financial creditor are also bound by the approved resolution plan. The entitlement of dissenting financial creditor is only to receive the amount under Section 30(2)(b), which is not less than the amount which they would have been entitled under Section 53 of the IBC. Section 30(2)(b) is as follows:

**“30. Submission of resolution plan.–**

*(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan –*

*(b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than–*

*(i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or*

*(ii) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher and*

*provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.*

*Explanation 1. – For the removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.*

*Explanation 2. – For the purposes of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor--*

*(i) where a resolution plan has not been approved or rejected by the Adjudicating Authority;*

*(ii) where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or*

*(iii) where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a resolution plan;”*

**10.** From the materials on the record, it is clear that only pay out under the plan is to the unsecured financial creditor which is Rs.1.5 Crore against the 13.81% vote shares. The appellant sought to raise a grievance that homebuyers are being provided unit and they are not sharing any haircut in their entitlement. It is true that the SRA is spending certain amount in completing the construction for delivering the unit to the homebuyer. Unsecured financial creditor who are dissenting financial creditor in the present case are entitled to the amount not less than the amount as

contemplated by Section 30(2)(b). The amount of claim of the financial creditor in a class i.e., homebuyer, which as per submission of the SRA is Rs.77.12 Crore. Copy of list of all unsecured financial creditor belonging to any class of financial creditor has been filed vide additional affidavit in Com. App. (AT) (Ins.) No.1367/2024, which gives a detail of claims admitted. The claim of unsecured financial creditor who are dissenting financial creditor which is admitted of not related parties is Rs.10.94 Crore. Vote share of dissenting financial creditor is 13.44, hence the payout of Rs.1.5 Crore to the dissenting financial creditor in no manner violates Section 30(2)(b). This Tribunal had occasion to consider approval of the resolution plan in reference to homebuyers in **‘Beacon Trusteeship Limited’ Vs. ‘Jayesh Sanghrajka, RP of Radius Estates & Developer Pvt. Ltd. & Ors.’** in **Comp. App. (AT) (Ins.) No.1494–1495/2022**, where it was held that comparison of claim of dissenting financial creditor with those of homebuyers is not appropriate comparison. Homebuyer, having already paid consideration for the allotted units are entitled to possession as per the commitment of the corporate debtor. The claims of dissenting financial creditor cannot be equated to those of homebuyers i.e., creditor in class. In the above judgment, the argument of dissenting financial creditor of unfair bargain with respect to the homebuyers and dissenting financial creditor was considered and rejected. It is useful to extract paragraphs 43 to 45 of the judgment:

*“43. Another submission, which has been pressed by learned Counsel for the Appellant(s) is that there is unfairness in bargain as is reflected from the Resolution Plan. It is submitted that whereas Financial Creditors are subjected to haircut of 93%, the Homebuyers are being given their flats without*

escalation of any price. Insofar as, haircut of 93% given to Financial Creditors is concerned, we have noticed above the judgment of the Hon'ble Supreme Court in **Ramkrishna Forgings Ltd.** where Adjudicating Authority was swayed away by haircut of 94.25% and Hon'ble Supreme Court in paragraph-34 of the judgment as extracted above observed that Adjudicating Authority was unduly swayed away with the haircut of 94.25%.

**44.** Coming to the giving of the flats to the Homebuyers under the Resolution Plan, without escalation of price, it is to be noted that Homebuyers are creditors in a class and they have been recognized as Financial Creditors by amendments made in the Code. This Tribunal in its judgment in Company Appeal (AT) (Insolvency) No.926 of 2019 – Flat Buyers Association Winter Hills – 77, Gurgaon vs. Umang Realtech Pvt. Ltd. through IRP & Ors. decided on 04.02.2020, has noted the case of the Homebuyers and also noted the distinction between 'Secured' and 'Unsecured' Creditors. It is useful to extract paragraphs 4, 5 and 11 of the judgment, which are as follows:

**“4. In “Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta & Ors.”,** the Hon'ble Supreme Court made a distinction between the 'Secured' and 'Unsecured Creditors' and observed that protecting creditors in general is, no doubt, an important objective. Protecting creditors from each other is also important. If an “equality for all” approach recognising the rights of different classes of creditors as part of an insolvency resolution process is adopted, secured financial creditors will, in many cases, be incentivised to vote for liquidation rather than resolution, as they would have better rights if the Corporate Debtor is liquidated. This would defeat the objective of the Code which is resolution of distressed assets and only if the same is not possible, should liquidation follow. The amended Regulation 38 does not lead to the conclusion that 'Financial Creditors' and 'Operational Creditors', or secured and unsecured creditors, must be paid the same amounts, percentage wise, under the resolution plan before it can pass muster. Fair and equitable dealing of Operational Creditors rights under the Regulation 38 involves the resolution plan stating as to how

*it has dealt with the interests of Operational Creditors, which is not the same thing as saying that they must be paid the same amount of their debt proportionately. So long as the provisions of the Code and the Regulations have been met, it is the commercial wisdom of the requisite majority of the Committee of Creditors which is to negotiate and accept a resolution plan, which may involve differential payment to different classes of creditors, together with negotiating with a prospective resolution applicant for better or different terms which may also involve differences in distribution of amounts between different classes of creditors.*

**5. In “Pioneer Urban Land and Infrastructure Limited & Anr. v. Union of India & Ors.”**, the Hon’ble Supreme Court upheld the Explanation below Section 5(8) (f) to hold that allottees (Homebuyers) of Infrastructure Company are ‘Financial Creditors’. It further observed that RERA is in addition to and not in derogation of the provisions of any other law for the time being in force, also makes it clear that the remedies under RERA to allottees were intended to be additional and not exclusive remedies. Therefore, provisions of the Code would apply in addition to RERA.

**11.** *In most cases, the Committee of Creditors take ‘haircut’. The Resolution Applicants satisfy them most of the time with lesser amount than the amount as determined. In the case of allottees (Financial Creditors), there cannot be a haircut of assets/ flats/ apartment.”*

**45.** *With regard to assets, i.e, unit, it was observed by this Tribunal that units have to be transferred to Unsecured creditors - the Homebuyers and not to the Secured Creditors. Hence, comparison of their claim by the dissenting Financial Creditors from the Homebuyers, is not appropriate. The Homebuyers, who have been allotted the house and amount of consideration has already been fixed in the allotment and it was undertaken by the Corporate Debtor to handover the units on payment of consideration, no exception can be taken to handing over of the units to the Homebuyers on consideration, already paid. In this context, we may refer to judgment of this Tribunal, delivered on 02.11.2023 in **Company Appeal (AT)***

**(Insolvency) No.1162 of 2023 - Sabari Realty Pvt. Ltd. vs. Sivana Realty Pvt. Ltd. & Ors.** In the above case, Homebuyers were treated in two groups, i.e. 'affected' and 'unaffected'. Affected Homebuyers were those whose units were mortgaged, but allotment was made without taking consent of the Financial Creditor, to whom the units were mortgaged. The other category was those Homebuyers, who were allotted the units, after obtaining no objection from Financial Creditor, to whom the units were mortgaged. The Resolution Plan was approved treating them in two different categories, which was challenged before this Tribunal, on the ground that the treatment of Homebuyers, cannot be discriminated. This Tribunal in the above context held that treatment of Homebuyers in two categories as per the Resolution Plan, which was approved by the CoC, cannot be objected. This Tribunal also observed that reference has to be on fair and equitable treatment. It is useful to extract paragraphs 24, 25, 26 and 27 of the judgment, which are as follows:

**“24.** The above judgment does not help the Appellant in the present case since in the above case the question was distribution of amount under the Resolution Plan to the Operational Creditors inter se and this Tribunal directed payment of amount to the Operational Creditors in the same proportion to uphold the Resolution Plan. The present is not a case of distribution of any amount rather Resolution Plan provides for ways and manner to complete the project and handover units to the allottees. Allottees have been classified in two groups – 'Affected' and 'Unaffected', as noted above, and we have found the classification justified in the treatment of claims. Learned counsel for the Appellant has failed to point out any violation of any provision of law by aforesaid classification of 'Affected' and 'Unaffected' homebuyers. We, thus, are of the view that the Resolution Plan does not violate any provision of law.

**25.** We are conscious that the Hon'ble Supreme Court in **“Committee of Creditors of Essar Steel India Limited Through Authorised Signatory vs. Satish Kumar Gupta & Ors., (2020) 8 SCC 531”** has laid down that there can be difference in payment of the different category

of creditors. In Para 88 of the judgment following has been held:

*“88. By reading paragraph 77 (of Swiss Ribbons) de hors the earlier paragraphs, the Appellate Tribunal has fallen into grave error. Paragraph 76 clearly refers to the UNCITRAL Legislative Guide which makes it clear beyond any doubt that equitable treatment is only of similarly situated creditors. This being so, the observation in paragraph 77 cannot be read to mean that financial and operational creditors must be paid the same amounts in any resolution plan before it can pass muster. On the contrary, paragraph 77 itself makes it clear that there is a difference in payment of the debts of financial and operational creditors, operational creditors having to receive a minimum payment, being not less than liquidation value, which does not apply to financial creditors. The amended Regulation 38 set out in paragraph 77 again does not lead to the conclusion that financial and operational creditors, or secured and unsecured creditors, must be paid the same amounts, percentage wise, under the resolution plan before it can pass muster. Fair and equitable dealing of operational creditors’ rights under the said Regulation involves the resolution plan stating as to how it has dealt with the interests of operational creditors, which is not the same thing as saying that they must be paid the same amount of their debt proportionately. Also, the fact that the operational creditors are given priority in payment over all financial creditors does not lead to the conclusion that such payment must necessarily be the same recovery percentage as financial creditors. So long as the provisions of the Code and the Regulations have been met, it is the commercial wisdom of the requisite majority of the Committee of Creditors which is to negotiate and accept a resolution plan, which may involve differential payment to different classes of creditors, together with negotiating with a prospective resolution applicant for better or different terms which may also involve*

*differences in distribution of amounts between different classes of creditors.”*

**26.** *What was emphasised in the judgment is that there shall be fair and equitable treatment in dealing dues of Operational Creditors and further there can be difference in payment to the Financial Creditor and the Operational Creditors. Hon’ble Supreme Court in the said judgment has held that commercial wisdom of the Committee of Creditors cannot be substituted. In Para 144 and 147 following has been held:*

*“144. What is important to note is that when one reads the abovementioned judgment, it is a majority of 66% of the Committee of Creditors who has exercised the discretion vested in it under the Code in this particular manner, which has then correctly not been disturbed by the NCLT and NCLAT. Far from helping Shri Sibal’s client, the principle that is applied in such a case is that ultimately it is the commercial wisdom of the requisite majority of the Committee of Creditors that must prevail on the facts of any given case, which would include distribution in the manner suggested in Orissa Manganese (supra). It is, therefore, not possible to accept the argument that the Adjudicatory Authority and consequently the Appellate Authority would be vested with the discretion to apply what was applied by the Committee of Creditors in the Orissa Manganese case (supra). This submission is also devoid of merit and is, therefore, rejected.”*

*“147. The NCLAT judgment which substitutes its wisdom for the commercial wisdom of the Committee of Creditors and which also directs the admission of a number of claims which was done by the resolution applicant, without prejudice to its right to appeal against the aforesaid judgment, must therefore be set aside.”*

**27.** *We, thus, are of the view that commercial wisdom of the Committee of Creditors, which has approved the Resolution Plan under which different treatment has been given to ‘Affected Homebuyers’ and ‘Unaffected Homebuyers’,*

*cannot be faulted. We, thus, are of the view that there are no grounds made out to challenge the approval of the Resolution Plan. Further, the Adjudicating Authority has also rightly rejected the objections filed by the Appellant by I.A. No. 933 of 2022.”*

**11.** Law is well settled that jurisdiction of Adjudicating Authority and this Appellate Tribunal to interfere with approval of resolution plan is too limited. Adjudicating Authority can interfere with the approval of the resolution plan only in the case where there is a non-compliance of Section 30(2) of the IBC.

**12.** Coming to the submission of appellant that resolution plan was approved after expiry of CIRP period, appellant in his appeal itself has pleaded in paragraph 9 L regarding the above in following words:

*“9. L. Because the Ld. Adjudicating Authority has erred in law by not appreciating the fact that the period of the CIRP stood expired on 03.01.2023 and the application of time extension was filed by Respondent is still pending adjudication before the Ld. Adjudicating Authority and as such without having extended the CIRP period the Respondent cannot be allowed to conduct further meetings of the CoC. It is also important to mention at this stage that even without considering the time extension application, the 330 days for the CIRP would have expired on 03.05.2023, whereas the impugned order was passed on 14.05.2024 without extending the period of CIRP and thus the Impugned order is not sustainable in the eye of law.”*

**13.** According to own case of appellant, 330 days period expiring on 03.05.2023. Resolution plan has been approved by the CoC on 31.01.2023, and the application was filed for approval of the plan before the aforesaid expiry of 330 days period. The fact that Adjudicating Authority approved the resolution plan on 14.05.2024 cannot be a ground to say that the order was passed after expiry of 330 days. When the resolution plan has been approved

within 330 days and the application was also filed by the RP for approval, the date of the passing of the order by Adjudicating Authority cannot be relied for contending that the said date is beyond 330 days. The resolution plan having been approved by votes of 86.67% vote shares, at the instance of dissenting financial creditor whose payments under the plan is not less than the payment which they are entitled under Section 30(2)(b), no interference is called.

**14.** We do not find any ground to interfere with the order approving the resolution plan. Adjudicating Authority by the impugned order has not committed any error in approving the resolution plan submitted by SRA. No grounds have been made out to interfere with the order approving the resolution plan.

There is no merit in the appeals. All the appeals are dismissed.

**[Justice Ashok Bhushan]  
Chairperson**

**[Barun Mitra]  
Member (Technical)**

**NEW DELHI**

**28<sup>th</sup> February, 2025**

*himanshu*