

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 713 of 2025

IN THE MATTER OF:

Central Bank of India **...Appellant**
Versus

Bijendra Kumar Jha & Ors. **...Respondents**

Present:

For Appellant : Mr. Ravi Raghunath, Ms. Rathina Maravarman,
Mr. Aditya Sharan, Advocates.

For Respondents : Mr. Abhijeet Sinha, Sr. Advocate with Ms. Niyati
Merchant, Advocate for R-1.

Ms. Salonee Shukla, Advocate for R-2.

Mr. Gaurav Mitra, Sr. Advocate with Ms. Sneha
Jaisingh, Mr. Alabh Lal, Ms. Janhavi Sakalkar,
Ms. Arushi Mishra, Ms. Shambhavi Kashyap,
Advocates for R-6.

Mr. Chandrachur Bhattacharyya, Advocate for
R10.

With

Company Appeal (AT) (Insolvency) No. 486 of 2025

IN THE MATTER OF:

Central Bank of India **...Appellant**
Versus

Bijendra Kumar Jha & Ors. **...Respondents**

Present:

For Appellant : Mr. Ravi Raghunath, Ms. Rathina Maravarman,
Mr. Aditya Sharan, Advocates.

For Respondents : Mr. Abhijeet Sinha, Sr. Advocate with Ms. Niyati
Merchant, Advocate for R-1.

Ms. Salonee Shukla, Advocate for R-2.

Mr. Gaurav Mitra, Sr. Advocate with Ms. Sneha Jaisingh, Mr. Alabh Lal, Ms. Janhavi Sakalkar, Ms. Arushi Mishra, Ms. Shambhavi Kashyap, Advocates for R-6.

Mr. Chandrachur Bhattacharyya, Advocate for R10.

J U D G M E N T

Ashok Bhushan, J.

These two Appeals have been filed by the Central Bank of India challenging the order dated 21.01.2025 and order dated 25.03.2025 passed by the Adjudicating Authority (National Company Law Tribunal) Mumbai Bench, Court No.III in IA No.2694 of 2023 and in IA No.1661 of 2023 in CP (IB) No.3794/MB/C-III/2019 respectively.

2. Brief facts necessary to be noticed for deciding both the Appeals are:-

2.1. Corporate Debtor- “M/s. Neptune Developers Private Limited” is engaged in Real Estate Development. Central Bank has sanctioned term loan to the Corporate Debtor. The project land measuring 26.05 acres at Village Ambivali, Tal. Kalyan and structures constructed thereto were exclusively charged in favour of the Central Bank of India. The Appellant filed Section 7 application for initiating Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor which was admitted on 16.07.2021. During the CIRP process, Resolution Professional appointed two registered valuers namely— (i) Mr. Kunal Kantilal Vikamsey and (ii) M/s. Adroit Appraisers and Research Pvt. Ltd. as per Regulation 35 of the CIRP Regulations, 2016. In the

CIRP, Shree Naman Developers Pvt. Ltd., the Respondent herein submitted a Resolution Plan. The Resolution Plan submitted by Shree Naman Developers Pvt. Ltd. was approved by the CoC with 85.35% vote shares on 31.03.2023. The Appellant who has 11.83% voting share in the CoC did not vote in favour of the plan. Resolution Professional filed an IA being 1661 of 2023 praying for approval of the Resolution Plan. Appellant Bank filed an IA No.2694 of 2023 on 29.04.2023 before the Adjudicating Authority praying for various reliefs. Appellant raised the objection regarding valuation conducted by two valuers apart from other reliefs. By order dated 21.01.2025, IA filed by Appellant was partly allowed insofar as prayers (b) and (d). In pursuance of the order passed by the Adjudicating Authority dated 21.01.2025, in the 10th CoC meeting held on 24.01.2025, a new valuer was appointed. In the meeting of the CoC, the Central Bank of India stated that as per valuation conducted by the Central Bank of India, the liquidation value is about Rs.26.83 Crores. The Resolution Professional stated in the CoC that since the Central Bank of India is dissenting Financial Creditor they will be entitled for liquidation value and since maximum liquidation value receivables by Central Bank as per their claim was Rs.26.83 Cr. the same is kept aside from the plan then the interest of the Central Bank would be protected. Resolution was passed that the Resolution Professional to apprise the Bench about the decision of the CoC of setting aside Rs.26.83 Crores being the disputed liquidation value of the security charged to Central Bank of India. The said Resolution was passed by 78.14%. On 31.01.2025, the Adjudicating Authority recorded concession of the Appellant to the effect that the Appellant agreed for setting aside of Rs.26.83 Crores being the disputed liquidation value of the security held by

them towards settlement of their claims. Challenging the order dated 21.01.2025, Appellant filed Company Appeal (AT) (Insolvency) No.486 of 2025 on 01.03.2025. On 12.03.2025, the Adjudicating Authority heard the parties and reserved the order in plan approval application being IA No.1661 of 2023. On 25.03.2025, the Adjudicating Authority approved the Resolution Plan submitted by Successful Resolution Applicant. Company Appeal (AT) (Insolvency) No.713 of 2025 has been filed by the Appellant challenging the order dated 25.03.2025. On 08.05.2025, the order was passed in both the Appeals to bring valuation report submitted by third valuer on the record. The report of third valuer has been brought on the record by way of an Affidavit of the Respondent No.1.

3. We have heard Shri Ravi Raghunath, Learned Counsel for the Appellant, Shri Abhijeet Sinha, Learned Senior Counsel for the Resolution Professional and Shri Gaurav Mitra, Learned Senior Counsel for the Respondent No.6- Edelweiss Asset Reconstruction Company Limited. We have also heard Counsel for the SRA and Counsel for the Interveners- Homebuyers.

4. Shri Ravi Raghunath, Learned Counsel for the Appellant submits that the Appellant's IA No.2694 of 2023 was not correctly decided. Appellant has prayed that fresh valuation be obtained and earlier valuation be set aside. Appellant has also prayed that till the third valuation is obtained, hearing in plan approval application be deferred. However, after the order dated 21.01.2025 partly allowing the application of Appellant, before even third valuation report was filed on record, the Adjudicating Authority proceeded to hear the plan approval application. It is submitted that on 31.01.2025, no

concession was recorded before the Adjudicating Authority that the Appellant has no objection if Rs.26.83 Crores be set apart. It is submitted that the Appellant has already filed Company Appeal (AT) (Insolvency) No.486 of 2025 challenging the order dated 21.01.2025. It is submitted that the third valuation report has now been brought on the record by the Resolution Professional in Company Appeal (AT) (Insolvency) No.713 of 2025 which third valuation report does not value various assets of the Corporate Debtor. The third valuation report which has valued the Corporate Debtor's fair value as Rs.13.85 Crores and liquidation value as Rs.11.08 Crore is not the correct valuation. Appellant is entitled to raise objection against the third valuation report for which Appellant did not get any opportunity. The report having been brought on the record in this Appeal, Appellant by filing a reply to the Affidavit of Resolution Professional has raised objection. It is submitted that there are serious discrepancies and errors in third valuation report dated 16.06.2025. The third valuer has not valued the KDMC Flats 23 units and Barter Flats 66 units which makes the valuation of Corporate Debtor by third valuer incorrect and faulty. Resolution Plan is vitiated and deserves to be set aside. It is submitted that both KDMC Flats and Barter Flats were valued by Mr. Kunal Vikamsey, the first valuer.

5. Shri Abhijeet Sinha, Learned Senior Counsel for the Resolution Professional submits that it was on the objection of the Appellant, third valuer was appointed by the order of the Adjudicating Authority dated 21.01.2025. Appellant before the CoC has claimed that correct valuation is Rs.26.83 Crore which was noted in the minutes dated 25.01.2025, hence, the CoC decided to

set aside Rs.26.83 Crores being the disputed liquidation value and proceed thereafter. In the hearing before the Adjudicating Authority on 31.01.2025, Counsel appearing for the Central Bank of India has agreed for setting aside Rs.26.83 Crores being the disputed liquidation value and thereafter the plan approval application was heard by the Adjudicating Authority and has been decided. The third valuer has now given a valuation report which according to third valuer, liquidation value is Rs.11.08 Crores which is higher than the first valuation report. Taking to the third valuation report and valuation report of Mr. Kunal Kantilal Vikamsey, Appellant is entitled for paying out under the Resolution Plan as he being dissenting Financial Creditor. The third valuation report even belied the claim of the Appellant that valuation according to Appellant is Rs.26.83 Crores, Appellant counsel having contended before the Adjudicating Authority that by keeping Rs.26.83 Crores set apart, proceeding can proceed. It is not open for the Appellant to now resile from its agreement which is recorded by the Adjudicating Authority. CoC have in its commercial wisdom has approved the Resolution Plan. It is not open for the Appellant- a dissenting creditor to challenge the approval of the plan by the CoC and the order passed by the Adjudicating Authority approving such plan. Appellant is obliged to accept the third valuation report which valuer was appointed on objection raised by the Appellant. The question of valuation cannot be allowed to be raised by the Appellant in this Appeal. It is submitted that the third valuer was appointed from the approved panel of the Central Bank of India and when the valuation was given by the third valuer, Appellant cannot be allowed to challenge the same. It is submitted that the Monitoring Committee has even given option to the Appellant to take entire 'Swarajya Project' with

liability which offer was not even acceptable to the Central Bank of India. Appellant is entitled for pay outs as per Section 30(2)(b). There is no error in the order passed by the Adjudicating Authority approving the Resolution Plan and the Appeals deserve to be dismissed.

6. Shri Gaurav Mitra, Learned Senior Counsel appearing for a member of the CoC has also adopted the submissions of the Resolution Professional and submits that the Appellant cannot be allowed to question the valuation which has been given by third valuer who was appointed on the objection raised by the Appellant. Valuation of the Corporate Debtor has to be taken as per the CIRP Regulations and two approved valuers having been appointed who have given their valuation reports, Appellant is bound to accept the same. It is submitted that the Appellant being only a dissenting financial creditor is entitled for the liquidation value and even the third valuer has valued the liquidation value only as Rs.11.08 Crores. Appellant's claim before the CoC that liquidation value is Rs.26.83 Crores has not been proved. Thus, the CoC in its commercial wisdom having approved the plan, there is no ground made out by the Appellant to interfere with the plan.

7. Counsel for the SRA has also adopted the submissions of the Counsel for the Resolution Professional and submits that the Appellant is entitled for his pay out as dissenting Financial Creditor in accordance with Section 30(2)(b) which he shall receive as per the two proximate valuation reports which are received in the CIRP.

8. Counsel for the Interveners appearing for the homebuyers submits that the homebuyers are waiting for their homes to be delivered for the last more than a decade. Even though this Tribunal by order dated 08.07.2025 has not stayed the implementation of the plan, the plan has not yet been implemented.

9. We have considered the submissions of the Counsel for the parties and perused the record.

10. The Appellant- Central Bank of India is one of the members of the CoC with voting share of 11.83%. The CIRP of the Corporate Debtor commenced on 16.07.2021. Resolution Professional in accordance with Regulation 35 of the CIRP Regulations appointed two registered valuers namely— (i) Mr. Kunal Kantilal Vikamsey and (ii) M/s. Adroit Appraisers and Research Pvt. Ltd. The valuation of the subject assets were carried out as on 16.07.2021 i.e. the date of commencement of the CIRP. The valuers 1 and 2 have given fair value and liquidation value to the following effect:-

S.No.	Valuer	Liquidation Value	Fair Value
1.	Mr. Kunal Kantilal Vikamsey	8.39 Crore	11.99 Cr.
2.	M/s. Adroit Appraisers and Research Pvt. Ltd.	2.21 Cr.	3.15 Cr.

11. The Resolution Plan came for consideration for approval before the meeting of the CoC in the 9th CoC meeting held on 16.03.2023. The Resolution

Plan submitted by Shree Naman Developers Pvt. Ltd. was approved with 85.35% vote share as a result of e-voting. After the plan was approved, an application was filed by the Resolution Professional being IA No.1661 of 2023 for approval of the plan. Central Bank filed IA No.2694 of 2023. In the IA, several prayers were made by the Central Bank which were to the following effect:-

“a) That all Resolution Applicants inter alia the successful Resolution Applicant (Respondent No. 2 herein) be directed to modify their Plan on receipt of fresh valuation reports and fresh voting be ordered thereafter.

b) That Resolution Professional (Respondent No. 1 herein) be directed to take necessary steps and include proper assets of the CD to be valued at Project Swarajya.

c) That the valuation conducted by Mr. Kunal Kantilal Vikamsey and M/s Adroit Appraisers and Research Pvt. Ltd. be set aside as the same is. fundamentally flawed and against the requirements of Bankruptcy Code and Regulations framed therewith.

d) That direction be issued to Resolution Professional to carry out a fresh valuation of Project Swarajya exclusively mortgaged with Applicant Bank.

e) That direction be issued to Respondent Nos. 11 and 12 being the Valuers to submit the blueprint of the Approved Plan for Swarajya Project as also the method by which the Valuation have been carried over on the vacant land and the status of Units

constructed / yet to be completed in the Project Swarajya.

f) That pending the hearing and final disposal of the present Application in the interest of maximization of assets, the approval of the Resolution Plan by the Hon'ble Adjudicating Authority be deferred;

g) That pending the hearing and final disposal of the present Application Respondent No. 1 be restrained from taking any major steps in CIRP of the CD.

h) That pending the hearing and final disposal of the present Application the voting result approving the successful Resolution Plan be stayed

i) Any other relief as this Hon'ble Tribunal may deem fit and proper.”

12. The Adjudicating Authority vide order dated 21.01.2025 directed for appointment of third valuer to value the “Project Swarajya”. The Adjudicating Authority allowed prayer (d) in which prayer (b) was also subsumed and other prayers made by the Appellant in the application were rejected. In paragraph 65 of the order, following was directed:-

“65. In view of our decision, we direct the Committee of Creditors (CoC) to appoint a third Valuer in accordance with the Code and the applicable Regulations for the purpose of determining the Fair Value and Liquidation Value of ‘Project Swarajya’ of the Corporate Debtor. This valuation exercise and consequential actions shall be completed within a period of 2 (two) weeks from the date of this order. Accordingly, prayers ‘d’ is allowed, and prayer ‘b’ being subsumed in prayer ‘d’ is also allowed. Since we have allowed prayers ‘b’ and ‘d’, the prayer ‘e’

seeking the necessary documents from Respondents 11 & 12 has become infructuous.”

13. After the order of the Adjudicating Authority dated 21.01.2025, 10th CoC meeting of the CoC was convened on 24.01.2025 where CoC discussed and approved the appointment of third valuer for ascertaining the fair value and liquidation value for “Project Swarajya”. The Resolution Professional was authorised to appoint third valuer. Resolution C-1 was passed for setting aside Rs.26.83 Crores being the disputed liquidation value of the security charged to Central Bank of India which resolution was approved with 78.14%. On 31.01.2025, the plan approval came for consideration where Learned Counsel for the Central Bank of India expressed his agreement to the setting aside of Rs.26.83 Crores being the disputed liquidation value of the security held by the Central Bank of India which has been noted by the Adjudicating Authority in the impugned order dated 25.03.2025 in paragraph C (vi) which is to the following effect:-

“vi. When the matter was listed for hearing on 31.01.2025, Adv. Rathina Maravarman, appearing for the Central Bank of India, agreed to the setting aside of Rs. 26.83 crores, being the (disputed) liquidation value of security held by Central Bank in Project Swarajya, towards the settlement of the claims of Central Bank of India which is a dissenting secured financial creditor.”

14. The Adjudicating Authority by the order dated 25.03.2025 after holding the Resolution Plan is compliant of provision of Section 30(2) has approved the plan. Counsel for the Appellant has raised grievance with regard to third

valuation report which has been brought on the record in this Appeal and which valuation was directed to be obtained by the Adjudicating Authority vide order dated 21.01.2025.

15. From the fact which has been brought on the record, it is clear that the Resolution Plan was approved by the CoC on 31.03.2023. The Appellant-Central Bank of India which have 11.83% voting share did not vote in favour of the plan. Appellant- Central Bank of India is only Dissenting Financial Creditor. A Dissenting Financial Creditor is entitled for amount as per Section 30(2) (b), thus, as a Dissenting Financial Creditor, Appellant can claim amount as per Section 30(2)(b) and the liquidation value of the Corporate Debtor becomes relevant for finding out the minimum amount which is to be paid to the Dissenting Financial Creditor. It was on the objection raised by the Appellant to the valuation reports which were earlier obtained that Adjudicating Authority on 21.01.2025 directed for appointment of third valuer. Regulation 35 of the “IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016” (“CIRP Regulation”) provides for appointment of registered valuers. Regulation 35 is as follows:-

“35. Fair value and Liquidation value.- (1) *Fair value and liquidation value shall be determined in the following manner:-*

(a) the two registered valuers appointed under regulation 27 shall submit to the resolution professional an estimate of the fair value and of the liquidation value computed in accordance with internationally accepted valuation standards, after

physical verification of the inventory and fixed assets of the corporate debtor;

[Provided that the resolution professional shall facilitate a meeting wherein registered valuers shall explain the methodology being adopted to arrive at valuation to the members of the committee before computation of estimates.]

[(b) if the two estimates of a value in an asset class are significantly different, or on receipt of a proposal to appoint a third registered valuer from the committee of creditors, the resolution professional may appoint a third registered valuer for an asset class for submitting an estimate of the value computed in the manner provided in clause (a).

Explanation.- For the purpose of clause (b),

(i) “asset class” means the definition provided under the Companies (Registered Valuers and Valuation) Rules, 2017;

(ii) “significantly different” means a difference of twenty-five per cent. in liquidation value under an asset class and the same shall be calculated as $(L1-L2)/L1$, where, L1= higher valuation of liquidation value L2= lower valuation of liquidation value.]

(c) the average of the two closest estimates of a value shall be considered the fair value or the liquidation value, as the case may be.

[(2) After the receipt of resolution plans in accordance with the Code and these regulations, the resolution professional shall provide the fair value, the liquidation value and valuation reports to every member of the committee in electronic form, on receiving an undertaking from the member to the effect that such

member shall maintain confidentiality of the fair value, the liquidation value and valuation reports and shall not use the information contained in the valuation reports to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.]

(3) The resolution professional and registered valuers shall maintain confidentiality of the fair value and the liquidation value.”.

16. The present is a case where third registered valuer has been appointed under the order of the Adjudicating Authority. The present is not a case where any error or illegality has been pointed out regarding appointment of valuer either first two valuers or third valuer. The grievance which has been raised by the Appellant is regarding computation of the value of the Corporate Debtor as computed in the earlier two valuation reports. Finding the grievance of the Appellant have some substance, the third valuer was appointed. Third valuer report has been brought on the record and third valuer has opined the liquidation value and fair value of the Corporate Debtor is as follows:-

S.No.	Valuer	Liquidation Value	Fair Value
1.	Jayesh Mohan Kamat	11.08 Crore	13.85 Cr.

17. The third valuer report is higher in the fair value as well as in the liquidation value as compared with the first and second valuer. Counsel for the Appellant has contended that the third valuation report has not valued the assets of the Corporate Debtor which were earlier valued by the first

valuer. Counsel for the Appellant for reference has referred to third valuation report which according to the Appellant has not valued the working flats handover to KDMC and value of working flats handover to Barter. It is submitted that the third valuer has not taken into consideration the aforesaid two assets, the valuation report by third valuer is liable to be rejected and does not depict the correct assessment of the value. For example, for referring to the Barter Flats 66 in numbers, Counsel for the Appellant submits that the value of said Barter Flats has not been included in the valuation by third valuer.

18. It is useful to refer to treatment given by third valuer to the Barter Flats to appreciate the submission of the Appellant. The copy of the third valuation report has been brought by way of an Affidavit of the Resolution Professional filed on 07.07.2025. At page 50-51 of the affidavit, the third valuer has stated following with regard to Barter Flats:-

“B. Barter Flats (66 in Nos.)

We have received MOU and Allotment letter for 66 Units that are bartered with various contractors against the outstanding dues to be paid by NDL. The flat wise list is as below:

Sr. No.	Builders	Contractor	Sector	Building	Flat No.	Carpet Area in sq. ft.
1	NDL	Agasti Enterprises	2	10	201	233.00
2	NDL	Plumb Art (India)	1	18	2	233.00
3	NDL	Plumb Art (India)	1	6	703	387.00
4	NDL	Plumb Art (India)	1	6	705	387.00
5	NDL	Plumb Art (India)	1	8	705	387.00

6	NDL	Plumb Art (India)	1	13	701	387.00
7	NDL	Plumb Art (India)	1	16	701	387.00
8	NDL	Plumb Art (India)	1	16	706	387.00
9	NDL	Plumb Art (India)	1	16	1	387.00
10	NDL	Plumb Art (India)	2	2	712	233.00
11	NDL	Plumb Art (India)	2	11/A	402	233.00
12	NDL	Plumb Art (India)	2	11/A	304	233.00
13	NDL	Plumb Art (India)	2	11/B	7	233.00
14	NDL	Plumb Art (India)	2	11/B	305	233.00
15	NDL	Plumb Art (India)	2	11/B	501	233.00
16	NDL	Plumb Art (India)	2	4/B	707	233.00
17	NDL	Plumb Art (India)	2	5/A	706	233.00
18	NDL	Plumb Art (India)	2	5/A	704	233.00
19	NDL	Plumb Art (India)	2	6	107	233.00
20	NDL	Plumb Art (India)	2	6	601	233.00
21	NDL	Plumb Art (India)	2	6	603	233.00
22	NDL	Plumb Art (India)	2	6	605	233.00
23	NDL	Plumb Art (India)	2	6	606	233.00
24	NDL	Plumb Art (India)	2	6	607	233.00
25	NDL	Plumb Art (India)	2	6	702	233.00
26	NDL	Plumb Art (India)	2	6	703	233.00
27	NDL	Plumb Art (India)	2	6	704	233.00
28	NDL	Plumb Art (India)	2	6	705	233.00
29	NDL	Plumb Art (India)	2	6	707	233.00
30	NDL	Plumb Art (India)	2	7	604	233.00
31	NDL	Plumb Art (India)	2	8/A	708	233.00
32	NDL	Plumb Art (India)	2	8/A	6	233.00
33	NDL	Plumb Art (India)	2	8/A	302	233.00
34	NDL	Plumb Art (India)	2	8/A	402	233.00

35	NDL	Plumb Art (India)	2	8/A	602	233.00
36	NDL	Plumb Art (India)	2	8/B	105	233.00
37	NDL	Plumb Art (India)	2	8/B	602	233.00
38	NDL	Plumb Art (India)	2	8/B	605	233.00
39	NDL	Plumb Art (India)	2	16/A	4	387.00
40	NDL	Plumb Art (India)	2	16/A	701	387.00
41	NDL	Plumb Art (India)	2	16/B	604	387.00
42	NDL	Plumb Art (India)	2	15	604	387.00
43	NDL	Plumb Art (India)	2	15	701	387.00
44	NDL	Plumb Art (India)	2	1/B	102	233.00
45	NDL	Kohinoor Constructions	2	5B	101	233.00
46	NDL	Nishi Electricals	1	9B	707	233.00
47	NDL	Nishi Electricals	1	14	1	233.00
48	NDL	Nishi Electricals	1	14	10	233.00
49	NDL	Nishi Electricals	1	14	703	233.00
50	NDL	Nishi Electricals	1	17	703	233.00
51	NDL	Nishi Electricals	1	2	5	233.00
52	NDL	Nishi Electricals	1	2	701	233.00
53	NDL	Power Solutions	2	7	306	233.00
54	NDL	The Innovatives	1	8	204	387.00
55	NDL	Usha Stones Supplying Company	1	6	706	387.00
56	NDL	Ultracon Structural Systems Pvt. Ltd.	2	4A	607	233.00
57	NDL	Ranjanben Gangji Gala	1	A-2	702	233.00
58	NDL	Ranjanben Gangji Gala	1	A-2	704	233.00
59	NDL	Ranjanben Gangji Gala	1	A-2	705	233.00
60	NDL	Abanikumar K Mishra	1	A-4	703	233.00
61	NDL	Sangeeta K Mishra	1	A-7A	301	387.00

62	NDL	Jayaben Shah	2	B-16A	703	387.00
63	NDL	Nirmala- Amit Gala	1	A-2	707	233.00
64	NDL	Nirmala- Vinay Gala	1	A-5	007	233.00
65	NDL	Plumb Art (India)	2	B-18	4	387.00
66	NDL	Insign Technology Private Limietd	2	15	604	387.00

As per the MOUs and allotment letter, the said flats were allotted to various contractors involved in the construction against the outstanding amount to be paid to them. As these flats have been given in lieu of outstanding payments to be paid by NDL, we have not valued the same.

The following is pertinent to note:

The valuation of these barter flats is not considered in the said assignment on the assumption that the outstanding payment of the contractors has been set-off against these flats.”

19. From the above statement made by third valuer, it is clear that the MoU and allotment letter for 66 units was noticed by third valuer. It is clear that against the outstanding amount to be paid to various contractors involved in the construction the Flats have been given in lieu of the outstanding payments which is clearly noticed above in the report of the third valuer. The above was reason given by third valuer that due to above reason, the above flats are not valued in the value of the Corporate Debtor. We do not find any infirmity in the said observations of the third valuer, when the said units were given in the lieu of outstanding payments to be paid to them by the Corporate Debtor, the Corporate Debtor was not to receive any amount of the said units and addition of the value of the units in the value of the Corporate Debtor was not

found acceptable by the third valuer. The above approach by the third valuer cannot be said to be perverse or unacceptable.

20. The valuers appointed in the CIRP process are the registered valuers who are registered valuers and they are expert of the job and valuation given by the valuers are not to be lightly interfered with by the Adjudicating Authority in exercise of judicial review. When the report is based on relevant material, the Court cannot give its own opinion with regard to valuation of the assets. Counsel for the Respondent has rightly relied on the judgment of this Tribunal in **“Beacon Trusteeship Ltd. vs. Jayesh Sanghrajka- 2024 SCC OnLine NCLAT 667”** wherein paragraphs 17, following has been observed:-

“17. The argument that Valuation Reports were not correct has no substance. The RP has shared all information regarding the Corporate Debtor available with it to the valuers and valuers after detailed correspondence with the RP had provided the Valuation Report. Valuers who submitted the Reports are expert and it is not open for the Appellant or this Tribunal to sit in Appeal on the Valuation Report. It is submitted that Resolution Plan is fair and equitable to all Creditors, Homebuyers constituted a different category of Financial Creditor in a class and the fact that they are being provided homes without being asked to pay any escalation price is not a ground on which Resolution Plan can be interfered with, CoC in its commercial wisdom has approved the Resolution Plan which does not require any interference at the instance of the Appellant in this Appeal.”

21. We may also notice the judgment of the Hon'ble Supreme Court in ***"M.K. Rajagopalan vs. Periasamy Palani Gounder- (2024) 1 SCC 42"*** where the Hon'ble Supreme Court had approved the decision of the Adjudicating Authority and it was found that the process for valuation was undertaken by the Resolution Professional in accordance with law. In paragraphs 134, 135, 136, 137 are as follows:-

"134. The Appellate Tribunal has laid great emphasis on the point that commercial wisdom of CoC was materially affected for want of existence of a valid and actual valuation report and sharing of all the relevant facts pertaining to the valuation with the members of CoC leading to violation of Regulations 27 and 35 of the CIRP Regulations. We are unable to agree.

135. It has rightly been contended on behalf of the appellants that the members of CoC were provided with fair value and liquidation value after obtaining a confidentiality undertaking. We have reproduced hereinbefore all the material parts of the minutes of the meetings of CoC and it is at once clear that the members of CoC were fully satisfied with and endorsed the process of valuation and even re-evaluation as undertaken by the resolution professional. Particularly, the minutes of second, fourth, sixth and seventh CoC meetings stand testimony to the fact that the requirements of Regulation were scrupulously followed and complied with and there had not been any doubt in CoC as regards the process of valuation as also supplying of fair and liquidation value to the members of CoC. The detailed findings of the adjudicating authority in this

regard (reproduced in para 60 hereinabove) make it clear that the adjudicating authority independently applied its mind to the process of valuation and presentation of the matter to CoC. Rejection of all the objections in that regard by NCLT, called for no interference.

136. The Appellate Tribunal appears to have unnecessarily and rather unjustifiably presumed that there had been blatant statutory violations and irregularities. Even if certain issues were raised in some of the meetings of CoC as regards the process of valuation, the clarifications from the resolution professional and the steps taken by him for valuation and re-valuation had been to the satisfaction of CoC. It has rightly been contended on behalf of the appellants with reference to the decision in Maharashtra Seamless 16 that resolution plan is not required to match the liquidation value as such.

137. The findings of the Appellate Tribunal in regard to the question of valuation and thereby taking the resolution plan to be in contravention of Sections 30(2) and 61(3) of the Code cannot be approved and are required to be set aside.”

22. The present is a case where CoC in its commercial wisdom has approved the Resolution Plan. The valuation report as required by Regulation 35 of the CIRP Regulations is shared with all members of the CoC. All members of the CoC have deliberated on the valuation report and approved the plan. As held by the Hon’ble Supreme Court in **“K. Sashidhar v. Indian Overseas Bank & Ors.- (2019) 12 SCC 150”**, the commercial wisdom of the CoC in approving

the Resolution Plan is not to be interfered with in exercise of judicial review by the Adjudicating Authority or by this Tribunal. There was no error in the process of obtaining valuation report and Regulation 35 of the CIRP Regulations was followed by the Resolution Professional in obtaining two valuation reports and even third valuation report was obtained under the orders of the Adjudicating Authority. The mere fact that Appellant is not satisfied with the valuation report given by third valuer cannot be a ground to interfere with the commercial wisdom of the CoC approving the Resolution Plan. As noted above, Appellant is a dissenting Financial Creditor who has not approved the plan. A dissenting financial creditor cannot be allowed to achieve indirectly which he could not achieve directly, despite he has not voted for the plan, the plan has been approved with requisite majority. The third valuation report which has been obtained by the order of the Adjudicating Authority is relevant for determining the liquidation value which is relevant for determining pay out to which Appellant is entitled as per Section 30(2). Two proximate liquidation value i.e. liquidation value has to be taken as per Regulation 35 and there being three valuation reports, the first and the third valuation report being proximate, the average of two closest estimate of the value need to be taken i.e. average of two closest estimate i.e. report of first valuer and third valuer for the liquidation value.

23. We thus, do not find any substance in the submissions of the Appellant in challenging the impugned orders dated 21.01.2025 and 25.03.2025. There are no grounds made out to interfere with the approval of the Resolution Plan

which is based on approval by the CoC in exercise of its commercial wisdom.
There is no merit in either of the Appeals. Both the Appeals are dismissed.

**[Justice Ashok Bhushan]
Chairperson**

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

NEW DELHI

18th August, 2025

Anjali