IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

[Through Physical hearing/ VC Mode (Hybrid)]

ITEM No.08
I.A.Nos.428/2024 & 239/2025 in
C.P.(IB) No.122/BB/2017

IN THE MATTER OF:

M/s. New Age Real Properties, LLP ... Petitioner
Vs.
M/s. Bhuvana Infra Projects Pvt. Ltd. ... Respondent

Petition under Section 7 of I & B Code, 2016

Order delivered on: 04.09.2025

CORAM:

SHRI SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Liquidator : Ms. Raina Birla

ORDER

I.A.No.428/2024 is disposed of vide separate Order with directions that the proposal of OEDPL shall be taken by the Stakeholders Committee instead of a decision being taken by this Authority. It is expected that the SCC will take an appropriate decision in the matter expeditiously, either by accepting one of the proposed options or by suggesting a better alternative for recovery of dues of the Corporate Debtor.

I.A.No.239/2025 is allowed vide separate Order.

C.P.(IB) No.122/BB/2017: List the case on **27.10.2025.**

-Sd-	**-Sd-**
RADHAKRISHNA SREEPADA	**SUNIL KUMAR AGGARWAL**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Shruthi

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU

(Exercising powers of Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016)

(Through Physical Hearing / VC Mode (Hybrid))

I.A. 428/BB/2024
in **C.P. (IB) No.122/BB/2017**
Under Section 60 (5) of the IBC, 2016
read with Rule 11 of the NCLT Rules, 2016

IN THE MATTER OF:

Mr. Vijay Pitamber Lulla **Liquidator/Applicant**

VERSUS

Income Tax Officer, TDS Ward-1(1), Bangalore & others **Respondents**

In the matter of:

New Age Real Properties LLP **...Financial Creditor**

VERSUS

Bhuvana Infra Projects Private Limited (In Liquidation**)** **...Corporate Debtor**

Last date of hearing: 22.08.2025

Order Delivered on: 04.09.2025

Coram: 1. Hon'ble Shri Sunil Kumar Aggarwal, Member (Judicial)
2. Hon'ble Shri Radhakrishna Sreepada, Member (Technical)

O R D E R

1. The Application has been filed for the following reliefs:

   (a) To allow the liquidator to accept on behalf of the Corporate Debtor the proposal of OEDPL dated 23.02.2024 which is more particularly annexed as Annexure C to accept Rs.2 Crores in full and final settlement and distribute the amounts so

recovered in accordance with mechanism under section 53 of the IBC 2016 or alternatively;

(b) To direct the liquidator to assign the receivables of OEDPL to NRRA as per the proposal received from Markrise Consultants Pvt. Ltd. dated 27.11.2023 which is more particularly annexed as Annexure E.

2. Brief facts germane to the application are as follows:

   a) The Corporate Debtor was admitted into CIRP ("Corporate Insolvency Resolution Process") vide order dated 17.01.2018 and Mr. Pavan Kankani was appointed as Interim Resolution Professional ("hereinafter referred to as erstwhile IRP").

   b) In the first meeting of the Committee of Creditors (CoC), Mrs. Ramanathan Bhuvneshwari was proposed to be appointed as the Resolution Professional (RP) to manage the affairs of the Corporate Debtor for the rest of the CIRP period. An application was filed by the COC u/s.22(3)(b) of IBC and Mrs. Ramanathan Bhuvneshwari was appointed vide order dated 04.05.2018.

   c) Thereafter, the Corporate Debtor was ordered to be liquidated vide order dated 10.12.2019 and Sh. Vijay P. Lulla was appointed as the Liquidator.

   d) The Liquidator through public announcement received a total of 10 claims out of which one was from the financial creditor i.e. Bank of Maharashtra and 9 were from Operational Creditors.

   e) The Liquidator published an e-auction notice for selling the assets of the Corporate Debtor on 05.06.2021 for inviting prospective bidders to bid on the block of assets with a reserve price of Rs. 68.04 Lakhs pursuant whereof ***M/s. Foxtrot Outsourcing & Technologies Pvt Ltd.***, & Chil Construction LLP had shown their interest for the participation in the e-auction and after the exercise M/s. Foxtrot Outsourcing & Technologies was declared the successful bidder for an amount of Rs. 68.50 Lakhs in e-auction and accordingly the movable assets of the Corporate Debtor were made over to M/s. Foxtrot Outsourcing & Technologies Pvt Ltd.

   f) In addition to the sale of movable assets, the Corporate Debtor had three debtors owing monies totalling Rs. 28.49 crores. Out of it a sum of Rs. 17.68 crores has so far been recovered by the liquidator leaving principal outstanding of Rs. 10.80 crores due from ***Prisha Properties India Private Limited*** (now ***Orchid Elite Developers Pvt. Ltd., "OEDPL"***). The recoveries enabled settlement of claims of Bank of Maharashtra and the PF department except for a residual sum of Rs. 55,325/-, for which execution is pending against Axis Bank.

g) OEDPL has itself been subject to winding up proceedings, litigation, and claims of insolvency, as detailed in its various communications annexed to the application. OEDPL represented liabilities exceeding Rs. 113 crores, with the Hanging Garden Project ordered to be handed over to the Customers Association by RERA, thus diminishing its liquidity prospects. The company also stated that a One-Time Settlement offered to Union Bank of India was not accepted and CIRP is threatened, with multiple pending proceedings across judicial forums and outstanding statutory liabilities.

h) The Liquidator received a final settlement proposal from OEDPL to pay Rs. 2 crores in full and final settlement against the outstanding Rs.10.80 crores, to be paid within 90 days. Alternatively, ***Markrise Consultants Pvt. Ltd.*** proposed to acquire Not Readily Realisable Assets (NRRA) relating to the OEDPL receivables for upfront consideration of Rs. 1 lakh and a share of any recoveries.

i) Both proposals were placed before the Stakeholder Consultation Committee (SCC) in its meetings, with voting conducted on the approval of either resolution. However, neither proposal was accepted.

3. The Applicant argued that the failure of the SCC to approve either proposal will result in delay in completion and closure of liquidation, contrary to directions of Tribunal and objectives of the Code. The Liquidator submits that the ongoing liquidation has already exceeded four years and repeated extensions, and further delay will be detrimental to the stakeholders and aggravate uncertainty.

4. The Applicant contended that, in view of the multiple litigations and precarious financial position of OEDPL, pursuing recovery through legal action is likely to yield a substantially lower realisation, if any, and result in further time and resource expenditure. The Applicant emphasizes that time value of money warrants

consideration of immediate realisation through a settlement or assignment, rather than indefinite litigation in hopes of full recovery.

5. The Applicant invoked Regulation 31(10) of the Liquidation Process Regulations, 2016, submitting that the Liquidator is not bound by the SCC's decision and is required to act in the interest of maximisation of assets of the corporate debtor and for timely closure. The Liquidator submits that approval of either the OEDPL settlement proposal or the NRRA assignment is justified, as these alternatives offer closure, avoid further value erosion, and enable immediate distribution to stakeholders in accordance with Section 53 of the IBC.

Reply by Respondent No. 9, the Income Tax Department

6. Respondent No. 9, has filed its reply highlighting the outstanding statutory dues owed by the Corporate Debtor, M/s Bhuvana Infra Projects Private Limited, specifically in relation to TDS obligations. It is submitted that a TDS survey was conducted on 17.11.2016, wherein the ledger records revealed unpaid TDS to the government account amounting to Rs. 59,43,080/- for the period 01/01/2016 to 17/11/2016, besides a TRACES demand of Rs. 8,34,430/-. Upon conclusion of proceedings under section 201(1) & 201(1A) of the Income Tax Act for F.Y. 2015-16 and 2016-17, the total demand as on date aggregates to Rs. 2,33,63,347/- (excluding interest under section 220(2)).

7. The Department details its continuous correspondence throughout the liquidation process, tracing claims from the initial intimation regarding CIRP, formal submissions of outstanding statutory claims, updated proof of claims (Form 'C'), and repeated communications to the liquidator upon passing of tax orders increasing the assessed demand.

8. It is emphasized that the claim for Rs. 2,33,63,347/- has consistently been highlighted, and as per statutory provisions, the amount of Rs. 59,43,080/- deducted but not remitted is "public money." The Department asserts that such amounts does not fall under the scope of assets available for general settlement in liquidation under the IBC, relying on section 36(4)(a)(i) of the Code, to receive priority settlement. The

Department also observes that the liquidator has proposed to settle the Rs. 10,80,56,075/- receivable from OEDPL by accepting Rs. 2 crores in final settlement within 90 days, a proposal placed before stakeholders and e-voted upon it.

9. Respondent No. 9 contends that it is likely that Rs. 2 crores will be the final settlement amount available, and any acceptance of the liquidator's proposal as it stands will jeopardize recovery of public money. It was thus prayed that the Tribunal may issue directions to the liquidator to accept and settle the claims of the Income Tax Department as first priority, in full and final settlement, treating TDS dues as non-negotiable pursuant to statutory mandate. The Department further prayed for rejection of the liquidator's proposal to accept the reduced settlement from OEDPL if it would impair statutory recoveries, and to ensure necessary arrangements are made for the settlement of TDS dues.

Rejoinder by Applicant

10. The Applicant submitted that Respondent No. 9, Income Tax Officer, in their reply had sought special directions and priority for its tax claims, which is beyond the scope of the present application. The Applicant contends that if Respondent No. 9 was aggrieved by rejection of its claims, it ought to have filed a proper application at the relevant time, rather than raising it belatedly.

11. The Applicant denied all allegations and contentions made by Respondent No. 9 except where specifically admitted. The Applicant clarified that any absence of traverse to any statement should not be construed as admission.

12. The Applicant stated that pursuant to the liquidation order dated 10.12.2019, a public invitation for claims was issued. Respondent No. 9 had filed its initial claim for Rs. 67,77,510/- on 07.01.2020, and the Liquidator duly verified and admitted the claim as an operational creditor.

13. The Applicant further stated that in the 4th Stakeholder's meeting held on 11.01.2023, the Liquidator proposed the assignment of NRRA or other methods for recovering dues. Although Respondent No. 9 attended the meeting, it neither participated in

voting nor provided any suggestions, thus missing the opportunity to facilitate the closure of liquidation.

14. It was submitted that only after a considerable lapse of time and conclusion of tax proceedings did Respondent No. 9 begin to submit revised and additional claims, with the latest claim being Rs. 2,33,63,347/-, well outside the statutory timeline for liquidation claim submission.
15. The Applicant states that Respondent No. 9 was repeatedly informed on several occasions in 2023 and 2024 that additional or revised claims could not be entertained at such an advanced stage of liquidation. It was emphasized that Respondent No. 9 never challenged the rejection or approached the Tribunal for over 15 months thereafter.
16. The Applicant pointed out that Respondent No. 9 did not attend or participate in subsequent crucial Stakeholder meetings, nor in voting on settlement offers and NRRA proposals, and that this passivity contributed to the delays in conclusion of the liquidation process.
17. The Applicant reiterates that by filing Form C, Respondent No. 9 acknowledged itself as an operational creditor and, under IBC, could not claim payment priority over other creditors. The Applicant prayed that the belated objections raised by Respondent No. 9, without timely recourse or application are not legally sustainable and that the objections should be disregarded so liquidation could be efficiently and lawfully concluded.
18. Having heard the learned counsels for both sides and upon perusal of pleadings and case records it transpires that both the settlement and assignment proposals were duly placed before the SCC, deliberated upon, and subjected to voting; however, neither proposal secured the requisite majority for approval. The record reflects comprehensive consideration by the SCC of all relevant commercial, legal, and practical aspects, including the time value of money, prospects and cost of further recovery, and the wider impact on stakeholder interests. Objections of the Income Tax Department and other respondents regarding statutory claims and purported priorities were also placed on record and considered.

19. Reliance is placed upon settled jurisprudence, including the judgments of the Hon'ble Supreme Court in ***Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*** and ***Swiss Ribbons Pvt. Ltd. v. Union of India,*** that the commercial wisdom of stakeholders, as exercised in the SCC, is paramount in determining the mode and manner of realization and distribution of the assets of the Corporate Debtor in liquidation. This Tribunal is not to substitute its own assessment save in cases of patent illegality, serious procedural irregularity, or demonstrable unreasonableness on the part of the stakeholders.
20. We are of the considered view that, under present facts, the determination as to whether to accept, reject, or renegotiate any settlement offer or assignment of receivables from OEDPL is best left to the commercial wisdom of the SCC, to be exercised in accordance with applicable provisions of the Code and the Liquidation Process Regulations. The Tribunal notes that the material on record reveals no illegality or procedural impropriety in the decision-making or conduct of the SCC, and no manifest injustice or arbitrariness that would justify judicial interference in the commercial decision arrived at by the stakeholders.
21. This Tribunal notes that the Income Tax Department (Respondent No. 9) has raised objections regarding statutory TDS claims totalling Rs. 2,33,63,347/-, including unremitted TDS amount of Rs. 59,43,080/- which it contends constitute "public money" entitled to priority treatment under Section 36(4)(a)(i) of the Code.
22. However, it is pertinent to note that the specific issue of TDS payment and the Department's updated claims have been comprehensively dealt with in a separate IA filed by the Income Tax Department, wherein detailed directions have been given. The present application is confined to the narrow issue of acceptance of settlement proposals from OEDPL and assignment of NRRA.
23. Accordingly following directions are issued:
    a. The SCC is directed to consider the settlement proposal of OEDPL and the assignment of proposed NRRA as submitted by Markrise Consultants Pvt. Ltd., and, in the exercise of its commercial wisdom, to arrive at a final and reasoned decision or by formulating any other appropriate solution in accordance with law.

The SCC shall ensure that its decision is conclusively recorded and communicated to the Liquidator within a reasonable time.

b. The Liquidator shall act in accordance with the resolutions or directions, if any, passed by the SCC regarding realization and distribution of the relevant assets, and all distributions shall be affected strictly in compliance with Section 53 of the IBC, 2016.

c. No further directions are called for in this application, and the Liquidator shall ensure timely closure of liquidation in accordance with the statutory provisions of the IBC,2016 and the decisions of the SCC.

24. Accordingly the I.A. No. 428/BB/2024 is **dismissed** in terms of the directions set out hereinabove.

-Sd-	**-Sd-**
(RADHAKRISHNA SREEPADA) **MEMBER (TECHNICAL)**	**(SUNIL KUMAR AGGARWAL)** **MEMBER (JUDICIAL)**