



**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-I), CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)
(Through web-based video conferencing platform)**

**I.A. No. 434/2023,
26/2024 and 471/2024**

**In
CP (IB) No. 211/Chd/Hry/2019
(Admitted)**

**Under Section 9 of the Insolvency
and Bankruptcy Code, 2016**

IN THE MATTER OF:

Signify Innovations India Limited

.....Applicant/Operational Creditor

Versus

Eon Electric Limited

.....Respondent/Corporate Debtor

IN THE MATTER OF INTERLOCUTORY APPLICATION NO. 434/2023

**Under Section 60(5) read with
Section 30 & 31 of the Insolvency
and Bankruptcy Code, 2016**

1. Vivek Mahendru

S/o V.P. Mahendru ,
R/o BB-38, Nehru Enclave,
Kalkaji- 110019

2. Vinay Mahendru

S/o V.P. Mahendru,
R/o BB-38, Nehru Enclave,
Kalkaji- 110019

.....Applicants



Versus

1. Ritu Rastogi

Resolution Professional of Eon Electric Limited,
R/o D-1B, 9A, D Block,
Janakpuri, New Delhi- 110058

2. Committee of Creditors, through all members:

A. State Bank of India

Through Mr. Krishan Kumar
Stressed Asset Management Branch II,
11th Floor, Jawahar Vyapar Bhawan,
1, Tolstoy Marg, New Delhi- 110001

B. RBL Bank Ltd.

Through Mr. Millind Rastogi
Upper Ground Floor, Hansalalya Building,
15, Barakhamba Road,
Connaught Place, New Delhi-110001

C. Yes Bank Ltd.

Through Mr. Shrayansh Rastogi
Plot No. 1/9, Patel Nagar (West),
Opposite Metro Pillar No. 203,
New Delhi-110008

3. Santosh Hyvolt Electricals Pvt. Ltd.

Having its registered office at:
Plot No. A 11, Nirman Vihar,
G Floor, Near Universal Public School,
East Delhi, Delhi-110092
Through its Authorised Representative

.....Respondents

IN THE MATTER OF INTERLOCUTORY APPLICATION NO. 26/2024

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

State Bank of India



Stressed Asset Management Branch-II,
11th Floor, Jawahar Vyapar Bhawan,
1, Tolstoy Marg, New Delhi- 110001
Through Sh. Narender Kumar (Assistant General Manager)
.....Financial Creditor/ Applicant

Versus

1. Santoshi Hyvolt Electricals Private Limited

Having its registered office at:
Plot No. A 11, Nirman Vihar,
G Floor, Near Universal Public School,
AST Delhi, Delhi-110092

.....Respondent

2. Resolution Professional of Eon Electrical Limited

Ms. Ritu Rastogi,
R/o D-1 B, 9A, D Block,
Janakpuri, New Delhi-110058

3. Yes Bank Limited

Plot No. 1/9, Patel Nagar (West),
Opposite Metro Pillar No. 203,
New Delhi- 110008

.....Performa Respondents

AND IN THE MATTER OF I.A. NO. 471/2024

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

Santoshi Hyvolt Electricals Private Limited

Having its registered office at:
Plot No. A 11, Nirman Vihar,
G Floor, Near Universal Public School,
AST Delhi, Delhi- 110092

...Applicant

Versus



1. Ritu Rastogi

Resolution Professional of Eon Electric Limited
R/o D-1B, 9A, D Block,
Janakpuri, New Delhi-110058

...Respondent No.1

2. State Bank of India

Stressed Asset Management Branch II,
11th Floor, Jawahar Vyapar Bhawan,
1 Tolstoy Marg, New Delhi- 110001

...Respondent No.2

3. RBL Bank Ltd.

Upper Ground Floor, Hansalalya Building,
15, Barakhamba Road,
Cannaught Place, New Delhi- 110001

...Respondent No.3

4. Vivek Mahendru and Viney Mahendru

Suspended Directors of Eon Electric Ltd.

...Respondent No.4

Order delivered on: 19.11.2024

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. UMESH KUMAR SHUKLA, MEMBER (TECHNICAL)**

PRESENT:

For the Applicant in IA No. 471/2024 : Mr. Aalok Jagga, Advocate and Mr. G. S. Sarin, PCS

For the Respondent No.1 in IA No.26/2024 and Respondent No. 3 in I.A No. 434/2023 : Mr. APS Madaan and Ms. Vibhu Aggarwal, Advocates

For the CoC in all applications : Mr. Harsh Garg and Ms. Ramneek Kaur Mann, Advocates

For the RP/Applicant : Mr. Harshit Khare and Mr. Prafful Saini, Advocates, Ms. Ritu Rastogi, RP-in person

For respondent Nos. 4 and 7 in IA No.434/2023 : Mr. Rohan Mittal, Advocate



For respondent No.6 in IA No.434/2023 : Mr. Kaustubh Sinha, Ms. Surbhi Mehta and Mr. Anchit Sharma, Advocates

For respondent Nos. 1-2 in IA No. 434/2023 : Mr.Anand Chhibbar, Sr.Advocate, Ms. Swati Vashisth, PCA

Applicant in IA No. 434/2023 Respondent No. 4 in I.A. No.471/2024 : Mr. Vaibhav Sahni and Mr. Prashant Katera, Advocates

**Per: Sh. Harnam Singh Thakur, Member (Judicial)
Sh. Umesh Kumar Shukla, Member (Technical)**

ORDER

INTERLOCUTORY APPLICATION NO. 434/2023

The present Interlocutory Application (hereafter collectively referred to as the “IA) has been filed by and on behalf of Sh. Vinay Mahendru (hereafter referred to as the “Applicant No.1”) and Sh. Vivek Mahendru (hereafter referred to as the “Applicant No.2”), (hereafter referred to as the “Applicants”), both being unsuccessful resolution applicants as well as ex-directors of Eon Electric Limited (hereafter referred to as the “Corporate Debtor”) currently undergoing CIRP, against Ritu Rastogi, Resolution Professional of Eon Electric Limited (hereafter referred to as the “Respondent No.1”), Committee of Creditors (hereafter referred to as the “CoC” or “Respondent No.2”), through all members viz. State Bank of India (hereafter referred to as the “Respondent No.2A”), RBL Bank Ltd. (hereafter referred to as the “Respondent No.2B”), Yes Bank Ltd. (hereafter referred to as the “Respondent No.2C”), and Santoshi Hyvolt Electricals Private Limited (hereafter referred to



as the “Respondent No.3” or “SRA”), (hereafter collectively referred to as the “Respondents”) under Section 60(5), read with Section 30 and 31 of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “IBC” or "Code") with the following prayers:

- (i) Setting aside the decision of the CoC’s approval of the resolution plan submitted by Respondent No.3, and;
- (ii) Direct the CoC to reconsider the resolution plan as already submitted through a challenge mechanism and/or further invite additional resolution plans, which are compliant, implementable, and commercially viable for maximisation of value.


FACTS OF THE CASE

2. It is averred in the IA that:

- (i) The Corporate Debtor is a registered MSME and was run by the Applicants. The copy of the MSME Certificate has been annexed with the IA as Annexure A-1.
- (ii) The sole reason for admittance of the Petition under section 9 was unpaid dues amounting to approximately Rs.40 crores, which were to be recovered by the Corporate Debtors from Energy Efficiency Services Limited (hereafter referred to as the “EESL”), which is promoted by Ministry of Power, Government of India as a Joint Venture of four reputed public sector undertakings NTPC Limited, Power Finance Corporation Limited, REC Limited and Power Grid Corporation of India Limited.



- (iii) This Adjudicating Authority vide order dated 13.10.2020 passed in C.P. (IB) No. 211/Chd/Hry/2019 admitted the petition filed by Signify Innovations India Ltd. (hereinafter referred to as the “Operational Creditor”) under section 9 of the IBC for initiating the Corporate Insolvency Resolution Process (hereafter referred to as the “CIRP”) against the Corporate Debtor and further moratorium stood imposed despite the fact that the amounts depicted as default were to the tune of Rs.78,41,942/- and the Corporate was to recover approximately Rs.40 crore from EESL.
- (iv) This Adjudicating Authority vide order dated 22.03.2021 approved the replacement of the erstwhile Interim Resolution Professional (hereafter referred to as the “IRP”) and appointed the Respondent No.1 as the RP.
- (v) The Respondent No.1 has committed gross misconduct and violations with an intent to accord illegal benefits and advantages to the Respondent No.3/SRA thereby violating various provisions of the Code as well as various directives/ guidelines of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as the CIRP Regulations).
- (vi) The 1st request for resolution plan as floated/supplied by Respondent No.1/RP on 22.02.2022 prescribed the Bank Guarantee/Earnest Money Deposit of Rs.2 crore as a part of the




Binding Submission Bond Guarantee (hereinafter referred to as the “BSBG”).

(vii) Three resolution plans were received from the Prospective Resolution Applicants (hereinafter referred to as the “PRAs”) namely from the Applicant, World Fa Exports Private Limited and Respondent No.3/SRA. Out of 3 PRAs, only Applicants crossed the threshold and other PRAs did not submit the BSBG as mandated by the Request for Resolution Plan (hereinafter referred to as the “RFRP”).


(viii) The Respondent No.1/RP concealed the said violation/disqualification and presented all resolution plans before the CoC for consideration and voting thereof, where the CoC, unaware of the non-supply of the BSBG opined that the plans received were below the expectations and decided to reissue the RFRP. Respondent No.1/RP only to benefit Respondent No.3/SRA, proposed the re-issuance of the RFRP instead for opting for using a challenge mechanism as described in Regulation 39(1A) of the CIRP Regulations.

(ix) During the 10th CoC meeting held on 09.05.2022, it was decided vide Agenda No.4 that the RFRP shall be re-issued to the final PRAs shortlisted earlier, which categorically breaches the intent of IBC, which supports and propounds maximises of values and revival. Section 25(h) of the Code clearly states that “invite PRAs, who fulfil such criteria as may be laid down by him with the approval of CoC”,



however despite various other PRAs' (including one subsequently becoming the SRA) not fulfilling the threshold as prescribed, were permitted to participate and further remain shortlisted, thereby amounting to preference of certain PRA's over others, and further breaching the "maximization of value" mandate.


- (x) The Respondent No.1/RP after ensuring that Respondent No.3/SRA stands qualified without following the threshold prescribed, further issued fresh RFRP dated 09.05.2022 to all the PRAs, however the fresh RFRP reduced the threshold prescribed of BSBG from Rs.2 crore to Rs.1 crore, without any approval from the CoC and solely with the intent to benefit the Respondent No.3/SRA, who had already failed to provide the said BSBG, while presenting the resolution plan earlier. The modification inter se between the plans are substantial in nature, however from the records, it is abundantly clear that no discussions/ deliberations were conducted and the changes were done solely at the whims and fancies of the Respondent No.1/RP only without any approval from the CoC, thereby making the said circulation null & void.
- (xi) At the 11th CoC meeting, 3 resolution plans were received, namely from the Applicants, World Fa Exports Private Limited and Respondent No.3/SRA. At the 12th CoC meeting conducted on 01.07.2022, it was observed by the CoC that the plans received were below expectations and non-compliant with the mandatory provisions of the IBC. In complete contradiction of the RFRP and



the regulations, the PRAs' were permitted to "improve/modify the resolution plan" and further submit the same by 11.07.2022 instead of rejection, as no BG's stood supplied by other PRA's. The representatives of Respondent No.3/SRA were absent; however, they had intimated that they will stand by the plan submitted by them.

(xii) In the 12th, 13th, 14th, 15th and 16th CoC meetings held on 01.07.2022, 16.07.2022, 01.08.2022, 04.08.2022 and 11.08.2022 respectively, it was categorically recorded that the plans received are in contravention to the Code and are below the expectations of the Respondent No.2/CoC and however neither were the plans rejected, a fresh RFRP released and further no challenge method stood adopted to maximise value, instead the PRAs' were given various opportunities to "improve/alter/modify" the plans presented to make them compliant with the law and further improve the value offered.

(xiii) At the 15th CoC meeting conducted on 04.08.2022, the PRAs were given an opportunity to make the plans as submitted. At the 16th CoC meeting held on 11.08.2022, it stood observed that the plans are legally compliant, but decision on some clauses like release of the personal guarantee, financial strength and ability of the PRSs to pay the resolution debt amount, feasibility and technical aspects etc are required to be decided by the CoC. However, on the same date, in clear contradiction to the RFRP as well as IBC, the plans



were presented to the CoC and further, the plan of Respondent No.3 was approved without any discussion and/or deliberation. The discussion/deliberation on a plan is imperative as it provides for reasoning/ factors considered, for judicial scrutiny by the Adjudicating Authority.

(xiv) Since the approval of the plan, Respondent No.1/RP in collusion with Respondent No.3/SRA has been trying to sell/transfer the assets/plant/machinery of the Corporate Debtor and has contacted local property agents at Haridwar, which shows the illegal and malicious intentions of the Respondents, who instead of reviving the Corporate Debtor are trying to dispose of the assets, which is against the resolution plan approved.

(xv) The plan approved is incomplete/not implementable as:

- a. The Respondent No.3/SRA is neither from the same industry, nor manufactures products similar to/relating to the functioning/product line of the Corporate Debtor.
- b. The plan is completely silent on the usage/distribution of the amounts due from EESL (once received), clearly portraying that the intention of the respondents is to siphon the said amount, thereby misusing the same.
- c. The resolution plan also has proposed haircut in a manner, wherein the Corporate Debtor (who was the principal borrower), is let off scott free, whereas the Applicants (being the



guarantors), will have to pay the entire debt along with penalty/interest etc.

(xvi) The conduct of the respondents is in contradiction to the judgment of the Hon'ble Supreme Court in **“Arcelormittal India Private Limited vs. Satish Kumar Gupta & Ors., Civil Appeal Nos. 9402-9405 of 2018, dated 04.10.2018”**.

(xvii) The Respondents exceeded the scope of CIRP process and further took various steps, for which the sole authority is the Adjudicating Authority as per the IBC.

(xviii) The Respondent No.1/RP had contravened Regulations 3, 3A and 23 B of the First Schedule of the IBBI (Insolvency Professional) Regulations, 2016 by concealing 'conflict of interest'. One Limited Liability Partnership namely 'Proresolution Advisors LLP' incorporated on 06.01.2022 (during CIRP of the Corporate Debtor), which had Respondent No.1/RP and Mr. Pankaj Rastogi as designated partners and the later is the same person, who represented one PRA namely World Fa Exports Pvt. Ltd. in various CoC meetings being 8th, 9th, 11th, 12th, 13th etc. CIRP. The acts of Respondent No.1/RP in concealing that a firm stood incorporated with the representative of one PRA during the CIRP period clearly amounts to breach of various rules and regulations and the possibility of bias cannot be ruled out. The acts of the Respondent No.1/RP have been reported to the IBBI vide compliant dated 18.01.2023.



(xix) The Respondent No.1/RP in order to benefit Respondent No.3/SRA, appointed Budhiraja Adlakha & Co. at the Corporate Debtor, which firm was acting as the statutory auditor of the SRA. Within few months from the resignation, solely with an intent to benefit the SRA, Budhiraja Adlakha & Co. was proposed and appointed as the Tax Advisor for the Corporate Debtor for the FY 2019-20 by the RP at the 4th CoC meeting conducted on 08.07.2021. Further, one Mr. Jugal Bedi succeeded Budhiraja Adlakha & Co. at the SRA, who was also appointed at the Corporate Debtor at Respondent No.1, thereby collecting all the documents/ internal information etc. from the Corporate Debtor and supplying the same to the SRA.

(xx) The Respondent No.1/RP, without placing any proposal before the CoC appointed Mr. Jugal Bedi as an auditor for the Corporate Debtor, who further supplied various documents upon the instructions of the RP on bona fide belief that the same will be used towards the resolution of the Corporate Debtor, however, upon perusal of the application filed for approval of the resolution plan, it was discovered that Mr. Jugal Bedi was also the statutory auditor for the SRA, however none of this was ever disclosed rather Mr, Bedi's appointment was done without any knowledge and/ or consent from the CoC. The said appointments gave the SRA an illegal and improper advantage over the other PRAs, as under the garb of appointing auditors, Respondent No.1/RP permitted Respondent No.3/SRA to access and analyse all records, internal confidential data etc., which as per the Code was not permitted.



(xxi) The Respondents have breached/ violated Section 25(h) of the Code along with Regulations 39(1A), 39(3) & 23(1) of the CIRP Regulations and Regulations 3, 3A, 21 and 23B of the First Schedule of the IBBI (Insolvency Professionals) Regulations, 2016 and the Judgement passed by the Hon'ble Supreme Court in **Arcelormittal India Private Limited vs. Satish Kumar Gupta & Ors., (supra).**

(xxii) The Resolution plan approved by the CoC is non-implementable, non-compliant, without commercial wisdom, illegal and bound to fail with serious consequences, if not sent for reconsideration.

REPLY OF RESPONDENT No.1/ RP

3. The Respondent No.1/RP filed his reply dated 21.03.2023, vide diary no. 00406/01, wherein it is submitted that:


- (i) While passing an order for initiation of CIRP of the Corporate Debtor and declaring moratorium, this Adjudicating Authority inter-alia appointed Mr. Vishwa Deep Sharma as the IRP of the Corporate Debtor.
- (ii) In terms of CIRP Regulations, the IRP made a public announcement in Form A on 19.10.2020 and as per Section 18(1)(c) of the Code, constituted a CoC comprising of the following Financial Creditors:

S. No.	Name of Financial Creditor	Class of Creditors	Amount Claimed (Rs.)	Amount Admitted (Rs.)	% of Voting Rights
1.	State Bank of India	FC	434351959.22	434351959.22	78.31



S. No.	Name of Financial Creditor	Class of Creditors	Amount Claimed (Rs.)	Amount Admitted (Rs.)	% of Voting Rights
2.	RBL Bank Ltd.	FC	116535420.00	116535420.00	21.01
3.	Yes Bank Ltd.	FC	3754369.36	3754369.36	0.68
4.	VPM Electrical Pvt. Ltd.	FC (Related Party)	27311033.00	27311033.00	NA
	Total (excluding the amount at S.No.4)	FC	554,641,748.58	554,641,748.58	


- (iii) In the 2nd meeting of the CoC convened on 15.12.2020, the IRP apprised the members of the CoC with the business of the Corporate Debtor i.e. to provide services to the EESL including maintenance services together with supply and servicing of spare parts. In the meeting, IRP proposed the agenda to appoint IRP and RP or to replace the IRP by another RP and the CoC approved the resolution for appointment of the Respondent No.1 as RP with 100% voting share
- (iv) After the meeting, CoC filed an I.A. bearing No. 35 of 2021 under Section 22(3)(b) of the Code seeking replacement of the IRP and appointment of the Respondent No.1 as the RP, which was allowed by this Adjudicating Authority vide order dated 22.03.2021. Accordingly, Respondent No.1 has been carrying out CIRP in the matter of Corporate Debtor.
- (v) The Respondent No.1/RP published Form G on 31.01.2022 in terms of Regulation 36A(1) inviting expression of interest (hereinafter referred to as the “EOI”), prescribing 15.02.2022 as the



last date for receipt of EOI and 24.03.2023 as the last date for submission of resolution plans by the PRAs.

(vi) In the 8th CoC meeting held on 29.03.2022, the Respondent No.1/RP apprised the Respondent No.2/CoC that 3 resolution plans were received from PRA, namely from Mr. Vivek Mahendru and Vinay Mahendru (Applicants), M/s World Fa Exports Pvt. Ltd. and Santoshi Hyvolt Electrical Pvt. Ltd. (SRA) till the last date of submission of plan i.e. 24.03.2022. The Respondent No.1/RP invited all the PRAs to the meeting to provide brief presentation on their respective resolution plan, however, only 2 PRAs came to the meeting and 3rd PRA namely Santoshi Hyvolt Electrical Pvt. Ltd. (SRA) could not join the meeting and vide an email allowed the Respondent No.1/RP to open the resolution plan. Accordingly, the resolution plans were opened in the meeting and the PRAs, who attended the meeting, were given an opportunity to explain their respective resolution plan including financial plan and other important aspects.


(vii) In the 9th CoC meeting convened on 26.04.2022, the Respondent No.2/CoC members were of the opinion that the amount offered under the resolution plans was below the expectations. According at the request of CoC members, each PRA was individually invited to the meeting for discussing the resolution plan and was requested to increase the amount offered in the plan to make compliance with the RFRP. The Respondent No.2/CoC requested the Respondent



No.1/RP to revise the RFRP and place the same in its next meeting. The Respondent No.1/RP also informed the Respondent No.2/CoC that the Information Memorandum was required to be modified, as few assets of the Corporate Debtor had been sold.


(viii) The Respondent No.1/RP in the 10th CoC meeting held on 09.05.2022 placed before the CoC the revised RFRP for approval. The Respondent No.1/RP apprised the CoC members that the last date for submission of the resolution plan is 08.06.2022; the revised RFRP will be issued to the final PRAs, as shortlisted earlier and put up the resolution before the CoC for voting. The CoC approved the resolution and decided to reissue the revised RFRP to all the 9 PRAs, whose names were included in the final list of PRAs and accordingly, the last date for submission of resolution plan was fixed for 08.06.2022.

(ix) In the 11th CoC meeting held on 10.06.2022 the Respondent No.1/RP apprised the Respondent No.2/CoC that 3 resolution plans were received, namely from the Applicants, M/s World Fa Exports Pvt. Ltd. and SRA till the last date of submission of plan. The resolution plans were opened in the meeting and the PRAs were given an opportunity to explain their resolution plan including financial plan and other important aspects. The CoC members were of the opinion that some points essential to the resolution plan need clarity from the PRAs and after discussions and deliberations, CoC members decided that clarity should be sought from the respective



PRAAs and proper vetting of the resolution plans vis-a-vis the compliances with the IBC and RFRP should be done.


- (x) The Respondent No.1/RP apprised the members of the CoC that the resolution plans received on 08.06.2022 against the revised RFRP are under verification for the compliances with the Code and regulations thereunder. The CoC members were of the opinion that more rounds of negotiations are required to be undertaken for maximisation of the value of Corporate Debtor. It was noted by the CoC members that the period of 270 days from the CIRP commencement date was expiring on 20.06.2022 and further extension/exclusion of 60 days beyond 270 days was required, and passed the resolution seeking extension of 60 days in the CIRP period.
- (xi) In the 12th CoC meeting held on 01.07.2022, the Respondent No.1/RP apprised the members of the CoC about the status of the CIRP and regarding the Transaction Audit Report in the matter of the Corporate Debtor and invited the PRAAs for discussion on the resolution plans. After discussions and deliberations, the CoC members were of the opinion that the value offered under the resolution plans was below the expectation and granted one more opportunity to the PRAAs to increase the value offered under the resolution plan by 11.07.2022.
- (xii) In the 13th CoC meeting held on 16.07.2022, the Respondent No.1/RP apprised the CoC members about the status of CIRP and



that final transaction report was submitted on 29.06.2022 on the basis of which Respondent No.1/RP was in the process of filing applications under Sections 43, 45 and 66 of the Code. The Respondent No.1/RP invited the PRAs to present their respective resolution plans submitted and after discussions and deliberations, the CoC members were of the opinion that the PRAs have submitted their final resolution plans and requested the Respondent No.1/RP to check the compliances as per IBC and RFRP before placing for voting.

(xiii) In the 14th CoC meeting dated 01.08.2022, the Respondent No.1/RP apprised the members of the CoC that it has prepared the legal compliance report and it was observed that the resolution plans had some deficiencies, which required amendment in order to make it compliant with the provisions of the Code and RFRP. After discussions and deliberations, the CoC members requested the PRAs to submit an addendum to the resolution plan by 02.08.2022 to make it compliant for voting.

(xiv) In the 15th CoC meeting held on 04.08.2022, the Respondent No.1/RP apprised the members of the CoC that certain resolutions are to be placed for voting in compliance with the provisions of Regulation 39B, 39C and 39D of the CIRP Regulations. It was observed that the PRAs had submitted their addendums to the resolution plans, however, some resolution plans were still non-compliant and in order to maximise the value of the Corporate



Debtor and in the interest of justice, one last final opportunity was given to the PRAs to submit addendum in order to comply with the provisions of the Code and RFRP.


- (xv) In the 16th CoC meeting held on 11.08.2022, the Respondent No.1/RP placed the resolution under Regulation 39B, 39C and 39D of the CIRP Regulations and apprised that the resolution plans are legally compliant but decision on some clauses like release of personal guarantee, financial strength and ability of the PRAs to pay the resolution debt amount, feasibility and technical aspects etc. are required to be decided by the CoC. The members of the CoC requested the Respondent No.1/RP to place the resolution plans for voting, who apprised that the CIRP period is coming to an end on 19.08.2022. After discussions and deliberations, the CoC members were of the opinion that the members are required to send the proposal to the competent authority and need 15-20 days to complete the voting on the resolution plans. It was further noted that the SRA is required to submit the Performance Bank Guarantee within 7 days and only after that, the IA for approval of resolution plan under section 30(6) can be filed before Adjudicating Authority. In view of the above, the CoC members requested the Respondent No.1/RP to place the resolution for extension of 30 days for likelihood of successful resolution of Corporate Debtor. The Resolution plan received from Respondent No.3/SRA was also placed before the CoC, which was approved by 99.26% voting share in their commercial wisdom.



(xvi) The Respondent No.1/RP filed the application bearing IA No. 995/2022 seeking extension of the CIRP period of 330 days, which was coming to an end on 19.08.2022 by 30 days only, in terms of the resolution approved by the CoC in its 16th meeting with 100% voting share for completing voting on the 3 resolution plans received in the matter of the Corporate Debtor, which was allowed by this Adjudicating Authority and CIRP period was extended by 30 days w.e.f. 19.08.2022.

(xvii) Subsequently, pursuant to the approval of resolution plan by the CoC, the Respondent No.1/RP issued a Letter of Intent dated 16.09.2022 to the Respondent No.3/SRA and filed an application bearing IA No. 1629 of 2022 under Section 30(6) of the Code before this Adjudicating Authority seeking approval of the resolution plan submitted by the Respondent No.3/SRA. In terms of the Regulation 39(4) of the CIRP Regulations, the Respondent No.1/RP submitted a compliance certificate in prescribed format i.e. Form-H stating that the resolution plan is compliant of the provisions of the Code and underlying regulations.

(xviii) The Applicants are the unsuccessful resolution applicant, whose plan was rejected by the CoC in its commercial wisdom and thus has no locus standi to file the present IA. Further, the Applicants have hidden the fact that the resolution plan submitted by the Applicants was put up to vote in the 16th CoC meeting and was



rejected by 100% voting share of COC, as the plan amount offered was only Rs.18 crore.

- (xix) The Applicants have no vested right in the CIRP of the Corporate Debtor to seek that his resolution plan must be considered.
- (xx) The minimal judicial interference is required in the framework envisaged under IBC, as has been held in the judgment of the Hon'ble Supreme Court in the case of **Arun Kumar Jagatramka vs. Jindal Steel and Power Limited and Another, (2021) 7 SCC 474** and the commercial wisdom of the CoC is supreme, as has been held in the judgment of the Hon'ble Supreme Court in the case of **Vallal RCK vs. M/s Siva Industries and Holdings Limited and Others, Civil Appeal No. 1811-1812 of 2022**, and **IMR Metallurgical Resources AG vs. Ferro Alloys Corporation Limited & Ors. (supra)**.
- (xxi) The powers of the Adjudicating Authority under Section 31 of the Code are limited to the matters covered under Section 30(2) of the Code, where the resolution plan does not conform to the stated condition. Reference is also made to the Hon'ble Supreme Court's judgments in the case of **Committee of Creditors of Essar Steel India Limited through Authorised Signatory vs. Satish Kumar Gupta and Others, 2019 SCC Online SC 1478, Kalpraj Dharamshi & Anr. vs. Kotak Investment Advisors Lrd. & Anr. Civil Appeal Nos. 2943-2944 of 2020**, and **K. Sashidhar vs. Indian Overseas Bank & Ors, Civil Appeal No. 10673 of 2018**.



(xxii) Regulation 36(B) of the CIRP Regulations, 2016 provides for modification in the RFRP or the evaluation matrix issued under sub-regulation (1) of the Regulation 36(B), which shall be deemed to be a fresh issue and shall be subject to timeline under sub-regulation (3). Thus, the resolution plan submitted is in compliance of terms of Section 30(2) of the Code.

(xxiii) The Applicants cannot approbate and reprobate, as the Applicants not only accepted the revised RFRP, but in fact duly participated in the process and submitted their revised resolution plan. Upon having the resolution plan rejected by the CoC by a voting share of 100%, the Applicants now after accepting the entire process and having lost is now challenging the revision of RFRP, which the Applicants are estopped.

(xxiv) The date of formation of 'Proresolution Advisors LLP' was 06.01.2022 (i.e., before publication of the Form G in the matter of Corporate Debtor) and it was formed to get it registered as Information Professional Entity. The LLP, at the time of formation, was having 6 partners namely Ashok Kumar, Pawan Kumar Gupta, Anurag Goel, Ritu Rastogi, Pankaj Saraogi and Vikas Agarwal. Pankaj Saraogi resigned on 08.02.2022 and the Respondent No.1/RP resigned on 11.06.2022 and no business operations took place during the tenure of the Respondent No.1/RP as partner. Now as per MCA site, LLP has 2 partners namely Ashok Kumar Gupta, and Anurag Goel.



(xxv) Further, Pankaj Saraogi is not related to World Fa Exports Pvt. Ltd. in any capacity as a director, shareholder, employee or creditor. He was present in 9th CoC meeting held on 29.03.2022, during which the plan of World Fa Exports Pvt. Ltd. was not even approved by CoC, and was not present in any other CoC meeting during CIRP till date. Further, the allegations against Respondent No.1/RP being in collusion with PRA are baseless, false and misconceived. Further, this allegation also fails on the sole ground that the resolution plan submitted by World Fa Exports Private Limited was not approved by the CoC.

(xxvi) The appointment of Mr. Jugraj Bedi of Buddhiraja Adlakha and Co. as the statutory auditor of the Corporate Debtor was approved by the CoC in its 4th meeting convened on 08.07.2021, much prior to the initiation of the resolution process for calling of resolution plans from PRAs on 31.01.2022 and last date for submission of plan on 24.03.2022.

(xxvii) Further, the Applicants offered/proposed an amount much lesser value than the liquidation value of the Corporate Debtor in its resolution plan so that the Corporate Debtor can go into the liquidation and Applicants are relieved of their illegal actions. Further, the resolution plan submitted by the Applicants also envisaged release of the personal guarantees of the Applicants and therefore in its commercial wisdom, the CoC rejected their resolution plan with 100% voting share.



(xxviii) The Respondent No.1/RP, after approval of the resolution plan of the Respondent No.3/SRA by the CoC with 99.26% voting share, filed IA No. 1629/2022. Reliance is placed upon the Hon'ble NCLAT's authority in **Shrawan Kumar Agrawal Consortium vs. Rituraj Steel Private Limited, Company Appeal (AT) (Ins) No. 1490 of 2019**, wherein it was held that:

"14. In the instant case, the Adjudicating Authority has overturned the decision of the CoC regarding approval of the Resolution Plan despite being approved by 84.70 percent of the vote share of the CoC, on the pretext of maximisation of value of the corporate debtor. The provisions investing jurisdiction and authority in the NCLT has not made the commercial decision exercised by the CoC of not approving the resolution plan or rejecting the same, justifiable. In the circumstances as stated above, it is clear that the Adjudicating Authority cannot interfere with the commercial wisdom of CoC. The direction for rebidding for maximisation of the value of the corporate debtor also amounts to interference in the business decision of the CoC, which is not permitted in law.

18. It is pertinent to mention that the Adjudicating Authority has a very limited power of judicial scrutiny and the statutory provision does not permit the Adjudicating Authority to interfere with the commercial wisdom of the CoC. Even for maximisation of value of the assets of the Corporate Debtor, the Adjudicating Authority is not entitled to overturn the business decisions of the Corporate Debtor."

- (i). The CoC cannot be directed to consider the second resolution plan submitted, although the Applicants may be ready to invest more amount in comparison to the SRA and the decision of the CoC is purely commercial and cannot be adjudicated by the Adjudicating Authority. Reliance is also placed on the judgement of the Hon'ble NCLAT in the matter of **Chhatisgrah Distilleries Ltd. vs. Dushyant Dave & Ors., in Company Appeal (AT)(Ins) No. 461 of 2019** has held:



"17. In the light of the above pronouncement of Hon'ble Supreme Court, we have examined the issues raised in these Appeals. Admittedly, the A-1 filed its resolution plan before the Adjudicating Authority on 13.02.2019 whereas, the last date for submission of Resolution Plan before RP was 15.10.2018. Resolution plan of successful Resolution Applicant i.e. Dera Finvest Pvt. Ltd. (R-2) was approved by 98.72% of the Committee of Creditor in e-voting conducted on 01.11.2018 and 02.11.2018. When the Resolution Plan is filed before the Adjudicating Authority then the Authority has to satisfy that the Resolution Plan approved by the Committee of Creditor fulfils the requirements as specified in Sub-Section 2 of Section 30. However, the Adjudicating Authority cannot direct the CoC to consider the second Resolution plan submitted before the Authority although the second Resolution Applicant is ready to invest more amount in comparison to first Resolution Applicant. Learned Adjudicating Authority has rightly held that Adjudicating Authority cannot suo moto direct the CoC to consider new resolution plan and reconsider already approved Resolution plan. The Hon'ble Supreme Court in the above referred judgment held that under Section 30(2) of I&B Code, decision of Committee of Creditor is purely Commercial and cannot be adjudicated by the Adjudicating Authority. Thus, we are of the view that Adjudicating Authority is well within its jurisdiction while rejecting the application of A-1."

REPLY OF RESPONDENT No. 2/ CoC

4. The Respondent No.2A/State Bank of India filed reply dated 03.05.2023 vide diary no. 00406/2, wherein it is stated that the Respondent No. 2A is one of the CoC members of the Corporate Debtor and the lead banker of the consortium of banks and has been authorised in Joint Lenders Meeting held on 06.03.2023 to file the reply on behalf of the CoC members, a copy of the



minutes of the above meeting has been annexed as Annexure R-2/1 of the reply. It has been submitted in the reply that:

- (i) The Applicants have no locus standi to file the present IA, as the resolution plan of the Respondent No.3/SRA has been approved by the Respondent No.2/CoC by 99.26% voting share after applying its mind and commercial wisdom. Reference is made to the judgments cited by Respondent No.1/RP, wherein the commercial wisdom of the CoC is held to be paramount.
- (ii) During the CIRP, after having various discussions and deliberations upon the resolution plans and the same not being satisfactory, the CoC had requested the RP to revise the RFRP and the said revised RFRP was approved in the 10th CoC meeting held on 09.05.2022 and the revised RFRP was issued to the final PRAs, as shortlisted earlier including the Applicants. The Applicants had submitted their resolution plan and participated in the resolution process, so now the Applicants cannot challenge the process and is bound by law of estoppel.
- (iii) The Respondent No.2/CoC cannot be directed to consider the second resolution plan submitted, even though the Applicants may be ready to invest more amount in comparison to SRA as has been held by Hon'ble in the matter of ***Chhatisgarh Distilleries Ltd. v. Dushyant Dave & Ors in Company Appeal (AT) (Ins) No. 461 of 2019.***



REPLY OF RESPONDENT No.3/ SRA

5. The Respondent No.3/SRA filed its reply dated 30.08.2023 vide diary no. 00406/3, wherein it submitted that:

- (i) The Applicants have no locus standi to file the present IA.
- (ii) The alleged amount is not recoverable from EESL being lapsed on the part of the Corporate Debtor/Applicant/ Ex-Director.
- (iii) The act of circulating/floating of the fresh RFRP only amongst the candidates shortlisted earlier, was done with an intent to propound maximisation of value and the revival of the Corporate Debtor and does not breach the intent of IBC. The fresh RFRP dated 09.05.2022 was issued after it was duly approved by the CoC. The Bank Guarantee was submitted as per the RFRP. The Adjudicating Authority will not go behind the financial wisdom of the CoC as held in a catena of judgements. Reliance has been placed upon Hon'ble Supreme Court's judgment in **Ashish Saraf vs. Bhuvan Madan (2021) 09 SC CK 0143**, while upholding the decision of the NCLAT, where the Appellate Authority stated that:

"Committee of creditors holds the responsibility of making business decisions" regarding the approval or rejection of a resolution plan. This decision involves assessing the feasibility of the resolution plan and is considered non-justifiable. Therefore, the commercial wisdom of the committee of creditors cannot be challenged, even if they reject a settlement proposal that is supported by the majority of appellants and instead approve a resolution plan proposed by another party. The appellants do not have the authority to challenge the committee's decision in such matters."



- (iv) The resolution plan of Respondent No.3/SRA was approved by the CoC and who was declared as the highest bidder considering the set parameters as defined in the RFRP.
- (v) Denying the allegation that the Respondent No.1/RP in collusion with the SRA is trying to sell/ transfer the assets/ plant/ machinery of the Corporate Debtor and has already contacted the local property agents at Haridwar, it is submitted that para 6 and 7 of the Resolution Plan clearly state the right of the SRA over the assets and liabilities, which are stated below:

“6. All the current assets including all receivables and sundry debtors of EON Electric Limited will vest in Resolution Applicant on a Going Concern Basis.

All assets (including movable & immovable properties whether freehold, leasehold or license basis and intangible assets including technical knowhow, licenses, patents, copyright, logos, knowledge, brands, franchise agreements, etc.) being in occupation/possession of the Corporate Debtor mortgage to Financial Creditor shall be re-vested with the Corporate Debtor from the closing date, free and clear off all Encumbrances.”

- (vi) Respondent No.3/SRA is the manufacturer, distributor, trader and assembler of all kinds of copper flats, strip copper tinned wire, cadmium copper and copper catenary wires, copper alloy wire, OHE conductors and cables for railways and is part of the Santoshi Group of companies being multi functional company and the present acquisition is in line of the activity run by it with scope to spread its wings along with its copper wire business in the business of electrical equipments.



(vii) The factual matrix of **Arcelormittal India Private Limited vs. Satish Kumar Gupta & Ors. (supra)**, is distinguishable from the facts of the present case.

(viii) Respondent No.3/SRA was not aware of the appointment of Budhiraja Adlakha & Co. by Respondent No.1/RP. There is no provision under the code, wherein common auditor is declared as a related party. At the time of filing of EoI, it was not in the knowledge of the SRA about the statutory auditor Mr. Jugraj Singh Bedi and at the time of initiation of the CIRP, Mr. Jugraj Singh Bedi was not attached with the Corporate Debtor in any manner in the present

REJOINDER BY APPLICANT

6. The Applicants filed Rejoinder to the Reply of Respondent No. 1/RP dated 22.08.2023 vide Special Diary No. 787, wherein it is submitted that:

- (i) The IA is maintainable, as the Applicants apart from being resolution applicants are also members of the suspended board, creditors and hence fall within both the definitions, i.e., “Stakeholder” and “person aggrieved”.
- (ii) The Hon’ble High Court of Delhi vide its order dated 14.07.2023 in **Vinay Mahendru vs. Insolvency and Bankruptcy Board of India & Anr., Writ Petition (Civil) 9262/2023**, had directed as below:

“Respondents are directed to dispose of the complaint within a period of 30 days from today”.



(iii) Respondent No.1/RP had contravened Regulations 3, 3A and 23B of the first schedule of IBBI (Insolvency Professional) Regulations, 2016. Any offer to increase the amounts, was in direct contradiction with the terms of the RFRP, which clearly restricted any amendments in the plan submitted.

(iv) The reduction of the threshold was never discussed with the CoC and was done solely with the intent to benefit the SRA.

7. The Applicant filed Rejoinder to the Reply of Respondent No. 2 vide Special Diary No. 788 dated 22.08.2023, reiterating the facts of the IA.

I.A. 26 of 2024

8. The present Interlocutory Application (hereafter referred to as the “IA”) has been filed under Section 60(5) of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “IBC” or “Code”) read with Rule 11 of the National Company Law Tribunal Rules, 2016, (hereafter referred to as the “Rules”) on behalf of the Financial Creditor i.e. State Bank of India and Ratnakar Bank Limited (hereafter referred to as the “Applicants”), having total voting share of 99.32% in the Committee of Creditor (hereafter referred to as the “CoC”) of M/s Eon Electric Limited (hereafter referred to as the “Corporate Debtor”) against M/s Santoshi Hyvolt Electricals Private Limited, (hereafter referred to as the “Respondent No.1”) with Performa Respondents namely Resolution Professional of Eon Electrical Limited (hereafter referred




to as the “Respondent No.2” or “RP”) and Yes Bank Limited (hereafter referred to as the “Respondent No.3”) with the following prayers :

- (i) To remit back the resolution plan to the CoC for further review/issue a fresh Form G according to the provisions of the Code and give equal opportunity to all the stakeholders and to maximise the value of the assets of the Corporate Debtor and declare the resolution plan submitted by the Respondent as not feasible and viable in view of the changed circumstances.
- (ii) Extend the CIRP period for 60 days to conclude the CIRP process of the Corporate Debtor by allowing the publication of Form G.

FACTS OF THE CASE

9. It is averred in the IA that:

- (i) The resolution plan in favour of the Respondent No.1 was approved by the CoC in its 16th meeting with 99.26% of voting share and Respondent No.2/RP filed IA No. 1629 of 2022 under Section 31 of the Code for final approval of the resolution plan in favour of Respondent No.1, which is pending before this Adjudicating Authority.
- (ii) During the stage, when the resolution plan was approved by the CoC and during the pendency with this Adjudicating Authority, the Bank Guarantees given by the Corporate Debtor in favour of EESL to the extent of Rs.14.38 crore were invoked by EESL and after this invocation, the CIRP cost of the resolution of the Corporate Debtor



has reached approximately up to Rs.23 crores and there is also chance that the remaining bank guarantees to the extent of Rs.3.69 crores can also be invoked by EESL. The approximate value of the resolution plan is Rs.21.15 crore, out of which, SRA undertakes to bear only Rs.2 crore of the CIRP cost and the remaining cost is to be borne by the Financial Creditors of the Corporate Debtor, but in view of invocation of the bank guarantees, the approved resolution plan has not remained feasible and viable.

(iii) In the 19th CoC meeting, an agenda bearing No.8(II) & (III) was introduced to discuss the impact of the increase of the CIRP cost due to invocation of the bank guarantees by EESL and its consequent impact on the approved resolution plan. During discussion, it was decided that RP will take up the matter with SRA and if no positive response was received from the SRA, then the RP can explore the option for filing the appropriate application before this Adjudicating Authority apprising it about the changed circumstance and its adverse implications on the resolution plan, which is pending before it.

(iv) Accordingly, the RP had filed IA No.2669 of 2023 seeking the following relief:

(a) To remit the resolution plan back to the CoC for reconsideration of resolution plan as approved by CoC in the light of invocation of the bank guarantees by EESL, as CIRP



costs has increased due to the same and increased CIRP cost needs to be factored by the CoC.

- (b) Allow the Applicant 60 days of time to conclude the process of resolution plan as considerate by the CoC.
- (c) Pass such order or further order(s) as this Adjudicating Authority may deem fit and proper in the facts and circumstances of the present case.
- (v) Thereafter, in the 20th CoC meeting conducted on 18.11.2023, SRA was called to discuss the changed circumstances in view of the invocation of the bank guarantees by EESL, where SRA flatly refused to improve the offers and it was deliberated between the Applicants to file the appropriate application before this Adjudicating Authority for remitting back to CoC to further review/ issue a fresh Form G according to the provisions of IBC and give equal opportunity to all the stakeholders and to maximise the value of the assets of the Corporate Debtor.
- (vi) Even after the approval of the resolution plan by the CoC and during its pendency with the Adjudicating Authority for approval, the CoC can reconsider any decision, which is within the domain of CoC. The Hon'ble Apex Court in catena of judgement held that the commercial wisdom of the CoC is non-justifiable and hence, it is in the domain of CoC to reconsider resolution plan in view of changed circumstances. The CoC is not functus-officio on the approval of the resolution plan and accordingly, the judicial



precedents clearly established that the Adjudicating Authority is competent to send back the resolution plan to the CoC for reconsideration. The Hon'ble Supreme Court' in the case of **Jaypee Kensington Boulevard Apartments Welfare Association and Ors. vs. NBCC (India) Limited and Ors. 2021 SCC Online SC 253** has held that in case a resolution plan requires modification, the Adjudicating Authority must send back the resolution plan to CoC to consider the modifications, so as to afford an opportunity to the resolution applicant to modify the plan and CoC may then reconsider the plan and vote upon the same.

(vii) The suspended director of the Corporate Debtor had filed various applications before this Adjudicating Authority to consider their plan being eligible under Section 29A of the Code to give the resolution plan offering much higher value than the SRA.

(viii) The Applicant along with RBL bank is filing the present IA, so that the interest of all stakeholders be taken care of and to maximise the value of assets of the Corporate Debtor.

REPLY BY RESPONDENT NO.1

10. The Respondent No.1 filed its reply dated 31.01.2024 vide diary no. 03854/1, wherein it submitted that:


(i) The application is not maintainable and deserves to be dismissed with exemplary cost in favour of Respondent No.1/ SRA in view of the following:



- a. As the decision to approve the resolution plan has been taken by the CoC and hence the present application cannot be filed by the Bank even though it may be a member and participant, but cannot be treated as a CoC.
- b. The prayer made in the IA is contrary to the legal position, which is well settled by series of judgements of Hon'ble NCLAT that after approval of the resolution plan by the CoC, it is binding on all the parties including the CoC and it cannot claim to reconsider such decision on any of the ground including that it now intends to get higher amounts of recovery.
- c. There is no power of review available with the CoC to reconsider its decision once it has approved the plan and the same is pending with this Adjudicating Authority. The applicant intends to do something, which is prohibited by law.
- d. It is equally well settled that what cannot be done directly cannot be done indirectly. Thus, what CoC cannot be do directly, i.e. to reconsider its decision of approval of the resolution plan, it is intending to do so indirectly through the present application.
- e. It is not the case of any person that there is any violation of Section 30(2) of the Code.



- f. The applicant and the members of the CoC throughout were well aware of all the contingent liabilities and have approved the plan after being aware of all liabilities present and future.
- g. This application is collusive in nature and is an abuse of the process of law because the real intent is to give benefit to the suspended directors of the Corporate Debtor by first seeking an order of reconsideration of plan and in garb of that, give fresh option to the suspended directors to consider their offer and plan, which currently cannot be done in view of the fact that a person who initially did not submit EOI/plan cannot subsequently after the expiry of timeline give a better plan in view of the judgment of the Hon'ble NCLAT in ***Kalinga Allied Industries vs. Bindal Sponge Industries, CA (AT)(Ins) No. 689/2021***. Further, even a proposal under Section 12A cannot be considered in view of the recent judgment of the Hon'ble NCLAT in ***Nehru Place Hotels and Real Estates Private Limited vs. Sanjeev Mahajan, CA (AT)(Ins) No. 1715/2023*** decided on 08.01.2024.
- (ii) Yes Bank cannot be made a Respondent in this IA given their status as an integral part of the CoC. Further, the RP cannot be made respondent in this IA, as the agenda to remit the resolution plan was taken under the Chairmanship of the RP in the 19th CoC meeting, wherein the RP was instructed to file the application to remit the resolution plan and the IA for remitting the resolution



plan was duly filed by the RP. Further, the entire basis of this application vests on the alleged decision taken by the CoC in its 20th meeting to reconsider the plan and to seek directions to remit the plan back to CoC for reconsideration is without jurisdiction and prohibited by virtue of Regulation 18 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which is reproduced as under:

"18. Meetings of the committee.


(1) A resolution professional shall convene a meeting of the committee before lapse of thirty days from the last meeting:

Provided that the committee may decide to extend the interval between such meetings subject to the condition that there shall be at least one meeting in each quarter.]

(2) A resolution professional may convene a meeting if he considers it necessary, on a request received from members of the committee and shall convene a meeting if the same is made by members of the committee representing at least thirty three per cent of the voting rights.

Explanation: For the purposes of sub- regulation (2) it is clarified that meeting (s) may be convened under this sub-regulation till the resolution plan is approved under sub-section (1) of section 31 or order for liquidation is passed under section 33 and decide on matters which do not affect the resolution plan submitted before the Adjudicating Authority."

Hence, no meeting of CoC could have been convened to decide any agenda relating to the plan, which is pending for approval before the Adjudicating Authority. Thus, the meeting held by the CoC under the Chairmanship of the RP was firstly, without jurisdiction, secondly, prohibited by law, thirdly, illegal and fourthly, a misconduct on the part of the RP convening the said meeting



knowingly fully well that the said meeting could not have been conducted in contravention of the Regulations.

- (iii) The minutes of the alleged 20th CoC meeting also included the suspended directors and Mr. Milind Rastogi, Vice President of RBL Bank. During the meeting, the suspended directors were present outside the conference room waiting for their turn to come. Moreover, in the event of any virtual participation of Mr. Milind Rastogi, the Respondent No.1 was not duly notified or informed. Notably, within the conference room, surveillance cameras were in place, thereby capturing video evidence substantiating the aforesaid circumstances. If as per the Agenda of the minutes of the meeting of the alleged 20th CoC, if RBL Bank had joined virtually, the RP must have recorded and saved the data and must be in her possession.
- (iv) The Respondent No.1 received a mail from Respondent No. 2 with the subject 'Invitation for Meeting', which was incomplete and was not in compliance and mandated as per the provisions and regulations of the IBC, i.e. Regulation 19(1), 20 and 21. The copy of the email dated 17.11.2023 has been attached as Annexure 1 with the reply.
- (v) A fresh resolution plan cannot be considered by the CoC, as held by the Hon'ble NCLAT in the matter of **Steel Strips Wheels Limited vs. Shri Avil Menezes, Resolution Professional of AMW**

**Autocomponent Limited and Others, Company Appeal (AT)(Ins)
No. 89 of 2022.**

- (vi) Financial creditor's interest is not more supreme than the interest of the Corporate Debtor, as held by the Hon'ble Supreme Court in **Swiss Ribbons Pvt. Ltd. vs. Union of India, 2019, [2019] 3 S.C.R. 535** as below:

"It can thus be seen that the primary focus of the legislation is to ensure the revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors".

- (vii) Reliance is also placed upon Hon'ble Supreme Court's judgment in the matter of **Ebix Singapore Pvt. Ltd. Ors. v. Committee of Creditors of Educomp Solutions Limited, 2021 SCC ONLINE SC 707**, wherein it was observed:

"Strict timelines have to be adhered to and that the Adjudicating Authority lacks the authority to allow the withdrawal/modification of the Resolution Plan by an SRA, as this would defeat the very objective of the statute. In the instant case, though it is not the SRA which is seeking withdrawal, the effect of the CoC seeking withdrawal of an already approved Resolution Plan would have identical repercussions with respect to 'timeliness' as the same would have the effect of restarting the CIRP Process from the valuation stage when all the statutory timelines have long since been exhausted. The principle with respect to 'timeliness' is applicable to the facts of this case. At the cost of repetition, it is crystal clear that any modification or a withdrawal (by SRA or otherwise) after approval by the CoC and submission to the Adjudicating Authority, 'irrespective of the content' of the terms envisaged by the Resolution Plan, would only lead to further delay and defeat the very scope and objective of the Code. The existing framework does not provide any scope for effecting any further




modifications or withdrawals of the CoC approved Resolution Plan by the SRA or the Creditors. The Adjudicating Authority can interfere only if the Plan is against the provisions of the Code. Once the Plan is submitted to the Adjudicating Authority, it is binding and irrevocable as between the CoC and the SRA in terms of the provisions of the Code."

(viii) The Hon'ble NCLAT in the case of **Noble Marine Metals Co. WLL vs. Kotak Mahindra Bank Ltd. & Ors.** stated that:


"Resolution Plan approved by the CoC is binding between the SRA and the CoC".

- (ix) The total BG invoked is of Rs. 9 crore and the applicant has stated that the CIRP cost has been increased to Rs. 23 crore, which is inaccurate. A joint meeting was called by the RP wherein the SRA/Respondent No.1 was informed that certain BG's have been encashed by ESSL and SRA offered a proposal entailing a comprehensive list of all the Bank Guarantees, which have been encashed to the SRA and subsequently an affidavit shall be furnished by the SRA stating its commitment that if SRA receives any fund with respect to the BG's, which have been encashed by ESSL, then in that event the said amounts shall be promptly remitted back to the respective bank. Neither the Respondent nor the RP gave any details to the SRA and filed the present application.
- (x) The stipulated time period of 330 days has elapsed and no additional extension of time can be reasonably accorded at this stage, as this Tribunal had already granted final extension of time vide order dated 12.09.2022. As per the Regulation 36A of the Code, the timeline for the Invitation of EOI is T+75 and Section 30(6)/Regulation 39(4) states that the timeline for the submission



of CoC approved resolution plan is T+165. Thus the extension of 60 days is not as per the model of timelines prescribed under the IBBI Regulations.

- (xi) It is submitted that once an application for the approval of a resolution plan is approved by the COC and further filed before the Adjudicating Authority, its withdrawal would constitute a violation of the Code as well as the Indian Contract Act, 1872 and other laws. Such an action would give rise to retroactive implications affecting all forthcoming resolution plans, and consequently, it would not serve the interests of justice.
- (xii) The Applicant in the present IA is trying to mislead the Hon'ble Tribunal by making wrong and deceitful statements and has committed a perjury. As the RP under the instruction of CoC had filed an application, wherein RP had given a certificate under Section 30(4) of the Code, stating that the Resolution plan filed by the SRA is legally compliant and the plan of the SRA is feasible and viable. Whereas now the same COC has sought a prayer under an oath stating that the plan submitted by SRA is not feasible and viable in view of changed circumstance without demonstrating the changed scenario, wherein the Corporate Debtor had remained in control of COC through RP during the entire period of filing the 2 affidavits without any intervention of the SRA.
- (xiii) The information presented in the Information Memorandum submitted by the Applicant suggests that the pending BG amount




to approx. Rs. 15 crore. However, the documents furnished by ESSL indicate that the total BG stands at Rs. 12 crore.

REJOINDER BY THE APPLICANT

11. Applicant filed its rejoinder dated 08.04.2024 vide diary no. 03854/02 wherein it submitted that:

- (i) It has been wrongly alleged by Respondent No.1 that the CoC wants to withdraw the resolution plan, because it intends to get higher amount of recovery, but on the contrary, the reason for filing this application is the viability and feasibility of resolution plan. The resolution plan approved by CoC stands no more viable and feasible due to circumstantial change. The approved plan presented by SRA was of Rs.21.15 crore and out of which SRA undertake to bear only Rs. 2 crore of CIRP cost and remaining cost is to be borne by the financial creditors of the Corporate Debtor. However, after approval of resolution plan, bank guarantees given by the Corporate Debtor in favour of EESL to the extent of Rs.14.38 crore were invoked by EESL and after this invocation, the CIRP cost of the resolution of the Corporate Debtor had reached approximately up to Rs.23 crore and there is also chances that the remaining bank guarantees to the extent of Rs.3.69 crore can also be invoked by EESL. Therefore, in view of these circumstances, the resolution plan approved earlier stands no more feasible and viable. The consent of the CoC is paramount in IBC and it has sole right to decide the terms of the resolution plan. The existence of commercial wisdom by the CoC is



also non-justifiable and cannot be subjected to any judicial review. Moreover, the judgement quoted in reply does not apply to the present facts and circumstances of the case.

- (ii) Yes Bank and RP have been impleaded as Proforma Respondent i.e. a person, who has been arrayed as a Respondent in a petition against whom no relief has been sought, but whose presence is considered necessary for effective and complete adjudication of the issue as per Civil Procedure Code, 1908. The averments made with regards to the 20th meeting are denied, as even after the approval of resolution plan by the CoC and during its pendency with the Adjudicating Authority for approval; the CoC can reconsider any decision. Even the Hon'ble Apex Court in catena of judgement held that the commercial wisdom of the CoC is non justifiable and hence, it is in the domain of CoC to reconsider resolution plan in view of changed circumstances. Additionally, the body, which has power to make a decision, also has power to amend, vary or rescind the same decision.
- (iii) The CoC is not functus-officio on the approval of the resolution plan and accordingly, the judicial precedents clearly established that the Adjudicating Authority is competent to send back the resolution plan to the CoC for reconsideration. Reference is made to Hon'ble Supreme Court's judgment in **Japyee Kensington Boulevard Apartments Welfare Association and Ors. vs. NBCC (India) Limited and Ors. (supra)**.



- (iv) The invitation for meeting sent by RP was very well in compliance of all the critical requirements stipulated under the Code, as under Regulation 19(2) of CIRP Regulations, the committee may reduce the notice period from 5 days to such other period of not less than 24 hours. The e-mail for invitation of meeting was sent at 2.23 pm on 17.11.2023 for the meeting on 18.11.2023 at 4.00 pm.
- (v) The Hon'ble NCLAT in its judgement delivered on 05.01.2022 in the case of **Bank of Maharashtra vs. Videocon Industries Limited & Ors** has clarified that though CIRP is a time bound process, the Corporate Debtor should not be allowed to suffer in the garb of the same, as the major objective of the IBC is the maximisation and revitalisation of Corporate Debtor. It has also been observed in the above case that where the CoC at larger stage finds that the public exchequer is to bear an unprecedented haircut in a large fund employment, then the proposal can be remanded back to CoC in a larger public interest.

12. Short note dated 25.07.2024 was filed by SRA vide diary no. 03854/03 reiterating the facts of the reply.

INTERLOCUTORY APPLICATION NO. 471 of 2024

13. The present application has been filed by Yogesh Mittal and Emtiaz Alam on behalf of M/s Santoshi Hyvolt Electricals Private Limited (hereafter



collectively referred to as the **“Applicants”**) under Section 60(5) of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the **“Code”**) read with Rule 11 of the National Company Law Tribunal Rules, 2016, (hereinafter referred to as the **“NCLT Rules”**) with a prayer to take action against the RP and all other attendees, who have been in collusion and raising frivolous CoC meetings, which are in contravention of law and further quash the CoC meeting held on 18.11.2023 and declare it invalid.

FACTS OF THE CASE

14. It is averred in the Application that:

- (i) The SRA received a mail from Respondent No.1 with subject line being “Invitation of Meeting”. The Applicants on behalf of the SRA attended the general meeting, not being a CoC meeting on 18.11.2023, information for which was shared via an email sent on 17.11.2023 at 2:23 pm by Respondent No.1. the said email lacked the following critical requirements stipulated by the Code:
 - a. Regulation 19(1) of CIRP Regulations inter alia provides that a meeting of the committee shall be called by giving not less than five days' notice in writing to every participant.
 - b. Regulation 20 of IBC mandates that the subject line in an email regarding the meeting must include the corporate debtor's name, the scheduled time, date, and, if applicable, the venue.



- c. Regulation 21 of IBC explicitly outlines the prerequisites for the contents of the notice for meeting, requiring the inclusion of an agenda comprising a list of matters for discussion, issues slated for voting, and provision of all relevant documents pertinent to the discussion and voting matters.

Thus, the said meeting held on 18.11.2023 cannot be called as a CoC meeting due to the procedural lapse, as it was without jurisdiction and in contravention to Regulation 18 of the IBBI (Insolvency Resolution Process of Corporate Persons) Regulations 2016, as per which no meeting could have been conducted which will effect a Resolution Plan, which is pending approval with the Adjudicating Authority.


- (ii) Through I.A. No. 26 of 2024, the Applicants came to know that the meeting held on 18.11.2023 is considered as a CoC meeting and the applicant as a member of that CoC meeting. The applicant never received a copy of the minutes of the alleged meeting. The list of attendees as per the minutes of the alleged 20th CoC meeting are as follows:

S. No.	Name	Designation
1	CA Ritu Rastogi	RP for Eon
2	Mr. Amit Goyal	DGM of SBI
3	Mr. Narendra Kumar	AGM of SBI
4	Mr. Sourabh Singh	Legal SBI
5	Mr. Milind Rastogi	Vice President RBL
6	Mr. Vinay Mahendru	Suspended Director
7	Mr. Vivek Mahendru	Suspended Director
8	Advocate Harshit Khare	Team assisting RP



S. No.	Name	Designation
9	Advocate Prafful Saini	Team assisting RP
10	Mr. Yogesh Mittal	On behalf of SRA
11	Mr. Emtiyaz Alam	On behalf of SRA

- (iii) Mr. Yogesh Mittal and Emtiyaz Alam were requested to sign the attendance sheet as a member of the CoC, which was declined on behalf of the applicant and a fresh sheet was signed by them on behalf of the applicant. The applicant attended a general meeting with Respondent No.2, i.e. SBI, not the CoC meeting. Further, Respondent No. 3 and 4 were not present in the meeting.
- (iv) The minutes of the alleged 20th COC meeting also includes Respondent No.3 and Respondent No.4 i.e. Suspended Directors and Mr. Milind Rastogi, Vice President of RBL Bank, who were not present during the meeting. Respondent No.3 was present outside the conference room waiting for his turn to come. Moreover, in the event of any virtual participation of Respondent No.4, the Applicant was not duly notified or informed. As alleged the Respondent No.3 had joined virtually so the RP must have recorded and saved the data and must be in her possession to produce.
- (v) Applicants on behalf of SRA offered a proposal entailing a comprehensive list of all the Bank Guarantees, which have been encashed after the approval of the Resolution Plan in the 16th CoC meeting to the SRA and subsequently an affidavit shall be furnished by the SRA stating its commitment that if SRA receives any fund with respect to the BG's, which have been encashed by ESSL, then in that event the said amounts shall be promptly remitted back to



the respective bank. The only issue raised by Respondent No.2 was to re-evaluate the Resolution Plan, which was refused by the Applicant/SRA rendering the meeting inconclusive.

REPLY BY RESPONDENT No.1/RP

15. Respondent No.1/ RP filed its reply dated 24.04.2024 vide diary no. 000367/1, wherein it is submitted that:


- (i) The Respondent No.1 had intimated the Applicant prior to the scheduled time for the CoC meeting and the Respondent had clearly mentioned in the email dated 17.11.2023 that the 20th CoC meeting of the Corporate Debtor was scheduled on 18.11.2023. The relevant portion of the email dated 17.11.2023 is reproduced herein below:

“...20th CoC meeting of EON Electric Ltd. is scheduled for Saturday, i.e., 18th November, 2023 at 4:00 pm at State Bank of India, 11th Floor, Jawahar Vyapar Bhawan, 1 Tolstoy Marg, New Delhi- 110001

You are requested to attend the meeting...”

A copy of the said email is attached as Annexure R-2. Thus, the applicant was well aware that the meeting scheduled on 18.11.2023 was a CoC meeting.

- (ii) The email dated 17.11.2023 sent by Respondent No.1 also show that various email IDs of the authorised persons were mentioned in the “CC” depicting that the email was sent to other CoC members and not only to the Applicant and SBI. The only intent of the Applicant behind filing the present IA is to threaten the Respondent No.1 and not to proceed with, in the interest of the Corporate Debtor



and go against the wisdom of CoC members of the Corporate Debtor.

- (iii) The averments with respect to Respondent No. 4 is baseless, as in accordance with the provisions of the Code, it is the duty of the RP to invite the Suspended Directors of the Corporate Debtor and they have a right to attend the CoC meetings of the Corporate Debtor. Respondent No.4 was also marked in the email dated 17.11.2023 and had attended the meeting on 18.11.2023. When Applicant arrived for the meeting, the respondent had taken permission from the CoC members for allowing the Applicant to attend the meeting, which is duly recorded in the minutes of the meeting.
- (iv) The applicant was invited as “other invitee” in the meeting to discuss the issue of the increased CIRP cost due to invocation of the Bank Guarantees by ESSL, while the plan was pending for approval before this Tribunal. While this issue was discussed with the Applicant, Respondent No. 4 was asked to wait outside the conference room, on the request of the Applicant.
- (v) In terms of Regulation 18 of the IBBI (Insolvency Resolution process for Corporate Persons) Regulations, 2016, as amended from time to time, the RP is entitled to convene meetings of CoC till the Resolution Plan is approved by the Adjudicating Authority or an order of liquidation is passed by the Adjudicating Authority. The relevant extract of Regulation 18 is reproduced hereunder:

"18. Meetings of the committee.



(1) A resolution professional shall convene a meeting of the committee before lapse of thirty days from the last meeting:

Provided that the committee may decide to extend the interval between such meetings subject to the condition that there shall be at least one meeting in each quarter.]

(2) A resolution professional may convene a meeting if he considers it necessary, on a request received from members of the committee and shall convene a meeting if the same is made by members of the committee representing at least thirty three per cent of the voting rights.

Explanation: For the purposes of sub- regulation (2) it is clarified that meeting (s) may be convened under this sub-regulation till the resolution plan is approved under sub-section (1) of section 31 or order for liquidation is passed under section 33 and decide on matters which do not affect the resolution plan submitted before the Adjudicating Authority."

(vi) Reliance is placed upon the judgment of the Hon'ble Appellate Tribunal in the matter of "**Bank of Maharashtra, Stressed Asset Management Branch Janmangal Vs Videocon Industries Ltd. [2022 SCC OnLine NCLAT 6]**", wherein, the Hon'ble Appellate Tribunal has held that the CoC is not functus-officio in the approval of the resolution plan by the CoC and the CoC can be conveyed even after approval of the resolution plan as the CoC is not functus-officio. The relevant portion of the judgment is reproduced herein below:

"The CoC is not functus-officio on the approval of the Resolution plan and accordingly, the judicial precedents clearly established that the Adjudicating Authority and this Tribunal is competent to send back the Resolution plan to the CoC for reconsideration".

16. Short note dated 25.07.2024 was filed vide diary no. 00367/3 by the SRA reiterating the facts of the application.



ANALYSIS AND FINDINGS

17. We have heard the Ld. Counsels for the parties and pursued the records carefully.


18. The first moot point for consideration before us is **“Whether the CoC can request to remit back the resolution plan pending before the Adjudicating Authority for approval.”**

The Applicants in IA No. 471/2024 have prayed to quash the alleged CoC meeting held on 18.11.2023, which was held to take a decision to file an application before this Adjudicating Authority to remit back the resolution plan approved by CoC and IA No.26/2024 has been filed for remitting back the resolution plan to the CoC.

- (i) As per section 30(4) of IBC, the CoC may approve a resolution plan by a vote of not less than sixty-six per cent of voting share of the financial creditors, **after considering its feasibility and viability**, the manner of distribution proposed and such other requirements as may be specified by the Board. The Section 30(4) of IBC further provides that the resolution professional shall submit the resolution plan as approved by the CoC to the Adjudicating Authority.
- (ii) Therefore, CoC using its commercial wisdom, can take any decision with regard to the resolution plan e.g. approval, rejection, modification etc., but once it is approved by the CoC by the requisite voting share and the resolution plan has been submitted to the Adjudicating Authority, its hands are tied as it cannot make


any change in the resolution plan, as it becomes a binding contract between the CoC and SRA.

- (iii) **Hon'ble NCLAT in the matter of Nivaya Resources Pvt. Ltd. V. Asset Reconstruction Company (India) Ltd, & Another** has observed that *“the law is well settled that the resolution plan approved by the CoC is binding between the CoC and the SRA”*.
- (iv) Further, there is no provision in the IBC or in the CIRP regulation empowering the CoC to request the Adjudicating Authority to remit back the resolution plan, which is pending for its approval before it.
- (v) The intention of the legislature is also clear from the Explanation to the Regulation 18(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which clarifies that *CoC meeting(s) may be convened till the resolution plan is approved under sub-section (1) of section 31 or order for liquidation is passed under section 33 by the Adjudicating Authority and decide on matters, which do not affect the resolution plan submitted before the Adjudicating Authority*. It is noted that the Explanation to the Regulation 18(2) was inserted by Notification No. IBBI/2022-23/GN/REG093, dated 16th September, 2022 (w.e.f. 16-09-2022)..
- (vi) In the present case, the resolution plan was submitted before this Adjudicating Authority vide IA No. 1629 of 2022 dated 01.10.2022, whereas the alleged 20th meeting of the CoC was convened on 18.11.2023, which is subsequent to the filing of the application



under Section 30(6) as well as subsequent to the insertion of the explanation to the regulation 18(2) of CIRP Regulations.

- (vii) In view of the clarification in the explanation to Regulation 18(2) of CIRP Regulations, as discussed above, although the RP may convene meetings of the CoC, but cannot discuss the matters, which would affect the resolution plan submitted before the Adjudicating Authority.
- (viii) The Annexure 2 of the IA 471/2024 shows that though the email dated 17.11.2023 specifying details of the meeting scheduled on 18.11.2023, clearly specified that the meeting convened on 18.11.2023 is a CoC meeting. But the same cannot outright the contention of the Applicant that no meeting of the CoC could be convened for the matters, which affect the resolution plan submitted before the Adjudicating Authority.
- (ix) As stated by the Applicant in IA No. 26/2024 that SRA was called in the 20th CoC meeting to discuss the changed circumstances and if no positive response is received from him, an appropriate application may be filed to remit back the resolution plan to CoC, which directly affects the resolution plan submitted and pending for consideration before this Adjudicating Authority.
- (x) Further, in the present case, the resolution plan was approved by the CoC in its 16th meeting with 99.26% of voting share, and is pending for final approval before this Adjudicating Authority. Thus, it cannot be pleaded by the members of the CoC that they did not



foresee the situation, where ESSL would invoke the Bank Guarantees, leading to an increase in the CIRP cost of the Corporate Debtor. The Applicant, State Bank of India being the largest public sector bank of the country cannot take such a plea. It is expected from the CoC, while approving a Resolution Plan, to weigh all the assets and liabilities of the Corporate Debtor, including the contingent one.

- (xi) The authority in **Jaypee Kensington Boulevard Apartments Welfare Association and Ors. vs. NBCC (India) Limited and Ors.**, (supra), relied upon by SBI is not applicable to the facts and circumstances of the present case, as the present IA has been filed for remitting back the resolution plan to the CoC and extending the CIRP period for 60 days by allowing the publication of Form G and not for any modifications to the already approved plan.
- (xii) **In view of the above discussions, we are of the considered view that the CoC meeting held on 18.11.2023 cannot decide the matters to remit back the resolution plan and the CoC, after submission of the resolution plan to the Adjudicating Authority, cannot request for remitting it back. Thus, I.A. 26/2024 and 471/2024 are not maintainable in the eyes of law.**

19. The next point to delve upon is **“Whether unsuccessful resolution applicants/ ex-directors of the Corporate Debtor can challenge the decision of the CoC’s approval of the resolution plan submitted by SRA.”**



The unsuccessful resolution applicants and ex-directors of the Corporate Debtor in the IA 434/2023 have prayed for setting aside the decision of the CoC's approval of the resolution plan on the ground that the resolution plan approved by the CoC is non-implementable, non-compliant, without commercial wisdom, illegal and bound to fail with serious consequences. It is alleged by the Suspended Directors of the Corporate Debtor or the members of the CoC that the approved plan does not offer maximum realisation of the assets of the Corporate Debtor and other PRA, i.e., the suspended directors of the Corporate Debtor are offering a resolution plan of a higher value, is not a contravention of the provisions of the Code.

- (ii). It is noted that the resolution plan of the unsuccessful resolution applicants/ex-directors of the Corporate Debtor was also put up to vote in the 16th CoC meeting and the CoC, in its commercial wisdom rejected their plan by 100% voting share of COC, as the plan amount offered was only Rs.18 crore.
- (iii). It is also noted that the resolution plan received from SRA was placed before the CoC, which was approved by 99.26% voting share in their commercial wisdom and RP has filed an IA No. 1629 of 2022 under Section 30(6) of the Code before this Adjudicating Authority seeking approval of the resolution plan submitted by the SRA. In terms of the Regulation 39(4) of the CIRP Regulations, the RP submitted a compliance certificate in prescribed format i.e. Form-H stating that the resolution plan is compliant of the provisions of the Code and underlying regulations.



(iv). The Hon'ble NCLT Mumbai Bench in the case of **G.S. Constructions vs. Mr. Gajesh Labhchand Jain** has held that unsuccessful resolution applicants have no locus to challenge the commercial decision of the CoC. The relevant extract of the said order is reproduced below:

"Once the majority of the CoC decide on one of the resolution plan, the decision of the CoC attains finality. It is observed by the Bench that, in the present case, since the CoC comprising of SIDBI and the home buyers approved the resolution plan presented by Mrs. Asha Sanap, the Unsuccessful Resolution Applicant has no locus to challenge the commercial decision of the CoC"

(xxix) It is also held by the Hon'ble NCLAT in the matter of **IMR Metallurgical Resources AG V. Ferro Alloys Corporation Limited & Ors. Company Appeal (AT) (Insolvency) No. 272 of 2020** (which was further upheld by the Hon'ble Supreme Court) that the resolution applicant does not have any vested right that his Resolution Plan must be considered. The relevant paragraph of the aforementioned judgment is reproduced hereunder:

"5. It is essential to mention that the Resolution Applicant has no vested right that his Resolution Plan must be considered. It is settled position of law as laid down by Hon'ble Supreme Court in (2019) 2 SCC 1 in case of Arcelor Mittal India Pvt Ltd Satish Kumar Gupta that the resolution applicant does not have any vested right that his Resolution Plan must be considered."

(v). **In view of the above discussions, we are of the considered view that the unsuccessful resolution applicants and ex-directors of the Corporate Debtor have no locus standi to maintain the application and the IA No.434/2023 deserves to be dismissed.**



20. In light of the foregoing discussions, **I.A Nos. 434/2023, 26/2024 and 471/2024 are dismissed and disposed of accordingly.**

Sd/-

**(Umesh Kumar Shukla)
Member (Technical)**

Sd/-

**(Harnam Singh Thakur)
Member (Judicial)**

November 19, 2024

Asmita