IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, COURT-I

I.A. NO. 4764 OF 2025 IN

C.P. NO. (IB) 1241 (MB) OF 2022

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

In the matter of

Sagar Sharma & Anr.

….Applicants

Versus

Committee of Creditors & Anr.

....Respondents

And

In the matter of

Asset Care & Reconstruction Limited

….Financial Creditor

Versus

Hotel Horizon Private Limited

….Corporate Debtor

Order pronounced on 12.01.2026

Coram:

Sh. Prabhat Kumar	**Sh. Sushil Mahadeorao Kochey**
Hon'ble Member (Technical)	Hon'ble Member (Judicial)

Appearances:

For the Applicant	: Adv. Akshay Petkar a/w Adv. Akash Agarwal
For the Resolution Professional	: Adv. Rishabh Jaisani, Adv. Kriti Kalyani, Adv. Ansh Kumar
For the Respondent no.1	: Adv. Rohit Gupta a/w Adv. Manaswi Agrawal

ORDER

Brief facts:

1. The present Interlocutory Application No. 4764 of 2025 in CP (IB) No. 1241 of 2022 has been filed on 09.10.2025 by **Sagar Sharma & Anr.,** Suspended Director/Promoter ("Applicants") of the **Horizon Private Limited** ("*Corporate Debtor"*) in the ongoing Corporate Insolvency Resolution Process ('CIRP'), commenced in terms of order dated 19.11.2024 in C.P. (IB) 121 (MB)/2022 on an application filed by **Asset Care & Reconstruction Limited** ('ACRE'), a Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("Code"), under Section 60(5) of the Code, seeking rejection of the Resolution Plan dated 10.07.2025 of Consortium of Oberoi Realty Limited, Shree Naman Developers Private Limited and JM Financial Properties and Holdings Limited Pvt Ltd ("SRA Consortium"). The Committee of Creditors ("CoC") is Respondent No. 1, and the Resolution Professional "(RP") is Respondent No. 2. The Applicants have made following prayers :

a. *Reject the Resolution Plan dated July 10, 2025 of Consortium of Oberoi Realty Limited, Shree Naman Developers Private Limited and JM Financial Properties and Holdings Limited Pvt Ltd. as approved by the Committee of Creditors;*

b. *Direct restitution of the Corporate Debtor to the status as it existed at the time of admission of the captioned Petition or at least at the time of filing IA 219 of 2025 which was in December 2024 as the Applicants were much prior in time to raise their concerns over inflated and time barred debt which was partially concreted in order dated July 17, 2025 passed by this Hon'ble Tribunal;*

c. *Direct the Resolution Professional to issue a fresh From G once the revised IM is prepared after properly considering all the essential elements to maximize the value of the Corporate Debtor along with correct quantum of debt once properly adjudicated and proper disclosures;*

d. *This Hon'ble Tribunal may be pleased to decide I.A. No. 1123/2025 and I.A. No. 3029/2025 before proceeding further in adjudicating and deciding the Resolution Plan;*

e. *Pending the hearing and disposal of the present Application and Company Appeal No. 1126 of 2025 before the Hon'ble NCLAT, the Application filed by the Respondent seeking approval of Plan under Section 31 of the IBC, being I.A. No. 110 of 2025 be kept in abeyance;*

f. *Any other order that this Hon'ble Tribunal may deem fit in the facts and circumstances of this case.*

2. The Resolution Plan submitted by SRA consortium was approved by CoC by 100% vote on 14th July, 2025 after conclusion of challenge mechanism

process held on 8th July, 2025. The offer of settlement submitted by the Applicants in terms of Section 12A of the Code on 11th July, 2025 was agreed to be considered by RP and CoC on the same day, however, the Applicants requested time to make presentation in relation to said offer. The CoC didn't agree to the said request and the settlement offer was considered by CoC and was rejected on 14th July, 2025. The RP filed an application seeking approval of SRA consortium plan in terms of Section 31 of the Code before this Tribunal on 22nd July, 2025.

3. The Applicants (the suspended board of directors) have sought rejection of the Resolution Plan stating that (a) the promoters of Shree Naman Developers Private Limited, one of SRA consortium member, are shareholders of one of the CoC members CFM ARC, accordingly, the purported Resolution Plan aims at enriching the CoC member at cost of Corporate Debtor and its stakeholders; (b) the Resolution Plan was approved by CoC in haste to avoid anticipated adverse order in IA 219 219 of 2025 being apprehensive of rejection of their inflated and time-barred claims; (c) The Resolution Plan contemplates an equity infusion of mere Rs. l Crore merely, this demonstrating that the CoC and the Resolution Professional were not inclined to revive the Corporate Debtor but to sell the Corporate Debtor at throw away prices and asset strip the Corporate Debtor; (d) IPE has a vested interest in stonewalling the promoters as their fee would be substantially reduced to half in case of a 12 A settlement, accordingly, rejection of their offer by him to pay 100% of the debt of the CoC members after proper adjudication pending before the Hon'ble NCLAT was unilaterally rejected without giving due credit and consideration as against the Resolution Plan; (e) the challenge mechanism was used to lower the highest bid received for Rs.909 Crores plus the CIRP cost of approximately Rs.30 Crores totaling to Rs.940 Crores as against the approved Resolution Plan at Rs.919 Crores which is inclusive of all the cost including the cost incurred for the CIRP; and (f)

any conduct during the CIRP that undermines the value of assets, conceals material information, or discourages serious resolution applicants, defeats the very spirit and objective of the Code.

4. Accordingly, the applicants have alleged that the Resolution Plan approved in favour of the Consortium includes fraud, conflict of interest, procedural illegality, and gross undervaluation of the Corporate Debtor. According to them, the Committee of Creditors was not acting independently, as the Resolution Applicant is directly or indirectly related to the CoC members through group entities. This, they submit, destroyed the arm's-length nature of the process and converted the CIRP into an internal asset transfer exercise.
5. The Applicants assert that the Resolution Plan amount of approximately Rs. 919 crores is inadequate when compared to the true potential and value of the Corporate Debtor's assets, particularly the Juhu property with additional FSI and development potential. They argue that earlier valuation reports available with the financial creditors themselves reflected values far exceeding the approved plan amount, but these reports were deliberately not disclosed in the Information Memorandum. This non-disclosure, they submit, discouraged serious resolution applicants and resulted in value destruction rather than value maximisation.

6. It is further contended that the claims admitted by the Resolution Professional and relied upon by the CoC were inflated and time-barred. A substantial portion of the admitted debt consists of liquidated damages, penal interest, additional interest, and other charges which do not qualify as financial debt under the Code. The Applicants point out that by order dated 17.07.2025, this Tribunal itself rejected nearly 50% of the CoC claims and directed re-verification, yet the Resolution Plan was hurriedly approved even before the impact of that order could be given effect.
7. The Applicants submit that their settlement proposal under Section 12A of the IBC, offering to pay 100% of the crystallised lawful debt of the

CoC, was unilaterally rejected without fair consideration. They argue that as promoters of an MSME Corporate Debtor, they were entitled to participate meaningfully in the resolution process, but were deliberately excluded by applying net-worth criteria contrary to settled law. According to them, the rejection of their offer was motivated by the vested interest of the Insolvency Professionals and CoC in pushing through the Consortium plan.

8. The Applicants further allege serious procedural violations by the Resolution Professional, including preponing and abruptly closing the e-voting process without proper notice, failure to share valuation reports, RFRP, and assignment agreements. They also contend that the Information Memorandum was materially deficient, failed to disclose MSME status, fair value, asset-wise details, litigation exposure, and development rights, thereby rendering the entire resolution exercise unfair and opaque.

Submissions Of The Respondents:

9. The Respondents contend that the Resolution Plan was approved strictly in accordance with the Code, the CIRP Regulations, and settled principles of commercial wisdom. According to them, the Plan was approved with requisite voting share after due deliberation and cannot be interfered with merely because the promoters are dissatisfied with the outcome.

10. The Respondents deny all allegations of conflict of interest and submit that the Resolution Applicants are independent legal entities eligible under Section 29A. They argue that mere group relationships or past commercial associations do not render entities related parties under the Code. The assignments of debt, according to them, were lawful, transparent, and duly reflected in the constitution of the CoC.

11. It is contended that valuation reports were obtained in compliance with the Regulations and that liquidation value and fair value were duly considered by the CoC. With respect to admitted claims, the Respondents submit that all claims were examined in accordance with the Code and Regulations and admitted based on contractual documents and lender records. They state that the order dated 17.07.2025 is under challenge and has not attained finality, and therefore does not invalidate the Resolution Plan approved earlier. According to them, the CIRP cannot be indefinitely stalled due to pending disputes on claims.

12. The Respondents further submit that the Section 12A settlement proposal of the Applicants was not viable and did not meet the commercial expectations of the creditors. They argue that acceptance or rejection of a settlement offer is entirely within the domain of the CoC, and there is no vested right in the promoters to reclaim the Corporate Debtor merely by making an offer. They deny that the Applicants were excluded unfairly and state that eligibility norms were uniformly applied.

13. The Resolution Professional contends that the CIRP was conducted transparently, that notices and voting procedures complied with regulatory requirements, and that all statutory disclosures were made to the extent required under law. The Respondents also submit that part-wise resolution is discretionary and not mandatory, and that the CoC, after due consideration, chose a comprehensive resolution plan in the best interests of creditors.

14. The Respondents in conclusion submit that the Application is an attempt by the erstwhile promoters to delay and derail a concluded resolution process, and that no material illegality, fraud, or procedural irregularity has been demonstrated warranting rejection of the Resolution Plan.

Findings And Analysis:

15. We have heard the learned counsel appearing for the parties and have perused the documents placed on record.

16. It is noted that the Applicants (the suspended board of directors) have sought rejection of the Resolution Plan on the grounds, which have already been adjudicated by us in other applications filed by the Applicant namely, inflated and time-barred claims of the financial creditors; under-valuation of assets of the Corporate Debtor; non-disclosure of rights in relation to the properties of the corporate debtor properly; deficiency of information in the Information Memorandum, over-reach of the Resolution Professional, including erstwhile Resolution Professional by disregarding the applicable provisions of the Code as well as CIRP Regulations and his vested interest in rejection of applicant's settlement offer. These issues raised earlier also stands adjudicated in terms of order(s) passed by this Tribunal on the applications(s) of the Applicants, including IA 1123 of 2025. The Applicants had also sought recall of admission order earlier, which was dismissed by this Tribunal. Accordingly, these issues are not being dealt with here again in this order.

17. As regards allegation that the promoters of Shree Naman Developers Private Limited, one of SRA consortium member, are shareholders of one of the CoC members CFM ARC, accordingly, the purported Resolution Plan aims at enriching the CoC member at cost of Corporate Debtor and its stakeholders. It is noted that JM Financial Properties and Holdings Limited, one of member of SRA consortium, is a subsidiary of another CoC member JM Financial Asset Reconstruction Company Limited. It is noted that CoC of Corporate comprised of two members namely, CFM Asset Reconstruction Private and JM Financial Asset Reconstruction

Company Limited holding 53.15% and 46.85% vote share therein at the time of approval of resolution plan. Both the members have voted in favor of the Resolution Plan. Further, there is no provision in the Code as well as in CIRP Regulations barring the financial creditor to propose a plan directly or indirectly through its related person or they being member of consortium of Resolution Applicants. Further, a CoC member, being interested in a resolution plan filed by one of Resolution Applicant due to their or their related persons' participation in the consortium of such Resolution Applicant, is not barred from exercising its vote on such resolution plan on account of their conflict of interest. It is also pertinent to note that there were five resolution applicants who had submitted their plan, and out of this two (including the SRA consortium) participated in the final round of negotiation called as Challenge Mechanism and none of them, except Ashdan Properties Private Limited who failed to provide the undertaking to the RP to participate in the Challenge Process, have raised the issue of conflict of interest. Even Ashdan Properties Private Limited has not challenged that JMFARC could not have voted on the resolution plan in view of conflict of interest. As regards specific objection of Ashdan Properties Private Limited in relation to specific information being in knowledge of consortium SRA to their exclusion, this Tribunal has dealt with same in their Application IA 3032 of 2025. Accordingly, we do not find any substance in this ground.

18. The Applicants have also alleged that the Resolution Plan was approved by CoC in haste to avoid anticipated adverse order in IA 219 219 of 2025 being apprehensive of rejection of their inflated and time-barred claims. Indubitably, the claim amount of both the creditors stood reduced pursuant to the order passed by this Tribunal in IA 219 of 2025, however, it is pertinent to note that the CoC in the present case comprise of these two creditors constituting 100% vote share, accordingly, the alleged apprehension of reduction in quantum of their claim arising from the order

to be passed by this Tribunal could not have any bearing in so far as the approval of the SRA consortium plan is concerned. It is also noted that the process of consideration of resolution plans submitted by 5 PRAs commenced with opening of their plan on 21st April 2025 and concluded on 11th July, 2025 when expert agency appointed by the CoC for evaluating the plans based on the evaluation matrix presented its findings. Though voting lines were open from 13th July, 2025 till 20th July, 2025, both the members exercised their votes by 14th July, 2025. Regulation 25(5)(b) of CIRP Regulations provide that *the resolution professional shall seek a vote of the members who did not vote at the meeting on the matters listed for voting, by electronic voting system in accordance with regulation 26 where the voting shall be kept open, from the circulation of the minutes, for such time as decided by the committee which shall not be less than twenty-four hours and shall not exceed seven days*. In other words, the regulation mandates opening the voting window for at least twenty-four hours and for such further period as the COC may decide. In the present case, the CoC members had exercised their vote on second day, accordingly, closure of voting window on 14th July, 2025 with concurrence of CoC members can not lead to an adverse inference of hurriedness on part of the CoC members arising from alleged apprehension of reduction in quantum of their claim.

19. It is trite that the commercial wisdom of CoC is paramount and this Tribunal cannot interfere in exercise of said commercial wisdom. The structuring of financial affairs of Resolution Applicant falls within their domain and neither this Tribunal nor CoC can go into that aspect. The CoC has to examine the source for the total lay out proposed in the Resolution Plan, and after satisfying itself with those sources, it can dictate the Resolution Application to change the proposed capital structure, which is alleged to be thin in present case, so long as CoC has looked into availability of requisite financial resources at disposal of consortium SRA

at relevant time for infusion as resolution money in terms of the financial proposal set out in the Resolution Plan. Accordingly, we do not find any merit that a meagre infusion of funds as equity necessarily indicate that the Resolution Applicant is proposing to strip the Corporate Debtor of its assets for funding the Resolution. Even the other Resolution were not barred from proposing thin equity base. It is for the Resolution Applicant to introduce funds in form of various kinds of instruments or sources.

20. The settlement offer proposed by the Applicants has been rejected by the CoC and this Tribunal cannot mandate CoC to necessarily approve the proposal made by the Applicants. No material has been placed on record to demonstrate that the settlement proposal of the applicants was not placed before CoC for their consideration. Contrary to this assertion, we find that email sent to the RP in relation to said settlement offer was marked to all members of the CoC, thus placing said proposal in their knowledge even without requiring the RP to place it before CoC, said offer contemplated payment of 100% of the debt of the CoC members only after proper adjudication of creditors' claim quantum pending before the Hon'ble NCLAT. Further, the CoC had voted on the settlement proposal on 14th July, 2025 and it was rejected by both CoC members. Accordingly, no adverse inference can be drawn that IPE had a vested interest in stonewalling the promoter's settlement proposal so as to protect his interest in form of incentive which he may get if the resolution plan is approved. It is pertinent to note that the resolution for approval of settlement proposal of the Applicants came to be rejected.

21. It is noted that all five PRAs were invited for challenge mechanism, however, only two of them participated. All PRAs had equal opportunity to make consolidated bid, including CIRP costs. Accordingly, it cannot be said that the decision to allow PRAs to give consolidated resolution

amount, including CIRP costs, was to lower the earlier bid amount is misconceived and does not have any merit.

22. Further, Regulation 36(A)(4)(e) of the CIRP Regulations, 2016 was inserted by an amendment vide Notification No. F. No. IBBI/2024-25/GN/REG122 with effect from February 3, 2025and Form G was published in the present matter on December 19, 2024. Thus, the requirement contained in Regulation 36(A)(4)(e) of the CIRP Regulations, 2016 was not subsisting when Form G was published by the RP.

23. The allegations in relation to value of assets, concealment of material information and non-consideration of part-sale of corporate debtor etc. have already been dealt by us in orders passed in other applications filed by the Applicants and have been rejected, hence are not being reiterated again here.

24. In view of the facts above, we are of considered view that the present application filed by **Sagar Sharma & Anr**. in the CIRP of Hotel Horizon Private Limited against **Committee of Creditors & Anr**., is not maintainable on the above-mentioned grounds and in the terms of the provisions of the Insolvency and Bankruptcy Code, 2016. Hence, **I.A. No. 4764 of 2025 in C.P. No. (IB) 1241 of 2022** is hereby **dismissed**.

25. Ordered accordingly.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Sushil Mahadeorao Kochey
Member (Judicial)

/VB/