IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT – II)

Item No. 203
IB-496/ND/2023
IA-32/ND/2025, IA-3749/ND/2025, IA-5128/ND/2025

IN THE MATTER OF:
DCB Bank Ltd ... **Applicant/Petitioner**

Versus

Kalka Home Developers Pvt. Ltd ... **Respondent**

Under Section: 7 of IBC, 2016

Order delivered on 03.07.2026

CORAM:
SH. ASHOK KUMAR BHARDWAJ **SH. ATUL CHATURVEDI**
HON'BLE MEMBER (J) **HON'BLE MEMBER (T)**

PRESENT:

For the Applicant	:	Adv. Palash S Singhai, Harshal Sareen and Aashima Gautam in IA-3749/2025 Mr. Milan Singh Negi, Mr. Nikhil Kumar Jha, Ms. Katyayani and MR. Utkarsh, Advocates in IA 5128 of 2025
For the Respondent	:	Adv. Shankari Mishra for R4 in IA-3749/ND/2025
For the RP	:	Adv. Abhishek Anand, Adv. Karan Kohli, Adv. Vanshika Agrawal

Hearing Through: VC and Physical (Hybrid) Mode

ORAL ORDER

IA-32/ND/2025, IA-3749/ND/2025, IA-5128/ND/2025:

IA-3749/ND/2025 has been preferred under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("IBC"), read with Rule 11 of the National Company Law Tribunal Rules, 2016 ("NCLT Rules"), by Sh. Deepak Mangla, Suspended Director of Kalka Home Developers Pvt. Ltd. ("Corporate Debtor"), raising certain issues concerning the conduct of Sh. Mukesh Gupta, Resolution Professional ("Respondent No. 1 herein"). According to the Applicant, Mr. Mukesh Gupta, Resolution Professional, has been conducting the entire Corporate Insolvency Resolution Process ("CIRP") with the intention of defrauding the innocent creditors and stakeholders. The Applicant has further alleged that the Resolution Professional is guilty of committing material irregularities during the CIRP. The applicant has saliently espoused:-

a) The RP tampered with the entire voting process, for achieving a favourable outcome.

b) The resolution professional/ respondent no. 1 in connivance with the other suspended directors siphoned off the assets of the corporate debtor, thereby illegally transferring the same to the relatives/ nominees of the suspended directors, in complete violation of the provisions of the IBC. He also did not make the assets of the CD recoverable, thus caused benefit to the suspended directors.

c) The RP did not include that entire asset of the CD in the information memorandum, thus acted against one of the prime object of IBC viz. maximization of value of assets of CD.

d) The applicant who is also suspended director qua the corporate debtor has also been defrauded by the RP.

e) The respondent no. 2 and 3 viz. Sh. Yogesh Aggarwal and Yogesh Kumar the suspended directors qua the corporate debtors, have acted in connivance with the resolution professional with ulterior motive.

f) The respondent no. 4 i.e. Sh. Hari Singh is one of the accomplices of the resolution professional, has acted in connivance with the resolution professional to manipulate the allottees and the voting trends qua the resolutions put for voting.

g) The respondent no. 5 i.e. Sh. Arvind Mittal the Authorized Representative of the creditors in a class/ allottees as appointed also turned blind eyes towards the illegal activities perpetrated by the resolution professional, thereby ignoring all such illegality on part of the resolution professional throughout the process.

h) The resolution professional, approached the applicant herein on the pretext of transferring certain units/ portion of land, assuring that the transfer would in consonance with the provisions of IBC and there would be nothing wrong in transfer. He demanded an amount of Rs.52 Lakh from the applicant. Probably, such demand was also made from other directors/ promoters of the corporate debtor.

i) The resolution professional also shared the instances of his facilitating the transfer of land owned by the corporate debtor to the other suspended directors and third parties in lieu of certain monetary consideration, which was required to be paid in cash. In this regard, the resolution professional had various meetings with the applicant on multiple high-end places like 'The Lalit Hotel', 'The Taj Palace Hotel', 'Radisson Hotel' etc., including resolution professional's residence, wherein the resolution professional received monies in tranches from the applicant (in cash), which was somehow arranged by the applicant from his friends and family, in complete bona fide of purchasing a legitimate portion of the land.

j) The applicant has paid to the resolution professional, an amount of Rs. 14 lakhs (though an amount of Rs.52 Lakh was demanded however the applicant could arrange only Rs.14 Lakh) and in order to show the aforesaid transactions genuine, the resolution professional also shared certain draft agreements proposed to be executed between the parties for transferring the promised portion of land to the applicant. However, despite the assurances and despite receiving monies from the applicant, the resolution professional kept avoiding the said transfer of land to the applicant herein. All this while, the resolution professional kept assuring the applicant that the transfer of land will definitely will be done, as has been done in favour of other suspended directors/ their relatives.

k) It is apparent from the records of the corporate debtor, more particularly from the balance sheets of the corporate debtor for the F.Y.

2016-2017, that the corporate debtor made payment to certain parties as advance towards the consideration of the land it sought to purchase. These Individuals are employees/ officers / related parties of officers of the corporate debtor/ corporate debtor. The farmers/ sellers of the concerned lands were quoting very high prices for the lands when it came to be purchased by the corporate debtor (a company/ corporation), as it is a corporation and was keen in developing a housing society. On the other hand, the same land was being offered to individuals on a very discounted price. As such, the management of the corporate debtor decided to purchase the land parcels in the name of the employees/ officer/ related parties, who were to then transfer the same to the corporate debtor, which land could be then utilised for the group housing purposes. As such, the land parcels were purchased by the aforesaid individuals in their personal names on different dates, and these individuals were to transfer the said lands to the corporate debtor. However, the other suspended directors (respondent no. 2 and 3), instead of transferring the said land to the corporate debtor illegally appropriated the said lands in favour of their sons/ relatives. As was initially informed by the resolution professional to the applicant that he had facilitated the transfer of lands to the other suspended directors/ their sons/ relatives, it is clear that the above illegal transfer of lands to the sons/ relatives of the suspended directors had been done with the active involvement of the resolution professional, who must have charged huge monies from the respondent nos. 2 and 3 for such transfer and for keeping the said lands away from the corporate debtor. This itself shows the degree of malafide on part of the resolution professional who has not left any stone unturned to earn illegal monies out of the present CIRP at the cost of gross loss to the corporate debtor and its stakeholders.

l) The aforesaid transactions squarely fall within the ambit of fraudulent transactions in terms of section 66 of IBC, however the resolution professional has deliberately not done any due diligence, despite being fully aware of the same, in order to extend the undue benefits to the respondent no. 2 and 3 and their sons/ relatives and further to earn illegal monies from the said respondents.

m) The RP could go ahead to clandestinely place the resolution plans before the CoC, without disclosing all the relevant details before the CoC so to enable the CoC to take a reasoned decisions in the process.

n) The resolution professional has deliberately not even formed any opinion qua the avoidance and/ or fraudulent transactions in terms of section 43 45, 50 and 66 of IBC (PUFE transactions), which is in complete violations of the provisions of Regulation 35A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 ('CIRP Regulations').

o) The provisions of Regulation 35A of CIRP Regulations makes it obligatory on the resolution professional to form an opinion on or before the 75th day from the insolvency commencement date ('ICD') and to file appropriate application before this Tribunal which has not been complied by the resolution professional for hiding the misdeeds of the respondent no. 2 to 5.

p) It is also relevant to point out that the resolution professional/ respondent no. 2 and 3 have facilitated the illegal transfer of certain asset including but not limited to certain portion of land and certain units of the corporate debtor, which is completely in teeth of the provisions of section 14 of IBC.

q) The information memorandum has been prepared by the resolution professional in complete violation of the provisions of section 25(2)(g) & 29 of IBC read with Regulation 36A of the CIRP Regulations. The fact that the information memorandum is loosely worded in so far as certain land / properties of the corporate debtor is concerned, itself shows the malafide approach of the resolution professional. The information memorandum has been deliberately prepared in a manner so that if any questions are raised by any stakeholder, the resolution professional may keep a window for vague answers. All this is being deliberately done to hide the ill actions of the resolution professional and other respondents herein.

r) The Hon'ble Supreme Court in the matter of Ebix Singapore Private Limited Vs. CoC of Educomp Solutions Limited & Anr. cited in (2022) 2 SCC 401, has held that the resolution professional is duty bound to prepare a comprehensive information memorandum, thereby disclosing all the relevant details of the corporate debtor as is accurately possible to do.

s) The resolution professional has not even conducted proper valuation in the present case, thereby again keeping the stakeholders of the corporate debtor in complete dark.

t) The valuation exercise conducted by the resolution professional has not even considered the real position of the corporate debtor, more so the advance against purchase of land and the actual land/ assets / properties viz. the land whose beneficiary is the corporate debtor, as such, the valuation does not reflect the right fair value and liquidation value of the assets of the corporate debtor, thus vitiating the entire process.

u) In a case where the fundamental document forming the basis of preparation of the resolution plan itself is flawed, no resolution plan can be considered by the CoC as vital information are hidden from the CoC, which would have allowed the CoC to form any rationale or informed decision. Being so, the entire process of approval of the resolution plan stands vitiated in the instant case and the application being I.A. No. (Res. Plan) 32 of 2025 ought to be dismissed outrightly by this Hon'ble Tribunal on this ground alone.

v) The respondent no. 6 i.e. Hari Singh is one of the accomplices of the resolution professional, through whom the resolution professional used to manipulate the voting and allottees towards obtaining the favourable outcomes.

w) The applicant was being lured into purchasing the piece of land of the corporate debtor (it was claimed by the resolution professional that the same was very much legal), the resolution professional also informed the applicant that he is in total control of the present CIRP and can get any resolution approved or rejected at his instance. Further, he also shared instances of passing on instructions to the allottees for either voting in favour of or against any agenda, for obtaining favourable outcomes. Hari Singh was introduced to the applicant by the resolution professional, who was informed to be a representative of the allottees/ financial creditors in a class and further, on the instance of the resolution professional, the applicant also made payment to Hari Singh to the tune of Rs. 5 Lakh on 13.12.2024, which is evident from the WhatsApp Chats exchanged between the parties, which is already annexed to the instant application. When questioned by the applicant, the resolution professional informed that the payment of Rs.5 Lakh shall be taken care by the resolution professional and shall be adjusted when the land is transferred to the applicant. Thus, the applicant bonafide paid the said amount of Rs.5 Lakh (cash) to Hari Singh in addition to the amount of Rs.14 Lakh already paid to the resolution professional.

x) Under section 21 read with section 25A of IBC read with Regulation 16B of CIRP Regulations, only the authorized representative can attend the CoC meeting on behalf of the allottees/ creditors in class, however, the respondent no. 4/ Hari Singh, on insistence of the resolution professional, was appointed as an observer for the CoC meetings convened after the 6th CoC meeting. It is relevant to mention that Hari Singh is neither a creditor nor a stakeholder in the present CIRP, however only at the instance of the resolution professional, he was attending the CoC meetings in complete violation of the aforesaid provisions of IBC. Hari Singh is the same person through whom the resolution professional undertakes most of his illegal activities, including the manipulating the voting by the CoC.

y) As can be seen from the 18th CoC meeting that the resolution plan of the Sh. Mukesh Kumar Agarwal ('SRA') as placed before the CoC was digitally signed by the SRA, however the resolution plan shared with the allottees and the suspended directors was physically signed, during which time the SRA was not in town (as recorded in the minutes), which further clarifies that the resolution plan shared with the allotees and the one submitted by the SRA are two different resolution plans and the SRA has modified the resolution plan in connivance with the resolution professional.

z) The resolution plan was allegedly approved by the CoC on 23.04.2025 (voting concluded on 26.04.2025) and the application for approval of the resolution plan came to be filed by the resolution professional only on 30.05.2025, i.e. after 37 days of the approval, which means that during interregnum the resolution professional and the SRA were editing the clauses of the resolution plan with ulterior motives. It is really difficult to understand as to why a resolution professional would take 37 days to file a resolution plan for its approval before this Hon'ble Tribunal, when generally resolution plans are filed for approval before this Hon'ble Tribunal within a period of 7 days (maximum) from the date of approval of such plan by the CoC.

aa) The resolution professional and the SRA have connived not only for manipulating the voting on the resolution plan of the SRA but also to edit/ modify / change the resolution plans as per the requirements from time to time. Such illegal practice is unheard of and the same goes into the root of the matter and as such the entire CIRP process is vitiated by the conduct of the resolution professional in the present case.

bb) The resolution professional also violated the provisions of section 12 of IBC read with regulation 39(4) of the CIRP regulations, which mandates that the CIRP must be completed within 270 days and extension must be granted only once and further, the resolution professional is required to file the resolution plan 15 days prior to the maximum period granted under section 12 of IBC.

cc) The resolution plan of SRA was purportedly approved by the CoC in the 19th meeting held on 23.04.2025 (voting concluded on 26.04.2025), however during the time when the resolution plan was getting voted upon, the CIRP period of 330 days had already lapsed on 17.12.2024 (four months prior to said voting.

2. For the reasons espoused by him, the Applicant has sought rejection of the Resolution Plan.

3. It is seen from the application preferred for approval of resolution plan, the resolution plan and the certificate furnished by the RP in Form-H, that:-

I. The average fair value of the Corporate Debtor is ₹43,07,89,559/- and its liquidation value is ₹34,67,81,079/-, whereas the plan value is ₹28,25,99,241.20/-, which is even lower than the liquidation value.

II. The amount proposed to be paid towards the dues of Government authorities is ₹3,77,18,592/-, which constitutes only 5% of the admitted claims.

4. Merely because the plan value is lower than the liquidation value may not, by itself, constitute a ground for rejection of the Resolution Plan once the same has been approved by the Committee of Creditors. However, it would not be gainsaid that clause (b) of sub-section (2) of Section 30 of the Code mandates that the payment of debts of operational creditors shall be made in such manner as may be specified by the Board and shall not be less than the amount that would have been payable to such creditors in the event of liquidation of the Corporate Debtor under Section 53 of the Code. The clause b reads thus:-

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

(i) the amount to be paid to such creditors in the event of a liquidation of the
corporate debtor under section 53; or
(ii) the amount that would have been paid to such creditors, if the amount to
be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.
Explanation 1. — For removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.
Explanation 2. — For the purpose of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of
a corporate debtor-
(i) where a resolution plan has not been approved or rejected by the Adjudicating
Authority;
(ii) where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or
*(iii) where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a resolution plan;**]”***

5. The term "Operational Creditor" has been defined in Section 5(20) of the IBC, 2016. As per the definition, an Operational Creditor means a person to whom any operational debt is owed and includes a person to whom such debt has been legally assigned or transferred. Operational debt includes the dues arising under any law for the time being in force and payable to the Central Government, any State Government, or any local authority. Thus, though, in terms of the waterfall mechanism, no amount may actually be payable to the Government, when any amount is found payable to it, the same should not be less than the amount admissible to it in the event of liquidation of the

Corporate Debtor under Section 53 of the Code. In the present case, the liquidation value of the Corporate Debtor being higher than the plan value, apparently, the amount payable to the Operational Creditor, i.e., the Government, in terms of the Resolution Plan is much lesser than the amount which would be payable to it in the event of liquidation. Thus, the plan is in violation of Section 30(2)(b) of the Code.

6. Besides, as could be espoused in IA-3749/ND/2025 (supra), when, as per the stand taken by one of the suspended promoters qua the Corporate Debtor, the funds of the Corporate Debtor were used to buy certain properties, instead of filing applications under Section 66 of the IBC, 2016, the RP transferred the properties in the names of the promoters and their relatives. Such position, as brought on record by the Applicant in IA-3749/ND/2025, cannot be ignored lightly.

7. We may also not be oblivious to the fact that, in a real estate project, the default ordinarily consists of the failure to hand over possession of the allotted units to the allottees. In the present case, the implementation schedule does not indicate any date regarding the handing over of possession and talks of payment of the surrender price to the allottees. Thus, the resolution plan does not indicate how the default would be addressed by the SRA. As can be seen from Regulation 38(3)(a), a resolution plan should demonstrate that it addresses the cause of default. Regulation 38(3) reads thus:-

"[(3) *A resolution plan shall demonstrate that –*

a. it addresses the cause of default;
b. it is feasible and viable;
c. it has provisions for its effective implementation;
d. it has provisions for approvals required and the timeline for the same; and
e. the resolution applicant has the capability to implement the resolution plan.] "

8. Though, the prime object of IBC is to put the CD back to its feet and rescue it, still we may not ignore the fact that maximization of value of the assets of the CD need also to be kept in view while considering an application for approval of the resolution plan. In ***Padmanabhan Venkatesh vs. Shri V. Venkatachalam & Ors.*** in Company Appeal (AT) (Insolvency) No. 128/2019, Hon'ble NCLAT viewed thus-

> 40. The object of the 'I&B Code' mandates the Resolution in a time bound manner for maximization of value of assets of such persons and to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the priority of payment of Government dues.
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> 41. A 'Resolution Plan', therefore, must ensure not only maximization of value of assets of the 'Corporate Debtor' as also the value of assets of the 'Financial Creditors' and the 'Operational Creditors', thereby, balancing the interest of all the stakeholders.

9. IA-5128/ND/2025 has been preferred for dismissal of the IA-32/ND/2025, removing Mr. Mukesh Gupta as RP and to direct IBBI to take appropriate action against the RP and the Authorized Representative. The prayer made in the application reads thus:-

> **a) Allow the present application and dismiss the IA No. 32 of 2025 for approval of the resolution plan of Mr. Mukesh Agarwal;**
>
> **b) Remove Sh. Mukesh Gupta as the resolution professional in the present case, in view for the deliberate non-compliance and violation of the provisions of IBC and the rules & regulations framed thereunder;**
>
> **c) Direct IBBI to take appropriate action against the respondent no. 1/RP as well as the respondent no. 2/AR of the allottees in view of the professional misconduct;**
>
> **d) Appoint any other insolvency professionals as the resolution professional and Authorized Representative of the allottees in the instant case;**

10. Today, Mr. Negi, Ld. Counsel for the Applicant in IA-5128/ND/2025, pressed that IA-32/ND/2025, preferred for approval of the plan, is liable to be rejected, saliently on the ground that when the Corporate Debtor had 630 allottees, the RP could ensure the submission of claims by only 180 allottees. We may also refer to IA-3749/ND/2025, reference to which has been sufficiently made in the aforementioned order. The allegations contained in IA-3749/ND/2025 and IA-5128/ND/2025 are serious in nature. In the wake of the allegations contained in these two applications, the efforts made by the RP to muster claims from only 180 allottees and not to ensure that all the allottees got an opportunity to submit their claims cannot be ignored lightly.

11. Normally, Regulation 6A of the IBBI (CIRP) Regulations may not be a ground to vitiate the CIRP, but in a case like the present one, where only 180 allottees could submit their claims and there are allegations that the RP approached the parties, viz., the promoters, their relatives, and friends, to assign the land of the Corporate Debtor to them for extraneous reasons and consideration, the violation of Regulation 6A cannot be ignored lightly.

12. In the totality of the facts and circumstances (ibid.), we are not inclined to approve the resolution plan. **Ergo, IA-32/ND/2025 is rejected and IA-3749/ND/2025 as also IA-5128/ND/2025 stand disposed of**. We appoint **Mr. Vikram Kumar, having registration no. IBBI/IPA-001/IP-P00082/2017-18/10178 and e-mail id- vikramau@gmail.com as IRP**. The IRP shall issue a fresh publication to invite claims from all the allottees and other creditors within 15 days from the date of this order. The publication shall be processed within two days of uploading of the present order.

13. After receipt of the claims from all the allottees/creditors, the process, including the constitution of a fresh CoC, shall be completed within 150 days. As there are serious allegations against the RP. It goes without saying that the freshly constituted CoC shall be entitled to appoint the RP as per extant provisions of law. Subject to the aforementioned, the application is disposed of with the clarification that if the process is not completed within 150 days, the Corporate Debtor shall be deemed to be liquidated and appropriate orders shall be passed.

14. Mr. Diwakar Maheshwari, Advocate, is appointed to supervise the entire process from today itself *pro-bono*. He would also be entitled to appoint Forensic Auditor, if required, and the fees of the Forensic Auditor would be paid by the applicant in IA-3749/ND/2025.

Sd/-	**Sd/-**
(ATUL CHATURVEDI)	**(ASHOK KUMAR BHARDWAJ)**
MEMBER (T)	**MEMBER (J)**

Abhijat/Hetash