



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

Item No. 215
IB-1138/ND/2018
CA-366/2019, IA-1375/2024,
IA-5649/2024, IA-65/2024

IN THE MATTER OF:

M/s R J Packwells Pvt. Ltd.

... **Applicant/Petitioner**

Versus

M/s. Nibula Print and Pack Pvt. Ltd.

...

Respondent

Under Section: 9 of IBC, 2016

Order delivered on 03.03.2025

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

SH. ANIL RAJ CHELLAN, HON'BLE MEMBER (T)

PRESENT:

For the SRA

: Adv. Sumesh Dhawan, Adv. Vatsala Kak, Adv.
Sagar Thakkar, Adv. Shaurya Shyam

For the RP

: Adv. Sajeve Deora, Ashok Kriplani

Hearing Through: VC and Physical (Hybrid) Mode

ORAL ORDER

IA-65/2024: Our attention could be drawn to order dated 18.10.2024 passed by Hon'ble NCLAT in ***Vinay Goel & Consortium Members vs. Nibula Print & Pack Pvt. Ltd. & Ors.*** [Company Appeal (AT)(Ins) No. 1045-1046 of 2024], which read thus: -

“18.10.2024: Heard Learned Counsels appearing for the Appellant, HDFC Bank – Respondent No. 5, Resolution Professional and Liquidator.

2. This Appeal has been filed against an Order dated 22.04.2024 passed by the Learned Adjudicating Authority (National Company Law Tribunal, New Delhi Bench, Court – II), by which Order, I.A. No. 1512 of 2019 filed by the Resolution Professional for the approval of Resolution Plan has been rejected.

3. Brief facts necessary to be noticed for deciding the Appeal are:



- i. *The Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor commenced on 11.12.2018.*
 - ii. *In pursuance of 'Form-G' issued by the Resolution Professional (RP), Resolution Plans were submitted.*
 - iii. *Appellant consortium has submitted the Resolution Plan.*
 - iv. *In the 15th Meeting of the Committee of Creditors (CoC) held on 08.11.2019 as per the voting 77.91% votes the Plan was approved. The HDFC Bank holding 20.74% voting shares voted against the Resolution Plan.*
 - v. *RP filed I.A. 1512/2019 seeking approval of the Resolution Plan.*
 - vi. *Dissenting Financial Creditor, HDFC Bank filed an Application I.A. 1684/2019 before the Adjudicating Authority objecting to I.A. 1512/2019 and seeking rejection of the Resolution Plan.*
 - vii. *The Adjudicating Authority in Paragraph 26 has noted the objections raised by the HDFC Bank. Para 26 of the Order is as follows:*

“26. Now, we would like to examine another objection raised by the Applicant/HDFC Bank regarding its entitlement of amount in terms of Section 30(2) of IBC, 2016. As per the HDFC Bank, its minimum entitlement as Dissenting Financial Creditor (DFC) is computed by the RP at Rs. 1.61 Crore, which is based on the amount receivable by it under Section 53(1) of IBC by applying deeming fiction, if CD goes into the Liquidation. Per Contra, as per RP, the Liquidation value of DFC is Rs. 20 Lakhs only, which is the minimum Liquidation value of the Security Interest held by the HDFC Bank.”
 - viii. *After considering the submissions of the Parties, Adjudicating Authority came to the conclusion that Resolution Plan is in violation of Section 30(2)(b) of the IBC which finding has been returned in Para 37.*
 - ix. *Aggrieved by the Order of the Adjudicating Authority rejecting the Resolution Plan this Appeal has been filed by the Successful Resolution Applicant (SRA).*
4. *At the very outset, Learned Counsel appearing for the HDFC on instructions received from the Bank submits that HDFC Bank is withdrawing its objection to the Resolution Plan and they have no objection in approving of the Resolution Plan.*



5. *Learned Counsel for the RP has submitted that under the Resolution Plan, the HDFC are getting more amount than one which they were entitled as per Section 30(2)(b) which is the reason that HDFC has now taken the stand that the Plan be approved.*

6. *In view of the above, specially the statement made on behalf of the Counsel for the HDFC that on instructions that they are withdrawing their objection to the Resolution Plan, we see no reason to enter into different issues raised in the Appeal.*

7. *The main ground for rejection of the Plan was objection by HDFC Bank, which objection no more surviving, we are of the view that the Resolution Plan deserves to be approved.*

8. *We thus set aside the Order passed by the Adjudicating Authority dated 22.04.2024, allow the I.A. 1512/2019. Objections of the HDFC in I.A. 1684/2019 stands withdrawn and the Plan stands approved.*

9. *Let consequential Order be passed by the Adjudicating Authority consequent to approval of Plan within a period of 60 days after the Order of this Tribunal is placed before the Adjudicating Authority.*

The Appeal is disposed of accordingly.

In view of the Order passed in Comp. App. (AT) (Ins.) No. 1045 & 1046 of 2024, no Orders are required in Comp. App. (AT) (Ins.) No. 1347 of 2024.

Learned Counsel for the Liquidator submits that Liquidator has incurred certain fee and expenses. It is open for the Liquidator to make an appropriate Application before the Adjudicating Authority by making such Prayers as may be advised in accordance with law.”

2. As can be seen from the aforementioned, in terms of the aforementioned order, the Hon’ble NCLAT could reverse our order dated 22.04.2024. The relevant excerpt of the order dated 22.04.2024 reads thus:-

*“37. Since as per his own calculation of RP, the minimum entitlement of DFC as per Section 30(2)(b) read with Section 53(1) of IBC, 2016 (when security interest is relinquished) is Rs. 1.61 Crore, against which SRA in the Resolution Plan has provided Rs. 58 Lakhs only, we are of the considered view that the present Resolution Plan is violative of Section 30(2)(b) of IBC, 2016. **Hence, we have no option but to reject the Resolution Plan.***



38. **Accordingly, IA-1684/2019 stands allowed and IA-1512/2019 stands rejected.**

39. *Further, in terms of provision under Section 33(b)(i) and the fact that the maximum permissible period of CIRP is over since long back, we have no other option but to order Liquidation of the Corporate Debtor with immediate effect.*

40. *Further in terms of provisions in Section 34(4)(a) of IBC, 2016, the current Resolution Professional Sh. Ashok Kriplani is replaced with another IP, who shall act and discharge duties as the Liquidator of the Corporate Debtor. Accordingly, from the list of the panel of IBBI, Mr. Shiv Nandan Sharma (having **Registration No. IBBI/IPA-001/IP-P00384/ 2017-18/10641** and e-mail id: sharmasn@gmail.com) is appointed as the Liquidator of the Corporate Debtor, who shall take steps for Liquidation of CD in accordance with the law.*

41. *The Applicant/RP is directed to hand over the records to Mr. Shiv Nandan Sharma appointed as Liquidator within 3 days from today.”*

3. As can be seen from para 9 of the order passed by Hon'ble NCLAT, what has been left to this Tribunal is only to pass an order consequential to the order passed by Hon'ble NCLAT. Recently in the case of **State Bank of India & Ors. vs. The Consortium of Mr. Murari Lal Jalan and Mr. Florian Fritsch & Anr.** (Civil Appeal Nos. 5023-5024 of 2024), Hon'ble Supreme Court ruled that this Tribunal should make the process regarding implementation of Resolution Plan as part of its directions. The relevant excerpt of the order passed by Hon'ble Supreme Court reads thus: -

“176. The IBC, 2016 is silent as regards the phase of implementation of the Resolution Plan by the Successful Resolution Applicant. This is mostly due to the fact that each Resolution Plan might be unique and customized to the specific needs of the Corporate Debtor and an excessive amount of statutory control over the implementation of the Plan may prove to be counterproductive to the cause of the Corporate Debtor. However, this has unfortunately led to the consequence of giving excessive leeway to the Successful Resolution Applicants to act in flagrant violation of the terms of the Resolution Plan in a lackadaisical manner. The SRAs repeatedly



approach the Adjudicating Authority or the NCLAT for the grant of reliefs in relation to relaxation of the strict compliance to the terms of the Plan, including the timelines imposed therein. The NCLT and NCLAT more often than not, accede to such requests in exercise of their inherent powers under Rule 11 or their power to extend time under Rule 15 of the NCLT and NCLAT Rules, 2016 respectively. It is reiterated that the NCLT and NCLAT must not entertain such repeated attempts at violating the integrity of a CoC approved Resolution Plan by accommodating the incessant requests of the Successful Resolution Applicants. The exercise of discretion as regards altering the binding terms of the Resolution Plan, including the timelines imposed, must be kept at a minimum, at best. The NCLTs/ NCLATs need to be sensitised of not exercising their judicial discretion in extending the timelines fixed under IBC, 2016 or the Resolution Plan, in such a way that it may make the Code lose its effectiveness thereby rendering it obsolete.

177. Section 30(2)(d) of the IBC, 2016 states that the resolution professional shall mandatorily examine each resolution plan that is received to confirm that it provides for the implementation and supervision of the resolution plan. Regulation 38 of the 2016 Regulations provides for the mandatory contents of a Resolution Plan. Regulation 38(2) specifically states that the Resolution Plan shall provide for the term of the plan and its implementation schedule, along with adequate means for supervising its implementation. Further, under Regulation 38(3), a resolution plan must demonstrate that it addresses the cause of default, is feasible and viable, has provisions for its effective implementation, has provisions for approvals required and the timelines for the same and, that the resolution applicant has the capability to implement the resolution plan. Therefore, in light of these provisions of the IBC, 2016 and the 2016 Regulations, it can be seen that the resolution plan must be impermeable to any shortcuts that prevent its implementation, including timely implementation, by the successful resolution applicant. A consideration of these provisions reinforces the idea that timely implementation and strict adherence to the terms of the resolution plan is crucial.”

- 4.** In due deference to the aforementioned order of the Hon’ble Supreme Court, this Bench could pass the order dated 18.12.2024 calling upon the RP



to file an affidavit indicating the timelines for implementing the Resolution Plan. The order dated 18.12.2024 reads thus: -

“IA-65/2024: *The captioned application has been preferred by Resolution Professional to the corporate debtor seeking issuance of directions in sequel of the order dated 18.10.2024 passed by Hon’ble NCLAT in Company Appeal (AT) (Insolvency) No. 1045 & 1046 of 2024 preferred by SRA as also in Company Appeal (AT) (Insolvency) No. 1347 of 2024 preferred by RP. The prayer made in the application reads thus:-*

- a) *“Allow the present Application;*
- b) *Direct the Applicant to Implement the Resolution Plan approved by the Hon’ble NCLAT vide Order dated 18/10/2024, through the Monitoring Committee, as per the R-Plan of the SRA, the Respondent No. 1;*
- c) *Direct that the fee and expenses incurred by Mr. Shiv Nandan Sharma, an IP appointed by this Hon’ble Tribunal as Liquidator of the CD, to be approved by this Hon’ble Tribunal in terms of directions of the Hon’ble Appellate Tribunal in order dated 18.10.2024, be added to the CIRP costs of the CD and contributed by the SRA to the CD for disbursement to Mr. Shiv Nandan Sharma;*
- d) *Direct Mr. Shiv Nandan Sharma to hand over possession of assets of the CD and records of the CD, taken over earlier by him from the Applicant, back to the Applicant;*
- e) *Discharge the Liquidator, Mr. Shiv Nandan Shanna, an IP, Appointed vide Order dated 22/04/2024 of this Hon’ble Tribunal;*
- f) *Direct the Respondent No. 3, the RCFL to immediately repay Rs. 5 Lakhs to the ex-promoters of the CD;*
- g) *Declare that upon approval of the Resolution Plan by this Hon’ble Adjudicating Authority, the provisions of the Resolution Plan shall be binding on the Company / CD, it’s all creditors (including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed) guarantors, members, employees, and other stakeholders in accordance with Section 31 of the Code, and shall be given effect to and implemented pursuant to the order of this Hon’ble Adjudicating Authority; and / or.”*

As can be seen from the order dated 18.10.2024 (ibid) passed by Hon’ble NCLAT, the Resolution Plan submitted by SRA has been approved and this Tribunal need to issue consequential directions. The order passed by Hon’ble NCLAT reads thus: -



“18.10.2024: Heard Learned Counsels appearing for the Appellant, HDFC Bank – Respondent No. 5, Resolution Professional and Liquidator.

2. This Appeal has been filed against an Order dated 22.04.2024 passed by the Learned Adjudicating Authority (National Company Law Tribunal, New Delhi Bench, Court – II), by which Order, I.A. No. 1512 of 2019 filed by the Resolution Professional for the approval of Resolution Plan has been rejected.

3. Brief facts necessary to be noticed for deciding the Appeal are:

- i. The Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor commenced on 11.12.2018.*
- ii. In pursuance of ‘Form-G’ issued by the Resolution Professional (RP), Resolution Plans were submitted.*
- iii. Appellant consortium has submitted the Resolution Plan.*
- iv. In the 15th Meeting of the Committee of Creditors (CoC) held on 08.11.2019 as per the voting 77.91% votes the Plan was approved. The HDFC Bank holding 20.74% voting shares voted against the Resolution Plan.*
- v. RP filed I.A. 1512/2019 seeking approval of the Resolution Plan.*
- vi. Dissenting Financial Creditor, HDFC Bank filed an Application I.A. 1684/2019 before the Adjudicating Authority objecting to I.A. 1512/2019 and seeking rejection of the Resolution Plan.*
- vii. The Adjudicating Authority in Paragraph 26 has noted the objections raised by the HDFC Bank. Para 26 of the Order is as follows:
“26. Now, we would like to examine another objection raised by the Applicant/HDFC Bank regarding its entitlement of amount in terms of Section 30(20) of IBC, 2016. As per the HDFC Bank, its minimum entitlement as Dissenting Financial Creditor (DFC) is computed by the RP at Rs. 1.61 Crore, which is based on the amount receivable by it under Section 53(1) of IBC by applying deeming fiction, if CD goes into the Liquidation. Per Contra, as per RP, the Liquidation value of DFC is Rs. 20 Lakhs only, which is the minimum Liquidation value of the Security Interest held by the HDFC Bank.”*
- viii. After considering the submissions of the Parties, Adjudicating Authority came to the conclusion that*



Resolution Plan is in violation of Section 30(2)(b) of the IBC which finding has been returned in Para 37.

ix. Aggrieved by the Order of the Adjudicating Authority rejecting the Resolution Plan this Appeal has been filed by the Successful Resolution Applicant (SRA).

4. At the very outset, Learned Counsel appearing for the HDFC on instructions received from the Bank submits that HDFC Bank is withdrawing its objection to the Resolution Plan and they have no objection in approving of the Resolution Plan.

5. Learned Counsel for the RP has submitted that under the Resolution Plan, the HDFC are getting more amount than one which they were entitled as per Section 30(2)(b) which is the reason that HDFC has now taken the stand that the Plan be approved.

6. In view of the above, specially the statement made on behalf of the Counsel for the HDFC that on instructions that they are withdrawing their objection to the Resolution Plan, we see no reason to enter into different issues raised in the Appeal.

7. The main ground for rejection of the Plan was objection by HDFC Bank, which objection no more surviving, we are of the view that the Resolution Plan deserves to be approved.

8. We thus set aside the Order passed by the Adjudicating Authority dated 22.04.2024, allow the I.A. 1512/2019. Objections of the HDFC in I.A. 1684/2019 stands withdrawn and the Plan stands approved.

9. Let consequential Order be passed by the Adjudicating Authority consequent to approval of Plan within a period of 60 days after the Order of this Tribunal is placed before the Adjudicating Authority.

The Appeal is disposed of accordingly.

In view of the Order passed in Comp. App. (AT) (Ins.) No. 1045 & 1046 of 2024, no Orders are required in Comp. App. (AT) (Ins.) No. 1347 of 2024.

Learned Counsel for the Liquidator submits that Liquidator has incurred certain fee and expenses. It is open for the Liquidator to make an appropriate Application before the Adjudicating Authority by making such Prayers as may be advised in accordance with law.”

*At this stage, when we are at the process of dictating the order, having due reference to the order passed by Hon’ble Supreme Court in **STATE***



BANK OF INDIA & ORS vs. THE CONSORTIUM OF MR. MURARI LAL JALAN AND MR. FLORIAN FRITSCH & ANR in Civil Appeal Nos. 5023-5024 of 2024, we directed the Ld. Counsels for both the SRA & RP to indicate the timelines regarding the steps to be taken for executing/implementing the plan, as both the Ld. Counsels are unable to indicate any timeline. The SRA as also RP are directed to file a specific affidavit regarding the steps needed to be taken by SRA to implement the plan. The affidavit would also clearly specify that how the corporate debtor which is not going concern would be made functional and the time limit within which the same would be made operative. Let the affidavits be filed with the approval of CoC which would meet within one week from today. List on **22.01.2025.**”

6. In compliance of the aforementioned order, both applicants and SRA have filed separate affidavit, indicating the timeline in due deference to the law declared by Hon’ble Supreme Court (ibid). The affidavit filed by SRA reads thus:

- “1. I am the Resolution Professional in the CIRP of the CD, the Nibula Print & Pack Pvt. Ltd., New Delhi, thus am competent to swear this Affidavit.
2. That, this Hon'ble Tribunal directed vide orders dated 18/12/2024 and 22/01/2025 to the SRA and to the RP to file their affidavits on the Implementation Plan to execute the approved R-Plan by the Hon'ble NCLAT vide Order dated 18/10/2024. **Annexure A(Colly)** is the copies of the Orders dated 18/12/2024 and 22/01/2025 of this Hon'ble Tribunal. The said Orders were uploaded on the site as on 27/12/2024 & 27/01/2025 respectively.
3. That, pursuant to the abovesaid directions of this Hon'ble Tribunal the SRA first sent his Implementation Schedule as on 28/12/2024 against which the RP sent the corrected Schedule as on 30/12/2024, and a final schedule was received on 09/01/2025.
4. That a Meeting of Committee of Creditors (COC), the 18th COC Meeting, was scheduled to take place as on 10/01/2025 for 5pm.
5. That due to changes in management of Reliance Capital Finance Limited (RCFL) and resultantly changes in contact email address, RCFL communicated to the RP at about 2pm as on 10/01/2025 that it had not received Notice of the Meeting and also did not receive the Agenda. For reasons that the concerned person at RCFL was personally occupied, the 18th COC Meeting was rescheduled for 13th January 2025 for 5pm as requested by the RCFL.



6. *That, on 13th January, it was decided by the COC Members that vote will be exercised by email after the matter is considered by their respective delegated authority.*
7. *That voting was exercised by HDFC Bank (20.74% voting share) on 20th January 2025 and by RCFL (31.03% voting share) voted on 23rd January, 2025, and Deewan Housing Finance Limited (DHFL) (46.88% voting share) sought extension for voting up to 27th January 2025, DHFL did not exercise its vote even after the voting period had been extended upto 03rd of February, 2025. It is submitted that DHFL did not seek any further extension of time to exercise its vote, DHFL also did not provide any reasons for not voting. Neo growth, an Unsecured Financial Creditor (UFC) (1.35% voting share), has not been participating in COC Meetings itself from the commencement of the 18th COC Meeting.*
8. *That the resolution for approval of Implementation Schedule proposed by SRA & RP has been approved with 51.77% majority which is also 100% of the Members of COC present & Voting at the 18th COC Meeting. Except for Neo Growth all the 3-Members of the COC were present. That, the Implementation Schedules as submitted by the Deponent, the RP and the SRA are **Annexure B(Colly)**.*
9. *That the documents evidencing exercise of vote by RCFL, now Authum Investment & Infrastructure Limited (AAIL) is enclosed as **Annexure C** and by HDFC Bank is enclosed as **Annexure D**, and the Minutes of the 18th COC Meeting are enclosed as **Annexure E**.*
10. *That the Deponent, the RP, hereby submits that the direction of this Hon'ble NCLT in the order dated 18/12/2024 in IA No. 65/2024, of bringing on record the Implementation Schedules of the Resolution Plan as submitted by the RP & the SRA, attached as **Annexure B(Colly)**, stands complied."*

7. As can be seen from para 8 of the order dated 18.10.2024 (ibid) passed by Hon'ble NCLAT, the Hon'ble Appellate Tribunal had specifically noted that the plan submitted by the SRA stands approved. Thus, any observation on the reliefs and concessions sought by the SRA in terms of the plan by this Adjudicating Authority would constitute judicial overreach. In the wake, this Adjudicating Authority only needs to pass a consequential order qua the approval of the plan. As a sequel, we issue the following directions: -



- i. The Resolution Plan, as approved by the Hon'ble NCLAT in terms of order dated 18.10.2024 (ibid), shall become effective from the date of this order and shall be implemented strictly as per the term of the plan and implementation schedule given in the Plan;
- ii. The Following steps would be taken in terms of the implementation schedule, as submitted by the SRA through affidavit dated 13.02.2025:

-

X, being the Date of Receipt of order for approval of Resolution Plan.

Sr. No.	Task	Time line in days(d) unless specified	Contingency Plan
1	Date of Receipt of order of approval of Resolution Plan	X	
2	Constitution of Monitoring Committee	X+5d	
3	Intimation of order to members of CoC /Creditors	X+5d	
4	Appointment of Directors, Constitution of Board and Board Meeting	X+45d	Through MC
5	Consortium Partners Resolutions, formation of SPV	X+45d	
6	Intimation of order to ROC under form INC-28	X+29d	
7.	Opening of an Escrow Account.	X+15d	Through CIRP account
8	Opening of Bank Account by the SRA	X+15 days from date of appointment of Director	Through CIRP account
9	Payment as per Financial Proposal and Provision for Working Capital and CAPEX	Annexure -A	
10	Source of fund and inflow of funds	Annexure -B	



11	Appointment / re-appointment of security agency or change	X+30 days	
12	Handover of records to SRA	X-30 days	
13	Appointment of key employees	X+45 days	
14	Possession of assets	As per order or upon payment of upfront / CIRP Expenses & MC expenses till date	
15	Cancellation and Issuance of Shares	X+60d	
16	Restoration of electricity, water etc	X+ Within 3 months	
17	Issuance of Debentures, Instrument of Loan	X+240, as per requirement	
18	Renovation, Repair & Maintenance of P&M & Building	X+Within 6 months	
19	EGM for change in constitution of MOA/AOA	X+ Within 6 months	
20	Compliances of fire, factory licenses etc.	X+ Within 6 months	
21	Installation of Fresh Plant & Machineries	X+Within 6 months	
22.	Bringing of the Machinery lying with the Vendor: Vig Graphics.	X+ Within 6 Months	
23	Trial Run	X+Within 7 months	
24	Production commencement	X+Within 9 months	
25	Sale of idle assets, old plant & machineries and scrap, (subject to release of Charge)	X+ Within 9 months	
26	Discharge of the RP and the dissolution of the Monitoring Committee (MC) or Later as decided by the MC depending upon the Circumstances.	X+ 10 Months (within or as early as possible)	
27	Applying and obtaining necessary permission, registration, waiver, relief, concession, compliances (as applicable) etc.	X+ Within 12 Months	



- iii. The order of the moratorium in respect to the corporate debtor passed by this Adjudicating Authority under Section 14 of the IBC, 2016 shall cease to have effect from the date of passing of the aforementioned order of Hon'ble NCLAT;
 - iv. The SRA shall act in terms of the provisions of Section 31(4) of IBC 2016;
 - v. The Monitoring Committee shall file progress report regarding implementation of the Plan before this Tribunal, every month;
 - vi. The RP shall forward all the records relating to the conduct of the CIRP and the Resolution Plan to the IBBI for its record and database;
 - vii. The RP shall also forthwith send a copy of this order to the participants and the Resolution Applicant. He would also send a copy of this order to the ROC concerned within 15 days of this order;
 - viii. The RP shall intimate each claimant about the principle or formulae, as the case may be, for payment of debts under the Plan;
8. In view of the aforementioned, **the IA stands disposed of.**

IA-5649/2024:

9. Our attention could be drawn to para 9 of the order dated 18.10.2024 passed by Hon'ble NCLAT, the para 9 reads thus: -

9. Let consequential Order be passed by the Adjudicating Authority consequent to approval of Plan within a period of 60 days after the Order of this Tribunal is placed before the Adjudicating Authority.

The Appeal is disposed of accordingly.

In view of the Order passed in Comp. App. (AT) (Ins.) No. 1045 & 1046 of 2024, no Orders are required in Comp. App. (AT) (Ins.) No. 1347 of 2024.



Learned Counsel for the Liquidator submits that Liquidator has incurred certain fee and expenses. It is open for the Liquidator to make an appropriate Application before the Adjudicating Authority by making such Prayers as may be advised in accordance with law.”

10. The applicant, RP & SRA are ad idem that in wake of the order passed by Hon'ble NCLAT the order regarding entitlement of the applicant to liquidation cost and his fees needs to be determined by this Tribunal.

11. Regulation 2A of IBBI (Liquidation Process) Regulations, 2016 provides for the provisions regarding payment/fees of the liquidator. The Regulation reads thus: -

“2A. Contributions to liquidation costs.—*(1) Where the committee of creditors did not approve a plan under sub-regulations (3) of regulation 39B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the liquidator shall call upon the financial creditors, being financial institutions, to contribute the excess of the liquidation costs over the liquid assets of the corporate debtor, as estimated by him, in proportion to the financial debts owed to them by the corporate debtor.*

(2) The contributions made under the plan approved under sub-regulation (3) of regulation 39B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 or contributions made under sub-regulation (1), as the case may be, shall be deposited in a designated escrow account to be opened and maintained in a scheduled bank, within seven days of the passing of the liquidation order.

(3) The amount contributed under sub-regulation (2) shall be repayable with interest at bank rate referred to in section 49 of the Reserve Bank of India Act, 1934 (2 of 1934) as part of liquidation cost.

Explanation.- It is hereby clarified that the requirements of this regulation shall apply to the liquidation processes commencing on or after the date of the commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019.”

12. However, the Ld. Counsel for the RP submitted that the RP and SRA have entered into an understanding that the CoC has rectified the cost



incurred by the liquidator and the same would be payable by the SRA. The averments to the effect have been made in the affidavit filed by the RP indicating the timelines for implementation of the plan. The para 8 & 9 of the affidavit reads thus: -

8. *That the resolution for approval of Implementation Schedule proposed by SRA & RP has been approved with 51.77% majority which is also 100% of the Members of COC present & Voting at the 18th COC Meeting. Except for Neo Growth all the 3-Members of the COC were present. That, the Implementation Schedules as submitted by the Deponent, the RP and the SRA are **Annexure B(Colly)**.*
9. *That the documents evidencing exercise of vote by RCFL, now Authum Investment & Infrastructure Limited (AAIL) is enclosed as **Annexure C** and by HDFC Bank is enclosed as **Annexure D**, and the Minutes of the 18th COC Meeting are enclosed as **Annexure E**.*


13. Our attention is also drawn to the resolution passed by CoC regarding the liquidation cost to the applicant as also to liquidation cost. The relevant excerpt of the Resolution dated 04.02.2025 passed by the CoC, enclosed with the affidavit reads thus: -

Resolution no.5:

- *1. It is Resolved and approved the expenses of Rs.5,29,850/- Incurred by the Liquidator as per **Annexure D** which shall be reimbursed by the SRA in the time period of 30 days from the date of the Consequential Order which may be passed by the Ld.AA. *aksh*
2. It is further resolved that the SRA shall extend further financial support of meeting Misc. Expenses which may be incurred either by the liquidator or the RP or both till functioning of the Monitoring Committee."

S. No.	Name of Claimant	Voting Percentage %	Yes/No
1	DHFL	46.88	-
2	RCFL	31.03	Yes
3	HDFC Bank	20.74	Yes
4.	Neo Growth	1.35	-
	Total	100.00%	51.77%

Thus the Resolution no.5 is approved by a 51.77 % as against the requirement of >50 %.

- b. The Copy of the Minutes of the 17th COC Meeting were annexed as **Annexure E** with Agenda for the kind perusal of the Ld.Members of the COC which were also duly Circulated by an enclosed email dated March16, 2024. 



14. In view of the aforementioned, the captioned application is **disposed of** with direction to SRA to comply with the resolution passed by CoC and bear the liquidation cost and make the consequential payment within 4 weeks from today in accordance with law.

CA-366/2019:

15. Ld. Counsel for the RP submitted that the application would be pursued by RP and the proceed thereof would be shared between the SRA & the creditor. Nevertheless, he prayed for an adjournment. At his request, the hearing is deferred to **25.04.2025**.

IA-1375/2024:

16. The prayer made in the captioned application reads thus: -

- “1. To direct the Respondent bank to provide the Statements on stocks, debtors and other current assets as on 31/03/2018, 11/12/2018 and 01/02/2019 as provided by the CD to it from time to time,*
- 2. And pass any other order as deem fit and proper to this Hon'ble Tribunal in view of the above given Circumstances.”*

17. Ld. Counsel appearing for the respondent submitted that the information in terms of the prayer (ibid) would be made available to RP within two weeks from today. In view of the statement made by Ld. Counsel for the respondent, **the IA is disposed of.**

Sd/-
(ANIL RAJ CHELLAN)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)