NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI

SPECIAL BENCH (SINGLE MEMBER) (COURT-II)

IA-5505/ND/2024, IA-134/ND/2025, IA-246/ND/2025,

IA-6125/ND/2024, IA-6124/ND/2024, IA-6014/ND/2024,

IA-274/ND/2025, IP-5/ND/2024, IA-2806/ND/2026

IN

Company Petition No. (IB) - 97(ND)/2022

IN THE MATTER OF (IB)-97(ND)/2022:

(Under Section 95 of IBC, 2016)

Indiabulls Housing Finance Limited …Applicants/Financial Creditors

Versus

Dr. Subhash Chandra … Respondent/Personal Guarantor

AND IN THE MATTER OF I.A. NO. 5505/ND/2024:

(Under Section: 114 r/w Section 112 of IBC, 2016)

Shiv Nandan Sharma

Resolution Professional

129, Ground Floor, Navjeevan Vihar,

Near Aurobindo College, New Delhi – 110017 **… Applicant**

Versus

Dr. Subhash Chandra

Personal Guarantor

B-10, Lawrence Road

Industrial Area, Delhi – 110035 **… Respondent**

AND IN THE MATTER OF I.A. NO. 134/ND/2025:

(Under Section: 109 r/w Section 60(5) of IBC, 2016)

IndusInd Bank Limited

IndusInd Bank, Hyatt Regency Complex,

11th Floor, District Centre, Block A,

Bhikaji Cama Place, New Delhi **… Applicant**

Versus

Shiv Nandan Sharma

(Resolution Professional)

129, Navjeevan Vihar,

Near Aurobindo College,

New Delhi – 110017 **… Respondent**

AND IN THE MATTER OF I.A. NO. 246/ND/2025:

(Under Section 60(5) of IBC, 2016)

RBL Bank Limited

One World Center, 20th Floor,

Tower 2B, 841, Senapati Bapat Marg,

Lower Parel (West), Mumbai – 400013 **… Applicant**

Versus

Shiv Nandan Sharma

(Resolution Professional)

129, Navjeevan Vihar,

Near Aurobindo College,

New Delhi – 110017 **… Respondent**

AND IN THE MATTER OF I.A. NO. 6125/ND/2024:

(Under Section 60(5) and Section 114(1) of IBC, 2016)

Canara Bank

Stressed Asset Recovery Management Branch

C-33, DDA Shopping Complex,

Opposite Moolchand Hospital,

Defence Colony, New Delhi – 110024 **… Applicant**

Versus

Shiv Nandan Sharma

(Resolution Professional)

129, Navjeevan Vihar,

Near Aurobindo College,

New Delhi – 110017 **… Respondent**

AND IN THE MATTER OF I.A. NO. 6124/ND/2024:

(Under Section 109 r/w Section 60(5) of IBC, 2016)

HDFC Bank Limited

HDFC Bank House, Senapati Bapat Marg,

Lower Parel (West), Mumbai – 400013 **… Applicant**

Versus

Shiv Nandan Sharma

(Resolution Professional)

129, Navjeevan Vihar,

Near Aurobindo College,

New Delhi – 110017 **… Respondent**

AND IN THE MATTER OF I.A. NO. 6014/ND/2024:

(Under Section 60(5) of the IBC, 2016 r/w Rule 11 of NCLT Rules, 2016)

IDBI Trusteeship Services Limited

Universal Insurance Building,

Ground Floor, Sir P.M. Road,

Fort, Mumbai – 400001 **… Applicant**

Versus

Shiv Nandan Sharma

(Resolution Professional)

129, Navjeevan Vihar,

Near Aurobindo College,

New Delhi – 110017 **… Respondent**

AND IN THE MATTER OF I.A. NO. 274/ND/2025:

(Under Section 60(5) of the IBC, 2016 r/w Rule 11 of NCLT Rules, 2016)

STCI Finance Limited

A/B1-802, ‘A’ Wing, 8th Floor, Marathon Innova,

Marathon Next Gen Compound,

Off Ganpatrao Kadam Marg,

Lower Parel (W), Mumbai – 400013 **… Applicant**

AND IN THE MATTER OF Inv. Petition No. 5/ND/2024:

(Under Section 60(5) of the IBC, 2016 r/w Rule 11 of NCLT Rules, 2016)

Axis Bank Limited

Axis House, Wadia International Centre,

Pandurang Budhkar, Worli, Mumbai-400025 **… Applicant**

Versus

1. **Indiabulls Housing Finance Limited**

   M-62 and 63, 1st Floor,

   Connaught Place, New Delhi-110001

2. **Dr. Subhash Chandra**

   B-10, Lawrence Road Industrial Area,

   Delhi -110035 **… Respondent**

AND IN THE MATTER OF I.A. NO. 2806/ND/2026:

(Rule 11 of NCLT Rules, 2016)

Canara Bank

Stressed Asset Recovery Management Branch

C-33, DDA Shopping Complex,

Opposite Moolchand Hospital,

Defence Colony, New Delhi – 110024 **… Applicant**

Versus

1. **Dr. Subhash Chandra**

   Personal Guarantor

   B-10, Lawrence Road

   Industrial Area, Delhi – 110035

2. **Shiv Nandan Sharma**

   (Resolution Professional)

129, Navjeevan Vihar,

Near Aurobindo College,

New Delhi – 110017 **… Respondent**

Pronounced on: 25.08.2026

CORAM:

HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)

Appearances: Hybrid

For the RP:	Adv. Mr. Sajeve Deora, Mr. Shiv Nandan Sharma
For World Crest Advisors LLP, Veena Investments Pvt. Ltd. and Direct Media Distribution Ventures Pvt. Ltd.:	Adv. Mr. Bishwajit Dubey, Adv. Mr. Prateek Mishra and Adv. Mr. Sumit Singh Bagri
For the PG:	Adv. GP Madaan, Adv. Mr. Aditya Madaan, Adv. Mr. Rahul Narula
For the Canara Bank:	Sr. Adv. Mr. Ritin Rai, Adv. Mr. Anju Jain, Mr. Hitesh Sachar, Mr. Rifat Touhid, Adv. Mr. Bhawna Prajapati, Adv. Viney Pradhan
For the RBL Bank:	Adv. Mani Bhushan Sinha, Adv. Pranav Mittal, Adv. Chitranshul A. Sinha, Adv. Shivam Shorewala, Adv. Rakshita Bhargava, Adv. Archie Garg, Adv. Eesha Sharma
For STCI Finance Ltd.:	Adv. Ms. Surekha Raman, Adv. Ms. Ferzana Behramkamdin, Adv. Ms. Kalyani Deshmukh, Adv. Mr. Sidharth Nair.
For Union Bank of India:	Mr. Alok Kumar, Mr. Kunal Arora, Mr. Divyansh Soni, Ms. Parnika J., Ms. Tarun Kuma, Adv. Pranika Soni

For IndusInd Bank:	Adv. Diwaker Meheshwari, Adv. Yugam Taneja, Adv. Pratiksha Mishra, Sachin Chandarana, Adv. Kartik Nagarkatti, Adv. Khushi Jain, Adv. Rishabh Singh, Adv. Aarushi Mishra
For IDBI:	Adv. Gaurav Mitra, Adv. Sachin Chandarana, Adv. Kartik N, Adv. Khushi Jain
For Corpcall Capital Advisors:	Adv. Milan Singh Negi, Adv. Raina Birla, Adv. Nikhil Kumar Jha, Adv. Katyayani, Adv. Utkarsh
For HDFC Bank:	Adv. Bheem Sain Jain

ORDER

This order arises out of a reference made by the Hon'ble President, NCLT, in exercise of powers under section 419(5) of the Companies Act, 2013, read with Rule 60(2) & (3) of the NCLT Rules, 2016, *vide* order dated 09.02.2026 to the present Member Judicial as the Third Member in regard to the difference of opinion between Hon'ble Judicial Member Sh. Ashok Kumar Bhardwaj and Hon'ble Technical Member Ms. Reena Sinha Puri, in the present matter.

In the year 2022, Indiabulls Housing Finance Ltd. instituted CP(IB)-97/ND/2022 seeking initiation of the Insolvency Resolution Process against the Debtor/Personal Guarantor (PG), namely Dr. Subhash Chandra, and filed an Application u/s 95 of the Insolvency and Bankruptcy Code, 2016 (IBC/Code). Upon consideration of the Application and after hearing the submissions advanced by the Counsels for the parties, this Tribunal, *vide* Order dated 30.05.2022, appointed Mr. Raj Kamal Saraogi as the Resolution Professional in respect of the Debtor.

Thereafter, the Hon'ble Supreme Court, in WP(C) No. 567 of 2022, passed an interim order dated 05.08.2022. Taking cognisance of the aforesaid order of the Hon'ble

Supreme Court, this Tribunal passed an order dated 18.08.2022 keeping the RP's report u/s 99 of IBC, 2016 in abeyance.

Ultimately, after the Hon'ble Supreme Court vacated its order *vide* a detailed Order dated 22.04.2024 authored by the Ld. Member (Judicial), the Petition bearing IB-97/ND/2022, filed under Section 95(1) of the Insolvency and Bankruptcy Code, 2016, seeking initiation of the Insolvency Resolution Process against the Debtor, was admitted.

The RP (Mr. Saraogi), who was appointed *vide* order dated 22.04.2024, was replaced by Mr. Shiv Nandan Sharma *vide* order dated 27.05.2024 in I.A-2148/2024.

The newly appointed RP, after completing the process under the IBC, preferred the I.A. - 5505/2024 for the approval of the repayment plan, and the Tribunal issued notice to all the creditors *qua* the debtor. In response to the notice issued, the majority of the creditors in relation to the Debtor entered appearance before the Tribunal. While certain creditors opposed the application seeking approval of the repayment plan, others expressed their support for the same. The respective stands adopted by the creditors were duly recorded in the order dated 06.01.2025, which reads as under:

> *"IA-5505/2024 has been preferred by Mr. Shiv Nandan Sharma, Resolution Professional qua Mr. Subhash Chandra, the Personal Guarantor. When Mr. Shiv Nandan Sharma is Applicant in the IA, Dr. Subhash Chandra is the only Respondent therein. On 26.11.2024 when the IA-5505/2024 (ibid) was listed afresh, the Ld. Counsel appearing for some of the Creditors, particularly IndusInd Bank, opposed the application. Thus, we considered it proper to give opportunity to all the Creditors to have their stand in the application, before the same is adjudicated. The order dated 26.11.2024 reads thus: -*

> *"__**IA-5505/2024**__: Issue notice to Creditors returnable on **06.01.2025**. Let the notice be served upon all the Creditors by all prescribed modes i.e. registered post, speed post, courier service and E-mail. The notice is accepted by the Ld. Counsel for RBL and IndusInd Bank, thus the process of service qua them is dispensed with. Let the reply, if any, be filed by the Creditors within four weeks from today.*
>
> *It is made clear that the Applicant would make copy of application available to all the Respondents/Creditors along with the notice.*
>
> *List on **06.01.2025**."*

Today, Mr. P. Nagesh, Ld. Sr. Counsel pressed IA-6014/2024 preferred by IDBI Trusteeship Services Limited. The IA-6124/2024 filed by HDFC Bank Limited is pressed by Mr. Bhim Sain. Mr. Abhinav Vashishth, Senior Advocate, appeared in IA-6125/2024 filed by Canara Bank. All the aforementioned applications have been preferred by the Creditors to oppose IA-5505/2024. According to the Ld. Sr. Counsels, the Applicant in the IAs had to resort to the process of filing independent IA in order to file their response to IA-5505/2024, as they have not been impleaded as parties to the application and the registry could raise its technical objection qua their filing reply to IA-5505/2024. Besides, the aforementioned Creditors, the Ld. Counsels for RBL, IndusInd Bank, IDBI Trusteeship (for Franklin Templeton), LIC Housing Finance and other Creditors entered appearance to submit that they have objection to the repayment plan and need to be heard before IA- 5505/2024 is considered. They submitted that their applications/reply to IA- 5505/2024 are lying under objection with the registry.

Appearance is also entered on behalf of the Corpcall Capital Advisors LLP, Catalyst Trusteeship, World Crest Advisors LLP, Direct Media Distribution Ventures Private Limited, Lemonade Capital Advisors LLP and Veena Investments Private Limited. The Counsels present for said Creditors submitted that they are supporting the repayment plan. In any case, it is experienced that *all the Creditors not being party to IA- 5505/2024, they have been in difficulty in getting their reply filed to said IA and thus, independent applications have been filed before this Bench. In the wake, we direct that the RP, Mr. Shiv Nandan Sharma, to file an amended memo of parties impleading all the Creditors including the Creditors who are represented before us today and have filed an independent application as party to IA-5505/2024..."*

The dissenting creditors who opposed the plan submitted that as they were not added as parties to the application, their reply opposing the repayment plan did not pass the scrutiny of the registry. In the wake of that, they moved a separate application opposing the plan; the Tribunal also accommodated the creditors and directed the RP to file an amended memo of parties.

On 02.05.2025, the Debtor appeared in person along with his counsel and contended that the Resolution Professional had erroneously admitted the claims of several creditors against him. It was further submitted that he was under no liability to repay any debt to those creditors who had opposed the repayment plan. Upon hearing the submissions advanced by the Debtor in person, this Tribunal passed an order dated 02.05.2025, which reads as follows:

> *"3. Having explained the factual position as above, the Personal Guarantor/ Debtor who is present in person submitted that the Objectors/Creditors have raised the legal issue of related party when repayment plan has already been approved in terms of the provisions of Section 111 of IBC, 2016, but the plea is not available to them for the simple reason that the concept is not there involved in the case of Personal Guarantor. Finally he submitted that once the repayment plan has been approved by required number of vote shares i.e. 80.814% vote share, in the wake of the provisions of Section 114 (1) of IBC, 2016, there is*

no option left open to this Tribunal but to pass an order on the basis of the plan which is based on the decision taken in the Committee of Creditors. The Ld. Counsels present for Objectors/Creditors expressed their reservation on the stand taken by the Personal Guarantor and submitted that they have their submissions to make in the matter.

4. Mr. Maheshwari, Ld. Counsel appearing for IndusInd Bank Ltd. could make reference to the provisions of Section 114(1) of the Code along with proviso thereto as also to the provisions of Section 114(2) and 114(3) of the Code. We would be examining the contentions/submissions/stand of all the parties before us. Nevertheless, before that we expect Mr. Sharma Ld. Resolution Professional to examine the plea raised by the Personal Guarantor before us and submit a report in sealed cover. It is made clear that at this stage, we refrain from commenting that what would be the ramification of the report qua the procedure mentioned in IBC and the relevant rules and regulations framed thereunder.

5. However, since it is the object of IBC to see that insolvency of individual debtor is resolved, we may also not completely ignore the aspect of the repayment offered in the plan. It is made clear that nothing observed herein above would prejudice the stand/argument of either of the parties. Let Mr. Sharma, Ld. Resolution Professional examine the aforementioned issues espoused by the Personal Guarantor and submit his report in sealed cover. He is also directed to comply with the order dated 06.03.2025.

6. It would be open to Resolution Professional to make his independent remark in the report regarding the process he conducted while submitting the same. List on ***21.05.2025 at 12:30 pm****.*

IA-6014//2024, IA-6124/2024, IA-6125/2024, IA-134/2025, IA-246/2025, IA-274/2025, IA-1097/2025*: The applications* *will be heard and examined on merit on the next date of hearing. In the meantime, parties may complete and exchange their pleadings. List on **21.05.2025.** "*

The Tribunal in the order dated 02.05.2025 noted the submissions of the PG and the contentions of the creditors and directed the RP to make a report on the issues raised by the PG. The Tribunal directed the RP to submit the report in a sealed cover with independent remarks regarding the issues contained therein.

The RP in the I.A-5505/2024 filed a report with respect to the Repayment Plan proposed by the PG, along with a detailed account of the financial status and estate of the PG. The relevant excerpts of the application read thus:

*"**(ii) Justification for proposing the Repayment Plan:***

As stated above, the Personal Guarantor has prepared the Repayment Plan by adding the value of its income-generating potential to the value of its estate. The proposed plan does not have any scope for an increase in the outlay.

The Personal Guarantor's estate, in the event of bankruptcy, may not be enough even to cover the expenses of the process. Therefore, the creditors may not be able to receive any dividend from the bankruptcy trustee. The Personal Guarantor has presented a fair and reasonable Repayment Plan, which depicts the Personal Guarantor's sincerity in settling his liabilities. The Repayment Plan will settle all the disputes and legal proceedings, and the Personal Guarantor and creditor will be certain about the outcomes of their actions. The wasteful legal expenses would be saved, and the scope for mutually beneficial business relations would be created. The proposed plan honestly makes an offer which he believes is completely justified in the given financial and personal circumstances of the Personal Guarantor. The plan's justification also stems from the fact that the aim of *these proceedings is to settle the liabilities of the creditors. The decision to settle the liabilities is a commercial decision without any personal vengeance on the part of any stakeholder. The fact of default is open and clear; the Personal Guarantor's estate has been laid bare. The Personal Guarantor has not indulged in assets stripping or created secret wealth. He is living a normal standard of living, trying to settle the litigations and taking care of his family responsibilities. Commercial decisions require decision makers to weigh various process outcomes and choose the most beneficial one. In the present case, the Personal Guarantor owns no asset that can be realized to settle the common pool of liabilities. It is also submitted that if this Repayment Plan gets approval from the creditors, the Personal Guarantor shall personally endeavor that all the outstanding dues from the principal borrowers are resolved at the earliest. The two scenarios that the situation presents as per the law are the Repayment Plan or realizable proceeds of the bankruptcy estate. Given the value of the bankruptcy estate, the Personal Guarantor believes that the Repayment Plan offers much more to all the stakeholders.*

(iii) Reasons for assuming acceptability of the Repayment Plan:

The Personal Guarantor has made an honest offer to settle his liabilities towards various creditors. The Personal Guarantor has proposed to utilize all its tangible and intangible resources to come out of the insolvency situation by settling the creditors' debts. The Personal Guarantor has enormous potential for putting his knowledge and experience into productive use, and by accepting this Repayment Plan, the creditors would be protecting not only a valuable productive resource but also their economic interests compared to the scenario of bankruptcy, which no one desires.

Considering the security interest and the nature of liabilities, the Personal Guarantor has offered a comprehensive Repayment Plan that can be implemented. The code enshrines prov1s1ons for mutual settlement of the liabilities between the debtor and his creditors. If the creditors reject the plan, which they can do at their absolute discretion, this would naturally go towards bankruptcy under the Insolvency and Bankruptcy Code, 2016. The Personal Guarantor tried his best to bring this situation to an end. The Personal Guarantor's estate comprises very few assets with negligible value, which would not be sufficient even to cover the expenses of the new bankruptcy process. The Personal Guarantor has proposed to sell the few assets/deposits he owns and utilize the entire amount of Rs 6.5 crores towards the Repayment Plan and thus has put everything he has into the proposal. In these circumstances, the Personal Guarantor honestly believes that the creditors do not have any commercial reasons not to accept the proposed Repayment Plan. However, they have absolute authority not to approve it."

The Application for approval of Repayment Plan was opposed by certain financial creditors which are briefly summarised in the following paragraphs:

"13. Opposing the Report/IA-2892/2022, the Personal Guarantor filed detailed reply. The salient contention espoused by him therein are:-

I. The Deed of Guarantee is vitiated, as the same is obtained by misrepresentation, coercion, undue influence and fraud.

II. The Respondent stood as Personal Guarantor in the backdrop of the condition mentioned in undertaking dated 29.11.2018 i.e. a payment of Rs. 100,00,00,000/- (Rupees One Hundred Crores Only) would be made by the borrowers/co-borrowers to the Creditor on or before 29.11.2018 and once the borrowers did not make such payment, the circumstances in which the Guarantee was *given could change, resultantly, the Respondent got absolved from the liability in terms of the Guarantee.*

III. *The ramification of the undertaking dated 29.11.2018 was that in the event of fulfilment of the conditions stipulated therein, there could be no occasion of default and in case of breach of undertaking, the conditions in which the Respondents stood as Personal Guarantor could be changed, resultantly, the Guarantee given by the Respondent turned redundant and could not have been invoked.*

IV. *If any default in terms of the notice dated 14.11.2018 and 15.11.2018 had occurred, the Guarantee dated 05.12.2018, which is of subsequent date stood extinguished.*

V. *In the wake of non-fulfilment of the conditions of undertakings dated 19.11.2018 and 29.11.2018, the Applicant was entitled to invoke the notices dated 14.11.2018 and 15.11.2018, on which dates there was no Guarantee furnished by the Respondent.*

VI. *The Applicant had unequivocally represented to the Respondent that Deed of Guarantee was only for the comfort of the Applicant and was not to be invoked by it.*

VII. *The undertakings dated 19.11.2018 and 29.11.2018 need to be read as instrument in whole as the same is indivisible.*

VIII. *In respect of the Loan Agreement dated 13.12.2016, the Applicant filed the application titled Indiabulls Housing Finance Limited vs. Vivek Infracon Pvt. Limited [CP (IB)-236 of 2022], which was allowed to be withdrawn in terms of the order dated 23.05.2023, as the Applicant and the Principal Borrower (CD) had entered into a Settlement Agreement and the issues between the parties stood resolved. Thus, when the parties entered into settlement qua the Loan Agreement dated 13.12.2016, in respect of the terms of which the Respondent stood as Personal Guarantor, the Applicant has no cause of action to file the present application.*

IX. *In respect of the Loan Agreement dated 13.12.2016, with reference to the terms of which, the Respondent stood as Guarantor, the Applicant had also invoked the Arbitration* *clause and the notice of invoking the Personal Guarantee has been challenged by the Applicant before the Ld. Arbitrator.*

X. *Even the enforceability of the Personal Guarantee has also been challenged by the Respondent/Personal Guarantor, before the Ld. Arbitrator.*

XI. *An amount of Rs. 225 Crores was paid to the Financial Creditor in June, 2020 against which the Financial Creditor has released two securities, furnished to secure the financial facilities. As it was the understanding between the parties that the Personal Guarantee stood released on payment of Rs. 225 Crores, with the payment of such amount to the Creditor, the Respondent stands discharged from his liability to repay the amount of debt qua which he stood as Guarantor to the Creditor. If the Financial facility extended by the Applicant was not satisfied, there could be no reason for him to release the securities.*

XII. *The Applicant has also sold the pledged shares after 04.02.2019 i.e. after invoking the Personal Guarantee.*

XIII. *Since April, 2023 the Creditor had been taking adjournment in the Arbitral proceedings on the ground that the settlement between the Applicant and the Borrowers/Co-Borrowers was in progress.*

XIV. *The report filed under Section 99 of IBC, 2016 is premature and is filed without giving any opportunity to the Personal Guarantor to file the relevant documents. It also does not take note of the defence of the Personal Guarantor."*

I.A - 6125/2024

The IA-6125/2024 came to be filed by Canara Bank opposing the application seeking approval of the Repayment Plan, *inter alia*, on the following grounds:

a. Although the Repayment Plan was purportedly approved with a voting share of 80.814%, the same is stated to be prejudicial and detrimental to the interests of bona fide creditors, particularly since the value proposed under the plan constitutes only approx. 0.028% of the value of the assets of the Personal Guarantor/Debtor;

b. It has further been contended that, as per the certificate issued in the year 2018, the net worth of the Personal Guarantor stood at ₹40,562 Crores;

c. The voting in favour of the Repayment Plan seems to be by the related parties;

d. All the banks could vote against the Repayment Plan though their vote share comprises 19.186%.

In paragraph 4.6 of the application, the Applicant furnished particulars of the voting record. The said paragraph reads as follows:

> *"4.6 That the above said agenda item with respect to the approval of Repayment Plan was put to vote by the Non-Applicant and the voting window was closed at 12:01 pm, 01.11.2024. That as per the voting result the said agenda item was approved by 80.814% of the vote. The details of the voting records on the said agenda item are as under;*

Sr. No.	Name of Creditor	Voting	Item B3 (approval of Repayment Plan)
1.	Anil Kumar	0.67%	Favour
2.	Axis Bank Limited	2.86%	**Against**
3.	Axis Trustee Services Limited	0.04%	Did not vote
4.	Axis Trustee Services Limited	0.18%	Did not vote
5.	Axis Trustee Services Limited	0.11%	Did not vote
6.	Canara Bank	1.60%	**Against**
7.	Catalyst Trusteeship (CINDA FPI)	11.85%	Favour
8.	Catalyst Trusteeship (HDFC Asset Mgt. Co.)	0.06%	Did not vote
9.	Corpcall Capital Advisors LLP	10.30%	Favour
10.	Direct Media Distribution Ventures Pvt. Ltd	1.15%	Favour
11.	HDFC Bank Limited	3.17%	**Against**
12.	IDBI Trusteeship (Edelweiss Fund)	2.60%	Did not vote
13.	IDBI Trusteeship (Franklin Templeton)	3.36%	**Against**

14.	Indiabulls Housing Finance Limited	1.98%	Favour
15.	IndusInd Bank Limited	1.11%	Did not vote
16.	Kautilya Traders Pvt Ltd	1.02%	Favour
17.	Lemonade Capital Advisors LLP	16.85%	Favour
18.	LIC Housing Finance	6.09%	**Against**
19.	RBL Bank Limited	0.55%	**Against**
20.	Sunil Jain	0.18%	Favour
21.	Union Bank of India (UK) Ltd.	0.76%	**Against**
22.	Veena Investments Private Limited	4.99%	Favour
23.	World Crest Advisors	28.49%	Favour
24.	Total	100.00%	

I.A - 6014/2024

IA-6014/2024 came to be filed by IDBI Trusteeship Services Ltd., contending, inter alia, that the votes cast by the creditor, namely "Veena Investments Pvt. Ltd." and its subsidiaries, viz. "Direct Media Distribution Ventures Pvt. Ltd." and "World Crest Advisors LLP" ought not to have been considered by the Resolution Professional, as the said entities allegedly fall within the category of associate parties.

I.A - 6124/2024

The HDFC Bank Limited could prefer the IA-6124/2024, espousing therein that (a) Veena Investments Pvt. Ltd., (b) Direct Media Distribution Ventures Pvt. Ltd., (c) World Crest Advisors LLP, (d) Lemonade Capital Advisors LLP and (e) Corpcall Capital Advisors LLP fall in the category of associates of the debtor and their vote share cannot be taken into account while counting the vote share in favour of the Repayment Plan. The Applicant in the IA placed reliance on the Interim Order dated 12.06.2023, passed by the Securities and Exchange Board of India.

I.A - 246/2025

IA-246/2025 came to be preferred by RBL Bank Ltd.. In the said application, the Applicant substantially reiterated and adopted issues akin to those raised in IA Nos. 6014/2024, 6124/2024 and 6125/2025. The objections advanced therein primarily pertained to the legality and propriety of the voting process undertaken in relation to the Repayment Plan, the alleged inclusion of votes cast by entities stated to be associate parties, and the consequential impact of such inclusion on the computation of the requisite voting share.

The Applicant further questioned the fairness and viability of the Repayment Plan and contended that the same was prejudicial to the interests of the genuine creditors of the Debtor. It was also urged that the Resolution Professional had failed to appropriately scrutinise the claims and voting rights of certain creditors before taking the plan into consideration for approval. On such premises, the Applicant sought reconsideration of the approval process and prayed for appropriate directions from this Tribunal in relation thereto.

I.A - 134/2025

IA-134/2025 came to be preferred by IndusInd Bank Ltd., wherein the Applicant raised substantially similar pleas to those urged in IA Nos. 246/2025, 6014/2024, 6124/2024 and 6125/2025. The Applicant questioned the validity and fairness of the process adopted for approval of the Repayment Plan and assailed the manner in which the voting shares had been computed by the Resolution Professional.

It was, *inter alia*, contended that the votes cast by certain entities allegedly falling within the category of associate parties ought not to have been considered for the purpose of determining the requisite majority under the provisions of the IBCs, 2016. The Applicant further asserted that the inclusion of such votes had materially affected the outcome of the voting process and had resulted in an approval which was prejudicial to the interests of *bona fide* creditors.

In addition thereto, objections were also raised with regard to the commercial viability, fairness and adequacy of the Repayment Plan, particularly in view of the alleged disparity between the value proposed under the plan and the financial standing and asset base of the Personal Guarantor/Debtor. The Applicant thus sought appropriate intervention by this Tribunal for reconsideration of the approval process and for adjudication upon the legality of the voting mechanism adopted by the Resolution Professional. In order to buttress their argument further, they also relied upon the SEBI order of 12.06.2023.

I.A - 274/2025

IA-274/2025 came to be preferred by STCI Finance Ltd., wherein the principal grievance raised by the Applicant was that the Resolution Professional had illegally and arbitrarily rejected its claim during the insolvency process. The Applicant sought the intervention of this Tribunal, contending that its claim ought to have been admitted and considered for the purposes of the Insolvency Resolution Process.

In response to the said application, it was specifically contended on behalf of the Personal Guarantor/Debtor ("PG") that no personal guarantee had ever been furnished by him in respect of the financial facilities extended by STCI Finance Ltd. to Essel and Jayneer in March 2018. It was further submitted that the only document executed by the PG in favour of STCI was a mortgage deed creating security over certain immovable property, and that the said mortgaged property continued to remain under the charge, possession and control of STCI Finance Ltd.

Views of Hon’ble Member (J) in I.A - 274/2025

During the course of the hearing, learned counsel appearing for STCI Finance Ltd. was unable to effectively controvert or rebut the aforesaid stand taken on behalf of the PG. On the contrary, it was fairly submitted that STCI would, in any event, be entitled to realise and recover its outstanding dues from the mortgaged property furnished as security.

Having considered the submissions advanced by the parties and upon perusal of the material available on record, this Tribunal observed that the Debtor/PG had admittedly not executed any personal guarantee in relation to the financial facilities extended by STCI Finance Ltd. to the Principal Borrowers. In the absence of any contract of personal guarantee, the claim of STCI could not have been treated as a claim arising against the Personal Guarantor within the meaning of the provisions of the Insolvency and Bankruptcy Code, 2016. Consequently, he found no infirmity, illegality or procedural impropriety in the decision of the Resolution Professional in declining to admit the claim of STCI Finance Ltd. in the present proceedings.

At the same time, it was clarified that STCI Finance Ltd. would remain at liberty to enforce and appropriate the security interest created in its favour and to recover its dues in accordance with law from the mortgaged property. Subject to the aforesaid observations and clarifications, IA-274/2025 stood disposed of.

Views of Hon’ble Member (T) in I.A - 274/2025

Hon’ble Member observed that the issue concerning STCI Finance Ltd. was partly addressed by the learned Member (Judicial), though a differing view has been expressed in relation thereto. STCI Finance Ltd. had challenged the rejection of its claim as a secured creditor by the Resolution Professional. The claim arose out of loans amounting to ₹250 crores extended in March 2018 to Essel Corporate Resources Private Limited and Jayneer Infrapower & Multiventures Private Limited, entities stated to be associated with the Personal Guarantor ("PG"). The said facilities were secured by a mortgage created by the PG through the deposit of title deeds pertaining to immovable property situated at Jolly Maker I, Cuffe Parade, Mumbai, along with two garages attached thereto.

STCI Finance Ltd. filed its claim in Form B and expressly reserved its right to enforce the mortgage security independently, while also withholding consent for inclusion of the mortgaged property in any Repayment Plan without its approval. However, the Resolution Professional rejected the claim of STCI as a secured creditor solely on the basis of objections raised by the PG, without conducting any independent verification or adequately considering the documentary material placed on record by STCI. It has been contended that the RP failed to examine the relevant statutory provisions defining "secured creditor" and "security interest" under Sections 3(10), 3(30) and 3(31) of the Insolvency and Bankruptcy Code, 2016, despite the undisputed existence of a registered mortgage in favour of STCI Finance Ltd.

Accordingly, STCI Finance Ltd. sought quashing of the RP's decision rejecting its claim, recognition of its status as a secured creditor to the extent of the realizable value of the mortgaged property, and compliance with Section 110(5) of the Code in the event of non-participation in voting. It has further been observed that, although the learned Member (Judicial) upheld the RP's decision, the mortgaged property—having a value far exceeding ₹20 lakhs—could not have been treated as an excluded asset under Rule 5 of the 2019 Rules. Consequently, the property ought to have formed part of the Repayment Plan, and the concurrence of the secured creditor, as contemplated under Section 110(5) of the Code, was required where such creditor had not participated in the voting process.

<u>Views of Hon'ble Member (J) in I.As - 5505/2024, 6124/2024, 6125/2024, 6014/2024, 134/2025 and objections by Union Bank of India and LIC</u>

The legal contention regarding whether certain voting entities constitute "associates" of the Personal Guarantor (PG) under Section 109(4)(b) of the Insolvency and Bankruptcy Code (IBC) centres on a strict versus a purposive interpretation of Section 79(2)(g). The Resolution Professional (RP) and the Debtor have mounted a multi-layered defence to challenge the financial creditors' attempts to exclude these entities from the voting pool, relying primarily on a literal interpretation of corporate shareholding and the quashing of prior regulatory findings.

A key pillar of the defence relies on the invalidation of evidence drawn from the Securities and Exchange Board of India (SEBI). The Ld. Counsels representing the RP and the PG pointed out that SEBI's ad-interim *ex parte* order dated June 12, 2023, and its subsequent confirmatory order dated August 14, 2023, which financial creditors used to establish corporate control by the PG's family, were formally challenged and quashed by the Securities Appellate Tribunal (SAT), Mumbai, in Appeal No. 714/2023. Citing related miscellaneous applications and appeals, the counsels argued that because these underlying regulatory findings remain unexamined and legally set aside by SAT, they cannot be used as an evidentiary basis to classify entities like Lemonade Capital and Corpcall Capital as related parties or associates of the PG.

Regarding Veena Investments, the defence rests squarely on a literal reading of the statutory definition of an associate. Mr. Madaan, appearing for the debtor, emphasised that under Section 79(2)(g) of the IBC, a corporate entity can only be deemed an associate if the debtor, either individually or jointly with other associates, owns more than 50% of its share capital or directly controls the composition of its Board of Directors. Because the record shows that the PG does not hold a single physical share in Veena Investments, the defence argues that it cannot be classified as an associate in any manner.

This logic is extended to insulate the downstream corporate entities as well. The debtor's counsel argued that Direct Media and World Crest are corporate subsidiaries of Veena Investments. Legally, if the parent company itself cannot be classified as an associate of the debtor due to a lack of direct ownership or control by the PG, its downstream subsidiaries automatically escape the associate classification. The defence underscored that none of the objecting financial creditors has proven or even alleged that the PG independently holds any direct equity or shares in either Direct Media or World Crest outside of this specific corporate chain.

Statutorily, the entire debate is governed by Section 109 (4) (b) of the IBC, which explicitly bars any creditor from voting in a Meeting of Creditors if they are determined to be an "associate" of the debtor. To operationalise this restriction, Section 79(2) outlines seven distinct legal categories that define an associate. These include immediate family members and relatives of the debtor or their spouse, individuals in a business partnership with the debtor (including their spouses and relatives), employers or employees of the debtor, and trustees managing a trust where the debtor is a beneficiary or where trust powers can be exercised for the debtor's benefit.

Finally, the statutory framework provides clear guidelines on familial relationships. The explanation appended to Section 79(2) clarifies that the term "relative" applies to anyone who is related to another if they are joint members of a Hindu Undivided Family

(HUF), or if they share a connection in such a manner as may be prescribed under the governing insolvency rules. The defence maintains that because the objected entities do not fit within these strictly defined statutory boundaries, their voting rights remain fully intact.

Hon’ble Member (J) concluded that he could not find sufficient legal ground to categorise Lemonade and Corpcall as "associates" of the Corporate Debtor. In arriving at this conclusion, he highlighted the necessity of contextualising statutory text through the lens of legislative intent, referencing a pivotal judgment of the Hon’ble Supreme Court to guide its interpretation.

Specifically, the Hon’ble Member (J) cited ***Phoenix ARC Pvt. Ltd. vs. Spade Financial Services Ltd. and Ors.*** *(Civil Appeal No. 2842 of 2020)*. In that case, the Hon’ble Supreme Court observed that discerning legislative intent requires balancing two distinct elements: the literal "meaning" of the words used and the overarching "purpose and object" that the statute aims to achieve.

Applying this duality, the Tribunal noted that while the definition of individual relatives under Section 79(2) and the explanation to Section 5(24A) is clear and unambiguous, a different standard must apply to corporate entities. For a company to be deemed an associate under Section 79(2)(g) of the Code, a concrete relationship between the Personal Guarantor/Debtor and the company must be legally proven.

Hon’ble Member also observed that such a relationship can only exist if the debtor possesses an actual ownership stake in the company's share capital. Statutorily, this requires the debtor to hold a majority of 51% or more of the share capital, whether independently or collectively alongside related parties. Because this ownership threshold was not met for any of the five companies identified by the objectors, the Tribunal determined they could not legally be classified as associates of the debtor.

The Tribunal observed that a shareholder holds a distinct and separate legal identity from the corporation in which they own shares. An individual is considered legally associated with a company based on shareholding only when they possess a majority stake of 51% or more, a threshold that effectively grants them control over the company's Board of Directors.

While Section 79(2)(g) establishes that this requisite level of control can be exercised either individually by the debtor or collectively alongside their associates, the language of the provision remains strictly bound. The statutory text does not state or imply that a company can be classified as an associate of the debtor if the 51% majority shareholding is held exclusively by an associate of the debtor, rather than by the debtor itself. Ultimately, a corporate entity remains an entirely separate legal person from its individual shareholders.

The Tribunal observed that a literal reading of Section 114(1) of the Insolvency and Bankruptcy Code, 2016 (IBC) explicitly dictates the boundaries of the Adjudicating Authority's jurisdiction. Under this provision, the Tribunal must base its order to either approve or reject a proposed Repayment Plan strictly on the foundations of the meeting of creditors' report, which is formally prepared and submitted by the Resolution Professional (RP) pursuant to Section 112.

Consequently, the Bench emphasised that the statute leaves no room or legislative scope for the Tribunal to formulate an independent view *de hors* the official report delivered by the RP. The statutory process relies fundamentally on this single reporting pipeline to evaluate the viability of the resolution proposal.

This strict procedural reliance is further reinforced by the surrounding statutory framework. Under Section 105 of the Code, the debtor is mandated to draft the Repayment Plan in close consultation with the RP. Furthermore, Section 106 dictates that it is the RP who must formally present this plan to the Tribunal, accompanied by an independent, specialised evaluation report.

Ultimately, the Tribunal concluded that the collective operation of Sections 105, 106, 112, and 114 of the Code creates a cohesive legislative intent. Together, these provisions accord an astounding and decisive weightage to the findings, assessments, and formal reports compiled by the Resolution Professional.

The Tribunal highlighted the highly restricted statutory jurisdiction of the Adjudicating Authority during this phase of the process, noting that Section 113 of the Code does not even mandate the submission of a copy of the Repayment Plan to the Tribunal. Instead, Section 113(c) only requires the Resolution Professional (RP) to provide a copy of the meeting of creditors' report to the Adjudicating Authority. The Bench observed that the Tribunal's limited scope is restricted to directing the RP to reconvene a meeting to reconsider the Repayment Plan, an option that can only be exercised if the Tribunal believes the plan requires modification. This scenario typically arises when a plan has failed to clear the Meeting of Creditors (MoC), allowing the Tribunal to give the debtor an opportunity to improve the proposal rather than pushing them straight into bankruptcy. While another avenue exists to pass an order under Section 118(3), such an order relies entirely on the RP's report under Section 118(2), a stage that has not yet emerged in these proceedings.

Shifting to the financial realities of the case, the Tribunal questioned the rationale of the objectors, whose total voting share is less than 20%. Given that the RP's valuation report shows the debtor's personal estate is worth significantly less than the total amount offered under the proposed Repayment Plan, the Bench failed to see how dissenting creditors could expect to benefit from a rejection. If the plan is approved and the debtor's insolvency is resolved, putting him back on his feet, the objectors would ultimately stand a better chance of recovering their debts directly from the Principal Debtors. The Tribunal emphasised that the debtor has demonstrated a highly responsible approach by actively participating in the proceedings and therefore deserves an opportunity to remain solvent and manage his affairs rather than being forced into bankruptcy.

To reinforce this perspective, the Bench referenced the severe legal restrictions triggered by bankruptcy under Section 128(1)(c) of the Code. This provision dictates that once bankruptcy is initiated, a creditor is strictly prohibited from taking any action against the bankrupt's property, and cannot commence any suit or legal proceeding without obtaining explicit leave from the Adjudicating Authority. Consequently, since the immediate fallout of rejecting the repayment plan is the initiation of a restrictive bankruptcy process, and given the heavily depleted net worth report provided by the RP, the Tribunal concluded that the opposing creditors stand to gain absolutely nothing by blocking approval of the plan.

The Hon'ble Member (J), after observing the aforementioned issues and expounding upon the laws pertaining to them, approved the repayment plan submitted by the PG and ordered standard compliance warranted by law in the process.

Views of Hon'ble Member (T) in I.As - 5505/2024, 6124/2024, 6125/2024, 6014/2024, 134/2025 and objections by Union Bank of India and LIC

The Hon’ble Member (T) observed that during the course of the proceedings, multiple creditors repeatedly raised diverse objections and concerns, necessitating careful consideration and scrutiny by the Resolution Professional. Consequently, the RP was required to undertake independent inquiries and verifications for the purpose of ascertaining the genuineness and correctness of the claims submitted by the various creditors.

The issues raised further warranted the exclusion of entities alleged to be associated with or related to the Personal Guarantor from participation in the Meeting of Creditors. In addition thereto, the circumstances of the case necessitated the appointment of an independent forensic auditor as well as an asset tracing agency to determine the actual net worth of the Personal Guarantor and to trace his assets, particularly in light of the substantially diminished net worth and asset position disclosed by him during the proceedings.

It is, therefore, evident that several creditors persistently raised a variety of concerns throughout the proceedings, thereby compelling the Resolution Professional to duly consider the same and undertake independent inquiries and verifications to determine the authenticity and legitimacy of the claims submitted by the creditors.

The circumstances also necessitated the exclusion of entities associated with or related to the Personal Guarantor from the Meeting of Creditors. Further, in view of the substantial reduction in the net worth and assets disclosed by the Personal Guarantor, it became imperative to appoint an independent forensic auditor along with an asset tracing agency for the purpose of determining the true financial position of the Personal Guarantor and tracing his assets.

The claims of three entities, namely Veena Investments Pvt Ltd, Direct Media Distribution Ventures Pvt Ltd and World Crest Advisors LLP, are presently under consideration. It is stated that Direct Media Distribution Ventures Pvt Ltd and World Crest Advisors LLP are subsidiaries of Veena Investments Pvt Ltd, which is allegedly controlled by Smt. Sushila Devi Goel, wife of Shri Jawahar Goel, the brother of the Personal Guarantor ("PG").

The claims advanced by the aforesaid entities are purportedly founded upon letters of indemnity and deeds of guarantee allegedly executed by the PG in their favour in relation to the pledge of shares of certain group entities with IndusInd Bank Ltd. against financial facilities extended by the bank to another group company, namely Spirit Textiles Pvt. Ltd. However, the financial statements and statements of accounts of the said three entities for the preceding financial years, as available on the records of the Ministry of Corporate Affairs, do not disclose or reflect any such liability attributable to the PG.

It has further been alleged that the nature of the purported guarantees is manifestly extortionate, since the same contemplate not merely repayment of the amounts invested in the pledged shares, but also confer alleged windfall gains upon the entities by stipulating interest at the rate of 12% from the date of invocation. Additionally, it is an admitted factual position that the guarantees in question were invoked only after the commencement of the interim moratorium, thereby rendering such invocation legally unsustainable and void.

These circumstances, collectively considered, are stated to lend substantial credence to the contention that the alleged guarantees are collusive arrangements entered into between the PG and the aforesaid entities with the object of creating artificial and inflated debt in favour of related parties. Despite the existence of these material circumstances, and in the absence of cogent supporting documentation establishing a valid, enforceable and legally subsisting liability of the PG, the Resolution Professional proceeded to admit the claims of the said three entities merely on the basis of assertions made before him, without undertaking adequate scrutiny or consideration of the relevant facts and attendant circumstances.

The claims submitted by Lemonade Capital Advisors LLP and Corpcall Capital Advisors LLP are stated to be founded upon deeds of guarantee allegedly executed by the Personal Guarantor ("PG") in connection with financial facilities availed by another group entity, namely Churu Enterprises LLP.

It has further been contended that the proximity and relationship between the aforesaid entities and the PG stand reinforced by the fact that the partners of these two entities are also directors in companies disclosed as "other related parties" in the consolidated financial statements of Veena Investments Pvt Ltd for the financial year 2020–2021.

Additionally, it is an admitted factual position that the guarantees relied upon by the said entities were invoked only after the interim moratorium had come into effect, thereby rendering such invocation legally untenable and void. In view of these surrounding circumstances, it has been alleged that the guarantees in question were collusive arrangements entered into between the PG and the said entities with the intention of creating artificial liabilities and debts in favour of related parties.

Despite the existence of such material circumstances, and without undertaking adequate examination of the supporting documentation necessary to establish a valid, enforceable and legally subsisting liability of the PG, the Resolution Professional proceeded to admit the claims of the aforesaid two entities merely on the basis of assertions and confirmations attributed to the PG, without conducting the requisite scrutiny and verification mandated under law.

Claims were also filed by Mr. Anil Kumar and Mr. Sunil Jain on behalf of 960 and 300 individuals from the State of Haryana, respectively. It has been alleged that the Resolution Professional admitted the said claims without undertaking any meaningful due diligence or inquiry into the relationship of the concerned individuals with the Personal Guarantor ("PG"), or examining the manner in which the alleged debts had arisen. Money can't be offered

It is further contended that no substantive documentary material or supporting evidence was placed on record by the Resolution Professional to establish the existence and legitimacy of the claims. Prima facie, the claims appear to have been admitted merely on the basis of unverified assertions and verbal assurances, without proper scrutiny or authentication. Such an approach, it is alleged, runs contrary to the scheme and framework of the Insolvency and Bankruptcy Code, 2016, which mandates that every claim must be duly substantiated by cogent documentation and subjected to appropriate verification before admission.

After admitting the aforesaid unverified and unsubstantiated claims of entities alleged to be related or associate parties, the Resolution Professional proceeded to include such entities in the Meeting of Creditors and permitted them to participate in the voting process concerning the Repayment Plan.

It has been contended that documentary material placed on record, including annual reports, records reflecting subsidiary relationships and documents pertaining to security arrangements, clearly demonstrate the related-party status of Veena

Investments Pvt Ltd, Direct Media Distribution Ventures Pvt Ltd, World Crest Advisors LLP, Lemonade Capital Advisors LLP and Corpcall Capital Advisors LLP.

Despite the existence of such material, the Resolution Professional is stated to have disregarded the same and instead relied upon the contention advanced by the Personal Guarantor (“PG”) that, pursuant to an alleged “family settlement”, Veena Investments Pvt Ltd, Direct Media Distribution Ventures Pvt Ltd and World Crest Advisors LLP no longer remained related to him. However, no particulars, terms or supporting details of the purported family settlement were disclosed, discussed or substantiated during the proceedings.

Insofar as Lemonade Capital Advisors LLP and Corpcall Capital Advisors LLP are concerned, reliance was placed by the Resolution Professional and the PG upon orders dated 10.07.2023 and 30.10.2023 passed by the Securities Appellate Tribunal (SAT) in proceedings arising from orders dated 12.06.2023 and 14.08.2023 issued by the Securities and Exchange Board of India (SEBI), to contend that the said entities constituted unrelated third parties.

The Hon’ble Member (T) also observed that the existence of a so-called family arrangement or settlement does not efface or extinguish familial relationships recognised under the provisions of the Insolvency and Bankruptcy Code, 2016. The statutory framework does not contemplate any exception or exclusion whereby parties otherwise falling within the ambit of “related” or “associate” persons cease to retain such status merely on account of a private family settlement.

In the present case, Veena Investments Pvt Ltd is stated to be controlled by Smt. Sushila Devi Goel, who is the wife of Shri Jawahar Goel, the brother of the Personal Guarantor (“PG”). Consequently, the wife of the PG’s brother squarely falls within the category of a relative/associate in terms of Explanation (b) to Section 5(24A), read with Explanation (ii) to Section 79(2) of the Code and Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019.

The creditors opposing the Repayment Plan have contended before us that, since the majority of shares in Veena Investment Pvt Ltd are held by PG's brother's wife, the company and its subsidiaries ought to be treated as an associate of the Personal Guarantor.

The Hon'ble Member (T) observe that the learned Member (Judicial) expound that since the Debtor/Personal Guarantor ("PG") himself does not hold any share capital in Veena Investments Pvt Ltd, it would be difficult to conclude that Veena Investments Pvt Ltd and its subsidiaries, namely Direct Media Distribution Ventures Pvt Ltd and World Crest Advisors LLP, could be treated as associate entities of the Debtor.

The learned Member referred to Section 79(2)(g) of the Insolvency and Bankruptcy Code, 2016, which defines an "associate of the debtor" to mean a company in which the debtor, either individually or together with his associates, holds more than fifty per cent of the share capital or exercises control over the appointment of the board of directors.

Upon undertaking a detailed analysis of the principles governing statutory interpretation and examining the relevant judicial precedents on the subject, the learned Member concluded that the statutory provision does not indicate that a company can automatically be regarded as an associate of the debtor merely because an associate of the debtor independently holds 51% or more shareholding therein. Consequently, it was held that the provision does not extend to treating such a company as an associate entity of the Debtor in the absence of direct shareholding or control attributable to the Debtor himself, either individually or together with his associates.

The Hon'ble Member (T) differs with the view taken by Hon'ble Member (J) with regard to the interpretation of section 79 (2) (g) of the Code. She observes that accepting such a construction would mean that the wife of the Debtor's brother qualifies as an 'associate', yet a company where she is a majority shareholder would not, simply because the Debtor himself holds no shares in it.

Such an interpretation would lead to an anomalous and absurd consequence, whereby a person who admittedly qualifies as an associate in his or her individual capacity could effectively evade the statutory consequences attached to such status merely by routing transactions and dealings through a corporate entity. Such an outcome could never have been the intention of the legislature.

Accordingly, Section 79(2)(g) of the Insolvency and Bankruptcy Code, 2016 ought to receive a purposive and meaningful construction so as to include within its ambit any company that is effectively controlled by an associate of the debtor. Any narrow or literal interpretation to the contrary would permit the very mischief sought to be prevented by the provision to continue unabated behind the façade of a corporate structure or veil.

The Hon'ble Member (T) states that Section 79 (2) (g) has two limbs on which it stands:-

- Sole Ownership Limb: the debtor alone holds > 50 % of the shares.
- Combined Ownership Limb: the debtor, together with his associates, holds > 50 % of the shares.

The first part of the provision contemplates situations where the debtor individually holds a controlling or majority shareholding in the company, whereas the second part extends to cases where such majority ownership is held by an associate, either independently or jointly along with the debtor.

Since it is an admitted position that the Debtor does not hold any shares in Veena Investments Pvt Ltd, the first part of the provision has no application to the present case. The controversy, therefore, centres around whether the second part of the provision would also encompass a company in which the Debtor has no direct shareholding, but where an individual who unquestionably qualifies as his associate—namely, the wife of his brother—holds a controlling stake.

The expression “the debtor along with his associates” must be construed in its plain and ordinary sense to mean “the debtor together with, or in addition to, his associates.” The language employed in the provision does not prescribe or imply any mandatory minimum shareholding requirement on the part of the Debtor himself. The statutory requirement stands satisfied so long as the aggregate or combined shareholding exceeds the prescribed threshold of 50 per cent. Consequently, even in a situation where the Debtor personally holds no shares whatsoever, the provision would nonetheless stand attracted if the requisite controlling shareholding is held by his associates.

Although a connection between the Debtor and the company must necessarily be established, such a connection is not confined solely to cases of direct shareholding by the Debtor himself. The requisite nexus may equally arise through the shareholding and control exercised by an associate, by virtue of which the company is effectively brought within the sphere of influence and control of the Debtor.

Accordingly, wherever an associate of the Debtor—either independently or together with the Debtor—holds more than 50% of the share capital of a company, such company would satisfy the statutory definition of an "associate" under the IBC, 2016.

To insist upon the Debtor holding at least a nominal shareholding in the company would lead to an irrational and incongruous result. Under such an interpretation, a company in which the Debtor holds an insignificant fraction of shares, say 0.00001%, while his associate holds 50%, would qualify as an "associate"; yet, a company entirely owned and controlled by the associate with 100% shareholding would fall outside the ambit of the provision.

Such a construction would defeat and frustrate the very object and purpose underlying Section 79(2)(g) of the Insolvency and Bankruptcy Code, 2016, by rendering it susceptible to easy circumvention through corporate structuring. Consequently, a purposive and meaningful interpretation of the provision necessarily requires that Veena Investments Pvt Ltd, and consequently its subsidiaries, be treated as associate entities of the Debtor.

Insofar as Lemonade Capital Advisors LLP and Corpcall Capital Advisors LLP are concerned, their close nexus and association with the Personal Guarantor ("PG") is stated to be clearly evident from the material placed on record. It has been pointed out that the partners of the aforesaid entities simultaneously hold directorial positions in companies disclosed as "other related parties" in the consolidated financial statements of Veena Investments Pvt Ltd for the financial year 2020–2021.

In the case of Lemonade Capital Advisors LLP

• Shri Ravindra Pashte - a partner of the LLP, also serves as a Director in Living Entertainment Enterprises Pvt. Ltd.;

• Shri Naresh Manohar Ingale - another partner of the LLP, likewise holds directorial positions in Living Entertainment Enterprises Pvt. Ltd. as well as Ekmart Trading Pvt. Ltd.

Similarly, in relation to Corpcall Capital Advisors LLP

• Shri Vijay Bhujbal, a partner of the LLP, is also stated to be serving as Director in Essel Highways Ltd. and Essel Infraprojects Ltd.

It is further noteworthy that both Living Entertainment Enterprises Pvt. Ltd. and Essel Infraprojects Ltd. are reflected and disclosed as “other related parties” in the consolidated financial statements of Veena Investments Pvt Ltd for FY 2020–2021, thereby further reinforcing the existence of a close and interconnected relationship between the aforesaid entities and the PG.

The association and nexus of the Personal Guarantor (“PG”) with Lemonade Capital Advisors LLP and Corpcall Capital Advisors LLP is further stated to be evident from the very nature of the claims advanced by the said entities. It has been asserted by these entities that the alleged Deeds of Guarantee were executed by the PG in their favour in connection with loans availed by Churu Enterprises LLP, another group entity, which is also disclosed as an “other related party” in the consolidated financial statements of Veena Investments Pvt Ltd for the financial year 2020–2021.

Further, the inclusion of Mr. Anil Kumar and Mr. Sunil Jain in the Meeting of Creditors, representing 960 and 300 individuals respectively from the State of Haryana, has also been questioned as being legally unsustainable. It has been contended that the very admission of the claims represented by them was itself doubtful and clouded with uncertainty, particularly in the absence of supporting documentation establishing the relationship of the said individuals with the PG and demonstrating the genesis and existence of the alleged debts.

According to the Personal Guarantor ("PG"), his present net worth stood at approximately ₹31.79 crores. The said assertion appears to have been accepted by the Resolution Professional without substantial scrutiny, despite repeated requests and objections raised by several creditors seeking appointment of an independent forensic auditor and an asset tracing agency for the purpose of conducting a comprehensive investigation into the assets, transactions and actual financial position of the PG.

It has been pointed out that a net worth certificate furnished to RBL Bank Ltd. in the year 2017 reflected the net worth of the PG at USD 7.17 Billion, approximately equivalent to ₹45,888 crores. Likewise, a separate net worth certificate provided to Canara Bank in the year 2018 assessed the net worth of the PG at ₹40,562 crores. The said certificates allegedly contained detailed particulars regarding immovable properties and investments held in quoted company shares. According to the objecting creditors, these materials ought to have been independently examined and verified through a forensic audit and asset tracing exercise so as to ascertain the true financial standing and asset position of the PG.

However, it is alleged that the Resolution Professional failed to initiate any forensic audit into the financial affairs and transactions of the Personal Guarantor. No meaningful inquiry was undertaken into alleged transfers of assets or accusations relating to diversion or stripping of assets. Similarly, no effort appears to have been made to trace movements of high-value assets or to investigate potentially preferential, undervalued or fraudulent transactions falling within the statutory lookback period contemplated under Section 66 of the Insolvency and Bankruptcy Code, 2016.

Despite the absence of such investigative measures, the Resolution Professional is stated to have concluded, without adequate basis or supporting material, that the PG had contributed “everything he has” towards the Repayment Plan, even though the plan effectively envisaged an approximate 99.9% haircut for the creditors.

It has been contended that the Resolution Professional conducted the proceedings in an unduly hurried manner, without affording adequate opportunity to the creditors for proper consideration, scrutiny and deliberation upon the Repayment Plan and the claims involved therein. The Repayment Plan was submitted by the Personal Guarantor on 16.10.2024, and the Resolution Professional proceeded to file his report under Section 106 of the Insolvency and Bankruptcy Code, 2016 on the very next day, i.e., 17.10.2024.

Thereafter, the Meeting of Creditors was convened on 24.10.2024, effectively leaving only about six days for the creditors to examine and evaluate claims aggregating approximately ₹21,697 crores. According to the objecting creditors, such a limited timeframe was wholly insufficient considering the magnitude and complexity of the claims involved.

It has further been asserted that, although the voting period originally scheduled from 25.10.2024 to 30.10.2024 was extended upon repeated requests made by the creditors, the extension was granted only till 31.10.2024, which coincided with the public holiday of Diwali. Consequently, the extension allegedly failed to meaningfully enhance creditor participation and further constrained the ability of creditors to effectively exercise and deliberate upon their voting rights.

The Hon'ble Member (T) observed that RP has violated section 106(4) of the IBC, which mandates a minimum 14-day period between submission of the report and the Meeting of Creditors. The notice period of 14 days mandated under section 107(1) was also violated since only 6 days' notice was given to the creditors.

The Hon'ble Member (T) also observed that the Repayment Plan suffers from serious legal and procedural defects, as it does not provide for any assured or unconditional repayment. The Plan itself states that the proposed repayment amount is merely "indicative" and dependent upon the future sale price of shares, thereby rendering the recovery speculative and uncertain. Objection has also been raised to the PG's proposal to facilitate payment of ₹1,494 crores through entities that he otherwise claims are unrelated to him, making such assurances legally questionable.

Further, it has been alleged that the Resolution Professional failed to conduct proper due diligence regarding disclosure and exclusion of assets under Section 79(14) of the Insolvency and Bankruptcy Code, 2016. Certain assets, including investments in "Subhash Chandra & Sons," were allegedly omitted from the Plan, while assets claimed as "excluded assets" exceeded the statutory limits prescribed under the applicable Rules. These irregularities are stated to render the Plan non-compliant with the statutory framework.

It has also been contended that the PG failed to disclose material facts relating to parallel proceedings pending in the United States involving Canara Bank, Union Bank of India and Veria entities, which could impact the enforceability of the Repayment Plan. According to the objecting creditors, these material aspects were not adequately considered by the Resolution Professional.

Hon’ble Member (T) also observed that the RP has violated the provisions of IBC, rendering the IRP *void ab initio*:

Violation of section 100(2): Though instructions were issued for the purpose of conducting negotiations between the creditors and the PG for arriving at a Repayment Plan, RP did not facilitate the same.

Violation of section 106(4)(a): Meeting is required to be held on a date not less than 14 days and not more than 28 days from the date of submission of the report by the RP under Section 106(1). Since the RP submitted the report under Section 106(1) on 17.10.2024, the Meeting of Creditors could not have been held before 30.10.2024, but the meeting was conducted on 24.10.2024, in blatant violation of the statutory mandate.

Violation of section 106(4)(b): RP is required to consider the convenience of creditors in fixing the date and venue of the meeting of the creditors. That this was not so is evident from the request of several independent creditors to extend the meeting dates. Violation of section 107(1): Though a notice period of 14 days before fixing the date for meeting of the creditors is required to be given, RP gave just about 6 days’ notice.

Violation of section 108(4): The Meeting of the Creditors may be adjourned by the RP for sufficient cause for a period of not more than 7 days at a time. The RP fixed the meeting date for voting on the Repayment Plan and initial time period was till 30.10.2024. A request by some of the independent creditors to extend the voting time was considered perfunctorily, by extending the voting time only by a day, which also happened to be a Diwali holiday.

Misplaced Reliance on Regulation 11(3) -The RP and PG have attempted to justify the shortened notice period by relying on Regulation 11(3) of the Insolvency and

Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, citing the resolution passed at the first meeting on 18.09.2024 to reduce the notice period. However, Regulation 11(3) applies only to the first Meeting of Creditors and does not override the clear statutory requirement under Section 106(4)(a) for subsequent meetings.

Breach of section 109(4)(b) read with Rule 4 & Explanation (b) to section 5(24A): Section 109(4)(b) of the IBC, read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, explicitly bars any associate of the PG from participating in the vote on Repayment Plan. But the RP permitted related entities to vote despite express objections and without disclosing a legal basis for doing so. The constitution of the Meeting of Creditors was vitiated by inclusion of associates of the debtor, which is specifically prohibited.

Violation of Section 79(14) read with Rule 5: Key assets exceeding the exclusion limits under Rule 5 of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, read with Section 79(14) of the IBC were omitted from the Plan.

Violation of Section 110(5): In respect of one secured creditor, who did not participate in the voting, the required concurrence was not obtained, even though mandated by section 110(5).

Hon'ble Member (T) also expressed concerns about the procedural irregularities. She observed that the approval process of the Repayment Plan was marred by serious procedural irregularities, lack of due diligence and undue influence of related parties, thereby undermining the fairness and integrity of the proceedings. According to the objecting creditors, claims of five related/associated entities were admitted without adequate supporting documentation establishing any valid or enforceable liability of the Personal Guarantor ("PG"). Similarly, claims advanced through two individuals on behalf of numerous persons were admitted merely on the basis of vague assurances and informal arrangements, without any documentary substantiation.

The creditors have further alleged that they were denied a meaningful opportunity to scrutinise or deliberate upon the Repayment Plan, despite claims aggregating approximately ₹21,697 crores. Only 6 days were provided for review of the Plan, and the extended voting date coincided with the Diwali public holiday. Complaints were also raised regarding administrative lapses by the Resolution Professional, including the issuance of incorrect e-voting credentials and the delay in rectification thereof. Requests seeking independent investigation, verification of related-party claims and extension of voting timelines were ignored.

It has also been asserted that repeated objections concerning the inclusion of associated entities in the Meeting of Creditors were not substantively addressed by the Resolution Professional, who responded only after completion of voting and relied primarily upon confirmations furnished by the PG. The RP allegedly failed to disclose the basis on which he concluded that the disputed entities were unrelated parties and did not include the creditors' objections and responses in the final report under Section 112 of the Insolvency and Bankruptcy Code, 2016, despite earlier assurances to do so.

Further, creditors were denied adequate opportunity to examine the financial disclosures of the PG, and objections raised during meetings were neither properly deliberated upon nor resolved. It has been contended that the RP declined requests for deferment of the voting process, despite possessing the authority under Section 108(4) of the Code to extend timelines in order to facilitate meaningful deliberation and verification of disputed claims.

The Hon'ble Member (T) also made remarks in reference to the conduct of RP. She observed that the Resolution Professional failed to discharge the statutory duties of fairness, diligence, impartiality and transparency cast upon him under the Insolvency and Bankruptcy Code, 2016, and conducted the Insolvency Resolution Process in a hurried and opaque manner.

That the RP admitted several claims "despite objections" merely to avoid delay, without undertaking any independent inquiry, verification or due diligence regarding the legitimacy of the claims. Despite apparent familial and business connections between certain entities and the Personal Guarantor ("PG"), the RP included such entities in the List of Creditors and permitted them to participate in the Meeting of Creditors and vote on the Repayment Plan.

The objecting creditors further contend that repeated objections raised by independent creditors, including communications from IDBI Trusteeship Services Ltd., Edelweiss, RBL Bank Ltd. and HDFC Bank, as well as a legal notice issued by HDFC Bank, were disregarded by the RP. Instead of conducting a forensic audit or independent verification of the PG's assets and financial position, the RP relied solely upon unsubstantiated assertions made by the PG.

According to the objecting creditors, the overall conduct of the RP reflects a pre-determined approach aimed at securing approval of the Repayment Plan, thereby raising serious concerns regarding his neutrality and the fairness of the insolvency process.

In view of the abovementioned observations, the Hon'ble Member (T) observed that the Repayment Plan deserves to be rejected and creditors are entitled to move an application for bankruptcy.

Contents from the Post-Hearing Written Submissions filed by the parties pursuant to the order dated 27.04.2026

1. Indusind Bank

At the outset, Respondent No. 16 supported the view of the Ld. Member (Technical), contending that the Resolution Professional had committed material violations of the Insolvency and Bankruptcy Code, 2016. It was submitted that the repayment plan proposed by the Personal Guarantor was liable to be rejected, as the process culminating in its approval was fundamentally vitiated, particularly since the majority of creditors approving the plan were associates of the debtor.

Respondent No. 16, *inter alia*, advanced the following 3 legal grounds in support of its contention that the repayment plan was liable to be rejected:-

A. Non-compliance of Section 100(2) of IBC: It was submitted that Section 100(2) of the IBC had been violated, as no meaningful negotiations were conducted between the Personal Guarantor and the creditors prior to placing the repayment plan for consideration, despite liberty having been granted by this Hon'ble Tribunal on 26.07.2024 for the same purpose. The Resolution Professional failed to adhere to the statutory objective of facilitating a structured negotiation process between the debtor and creditors. In this regard, Respondent No. 16 prayed that this Hon'ble Tribunal endorse the findings recorded by the Hon'ble Technical Member in paragraph 124 of the judgment dated 03.09.2025.

B. Non-compliance of Section 106(4) of IBC: It was submitted that the Resolution Professional violated Section 106(4) of the IBC by convening the creditors' meeting on 24.10.2024, even though the report under Section 106 had been submitted on 17.10.2024 and the meeting could not legally be held before 30.10.2024. Accordingly, Respondent No. 16 prayed that this Hon'ble Tribunal endorse the findings of the Hon'ble Technical Member recorded in paragraph 124 of the judgment dated 03.09.2025.

Note: It was submitted that neither the Resolution Professional nor the Personal Guarantor had placed any material on record to rebut the objections raised by Respondent No. 16. The sole contention advanced was that Respondent No. 16 had failed to raise objections contemporaneously and was therefore barred from doing so at a later stage. Respondent No. 16 contended that such an argument was legally untenable, as there can be no waiver of statutory violations and legal objections may be raised at any stage, placing reliance on the judgment of the Hon'ble Supreme Court in Jaypee Kensington Boulevard Apartments Welfare Assn. v. NBCC (India) Ltd:

> **"166.1.** *A submission made on behalf of IRP, suggesting estoppel against the dissenting financial creditor for having not raised the issue in the meeting of the Committee of Creditors, also remains baseless. This is for the simple reason that no estoppel could operate against the statutory right of the dissenting financial creditor to receive payment in terms of Section 30(2)(b) of the Code.*"

C. Non-compliance of Section 109(4)(b) of IBC: It was submitted that five out of the twenty-three creditors, constituting 62% of the voting share in the CoC, were associate entities of the Personal Guarantor and were therefore disqualified from participating and voting under Sections 79(2)(g), 5(24A), and 109(4)(b) of the IBC. Respondent No. 16 contended that the provisions must be interpreted purposively to exclude entities within the debtor's circle of influence from the voting process. The interpretation advanced by the Personal Guarantor and the Resolution Professional, requiring direct shareholding by the debtor in such entities, was argued to be absurd and contrary to legislative intent, as it would permit associates to circumvent the statutory bar indirectly through companies owned or controlled by them, thereby defeating the object of the exclusion provision. In this regard, Respondent No. 16 relied upon the clear legislative intent underlying Section 109(4)(b), as reflected in the "Notes on Clauses" to the Insolvency and Bankruptcy Bill, 2015. The excerpts of which are as follows:

> "*Clause 109 provides a voting right to every creditor present in the creditors meeting, except for the creditors mentioned in sub-Clause 4, as there is a possibility that the creditors mentioned in sub-Clause (b) of the said subsection may function under the influence of the debtor. The weightage of the vote shall depend on the value of the debt on the date of admission of the application for the insolvency resolution process under Clause 100.*"

It was also submitted that the object behind excluding associates from voting is to prevent persons acting under the debtor's influence from affecting the voting process.

Accordingly, the provision must be interpreted with reference to influence and control rather than mere direct shareholding by the debtor. Respondent No. 16 contended that even the interpretation advanced by the Personal Guarantor and the Resolution Professional would run contrary to the legislative intent and purpose underlying Section 109.

It was submitted that the expression “debtor along with his associates” under Section 79(2)(g) must be interpreted purposively to include entities controlled or influenced by the debtor, whether directly or through associates, and cannot be confined only to cases of direct personal shareholding by the debtor. Respondent No. 16, therefore, supported the findings of the Ld. Member (Technical) in paragraphs 96 to 107 of the judgment dated 03.09.2025. It was further submitted that, apart from these grounds, four additional objections raised in the written submissions dated 02.04.2026 were also being relied upon. Accordingly, Respondent No. 16 prayed that this Hon’ble Tribunal, in exercise of powers under Section 419(5), adopt and endorse the views of the Hon’ble Technical Member and reject the repayment plan.

2. IDBI Trusteeship

A. Scope and Power of NCLT for Approval/Rejection of Repayment Plan

It was submitted that a repayment plan under the Personal Insolvency Resolution Process is not merely a private arrangement between the Personal Guarantor and creditors, but must strictly comply with the provisions of the IBC and the applicable Regulations to ensure its legality, viability, and enforceability. Under Section 105 read with Regulation 17, the repayment plan must comprehensively set out the terms of repayment, implementation mechanism, justification, and related costs. Further, under Section 106, the Resolution Professional is duty-bound to examine the plan and certify its compliance with law, feasibility, and implementability before submitting it to the Adjudicating Authority. It was therefore contended that any repayment plan which is non-compliant, defective, unviable, or incapable of implementation remains liable to be rejected at the threshold, notwithstanding approval by the CoC.

It was submitted that a repayment plan must mandatorily comply with the provisions of the IBC and the PIRP Regulations, failing which it is liable to be rejected. Under Section 114 of the IBC, the Adjudicating Authority may approve a repayment plan only upon being satisfied that it complies with the Code, the Regulations, and all applicable laws. Reliance was placed on the judgments of **K. Sashidhar v. Indian Overseas Bank, ArcelorMittal India Private Limited v. Satish Kumar Gupta, and Committee of Creditors of Essar Steel India Ltd v. Satish Kumar Gupta** to contend that, although the commercial wisdom of the CoC is paramount, the Adjudicating Authority retains judicial review to examine whether the approved plan complies with Section 30(2) of the IBC and other applicable laws, and may reject or remit a non-compliant plan back to the CoC.

It was submitted that under Sections 106 and 112 of the IBC read with Regulation 19 of the PIRP Regulations, the Resolution Professional is required to file the repayment plan along with a report detailing the outcome of the creditors' meeting, voting records, proposed resolutions, and other relevant information before the Adjudicating Authority. The role of the RP was argued to be purely administrative and facilitative, and not adjudicatory, with the RP being obligated to act with diligence, impartiality, and in compliance with the IBC and the Regulations. Reliance was placed on Swiss Ribbons Pvt. Ltd. v. Union of India, ArcelorMittal India Private Limited v. Satish Kumar Gupta, and Committee of Creditors of Essar Steel India Ltd v. Satish Kumar Gupta to contend that the RP merely facilitates the insolvency process and that the Adjudicating Authority retains supervisory and adjudicatory powers.

It was further submitted that the RP's reports under Sections 99, 106, and 112 are only recommendatory and do not bind the Adjudicating Authority, whose duty is to independently assess the legality and validity of the repayment plan. In support, reliance was placed on Mr. Ravi Ajit Kulkarni v. State Bank of India, Iqbal Jumabhoy v. Shri Manoj Kumar, and Dilip B Jiwrajka v. Union of India, wherein it was held that the RP's report is facilitative and recommendatory in nature, while the ultimate decision to admit, reject, approve, or modify lies exclusively with the Adjudicating Authority.

Accordingly, it was argued that Section 114 of the IBC requires the Adjudicating Authority to undertake an independent quasi-judicial determination while considering a repayment plan, and not merely act as a rubber stamp to the CoC's approval or the RP's report. Reliance was also placed on CA Vineeta Maheshwari RP in PIRP of Mr. Sushil Kanodia to demonstrate that the Adjudicating Authority may direct reconsideration or modification of a repayment plan under Section 114(3) where necessary.

B. Whether the CoC includes "Associates" and their effect on the Repayment Plan?

It was submitted that the Adjudicating Authority, under Section 114 of the IBC, retains the power to reject a repayment plan despite approval by the requisite majority of creditors if the plan or the PIRP process is contrary to the IBC, the Regulations, or suffers from material irregularities, fraud, or illegality. Respondent No. 13 contended that the Resolution Professional wrongfully admitted the claims of five associate entities of the Personal Guarantor—Veena Investments Pvt. Ltd., Direct Media Distribution Ventures Pvt. Ltd., World Crest Advisors LLP, Lemonade Capital Advisors LLP, and Corpcall Capital Advisors LLP—which collectively held around 61.78% voting share in the CoC and were instrumental in approving the repayment plan. It was argued that these entities were "associates" and "related parties" within the meaning of Sections 79(2), 5(24A), and 109(4)(b) of the IBC, and were therefore disqualified from voting.

It was further submitted that the definition of "associate" under Section 79(2)(g) must be interpreted purposively to include entities indirectly controlled or influenced by the Personal Guarantor or his relatives, even where the guarantor himself held no direct shareholding. Reliance was placed on the BLRC Report and judgments, including Phoenix ARC Pvt. Ltd. v. Spade Financial Services Ltd., Arun Kumar Jagatramka v. Jindal Steel & Power Ltd., SBI (SAM Branch) v. Mahendra Kumar Jajodia, Axis Trustee Services Ltd. v. Brij Bhushan Singhal, and Anita Goyal v. Vistra ITCL (India) Ltd., to contend that exclusionary provisions must be broadly construed to prevent entities acting in concert with the debtor from influencing the insolvency process.

Additionally, it was alleged that the repayment plan was fundamentally flawed, based on collusive and sham guarantees, and that the Resolution Professional failed to conduct the PIRP fairly and transparently by permitting ineligible entities to vote, ignoring objections raised by creditors, failing to conduct a forensic audit, and violating several provisions of the IBC, including Sections 100(2), 106(4), 107, 108, and 110. It was therefore submitted that the repayment plan was non-viable, non-implementable, and liable to be rejected for material non-compliance with the IBC and the applicable Regulations.

C. Effect of Provisions of Sec. 115 (1) and remedies available to Creditors who did not vote in favour of the Repayment Plan?

It was submitted that although Section 115(1)(b) of the IBC makes an approved repayment plan binding on all creditors named therein, irrespective of whether they voted in favour, dissented, or abstained, such binding effect is conditional upon the repayment plan being valid and compliant with the provisions of the IBC and other applicable laws. Respondent No. 13 contended that where the repayment plan itself is under challenge on account of wrongful constitution of the CoC, material irregularities, violations of the IBC, and breach of principles of natural justice, the foundation for its binding effect ceases to exist, thereby entitling creditors to challenge the plan.

It was further submitted that the prospect of the Personal Guarantor regaining solvency under Section 138 of the IBC could not justify imposing a non-compliant repayment plan upon dissenting or abstaining creditors. Since recovery prospects against the guarantor after restoration of solvency would remain uncertain and prejudicial to such creditors, forcing them to pursue future recovery proceedings would be contrary to the object and scheme of the IBC.

D. RP has failed to act in a transparent and fair manner

It was also submitted that the entire PIRP process and the approval of the repayment plan were vitiated by material irregularities and violations of the IBC and the PIRP Regulations. The Resolution Professional was alleged to have failed to conduct a forensic audit of the Personal Guarantor's assets, violated Sections 100(2), 106(4), 107, 108, and 110 of the IBC, committed procedural lapses in the voting process, failed to act fairly and transparently, and wrongfully permitted associate entities to participate and vote in the CoC in contravention of Sections 79(2), 5(24A), and 109(4)(b) of the IBC.

3. LIC Housing Finance

A. Payment Terms under the Repayment Plan are unviable and unlawful

It was submitted that, against admitted claims of approximately INR 22,006.57 crores, the repayment plan proposed payment of only INR 6.25 crores to creditors and INR 25 lakhs towards process costs. In the case of LICHFL, whose admitted claim stood at INR 1322.39 crores, the proposed repayment was merely INR 38,09,294, amounting to approximately 0.028% of its admitted dues. It was contended that such a negligible repayment could not receive the approval of this Hon'ble Tribunal. Further, the repayment plan itself treated even the proposed amount of INR 6.5 crores as merely indicative and not certain, rendering the plan tentative, non-definitive, and incapable of approval.

"*c) Sources of funding: The Personal Guarantor, after having explored all avenues, proposes to make payment as envisaged under this repayment plan from the following sources:*

S. No.	***Sources of Funds***	***Amount (Rs)***
1	*Bank Accounts*	*2,50,00,000*
2	*Sale of listed shares*	*4,00,00,000*
	Total	***6,50,00,000***

The listed shares are likely to be sold on the India stock exchanges. However, if there is a possibility of realizing a higher amount by selling the listed shares through an off market trade, it may be done so that there is a higher recovery for creditors. ***The above amount is indicative, however actual amount may be different depending on the actual price of the shares on the date of sale.***"

B. The PG cannot portray an inflated payment amount

It was submitted that the Personal Guarantor had artificially inflated the proposed repayment figures by including amounts allegedly to be paid by the principal borrowers, including INR 670.38 crores, purportedly payable to LICHFL out of a total INR 1494 crores. Respondent contended that such amounts could not form part of the repayment plan since the principal borrowers were not bound by the plan and there was no certainty of such payments being made.

It was argued that the Personal Guarantor was attempting to dilute and shift his independent liability towards creditors by relying on the obligations of the principal borrowers, despite creditors already possessing separate contractual and legal remedies against them. Reliance was placed on Lalit Kumar v. Union of India to contend that the liability of a guarantor is distinct and independent from that of the principal borrower and cannot be intermingled or diluted through the repayment plan.

To buttress this point, LICHFL relies on the relevant terms of the guarantees:-

"*2) Guarantee and Indemnity*

...

vi) The Guarantee herein contained shall be continuing one for all amounts advanced and to be advanced by the Company to the Borrower/s under the aforesaid Loan Documents as also for all interest, costs, expenses (legal or otherwise), charges and other moneys which may form time to time become due or remain unpaid to the Company thereunder.

vii) The Guarantee herein contained shall not be determined or affected by insolvency, reconstitution or retirement or merger or amalgamation and/or death of the Borrower/s but shall in all respects and for all purposes be binding and operative against the Guarantor/s until repayment to the full and final satisfaction to the Company of all moneys secured by and due to the Company under the said Loan Documents as aforesaid.

viii) Any money or money hereby guaranteed shall become due and payable to the Company on default being committed by the Borrower/s in payment thereof or as the Company may at its discretion determine/ decide or otherwise and without requiring any notice to be served upon the Guarantor/s by the Company.

ix) The Company reserves to itself the right to proceed against the Guarantor/s personally with or without proceeding against the Borrower/s and without exhausting its remedies against the Borrower/s or any other security of whatever nature or kind.

x) The guarantee and the indemnity contained in this Deed shall be additional, separate and independent obligations of the Guarantor/s and shall survive the termination of any Loan Documents. The Company may bring an action, suit or proceeding against the Guarantor/s regardless of whether an action, suit or proceeding is brought against the Borrower or whether the Borrower be joined in any such action, suit or proceeding."

C. Repayment Plan voted by Associates

It was submitted that multiple creditors had raised objections during the PIRP against the inclusion and voting rights of certain associate and related entities of the Personal Guarantor—namely Veena Investments Pvt. Ltd., Direct Media Distribution Ventures Pvt. Ltd., World Crest Advisors LLP, Lemonade Capital Advisors LLP, and Corpcall Capital Advisors LLP—which together held approximately 61.78% voting share in the CoC. Despite repeated objections raised through emails, meeting minutes, and legal notices by creditors, including RBL Bank, HDFC Bank, IDBI Trusteeship, and Edelweiss, the Resolution Professional failed to conduct any proper inquiry and permitted these entities to vote on the repayment plan in violation of Section 109 of the IBC.

It was further submitted that the legislative intent underlying the exclusion of related parties from participation in insolvency decision-making is also reflected in the proviso to Section 21 of the IBC governing CIRP, which bars related party financial creditors from representation, participation, or voting in the CoC, in order to preserve independence, fairness, and absence of conflict of interest in the insolvency process.

D. Scope and Jurisdiction of AA while approving a Repayment Plan

It was submitted that the principal issue for consideration was whether the Adjudicating Authority possesses the power to independently review and reject a repayment plan even after its approval by the CoC. LICHFL supported the view of the Hon’ble Technical Member that the Adjudicating Authority is duty-bound to ensure compliance of the repayment plan with applicable law and cannot merely endorse the recommendation of the Resolution Professional.

It was further contended that Section 114(1) of the IBC cannot be interpreted restrictively to curtail the independent judicial scrutiny of the Adjudicating Authority. Reliance was placed on the language of Section 114(3), which empowers the Adjudicating Authority to form an “opinion” and remit the plan back to the CoC for reconsideration, demonstrating that the Authority must apply its own judicial mind. Reliance was also placed on *Dalgobinda Paricha v. Nimai Charan Misra* to explain the meaning of the term “opinion.”

It was argued that the interpretation adopted by the Hon’ble Judicial Member, restricting the exercise of power under Section 114(3) only to cases of rejection, was artificial, unsupported by the statutory language, and contrary to the scheme and purpose of the provision.

It was submitted that the contention advanced by the supporters of the repayment plan, advocating a “hands-off” approach by the Adjudicating Authority under Section 114 of the IBC, is contrary to the statutory scheme of the Code. It was argued that wherever the Legislature intended minimal judicial intervention, it expressly provided so, as seen in the creditor-initiated insolvency resolution framework introduced by the Insolvency and Bankruptcy Code (Amendment) Act, 2026.

It was further contended that the repayment plan itself is the central document requiring scrutiny by the Adjudicating Authority and cannot be reduced merely to a matter of endorsement based on the Resolution Professional's report under Section 112. Accepting the RP's interpretation would render the adjudicatory powers of the Adjudicating Authority otiose and defeat the legislative intent. Accordingly, it was submitted that the Adjudicating Authority is not expected to act as a mere "rubber stamp" to the RP's report or the CoC's decision, but is obligated to independently apply its judicial mind while considering approval of the repayment plan.

It was submitted that the facts of the present case demonstrate the necessity of judicial scrutiny by the Adjudicating Authority at the stage of approval of the repayment plan. LICHFL contended that the repayment plan approved by the CoC and recommended by the Resolution Professional was fundamentally irregular and contrary to law. The plan was described as contingent and uncertain, since even the proposed repayment amount of INR 6.5 crores was merely indicative and not assured.

It was further argued that the repayment plan impermissibly sought to extinguish the admitted debt itself, including claims against the principal borrowers, by barring future proceedings in relation to outstanding claims. According to LICHFL, Section 119 of the IBC only contemplates the discharge of the Personal Guarantor and cannot extinguish the independent liabilities of principal borrowers. Additionally, the repayment plan allegedly compelled LICHFL to relinquish its security interests and charge over the properties of the principal borrowers, despite such rights subsisting until full discharge of the underlying debt. It was therefore submitted that these illegal and impermissible terms reinforced the need for the Adjudicating Authority to independently apply its judicial mind rather than mechanically rely upon the RP's report.

E. Binding Nature of the Repayment Plan

It was submitted that the view expressed by the Hon'ble Judicial Member-that a repayment plan would bind only assenting creditors and not dissenting creditors—was contrary to the scheme of the IBC. LICHFL contended that once a repayment plan is approved by the Adjudicating Authority, it becomes binding on all creditors covered by the plan, without any scope for selective applicability or for certain creditors to independently pursue separate remedies. In this regard, reliance was placed on Section 115 of the IBC.

It was submitted that the IBC does not contemplate any concept of a selectively binding repayment plan, and once approved, the plan binds all creditors alike. LICHFL further contended that, unlike the CIRP framework, which is aimed at "resolution" of a corporate debtor, the PIRP mechanism is fundamentally centred on "repayment" of debts by the Personal Guarantor. Reliance was placed on Section 79(20) of the IBC to argue that a repayment plan is merely a proposal for restructuring debts and not a mechanism intended to shield the Personal Guarantor from bankruptcy at all costs.

It was therefore submitted that avoiding bankruptcy cannot justify approval of an inadequate or legally defective repayment plan, and that, where necessary, bankruptcy proceedings should follow so that creditors may realise the guarantor's assets for recovery of their dues.

F. Approval of Repayment Plan by Associates

It was submitted that associate entities of the Personal Guarantor, holding approximately 61.78% voting share in the CoC, were wrongfully permitted to vote on the repayment plan despite objections regarding their relationship with the Personal Guarantor, thereby violating Section 109 of the IBC. LICHFL contended that the

Resolution Professional failed to conduct any meaningful inquiry into these objections and that such irregularity warranted judicial scrutiny by the Adjudicating Authority under Section 114 of the IBC.

It was further submitted that the legislative policy underlying the exclusion of related parties from insolvency decision-making is reflected in the proviso to Section 21 of the IBC applicable to CIRP, which bars related party financial creditors from participation and voting in the CoC to ensure fairness and absence of bias. Reliance was placed on **Phoenix ARC Pvt. Ltd. v. Spade Financial Services Ltd**., wherein the Hon'ble Supreme Court recognised that related parties are excluded to prevent undue influence and bias in the insolvency process. Applying the same rationale to PIRP, it was argued that permitting related party creditors to participate in the CoC defeats the transparency and fairness objectives of the IBC. Accordingly, LICHFL prayed that the reference be answered in favour of rejection of the repayment plan.

4. Personal Guarantor (PG)

A. Scope of Judicial Review u/s.114 of the Code

It was submitted that, unlike the CIRP framework under Section 31 of the IBC, where the Adjudicating Authority independently examines compliance of a resolution plan with Section 30(2) and applicable laws, the personal insolvency framework under Sections 106, 112, and 114 entrusts the Resolution Professional with the responsibility of certifying legal compliance of the repayment plan. It was argued that under Section 114(1), the Adjudicating Authority is required to approve or reject the repayment plan solely on the basis of the Resolution Professional's report submitted under Section 112, without undertaking any independent adjudicatory exercise.

Emphasis was placed on the mandatory nature of the word “shall” in Section 114(1), contending that once the repayment plan has been approved by the requisite three-fourths majority of creditors and the RP certifies compliance with the IBC and applicable Regulations, the Adjudicating Authority has no discretion to take a view contrary to the RP’s report. Reliance was placed on State Bank of India v. T. Sri Ganesh and SBI v. Amrit Pal Chadha to contend that Section 114 obligates the Adjudicating Authority to decide the repayment plan strictly based on the creditors’ meeting report submitted by the RP. It was therefore submitted that, in the present case, since the RP had certified compliance and the repayment plan had been approved by the requisite majority, the plan deserved approval, as also observed by the Hon’ble Judicial Member in paragraphs 43–48 of the order dated 03.09.2025.

It was submitted that the reliance placed by IDBI Edelweiss and HDFC Bank on *Dilip B Jiwrajka v. Union of India* to contend that the Resolution Professional’s report under Section 112 is merely recommendatory was misplaced, since the said judgment pertained to the nature of the RP’s report under Section 99 of the IBC and not to the scheme of Sections 112 and 114 governing approval of repayment plans in personal insolvency proceedings.

B. Scope of Associate under the Code: Veena Investments, Direct Media and World Crest

It was submitted that the objections regarding certain creditors being “related parties” were misconceived, since Part III of the IBC governing individual insolvency employs the distinct concept of “associate” under Section 79(2), and principles applicable to “related parties” under Part II cannot be imported into the personal insolvency framework. It was argued that under Section 109(4)(b), disqualification from voting arises only if a creditor qualifies as an “associate” of the debtor, and none of the concerned creditors satisfied the statutory definition under Section 79(2).

It was further contended that most clauses of Section 79(2) apply only to natural persons and are inapplicable to corporate entities and LLPs, while Section 79(2)(g) applies only where the debtor, alone or along with associates, holds more than 50% shareholding or control in the creditor entity. Since the Personal Guarantor admittedly held no shareholding in the concerned creditors, they could not be treated as associates. Reliance was placed on **Kanailal Sur v. Paramnidhi Sadhu Khan, Bhavnagar University v. Palitana Sugar Mill Private Limited, Vemareddy Kumaraswamy Reddy v. State of Andhra Pradesh, and Hardeep Singh v. State of Punjab** to argue that clear statutory language must be given its plain meaning and cannot be expanded through purposive interpretation.

It was also submitted that the guarantees furnished in favour of Veena Investments, Direct Media, and World Crest were executed on 21.12.2018, much before the enforcement of the PIRP provisions, and were intended to secure continued pledge and hypothecation arrangements supporting loans availed by Essel Group entities.

C. Misplaced Reliance on SEBI Order

It was submitted that the Objectors’ reliance on SEBI’s show cause notice-cum-interim order dated 25.04.2023 in the matter of Shirpur Gold Refineries Ltd. to allege that the repayment plan was approved by related parties was misconceived, since neither the Personal Guarantor nor the concerned creditors were parties to those proceedings and the SEBI order was merely a prima facie show cause notice without evidentiary value.

It was further contended that subsequent proceedings before the Securities Appellate Tribunal had undermined the credibility of the SEBI proceedings, including findings that the order dated 12.06.2023 was influenced by extraneous material, ultimately leading to the setting aside of both the interim and confirmatory orders by judgment dated 30.10.2023.

Additionally, it was submitted that the underlying KPMG forensic audit relied upon by SEBI had itself been challenged for factual inaccuracies and lack of authority, with related proceedings still pending before regulatory bodies. Accordingly, it was argued that the SEBI proceedings lacked legal sanctity and could not be relied upon to classify the concerned creditors as **"associates,"** particularly when such a determination must strictly satisfy the requirements of Section 79 of the IBC and cannot rest on presumptions or extraneous material.

D. Issues concerning disclosure of all the assets of PG

It was submitted that the Net Worth Statement dated 30.06.2018, relied upon by the objecting creditors, did not pertain to assets personally owned by the Personal Guarantor, but was based on assets of promoter group companies, most of which were already pledged to creditors, including the objecting creditors themselves.

It was further contended that the Personal Guarantor had made full and transparent disclosures of his assets, which were verified by the Resolution Professional through Rajya Sabha affidavits, and that creditors had also been invited to independently verify the assets during the first meeting of creditors held on 18.09.2024, though none availed of the opportunity. Reliance was also placed on the written submissions of Union Bank, acknowledging that the Personal Guarantor's assets amounted to approximately Rs. 39 crores as per his Rajya Sabha nomination papers. Accordingly, it was argued that the objections raised regarding suppression or misrepresentation of assets were baseless and unsupported by evidence.

It was submitted that the opinion of the Hon'ble Technical Member was vitiated by a violation of principles of natural justice, as the findings were allegedly based solely on the objections of dissenting creditors without adequately considering or recording the submissions advanced by the Personal Guarantor, supporting creditors, and the Resolution Professional. It was further contended that the Hon'ble Technical Member erroneously exercised powers under Section 60(5) of the IBC, which, according to the applicants, applies only to CIRP under Part II and not to personal insolvency proceedings under Part III.

It was also argued that the finding declaring the invocation of guarantees during the interim moratorium as void and collusive was incorrect, since Section 96 of the IBC does not prohibit the invocation of guarantees during such a period, and even dissenting creditors themselves had invoked guarantees during the interim moratorium. The applicants further submitted that the observations dismissing the goodwill and assurances of the Personal Guarantor were misplaced, as such assurances demonstrated his bona fide intent to facilitate repayment and recovery of creditors' dues from the principal borrowers. Accordingly, it was prayed that the repayment plan of Dr. Subhash Chandra be approved under Section 114 of the IBC on the basis of the report submitted by the Resolution Professional under Section 112.

5. Resolution Professional (RP)

A. Strict Compliance with Provisions of IBC

It was submitted that the Resolution Professional had complied with the relevant provisions of the IBC and the PIRP Regulations throughout the PIRP process. The RP contended that the claims were duly verified and admitted under Sections 103 and 104, and that the entities alleged to be associates of the Personal Guarantor did not fall within the scope of Section 79(2)(g), since the Personal Guarantor held no ownership or voting control in such entities.

It was further argued that allegations based on SEBI proceedings were untenable, especially as the relevant SEBI orders had been quashed by the Securities Appellate Tribunal and the definitions of “related party” under SEBI laws differed from those under the IBC.

The RP further submitted that all claims, including those of individual claimants and banks filing belated claims, were transparently verified and processed, and that the list of creditors was duly circulated, filed before the Adjudicating Authority, and uploaded on the IBBI portal in compliance with the applicable Regulations. It was also contended that discussions were held with the Personal Guarantor and creditors while preparing the repayment plan, which contained all mandatory particulars under Regulation 17.

Regarding the creditors’ meetings and voting process, it was submitted that the notice period and conduct of meetings were unanimously accepted by the participants, all creditors participated without objection, and the repayment plan was ultimately approved by 80.81% of voting creditors, with no modifications sought or adjournment requested. The RP asserted that all voting provisions under Section 109 had been duly complied with and that no assenting creditor qualified as an “associate” under Section 79(2)(g) read with Section 5(24A).

It was further contended that the repayment plan was approved in accordance with Sections 111 and 112, the requisite reports were furnished to all creditors, and since more than 75% of voting creditors had approved the plan, the Adjudicating Authority, under Section 114, could only approve the repayment plan.

B. Creditors' Objections to the Plan

It was submitted that the objections raised by dissenting creditors regarding the validity of voting, notice periods, valuation of assets, and viability of the repayment plan were unfounded. The Resolution Professional contended that allegations that five assenting creditors were ineligible to vote as "associates" were unsupported, despite requests made to IDBI Trusteeship and Edelweiss during the second meeting of creditors to furnish documents substantiating such claims.

It was further submitted that the notice period for the second meeting of creditors complied with the unanimously agreed procedure adopted in the first meeting, where creditors consented to meetings being convened on five days' notice, and in fact seven days' notice had been provided. All creditors participated without objection. Similarly, voting timelines were extended multiple times, including at the request of RBL Bank, and the repayment plan ultimately secured the requisite majority approval, with only a small minority abstaining from voting.

The RP also denied allegations regarding failure to appoint forensic auditors or asset tracing agencies, contending that the Personal Guarantor had voluntarily offered appointment of such agencies during the first meeting of creditors but no creditor pursued the suggestion. It was argued that the assets of the Personal Guarantor were already publicly disclosed through Rajya Sabha nomination affidavits, no additional assets had been identified by creditors, and the comparatively low repayment amount reflected the actual asset position of the Personal Guarantor. The RP further disputed reliance on a Chartered Accountant's certificate regarding promoter group investments, asserting that the certificate did not pertain to assets personally owned by the Personal Guarantor.

Additionally, it was submitted that the repayment plan was not contingent merely because asset values, particularly securities traded on stock exchanges, may fluctuate over time, since the Personal Guarantor possessed a clear title and access to the assets proposed for realisation. It was also clarified that while the Personal Guarantor had disputed liability in proceedings involving Union Bank in the USA, the Resolution Professional had nevertheless admitted the claim in the PIRP proceedings.

D. Creditors assenting to the plan

It was submitted that no associate or related party relationship existed between the Personal Guarantor and the concerned claimants, and therefore, the creditors were fully entitled to participate and vote in the meetings of creditors, including on the repayment plan.

It was further contended that the guarantees furnished by the Personal Guarantor were invoked only after the borrowing companies defaulted and after objecting creditors had already effected recoveries from the securities provided by such entities. The supporting creditors also asserted that the guarantees were always known to the objecting creditors and that the claims arising therefrom were legally valid and enforceable. Accordingly, it was submitted that the repayment plan represented the best possible recovery available from the resources of the Personal Guarantor.

IA-2806/ND/2026:

This Interlocutory Application is filed by Canara Bank under Rule 11 of the NCLT Rules, 2016, seeking to place on record subsequent events arising after conclusion of arguments and reservation of orders in C.P.(I.B.) No. 97 of 2022.

During the interregnum, widely reported media publications in June 2026 disclosed the sale of a prime immovable property of the Personal Guarantor (PG) in Lutyens' Delhi for approximately Rs. 1,260 Crores. This development is material in view of the Financial Creditors' consistent concerns regarding non-disclosure and suppression of assets, inadequate asset tracing, failure to properly investigate the PG's affairs and assets, and circumstances suggesting collusive conduct.

The reported sale value of approximately Rs. 1,260 Crores from a single asset prima facie demonstrates the significance of these concerns and the necessity of a proper investigation into the PG's assets before consideration of any repayment plan.

Notably, the Statement of Affairs forming part of the Section 106 Report dated 16.09.2024 disclosed total assets of only Rs. 31,77,39,371/- as on 31.07.2024. It identified only one immovable property under "Fixed Assets – Residential Property", valued at Rs. 25 Crores and stated to be mortgaged to STCI Finance Limited, against whose claim of Rs. 261 Crores the property appeared to have little or no realizable value.

The subsequent reported sale of the said Lutyens' Delhi property for approximately Rs. 1,260 Crores—nearly fifty times its disclosed value—raises grave and material questions regarding the completeness and accuracy of the Statement of Affairs and underscores the need for appropriate investigation into the PG's assets and disclosures.

The Applicant herein prayed that this Tribunal may:

a. *"Allow the present Application and list the matter for hearing pnor to pronouncement of the reserved order in the present proceedings;*

b. *Take on record the newspaper reports and other publicly available material concerning the sale of one of the properties of the Respondent/Personal Guarantor situated in Lutyens' Delhi for a reported consideration of approximately Rs.1,260 Crores;*

c. *Direct the Respondent/Personal Guarantor to place on record · complete particulars of the said transaction including but not limited to the sale deed, ownership details, consideration received, mode of receipt, bank account details in which the sale consideration has been credited, present status of the sale proceeds and all related transaction documents;*

d. *Direct the Resolution Professional to disclose whether the aforesaid asset was disclosed during the insolvency resolution process, whether the same formed part of the assets considered for the repayment plan and whether any independent verification of the said asset was undertaken;*

e. *Pending disposal of the present Application, direct the concerned banker(s) of the Respondent/Personal Guarantor to maintain status quo and/or freeze the amount, to the extent of Rs.1,260 Crores received from the aforesaid sale transaction, or such amount as may be found lying to the credit of the Respondent, subject to further orders of this Hon'ble Tribunal;*

f. *Pass appropriate directions for independent asset tracing, forensic verification and investigation of the assets, and affairs of the Respondent/Personal Guarantor;*

> g. *Pass such other or further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case."*

The PG's reply states that the said IA proceeds on the erroneous premise, based on an unverified media report, that the property at 4, Bhagwan Das Road, New Delhi belongs to Respondent No. 1 and was sold/agreed to be sold by it, allegedly evidencing suppression of assets. This contention is false and contrary to the material on record.

The property is neither owned by nor belongs to Respondent No. 1. It is owned by Greatway Estates Private Limited and is mortgaged with JC Flowers Asset Reconstruction Company Limited (JC Flowers ARC), which has assigned its exposure to Asset Care & Reconstruction Enterprise Ltd. The borrower entities are taking steps to discharge the outstanding liabilities and secure release of the mortgage. Accordingly, the allegation that Respondent No. 1 sold the property or received any sale consideration is baseless and unsupported by any factual foundation.

It is stated that he Respondent No. 1 had already disclosed all the relevant particulars pertaining to the aforesaid property in the Repayment Plan submitted before the Resolution Professional (Refer to Page 333 of the I.A. No. 5505 of 2024). The relevant extract of the same is reproduced herein below:

> *"In another account, a property owned by M/s Greatway Estate (P) Ltd is mortgaged with JCF. The borrower entities are arranging to pay that loan and get the property released from JCF. This property (in anticipation of release) has been mortgaged with World Crest. Once the charge of JCF is released, the*

Personal Guarantor has precured that M/s Greatway Estates Pvt. Ltd. will sell the property at 4, Bhagwan Das Road and use the sale proceeds for payment of Rs. 774 crores to JCF and get the shares of World Crest released and discharge the liabilities of the principal borrowers/Personal Guarantor towards World Crest and it is agreed between the principal borrowing entities and World Crest Advisor LLP that on release of the invoked shares, they will issue NDC (No Dues Certificate) to the principal borrowers against their total claim of Rs. 6,182 crores. The personal guarantor has been instrumental in resolving this issue."

The disclosure made by Respondent No. 1 in the Repayment Plan regarding the subject property conclusively establishes that there was no concealment or suppression of facts. The Applicant has deliberately ignored the disclosures already on record and sought to portray a disclosed property as a subsequently discovered asset, thereby creating a false narrative before this Tribunal.

The allegations of non-disclosure and failure to trace assets are equally misconceived. At the First Meeting of Creditors dated 18.09.2024, Respondent No. 1 expressly consented to the appointment of an independent asset finder, forensic auditor or investigating agency to verify whether he had concealed any personal assets. Despite this unequivocal offer, the creditors, including the Applicant, neither proposed nor took any steps to appoint such agency. The Applicant therefore cannot now allege that Respondent No. 1's assets were inadequately verified.

It is settled law that newspaper reports are hearsay and cannot, by themselves, prove the facts reported therein, as held in *Laxmi Raj Shetty & Anr. v. State of Tamil Nadu*, (1988) 3 SCC 319 and reiterated in *Dinesh B.S. v. State of Karnataka*, Crl. Appeal Nos. 851-852 of 2011, decided on 27.07.2023. Despite its institutional resources, the Applicant has produced no sale deed, conveyance, bank statement or other independent evidence to substantiate its allegations.

ANALYSIS & FINDINGS (Third Member: Hon'ble Member (J) - Shri. Nilesh Sharma):

1. In view of the divergence of opinion between the Learned Member (Judicial) and the Learned Member (Technical) on the issues arising in I.A. No. 5505/2024 and the connected interlocutory applications, the matter has been placed before me for opinion on the points of difference. Having had the benefit of carefully examining the pleadings, the report of the Resolution Professional, the repayment plan, the objections filed by the respective creditors, the elaborate opinions authored by both the learned Members and the oral submissions advanced by the parties, I proceed to record my independent opinion on the questions referred.
2. Before embarking upon the merits of the controversy, it is necessary to emphasise the limited nature of the jurisdiction exercised by the Third Member. The present exercise is not an appeal against either of the two opinions already rendered. Nor is it a de novo adjudication of every factual controversy arising during the insolvency resolution process of the Personal Guarantor. The duty of the Third Member is confined to independently examining the questions on which a difference of opinion has arisen and arriving at conclusions in accordance with the

Insolvency and Bankruptcy Code, 2016 ("the Code"), the Regulations framed thereunder and the settled principles governing insolvency jurisprudence.

3. The reference nevertheless assumes considerable significance. The questions framed by the Learned Member (Judicial) and the Learned Member (Technical), though expressed differently, substantially converge around certain common themes. They concern the scope of scrutiny required while considering approval of a repayment plan under Part III of the Code, the extent of the Resolution Professional's obligations in verifying claims and assets, the eligibility of certain creditors to participate in voting on the repayment plan, the legal consequences flowing from the alleged relationship between such creditors and the Personal Guarantor, the rights of a mortgagee claiming security over specific immovable properties, and finally whether the repayment plan, viewed as a whole, satisfies the statutory requirements warranting approval under Section 114 of the Code.

4. Instead of answering each question separately, many of which overlap in substance, it would be both convenient and consistent with judicial discipline to examine the controversy under broad issues which cover all the points of difference. Such an approach avoids duplication, ensures consistency in reasoning and directly addresses the real disputes requiring determination.

5. Accordingly, the following issues arise for consideration:

   a) **Scope of Jurisdiction of the Adjudicating Authority while considering Approval of a Repayment Plan under Sections 106, 112 and 114 of the IBC, 2016**

   Covering the following questions posed by Hon'ble Member (J):

   > *"**1.** When Section 114 of IBC, 2016, specifically provides that the Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of report of meeting of the creditors submitted by the Resolution Professional*

under Section 112 of IBC, 2016, whether it is open to this Tribunal to pass any order de-horse the report of the meeting of creditors.

2. *When the report of meeting of creditors submitted by the Resolution Professionals could espouse that the repayment plan had been approved by majority of more than 3/4th in value of the creditors, whether this Tribunal can reject the repayment plan.*

3. *When unlike Section 30(2) of IBC read with Section 30(1) thereof, in terms of which the Adjudicating Authority is given discretion to interfere with the Resolution Plan on certain grounds the Section 106(2)(a) read with Section 114(1) of IBC, 2016, does not reserve any such discretion to the Adjudicating Authority and is decision is to be based on report under Section 112 of IBC, whether this Adjudicating Authority can refuse to approve the repayment plan submitted by the RP based on the report of meeting of the creditors.*

13. *When the entire process of PIRP, particularly the provisions of sections 99, 100, 105, 106, 112, 113 and 114 thereof gives pre dominance to views/ recommendations of RP, whether in the wake of such provisions it is open to Adjudicating Authority to go behind/beyond the report of RP prepared under Section 112 of the Code and provided to this AA under Section 113 of the Code, while passing order u/s 114 of the Code.*

14. *Whether in the wake of there being pre dominance of report of RP prepared by RP u/s 112 of IBC in decision u/s 114 of code the interest of justice is not better served by protecting the right and interest of creditors who did not accept the plan by not binding them u/s 115 (1) of the code than entering into gamut of facts and recording findings of facts without having such jurisdiction and/or any Mechanism to do so."*

And the following questions by Hon'ble Member (T):

*"**4.** Whether or not, under section 114(1) read with section 60(5), the Adjudicating Authority is liable to reject the Repayment Plan, on account of the following grounds:*

> ***a.*** *That the creditors' list was tainted by the inclusion of entities with unsubstantiated claims?*
>
> ***b.*** *That the approving vote was vitiated by the inclusion of associates of the PG in the Meeting of Creditors?*
>
> ***c.*** *That there were grave and material irregularities arising from the RP's capricious, partisan, and hasty conduct, including breaches of the IBC and its rules and regulations?"*

b) **Whether the Repayment Plan could be approved on the basis of the material already available on record or whether further investigation, forensic audit, tracing of assets and additional scrutiny were indispensable before its approval**

Covering the following questions posed by Hon'ble Member (J):

> *"**9.** When it is not so that any of the creditors did not get opportunity to vote qua the plan or did not get opportunity to participate in the meeting and no prejudice is caused to anyone on this account, whether in the application filed u/s 114 of the code, early convening of meeting of creditors or acceleration of the steps qua PIRP, initiated in the year 2022, (particularly in a case where the prescribed period of PIRP had to be extended) could be of any relevance or consequence.*
>
> ***12.** When the RP had moved an application u/s 100 (2) of IBC and the same had been allowed, whether any violation of section 100 (2) could be alleged at the stage of consideration of application / report prepared under Section 112 of IBC and provided to AA u/s 113 of IBC, in passing the order u/s 114(1) of IBC, 2016."*

And the following questions by Hon'ble Member (T):

> *"**1.** Whether or not, on the facts and circumstances of the case, RP's conduct was capricious, partisan and hasty during the PIRP, in the following acts of commission/omission:*
>
> > ***c.** Failing to appoint an independent forensic auditor and asset-tracing agency to investigate the assets of the PG and determine his real net worth, despite earlier certificates furnished to RBL Bank (2017) and Canara Bank (2018) recording his net worth at approximately Rs. 45,888 crores and Rs. 40,562 crores respectively, as against the PG's unsubstantiated claim of a current net worth of only Rs. 31.79 crores;*
> > ***e.** Failing to correct the deficiencies in the Repayment Plan, which was based on uncertain assumptions and non-disclosure of material current assets;*
> > ***g.** Failing to consider the recovery proceedings in the USA, which have been challenged by the PG and are likely to affect the enforceability of any Repayment Plan;*
> > ***i.** Failing to consider and address the objections of creditors before placing the Repayment Plan for voting, and thereafter failing to include such objections along with his responses in the final report under section 112 of the IBC, despite having assured creditors that he would do so; and*
> > ***j.** Failing to comply with various statutory provisions of the IBC, the relevant Rules and Regulations and committing several procedural irregularities.*
>
> ***2.** Whether or not, the PIRP proceedings stand vitiated and are void ab initio on account of multiple violations of the provisions of the IBC, the applicable*

Rules and Regulations, including section 100(2), section 106(4)(a), section 106(4)(b), section 107(1), section 108(4), Regulation 11(3), section 109(4)(b) read with Rule 4 and Explanation (b) to section 5(24A), section 79(14)(c) read with Rule 5(a), section 79(14)(e) read with Rule 5(b)(i), and section 110(5)?"

c) **Whether the disputed creditors fall within the expression "*associate*" under Section 79(2)(g) of the IBC, 2016 and were consequently disentitled from participating in the Meeting of Creditors and voting upon the Repayment Plan**

Covering the following questions posed by Hon'ble Member (J):

*"**11.** Whether a company in which the Debtor alone or the Debtor along with his Associates does not own more than 50 percent of Shares Capital of the Company or doesn't Control the appointment of Board of the Directors of the Company can be called his Associate, in terms of the provisions of Section 79(2)(g) of IBC.*

***20.** Whether the view taken in the order authored by Member (J), with reference to the provisions of Sections 109(4)(b), 79(2)(g) and 5(24A) discussed in paras 36-42 of the order authored by him regarding "associate" is correct or not."*

And the following questions by Hon'ble Member (T):

*"**1.** Whether or not, on the facts and circumstances of the case, RP's conduct was capricious, partisan and hasty during the PIRP, in the following acts of commission/omission:*

* **a.** Admitting, without verifying the documentation and enforceability of liability of the PG, the claims of Veena Investments Pvt Ltd, Direct Media Distribution Ventures Pvt Ltd, World CrestAdvisors LLP, Lemonade Capital Advisors LLP, Corpcall Capital Advisors LLP, and those filed by Mr. Anil Kumar and Mr. Sunil Jain on behalf of 960 and 300 unverified individuals from Haryana;*

* **b.** Failing to exclude the Associate/ Related Parties from the Meeting of Creditors and allowing their participation in the voting process in violation of section 109(4)(b) of the IBC;*

***3.** Whether or not, section 79(2)(g), which defines an 'associate' of the debtor, should be purposively construed to mean any company in which an associate exercises control or holds a majority stake, either independently or together with the debtor, so as to prevent the mischief the provision is intended to address?*

__4.__ Whether or not, under section 114(1) read with section 60(5), the Adjudicating Authority is liable to reject the Repayment Plan, on account of the following grounds:

__a.__ That the creditors' list was tainted by the inclusion of entities with unsubstantiated claims?

__b.__ That the approving vote was vitiated by the inclusion of associates of the PG in the Meeting of Creditors?"

d) Whether the conduct of the Resolution Professional was in breach of the statutory duties cast upon him under the IBC, 2016 and, if so, whether such alleged deficiencies vitiate the Personal Insolvency Resolution Process or render the Repayment Plan liable to rejection

Covering the following questions posed by Hon'ble Member (J):

"__21.__ Whether in exercise of Jurisdiction u/s 114 of the code, this Tribunal can question the claim/ debt of the creditors not opposed/questioned by the debtor/ PG and accepted by the RP."

And the following questions by Hon'ble Member (T):

"__1.__ Whether or not, on the facts and circumstances of the case, RP's conduct was capricious, partisan and hasty during the PIRP, in the following acts of commission/omission:

__a.__ Admitting, without verifying the documentation and enforceability of liability of the PG, the claims of Veena Investments Pvt Ltd, Direct Media Distribution Ventures Pvt Ltd, World Crest Advisors LLP, Lemonade Capital Advisors LLP, Corpcall Capital Advisors LLP, and those filed by Mr. Anil Kumar and Mr. Sunil Jain on behalf of 960 and 300 unverified individuals from Haryana;

__b.__ Failing to exclude the Associate/ Related Parties from the Meeting of Creditors and allowing their participation in the voting process in violation of section 109(4)(b) of the IBC;

__c.__ Failing to appoint an independent forensic auditor and asset-tracing agency to investigate the assets of the PG and determine his real net worth, despite earlier certificates furnished to RBL Bank (2017) and Canara Bank (2018) recording his net worth at approximately Rs. 45,888 crores and Rs. 40,562 crores respectively, as against the PG's unsubstantiated claim of a current net worth of only Rs. 31.79 crores;

__d.__ Denying creditors sufficient time for deliberation and voting, in violation of sections 106(4) and 107(1) of the IBC;

__e.__ Failing to correct the deficiencies in the Repayment Plan, which was based on uncertain assumptions and non-disclosure of material current assets;

f. *Improperly quantifying 'excluded assets' under section 79(14)(c) and section 79(14)(e) of IBC;*
g. *Failing to consider the recovery proceedings in the USA, which have been challenged by the PG and are likely to affect the enforceability of any Repayment Plan;*
h. *Failing to obtain concurrence of the secured creditor STCI Finance Ltd in terms of section 110(5) of the IBC;*
i. *Failing to consider and address the objections of creditors before placing the Repayment Plan for voting, and thereafter failing to include such objections along with his responses in the final report under section 112 of the IBC, despite having assured creditors that he would do so; and*
j. *Failing to comply with various statutory provisions of the IBC, the relevant Rules and Regulations and committing several procedural irregularities."*

e) **Whether the shorter notice period for convening the Meeting of Creditors, and the non-compliance with the time requirements under Sections 106(4) and 107(1) of the IBC, 2016, warrants rejection of the Repayment Plan?**

Covering the following questions posed by Hon'ble Member (T):

*"**1.** Whether or not, on the facts and circumstances of the case, RP's conduct was capricious, partisan and hasty during the PIRP, in the following acts of commission/omission:*
d. *Denying creditors sufficient time for deliberation and voting, in violation of sections 106(4) and 107(1) of the IBC;*

2. *Whether or not, the PIRP proceedings stand vitiated and are void ab initio on account of multiple violations of the provisions of the IBC, the applicable Rules and Regulations, including section 100(2), section 106(4)(a), section 106(4)(b), section 107(1), section 108(4), Regulation 11(3), section 109(4)(b) read with Rule 4 and Explanation (b) to section 5(24A), section 79(14)(c) read with Rule 5(a), section 79(14)(e) read with Rule 5(b)(i), and section 110(5)?"*

f) **Whether the Repayment Plan satisfies the requirements of the Insolvency and Bankruptcy Code, 2016 and deserves approval under Section 114, and whether, upon such approval, the Plan is binding on the creditors, including dissenting creditors, subject to their remedies available in law.**

Covering the following questions posed by Hon'ble Member (J):

*"**4.** When the ramification of PIRP under Part III of IBC is repayment of debt after restructuring of the same, whether application of Section 115(1) of IBC to those who have accepted the repayment plan with restructured debt and giving*

liberty to those who have not voted in favour of the plan to resort to remedies available to them to recover the full debt would not be the apposite approach.

5. *When the object of Part III of IBC, 2016, is to resolve the insolvency of a Debtor / Personal Guarantor by enabling him to prepare in consultation with the Resolution Professional, a repayment plan containing a proposal for the creditors for restructuring of his debts or affairs and the repayment plan so prepared by the RP could be approved in terms of the provisions of Section 111 of IBC, 2016, whether it is not complete justice done to the parties, when the plan is made binding only on those who have voted in favour of the plan and liberty is given to those who did not vote in favour of the plan to resort to the remedies available to them for recovery of debt in accordance with law.*

6. *When the ramification of PIRP is repayment of debt after restructuring and when the Applicants in IA-6014/2024, 6124/2024, 6125/2024, 134/2025, 246/2025 as also Union Bank of India and LIC Housing Finance Limited, who did not vote in support of the repayment plan are given liberty to resort to the remedies available to them for recovery of their debt in accordance with law and these are only such creditors who have voted in favour of the repayment plan are directed to be governed by Section 115(1) of the Code, whether the creditors who have not voted in favour of the plan would not be in better position to recover their debt from a solvent debtor than being a claimant/co-sharer with the other creditors in Bankruptcy process.*

7. *When object of IBC is to resolve the insolvency of the CD and unlike CIRP (where in liquidation**,** the CD stands dissolved) in PIRP, it is not so that the Bankrupt Stand disqualified u/s 140/ 141 for ever, but under section 138 of the code he get discharged from bankruptcy within one year and then he is again solvent for all purposes (being discharged from all liabilities), whether it is not in the interest of creditors who did not support the plan if the debtor is solvent to discharge the liability qua them.*

8. *When IBC is a beneficial process to put the debtor back to his feet by giving him opportunity to offer restructured repayment plan to all the creditors and then to give him benefit of section 138 of IBC to rescue him and to put him back to his feet and when in the present case the creditor who had not initiated the beneficial process have also not accepted the repayment plan and have pleaded that the debtor has the assets, whether justice wd. not be administered to such creditors by not binding them u/s 115(1) of IBC.*

15. *Wd. Rejection of repayment plan not give rise to a possibility where the Debtor would be immune from various proceedings without discharging his liabilities.*

22. *When the only possible design of voting in favour of repayment plan may be dilution of Debt of those who did not vote in favour of the plan, whether the concern wd. not be better addressed by not binding the dissenting creditors u/s 115 of the code."*

And the following questions by Hon’ble Member (T):

> “***4.*** *Whether or not, under section 114(1) read with section 60(5), the Adjudicating Authority is liable to reject the Repayment Plan, on account of the following grounds:*
>
> ***c.*** *That there were grave and material irregularities arising from the RP’s capricious, partisan, and hasty conduct, including breaches of the IBC and its rules and regulations?”*

g) I.A. No. 274/2025 – Whether STCI Finance Ltd. was entitled to recognition as a secured creditor and whether its concurrence under Section 110(5) was necessary

The above issues are dealt with by me in the following paragraphs:

<u>Issue I:</u>

Scope of Jurisdiction of the Adjudicating Authority while considering Approval of a Repayment Plan under Sections 106, 112 and 114 of the IBC, 2016

6. A substantial part of the disagreement between the two learned Members proceeds from their understanding of the role assigned to the Adjudicating Authority under Part III (Chapter III) of the Code. While one view favours a more expansive scrutiny of the repayment plan before its approval, the other proceeds on the premise that once the statutory process has substantially been complied with and the creditors have exercised their commercial judgment, judicial intervention ought to remain limited. In my respectful view, the correct approach lies between these two positions and is to be gathered from the statutory scheme itself.
7. Part III of the Code governing insolvency resolution and bankruptcy of individuals and personal guarantors contains all the provisions for dealing with insolvency and bankruptcy of individual and personal guarantors. It consciously distributes responsibilities among the debtor, the Resolution Professional, the creditors and

the Adjudicating Authority. Each has a distinct statutory function, and none is expected to assume the role assigned to another.

8. The Resolution Professional functions as an independent statutory officer. Sections 100 to 113 of the Code, read with the Insolvency Resolution Process for Personal Guarantors to Corporate Debtors Regulations, 2019, require the Resolution Professional to verify claims, examine financial information, convene meetings of creditors, facilitate negotiations between the debtor and creditors, assist in preparation of the repayment plan and submit the reports in regard to the repayment plan and in regard to the meeting of the creditors before the Adjudicating Authority. These responsibilities demand fairness, transparency and professional diligence. However, the Resolution Professional does not decide disputed questions of fact or law. His role is to facilitate the process and make recommendations, not to adjudicate disputes. His report is recommendatory and facilitative rather than determinative.

9. To understand the role and jurisdiction of this AA, it is important to refer to Section 105, 106, 112 and 114(1) & (3), as applicable, which are reproduced hereunder:

> "***105. Repayment plan. –***
>
> *(1) The debtor shall prepare, in consultation with the resolution professional, a repayment plan containing a proposal to the creditors for restructuring of his debts or affairs.*
>
> *(2) The repayment plan may authorise or require the resolution professional to –*
>
> *(a) carry on the debtor's business or trade on his behalf or in his name; or*
>
> *(b) realise the assets of the debtor; or*
>
> *(c) administer or dispose of any funds of the debtor.*
>
> *(3) The repayment plan shall include the following, namely: -*

(a) justification for preparation of such repayment plan and reasons on the basis of which the creditors may agree upon the plan;

(b) provision for payment of fee to the resolution professional;

(c) such other matters as may be specified.

…

***106. Report of resolution professional on repayment plan**. –*

(1) The resolution professional shall submit the repayment plan under section 105 along with his report on such plan to the Adjudicating Authority within a period of twenty-one days from the last date of submission of claims under section 102.

(2) The report referred in sub-section (1) shall include that-

(a) the repayment plan is in compliance with the provisions of any law for the time being in force;

(b) the repayment plan has a reasonable prospect of being approved and im plemented; and

(c) there is a necessity of summoning a meeting of the creditors, if required, to consider the repayment plan:

Provided that where the resolution professional recommends that a meeting of the creditors is not required to be summoned, reasons for the same shall be provided.

(3) The report referred to in sub-section (2) shall also specify the date on which, and the time and place at which, the meeting should be held if he is of the opinion that a meeting of the creditors should be summoned.

(4) For the purposes of sub-section (3) –

(a) the date on which the meeting is to be held shall be not less than fourteen days and not more than twenty-eight days from the date of submission of report under sub section(1);

(b) the resolution professional shall consider the convenience of creditors in fixing the date and venue of the meeting of the creditors.

…

112. Report of meeting of creditors on repayment plan. –

(1) The resolution professional shall prepare a report of the meeting of the creditors on repayment plan.

(2) The report under sub-section (1) shall contain –

(a) whether the repayment plan was approved or rejected and if approved, the list the modifications, if any;

(b) the resolutions which were proposed at the meeting and the decision on such resolutions;

(c) list of the creditors who were present or represented at the meeting, and the voting records of each creditor for all meetings of the creditors; and

(d) such other information as the resolution professional thinks appropriate to make known to the Adjudicating Authority.

…

***114. Order of Adjudicating Authority on repayment plan**. –*

(1) The Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of the report of the meeting of the creditors submitted by the resolution professional under section 112:

Provided that where a meeting of creditors is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under section 106.

(2) The order of the Adjudicating Authority approving the repayment plan may also provide for directions for implementing the repayment plan.

(3) Where the Adjudicating Authority is of the opinion that the repayment plan requires modification, it may direct the resolution professional to re-convene a meeting of the creditors for reconsidering the repayment plan."

10. Section 106 constitutes the starting point of the repayment-plan process. The repayment plan formulated by the PG in consultation with the RP must conform to the requirements prescribed by the Code and must be processed through the statutory mechanism contemplated therein. The Resolution Professional is required under Section 106 to submit the repayment plan along with his report on such plan to the Adjudicating Authority. The contents of the said report are prescribed in Section 106 (2).

11. Section 112 occupies an important place in this statutory framework. After the Meeting of Creditors concludes, the Resolution Professional is required to prepare and submit a report as to the proceedings at the said meeting and the outcome of voting. It is important that the contents of the said report as specified in 112 (2) include the factual position in regard to the decision of the creditors at their meeting in regard to the approval or rejection of the repayment plan, resolutions which were proposed at the meeting, decision on such resolutions, list of creditors, who were present or represented at the meeting and the voting records of each creditor for all meeting of the creditors. The sub-Section further provides that the resolution professional may also incorporate such other information as the resolution professional thinks appropriate to make known to the AA.

12. Section 114, in turn, provides that the AA shall approve or reject the plan based on the report of the meeting of the creditors submitted by the RP under Section 112. As has been stated earlier that the RP's report under Section 112 is in regard to the meeting of creditors on the points as specified under Section 112 (2), i.e.,

the report is mainly as to the outcome of the meeting of the creditors in respect of the approval or rejection of the repayment plan by the creditors and not in regard to the contents or the merits or demerits of the repayment plan. As Section 114 (1) requires the AA to approve or reject the plan based on the report of the meeting of the creditors, the same suggests that if the said report states that the repayment plan has been approved by the creditors, the only option available to the AA is to approve the repayment plan. Similarly, if the report states that the repayment plan has been rejected, the AA, which has to approve or reject the repayment plan based on the said report, can only reject the repayment plan. As such, the provisions of Section 114 (1) read with the provisions of Section 112 require the AA to approve or reject the repayment plan based on the outcome of the meeting of creditors and no discretion has been provided to the AA in this regard.

13. The proviso to Section 114 (1) states that where a meeting of creditors is not summoned, the AA shall pass an order based on the report prepared by the RP under Section 106. As has been stated earlier that as per sub-section (2) of Section 106, the report under Section 106 (1) shall include whether the repayment plan complies with the provisions of any law for the time being in force, has a reasonable prospect of being approved and implemented, necessity of summoning a meeting of the Creditor to consider the repayment plan and also the date, time and place of the proposed meeting, if it is recommended that the meeting is required to be summoned. Further, it has also been stated earlier that Section 106 (1) requires the RP to submit the repayment plan along with his report on such plan to the AA. The proviso to Section 114(1) requires the AA to pass an order on the basis of the report prepared by the RP under Section 106, where a meeting of the creditors is not summoned. As such, if a meeting of creditor is summoned, the AA

has to approve or reject the repayment plan under Section 114(1) based on the report of the RP as to the outcome of the meeting of the creditors only, however, if the meeting of creditor is not convened the AA shall pass an order on the basis of the report of the RP under Section 106, which is a report as to the repayment plan on the matters specified under sub-section (2) of Section 106 along with which, the repayment plan is also required to be submitted. However, Section 114(1) does not require the AA to consider the report under Section 106 in respect of the repayment plan or even the repayment plan, as the resolution plan neither accompanies the report under Section 112 nor does it require the RP to give any report in respect of the repayment plan.

14. It is, however, important that sub-section (3) of Section 114 empowers the AA to direct the RP to reconvene the meeting of the creditors for reconsidering the repayment plan, if the AA is of the opinion that the repayment plan requires modifications. The Opinion as referred to in sub-section (3) is in regard to whether the repayment plan requires modification, and in my view, formation of the said opinion can only be possible when the AA goes through the said repayment plan and considers the same, as also the process followed for formulation of the said plan and for its approval. As such, in my view, under Section 114, the AA is also required to consider the repayment plan and the process followed for its formulation and approval, and to see whether the repayment plan requires any modification and whether a meeting is required to be reconvened to reconsider the repayment plan. Section 114(3) does not specify as to under what circumstances the said modification or reconsideration is required. The only provisions under Chapter III of Part III of the Code, which specify any contents of a repayment plan and what compliances a repayment plan is required to be made, are Section 105

and Section 106(3) of the Code. Both these sections and sub-sections are reproduced above. In addition to the above, Regulation 17 of the IBBI(Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (IRP Regulations) also specify the contents of a repayment plan. The said requirements also include whether the repayment plan is in compliance with any law for the time being in force, including the compliance as to the applicable provisions of the IBC and the Regulations, and whether the same has a reasonable prospect of being implemented. Further, the process for reaching the end product, i.e. the approved repayment plan, is contained in Sections 101 to 114 of the Code and the relevant Regulations. The said obligations of the AA also include the requirement for it to examine as to whether the provisions of the IBC in regard to the process for approval of the repayment plan and mandatory requirements as to the repayment plan have been rightly followed and that there is no violation of the said provisions. As such, in my view, the AA is required to consider the repayment plan, its compliance with the mandatory requirements under the provisions of the IBC, the process followed for its approval and the reports placed before it before deciding whether the plan ought to be approved. The legislature has, therefore, envisaged an independent judicial examination at the stage of approval, while at the same time respecting the commercial decision taken by the creditors within the statutory framework. Had the same not been the intention of the legislature, the law would have provided that the repayment plan as approved by the creditors at their meeting will be binding and there would not have been a provision for approval of the repayment plan by the AA.

15. A combined reading of Sections 105, 106, 112 and 114 of the Code makes it clear that the jurisdiction of the AA cannot be reduced to a mere formality of placing its

approval upon the decision of the creditors. The AA is required to examine the repayment plan submitted under Section 106, the process followed for approval of the repayment plan as contained in Section 101 to Section 114 of the Code and the relevant Regulations, the report and decisions arising from the Meeting of Creditors under Section 112, and the statutory requirements governing approval under Section 114, so as to satisfy itself that the entire process has been undertaken in accordance with the statutory framework. While the commercial decision of the creditors, when validly taken, ordinarily commands due deference, such commercial decision cannot override or cure a violation of mandatory statutory provisions. Therefore, the AA must first ascertain whether the statutory framework prescribed under the Code and the applicable Regulations has been properly followed in the preparation, consideration and approval of the repayment plan. If the statutory procedure has not been duly followed, the fact that the repayment plan has received the requisite approval or majority of the creditors cannot, by itself, bind the AA. In such circumstances, the AA is empowered to decline approval and, where the defect is capable of being cured, direct the RP to re-convene the Meeting of Creditors and undertake the necessary process afresh in accordance with Section 114(3) of the Code. Thus, the role of the AA is neither to substitute its commercial wisdom for that of the creditors nor to mechanically endorse their decision; it is to ensure that the creditors' commercial decision has been arrived at through a process that is lawful, fair and compliant with the statutory framework.

16. This distinction assumes particular importance because the **commercial decision of the creditors operates within, and not outside, the statutory framework**. Commercial wisdom can be exercised only by persons who are legally entitled to

participate in the process and through a procedure which complies with the mandatory requirements of the Code. A majority decision cannot, by itself, validate an otherwise illegal process. Thus, where the statutory requirements have been duly complied with, the AA ought ordinarily to accord due deference to the commercial decision of the creditors. Conversely, where a mandatory statutory requirement has been violated in a manner which affects the validity or integrity of the process, the fact that the repayment plan has received the requisite majority cannot compel the AA to approve it.

17. At the same time, judicial scrutiny under Section 114 cannot be expanded into an unrestricted appellate review over every commercial or factual determination made during the insolvency process. Insolvency legislation proceeds upon the principle that commercial decisions are primarily entrusted to creditors, while legal supervision remains with the Adjudicating Authority. Excessive judicial interference would defeat the objective of expeditious insolvency resolution, which forms one of the central pillars of the Code.

18. The Hon'ble Supreme Court has repeatedly held that the objectives of the Code include value maximisation, preservation of viable economic activity, balancing the interests of all stakeholders and ensuring timely resolution. Although many of these decisions arise under corporate insolvency, the same principles of judicial restraint apply to proceedings involving personal guarantors unless the statute provides otherwise.

19. Consequently, while exercising jurisdiction under Section 114, the Adjudicating Authority is required to satisfy itself that:

    a) the mandatory procedure prescribed under the Code, including under Section 101 to 114 of the Code and the Regulations, has been complied with;

b) the repayment plan has been prepared and processed in accordance with the statutory provisions;

c) the creditors entitled to participate have exercised their voting rights in accordance with law;

d) no material illegality or procedural irregularity has affected the process; and

e) the repayment plan is capable of implementation and does not violate any provision of law

20. The jurisdiction exercised by the Adjudicating Authority in the aspect of insolvency resolution process is therefore substantial, but not unlimited. The AA neither substitutes its own commercial wisdom for that of the creditors nor does it conduct a wide-ranging investigation into allegations that are unsupported by reliable material. Its role is supervisory, corrective and judicial, not investigative unless the statute so requires.

21. This distinction is important in the present case because several objections invite the Tribunal to examine factual issues extending far beyond the repayment process itself. Allegations concerning past financial transactions, diversion of assets, existence of undisclosed properties, alleged business relationships among creditors and suspected financial arrangements have been relied upon to contend that the repayment plan in question cannot be approved.

22. Undoubtedly, where credible material demonstrates fraud, suppression of assets, collusion or statutory non-compliance affecting the integrity of the insolvency process, the Adjudicating Authority has the power to intervene. The Code is not intended to become an instrument for legitimising fraudulent conduct. However, mere suspicion, speculation, or unresolved commercial disputes cannot, by themselves, justify delaying the insolvency process indefinitely. Such an approach

would defeat the strict timelines prescribed under the Code and frustrate its objective of timely resolution.

23. Therefore, the question is not whether further investigation might reveal additional facts. The real question is whether the material presently available demonstrates such fundamental deficiencies in the insolvency process that approval of the repayment plan would itself be contrary to law. It is this question that now requires examination.

24. The Insolvency Resolution process is of the nature of an out-of-court settlement process with a limited facilitative role to the RP and also a limited role to the AA to ensure that the resolution process as prescribed under law has been followed and there is no procedural irregularity affecting the decision of the creditors at their meeting. Accordingly, in case a repayment plan is approved by the required majority of creditors, and the statutory requirements governing the process have been duly complied with, the Adjudicating Authority ought to accord due deference to the creditors' commercial decision. However, the AA cannot shut its eyes to gross irregularities or fraudulent conduct in the process of approval of the repayment plan wherein false claims are admitted, or those creditors who are not allowed to vote are allowed to vote, or the mandatory provisions of applicable law are violated. In my view, in such a situation, the AA has the right to reject the repayment plan or to remand it to the creditors or the RP to rerun the process after rectifying the defects in the approval process.

25. In the present case, therefore, the objections raised against the repayment plan must be examined from this perspective. The question is not whether the Adjudicating Authority would itself have approved the repayment plan or whether a different commercial arrangement might have been more appropriate. The

question is whether the repayment plan under Section 106 was properly placed before the creditors, whether the Meeting of Creditors and its decision under Section 112 were conducted in accordance with law, and whether there exists any statutory or procedural defect which prevents the Adjudicating Authority from approving under Section 114. It is this question that must govern the consideration of the objections raised in the present proceedings.

Issue II:

Whether the Repayment Plan could be approved on the basis of the material already available on record or whether further investigation, forensic audit, tracing of assets and additional scrutiny were indispensable before its approval

26. The Insolvency Resolution Process for Personal Guarantors under Chapter III of Part III is conceived as a creditor-driven insolvency resolution mechanism culminating in consideration of a repayment plan. Unlike the Corporate Insolvency Resolution Process under Part II, where the Resolution Professional assumes management of the Corporate Debtor, the Personal Insolvency Resolution Process proceeds on the premise that the debtor remains in possession and control of his assets while negotiations are facilitated by the Resolution Professional. The legislative scheme itself demonstrates that the powers conferred upon insolvency functionaries are calibrated according to the stage of the proceedings. During a Corporate Insolvency Resolution Process under Part II, the Resolution Professional is entrusted with extensive powers over the management, affairs and assets of the Corporate Debtor, since the conduct of the process necessitates displacement of the existing management. The statutory design governing an

Insolvency Resolution Process for Personal Guarantors under Chapter III of Part III is materially different. At that stage, the Personal Guarantor continues to remain in possession and control of his assets, and financial affairs and record of the same, while the Resolution Professional performs functions essentially directed towards verification of claims, facilitation of negotiations, conduct of the Meeting of Creditors and submission of the reports contemplated under the Code.

27. Equally significant is the fact that the Code itself creates a distinct office of the Bankruptcy Trustee under Chapter IV of Part III and entrusts that functionary with substantially wider powers over the estate and affairs of the bankrupt. For instance, Section 128(1)(a) and Section 154 provide that on the passing of bankruptcy order from the date of the appointment of the bankruptcy trustee, the estate of the bankrupt shall vest in the bankruptcy trustee, Section 149 empowers the Bankruptcy Trustee to investigate the affairs of the bankrupt and realise his estate, Section 156 and Section 157 provide that the bankrupt and other concerned shall deliver the property and documents of the bankrupt to the bankruptcy trustee, who will take possession and control of all property, books, papers and other record relating to the estate or affairs of the bankrupt, Section 136 requires the bankruptcy trustee to conduct the administration and distribution of the estate of the bankrupt as per provisions of Chapter V, while Sections 151 and 152 equip him with general powers to administer and dispose of the bankrupt's property. The conferment of such powers at the bankruptcy stage, coupled with their absence during the insolvency resolution process under Chapter III, is a clear indication that the legislative distinction is deliberate. Legislature has consciously deferred intrusive powers relating to administration, control, realization and investigation of the debtor's estate until the commencement of bankruptcy proceedings, while

preserving the insolvency resolution process as a creditor-driven mechanism centred on consideration of a repayment plan.

28. The Tribunal cannot, therefore, blur this carefully structured legislative distinction by requiring the Resolution Professional conducting an insolvency resolution process under Chapter III to perform functions which the Code reserves either for the Resolution Professional in a Corporate Insolvency Resolution Process under Part II or for the Bankruptcy Trustee after commencement of bankruptcy under Chapter IV of Part III. To do so would not amount to an interpretation of the statute but to an enlargement of the Resolution Professional's statutory mandate beyond what the Legislature has expressly provided.

29. The principal objection raised by the dissenting creditors is that the repayment plan should not be approved until a detailed forensic audit of the Personal Guarantor is conducted, all allegedly undisclosed assets are traced, past financial transactions are thoroughly investigated, and the Resolution Professional carries out a much wider inquiry. According to them, unless these steps are completed, the Tribunal cannot be satisfied that the repayment plan reflects the true financial position of the Personal Guarantor.

30. The IBC is a legislation enacted with a clear legislative emphasis upon certainty, expedition and resolution. The insolvency framework for Personal Guarantors is designed so that the process is not kept pending indefinitely while parties continue searching for every possible asset or investigating every past transaction of the debtor. The Code strikes a careful balance between maximisation of recoveries and timely completion of the insolvency process. Any interpretation that permits endless investigations without statutory basis would fundamentally disturb that balance. At the same time, if the creditors are of the view that the debtor has failed

to make complete disclosure of his assets, or that the insolvency resolution process is affected by irregularities or the repayment plan is unlawful, they are not without a remedy. They may decline to approve the repayment plan, in which event the statutory consequences under the Code, including commencement of the bankruptcy process, may follow. At the bankruptcy stage, the Bankruptcy Trustee is vested with specific statutory powers to investigate the affairs, dealings and property of the bankrupt, thereby providing the appropriate mechanism for a deeper examination of the debtor's assets and transactions.

31. The scheme of Part III clearly sets out the duties of the Resolution Professional. Sections 104, 105, 106, 107, 112 and the relevant Regulations collectively require the Resolution Professional to verify claims, obtain relevant information from the debtor and creditors, examine financial affairs, facilitate preparation of the repayment plan, convene meetings of creditors and submit the plan together with his report before the Adjudicating Authority. Significantly, neither the Code nor the Regulations prescribe that a forensic audit is a mandatory precondition for approval of every repayment plan. The distinction becomes clearer when the scheme of the Code is compared with the bankruptcy process. In the insolvency resolution process, the Interim Resolution Professional is required to receive and collate the claims of creditors and prepare the list of creditors on the basis of the claims received and the information available from the debtor. Although the Regulations contemplate verification of such claims, such regulatory requirements cannot be read as conferring upon the Resolution Professional substantive investigative powers beyond those provided by the Code. It is important to note that at the stage of the insolvency resolution process, the RP does not have possession and control over the records, assets, and affairs of the CD; therefore, conducting any

investigative exercise at this stage seems impractical, and therefore, there is no provision in Chapter III requiring the RP to conduct any such exercise. The position is materially different in the bankruptcy process. The Code expressly requires the Bankruptcy Trustee to take possession and control of the record, assets and affairs of the bankrupt and Section 149 specifically empowers the Bankruptcy Trustee to investigate the affairs, dealings and property of the bankrupt. The bankruptcy provisions of the Code as contained in Chapter IV and V of Part III also contain specific provisions dealing with preferential, undervalued and other avoidable transactions in Sections 164, 165 and 167 of the Code, requiring the bankruptcy trustee for filing of application to the Adjudicatory Authority for an order under these Sections. The said application can be made by the bankruptcy trustee only when he investigates the accounts and transactions of the bankrupt. The deliberate conferment of such investigative powers upon the Bankruptcy Trustee, while not providing a corresponding general investigative power to the Resolution Professional under Chapter III of Part III, indicates that the Legislature did not intend the RP to undertake a roving or forensic investigation into the affairs of the Personal Guarantor merely in the course of examining a repayment plan.

32. The record in the present proceedings reveals that the RP invited claims from creditors, scrutinised the claims received, interacted with the PG, convened meetings of creditors, facilitated negotiations, considered objections raised by various stakeholders and ultimately placed the repayment plan before the creditors for voting. The report submitted before this Tribunal demonstrates that the RP discharged the statutory functions entrusted to him under the Code. It is not the case that the RP failed to initiate the statutory process or abdicated his responsibilities altogether.

33. The distinction between the resolution processes in regard to the corporate debtors and the individual debtors is also on account of the fact that unlike corporate debtors, who are ordinarily required to maintain books of account, undergo statutory audits, prepare financial statements and file various regulatory and tax returns, individual debtors may, in a significant number of cases, not maintain separate audited accounts or comparable records from which their entire financial affairs can be independently reconstructed within a reasonable timeframe. The legislative emphasis was, therefore, placed upon complete and truthful disclosure by the debtor, coupled with appropriate consequences in the event of concealment or fraudulent misrepresentation. This approach is consistent with the facilitative nature of the insolvency resolution process contemplated under Chapter III.

34. The statutory framework ultimately enacted by the Legislature likewise does not cast upon the Resolution Professional an obligation to independently investigate every disclosure made by the Personal Guarantor before placing the repayment plan before the creditors. His statutory functions are directed towards examination of the repayment plan, conduct of the Meeting of Creditors and submission of the reports contemplated under the Code. He is not constituted as an investigating authority entrusted with conducting in-depth enquiries into every aspect of the debtor's financial affairs.

35. Much emphasis has been placed by certain objecting creditors upon the assertion that the RP ought to have undertaken a forensic audit of the financial transactions of the PG over several years. However, no provision of the Code or the applicable Regulations has been brought to the notice of this Tribunal which makes such an exercise a mandatory precondition for consideration of a repayment plan under Section 114.

36. The aforesaid issue assumes significance in view of the net worth certificate dated 30.06.2018 issued by MPJ & Co., Chartered Accountants, which has been placed on record. The certificate, based upon the provisional financials and information furnished by the management, assessed the net worth of the PG at Rs.40,562 crores and disclosed substantial investments and properties. The certificate, therefore, constitutes relevant material indicating the financial position attributed to the PG in 2018.

37. At the same time, the certificate expressly states that the assessment was based upon provisional financials and a reasonable estimate of the state of assets and liabilities. It consequently cannot, by itself, be treated as conclusive proof that the Personal Guarantor presently owns or controls assets of ₹40,562 crores. Nevertheless, when this earlier figure is compared with the present net worth of approximately Rs. 31.79 crores, the substantial reduction undoubtedly provides a legitimate basis for the creditors to question and seek clarification regarding the change in the financial position.

38. It has been pointed out that a net worth certificate furnished to RBL Bank Ltd. in the year 2017 reflected the net worth of the PG at USD 7.17 Billion, approximately equivalent to ₹45,888 crores.

39. The existence of such a discrepancy, however, must be distinguished from proof of concealment, diversion or fraudulent transfer of assets. No independent and convincing material has been placed before this Tribunal establishing that the assets reflected in the 2018 certificate continued to exist in the same form or value, or that they were subsequently concealed or diverted by the Personal Guarantor. Moreover, the dissenting creditors have not brought on record any document to show that they have initiated any legal action for recovery of their dues by sale or

disposal of the assets disclosed in the above-said certificates or for obtaining any restraining order on disposal of the same by the PG and that the said assets still exist and are not disposed of in the recovery processes initiated by the said creditors. The certificate, therefore, raises a question requiring consideration, but does not, by itself, establish any statutory violation or fraud.

40. More importantly, the question before this Tribunal is not whether further verification of the Personal Guarantor's financial affairs could have been undertaken, but whether such further investigation was indispensable before consideration of the Repayment Plan under Section 114. The Code does not make a forensic audit or asset-tracing exercise a mandatory precondition for approval of a repayment plan.

41. The distinction between a circumstance warranting verification and material establishing fraud or concealment must, however, be maintained. The 2018 certificates undoubtedly provided a legitimate reason for the creditors to seek further clarification regarding the Personal Guarantor's financial position. However, the mere existence of an earlier provisional net worth certificate, without independent evidence demonstrating that the assets reflected therein continued to exist or were subsequently concealed, diverted or transferred in breach of law, cannot by itself justify an indefinite postponement of the Repayment Plan or make a forensic audit a mandatory precondition to its consideration.

42. The legislative scheme becomes even more apparent when one examines the provisions of the Code dealing with investigative powers. Wherever Legislature intended an insolvency professional to investigate the affairs of the debtor, it has expressly conferred such authority. Section 149 empowers the Bankruptcy Trustee to investigate the affairs of the CD, which clearly includes dealings and property of

the bankrupt after commencement of bankruptcy proceedings. Similarly, under the corporate insolvency framework, the Resolution Professional is empowered under Section 25(2)(j) to determine and thereafter file applications in relation to preferential, undervalued, extortionate credit and fraudulent transactions under Sections 43 to 51 and Section 66. In contrast, Section 35(1)(l) expressly authorises the Liquidator to investigate the financial affairs of the corporate debtor for identifying avoidable transactions.

43. Significantly, no corresponding provision has been enacted under Chapter III of Part III conferring an express investigative power upon the Resolution Professional comparable to that vested in the Bankruptcy Trustee or the Resolution Professional/Liquidator in the circumstances referred to above. While Section 99(4) enables the Resolution Professional to seek such information or explanations as may be necessary for examining the application for initiation of insolvency resolution process, the Code does not expressly empower him to direct a forensic audit, appoint an asset-tracing agency or undertake an unrestricted investigation into the financial affairs of the Personal Guarantor at any stage of insolvency resolution process, whether prior to admission or thereafter, while the process for preparation and approval of the repayment plan is undergoing.

44. Where the Legislature has consciously conferred a particular power in one part of a statute while omitting it in another, such omission cannot be supplied by judicial interpretation. To hold that the Resolution Professional is under a statutory obligation to conduct a forensic audit despite the absence of any enabling provision would amount to rewriting Chapter III (Insolvency Resolution Process) of Part III of the Code rather than interpreting it.

45. This does not mean that the Adjudicating authority or the creditors are not having any remedial action in exceptional cases where credible material discloses deliberate concealment of assets, systematic diversion of funds, fabrication of financial records or fraudulent conduct which cannot otherwise be satisfactorily examined. If creditors are not satisfied with the truthfulness, they may reject the plan and can initiate bankruptcy process. Similarly, if any substantial asset is further discovered after the approval of the repayment plan and issuance of discharge order, the creditors may apply for recall of order of approval of plan and discharge order. It is settled law that orders of courts and tribunals obtained through fraud, deception or the hiding of important facts are treated as a nullity in law and that the courts and tribunals have the inherent power to recall or set-aside such tainted orders because fraud vitiates all solemn judicial acts. In such circumstances, the AA may take such action or issue such directions as are within its jurisdiction under the Code. However, such extraordinary directions must be based upon objective material demonstrating *prima facie* necessity and not merely upon suspicion or speculation.

46. The distinction between suspicion and proof is particularly important in insolvency proceedings. Insolvency proceedings cannot be converted into a forum for investigating every aspect of a debtor's financial history merely because allegations have been made by dissatisfied creditors, especially those who constitute a small minority contrary to the wishes of the majority of the creditors. If that approach were accepted, approval of every repayment plan could be delayed indefinitely by repeatedly seeking further investigation, defeating the timelines prescribed under the Code.

47. The Hon'ble Supreme Court has consistently held that the IBC is intended to ensure certainty, predictability and time-bound resolution. These objectives cannot be defeated by minority of the creditors, who are insisting upon absolute certainty before the insolvency process can conclude. The law requires reasonable satisfaction based upon credible material, not elimination of every possible doubt.

48. The dissenting creditors have also argued that the alleged existence of undisclosed assets, by itself, requires postponement of approval of the repayment plan. I am unable to accept this proposition. A mere allegation of undisclosed assets made by a small minority of the creditors cannot automatically invalidate the repayment plan unless supported by reliable material establishing concealment of assets material to the insolvency process.

49. Despite extensive proceedings before the RP and before this Tribunal, no conclusive material has been produced to establish deliberate suppression of identifiable assets that would materially affect the repayment plan presently under consideration. Several allegations have been made regarding possible recoveries, alleged indirect interests, past business transactions and potential claims. However, these remain matters requiring independent adjudication and cannot themselves prevent approval of the repayment plan under Section 114.

50. It has also been argued that approval of the repayment plan may prejudice future recoveries if additional assets are discovered subsequently. While such concern cannot be lightly brushed aside, it cannot, by itself, justify the postponement of the decision under Section 114 of the Code. Moreover, if cetain additional assets are discovered subsequent to the approval of resolution plan and issuance of discharge order, the future recoveries may not be prejudiced as the said approval order and discharge orders in that case can be sought to be recalled being nullity

in law. At this stage, the jurisdiction of the AA is confined to examining the repayment plan based on the report submitted by the Resolution Professional and the decision of the Meeting of Creditors.

51. It is also necessary to clarify that the approval of the repayment plan does not confer any immunity upon the PG in respect of fraud, concealment or misrepresentation, if subsequently established based on credible material. In such a situation, the affected creditors are not without remedy. The Hon'ble Calcutta High Court in ***Adhir Ranjan Kar v. Atanu Kumar Mondal & Anr.***, W.P.C.R.C. 340 (W) of 2013, relying upon the judgment of the Hon'ble Supreme Court in ***United India Insurance Co. Ltd. v. Rajendra Singh & Ors.***, (2000) 3 SCC 581, recognised that a Court or Tribunal cannot be regarded as powerless to recall its order where it is satisfied that the order was procured through fraud or misrepresentation of such a nature as to affect the very basis of the claim. The Hon'ble Supreme Court further observed that where newly discovered facts disclose fraud of a high degree, the remedy of seeking recall cannot be foreclosed, particularly where failure to examine such allegations may result in a miscarriage of justice. Thus, the possibility of subsequent discovery of fraud or concealment does not, by itself, justify keeping the Repayment Plan pending indefinitely or requiring a forensic investigation as a precondition to its consideration; appropriate remedies remain available if fraud or material suppression is subsequently established.

52. In addition to the inherent powers of a court or tribunal to recall its order obtained through fraud or concealment of materal facts, the Code itself contemplates such eventualities and contains such penal consequences. In particular, Section 184(1) of the IBC, 2016 prescribes penal consequences where a debtor or creditor

knowingly furnishes false information in any material particular to the Resolution Professional. The affected creditors would also remain at liberty to pursue such other civil or criminal remedies as may be available in accordance with law, if the facts so warrant. Mere apprehension that additional assets may be discovered in future, however, cannot constitute a valid ground to defer or reject an otherwise compliant repayment plan under Section 114 of the Code. The statutory framework, therefore, provides adequate safeguards to address any subsequent discovery of concealment or fraud, and such speculative possibilities cannot enlarge the limited scope of scrutiny under Section 114 of the Code.

53. I also find merit in the submission of the RP that insolvency resolution is fundamentally distinct from an investigative proceeding. The RP is neither an investigating agency nor a forensic auditor appointed to conduct an unrestricted inquiry into all historical affairs of the debtor. His role is to facilitate the insolvency resolution process in accordance with the statutory framework. Imposing duties beyond those contemplated by the Code would alter the legislative scheme and make timely completion of the process extremely difficult.

54. Equally, the creditors cannot be deprived of the benefit of a repayment plan which has otherwise received the requisite statutory approval merely because some minority creditors seek further investigation into matters that are not essential for consideration of the plan. Dissatisfaction with the extent of investigation cannot, in the absence of any illegality, amount to statutory non-compliance.

55. The legislative intent regarding the role of the Adjudicating Authority is equally instructive. While explaining the approval of a repayment plan, the Bankruptcy Law Reforms Committee (“BLRC”) Report records at page 121:

> *"Once a consensus has been reached, the Adjudicator should accept the agreement without any modification, and give the stamp of approval which will give effect to the agreement."*

56. Though the BLRC Report is not binding law, the above observation clearly reflects the legislative philosophy subsequently embodied in Sections 112 and 114 of the Code. The Personal Insolvency Resolution Process under Chapter III is intended to facilitate a consensual resolution between the Personal Guarantor and his creditors through a repayment plan. The Resolution Professional performs a facilitative statutory role, while the Adjudicating Authority exercises judicial supervision under Section 114 to determine whether the repayment plan can be approved on the basis of the report submitted under Section 112. The decision of the requisite majority of creditors is a significant consideration in that exercise, but does not dispense with the statutory scrutiny entrusted to the Adjudicating Authority. At the same time, such scrutiny does not permit the Adjudicating Authority to substitute its own commercial assessment for that of the creditors or to impose investigative requirements which the Code does not contemplate.

57. Consequently, while the Adjudicating Authority undoubtedly retains jurisdiction to intervene where there is material demonstrating fraud, illegality or non-compliance with the mandatory provisions of the Code, it cannot refuse approval merely because a forensic audit or wider investigation, not mandated by Part III, has not been undertaken. To hold otherwise would introduce into the statute a requirement consciously omitted by Legislature and would run contrary to the legislative intent reflected both in the Code and in the BLRC Report.

58. Upon an overall assessment of the material on record, I am satisfied that sufficient material is available to decide the Repayment Plan under Section 114 of the Code. The objections based on the absence of a forensic audit, further tracing of assets or additional investigation raise commercial concerns but do not disclose any fundamental defect in the insolvency process requiring postponement of the repayment plan.

59. I accordingly hold that neither the Code nor the facts of the present case warrant remitting the matter for a fresh investigation or directing a forensic audit as a precondition for approval of the repayment plan. Any subsequently discovered assets or legally enforceable rights of creditors shall remain governed by the provisions of the Code and other applicable laws. The present proceedings, however, must proceed based on the material lawfully available on record.

Issue III:

Whether the disputed creditors fall within the expression "associate" under Section 79(2)(g) of the Insolvency and Bankruptcy Code, 2016 and were consequently disentitled from participating in the Meeting of Creditors and voting upon the Repayment Plan

60. The central issue in this reference concerns the participation of Veena Investments Private Limited, Direct Media Distribution Ventures Private Limited, World Crest Advisors LLP, Lemonade Capital Advisors LLP and Corpcall Capital Advisors LLP in the Meeting of Creditors. The objecting creditors contend that these entities are "associates" of the Personal Guarantor within the meaning of Section 79(2)(g) and were therefore disqualified from voting under Section 109(4)(b). Since these

creditors collectively held the decisive voting share approving the repayment plan, their eligibility goes to the root of the present dispute. The Learned Member (Technical) accepted this contention, whereas the Learned Member (Judicial) rejected it. It therefore becomes necessary to independently examine the scope of the expression "associate" under Part III of the Code.

61. The issue must be decided primarily on the language of the statute. Section 109(4)(b) disqualifies only a creditor, who is an "associate" of the debtor. The expression is exhaustively defined in Section 79(2). Clause (g) applies where the debtor, either alone or together with his associates, owns more than fifty per cent of the share capital of a body corporate or controls the composition of its Board or governing body. The statutory test is therefore based on ownership and legal control, not merely on commercial influence or business proximity.

62. The words used by Legislature such as *"owns", "controls", "share capital"* and *"composition of the Board",* are objective legal concepts capable of verification through corporate records. Legislature could easily have used broader expressions such as "under the influence of", "connected person" or "beneficial control", but deliberately chose not to do so. No such expansive language has been employed in Section 79(2)(g).

63. This legislative choice becomes clearer when Part III is compared with Part II of the Code. Section 29A and the definitions of "related party" under Sections 5(24) and 5(24A) employ considerably wider language. The deliberate omission of comparable language from Part III cannot be regarded as accidental. It reflects a conscious legislative choice that the definition of "associate" applicable to individuals and personal guarantors should remain narrower than the concept of "related party" applicable to corporate insolvency.

64. The principal argument of the objecting creditors is that Section 79(2)(g) should receive a purposive interpretation so as to exclude all creditors acting under the influence of the Personal Guarantor. Reliance has been placed upon the BLRC Report and the Notes on Clauses accompanying the Insolvency and Bankruptcy Bill, 2015.

65. While statutory provisions should ordinarily be interpreted in a manner that advances their purpose, purposive interpretation cannot be used to rewrite clear statutory language. External aids such as committee reports may explain legislative intent where ambiguity exists, but they cannot enlarge the scope of a provision that the Legislature has deliberately enacted in specific terms.

66. In ***Padma Sundara Rao (Dead) v. State of Tamil Nadu,* (2002) 3 SCC 533**, the Constitution Bench of the Hon'ble Supreme Court, while explaining the doctrine of *casus omissus*, authoritatively held as under:

> *"12. It is well-settled principle in law that the court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent. The first and primary rule of construction is that the intention of the legislature must be found in the words used by the legislature itself...*
>
> *…*
>
> *14. While interpreting a provision the court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary."*

The aforesaid dictum unequivocally establishes that courts cannot supply omissions in legislation merely because a broader interpretation may appear desirable. The legislative intention must be gathered from the words actually enacted by the Legislature.

67. A similar approach has been adopted by the Hon'ble Supreme Court while interpreting provisions of the Insolvency and Bankruptcy Code. In ***ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta,*** **(2019) 2 SCC 1**, while construing the disqualifications contained in Section 29A, the Hon'ble Supreme Court emphasised that statutory ineligibilities under the Code are to be determined strictly in accordance with the language enacted by the Legislature and the scheme of the legislation. The Court observed that the provisions of the Code must be interpreted in a manner that gives effect to the legislative framework without either expanding or restricting the statutory disqualifications beyond what the legislature has expressly provided.

68. I therefore find no ambiguity in Section 79(2)(g). The statutory test is ownership exceeding the prescribed threshold or legal control over the governing body. Mere allegations of influence, prior business dealings, commercial proximity or family relationships do not satisfy the statutory requirement. To hold otherwise would amount to introducing words that the Legislature deliberately omitted. Accordingly, the expression "associate" must receive its plain and ordinary meaning as defined under Section 79(2)(g) of the Code, and the disqualification under Section 109(4)(b) must be confined strictly to the circumstances expressly contemplated therein.

69. This conclusion is reinforced by the nature of the consequence flowing from Section 109(4)(b). Excluding a creditor from voting deprives it of an important

statutory right affecting its financial interests. Such a disability cannot be imposed on the basis of suspicion or conjecture. The burden lies upon the party asserting disqualification to establish, through cogent and reliable evidence, that the statutory requirements are satisfied.

70. In the present case, the record discloses that repeated objections were indeed raised before the Resolution Professional regarding the eligibility of the disputed creditors. Those objections required careful consideration. However, the Tribunal must determine whether the material on record establishes the statutory ingredients of Section 79(2)(g), not merely whether circumstances exist giving rise to commercial suspicion.

71. Considerable reliance has been placed by the objecting creditors upon the judgment of the Hon'ble Supreme Court in *Phoenix ARC Pvt. Ltd. v. Spade Financial Services Ltd.* to contend that exclusionary provisions under the Code ought to receive a purposive interpretation so as to prevent persons acting under the influence of the debtor from participating in insolvency decision-making. This decision undoubtedly recognises the importance of excluding conflicted creditors from insolvency decision-making. However, it was rendered in the context of the concept of "related party" under Part II of the Code. Since Part III employs a materially different definition, the ratio of that decision cannot be mechanically imported into Section 79(2)(g), which reads as under:

> *"(g) a company, where the debtor or the debtor along with his associates, own more than fifty per cent. of the share capital of the company or control the appointment of the board of directors of the company."*

In regard to the above judgement, it is observed that there was a finding that the arrangement between the alleged financial creditors and the corporate debtor was collusive in nature and therefore, the judgement in the said matter cannot be applied to the facts of the present case as there is no such finding as to the collusiveness of the debt.

72. No material has been produced showing that the Personal Guarantor, either individually or together with his associates, as statutorily defined, owned more than 50% of the share capital of the concerned entities or exercised legal control over their Boards or governing bodies. However, there is no doubt about the fact that the said entities are controlled directly or indirectly by the individuals related to the PG. Legislature has adopted legal ownership and control, not commercial influence, as the statutory standard.

73. I find myself in agreement with the reasoning of the Learned Member (Judicial) based on various legal pronouncements that disqualification under Section 109(4)(b) must be determined strictly in accordance with Section 79(2). If experience shows that a wider exclusion is necessary, it is for the Legislature, and not the Tribunal, to amend the provision.

74. Accordingly, I hold that the objecting creditors have failed to establish that Veena Investments Private Limited, Direct Media Distribution Ventures Private Limited, World Crest Advisors LLP, Lemonade Capital Advisors LLP and Corpcall Capital Advisors LLP are associates of the Personal Guarantor within the meaning of Section 79(2)(g). Their participation in the Meeting of Creditors and exercise of voting rights cannot therefore be held contrary to Section 109(4)(b).

75. Once this conclusion is reached, the principal challenge to the voting process necessarily fails. Since the participation of these creditors was not shown to be legally impermissible, the approval of the repayment plan cannot be invalidated merely because they exercised their statutory voting rights.

Issue IV:

Whether the conduct of the Resolution Professional was in breach of the statutory duties cast upon him under the Insolvency and Bankruptcy Code, 2016 and, if so, whether such alleged deficiencies vitiate the Personal Insolvency Resolution Process or render the Repayment Plan liable to rejection

76. The next issue concerns the conduct of the RP during the Personal Insolvency Resolution Process. The objecting creditors contend that the RP failed to discharge the duties of fairness, impartiality, transparency and due diligence required under the Code, thereby vitiating the entire process leading to the approval of the Repayment Plan. The Learned Member (Technical) substantially accepted these objections, holding that the RP conducted the process in a hurried and opaque manner, admitted disputed claims without adequate scrutiny, failed to properly examine objections regarding associated creditors, denied creditors sufficient opportunity to consider the Repayment Plan and did not undertake an independent investigation into the financial affairs of the PG. The RP and the supporting creditors dispute these findings, contending that the statutory process under Chapter III of Part III of the Code was substantially complied with.

77. Before considering these allegations, it is necessary to appreciate the statutory role of the RP under Chapter III of Part III of the Code. The RP is not an adjudicating authority. His functions are administrative and facilitative in nature. He is required to collect and verify claims, obtain relevant financial information, convene meetings of creditors, facilitate preparation of the repayment plan, maintain neutrality among stakeholders and submit the statutory report to the AA. The Code does not contemplate the RP acting as an investigating agency with unrestricted powers or

as an adjudicator deciding disputed questions of fraud, title or complex commercial relationships.

78. The Hon'ble Supreme Court has consistently recognised this position. In *Swiss Ribbons Pvt. Ltd. v. Union of India* and *ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta*, the Court observed that the Resolution Professional performs an independent administrative and facilitative role rather than an adjudicatory one. Although these decisions arose under corporate insolvency, the same principles apply to Resolution Professionals functioning under Chapter III of Part III.

79. The administrative and facilitative nature of the RP's role does not, however, absolve him of the obligation to act fairly, impartially, transparently and with due diligence. At the same time, the duties of the RP must be assessed within the powers and functions expressly contemplated under the Code and the applicable Regulations. The question before this Tribunal is therefore not whether the RP could have undertaken greater investigation or exercised greater caution in every aspect of the process, but whether any act or omission on his part amounted to a breach of a statutory requirement and, if so, whether such breach materially affected the integrity of the insolvency process.

80. The first allegation concerns the participation of Veena Investments Pvt. Ltd., Direct Media Distribution Ventures Pvt. Ltd., World Crest Advisors LLP, Lemonade Capital Advisors LLP and Corpcall Capital Advisors LLP in the Meeting of Creditors and their participation in the voting process. As already held while considering the issue relating to the status of these entities as "associates" under Section 79(2)(g) of the Code, the objecting creditors have failed to establish the statutory requirements necessary to bring the said entities within the definition of "associate of the debtor". Consequently, Section 109(4)(b) did not render them ineligible to

participate or vote. The RP, therefore, cannot be faulted for permitting their participation on the ground that they were associates of the PG.

81. The next allegation concerns the failure of the RP to appoint an independent forensic auditor or asset-tracing agency to investigate the assets and financial affairs of the PG and determine his actual net worth. The earlier net-worth certificates relied upon by the objecting creditors undoubtedly furnished a legitimate basis for them to seek clarification regarding the substantial difference between the earlier and present figures. However, such discrepancy, by itself, does not establish concealment, diversion or fraudulent transfer of assets. The absence of such proof is significant.

82. The Code does not confer upon the RP under Chapter III of Part III a general investigative power comparable to the specific power conferred upon the Bankruptcy Trustee under Section 149. Nor does the statutory scheme make a forensic audit or asset-tracing exercise a mandatory precondition to consideration of a repayment plan under Section 114. The RP cannot therefore be faulted merely for not investigating every past transaction or asset of the PG. The allegation on this count is accordingly not established as a breach of his statutory duty.

83. The record also does not support the allegation that the RP denied creditors an opportunity to examine the financial disclosures of the PG. The Statement of Affairs of the PG had been placed before the creditors in the first Meeting of Creditors. Thereafter, at the second Meeting of Creditors, the minutes of the first meeting held on 18.09.2024 were taken up under **Item No. A3 – "TO TAKE NOTE OF THE MINUTES OF THE 1ST MEETING OF THE CREDITORS OF THE PERSONAL GUARANTOR DR. SUBHASH CHANDRA."** The record specifically states:

> *"Minutes of the 1st Meeting of Creditors held on 18.09.2024 were circulated to the members on*

20.09.2024. No observations on the contents of the minutes of meetings have been received, and the creditors were requested to confirm the minutes.
The Chairman invited creditors to discuss anything they would like on the minutes. There were no comments or observations from any of the creditors.
The minutes of 1st meeting of the creditors held on 18.09.2024 were confirmed unanimously."

84. The aforesaid record is significant in assessing the allegation that the RP failed to provide the creditors an opportunity to examine the financial disclosures of the PG. The Statement of Affairs had already been placed before the creditors in the first meeting and, when the minutes of that meeting were subsequently taken up under Item A3, the creditors were expressly invited to make comments or observations, and none were made. The minutes were thereafter confirmed unanimously. Thus, while subsequent objections regarding the PG's financial position were raised before this Tribunal, the contemporaneous record does not establish that the financial disclosures had been withheld from the creditors or that an objection contemporaneously raised regarding the Statement of Affairs was ignored.

85. The fact that certain creditors subsequently questioned the PG's financial position, including by relying upon the earlier net-worth certificates, cannot by itself establish that the RP had failed to place the relevant financial material before them. Such subsequent objections were open to consideration by the creditors and, ultimately, by this Tribunal. They do not retrospectively convert the RP's non-initiation of a forensic audit into a statutory breach, particularly when no independent material establishing concealment or diversion of assets was placed before the Tribunal. The earlier net-worth certificates raise a question requiring explanation, but do not by themselves establish fraud or illegality. There is no document placed on record

by the objecting creditors to demonstrate that they initiated any action for recovery of their outstanding by realisation of the said alleged assets based on the certificates produced now or that the said alleged assets still belong to the PG.

86. The position is, however, different in relation to the claims submitted by Mr. Anil Kumar and Mr. Sunil Jain on behalf of 960 and 300 individuals respectively. The record shows that, with respect to these claims, reliance was placed upon the explanation furnished on behalf of the PG that the concerned persons had rendered services or worked for him or his establishments and that financial assistance had been verbally committed to them. Significantly, the record itself notes that the individuals had no documents to support their claims. The claims were nevertheless admitted by the RP. The relevant extract of the minutes of the First meeting of creditors, which refers to the statement made by the PG himself, is as under:

> *"With regard to the claims of Mr. Anil Kumar (on behalf of 960 individuals), he stated that since the Personal Guarantor is also involved in politics, these individuals had worked for him in his parliamentary constituency and the Personal Guarantor has <u>verbally committed</u> to provide financial assistance to these individuals for the work done by them. The Personal Guarantor further submitted that similarly, with regard to the claim of Mr. Sunil Jain (on behalf of 300 individuals), there was plant in Shirpur and a large number of individuals in various capacities have worked over the past many years in that plant, sometimes without even taking the salary. The amount owed to them individually is very small. So, he felt that by way of this insolvency resolution process, he shall not hide any even a single rupee and that is the reason, he*

disclosed his liabilities towards these individuals even though they have <u>no documents to support their claim.</u>"

87. The subsequent justification that the claims were admitted to avoid litigation and facilitate an early resolution cannot substitute the statutory requirement of verification. Where the very existence and genesis of the alleged liabilities were unsupported by documentary material, the RP was required to undertake appropriate verification and, where necessary, call for further supporting material before admitting the claims. The admission of these 2 sets of claims merely on the basis of the explanation furnished by the PG was therefore erroneous.

88. This conclusion is not altered merely because the claims were comparatively small in value or because their admission was considered conducive to an expeditious resolution. Expedition cannot override the statutory requirement that claims forming part of the list of creditors and having a bearing upon the voting process must be appropriately verified. The RP accordingly committed a lapse in the discharge of his statutory functions in admitting the claims submitted through Mr. Anil Kumar and Mr. Sunil Jain without adequate supporting material.

89. In the present case, the material on record does not establish that the RP acted with *mala fide* intention, favoured any particular creditor, or deliberately deprived the creditors of their statutory rights. The established lapses are required to be recorded, but they do not, in the facts and circumstances of the present case, establish that the entire Personal Insolvency Resolution Process stood vitiated.

90. Accordingly, I hold that the RP committed a lapse in the discharge of his statutory functions in admitting the unsupported claims submitted through Mr. Anil Kumar and Mr. Sunil Jain and in not adhering strictly to the statutory timeline under Sections 106(4)(a) and 107(1). However, the remaining allegations of *mala fide*

conduct, deliberate suppression of financial information, wrongful participation of associate creditors and mandatory failure to conduct a forensic investigation are not established. The proved lapses, considered in their proper context, do not by themselves vitiate the entire Personal Insolvency Resolution Process.

Issue V:

Whether the shorter notice period for convening the Meeting of Creditors, and the non-compliance with the time requirements under Sections 106(4) and 107(1) of the IBC, 2016, warrants rejection of the Repayment Plan?

91. It is not in dispute that the 1st Meeting of Creditors was convened within the notice period of 14 days from the date of notice. However, the statutory requirement under Sections 106(4)(a) and 107(1) is not merely with respect to the period of notice. Section 106(4)(a) requires that the Meeting of Creditors be held not less than 14 days and not more than 28 days from the date of submission of the report under Section 106(1). In the present case, the report under Section 106(1) was submitted on 17.10.2024, whereas the Meeting of Creditors was held on 24.10.2024. Thus, although the meeting was convened pursuant to notice, it was held before expiry of 14 days from the submission of the report and, consequently, the statutory requirement under Section 106(4)(a), as well as the corresponding notice requirement under Section 107(1), were not strictly complied with.

92. At the same time, the circumstances in which the shorter notice was adopted cannot be ignored. In the 1st Meeting of Creditors, the creditors had expressly resolved to reduce the notice period for meetings from 14 days to 5 days in normal circumstances and, in extraordinary circumstances, to 48 hours. Thus, the

shortened notice was not merely an unilateral decision of the RP, but was pursuant to a decision taken with the unanimity of the creditors.

93. I am conscious that the consent of the creditors cannot, in law, override or amend a statutory requirement contained in the Code. The non-compliance with Sections 106(4)(a) and 107(1) must therefore be recorded. However, the consequence of such procedural irregularity has to be considered in the context of the purpose for which the notice requirement exists, namely, to afford creditors a meaningful opportunity to participate in the consideration and voting upon the Repayment Plan.

94. In the present case, the facts do not establish that any creditor was deprived of such opportunity. In particular, the creditors representing approximately 4.10% of the voting share who did not ultimately vote were nevertheless present at the 2nd Meeting of Creditors. Their presence demonstrates that the shorter period did not, in itself, prevent them from participating in the proceedings or from considering the Repayment Plan.

95. Further, the voting period was extended till 31.10.2024 to enable the creditors to take a considered decision. Thus, the creditors were not required to make an immediate decision merely because the meeting had been convened on a shorter timeline. They had the opportunity to go through the documents placed before them, consider the Repayment Plan and thereafter exercise their voting rights during the period from the date of issuance of notice, i.e., from 17.10.2024 till the last date of the voting, i.e., till 31.10.2024. The process therefore afforded sufficient practical opportunity to the creditors to understand and decide upon the Plan.

96. It is also material that the creditors who were required to vote did, in fact, exercise their voting rights and the Repayment Plan was approved by the requisite majority.

There is no material on record demonstrating that any creditor was prevented from voting, was unable to examine the Plan or its supporting documents, or was otherwise prejudiced in the exercise of its statutory rights on account of the shortened timeline.

97. The distinction between non-compliance with a statutory timeline and the consequence flowing from such non-compliance must, therefore, be maintained. I record that the requirements of Sections 106(4)(a) and 107(1) were not strictly complied with. However, in assessing whether the Repayment Plan should consequently be rejected, the Tribunal cannot lose sight of the actual circumstances in which the meeting was conducted. The creditors themselves had unanimously consented to the shorter notice mechanism; the creditors representing 4.10% [Axis Trustee Services Limited, Catalyst Trusteeship (HDFC Asset Mgt. Co.), IDBI Trusteeship (Edelweiss Fund), IndusInd Bank Limited] who did not vote were present at the time of the 2nd Meeting of Creditors; the voting period was extended; the creditors had an opportunity to examine the relevant documents and take a considered decision; and the Plan was thereafter approved by the requisite majority. It is also important here that those creditors who have actually voted on the repayment plan cannot now, after the voting is contrary to their expectations, take the plea that the period was insufficient for them to take a decision.

98. No actual prejudice to the interest of any creditor has been demonstrated on account of the shorter notice period. The substantive purpose of the notice requirement of enabling the creditors to participate meaningfully in the decision-making process was substantially achieved in the present case.

99. I am, therefore, of the view that the procedural irregularity, though deserving of being recorded, cannot by itself constitute a ground for rejection of the Repayment Plan under Section 114. The fact that the prescribed statutory timeline was not strictly followed cannot be treated as an automatic nullification of the decision of the creditors, particularly when the creditors participated in the process, had sufficient opportunity to consider the material placed before them, and no prejudice has been established.

100. Accordingly, I hold that while there was non-compliance with the timelines prescribed under Sections 106(4)(a) and 107(1) of the Code, such non-compliance, in the peculiar facts and circumstances of the present case, does not warrant rejection of the Repayment Plan. The Plan shall therefore be considered for approval on its substantive merits and in light of the other statutory requirements under Section 114 of the Code.

<u>Issue VI:</u>

Whether the Repayment Plan satisfies the requirements of the Insolvency and Bankruptcy Code, 2016 and deserves approval under Section 114, and whether, upon such approval, the Plan is binding on the creditors, including dissenting creditors, subject to their remedies available in law?

101. The question under consideration is whether the Repayment Plan placed before this Tribunal satisfies the requirements of the IBC, 2016 so as to warrant approval under Section 114 and, upon such approval, what would be the legal effect of the Plan upon the creditors, including those who have not voted in its favour.

102. Section 114 of the IBC requires the AA to examine the Repayment Plan in the light of the report of the RP submitted under Section 112. The statutory scheme, therefore, requires the Tribunal to satisfy itself that the Plan has been considered in accordance with the procedure prescribed under the Code and that there exists no statutory infirmity which would render the Plan incapable of approval. The jurisdiction under Section 114 is to be exercised within the framework of the Code and does not contemplate the Tribunal substituting its own commercial assessment for the decision taken by the creditors in exercise of the commercial discretion vested in them by the statutory scheme.

103. In the present case, the Repayment Plan was placed before the creditors and was considered in the meeting convened for that purpose. The creditors had the opportunity to consider the terms of the proposal, raise their objections and express their decision upon the Plan. The requisite majority of creditors voted in favour of the Repayment Plan. The fact that certain creditors have opposed the Plan or have raised objections regarding the financial affairs of the PG does not, by itself, render the Plan incapable of approval. As discussed in the preceding Issues, the objections have to be examined with reference to the material available on record and the statutory requirements governing approval under Section 114.

104. The objections raised by the creditors have been considered in detail in the preceding Issues. Certain concerns may justify verification, clarification or appropriate consequential directions; however, the material on record does not establish such a fundamental statutory infirmity, material irregularity, fraud or concealment as would require the entire Repayment Plan to be rejected. The mere possibility that further assets or liabilities may subsequently come to light cannot, in the absence of material establishing a statutory disqualification or other ground

warranting rejection, be treated as sufficient reason to indefinitely postpone the insolvency resolution process of the PG.

105. The statutory scheme also gives significance to the collective decision of the creditors. Once the creditors have been provided an opportunity to consider the Plan and the requisite majority has approved it, the Tribunal is required to determine whether the Plan can legally be approved under Section 114. It cannot reject an otherwise compliant Plan merely because an individual creditor considers that a different repayment arrangement would have been more advantageous to it. Creditors' commercial decisions, however, operate within the limits prescribed by the Code and do not dispense with the statutory scrutiny required of the AA.

106. Once the Repayment Plan is approved under Section 114, its binding effect is governed by Section 115 of the Code. The Adjudicating Authority cannot make the Plan binding only on the creditors who voted in its favour while allowing dissenting creditors to independently pursue recovery of their full original debt. Section 115 does not contemplate selective application of an approved Repayment Plan. Accordingly, the approved Plan is binding on all creditors covered by it, whether assenting or dissenting. Granting dissenting creditors liberty to recover the full debt outside the Plan would defeat the statutory scheme and result in unequal treatment of creditors.

107. Therefore, the dissenting creditors cannot be permitted to avail independent remedies for recovery of the full debt in a manner inconsistent with the approved Repayment Plan.

108. The constitution of the list of creditors for implementation of the Plan also requires appropriate correction. In view of the findings recorded hereinabove, Mr. Sunil Jain and Mr. Anil Kumar are required to be excluded from the list of creditors for the

purposes of implementation of the Repayment Plan. Their exclusion is required to be reflected in the final list upon which the distribution contemplated under the Plan is to be made.

109. The exclusion of the aforesaid two persons does not, however, necessitate reopening or rejection of the entire Repayment Plan. The issue is essentially one of giving effect to the Plan on the basis of the correct list of eligible creditors. Consequently, the amount which had been allotted under the Plan towards repayment to Mr. Sunil Jain and Mr. Anil Kumar shall become available for distribution amongst the remaining eligible creditors. The said amount shall accordingly be appropriately redistributed amongst the creditors appearing in the revised and final list of eligible creditors, in accordance with the terms and methodology of the approved Repayment Plan.

110. For this purpose, the revised and final list of creditors, along with the consequential calculation of the amount payable to each eligible creditor, in my view, is required to be placed **before the Regular Bench**, which shall pass appropriate consequential and implementation directions. The exercise shall be confined to giving effect to the exclusion of the aforesaid two persons and the consequential redistribution and shall not amount to modification of the substantive terms of the Repayment Plan approved herein.

111. The above directions ensure that the amount contemplated for repayment under the Plan continues to be utilised for the purpose for which the Plan was approved, i.e., repayment to the eligible creditors in accordance with the statutory framework. Therefore, there is no necessity to treat the exclusion of two persons from the creditor list as a ground for rejection of the Plan itself.

112. Having considered the statutory framework, the report of the Resolution Professional, the voting outcome, the objections raised by the creditors, and the findings recorded on the preceding Issues, I am of the opinion that the Repayment Plan meets the requirements for approval under Section 114 of the Code. The objections raised by the creditors, individually or collectively, do not disclose any such statutory infirmity, material irregularity or other circumstance as would warrant rejection of the Repayment Plan. The requisite majority of creditors has approved the Plan and no sufficient ground has been made out for this Tribunal to interfere with the collective decision of the creditors.

113. Accordingly, Issue VI is answered in the affirmative. The **Repayment Plan satisfies the requirements of the Insolvency and Bankruptcy Code, 2016 and deserves to be approved** under Section 114, **subject to**:

a) exclusion of Mr. Sunil Jain and Mr. Anil Kumar from the list of creditors;

b) amendment of the list of creditors prepared by the Resolution Professional with the only change of excluding the above two individuals along with all the persons they represented from the list of creditors.

c) appropriate redistribution of the amount allotted for the aforesaid two persons along with those whom they represented amongst the creditors included in the revised list, in accordance with the approved Repayment Plan;

d) placing the revised list and consequential distribution statement before the Regular Bench for appropriate consequential and implementation directions; and

e) the approved Repayment Plan being binding upon the creditors, including dissenting creditors, in accordance with law, while preserving such independent remedies as may otherwise be available to them in respect of matters not barred, extinguished or otherwise dealt with by the approved Plan including the remedy to approach this Adjudicating Authority for recall of its order in case it is discovered at any subsequent stage that some material assets belonging to the Personal Guarantor were fraudulently concealed by him.

The approved Repayment Plan, in my opinion, is accordingly required to be given effect to in the aforesaid terms.

Issue VII:

I.A. No. 274/2025 (STCI Finance Limited)

114. I.A. No. 274 of 2025 has been filed by STCI Finance Limited, contending that, as a secured financial creditor holding an equitable mortgage over certain immovable properties of the Personal Guarantor, the Repayment Plan ought not to be approved unless its security interest is adequately protected. It is argued that the proposed treatment of its claim impairs its mortgage rights and is contrary to Section 110(5) of the Code.

115. There is no dispute that STCI Finance Limited ("STCI") holds a mortgage over certain immovable properties of the Personal Guarantor. It is also undisputed that the Personal Guarantor has not furnished any personal guarantee in respect of the financial facilities extended by STCI to the principal borrowers. The claim of STCI, therefore, does not constitute a debt due from the Personal Guarantor in the absence of any contract of personal guarantee. STCI, however, remains entitled to enforce its security interest over the mortgaged property in accordance with law. The question that arises for consideration is whether such security interest confers

upon STCI a right to prevent approval of the Repayment Plan or whether its concurrence is mandatorily required under Section 110(5) of the Code.

116. In my view, the Repayment Plan does not extinguish, harm or otherwise affect the right of STCI Finance Limited to enforce the security created in its favour. Consequently, the requirement of obtaining the concurrence of STCI under Section 110(5) is not attracted. Section 110(5) of the Code is reproduced hereunder :

> *"110. Rights of secured creditors in relation to repayment plan. –*
>
> *…*
>
> *(5) The concurrence of the secured creditor shall be obtained if he does not participate in the voting on repayment plan but provision of the repayment plan affects his right to enforce security."*

117. Section 110(5) requires that the proposed treatment of the secured creditor's interest be placed before it. However, the provision does not confer a veto upon an individual secured creditor over a repayment plan that otherwise complies with Part III of the Code and the repayment plan does not affect the right of the secured creditor to enforce its security.

118. In the present case, I find no material to show that the Repayment Plan extinguishes or impairs STCI Finance Limited's security interest in a manner contrary to the Code and therefore, the concurrence of STCI Finance Ltd., in my view, is not required. The objections relate primarily to the commercial treatment of its claim and do not disclose any illegality in the approval process.

119. I, therefore, find no merit in **I.A. No. 274 of 2025** and accordingly am of the opinion that the same needs to be **dismissed** with the clarification that STCI Finance Limited shall remain at liberty to enforce its security interest over the mortgaged property and recover its dues in accordance with law.

Remaining Interlocutory Applications

120. **I.A. No. 5505 of 2024** is the principal application seeking approval of the Repayment Plan submitted by the Personal Guarantor. In view of the findings recorded hereinabove, particularly under **Issue VI**, this application deserves to be **allowed**, and the Repayment Plan is accordingly required to be **approved under Section 114 of the Insolvency and Bankruptcy Code, 2016**, **subject to the directions contained in this order**, including the exclusion of Mr. Sunil Jain and Mr. Anil Kumar along with the persons they represented from the list of creditors, preparation of a revised and final list of eligible creditors after the exclusion of these two creditors along with the persons they represented and consequential redistribution of the amount amongst the remaining eligible creditors.

121. The other pending matters, namely **I.A. No. 134/2025, I.A. No. 246/2025, I.A. No. 6125/2024, I.A. No. 6124/2024, I.A. No. 6014/2024, and Inv. Petition No. 5/2024**, raise issues which have been considered and with respect to which my opinion has been expressed in the preceding Issues of this opinion. In view of the findings recorded hereinabove, no further order is warranted in these applications except in terms of the consequential directions contained in this order. These applications are accordingly required to be **disposed of in terms of the findings and directions recorded hereinabove**.

122. **I.A. No. 2806/2026**, filed by Canara Bank, concerns the subsequent event relating to the reported sale of the property situated at 4, Bhagwan Das Road, New Delhi. The PG has specifically clarified that the said property does not belong to or stand in his ownership, but is owned by Greatway Estates Private Limited and is mortgaged with JC Flowers Asset Reconstruction Company Limited. It has further been clarified that the PG neither sold the said property nor received any sale

consideration therefrom. The PG has also stated that the relevant particulars of the property had already been disclosed in the Repayment Plan submitted before the RP. It is also pertinent to note that a mere newspaper or media publication, unsupported by independent documentary or other reliable material establishing the ownership, sale, receipt of consideration or connection of the asset with the Personal Guarantor, cannot by itself constitute a sufficient basis for initiating an enquiry or drawing an adverse inference against the Personal Guarantor. An enquiry in the insolvency process must have some evidentiary foundation and cannot be founded merely upon a media report or newspaper publication. In the present case, the very premise of the application stands displaced by the clarification and material placed on record by the Personal Guarantor that the property is owned by Greatway Estates Private Limited and not by him.

In view of the aforesaid clarification and the findings recorded hereinabove regarding the absence of material establishing suppression or concealment of assets, no further enquiry or direction is warranted in the said application. Accordingly, I am of the opinion that **I.A. No. 2806/2026** deserves to be **dismissed**.

In view of the analysis & findings made above, my answers to the issues/ points for difference of opinion framed by both the Hon'ble Members are as under:

I. <u>Issues / points of difference of opinion framed by the Hon'ble Member (Judicial)</u>

1. When Section 114 of IBC, 2016, specifically provides that the Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of report of meeting of the creditors submitted by the Resolution Professional under Section 112 of IBC, 2016, whether it is open to this Tribunal to pass any order de-hors the report of the meeting of creditors.

Ans: Considering the analysis & findings in regard to the 'Issue I' as stated above, normally when the process for approval of a Repayment Plan has been lawfully followed, the AA is bound to approve or reject the Repayment Plan based on the report of the Meeting of the Creditors. However, in case, it is found that the process for approval of Repayment Plan has not been lawfully run and there are violations of the provisions of law during the said process, in my view, the Adjudicating Authority is empowered and also under an obligation to pass orders *de hors* the report of the RP as to the Meeting of the Creditors, including issuance of directions for re-convening a meeting of the creditors for reconsidering the repayment plan and also for rectification of other defects in the running of said process. However, in this matter, I am of the view that there is nothing on record demonstrating that the process for approval of the Plan has not been lawfully run or there are violations of the provisions of law, which are so material that a resolution plan should not be approved.

2. When the report of meeting of creditors submitted by the Resolution Professionals could espouse that the repayment plan had been approved by majority of more than 3/4th in value of the creditors, whether this Tribunal can reject the repayment plan.

Ans: Considering my analysis & findings in respect of 'Issue I' above, I'm of the view that:

Approval by the requisite statutory majority is an important consideration, but it is not conclusive where the process by which that majority approval is obtained is itself legally defective.

In the present case, however, I am of the view that there is nothing on record to show that the process for approval of the plan has not been lawfully run or that there are violations of the provisions of law, which are so material as to nullify the approval of the Plan by 80.814% in value of the Creditors.

3. When unlike Section 30(2) of IBC read with Section 30(1) thereof, in terms of which the Adjudicating Authority is given discretion to interfere with the Resolution Plan on certain grounds the Section 106(2)(a) read with Section 114(1) of IBC, 2016, does not reserve any such discretion to the Adjudicating Authority and is decision is to be based on report under Section 112 of IBC, whether this Adjudicating Authority can refuse to approve the repayment plan submitted by the RP based on the report of meeting of the creditors.

Ans: Considering my analysis & findings in respect of 'Issue I' above, I'm of the view that:

Section 114, especially its sub-section (3), requires the Adjudicating Authority to apply its judicial mind before approving or rejecting the Repayment Plan, and if it is of the opinion that the Repayment Plan requires modification, it may direct the RP to re-convene a meeting of creditors to reconsider the Repayment Plan. The absence of language identical to Section 30(2) does not make approval under Section 114 automatic upon the Plan receiving the requisite majority.

The discretion, however, is to be exercised for the purpose of ensuring compliance with the statutory framework and the legality and validity of the process. It does not authorise the Tribunal to sit in appeal over the commercial wisdom of the creditors.

*4. **When the ramification of PIRP under Part III of IBC is repayment of debt after restructuring of the same, whether application of Section 115(1) of IBC to those who have accepted the repayment plan with restructured debt and giving liberty to those who have not voted in favour of the plan to resort to remedies available to them to recover the full debt would not be the apposite approach.***

Ans: Considering my analysis & findings in respect of 'Issue VI' above, I'm of the view that:

Once the Plan is approved, its statutory consequences under Section 115 follow and cannot be selectively applied only to consenting creditors. Moreover, once a personal guarantor has given a repayment plan based on the value of the assets owned by him, the said remedies, even if allowed to the dissenting creditors, will not be of any legal consequence, as normally the personal guarantor is not left with many assets after the said process and the repayment plan is normally to be based on the value of all the assets of the PG, otherwise the creditors will not approve the plan and will insist for initiation of the bankruptcy process wherein all the assets (except excluded assets) of the PG are taken over, disposed off and sale proceeds of the same are distributed amongst the creditors as per their respective legal rights. Moreover, one of the objectives of the Insolvency Resolution Process in respect of Individual Guarantors is to give them a discharge from their past dues and to enable them to start their business activities afresh, gets defeated.

5. When the object of Part III of IBC, 2016, is to resolve the insolvency of a Debtor / Personal Guarantor by enabling him to prepare in consultation with the Resolution Professional, a repayment plan containing a proposal for the creditors for restructuring of his debts or affairs and the repayment plan so prepared by the RP could be approved in terms of the provisions of Section 111 of IBC, 2016, whether it is not complete justice done to the parties, when the plan is made binding only on those who have voted in favour of the plan and liberty is given to those who did not vote in favour of the plan to resort to the remedies available to them for recovery of debt in accordance with law.

Ans: The binding effect of an approved Repayment Plan is statutory in nature and is governed by Section 115, and the Tribunal cannot alter its consequences by making the Plan binding only upon consenting creditors and granting dissenting creditors an independent right to recover the original debt. The opinion as given in regard to Question '4.' above applies to this issue also.

6. When the ramification of PIRP is repayment of debt after restructuring and when the Applicants in IA-6014/2024, 6124/2024, 6125/2024, 134/2025, 246/2025 as also Union Bank of India and LIC Housing Finance Limited, who did not vote in support of the repayment plan are given liberty to resort to the remedies available to them for recovery of their debt in accordance with law and these are only such creditors

who have voted in favour of the repayment plan are directed to be governed by Section 115(1) of the Code, whether the creditors who have not voted in favour of the plan would not be in better position to recover their debt from a solvent debtor than being a claimant/co-sharer with the other creditors in Bankruptcy process.

Ans: My opinion as given in regard to Question No. ‘4.’ and ‘5.’ above, applies to this issue also and I reiterate, that as per Section 115, the approved plan under Section 114 is binding on all the creditors, whether assenting or dissenting to the Repayment Plan, and this AA is not empowered to apply the approved Repayment Plan selectively only to those who have voted in favour of the approval of the Repayment Plan.

7. When object of IBC is to resolve the insolvency of the CD and unlike CIRP (where in liquidation, the CD stands dissolved) in PIRP, it is not so that the Bankrupt Stand disqualified u/s 140/ 141 for ever, but under section 138 of the code he get discharged from bankruptcy within one year and then he is again solvent for all purposes (being discharged from all liabilities), whether it is not in the interest of creditors who did not support the plan if the debtor is solvent to discharge the liability qua them.

Ans: In my opinion, the answer to the above is ‘No’ for the reason that once a discharge order is passed u/s 138 of IBC, 2016, the creditors cannot be allowed to proceed against the personal guarantor for recovery of the past dues with respect to which the discharge order u/s 138 of IBC has been passed. Moreover, it is reiterated that it is beyond the powers of this AA to direct that the binding effect of the Repayment Plan as per Section 115 shall not apply to the dissenting creditors and they will still be entitled to recover the dues from the PG even after issuance of Discharge Order.

8. When IBC is a beneficial process to put the debtor back to his feet by giving him opportunity to offer restructured repayment plan to all the creditors and then to give him benefit of section 138 of IBC to rescue him and to put him back to his feet and when in the present case the creditor who had not initiated the beneficial process have also not accepted the repayment plan and have pleaded that the debtor has the assets, whether justice wd. not be administered to such creditors by not binding them u/s 115(1) of IBC.

Ans: This Question is a reiteration of the issues as made in Question Nos. “4.-7.” above and therefore, my opinion in regard to the above Questions shall apply to this Question as well. As has been stated above, as per Section 115(1), the approved plan is binding on all the creditors, whose dues have been dealt with in the repayment plan, and it is beyond the powers of the AA to direct that the approved plan will not be binding upon the dissenting creditors.

9. When it is not so that any of the creditors did not get opportunity to vote qua the plan or did not get opportunity to participate in the meeting and no prejudice is caused to anyone on this account, whether in the application filed u/s 114 of the code, early convening of meeting of creditors or acceleration of the steps qua PIRP, initiated in the year 2022, (particularly in a case where the prescribed period of PIRP had to be extended) could be of any relevance or consequence.

Ans: In my opinion, based on the analysis as made in 'Issue V' above, in a situation when all the creditors have got the opportunity to participate in the Creditors Meeting convened for approval of a repayment plan, all, except those representing approximately 4% of the dues of the Personal Guarantor, have participated in voting, when the creditors had unanimously resolved to reduce the notice period for a meeting to 5 days, sufficient time has been made available to them for voting by keeping the longer period for voting by them than the minimum prescribed period of 24 hours as per Regulation 15(3) of relevant IRP Regulations, when no prejudice is caused to them and the repayment plan is approved by the required majority of not less 75%, early convening of meeting or acceleration of the steps qua PIRP could not be of any adverse consequence in regard to the approval of the repayment plan.

10. Whether in a case where no secured creditor raised the issue regarding denial of right of vote to him regarding secured or unsecured debt, whether at the stage of consideration of application under Section 114 of IBC 2016, the process prescribed under Section 110 of the Code was of any relevance.

Ans: As has been stated above in 'Issue VII', there is no provision in the Repayment Plan that affects the right of STCI Finance Limited to enforce its security interest and also that STCI is not holding any Guarantee given by the PG and its debt is limited to the value of its security interest only qua the PG, its concurrence to the repayment plan is not required under the provisions of Section 110(5).

11. Whether a company in which the Debtor alone or the Debtor along with his Associates does not own more than 50 percent of Shares Capital of the Company or doesn't Control the appointment of Board of the Directors of the Company can be called his Associate, in terms of the provisions of Section 79(2)(g) of IBC.

Ans: Considering my analysis & findings in respect of 'Issue III' above, I'm of the view that:

For the purpose of Section 79(2)(g), the statutory requirements concerning ownership or control must be satisfied. Mere influence, business relationship, family connection, commercial proximity or alleged indirect influence is insufficient. Where the debtor, alone or together with the relevant persons, neither holds more than 50% of the share capital nor controls the composition of the Board or governing body of the creditor entity in the manner contemplated by the provision, the entity cannot be treated as an associate merely based on an alleged relationship or influence.

12. When the RP had moved an application u/s 100 (2) of IBC and the same had been allowed, whether any violation of section 100 (2) could be alleged at the stage of consideration of application / report prepared under Section 112 of IBC and provided to AA u/s 113 of IBC, in passing the order u/s 114(1) of IBC, 2016.

Ans: In my view, violation of Section 100(2) cannot be alleged at the stage of consideration of Application/Report u/s 112 of IBC in passing the order u/s 114 of the IBC after the Repayment Plan has been approved by the creditors with a required majority.

13. When the entire process of PIRP, particularly the provisions of sections 99, 100, 105, 106, 112, 113 and 114 thereof gives pre dominance to views/ recommendations of RP, whether in the wake of such provisions it is open to Adjudicating Authority to go behind/beyond the report of RP prepared under Section 112 of the Code and provided to this AA under Section 113 of the Code, while passing order u/s 114 of the Code.

Ans: Considering my analysis & findings in respect of 'Issue I' above, I'm of the view that:

Section 114, especially its sub-section (3), requires the Adjudicating Authority to apply its judicial mind before approving or rejecting the Repayment Plan, and if it is of the opinion that the Repayment Plan requires modification, it may direct the RP to re-convene a meeting for creditors to reconsider the Repayment Plan. In view of the same, I am of the opinion that the AA is not only empowered but also has a legal obligation to go beyond the RP's report u/s 112 to determine that the process which has been followed for approval of the Plan is as per the applicable provisions of law and that there is no violation of the said provisions. In this matter, however, I am of the view that there is no material violation of the provisions of law, which requires that the repayment plan approved by the Creditors at their meeting may not be validly approved.

14. Whether in the wake of there being pre dominance of report of RP prepared by RP u/s 112 of IBC in decision u/s 114 of code the interest of justice is not better served by protecting the right and interest of creditors who did not accept the plan by not binding them u/s 115 (1) of the code than entering into gamut of facts and recording findings of facts without having such jurisdiction and / or any Mechanism to do so.

Ans: The interests of justice are best served by maintaining the statutory distinction between the Tribunal's supervisory jurisdiction under Section 114 and the commercial decision-making function of the creditors. The Tribunal should not undertake a de novo factual or commercial examination merely because certain creditors disagree with the Plan. At the same time, where a mandatory statutory defect has affected the process for approval of the Repayment Plan, the Tribunal cannot simply disregard that defect by not making the Repayment Plan binding in respect of the dissenting creditors, and therefore, selectively applying Section 115. The Code itself provides the appropriate corrective mechanism through Section 114(3), under which reconsideration of the Plan may be directed. However, in this matter there is nothing which is so material as to mandate reconsideration of the plan by the Creditors at their meeting. However, there is an amendment required to the List of Creditors by exclusion of the claims of Mr. Anil Kumar and Mr. Sunil Jain along with those represented by them and consequential redistribution of the amount to be distributed as per the repayment plan amongst the remaining creditors. However, the same is not going to affect the approval of the repayment plan as the impact of the said amendment is so miniscule that the voting share of those creditors, who have approved the repayment plan, remains much more than the threshold of three-fourths in value of the Creditors, which is required for approval of the repayment plan as per Section 111 of the Code.

15. Wd. Rejection of repayment plan not give rise to a possibility where the Debtor would be immune from various proceedings without discharging his liabilities.

Ans: Consequences of approval of a Repayment Plan u/s 114 and application of Bankruptcy Process under Chapter IV and V of Part III of IBC, 2016 result in the same consequence, i.e., discharge of the PG from his past liabilities, and that the creditors do not get any additional advantage in case the Repayment Plan is approved u/s 114. As such, I respectfully disagree with the opinion of the Ld. Judicial Member in this regard.

16. Whether in exercise of jurisdiction u/s 114 of IBC 2016, it is open to Adjudicating Authority, to go into the issue whether the claim filed by any creditors, not disputed by the debtor and accepted by the RP is dubious and whether any such view would not render the admission of application filed under Section 95 of IBC, 2016, as questionable, for the simple reason that the Applicant who file the application also supported the repayment plan.

Ans: A claim which has been accepted by the RP and has not been disputed by the Debtor should not ordinarily be reopened by the Adjudicating Authority at the Section 114 stage merely because another creditor subsequently questions it. Such interference would be justified only where cogent material demonstrates fraud, illegality or a defect going to the root of the process. In the present case, the specific deficiency established concerns the claims submitted through Mr. Anil Kumar and Mr. Sunil Jain; that finding cannot be mechanically extended to every claim admitted by the RP. In my view, the fact that the Applicant who filed the Application also supported the Repayment Plan does not mean that the AA cannot go into the issue of acceptance of a claim by the RP without any documentary evidence.

17. When the creditors could exercise their right to vote, whether any question remained to be decided by Adjudicated Authority regarding adequacies of opportunity to vote, by the creditors.

Ans: In this regard, my detailed opinion is contained in respect of 'Issue V' above. As such, in my view, in a situation when all the creditors have got the opportunity to participate in the Creditors Meeting convened for approval of a repayment plan, all, except those representing approximately 4% of the dues of the Personal Guarantor, have participated in voting, when the creditors had unanimously resolved to reduce the notice period for a meeting to 5 days, sufficient time has been made available to them for voting by keeping the longer period for voting by them than the minimum prescribed period of 24 hours as per Regulation 15(3) of relevant IRP Regulations, when no prejudice is caused to them and the repayment plan is approved by the required majority of not less 75%, the plea of inadequacy of opportunity of vote by some creditors is not maintainable.

18. When in para 15 to 18 of the application filed by RP, reproduced in para 20 of the order authored by Member (J), the provisions of Section 106, 107, 108, 109, 110 and 111 are referred to, whether a view can be taken that the aforementioned provisions could be ignored to be considered in the process.

Ans: The statutory provisions in Sections 106-111 cannot be ignored; however, as per the provisions of Section 114(3), the AA is required to consider and form an opinion in regard to the Plan to determine whether the same requires modification. While doing so, it is a legal obligation of the AA to examine whether the process for approval of the Plan has been run by following the applicable provisions of law. In my opinion, in this case there is nothing on record to show that the process for approval of plan has been run in material violation of the provisions of law so as to render the repayment plan approved by the Creditors in their meeting as a nullity.

19. When qua the debt of STCI Finance Limited, the debtor did not stood as Guarantor and when only a mortgage deed was signed and the stand by the STCI in para 17(f) and in prayer clause f of IA-274/2025 and its counsel during the course of hearing was only that the creditor wanted to sell the mortgaged property and the property should not be treated as part of asset of the debtor whether the view taken by the RP and the Applicant in IA-274/2025 noted in para 30 of the order authored by Member Judicial is no apt.

Ans: There is no provision in the Plan which affects the right of STCI Finance Ltd. over the asset mortgaged in its favour, and therefore, Section 110(5) does not require the concurrence of the STCI to the Repayment Plan and therefore the view of the Ld. Judicial Member in para 30 of the order is apt.

20. Whether the view taken in the order authored by Member (J), with reference to the provisions of Sections 109(4)(b), 79(2)(g) and 5(24A) discussed in paras 36-42 of the order authored by him regarding "associate" is correct or not.

Ans: The view taken by the Hon'ble Member (J) concerning the alleged associates is correct to the extent that the material on record does not establish the disputed entities as associates within the meaning of Section 79(2)(g). The statutory definition cannot be expanded merely because the entities are alleged to have family, business or commercial proximity with the PG.

21. Whether in exercise of Jurisdiction u/s 114 of the code, this Tribunal can question the claim/ debt of the creditors not opposed / questioned by the debtor/ PG and accepted by the RP.

Ans: The Tribunal may examine an admitted claim at the Section 114 stage only where there is clear material indicating fraud, illegality, or a defect going to the root of the insolvency resolution process. In the present case, except for the specific deficiency identified in relation to the claims represented by Mr. Anil Kumar and Mr. Sunil Jain, no such foundational defect has been established.

22. When the only possible design of voting in favour of repayment plan may be dilution of Debt of those who did not vote in favour of the plan, whether the concern wd. not be better addressed by not binding the dissenting creditors u/s 115 of the code.

Ans: The apprehension that the approval of the Repayment Plan may result in dilution of the claims of creditors, who voted against it, does not permit the Tribunal to exclude such creditors from the statutory operation of Section 115. Moreover, there is no allegation raised by any creditor that the treatment given to the similarly placed creditors is different. The debt of all the creditors, whether assenting or dissenting, will get diluted as a result of approval of the resolution for the reason that the PG is having insufficient assets to repay all the claims of the creditors. The rights of dissenting creditors must be determined in accordance with the Plan as approved and the consequences expressly provided by the Code.

II. Issues framed by the Hon'ble Member (Technical)

1. Whether or not, on the facts and circumstances of the case, RP's conduct was capricious, partisan and hasty during the PIRP, in the following acts of commission/omission:

a. Admitting, without verifying the documentation and enforceability of liability of the PG, the claims of Veena Investments Pvt Ltd, Direct Media Distribution Ventures Pvt Ltd, World Crest Advisors LLP, Lemonade Capital Advisors LLP, Corpcall Capital Advisors LLP, and those filed by Mr. Anil Kumar and Mr. Sunil Jain on behalf of 960 and 300 unverified individuals from Haryana;

Ans: The allegation requires differentiation between the two categories of claims. In relation to the claims submitted through Mr. Anil Kumar and Mr. Sunil Jain on behalf of 960 and 300 individuals respectively, the record shows that the claims were admitted despite the absence of supporting documentary material. Such admission was not consistent with the RP's obligation to undertake appropriate verification and constituted a lapse in the discharge of his statutory functions. On the other hand, the material does not establish, to the same degree, that the claims of Veena Investments Pvt. Ltd., Direct Media Distribution Ventures Pvt. Ltd., World Crest Advisors LLP, Lemonade Capital Advisors LLP and Corpcall Capital Advisors LLP were so fundamentally defective that their admission alone vitiated the entire process. As per the records, the said claims were based on the Guarantees and Indemnities extended by the PG and were not without any supporting evidence.

b. Failing to exclude the Associate/ Related Parties from the Meeting of Creditors and allowing their participation in the voting process in violation of section 109(4)(b) of the IBC;

Ans: The allegation that the RP improperly permitted associates to vote is not established. The disputed entities have not been shown to satisfy the statutory definition of "associate" under Section 79(2)(g). Consequently, their participation cannot be characterised as a violation of Section 109(4)(b) merely because the creditors alleged a relationship between them and the PG.

c. Failing to appoint an independent forensic auditor and asset-tracing agency to investigate the assets of the PG and determine his real net worth, despite earlier certificates furnished to RBL Bank (2017) and Canara Bank (2018) recording his net worth at approximately Rs. 45,888 crores and Rs. 40,562 crores respectively, as against the PG's unsubstantiated claim of a current net worth of only Rs. 31.79 crores;

Ans: The earlier net-worth certificates unquestionably justified seeking clarification regarding the substantial difference between the historical and present disclosures of the PG. However, those certificates by themselves do not establish that assets were concealed or diverted. The Code does not make appointment of an independent forensic auditor or asset-tracing agency a mandatory precondition to consideration of a Repayment Plan. In the absence of independent material establishing fraud or concealment, the RP's failure to initiate such an investigation cannot, by itself, be characterised as a breach of his statutory duties.

d. Denying creditors sufficient time for deliberation and voting, in violation of sections 106(4) and 107(1) of the IBC;

Ans: In this regard, my detailed opinion is contained in respect of 'Issue V' above. As such, in my view, in a situation when all the creditors have got the opportunity to participate in the Creditors Meeting convened for approval of a repayment plan, all, except those representing approximately 4% of the dues of the Personal Guarantor, have participated in voting, when the creditors had unanimously resolved to reduce the notice period for a meeting to 5 days, sufficient time has been made available to them for voting by keeping the longer period for voting by them than the minimum prescribed period of 24 hours as per Regulation 15(3) of relevant IRP Regulations, when no prejudice is caused to them and the repayment plan is approved by the required majority of not less 75%, the plea of inadequacy of opportunity of vote or insufficiency of time for deliberation and voting by some creditors is not maintainable.

e. Failing to correct the deficiencies in the Repayment Plan, which was based on uncertain assumptions and non-disclosure of material current assets;

Ans: The allegation cannot be sustained merely because the Repayment Plan contained assumptions or certain current assets were allegedly not disclosed. The creditors must demonstrate that such assumptions were unsupported or that the alleged non-disclosure was material and affected the viability or implementation of the Plan. In any event, the RP under the PIRP framework does not possess investigative powers to independently conduct an inquiry into the debtor's assets beyond the information and documents available to him. No material document or evidence was placed by the creditors before the RP establishing the alleged deficiencies or requiring further examination. Accordingly, the RP cannot be faulted for failing to investigate matters that were neither substantiated nor brought to his notice. However, if material deficiencies are subsequently established, Section 114(3) empowers the AA to direct reconsideration of the Plan by reconvening the Meeting of Creditors after necessary modifications. Moreover, the current assets referred to were included in the net worth and assets of the Personal Guarantor, and it is not factually correct that the same were excluded. The said fact is elaborated in the answer to the clause (f) below.

f. Improperly quantifying 'excluded assets' under section 79(14)(c) and section 79(14)(e) of IBC;

Ans: Ld. Member Technical, it appears, as the impression that the asset owned by the PG and mortgaged in favour of STCI Finance Ltd., has been excluded from the Repayment Plan as per the provisions of 79(14)(c) of IBC, 2016, however the fact is that the exclusion of the said asset from the Repayment Plan is due to the provisions of Section 110 of IBC as the said asset is mortgaged in favour of STCI, whose total dues are much more that the realizable value of said asset and as per Section 110, the STCI has not participated in voting on the Repayment Plan, and therefore, its right to enforce its security is not forfeited. In other words, the right of STCI Finance Ltd. to enforce its security interest has not been affected by the Repayment Plan, and the said asset is not considered in the Plan, and therefore the concurrence of STCI to the plan is not required. In my view, therefore, there is no violation of Section 79(14)(e).

Ld,. Technical member in para 117 and 118 of the order dated 03.09.2025, states that investment of Rs. 9,85,033/- in Subhash Chandra & Sons under current assets is not included in the repayment plan. Further, the value of personal ornaments claimed as an excluded asset under Section 79 (14) (c) is Rs. 9,81,329/-, which exceeds the permissible limit of Rs. 1 Lakh prescribed under Rule 5 (a) of the IBBI (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019. However, it is observed from the details of assets of the personal guarantors as on 31.07.2024 on page No, 58 to 62 of the Repayment Plan attached on page No. 271 to 275 of the I.A. No. 5505/2024, that the Jewellery amounting to Rs. 9,81,329/- and the Current Assets in respect of Subhash Chandra and Sons amounting to Rs. 9,85,033/- are included in the total market value of the Assets of the Personal Guarantors amounting to Rs. 31,79,49,981/- and based on the same only, after excluding the value of Residential Property in Jolly Makers amounting to Rs. 25 crores, the Personal Guarantor has made an offer of Rs. 6.50 crores towards the creditors including the IRP costs amounting to Rs. 25 Lakh and therefore it is not correct to say that the above two Assets are excluded from the assets of the Personal Guarantor though in the details of the excluded Assets as given on page No. 275 of the IA (page 62 of the Repayment Plan) the Personal Guarantor has stated that one Bracelet (personal ornament) which is in his Pooja room is excluded. It is also relevant here that the term "excluded Assets" as defined in Section 79 (14) of the Code is not relevant for Chapter-III of Part-III of the Code, i.e. the same is not applicable in the Insolvency Resolution Process of the Creditors and therefore, the said term is not referred to in this Chapter. The said term is relevant for Chapter-IV and V of Part-III of the Code, which deal with the Bankruptcy Process for individual and personal guarantors. Section 155 (2) of the Code clearly states that the estate of the Bankrupt shall not include the "Excluded Assets". The Insolvency Resolution Process is in fact a process where both the parties i.e. the creditors and the personal guarantor agree for repayment of the outstanding dues of the creditors at a certain agreed amount and that though the value of the assets held by the personal guarantor is relevant for determining the said agreed amount, which is to be paid by the personal guarantor to its creditors under the terms of the repayment plan, however, the excluded assets are not directly relevant as the said process is not for the sale and disposal of the assets of the personal guarantor and distribution of the same amongst the creditors where some protection to the personal guarantor in the form of "Excluded Assets" is required to be given from the sale and disposal of his assets.

In view of the above, I am of the opinion that there is no violation of Section 79(14)(c) also by the PG or the Resolution Professional.

g. Failing to consider the recovery proceedings in the USA, which have been challenged by the PG and are likely to affect the enforceability of any Repayment Plan;

Ans: The pendency of recovery proceedings in the USA, particularly where their enforceability is itself under challenge, does not constitute a legal impediment to approval of the Repayment Plan on the material presently available. In any case, the claims of the creditors challenged before the USA court have been admitted by the RP and considered in the Repayment Plan. Moreover, as per the claim of the PG, the said claims of the creditors are sufficiently secured.

h. Failing to obtain concurrence of the secured creditor STCI Finance Ltd in terms of section 110(5) of the IBC;

Ans: There is no provision in the Plan which affects the right of STCI Finance Ltd over the asset mortgaged in its favour, and therefore, Section 110(5) does not require the concurrence of STCI to the Repayment Plan.

i. Failing to consider and address the objections of creditors before placing the Repayment Plan for voting, and thereafter failing to include such objections along with his responses in the final report under section 112 of the IBC, despite having assured creditors that he would do so; and

Ans: The RP was not justified in failing to appropriately record the material objections raised by the creditors and place them, along with his responses, before the AA in the final report under Section 112 of the IBC, particularly where he had assured the creditors that he would do so. However, the said omission does not prejudice the creditors in the present proceedings, as their objections have been placed before this AA and have been duly considered on the merits. The AA has therefore independently assessed the objections, the Repayment Plan and the material on record and arrived at an impartial decision. Moreover, the objections raised at the time of first meeting by IDBI Trusteeship (Edelweiss) and as communicated by it *vide* its email dated 25.09.2024 were discussed in detail at the time of the second meeting of the creditors and that the said discussion is clearly recorded in minutes of the second meeting of Creditor, which is attached along with the I.A. No. 5505/2024 on page no 167 to 181. Accordingly, while the RP's omission is not condoned, it does not, by itself, warrant setting aside the process or the Repayment Plan.

j. Failing to comply with various statutory provisions of the IBC, the relevant Rules and Regulations and committing several procedural irregularities.

Ans: The record does not establish material statutory and procedural lapses so serious as to render the plan approved by the Creditors at their meeting invalid or violative of the provisions of the Code. An irregularity in the form of admission of unsupported claims represented by Mr. Anil Kumar and Mr. Sunil Jain, is established; however, the same is not such that, based on the same, the Plan cannot be approved. Conversely, the allegations concerning associate creditors and mandatory forensic investigation have not been established. The RP's conduct therefore cannot, in its entirety, be characterised as capricious, partisan or hasty.

2. Whether or not, the PIRP proceedings stand vitiated and are void ab initio on account of multiple violations of the provisions of the IBC, the applicable Rules and Regulations, including section 100(2), section 106(4)(a), section 106(4)(b), section 107(1), section 108(4), Regulation 11(3), section 109(4)(b) read with Rule 4 and Explanation (b) to section 5(24A), section 79(14)(c) read with Rule 5(a), section 79(14)(e) read with Rule 5(b)(i), and section 110(5)?

Ans: The record does not establish material statutory and procedural lapse so serious as to render the PIRP proceedings *void-ab-initio* or the plan approved by the Creditors at their meeting invalid or violative of the provisions of the Code. An irregularity in the form of admission of unsupported claims represented by Mr. Anil Kumar and Mr. Sunil Jain is established; however, the same is not such that based on the same the plan cannot be approved. Conversely, the allegations concerning associate creditors and mandatory forensic investigation have not been established

3. Whether or not, section 79(2)(g), which defines an 'associate' of the debtor, should be purposively construed to mean any company in which an associate exercises control or holds a majority stake, either independently or together with the debtor, so as to prevent the mischief the provision is intended to address?

Ans: No. Section 79(2)(g) must be applied according to the statutory test prescribed by the legislature. A purposive interpretation may explain the object of the provision, but cannot enlarge the express requirements relating to ownership or control to include every company in which an associate of the PG may have an interest. Such an interpretation would amount to rewriting the provision rather than interpreting it.

4. Whether or not, under section 114(1) read with section 60(5), the Adjudicating Authority is liable to reject the Repayment Plan, on account of the following grounds:

a. That the creditors' list was tainted by the inclusion of entities with unsubstantiated claims?

Ans: In relation to the claims submitted through Mr. Anil Kumar and Mr. Sunil Jain on behalf of 960 and 300 individuals respectively, the record shows that the claims were admitted despite the absence of supporting documentary material. Such admission was not consistent with the RP's obligation to undertake appropriate verification and constituted a lapse in the discharge of his statutory functions.

On the other hand, the material does not establish, to the same degree, that the claims of Veena Investments Pvt. Ltd., Direct Media Distribution Ventures Pvt. Ltd., World Crest Advisors LLP, Lemonade Capital Advisors LLP and Corpcall Capital Advisors LLP were so fundamentally defective that their admission alone vitiated the entire process. As per the records, the said claims were based on the Guarantees and Indemnities extended by the PG and produced along with the claims. The Indemnities and Guarantees given by the Personal Guarantor to Veena Investments Pvt. Ltd. (VIPL), Direct Media Distribution Ventures Pvt. Ltd. (Direct Media) and World Crest Advisors LLP were with reference to the pledge of their shares in other related companies to the IndusInd Bank for Loans advanced by the said Bank to another group entity (Sprit Textiles Pvt. Ltd.). The veracity of these documents has been challenged on the ground that financial statements of the said entities do not record any such liability of the Personal Guarantor. It is alleged that these documents are collusive contracts between the personal guarantor and three entities. Further, it is also alleged that these guarantees have been invoked by these three creditors after the interim moratorium came into operation, making the invocation void. Further, it is alleged that the term of these guarantees was extortionate as, in addition to the principal amount of debt, interest @12% from the date of invocation of the pledge has been allowed to be claimed by the Creditors.

In regard to the other two entities, i.e. Lemonade Capital Advisors LLP and Corpcall Capital Advisors LLP, it is stated that the claim of these entities is based on the deed of guarantee given by the personal guarantor to them in connection with the loan taken by Churu Enterprises LLP, another related entity of the group. With respect to their claims, it is also said that these guarantees are also collusive in nature and that they have been invoked during the period when interim moratorium was in force.

In regard to the above claims admitted by the resolution professional, it is observed that the said claims are based on certain guarantees and Indemnities, issued by the Personal Guarantor, which are alleged to be collusive in nature. The underlying transaction with respect to which these guarantees and indemnities are stated to have been given is not denied by the concerned creditors, including by IndusInd Bank, and merely a doubt has been expressed that the said guarantees are collusive in nature, without any evidence. The said doubt cannot be a basis for not accepting the claims, which are otherwise admissible and accepted and confirmed by the Personal Guarantor. The allegation that the said guarantees were invoked during the interim moratorium period is of no legal consequence as, for filing of a claim and its admission by the RP, the guarantees don't need to be invoked. In this regard, the judgment of Hon'ble Supreme Court in ***China Development Bank vs Doha Bank Q.P.S.C*** [Civil Appeal no. 7298 of 2022] is relevant, which though was given in the context of the corporate insolvency resolution process, however, the same equally applies to individual insolvency resolution matters. The claim of interest @ 12% from the date of invocation is based on the normal interest rate which is applied to financing transactions and therefore, cannot be treated as extortionate.

In view of the above, I am of the view that an irregularity in the form of admission of unsupported claims represented by Mr. Anil Kumar and Mr. Sunil Jain is established; however, the same is not so material that, based on the same, the plan cannot be approved. Moreover, in regard to the claims of other allegedly related entities, in my view the objecting creditors have failed to establish that their claims were wrongly admitted and that their other allegations in regard to the said Creditors are without any evidence.

b. That the approving vote was vitiated by the inclusion of associates of the PG in the Meeting of Creditors?

Ans: The Plan cannot be rejected on the ground that the approving vote was vitiated by participation of associates because the disputed entities have not been established to fall within Section 79(2)(g). Their votes therefore cannot be excluded on the basis of the alleged associate relationship.

c. That there were grave and material irregularities arising from the RP's capricious, partisan, and hasty conduct, including breaches of the IBC and its rules and regulations?

Ans: The Adjudicating Authority is not bound to reject the Repayment Plan merely because certain irregularity or procedural lapse in regard to admission of claim in respect of Mr. Anil Kumar and Mr. Sunil Jain and the persons they represented is established. The said admission of claim, which has been admitted based only on the statement made by the Personal Guarantor, is not so material that based on the same the plan cannot be approved. Besides the same, there is no other material irregularity or violation of the provisions of the Code or applicable Regulations that has been established. The relevant consideration under Section 114(1) is whether the Plan complies with the IBC and whether the alleged irregularities materially affected its consideration, voting or implementation.

In the present case, the creditors' objections have been placed before this AA and independently considered on the merits. Therefore, unless the alleged irregularities render the Plan contrary to the IBC or materially prejudice the creditors, they do not, by themselves, warrant rejection under Section 114(1).

Section 60(5) of the Code is contained in Chapter VI of Part II of the IBC, and its application is in regard to the Corporate Insolvency Resolution Process and Liquidation Process. However, the present proceedings are under Part III of the Code, and therefore Section 60(5) does not apply to the present process.

ORDER

a) In view of the above findings, the **Repayment Plan submitted by the Personal Guarantor, in my opinion, is required to be approved under Section 114 of the Insolvency and Bankruptcy Code**, 2016, subject to exclusion of the claims submitted through **Mr. Anil Kumar on behalf of 960 individuals and Mr. Sunil Jain on behalf of 300 individuals** from the final list of creditors and consequential redistribution of the repayment amount amongst the remaining eligible creditors in accordance with the approved Repayment Plan.

b) The Resolution Professional, in my opinion, is required to prepare and place on record the **revised and final list of creditors** after giving effect to the aforesaid exclusions and take necessary consequential steps for redistribution of the approved Repayment Plan value.

c) The approved Repayment Plan, in my opinion, will be **binding upon all the creditors, whether assenting or dissenting to the Repayment Plan, in accordance with Section 115 of the Insolvency and Bankruptcy Code, 2016**, and shall have all consequences contemplated under the Code.

d) The matter be placed before the **Original Division Bench** for passing appropriate orders in terms of the majority opinion under Section 419(5) of the Companies Act, 2013.

e) The order of the Third Member, together with the orders of the Hon'ble Members constituting the Original Division Bench, be placed before the **Hon'ble President, NCLT**, for appropriate administrative action, if required.

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)
//Alka Siwach//