

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH : COURT-IV**

**IA-3168/2023 IN IA-2374/2021 IN  
C.P.(IB)-4469(MB)/2019**

Under Section 60(5)(c) of the Insolvency and  
Bankruptcy Code, 2016.

*Application moved by:*

**UTI Employees Sai Samruddhi Co-operative  
Housing Society** ... Applicant

Vs.

**Jayesh Sangharajaka, RP** ...Resp.1  
**CoC, Ornate Spaces Pvt. Ltd. & Ors.** ...Resp.2

*In the matter of*

**IDBI Trusteeship Services Limited**

...Financial Creditor

Vs.

**Ornate Spaces Private Limited**  
...Corporate Debtor

Order Pronounced on : **06.10.2023**

***Coram:***

Mr. Prabhat Kumar  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

***Appearances:***

For the Applicant(s) : Mr. Partho Sarkar a/w Mr. Pratik Sarkar  
and Mr. Raunak i/b Vidhi Legal, Adv.

For the Respondent(s) : Mr. Vikram Nankani, Sr. Counsel a/w

Mr. Nausher Kohli, Mr. Ashish Parwani,  
Mr. Devesh, Mr. Dikshat Mehra, Mr.  
Chintan Gandhi, Ms. Anjali Dhoot i/b  
Rajani Associates, Adv.

## **ORDER**

*Per: Kishore Vemulapalli, Member (Judicial)*

1. This is an Application IA-3168/2023 filed on 19.07.2023 under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'the Code') by the UTI Employees Sai Samruddhi Co-operative Housing Society challenging the Application filed by the Resolution Professional (Respondent No.1) seeking approval of the Resolution Plan which is approved by 80.86% of the voting share of the members of the Committee of Creditors (hereinafter referred to as 'CoC' or "Respondent No. 2") of the Debtor Company viz. Ornate Spaces Private Limited (hereinafter referred to as 'Corporate Debtor').
2. The Applicant has filed this Application seeking the rejection of Resolution Plan approved by CoC pending for approval before this Bench in IA-2374/2021; the supply of copy of IA-2390/2021 filed by Respondent No.1 seeking continuation of CIRP proceedings till 31.08.2021; recall of the order passed by this bench in IA-2421/2021; and consequential liquidation order u/s 33 of the IBC.

3. This bench has already dealt with the contention, pertaining to rejection of the plan in detail, particularly the approval of the plan by CoC which as per applicant had become *functus officio*, in its order of even date in IA.No.2576/2023. Accordingly, this prayer is not being separately dealt with.
4. As regards supply of copy of IA-2390/2021 is concerned this bench finds that this application dealt with the limited aspect of exclusion and extension of time till 31.08.2021 for consideration of plan in hand. It is not a disputed fact that during the extended period, the plan was considered and came to be approved on 09.09.2021. Since, IA-2390/2021 was disposed of and in place thereof a comprehensive application in IA-2421/2021 was filed by the RP, a copy of IA-2421/2021 was supplied by the Resolution Professional to the Applicant. Accordingly, this prayer was also dealt with during the course of arguments.
5. As regards prayer for liquidation order u/s 33 of the IBC, this prayer cannot be allowed in this application as this bench had already passed an order dated 17.03.2023 in IA-2421/2021 excluding the COVID-19 period and extending the CIRP period till 12.10.2021. Since, that order has not been set aside by Hon'ble NCLAT even though the same was in appeal before it, this bench finds that the order still holds good. Further, bench has again arrived at a conclusion that the meetings of the CoC approving the plan and CoC's acts therein had no infirmity vide our order of even date passed in IA-2576/2023, which was filed pursuant to the order passed by Hon'ble NCLAT in the appeal against order in IA-2421/2021 allowing an opportunity to the applicant to file

the objections afresh and directing us to consider the same. Since, we have again reappreciated the contention in relation to CoC having become *functus officio* and concluded that the CoC's act were not illegal and were within the legal parameters of the Code, we do not find any merit in the ground seeking liquidation.

6. As regards the prayer for the recall order passed in I.A 2421 of 2021, this bench finds that our order in IA-2421/2021 was challenged before Hon'ble NCLAT and the order passed by this bench merges with the order dated 04.07.2023. Further, this bench does not have a power to review its own order unless directed by the superior authority. We are of the considered view that this bench can only recall orders which are passed ex-parte or it can rectify the mistakes in the order. The present case does not fall under either of two scenarios. Accordingly, this prayer cannot be allowed.
7. In view of the aforesaid discussion and finding, this **IA-3168/2023** deserves to be **dismissed**.

**Sd/-**  
**PRABHAT KUMAR**  
**Member (Technical)**

**Sd/-**  
**KISHORE VEMULAPALLI**  
**Member (Judicial)**

06.10.2023/-