



IN THE NATIONAL COMPANY LAW TRIBUNAL

KOCHI BENCH

IA (IBC)(Plan)/03/KOB/2024

IN

CP(IB)/05/KOB/2021

&

IA (IBC)(Plan)/05/KOB/2024

IN

CP (IB)/05/KOB/2021

(Under Section 30(6) & 31(1) of IBC, 2016 r/w Regulation 37(m) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

Date of institution: 03.09.2024

Order delivered on: 08.04.2026

In the matter of:-

M/s. Samson and Sons Builders and
Developers Private Limited.

Memo of parties:

Mr. K Parameswaran Nair,

Resolution Professional, Samson and Sons
Builders and Developers Private Limited

37/1736E, Kripasagaram, K. Murali Road,
Kadavanthara, Ernakulam, Kerala- 682
020.

... Applicant

Coram:

HON'BLE MEMBER (JUDICIAL) : SHRI. VINAY GOEL



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA (IBC)(Plan)/03/KOB/2024 & IA (IBC)(Plan)/05/KOB/2024
In re M/s. Samson and Sons Builders and Developers Pvt Ltd

Appearances:

For the Applicant : Mr. Vinod P V, Advocate
: Mr. K Parameswaran Nair, RP

ORDER

1. The present applications, IA(IBC)(Plan)/03/KOB/2024 and IA(IBC)(Plan)/05/KOB/2024, have been filed by Mr K. Parameswaran Nair, Resolution Professional of M/s. Samson and Sons Builders and Developers Private Limited, under Section 30(6) & 31(1) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 37(m) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, for approval of the project/asset-wise Resolution Plans submitted by “Nova Castle Apartment Owners Association” and “Sanctuary Apartment Owners Association,” respectively, as the Successful Resolution Applicants.
2. The Company Petition CP(IB)/05/KOB/2021 was filed by M/s Vijayakumaran J, VJ Constructions under Section 9 of the Insolvency and Bankruptcy Code, 2016, against Samson and Sons Builders and Developers Pvt. Ltd., the Corporate Debtor, and was admitted vide order dated 03.11.2021, thereby initiating the Corporate Insolvency Resolution Process. Initially, Mr Muhammed Davood CMK was appointed as Interim Resolution Professional, who expressed his inability to continue. Pursuant to this, Mr Lukose Joseph was appointed as Interim Resolution Professional, and thereafter, Mr K. Parameswaran Nair was appointed as the Resolution Professional, whose appointment was confirmed by this Adjudicating Authority.



3. Pursuant to the initiation of the Corporate Insolvency Resolution Process, a public announcement was made inviting claims, and the Committee of Creditors was constituted. The Corporate Debtor, engaged in real estate development, had multiple projects at different stages of construction, with several projects not commenced, and the company had been non-operational since 2016. The Resolution Professional proceeded with the Corporate Insolvency Resolution Process based on available records despite non-cooperation from the suspended directors, who were subsequently directed by this Adjudicating Authority to extend cooperation.
4. In terms of the provisions of the Insolvency and Bankruptcy Code, 2016 and the CIRP Regulations, Expression of Interest was initially invited; however, in view of limited response, the Committee of Creditors decided to invite both holistic and project/asset-wise Resolution Plans pursuant to the introduction of Regulation 37(m) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Accordingly, a fresh Expression of Interest was issued, and multiple prospective resolution applicants submitted project-wise Resolution Plans for various projects of the Corporate Debtor.
5. Out of the Resolution Plans received, certain plans were found compliant and were approved by the Committee of Creditors for specific projects, while other plans, including those for the projects “Nova Castle” and “Sanctuary,” were found to be non-compliant with the provisions of the Insolvency and Bankruptcy Code, 2016 and the CIRP Regulations. During the process, this Adjudicating Authority passed an order of liquidation, which led to dismissal of earlier plan approval applications; however, the said liquidation order was



subsequently set aside by the Hon'ble NCLAT, granting further time for completion of the Corporate Insolvency Resolution Process.

6. Pursuant to the order of the Hon'ble NCLAT, the Resolution Professional reconvened the Committee of Creditors and provided an opportunity to the prospective resolution applicants to revise their plans. Certain applicants submitted revised plans; however, the plans pertaining to "Nova Castle" and "Sanctuary" continued to remain non-compliant, particularly with respect to requirements under Section 30(2) of the Insolvency and Bankruptcy Code, 2016.
7. Thereafter, pursuant to the directions of this Adjudicating Authority, the Resolution Professional placed the Resolution Plans for the projects "Nova Castle" and "Sanctuary," along with the non-compliance report, before the Committee of Creditors in its 17th meeting held on 30.07.2024. The Committee of Creditors, after due deliberation, decided to put the plans to vote and approved both the resolution plans with 71.30% voting share.
8. Accordingly, the present applications have been filed by the Resolution Professional within the extended Corporate Insolvency Resolution Process period seeking approval of the Resolution Plans for the projects "Nova Castle" and "Sanctuary," as approved by the Committee of Creditors.
9. This Adjudicating Authority has heard the matter in detail and perused all available records, including the Resolution Plans and the reports placed on record. It is observed that the Resolution Plans submitted in respect of other projects have already been found compliant with the provisions of the Insolvency and Bankruptcy Code, 2016 and the applicable Regulations, and have accordingly been approved by this Adjudicating Authority.



10. However, upon consideration of the Resolution Plans relating to the projects “Nova Castle” and “Sanctuary,” this Adjudicating Authority finds that the same do not meet the mandatory requirements prescribed under Section 30(2) of the Insolvency and Bankruptcy Code, 2016, read with the CIRP Regulations. The Resolution Plans, in their present form, are conditional and lack the certainty required for approval. Further, under the Resolution Plans, there is no provision for full and upfront payment of the Corporate Insolvency Resolution Process costs. The responsibility for obtaining necessary statutory approvals, licenses and permissions has not been clearly and unequivocally assumed. The Plans also fail to satisfactorily address the existing encumbrances, charges, attachments and pending litigations in relation to the assets of the Corporate Debtor, thereby rendering them non-compliant with the provisions of the Code and the applicable Regulations. Even the conditional payment towards the Corporate Insolvency Resolution Process costs and to financial creditors is a negative aspect of the plans so submitted.

11. In the matter of ***Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors., (2019) ibclaw.in 07 SC***, the Hon’ble Supreme Court of India vide judgment dated 15.11.2019 held as under:

“the limited judicial review available to NCLT, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of Section 30(2) of the Code.”

12. It is also pertinent to note that the Hon’ble Supreme Court, while recognising the primacy of the commercial wisdom of the Committee of Creditors, has also clarified that the same is not beyond judicial scrutiny in cases of statutory non-compliance or legal infirmity, as observed in ***Lamba Exports***



Pvt. Ltd. v. Dhir Global Industries Pvt. Ltd. and Ors., (2026) ibclaw.in 129 SC, decided on **23.03.2026**. The relevant portion is as under:

At the same time, it is necessary to state that primacy of commercial wisdom does not mean that every action taken in the insolvency process is altogether immune from scrutiny in every situation. Where a challenge is laid in an appropriate proceeding on a legally sustainable foundation, such as statutory illegality or a jurisdictional infirmity, the matter would naturally be considered in accordance with law....

13. In view of the above judicial pronouncements, it is clear that though the commercial wisdom of the Committee of Creditors is paramount, the same is not absolute and is subject to compliance with the mandatory requirements under Section 30(2) of the Insolvency and Bankruptcy Code, 2016. Even where a Resolution Plan has been approved by the Committee of Creditors, this Adjudicating Authority is duty-bound to examine whether the plan conforms to the provisions of the Code and the CIRP Regulations, and in cases of non-compliance, the decision of the Committee of Creditors can be interfered with to ensure adherence to the statutory framework.
14. During the course of hearing, it was also brought to the notice of this Adjudicating Authority that there is a proposal for revision of certain financial terms, including enhancement of amounts payable to the creditors, and that the concerned Resolution Applicants are willing to modify the Resolution Plans accordingly.
15. In this context, it is further relevant to refer to the judgment of the Hon'ble Supreme Court in ***Greater Noida Industrial Development Authority v. Prabhjit Singh Soni and Anr., (2024) ibclaw.in 53 SC***, wherein it has been categorically held that a Resolution Plan must strictly comply with the requirements of Section 30(2) of the Insolvency and Bankruptcy Code, 2016



read with Regulations 37 and 38 of the CIRP Regulations, 2016, and any material non-compliance, including failure to properly consider claims of creditors, incorrect classification of creditors, or lack of clarity on feasibility and statutory approvals, would render the Resolution Plan vitiated in law. The Hon'ble Supreme Court further held that in such circumstances, even an approved Resolution Plan can be set aside and remitted back to the Committee of Creditors for reconsideration in accordance with law.

16. In view of the above, this Adjudicating Authority is of the considered opinion that the present Resolution Plans, in their current form, cannot be approved. However, considering the facts and circumstances of the case, this Adjudicating Authority is inclined to take a lenient view, as the matter involves real estate projects with a large number of homebuyers. It is observed that ordering liquidation at this stage may not be in the interest of the stakeholders, especially the homebuyers, and may lead to loss of value. The Insolvency and Bankruptcy Code, 2016, prioritises resolution over liquidation; therefore, liquidation in the present circumstances would not serve the object of the Code. Accordingly, instead of directing liquidation, this Adjudicating Authority deems it appropriate to provide an opportunity for reconsideration and submission of revised Resolution Plans in accordance with law.

17. Considering the above, the Resolution Plans in respect of the projects "Nova Castle" and "Sanctuary" are hereby remitted back to the Committee of Creditors for reconsideration. The Resolution Professional is directed to place such revised and error-free Resolution Plans, in compliance with the provisions of the Insolvency and Bankruptcy Code, 2016 and the applicable



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA (IBC)(Plan)/03/KOB/2024 & IA (IBC)(Plan)/05/KOB/2024
In re M/s. Samson and Sons Builders and Developers Pvt Ltd

Regulations, before the Committee of Creditors. The Committee of Creditors shall, in exercise of its commercial wisdom, consider such revised Resolution Plans, strictly in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 and the applicable Regulations.

18. Upon approval by the Committee of Creditors, the Resolution Professional shall submit the same before this Adjudicating Authority, along with a detailed report certifying compliance with the provisions of the Insolvency and Bankruptcy Code, 2016 and the CIRP Regulations.
19. With the above directions, **IA(IBC)(Plan)/03/KOB/2024** and **IA(IBC)(Plan)/05/KOB/2024** are **disposed of**.
20. The Registry is hereby directed to send e-mail copies of the order forthwith to all the parties: Committee of Creditors, Resolution Professional, and Successful Resolution Applicant, and their Learned Counsels for information and for taking necessary steps
21. Certified Copy of this order may be issued, if applied for, upon compliance with all requisite formalities.
22. File be consigned to records.

Sd /-
VINAY GOEL
(MEMBER JUDICIAL)

Signed on this the 8th day of April, 2026

A*