THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH
(through web-based vide conferencing platform)

IA No.656 of 2022
in
CP(IB) No.35/Chd/HP/2018
(Admitted)

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

In the matter of:-
Phoenix ARC Private Limited …Financial Creditor

Versus

GPI Textiles Limited …Corporate Debtor

And in the matter of:- **(IA No.656/2022)**
M/s Shreeji Cotfab Limited
Having its Registered Office at
Plot No.SP/14B RIICO Industrial Area Neemrana,
Neemrana, Alwar,
Rajasthan
Email: pankajbhatia2000@gmail.com

…Applicant

Versus

1. Jalesh Kumar Grover
   Resolution Professional,
   GPI Textiles Limited,
   Address: SCO 818, NAC Manimajra,
   Chandigarh- 160101
   Email: ip.gpitextiles@ducturus.com

2. Phoenix Arc Pvt. Ltd.
   5th Floor, Dani Corporate Park,
   158 CST Road, Kalina Santacruz (East)
   Mumbai- 400 098
   Email: gurleen.chhabra@phoenixarc.co.in

3. State Bank of India,
   Stressed Assets Management Branch (SAMB),
   1st Floor, SCO 99-1 07,
   Sector 8-C, Chandigarh
   E-mail: sbi.04262@sbi.co.in

…Respondents

Order delivered on 10 .10.2022

Coram: HON'BLE SHRI HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE SHRI SUBRATA KUMAR DASH, MEMBER (TECHNICAL)

<u>Present through Video Conferencing</u> :-

<u>IA No.656 of 2021</u>

For the Applicant	:-	Mr. Aalok Jagga, Advocate Mr. A.P.S Madaan, Advocate
For Respondent No.1	:-	Mr. Abhishek Anand, Advocate Mr. Viren Sharma, Advocate
For Respondent No.2	:-	Mr. Manish Jain, Advocate Mr. Siddhant Jain, Advocate Ms. Divya Sharma
For Respondent No.3	:-	Mr. Rakshit Gupta, Advocate

<u>PER: HARNAM SINGH THAKUR, MEMBER (JUDICIAL)</u>

<u>ORDER</u>

<u>IA No.656/2021</u>

The present application has been filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the '**Code**') on behalf of the Unsuccessful Resolution Applicant, namely, M/s Shreeji Cotfab Ltd. (hereinafter referred to as the '**applicant**'), *inter alia*, the following reliefs:-

a. *Pass an order, directing the respondents to comply with the directions and intent of judgment and order dated 24.05.2022 in CA No.287/2019 and IA No.348/2021 and quash fresh Form G dated 02.06.22 and the revised eligibility criteria being contrary and in violation to the directions of this Bench in its judgment dated 24.05.2022 in CA No.287/2019 and IA No.348/2021 and stay all consequential proceedings thereto;*

b. *Direct the Resolution Professional to invite the existing Resolution Applicants and present the existing Resolution Plans (including the Resolution Plan of the Applicant) for consideration before the Committee of Creditors as per the intent of the judgment dated 24.05.2022 in CA No.287/2019 and IA No.348/2021; and other consequential relief as deemed fit.*

2. By virtue of the present application, the applicant seeks to challenge the illegal, unlawful and arbitrary course adopted by the respondents after the judgment 24.05.2022 (Annexure A-1) passed by this Tribunal in IA No.348/2021 read with order

dated 24.05.2022 (Annexure A-2) in CA No.287/2019, wherein this Tribunal had after holding erstwhile Resolution Applicant, namely M/s Aggarsain Spinners ineligible under Section 29A(f) of the Code, directed the matter to be referred back to the Committee of Creditors, which was to consider the '*other resolution plans in accordance with law.*'

3. Brief facts necessary for adjudication of the present application are that financial creditor, namely, M/s Phoenix Arc Private Limited, respondent No.2 herein, filed an application under Section 7 of the Code before this Tribunal for initiation of Corporation Insolvency Resolution Process ('**CIRP**') against M/s GPI Textiles Limited '**corporate debtor**'). This Tribunal vide its judgment dated 06.07.2018 admitted the petition filed by the financial creditor and kept the matter for 12.07.2018 for appointment of Interim Resolution Professional. Thereafter, vide order dated 12.07.2018, Mr. Jalesh Kumar Grover was appointed as Interim Resolution Professional ('**IRP**').

4. It has been stated that the applicant had earlier filed an application bearing IA No.348/2021 challenging the eligibility of M/s Aggarsain Spinners Limited and Ramesh Kumar (erstwhile successful Resolution Applicants) under Section 29A(f) of the Code, seeking, *inter alia*, following reliefs:-

a. *Pass any order, direction for rejecting the Resolution Plan in view of the disqualification provided under Section 29-A (f) of the Insolvency and Bankruptcy Code, 2016;*
b. *Direct the Resolution Professional to place the present Applicant's Resolution Plan for consideration before the Committee of Creditors and any other order as deemed fit*

5. This Tribunal, vide order dated 24.05.2022 allowed IA No.348/2021 and passed the following order:-

"82. To sum up in the light of discussions foregoing and reasons assigned hereinbefore Resolution Applicant is declared ineligible under Section 29A(f) of the Code at the time of submission of the resolution plan and resolution plan submitted by Resolution Applicant stands rejected vide separate order of even date passed in CA No.287 of 2019. Consequently, to avoid the liquidation of the corporate debtor, period of Corporate Insolvency Resolution Process is extended by 90 days for exploring the possibility of resolution of the corporate debtor. Accordingly, matter is referred back to the Committee of Creditors, which is ordered to be reinstated and revived to make another attempt for consideration of other resolution plans in accordance with law.

Consequently, by virtue of order dated 24.05.2022 passed in IA No.348/2021 and in view of the ineligibility of the Resolution Applicant and non-compliance of Section 30 of the Code, this Tribunal vide order of even date rejected CA No.287/2019, which was filed by the Resolution Professional seeking approval of Resolution Plan of the erstwhile successful resolution applicants. The operative part of order dated 24.05.2022 passed in CA No.287/2019 reads as under:-

27. Vide separate order of even date passed by this Bench in IA No.348 of 2021, Successful Resolution Applicant is held ineligible under Section 29(A)(f) of the Code, at the time of submission of the Resolution Plan. Thus, to sum up, when Resolution Applicant is declared ineligible under Section 29A(f) of the Code, the resolution plan submitted by the Resolution Applicant could not be considered and approved by the committee of creditors under Section 30(4) of the Code. Therefore, Resolution Plan submitted by the Successful Resolution Applicant cannot be considered for approval by this Bench and the same stands rejected. However, to avoid liquidation of the corporate debtor, vide separate order of even date passed in IA No.348 of 2021, period of Corporate Insolvency Resolution Process is extended by 90 days for exploring the possibility of resolution of the corporate debtor. Accordingly, matter is referred back to the Committee of Creditors, which is ordered to be reinstated and revived to make another attempt for consideration of other resolution plans in accordance with law.

Thus, IA No.287 of 2021 stands dismissed and disposed of accordingly.

6. Now, the grouse of the applicant is that respondent No.1/Resolution Professional in complete disregard of the judgment and order passed by this Tribunal, proceeded to take steps for inviting the fresh resolution plans and issued a fresh Form G (Annexure A-3) on 02.06.2022. Not only this, according to the applicant, respondent No.2/Committee of Creditor, issued a revised eligibility criteria (Annexure A-4) and

process document in June 2022, which altered the earlier eligibility criteria significantly, which was impermissible in law. It has been stated that as per the revised eligibility criteria, the net-worth requirement is Rs.35 Crores and Earnest Money Deposit along with Resolution Plan requirement is Rs.100 Lacs.

7. It is, *inter alia*, contended on behalf of the applicant that even otherwise, this Tribunal vide order dated 24.05.2022 extended the time of 90 days for CIRP and no direction for fresh initiation of process had been made and thus, respondent No.1/Resolution Professional not only acted beyond his duties and responsibilities but further has acted deliberately against the directions of this Tribunal. Further, it has been contended on behalf of the applicant that even if respondent No.1/Resolution Professional deemed it necessary to issue a fresh Form G, after disqualification of the erstwhile Resolution Applicant, then a direction to that end ought to have been taken from this Tribunal and the Resolution Professional could not have without the permission of this Tribunal, re-initiated the CIRP.

8. According to the applicant, on seeing the clear disregard of order and directions issued by this Tribunal, it made a representation (Annexure A-9) to the Resolution Professional on 15.06.2022, requesting for the compliance of order dated 24.05.2022 passed by this Tribunal and requested the Resolution Professional to put up the existing plans before the Committee of Creditors and to further give the applicant an opportunity to attend the meeting of the Committee of Creditors, however, the Resolution Professional ignored the representation of the Applicant and chose to proceed with further steps envisaged under Form G. It is averred by the applicant that the applicant in its representation had categorically highlighted that the applicant was ready to match the resolution plan value equivalent to the erstwhile successful

resolution applicant and agreed to negotiate it further if an opportunity to attend the meeting of the Committee of Creditors would have been granted. It has been further alleged that there in an apprehension that the Resolution Professional is proceeding hurriedly with further steps without verifying the mandatory requirements of compliance of prospective resolution applicants under Section 29A of the Code, which may then lead to the CIRP being vitiated. It is also alleged that in the judgment dated 24.05.2022 this Tribunal held that Resolution Professional did not discharge the duties diligently and again the same thing is being repeated. It is the contention of the learned counsel for the applicant that after the order of this Tribunal, the Resolution Professional ought to have been more conscious to effect compliance but has gone ahead to violate not only the order passed by this Tribunal but also the mandatory provisions of the Code and the Regulations.

9. It is averred by the applicant that in compliance of the order of this Tribunal, an opportunity ought to have been given to the existing resolution applicants to match/improve the bid value of the erstwhile successful resolution applicant to the satisfaction of the Committee of Creditors. This according to the applicant would have resulted in meeting the stringent timelines of 90 days mandated by this Tribunal as well as maximization of the value of corporate debtor, which is the ultimate aim of the Code.

10. It is also submitted on behalf of the applicant that the mala fide of the fresh process is also evidenced by the fact that a revised eligibility criteria had been brought in after issuance of Form-G, which has now made the earlier resolution applicants ineligible. The said action of the Committee of Creditors as well as the Resolution Professional is bad in law in so far as no direction for fresh initiation had been given

and further that the said actions has made the present applicant ineligible, who had hotly contested the earlier application filed under Section 29A of the Code against the erstwhile resolution applicant, which was opposed by the Committee of Creditors and the Resolution Professional. Ultimately, it is prayed by the applicant to allow the present application granting consequential reliefs, as sought in the opening para of this application.

11. Notice of the application was issued to the respondents, who resisted and contested the application by filing their respective replies.

12. Respondent No.1/Resolution Professional filed his reply vide diary No.01368/2 dated 07.07.2022, wherein it has been stated that the averments/submissions made by the applicant in the present application are false, misleading and baseless. It has also been stated that the applicant has suppressed and concealed material facts with the intention to mislead this Tribunal in order to obtain favorable orders. In the reply, it has been stated that pursuant to order dated 24.05.2022 passed in IA No.348/2021, respondent No.1/Resolution Professional convened 26th meeting of Committee of Creditors on 01.06.2022, wherein, Members of the Committee of Creditors were of the opinion that fresh valuation of the corporate debtor should be conducted so that the Committee of Creditors can make a better decision, since at the time of earlier valuations, operations of the plants were limited, which have now improved and also considerable time has also elapsed since the last valuation. Respondent No.1/Resolution Professional had also placed the agenda for republication of expression of interest for inviting resolution applicant to submit resolution plan in compliance with Section 25 (2) (h) of the Code and Regulation 36A of the CIRP Regulations. The Committee of Creditors after discussions and deliberations,

approved the resolution for publication of expression of interest for inviting resolution applicants to submit the resolution plan in the matter of corporate debtor. Further it has been stated that the eligibility criteria of the prospective resolution applicants for participation in the resolution process was approved by the Committee of Creditors in its commercial wisdom in the 27th meeting of the Committee of Creditors held on 07.06.2022. In the said meeting the Committee of Creditors finalized the eligibility criteria in order to have participation of only serious prospective resolution applicants in the matter of corporate debtor. Copy of extract of minutes of 27th meeting of the Committee of Creditors has been annexed as **Annexure R-13**.

13. It has been submitted on behalf of respondent No.1/Resolution Professional that in accordance with the decision of the Committee of Creditors taken in its 26th meeting, respondent No.1/Resolution Professional re-issued Form-G (**Annexure R-14**) on 02.06.2022 and last date for submission of EOI was stipulated as 17.06.2022. In response to the same, respondent No.1/Resolution Professional had received 18 expression of interest from prospective resolution applicants to submit resolution plan in the matter of corporate debtor. The last date for submission of resolution plan was inadvertently wrongly mentioned as 15.07.2022, which was rectified to 19.07.2022 by respondent No.1/Resolution Professional, vide corrigendum dated 02.07.2022 (Annexure R-15). It is submitted on behalf of respondent No.1/Resolution Professional that the applicant has not submitted his expression of interest in terms of the procedure prescribed under the Code and the applicant being an unsuccessful resolution applicant has filed the present application seeking prayers which are untenable in law and beyond the provisions of the Code. The sole objective of filing the present application is to delay and derail the CIRP in the matter of corporate debtor.

14. It is also averred by respondent No.1/Resolution Professional that the applicant has no *locus standi* to file the present application seeking directions to present the resolution plan of the applicant for consideration before the Committee of Creditors. While relying on the contention that the unsuccessful resolution applicant has no vested right for consideration of its resolution plan, learned counsel for respondent No.1/Resolution Professional has placed reliance on judgment dated 08.06.2020 passed by the Hon'ble National Company Law Appellate Tribunal in ***Company Appeal (AT)(INS) No.272 of 2020; IMR Metallurgical Resources AG v. Ferro Alloys Corporation Limited & Ors,*** wherein, it has been held that the resolution applicant has no vested right that his plan must be considered. The relevant paragraph of the judgment is reproduced as under:-

> *"5. It is settled position of law as laid down by Hon'ble Supreme Court in MANU/SC/1123/2018 : (2019) 2 SCC 1 in case of Arcelor Mittal India Pvt. Ltd. Satish Kumar Gupta that the resolution applicant does not have any vested right that his Resolution Plan must be considered.*
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> *6. The commercial wisdom of the CoC is paramount, and it has the absolute prerogative to decide the viability and feasibility of the Resolution Plans presented before them and the same is not to be interfered even by the Adjudicating Authority."*

15. The judgment passed by the Hon'ble NCLAT was assailed before the Hon'ble Supreme Court in Civil Appeal No.2720/2020, wherein, the Hon'ble Supreme Court dismissed the appeal vide order dated 20.07.2020 and upheld the judgment passed by the Hon'ble Appellate Authority.

16. In addition to above reliance has also been placed by learned counsel for respondent No.1/Resolution Professional in ***Company Appeal (AT) (Ins.) No.518 of 2020; Kalinga Allied Industries Ltd. Vs. Hindustan Coils Limited***, wherein the Hon'ble NCLAT held as under:-

"16. This Appellate Tribunal in the case of Chhatisgarh Distilleries Ltd. Vs. Dushyant Dave & Ors. Company Appeal (AT) (Ins) No. 461 of 2019 in the light of the pronouncement of Hon'ble Supreme Court in the case of Committee of Creditors Essar Steel India Ltd. Vs. Satish Gupta & Ors. held that:

> *"In the light of the above pronouncement of Hon'ble Supreme Court, we have examined the issues raised in these Appeals. Admittedly, the A-1 filed its resolution plan before the Adjudicating Authority on 13.02.2019 whereas, the last date for submission of Resolution Plan before RP was 15.10.2018. Resolution plan of successful Resolution Applicant i.e. Dera Finvest Pvt. Ltd. (R2) was approved by 98.72 % of the Committee of Creditor in e-voting conducted on 01.11.2018 and 02.11.2018. When the Resolution Plan is filed before the Adjudicating Authority then the Authority has to satisfy that the Resolution Plan approved by the Committee of Creditor fulfils the requirements as specified in Sub-Section 2 of Section 30. However, the Adjudicating Authority cannot direct the CoC to consider the second Resolution plan submitted before the Authority although the second Resolution Applicant is ready to invest more amount in comparison to first Resolution Applicant. Learned Adjudicating Authority has rightly held that Adjudicating Authority cannot suo motu direct the CoC to consider new resolution plan and reconsider already approved Resolution plan. The Hon'ble Supreme Court in the above referred judgment held that under Section 30(2) of I&B Code, decision of Committee of Creditor is purely Commercial and cannot be adjudicated by the Adjudicating Authority. Thus, we are of the view that Adjudicating Authority is well within its jurisdiction while rejecting the application of A-1."*

17. With the aforesaid, we are of the considered view that Ld. Adjudicating Authority has erroneously entertained the Application and Resolution Plan of the Respondent No. 1 and directed the RP to put up the same before the COC for consideration.

Thus, it has been submitted that an unsuccessful applicant has no vested right that his resolution plan be considered and hence the applicant being an unsuccessful resolution applicant has no locus to prefer the instant application.

17. It is submitted by learned counsel for respondent No.1/Resolution Professional that in view of order dated 24.05.2022 passed by this Tribunal, there is a direction to make another attempt for consideration of other resolution plans in accordance with law. Since the process in terms of Form-G dated 22.012.2018 came to an end on

approval of resolution plan by Committee of Creditors in its 12th meeting, the only manner in which respondent No.1/Resolution Professional and the Committee of Creditors can make another attempt for resolution is mandatorily required to issue fresh Form-G in terms of Section 25(2) (h) of the Code read with Regulation 36A of the CIRP Regulations. Thus, in terms of the provisions of the Code and underlying Regulations, respondent No.1 being the Resolution Professional is required to issue fresh Form-G in terms of the fresh eligibility criteria as decided by the Committee of Creditors.

18. Learned counsel for respondent No.1/Resolution Professional also submits that it is settled position of law that if a statute provides something to be done in a manner, then it has to be done in that manner only. It is submitted that the procedure as required under the Code has to be followed. When there is specific provision to issue Form G inviting expression of interest in Section 25(2)(h) of the Code, the applicant cannot invoke jurisdiction of this Tribunal for seeking the relief to quash Fresh Form-G issued in terms of the Code. In this regard, reliance has been placed on the decision of the the Hon'ble Supreme Court in ***Dhanajaya Reddy vs State of Karnataka (2001) 4 SCC 9***, wherein it has been held as under:-

> "*23. It is a settled position of law that where a power is given to do a certain thing in a certain manner, the thing must be done in that way or not at all.*"

19. It is also pointed out by learned counsel for respondent No.1/Resolution Professional that is a settled principle of law that the words must be interpreted in their ordinary grammatical sense unless there is something in the context or in the object of the statute in which they occur or in the circumstances in which they are used to show that they were used in a special sense different from their ordinary grammatical

sense. It has been submitted that this Tribunal in order dated 24.05.2022, nowhere directed the respondent No.1/Resolution Professional or the Committee of Creditors to re-consider the resolution plan of the unsuccessful resolution applicant, which in fact was a prayer/relief sought by the Applicant in IA No 348/2021.

20. It is submitted on behalf of respondent No.1/Resolution Professional that M/s Coloron Yarns Private Limited is one of the allied companies of M/s Longowalia Yarns Limited, who is a prospective resolution applicant, as one of its directors, Mr. Sanjay Garg (DIN:00205161) is a common director in the above mentioned companies. In addition, Mr. Pankaj Bhatia (DIN:00868978) also holds the position of a Director w.e.f. 20.08.2021 in M/s Coloron Yarns Private Limited and M/s Shreejit Cotfab Limited. As M/s Longowalia Yarns Limited has submitted their expression of interest (EOI) in terms of Form G dated 02.06.2022 of the corporate debtor, it clearly signifies that Mr. Pankaj Bhatia (being related to M/s Longowalia Yarns Limited) has accepted the revised terms and conditions of eligibility criteria for consideration of fresh EOI's and fresh resolution plan under new Form G in accordance with the law.

21. It is further submitted by respondent No.1/Resolution Professional that the applicant has concealed material fact and has approached this Tribunal with unclean hands as the applicant in the 9th meeting of the Committee of Creditors had withdrawn from the resolution process and the EMD of the applicant had also been returned. Thus, on return of the EMD and in the absence of EMD, there is no valid resolution plan by the applicant as per the RFRP dated 29.12.2018. Thus, since, the applicant himself withdrew from the negotiation process cannot now approach this Tribunal seeking direction of consideration of his resolution plan. Further, it has been mentioned that thereafter, at the request of the Committee of Creditors in the 10th

Meeting of the Committee of Creditors, respondent No.1/Resolution Professional had called the applicant to participate in the 11^{th} Meeting of Committee of Creditors for negotiation with its members, however, the applicant did not participate in the negotiations and did not increase the amount offered under the Resolution Plan. Thereafter, the applicant was also sent invite for participating in the e-negotiation process, however, the applicant failed to participate in the e-negotiation process.

22. The learned counsel for respondent No.1/Resolution Professional also contended that the applicant had sought similar prayer for consideration of resolution plan submitted by it before the Committee of Creditors in IA No.348 of 2021. However, this Tribunal, vide order dated 24.05.2022 disposed of said application with certain directions and there was no direction passed by this Tribunal in order dated 24.05.2022 for consideration of the resolution plan submitted by the applicant. It is also submitted that if the intention of this Tribunal had been to direct the Committee of Creditors to consider the resolution plan of the applicant, then this Tribunal would have allowed the prayer of the applicant and directed accordingly, however, there was no such direction and the Tribunal only directed the Committee of Creditors to make another attempt for resolution in accordance with the law.

23. As regards the pleadings of the applicant that its resolution plan be placed before the Committee of Creditors, it is submitted by respondent No.1/Resolution Professional that the same is beyond the jurisdiction and power of respondent No.1/Resolution Professional, as the said decision is within the commercial wisdom of the committee of creditors. It is further submitted that upon considering the legislative intent and the statutory scheme of the Code and the CIRP Regulations, as well as judicial pronouncements by the Hon'ble Supreme Court, it is settled position of law

that the approval of the resolution plan is solely within the commercial wisdom of the committee of creditors and upon receiving such approval, it is not for the Adjudicating Authority to replace its own wisdom with the commercial wisdom of the Committee of Creditors. Reliance in this regard has been placed judgment passed by the Hon'ble Supreme Court in the matter of ***Committee of Creditors of Essar Steel India Limited through Authorized Signatory vs. Satish Kumar Gupta and Others; 2019 SCC Online SC 1478***, wherein it has been held that the commercial wisdom of the Committee of Creditors is paramount and the judicial review is very limited. The relevant extract from the said judgment is as under:-

> *44. Thus, what is left to the majority decision of the Committee of Creditors is the "feasibility and viability" of a resolution plan, which obviously takes into account all aspects of the plan, including the manner of distribution of funds among the various classes of creditors. As an example, take the case of a resolution plan which does not provide for payment of electricity dues. It is certainly open to the Committee of Creditors to suggest a modification to the prospective resolution Applicant to the effect that such dues ought to be paid in full, so that the carrying on of the business of the corporate debtor does not become impossible for want of a most basic and essential element for the carrying on of such business, namely, electricity. This may, in turn, be accepted by the resolution Applicant with a consequent modification as to distribution of funds, payment being provided to a certain type of operational creditor, namely, the electricity distribution company, out of upfront payment offered by the proposed resolution Applicant which may also result in a consequent reduction of amounts payable to other financial and operational creditors. What is important is that it is the commercial wisdom of this majority of creditors which is to determine, through negotiation with the prospective resolution applicant, as to how and in what manner the corporate resolution process is to take place.*
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> *47. After adverting to the 2016 Regulations, the Court set out the jurisdiction of the Adjudicating Authority as well as the Appellate Tribunal as follows:*
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> *42. Whereas, the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements. Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides: (i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate*

debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established Under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or ought not to exercise their commercial wisdom during the voting on the resolution plan Under Section 30(4) of the I&B Code. The subjective satisfaction of the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution Applicant to translate the projected plan into a reality. The resolution Applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to vote on the resolution plan Under Section 30(4) of the I&B Code.

Thus, it has been submitted that the decision of the Committee of Creditors to issue Fresh Form G was meant to provide an equal opportunity to all the Prospective Resolution Applicants in the final list to submit fresh/revised plans in accordance with the Code because the other resolution plans which were received earlier (i.e. three years prior) by respondent No.1/Resolution Professional were also not found satisfactory. Further, reliance has been placed on judgment dated 05.03.2020 passed by the Hon'ble NCLAT in ***Company Appeal (AT) (Ins) No.1490 of 2019; Shrawan Kumar Agrawal Consortium versus Rituraj Steel Private Limited*****,** wherein it has been held as under:-

14. In the instant case, the Adjudicating Authority has overturned the decision of the CoC regarding approval of the Resolution Plan despite being approved by 84.70 percent of the vote share of the CoC, on the pretext of maximisation of value of the corporate debtor. The provisions investing jurisdiction and authority in the NCLT has not made the commercial decision exercised by the CoC of not approving the resolution plan or rejecting the same, justiciable. In the circumstances as stated above, it is clear that the Adjudicating Authority cannot interfere with the commercial wisdom of CoC. The direction for rebidding for maximisation of the value of the corporate debtor also amounts to an interference in the business decision of the CoC, which is not permitted in law.

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> *18. It is pertinent to mention that the Adjudicating Authority has a very limited power of judicial scrutiny and the statutory provision does not permit the Adjudicating Authority to interfere with the commercial wisdom of the CoC. Even for maximisation of value of the assets of the Corporate Debtor, the Adjudicating Authority is not entitled to overturn the business decisions of the Corporate Debtor.*

Thus, according to respondent No.1/Resolution Professional this Tribunal has no jurisdiction to interfere with the commercial wisdom of the Committee of Creditors and this Tribunal is not empowered to direct the Committee of Creditors to consider the resolution plan of the applicant or not change the eligibility criteria in respect of the Resolution Applicant. Accordingly, in view of the above, it is prayed by respondent No.1/Resolution Professional that the present application, being not maintainable, be dismissed with heavy costs as the same has been filed with the sole intention to delay the process.

24. Reply on behalf of Phoenix ARC Private Limited, member of the Committee of Creditor was filed vide Diary No.01368/0 dated 05.07.2022, wherein it has been submitted that the present application is not maintainable for the reason that the applicant had earlier also filed IA No.348 of 2021 challenging the eligibility of the earlier successful resolution applicant and *inter alia* had sought direction that resolution plan filed by it be considered by the Committee of Creditors. However, IA No.348 of 2021 was party allowed by this Tribunal vide order dated 24.05.202, whereby the earlier successful resolution applicant was declared ineligible and the prayer of the applicant seeking to place its plan before the Committee of Creditors was not allowed in the said order. Thus, according to respondent No.2 the present application tantamount to review of order dated 24.05.2022. It has been stated in the reply that by way of present

application, the applicant is now again seeking to place its resolution plan before the Committee of Creditors despite the fact this Tribunal had not allowed the same earlier.

25. It is further submitted on behalf of respondent No.2 like respondent No.1 that the applicant has no locus to file the present application for the reason that the applicant is a unsuccessful resolution applicant and thus, it has no locus to intervene in the current CIRP of the corporate debtor as directed by this Tribunal vide order dated 24.05.2022. It has been mentioned that in terms of the directions passed in the order dated 24.05.2022, the Committee of Creditors has made another attempt for consideration of the resolution plans by inviting fresh resolution through Form-G dated 02.06.2022. Thus, the applicant had the option to participate in the new CIRP of the corporate debtor which had been initiated by virtue of order dated 24.05.2022 passed by this Bench. However, instead of participating in the fresh CIRP or not even bothering to improve his plan through participation in the e-negotiations on the last occasion, has now moved this frivolous application to derail the CIRP of the corporate debtor. Not only this, it has also been mentioned that the Committee of Creditors while exercising its commercial wisdom has found the plan of the applicant as commercially non-viable and thus, it was rejected. Thus, the Committee of Creditors cannot be forced to consider the plans that have already been rejected by them.

26. While submitting that there is a difference between '*other plans*' and '*existing plans*', it is contended by learned counsel for respondent No.2 that this Tribunal in its order dated 25.05.2022 has specifically used the word '*other plans*' which clearly means that the Committee of Creditors was required to consider fresh resolution plans for the revival of the corporate debtor. Therefore, the applicant had the option to apply for the fresh resolution plan under the new EOI, so that no prejudice is caused to any

other resolution applicants. However, the applicant instead of availing the said option has again attempted to delay the entire CIRP of the corporate debtor.

Therefore, it is prayed by respondent No.2 that the present application being frivolous and not maintainable be dismissed with exemplary costs.

27. Reply on behalf of State Bank of India respondent No.3 has been filed vide Diary No.01368/3 dated 08.07.2022, wherein similar grounds, as taken by respondent Nos.1 and 2 have been pleaded for dismissal of the instant application.

28. Rejoinder has been filed on behalf of the applicant vide Diary No.013684/4 dated 11.07.2022, wherein the applicant reiterated similar averments as made in the present application. In the said rejoinder, it has been averred by the applicant that vide order dated 24.05.2022 passed in IA No.348/2021, the matter was referred back to the Committee of Creditors, which was ordered to be reinstated and revived to make another attempt for consideration of other resolution plans in accordance with law. Therefore, respondent No.1 and Committee of Creditors had an option to re-issue request for earlier resolution plans, if the resolution plans received in response to an earlier request were not satisfactory, subject to the condition that the request is made to all prospective resolution applicants in the final list and this would have been the total compliance of order dated 24.05.2022. However, respondent No.1/Resolution Professional and Committee of Creditors proceeded to issue fresh EOI (Form-G), which was not permissible under the Code and its Regulations. It is further averred that this Tribunal never cancelled the earlier Form G or the criteria contained therein because it was never the intention of this Tribunal. According to the applicant, the action of Committee of Creditor amounts to overreaching the orders of this Tribunal. It is also stated that change of criteria has been purposely done to exclude the applicant

and counterblast to the successful challenge to the illegal and motivated decisions of the Committee of Creditors.

29. Further, it has been submitted that direction of this Tribunal was to consider other ‘Resolution Plans’ and ‘Expression of Interest’ is a separate terminology distinctively used under Regulation 36A. It is the contention of learned counsel for the applicant that this Tribunal did not use the expression ‘Expression of Interest’ but used the word ‘Resolution Plans’ which in any case means that compliance of the directions had to be restricted to Regulation 36B. It is also submitted that there was no specific direction of this Tribunal for republishing of Form G and there is no provision in the Code or the Regulations to re-issue Form G in the absence of any specific order by this Tribunal.

30. We have heard learned counsel for the parties and have gone through the record.

31. Learned counsel for the parties have argued in terms of the written submissions filed by them.

32. It is contended by learned counsel for the applicant that one of the prayers in IA No.348 of 2021 was to consider the resolution plan of the applicant, which was discussed in Para 64 of order dated 24.05.2022 passed in IA No.348 of 2021 and this Tribunal after considering all the issues allowed IA No.348 of 2021, vide order dated 24.05.2022. According to learned counsel for the applicant, it is not mentioned in the order that IA No.348 of 2021 is partially allowed as sought to be claimed by the respondents, thus to exclude the applicant from consideration of resolution plan is contemptuous. Thus, the vindictive attitude of the respondents is to exclude applicant even at the cost of violation of the order passed by this Tribunal.

33. It is argued by learned counsel for the applicant that respondent No.1/Resolution Professional admitted that all the prospective resolution applicants, who had submitted their respective plans, were given ranking from H1 to H4 and direction of this Tribunal in order dated 24.05.2022 was to consider other resolution plans which mean that all entities who had submitted the resolution plans will be entitled to submit fresh plans and if any of the prospective resolution applicant did not enter into negotiation rounds earlier that does not denude him of the status of the prospective resolution applicant for the purposes of Regulation 36B(7) where opportunity has to be given to all Prospective Resolution Applicants in the final list which admittedly the applicant was a part of as CIRP Regulations does not exclude a person who did not participate in negotiations. Acid test is to identify person who figured in the final list of Prospective Resolution Applicants.

34. It is further argued that the applicant, Shreeji Cotfab and Pankaj Bhatia (Promoter of Shreeji Cotfab) are separate entity than Longowalia Yarns Limited. Shareholders and stakeholders of both the companies are independent and no contrary evidence has been placed on record. Merely, being a common director in one company (Coloron Yarns Limited) does not mean that rights and interest of Shreeji Cotfab Limited and Longowalia Yarns Limited are common. So the participation of Longowalia Yarns Limited in the new CIRP has no bearing on the stakes of the Applicant. Thus, the argument raised is contrary to the basic principles of law that each and every company is distinct separate entity.

35. It is also contended that respondent No.1/Resolution Professional has attached minutes of meeting dated 07.06.2022 of the Committee of Creditors (Annexure R-13 of the reply filed by respondent No.1/Resolution Professional) and in Agenda Item

No.27.05, there is no discussion on the earlier eligibility criteria and the circumstances which warrants the change in the eligibility criteria. It is alleged that the sole purpose of the change in the eligibility criteria is to oust the applicant for the sole reason that it was whistle blower as a result of which the erstwhile successful resolution applicant was declared ineligible.

Hence, it is submitted by learned counsel for the applicant that the instant application should be allowed and the respondents be directed to comply with the directions and intent of order dated 24.05.2022 passed by this Tribunal in CA No.287 of 2019 and IA No.348 of 2021 and quash Fresh Form G dated 02.06.2022 and the revised eligibility criteria being contrary and in violation to the directions of this Tribunal in its order dated 24.05.2022 in CA No.287 of 2019 and IA No.348 of 2021 along with all consequential proceedings thereto.

36. On the other hand, it is argued by learned counsel for respondent No.1/Resolution Professional that earlier resolution plans were received from 6 Prospective Resolution Applicants, which in the 9th meeting of the Committee of Creditors convened on 13.02.2019 were placed for negotiations to increase the amounts offered, wherein the applicant informed respondent No.1/Resolution Professional that it does not wish to participate any further in negotiation process and left the meeting of the Committee of Creditors. EMD deposit of the applicant was subsequently returned on request of the applicant. Thereafter, other plans were again called for negotiations as the amount offered under resolution plans submitted was still under liquidation cost of the corporate debtor. Further, it has been submitted that even after the applicant and Mr. Pankaj Bhatia left negotiations, they were again invited by respondent No.1/Resolution Professional for e-negotiations as decided by

the Committee of Creditors to advance the objective of the Code being maximization of value of the corporate debtor. The e-negotiation was held on 12.03.2019, wherein the applicant failed to participate in the e-negotiation process. This fact has been conceded by applicant that there is no valid resolution plan of the applicant pending before the Committee of Creditors as its EMD had already been refunded before the final negotiations.

37. It is further contended by learned counsel for respondent No.1/Resolution Professional that the submissions made by the applicant that Regulation 36B(7) of the CIRP Regulation states opportunity to be granted to all prospective resolution applicants is misconceived, as a bare perusal of the Regulation would show that the opportunity to the prospective resolution applicants in the final list is required to be given when the resolution plans received were not satisfactory and the Committee of Creditors wishes to re-issue request for resolution plans in the same process i.e. when the negotiation process is still on and the plans have not been placed for voting. However, the applicant failed to appreciate the fact that on approval of resolution plan by the Committee of Creditors, the process initiated with issuance of Form G stood concluded. Further, Regulation 36B(7) of the CIRP Regulations only relate to situation when the Committee of Creditors wishes to "re-issue request for resolution plans" in the same process, which is not the case in the matter of the corporate debtor.

38. Learned counsel for respondent No.1/Resolution Professional also argued that in view of judgment passed in *IMR Metallurgical Resources case (supra*), which was upheld by the Hon'ble Supreme Court in Civil Appeal No.2720/2020 and in view of *Kalinga Allied Industries case (supra),* it is settled position of law that an unsuccessful

resolution applicant has no vested right to seek direction that its resolution plan shall be considered.

39. It is further argued by learned counsel for respondent No.1/Resolution Professional that M/s Coloron Yarns Private Limited is one of the allied companies of M/s Longowalia Yarns Limited and Mr. Sanjay Garg (DIN:00205161) is a common director in the above mentioned companies. In addition, Mr. Pankaj Bhatia (DIN:00868978) also holds the position of a Director w.e.f. 20.08.2021 in M/s Coloron Yarns Private Limited and M/s Shreejit Cotfab Limited. As M/s Longowalia Yarns Limited has submitted their expression of interest (EOI) in terms of Form G dated 02.06.2022 of the corporate debtor, it clearly signifies that Mr. Pankaj Bhatia (being related to M/s Longowalia Yarns Limited) has accepted the revised terms and conditions of eligibility criteria for consideration of fresh EOI's and fresh resolution plan under new Form G in accordance with the law.

40. It is also contended by learned counsel for respondent No.2/Committee of Creditors that in compliance of order dated 24.05.2022, it explored possibilities of resolution in accordance with law and in the exercise of its commercial wisdom issued Form G. The said decision stands vindicated by the larger participation and receipt of resolution plans of much higher value than in the earlier process. Thus, the action of the Committee of Creditors in any case is covered by the judgment of the Hon'ble Supreme Court in the case of ***Maharashtra Seamless Limited versus Padmanabhan Venkatesh; (2020) 11 SCC 467***.

41. Further, it is submitted by learned counsel for respondent No.2/Committee of Creditors that there is no ground for the Committee of Creditors/Resolution Professional to consider any of the plans of the earlier process, as afresh process has

been started in compliance of directions given by this Tribunal. According to learned counsel for respondent No.2, this Tribunal has not directed '*reconsideration*' of the plans and the clear direction was to explore possibilities of resolution in accordance with law.

42. It is also contended that the action of the Committee of Creditors was not designed to disqualify the applicant or any other Prospective Resolution Applicant, as alleged, since the decision of the Committee of Creditors was based on the present operational conditions/prospects of the corporate debtor as the sole objective of the committee of creditors is to maximize the value of the corporate debtor. Not only this, it is also contended that in the process of CIRP, IBC has no such provision on equity and actions of the Committee of Creditors subsequent to order dated 24.05.2022 are in strict compliance of the Code read with Rules and Regulations.

Thus, it is concluded by learned counsel for respondent No.2 that application deserves dismissal.

43. After hearing learned counsel for the parties and careful perusal of the rival contentions and law cited and relied upon by the parties, we are of the considered view that only cardinal point for determination in the present application is as to what is the import and intent of order dated 24.05.2022 passed by this Bench?

For ready reference, the operative part of the said order, which has been upheld by the Hon'ble NCLAT, vide order dated 14.09.2022 is reproduced as under:-

> *"82. To sum up in the light of discussions foregoing and reasons assigned hereinbefore Resolution Applicant is declared ineligible under Section 29A(f) of the Code at the time of submission of the resolution plan and resolution plan submitted by Resolution Applicant stands rejected vide separate order of even date passed in CA No.287 of 2019. Consequently, to avoid the liquidation of the corporate debtor, period of Corporate Insolvency Resolution Process is*

extended by 90 days for exploring the possibility of resolution of the corporate debtor. Accordingly, matter is referred back to the Committee of Creditors, which is ordered to be reinstated and revived to make another attempt for consideration of other resolution plans in accordance with law."

Mainly, learned counsel for the respondents have raised certain objections about the maintainability of the present application. **Firstly**, that the applicant has no locus standi, being an unsuccessful resolution applicant, since the applicant did not choose to file EOI before the Resolution Professional under new CIRP, therefore, it could not considered for negotiations as it does not meet the eligibility criteria laid down by the Committee of Creditors. Since, fresh Form G/EOI have been called for maximization of the value of the corporate debtor as per the commercial wisdom of the Committee of Creditors, therefore, the rejected plan cannot be considered by the committee of creditors and as such, the applicant has no locus for praying before the Committee of Creditors to reconsider its plan as fresh Form G and EOIs have been called and new CIRP has been initiated.

Secondly, the applicant has voluntarily withdrawn its plan before the final negotiations. Thus, the plan of the erstwhile Successful Resolution Applicant was approved by Committee of Creditors in March 2019 itself. However, it chose to remain silent for so long and is now trying to intervene in the current CIRP by filing the present application. Thus, estoppel would operate against the applicant.

Thirdly, the application is hit by Regulation 36A(10) and (11) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. For ready reference, the same is reproduced as under:-

> *"36A(10) The resolution professional shall issue a provisional list of eligible prospective resolution applicants within ten days of the last date for submission of expression of interest to the committee and to all*

prospective resolution applicants who submitted the expression of interest.

(11) Any objection to inclusion or exclusion of a prospective resolution applicant in the provisional list referred to in sub-regulation (10) may be made with supporting documents within five days from the date of issue of the provisional list"

According to learned counsel for the respondents, a clear timeline has been provided in the aforementioned Regulations to file any objections in terms of the list of the eligible Resolution Applicants released by the Resolution Professional and if the present application is entertained then the intent of the Code and more importantly, the timelines prescribed under the Regulations will become redundant.

Fourthly, there was no specific direction to the Resolution Professional or the Committee of Creditors in order dated 24.05.2022 passed by this Tribunal to consider the old Resolution Plans, therefore, if at all the present application is allowed then that would tantamount to review of order dated 24.05.2022 which is not permissible under law. The process adopted by the Committee of Creditors stands vindicated since it has received EOIs from 18 Prospective Resolution Applicants and has now received 9 plans/bids under the new 'Form G'.

Fifthly, there are common directors of M/s Coloron Yarns Private Limited, M/s Coloron Yarns Private Limited and the present applicant, namely, M/s Shreeji Cotfab Limited, so all of them are having common interest and M/s Coloron Yarns Private Limited is one of the Prospective Resolution Applicants.

44. **Lastly**, it is further by learned counsel for the respondents that on account of the ineligibility of the erstwhile Successful Resolution Applicant and initiation of the fresh process under the orders of this Tribunal, would enable the Committee of Creditors to achieve legislative intent in enactment of the Code i.e. maximization of

the value of the assets. In support of this contention, the learned counsel for respondents have relied upon the judgment dated 14.11.2018 passed by the Hon'ble NCLAT in ***Binani Industries Limited versus Bank of Baroda and Another; Company Appeal (AT) (Insolvency) No.82 of 2018***, wherein the Hon'ble Appellate Tribunal has categorically held that the purpose of resolution is for maximization of value of the assets of the corporate debtor and thereby for all the creditors.

45. So far as the objection raised by the respondents that the present application is neither maintainable nor the applicant has any locus standi to file the present application, is devoid of legal force because order dated 24.05.2022 passed by this Bench in IA No.348 of 2022, which was filed by the present applicant only, therefore, it cannot be said that the present application is not maintainable and the applicant has no locus standi to file the present application.

46. We are putting a pertinent question to ourselves that if the Committee of Creditors had rejected the resolution plan of Aggarsain Spinners Limited, erstwhile Successful Resolution Applicant before its approval on 27.03.2019, being ineligible under Section 29A of the Code then what procedure the Resolution Professional or the Committee of Creditors would have adopted in that eventuality?

47. The answer to this question is very simple and straight. After the rejection of the Resolution Plan submitted by Aggarsain Spinners Limited, erstwhile Successful Resolution Applicant, there were other three Resolution Plans, namely Navraj Mittal and Others- H2; M/s Shivani Trendz Private Limited- H3; and Pankaj Bhatia & Shreeji Cotfab- H4 and obviously, these Resolution Plans were to be considered by the Committee of Creditors and all the three Resolution Applicants were required to be called for negotiations and for maximization of the value of the assets of the corporate

debtor. Now, when the Resolution Plan of Aggarsain Spinners Limited has been rejected by this Bench, being ineligible under Section 29A(f) of the Code, then certainly to meet the ends of justice an opportunity is required to be given to the remaining three Resolution Applicants, who submitted their resolution plans simultaneously with erstwhile Successful Resolution Applicant- Aggarsain Spinners Limited.

48. Although, it is contended by learned counsel for the respondents that the present applicant did not participate in the first round of negotiation and did not increase the amount of resolution plan in the 11th meeting of the Committee of Creditors, held on 06.03.2019, but that does not mean that the applicant had withdrawn the resolution plan. It may be noted that in the 12th Meeting of the Committee of Creditors, held on 27.03.2019, the final list of prospective resolution applicants along with final proposed amount was tabulated as below:-

Sr.No.	Name of Resolution Applicant	Final Amount Proposed (in crores)	Rank as per Evaluation Matrix
1.	Aggarsain Spinners Limited	83.76	H1
2.	Navraj Mittal and Others	83.50	H2
3.	M/s Shivani Trendz Private Limited	74	H3
4.	Pankaj Bhatia & Shreeji Cotfab	52.11	H4

This shows that the Applicant was still in the fray of Resolution Applicants irrespective of the fact that he had withdrawn its EMD of Rs.25 Lacs on 20.02.2019. Thus, estoppel would not operate against the present applicant for fresh participation in the negotiation process.

49. Similarly, the contention of learned counsel for the respondents that the present applicant being allied company of M/s Longowalia Yarns Limited and having common

directors with the Prospective Resolution Applicant M/s Coloron Yarns Limited is devoid of legal force because each company registered separately has an independent identity and interest.

50. Now, delving upon interpretation, import and intent of order dated 24.05.2022 passed by this Bench, it is clearly mandated in the operative part that Committee of Creditors would make another attempt for consideration of other Resolution Plans in accordance with law. Thus, the words '***other resolution plans***' nowhere in any manner import the words either '***fresh resolution plans***' or '***earlier resolution plans***'. Although, it is contended by learned counsel for the respondents that if the earlier resolution plans are to be considered then it would amount to review of order dated 24.05.2022. More so, earlier resolution applicants including the present applicant do not meet the fresh eligibility criteria laid down by the Committee of Creditors. This contention of learned counsel for the respondents does not hold water because there is nothing on record that the new eligibility criteria is based upon any evaluation matrix. It is pertinent to note that the Resolution Professional had moved an application bearing IA No.639 of 2022 under Section 60(5) of the Code read with Rule 11 of the NCLT Rules, seeking appropriate directions to the Resolution Professional to re-appoint the existing valuers duly registered with IBBI in order to ascertain fair value and liquidation value afresh in terms of Regulation 35 of the IBBI (CIRP) Regulations, 2016 but later on the said application bearing IA No.639 of 2022 was withdrawn by the Resolution Professional, as is recorded in order dated 21.07.2022 passed by this Bench. This shows that no fresh valuation of the assets of the corporate debtor was conducted.

51. Be that as it may, we are not questioning the commercial wisdom of the Committee of Creditors for laying down the fresh eligibility criteria at this stage, which may be for maximization of the value of the assets. However, in view of the intent and import of order dated 24.05.2022, a wholesome and holistic view can be taken by directing the Committee of Creditors to consider the earlier resolution plans as well as the fresh resolution plans for the purpose of negotiations and fresh eligibility criteria laid down by the Committee of Creditors would not be applicable to the earlier resolution applicants, including the present applicant.

52. In these circumstances, the contention of learned counsel for the respondents that the present application is hit by Regulation 36A(10) and (11) of the Regulations is also not much convincing. There is no dispute to the fact as well as the law laid down in different cases including *Binani Industries Limited (supra)* passed by the Hon'ble NCLAT that purpose of resolution is for maximization of value of assets of the corporate debtor.

53. In view of the above, the earlier resolution applicants including the present applicant may take part in the negotiation process before the Committee of Creditors and ultimately, Successful Resolution Applicant would be decided by the Committee of Creditor, which if found in consonance with maximization of value of the assets of the corporate debtor. In the circumstances, with due deference the authorities (supra) relied upon by learned counsel for the respondents i.e. *Kallinga Allied Industries; Dhanajaya Reddy; Committee of Creditors of Essar Steel India Limited; Shrawan Kumar Agrawal Consortium; Maharashtra Seamless Limited* etc. are not applicable to the facts of the case in hand. Thus, distinguishable.

54. As a sequel to above discussion and reasons assigned aforesaid, the present application is partly allowed to the extent that Resolution Professional and Committee of Creditors are directed to invite the present applicant alongwith other earlier resolution applicants namely Navraj Mittal and Others (H2); M/s Shivani Trendz Private Limited (H3); and Pankaj Bhatia & Shreeji Cotfab (H4) and also fresh resolution applicants for the purpose of negotiations in finalization of Resolution Plan in accordance with law. It is made clear that steps, if any, taken by the Resolution Professional or Committee of Creditors during the interregnum between the date of reservation of this order i.e. 19.09.2022 till today, would be subject to this order. Thus, IA No.656/2022 is disposed of accordingly.

Sd/-	Sd/-
(Subrata Kumar Dash)	(Harnam Singh Thakur)
Member (Technical)	Member (Judicial)

October 10th, 2022
MK