



S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
12-03-2026 AT 01:00 P.M.**

CP (IB) No. 325/7/HDB/2020

AND

IA (IBC) 1473/2025 in CP (IB) No. 325/7/HDB/2020

u/s. 7 of IBC, 2016

IN THE MATTER OF:

LIC Housing Finance Ltd

...Financial Creditor

AND

M/s. Butta Infrastructure Pvt Ltd

...Corporate Debtor

C O R A M:-

SH. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)

SH. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

ORDER

IA (IBC) 1473/2025

Present: Ms. Sarvani Desiraju, Learned Counsel for the Applicant.

Mr. Y Suryanarayana, Learned Counsel for the Respondent.

Orders pronounced, recorded vide separate sheets.

In the result, this application is dismissed.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)



**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-1**

**IA No. 1473/2025
In
CP(IB) No. 325/7/HDB/2020**

[Under Section 60(5) of Insolvency and Bankruptcy Code, 2016, r/w Rule 11
of National Company Law Tribunal Rules, 2016]

IN THE MATTER OF BUTTA INFRASTRUCTURE PRIVATE LIMITED

Meridian Educational Society

8-2-541, Road No. 7,
Banjara Hills,
Hyderabad,
Telangana - 500034

...Applicant

AND

Mr. Gonugunta Murali

Liquidator of Butta Infrastructure Private Limited
Having its registered office at:
House No. 4/14, Butta House, KPHB Road,
Madhapur, Hyderabad,
Telangana - 500081

...Respondent

Date of Order: 12.03.2026

Coram:

Hon'ble Shri Rajeev Bhardwaj, Member (Judicial)

Hon'ble Shri Sanjay Puri, Member (Technical)

Counsels Present

For the Applicant : Mr. TK Bhaskar, Ld. Senior Counsel with Ms. Sarvani
Desiraju, Ld. Counsel

For the Respondents : Mr. Y. Suryanarayana and Mr. Sachin Sharma,
Ld. Counsels



The present Application is filed by **Meridian Educational Society (Applicant)** challenging the decision dated 17.07.2025 of the Respondent, Liquidator of **Butta Infrastructure Private Limited (Corporate Debtor/CD)**, wherein the Applicant was declared ineligible under Section 29A of the Insolvency and Bankruptcy Code, 2016 (Code/IBC) to participate in the auction conducted pursuant to the Auction Notice dated 05.06.2025 and the Earnest Money Deposit furnished by the Applicant was forfeited.

APPLICANT'S SUBMISSIONS

1. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process (CIRP) pursuant to an application filed by LIC Housing Finance Limited under Section 7 of the IBC, which came to be admitted by this Adjudicating Authority vide order dated 01.03.2021, and Mr. Krishna Komuravolu was appointed as the Interim Resolution Professional.
2. Upon failure of the CIRP, the Resolution Professional filed I.A. No. 112 of 2022 seeking liquidation of the Corporate Debtor. This Authority, vide order dated 24.02.2022, directed liquidation of the Corporate Debtor and appointed the present Respondent as the Liquidator.
3. The Applicant had entered into lease deeds with the Corporate Debtor on separate occasions to enable the Applicant to run its school in the subject premises. The Applicant describes itself as a charitable and social-objective driven educational society. In view of this nature, lease rentals were waived for a certain period and were made payable only from the year 2021.
4. Subsequent to his appointment, the Respondent Liquidator demanded payment towards alleged lease rental arrears, relying upon certain lease deeds which are forged. Despite detailed explanations and supporting documentation furnished by the Applicant, the Liquidator filed I.A. No. 643 of 2022 seeking payment of alleged lease rentals and I.A. No. 1127



of 2023 seeking eviction of the Applicant from the premises. Both applications came to be decided against the Applicant.

5. Aggrieved thereby, the Applicant preferred appeals against both the orders before the Hon'ble NCLAT, Chennai Bench. Both appeals are pending and interim orders have been granted. By virtue of the interim order in CA (AT) (Ins) No. 374 of 2024, the Applicant continues in occupation of the premises and is regularly remitting lease rentals at the rate determined by the Advocate Commissioner appointed vide order dated 18.08.2023 in I.A. No. 643 of 2022.
6. While matters stood thus, the Liquidator issued an auction notice dated 05.06.2025 proposing to auction the land and building of the Corporate Debtor admeasuring 5426.2 Sq. Yards situated at 8-2-541, Road No. 7, Banjara Hills, Hyderabad, fixing a reserve price of Rs. 71,00,00,000/- and requiring an Earnest Money Deposit (EMD) of Rs. 7,10,00,000/-, with the auction scheduled on 27.06.2025.
7. Since the Applicant has been running its school in the said premises, it bona fide believed that purchase of the property would protect continuity of educational activities and stakeholder interests. Accordingly, the Applicant expressed its interest to participate in the auction, remitted the stipulated EMD on 25.06.2025 and submitted its Expression of Interest (EOI) along with requisite documents.
8. Thereafter, vide email dated 02.07.2025¹, the Respondent alleged that the Applicant was ineligible under Section 29A of the Code. It was alleged that the directors/promoters of the Corporate Debtor exercised "significant influence" over the Applicant and that the Applicant was being run by members of the Butta family. No specific material or cogent reasoning was provided in support of such allegation. The Applicant was called upon to furnish clarifications by 04.07.2025.

¹ Page 42 of the Application (Annexure C)



9. On 04.07.2025, the Applicant replied denying any significant influence or control of the promoters of the Corporate Debtor over the Applicant. The reply clarified that although a promoter of the Corporate Debtor was one of the many founding members of the Applicant Society, he does not hold controlling majority, special voting rights, or any executive committee position and has not held such position for several years. It was also stated that the Society operates independently in management and decision-making, that Section 29A(j) is not attracted, that the Applicant is a distinct legal entity and not a connected person, and that there has been no finding by any forum declaring the Applicant to be a related party. The Applicant also referred to MSME exemption under Section 240A and asserted that sale in its favour would maximize value and protect interests of stakeholders.
10. Thereafter, the Respondent called upon the Applicant to furnish multiple additional documents including MSME certificate, audited financial statements for five years, provisional financials, financial statements from 2015-16 to 2019-20, bank statements for the past five years, net worth certificate, funds availability certificate, list of authorised signatories for ten years along with resolutions, and Society bylaws.
11. The Applicant furnished the documents within the stipulated time. Regarding bank statements for five years, the Applicant communicated practical difficulty in obtaining voluminous statements within the short timeline.
12. Despite the above, the Liquidator, vide email dated 17.07.2025², declared the Applicant ineligible by virtue of disqualification under Section 29A of the Code and forfeited the EMD of Rs. 7,10,00,000/-. The reasons cited in the impugned communication include:

² Page 51 of the Application



- i. That the audited financial statements of the Applicant classified the Corporate Debtor as a related party and vice versa;
 - ii. That the Applicant did not furnish bank statements and cheque signing authorisation details of all its bank accounts;
 - iii. That the Applicant did not vacate the premises and such conduct demonstrates a “nexus” with the Corporate Debtor;
 - iv. That the Applicant obtained waiver of lease rentals, allegedly showing nexus; and
 - v. That the Applicant has “connected parties” attracting disqualification under Section 29A(c) read with Section 29A(j).
13. The Applicant asserts that the Liquidator has not specified under which head of Section 5(24) or Section 5(24A) of the Code the Applicant is treated as a related party, nor has he determined *in praesenti* how the Applicant satisfies the statutory definition. Reliance is placed on the judgments of the Hon’ble Supreme Court in **Phoenix ARC Pvt. Ltd. v. Spade Financial Services Ltd. and Ors, Civil Appeal No. 2842 of 2020**, and **Arcelor Mittal India Pvt. Ltd. v. Satish Kumar Gupta, (2019) 2 SCC 1**, to state that determination of related party status must be specific and *in praesenti*.
14. The Applicant states that even if it were assumed to be a related party, Section 35(1)(f) of the Code and Regulation 33 read with Schedule I of the IBBI (Liquidation Process) Regulations, 2016 do not bar a related party from participating in a liquidation auction. The only statutory bar is against persons ineligible under Section 29A.
15. With respect to Section 29A(c), no finding has been recorded that the Applicant has any account classified as NPA, nor that it manages or controls any such NPA account, nor that it is promoter of any entity with such classification. No reasoning has been assigned as to how Section 29A(c) is attracted.



16. In view of Section 240A of the Code, the rigours of Section 29A(c) do not apply to MSMEs. Since both the Applicant and the Corporate Debtor are MSMEs, the disqualification under Section 29A(c) is not attracted. Consequently, Section 29A(j), which depends upon ineligibility under clauses (a) to (h), cannot be invoked.
17. Regarding alleged non-submission of bank statements and authorisation details, it is contended that such demands are disproportionate, beyond the scope of Section 29A due diligence and not contemplated under the Code or Regulations. The Applicant has substantially complied with all document requests and that rejection solely on such ground reflects non-application of mind.
18. As regards the alleged “nexus” arising from lease arrangements and non-vacation of premises, it is submitted that the underlying disputes are sub-judice before the Hon’ble NCLAT and interim orders are operating. In view of pending proceedings and subsisting stay orders, drawing adverse inference of “nexus” is contested.
19. The Applicant was the sole bidder in the auction. Due to rejection of its bid, the sale has failed and a fresh sale notice dated 30.07.2025 has been issued, potentially leading to reduction in reserve price and erosion of asset value. The property is of irregular configuration with intercepting parcels leased by the Applicant, and sale to a third party would substantially diminish realizable value.
20. The forfeiture of the EMD of Rs. 7,10,00,000/- is illegal and contrary to the Auction Terms and Liquidation Regulations. The Applicant was never declared as the successful or highest bidder and therefore forfeiture of EMD is illegal.
21. In light of the above, the Applicant has sought setting aside the decision of the Liquidator dated 17.07.2025, a declaration that the Applicant is eligible to participate in the auction, a direction to accept its bid, and refund of the EMD.



COUNTER BY RESPONDENT

22. The Respondent has denied the averments raised in the Application. The decision of the Respondent Liquidator communicated vide email dated 17.07.2025 rejecting the bid of the Applicant is stated to be lawful and in compliance with provisions of the Code and the regulations framed thereunder.
23. The Corporate Debtor was incorporated on 24.01.2017 under the Companies Act, 2013 upon conversion of the erstwhile partnership firm “M/s. Butta Infrastructure” into a private limited company. Its principal object was to carry on real estate business. As per the Auditor’s Report for FY 2017-18, all properties of the erstwhile partnership firm stood legally transferred to the Corporate Debtor. The directors of the Corporate Debtor are Siva Neelakanta Butta and Butta Naga Raju, and the shareholding pattern reflects that Siva Neelakanta Butta holds 51% and Butta Renuka holds 44%, with the remaining shares held by close family members and associates.
24. Upon taking charge, the Liquidator examined the financial statements of the Corporate Debtor for FY 2016-17³, 2017-18⁴, 2018-19⁵ and provisional financial statements for FY 2020-21⁶ and found that the promoters and directors of the Corporate Debtor, in connivance with the Applicant, carried out fraudulent transactions.
25. Two Lease Deeds dated 23.02.2017⁷ were executed between the Corporate Debtor and the Applicant in respect properties situated at Banjara Hills, Hyderabad and Madhapur, Ranga Reddy District. As per Schedule-2 of the Lease Deeds, the lease rentals were initially fixed at Rs. 3 Crores per month from 2016 with annual escalation and from 31.03.2018 stood at Rs. 4.4 Crores per month. The Corporate Debtor

³ Page 40 of the Counter (Annexure 2)

⁴ Page 56 of the Counter (Annexure 3)

⁵ Page 73 of the Counter (Annexure 4)

⁶ Page 114 of the Counter (Annexure 6)

⁷ Page 116 of the Counter (Annexure 7)



thereafter mortgaged the said properties to LIC Housing Finance Limited and availed a loan of Rs. 310 Crores under a rental securitisation scheme. Under the said arrangement, the Applicant, as tenant, was required to deposit lease rentals directly into the escrow account for servicing the loan. It is stated that no payments were made by the Applicant towards the escrow account and that outstanding lease rentals exceeded Rs. 280 Crores as on 31.05.2022.

26. The audited financial statements of the Corporate Debtor for FY 2017-18 and 2018-19 record waiver of lease rentals aggregating to substantial sums and non-recognition of income in that regard. It is alleged that the waiver of such rentals disabled the Corporate Debtor from servicing its loan obligations and directly contributed to insolvency. The Lease Deeds were subsequently cancelled vide Deeds of Cancellation dated 06.09.2019 without obtaining prior consent of LIC Housing Finance, despite the sanction letter mandating prior approval for any alteration of lease terms. Although the cancellation deeds required immediate vacation of the premises, the Applicant continues to remain in possession. The entire sequence of incorporation, leasing to the Applicant, availing Rs. 310 Crores under rental securitisation, waiver of lease rentals and subsequent cancellation of lease deeds is alleged to constitute a structured scheme devised by the suspended board in connivance with the Applicant to siphon public funds. An application under Section 66 of the Code in I.A. No. 788 of 2022 in respect of fraudulent transactions is presently pending before this Tribunal.
27. In I.A. No. 643 of 2022, this Tribunal directed the Applicant to pay lease rentals from 01.04.2021 till 03.07.2022 aggregating to Rs. 58,98,33,520/- to the Liquidation Account, while observing that waiver up to 31.03.2021 would be dealt with in I.A. No. 788 of 2022. In I.A. No. 1127 of 2023, eviction was directed by order dated 09.08.2024,



which has been stayed by the Hon'ble NCLAT subject to interim payment of rent.

28. The audited financial statements of the Corporate Debtor for FY 2019-20⁸ reflect the Applicant under the head “companies/entities in which KMP and their relatives have significant influence.” It is asserted that the Applicant falls within the definition of “related party” under Section 5(24)(e) of the Code. The website of the Applicant Society previously reflected Mr. Neelakanta Butta as Founder and Managing Director and Ms. Renuka Butta as Founder⁹. Subsequently, their names were removed and their children were shown as CEO, COO and Director of Meridian Group of Schools¹⁰. This, according to the Respondent, establishes continuing management and control of the Applicant by the Butta family. The bye-laws of the Applicant Society and resolutions passed by its General Body, including a resolution dated 10.03.2025 authorising members to act on behalf of the Society, are relied upon to assert that founding members exercise wide powers over the affairs of the Society. It is further pointed out that Mr. Neelakanta Butta is a signatory to the balance sheet of the Applicant Society for FY 2016-17 and had signed a No Objection Certificate dated 21.01.2017 in the capacity of Secretary of the Applicant Society for conversion of the partnership firm into the Corporate Debtor, thereby evidencing his role in the affairs of the Applicant Society.
29. It is contended that for determining ineligibility under Section 29A, no prior adjudication by a court or tribunal is required and that the Liquidator is duty bound under Section 35 of the Code to independently verify eligibility of prospective bidders. The Corporate Debtor's account had been classified as NPA by LIC Housing and more than one year had elapsed prior to commencement of CIRP. The promoters/directors of the

⁸ Page 92 of the Counter (Annexure 5)

⁹ Page 265 of the Counter (Annexure 17)

¹⁰ Page 267 of the Counter (Annexure 18)



Corporate Debtor are therefore ineligible under Section 29A(c). Since such promoters and their relatives are stated to exercise significant influence and control over the Applicant, they are “connected persons” within the meaning of Section 29A(j), rendering the Applicant ineligible under Section 29A(j) read with Section 29A(c). Section 35(1)(f) of the Code prohibits the Liquidator from selling assets to any person who is not eligible to be a resolution applicant, and Clause 5A of Schedule I of the Liquidation Regulations mandates submission of an undertaking of eligibility under Section 29A. Therefore, the eligibility criteria under Section 29A apply equally to liquidation auction bidders.

30. The Liquidator sought bank statements for five years and details of authorised signatories in order to independently verify whether the promoters of the Corporate Debtor continued to exercise financial control over the Applicant. The Applicant failed to furnish complete bank statements and complete signatory details despite repeated opportunities and extensions. The Liquidator is not bound to rely solely on declarations of eligibility furnished by a bidder and is required to conduct independent due diligence. The refusal or failure to furnish complete documentation is stated to reinforce the finding of ineligibility.
31. With respect to MSME exemption, it is stated that the MSME certificate of the Corporate Debtor was obtained on 20.11.2021 after commencement of CIRP and without knowledge of the Resolution Professional and is therefore irregular. Section 240A of the Code applies in the context of submission of a resolution plan by promoters of an MSME Corporate Debtor and the said exemption is not available to the Applicant. It is further pointed out that both MSME certificates mention the same email address “am.bhpl@buttgroup.com”, which, according to the Respondent, evidences that the Applicant forms part of the Butta Group.
32. The auction notice dated 05.06.2025 expressly provided that if a bidder is found ineligible at any stage, the EMD shall be forfeited. Clause 5A



of Schedule I of the Liquidation Regulations permits forfeiture upon discovery of ineligibility. Since the Applicant was found ineligible during due diligence, forfeiture of the EMD was effected in accordance with the terms of the auction notice and the Regulations.

33. The fact that the Applicant was the sole bidder is stated to be immaterial. Sale of assets to an ineligible person would defeat the object and scheme of the Code. In these circumstances, the Respondent has sought the dismissal of the Application with exemplary costs.

REJOINDER

34. The Applicant submits that the references in the Counter to pending proceedings before this Adjudicating Authority and the Hon'ble NCLAT, including matters relating to deposit of rents, eviction proceedings, and the application filed under Section 66 of the Code, have already been fairly disclosed in the Application and are pending adjudication. It is contended that such references are reiterated only to prejudice the Tribunal and have no bearing on the limited issue of alleged ineligibility under Section 29A. The Applicant states that it is regularly remitting monthly lease rentals as determined by the Advocate Commissioner in compliance with interim orders of the Hon'ble NCLAT and that the appeals concerning lease rental arrears and eviction are sub judice. The allegation of fraud is denied as baseless and unwarranted, and it is further contended that the alleged undertaking said to have been given to LIC Housing Finance Limited is a fabricated and disputed document purportedly signed by one Rama Rao, who has no connection with the Applicant.
35. With respect to the allegation that the Applicant Society is being run and controlled by Mr. Neelakanta Butta and his family members, the Applicant denies the same and submits that, Mr. Neelakanta Butta is one among twenty members of the Applicant Society and has not held any executive or decision-making position since 23.10.2016, when he



and certain family members resigned from the Executive Committee. Since then, he has remained only an ordinary member of the General Body. There is no special voting right or preferential power conferred upon founding members under the Bye-laws. All members possess identical voting rights and the affairs of the Society are managed by the Executive Committee. The balance sheet for FY 2016–2017 was signed by Mr. Neelakanta Butta only in the capacity of member, and admittedly thereafter he has not signed the balance sheets.

36. The resolution dated 10.03.2025 relied upon by the Respondent pertains only to submission of documents to the Road Transport Authority for registration of school buses, was passed by the Board of Committee Members, and is signed by the President; it is contended that the authorisation granted therein is confined to implementation of that specific decision and does not confer managerial or controlling authority upon all members of the Society.
37. It is contended that the references to the website of the school showing founding roles or family members in designations are also misplaced. The designation of “Managing Director” pertains to Butta Education, which is a separate entity. The family members mentioned on the website are employee designations/roles and also positions in Meridian Edutech Solutions Private Limited, which is a separate entity.
38. The Applicant further contends that the Respondent has failed to establish how the Applicant qualifies as a “related party” under Sections 5(24) or 5(24A) of the Code and that reliance on Section 5(24)(e) is misplaced and inapplicable. It is submitted that mere notations in financial statements of the Corporate Debtor or website references do not constitute a valid legal determination, particularly when such determination must be made *in praesenti* at the time of participation in the bid. The Applicant asserts that even assuming, without admitting, that it is a related party, such status by itself does not automatically



attract ineligibility under Section 29A unless the specific disqualifications under that provision are satisfied.

39. The Applicant also disputes the interpretation placed by the Respondent on Section 240A, contending that the exemption thereunder is available not only to promoters of an MSME Corporate Debtor but to any resolution applicant, and that once the Corporate Debtor qualifies as an MSME, the exemption applies irrespective of the date of certification. It is submitted that the MSME certificate had been furnished to the Respondent during the bid clarification stage and that the Liquidator's plea of ignorance is untenable, especially when he has been in control since 2022 and prior proceedings including L.A. (IBC) No. 103 of 2022 had been filed on the basis of such exemption.
40. The Applicant further submits that the Respondent sought voluminous and confidential documents, including five years' complete bank statements, despite the Applicant having furnished net worth certificates, funds availability details, and audited balance sheets from FY 2016-2017 to FY 2023-2024, and that rejection of the bid on such grounds reflects non-application of mind and an attempt at a roving enquiry. It is contended that wide powers of the Liquidator cannot be exercised to seek unrelated confidential information. The Applicant reiterates that strict requirements of Section 29A must be satisfied before declaring ineligibility and that mere allegations, apprehensions of fraud, or use of similar email domains do not establish related party or connected person status within the meaning of the Code.
41. Accordingly, the Applicant submits that neither is it a related party nor are the promoters/ex-directors of the Corporate Debtor connected persons of the Applicant Society, and that no ineligibility under Section 29A is attracted. It is further contended that the forfeiture of the EMD is illegal and that the decision declaring the Applicant ineligible is erroneous and liable to be set aside.



WRITTEN SUBMISSIONS BY APPLICANT

42. The Applicant has, apart from reiterating its submission in the Application and Rejoinder has advanced specific submissions in relation to the applicability of Section 240A of the Code and the MSME status of the Corporate Debtor. It is contended that even if the MSME certificate was obtained subsequent to initiation of CIRP, the benefit under Section 240A would still be available, reliance being placed on ***Hari Babu Thota, Civil Appeal No. 4422 of 2023, Vishram Narayan Panchpor v. COC, Company Appeal No. 1489 and 5342 of 2023,*** and ***Rajesh Agarwal v. Devendra P. Jain, MANU/NL/0193/2021.***
43. The Applicant has further elaborated on the criteria under Section 7 of the MSME Act, submitting that classification depends on whether the enterprise is engaged in manufacturing or services, and that for service enterprises the relevant parameter is “equipment” and not “plant and machinery.” It is submitted that, applying S.O. 2119(E) dated 26.06.2020 and excluding land, buildings, furniture and fittings in terms of the Income Tax Rules, the value of “equipment” as reflected in the audited balance sheet as on 31.03.2020 does not exceed the prescribed threshold. Therefore, even independent of the MSME certificate, the Corporate Debtor qualifies as an MSME on the basis of its financial statements relied upon by the Respondent. It is also stated that the MSME certificate was issued after scrutiny of the ITR returns of the Corporate Debtor and that even in the event of any upward revision, the Corporate Debtor would remain at least within the category of a medium enterprise.

WRITTEN SUBMISSIONS BY RESPONDENT

44. The Respondent has contended that the present Application is a colourable attempt to circumvent the statutory ineligibility under Section 29A of the Code by belatedly invoking the MSME exemption under Section 240A. It is submitted that this Bench has already



observed that there is no dispute regarding the related party status between the Applicant Society and the Corporate Debtor, as reflected in the balance sheets of the Corporate Debtor recording the Applicant as an entity in which the key managerial personnel and their relatives have significant influence, and the Applicant's website showing Mr. Butta Neelakanta as Founder and Managing Director.

45. The principal issue, according to the Respondent, concerns the validity of the MSME registration obtained after commencement of CIRP by a member of the suspended Board, allegedly without authorization of the CoC or the Resolution Professional. It is contended that such post-commencement registration is legally impermissible and cannot be relied upon to defeat the bar under Section 29A. Reliance is placed on orders of the NCLT, Hyderabad Bench, Court-II in I.A. No. 53 of 2024 and I.A. No. 726 of 2024, wherein it was held that obtaining MSME registration at the stage of resolution, particularly when no steps were taken prior to commencement of CIRP, amounts to an attempt to secure inclusion despite ineligibility under Section 29A. It was further observed therein that Udyam registration is a self-declaration based process requiring no verification and that acceptance of such post-CIRP registration would defeat the object of Section 29A by enabling back-door entry to suspended management. It was also held that a suspended director is not competent or authorized to make representation before the Ministry of MSME on behalf of the Corporate Debtor.
46. It is submitted that the said decisions squarely apply to the present case, where a member of the suspended Board obtained MSME status for both the Applicant and the Corporate Debtor using the same email ID, thereby evidencing an attempt to provide back-door entry. Invoking the doctrine of *stare decisis*, reliance is placed on the decision of the Hon'ble NCLAT, Delhi in **Rajeev R. Jain v. Aasan Corporate Solutions Pvt. Ltd. CA(AT)(INS) NO. 1085 of 2021**, to contend that



co-ordinate bench decisions are binding and must be followed to maintain certainty in law. Further reliance is placed on the decision of the Hon'ble NCLAT, Chennai Bench in ***Shashi Galada v. Nitin Vishwanath Panchal, CA(AT)(CH) NO. 176 of 2023***, wherein it was reiterated that the relevant date for determining MSME status is the date of commencement of CIRP and that subsequent acquisition of MSME registration does not have retrospective effect for purposes of Section 240A.

47. The Respondent further submits that mere assertion that the Corporate Debtor satisfies the investment or turnover thresholds under the MSMED Act is insufficient in the absence of valid registration as on the CIRP commencement date, and that neither the Liquidator nor the CoC had considered or examined such registration. It is contended that courts have consistently held that where MSME registration is absent, invalid, or obtained post-commencement, the benefit of Section 240A cannot be invoked.
48. We have heard the learned counsels for both the parties and have also gone through the entire record.

ANALYSIS AND FINDINGS

49. The principal question that arises for consideration in the present Application is whether the Applicant, Meridian Educational Society, was rightly declared ineligible by the Liquidator to participate in the auction conducted for sale of the asset of the Corporate Debtor on the ground that it suffers from ineligibility under Section 29A of the Code, read with Section 35(1)(f) of the Code.
50. The Applicant has contended that it is an independent registered society having twenty members and that the promoters of the Corporate Debtor have ceased to hold any executive or managerial position since 2016. It is further contended that the Liquidator has failed to demonstrate how any of the clauses of Section 29A are attracted to the



Applicant. On the other hand, the Liquidator has asserted that the Applicant and the Corporate Debtor are entities controlled and influenced by the same persons, namely the promoters of the Corporate Debtor, and that the Applicant is ineligible under Section 29A(c) read with Section 29A(j) of the Code.

51. At the outset, it is necessary to note that the proviso to Section 35(1)(f) of the Code specifically provides that the Liquidator shall not sell the movable or immovable property of the Corporate Debtor in liquidation to any person who is not eligible to be a resolution applicant. Thus, the ineligibility criteria contained in Section 29A are equally applicable to a prospective purchaser in liquidation proceedings. The legislative intent underlying the provision is to ensure that persons who are disqualified from submitting a resolution plan do not regain control over the assets of the Corporate Debtor through the liquidation process. Therefore, the determination of eligibility of a bidder under Section 29A assumes significance even in the context of sale of assets during liquidation.
52. The Liquidator has primarily invoked Section 29A(c) read with Section 29A(j) of the Code. Section 29A(c) renders a person ineligible where, at the time of submission of the resolution plan, an account of a corporate debtor under the management or control of such person stands classified as a non-performing asset and a period of one year has elapsed from the date of such classification till the insolvency commencement date of the corporate debtor, without payment of the overdue amounts together with interest and charges thereon. Thus, the disqualification is attracted not only where the person is a promoter of the corporate debtor, but also where the corporate debtor whose account has become an NPA is under the management or control of such person. Section 29A(j) further extends this ineligibility to any person who has a connected person falling within clauses (a) to (i) of Section 29A. The expression “connected person”, for the purposes of clause (j), includes any person who is the promoter or in management



or control of the resolution applicant, as well as any related party of such person.

Whether the Applicant is a Related Party of the Corporate Debtor:

53. In the present case, the material placed on record indicates a close and substantial relationship between the Applicant Society and the promoters of the Corporate Debtor. The audited financial statements of the Corporate Debtor for the financial year 2019-20, which constitute the latest audited financial statements prior to the initiation of the CIRP, specifically record the Applicant Society as an entity in which the key managerial personnel of the Corporate Debtor and their relatives have significant influence¹¹.

The relevant portion of the audited financial statements for the financial year 2019–2020, already on record, is reproduced below:

BUTTA INFRASTRUCTURE PRIVATE LIMITED
Notes to Financial Statements for the year ended 31.03.2020 (Continued)

Annexure - I to Note-2(xvii):

a) Names of the related parties of the Company

i) Companies/entities in which KMP and their relatives have significant influence:

BUTTA AUTOMOTIVES PRIVATE LIMITED
BUTTA CHITFUNDS PRIVATE LIMITED
BUTTA CONVENTION SERVICES PRIVATE LIMITED
BUTTA EARLY LEARNING CENTRE PRIVATE LIMITED
BUTTA ENTERPRISES PRIVATE LIMITED
BUTTA HEALTHCARE PRIVATE LIMITED
BUTTA HOSPITALITIES PRIVATE LIMITED
MERIDIAN EDUCATIONAL SOCIETY
MERIDIAN EDUTECH SOLUTIONS PRIVATE LIMITED
PRATHUL AUTOMOBILES PRIVATE LIMITED
RAINBOW STRUCTURAL ENGINEERS PRIVATE LIMITED
TEJASWI MOTORS PRIVATE LIMITED
VAISHNAVI JEWELLERS PRIVATE LIMITED

ii) Key Management Personnel[KMP]:

<u>Particulars</u>	<u>Relation</u>
BUTTA SIVA NEELAKANTA	Director
BUTTA NAGARAJ	Director


54. The Applicant has not provided any satisfactory explanation as to why such disclosure was made in the statutory financial statements of the Corporate Debtor if the two entities were entirely independent.

¹¹ Page 113 of the Counter



55. Apart from the disclosures in the financial statements, the record also demonstrates that Mr. Butta Neelakanta, who is a promoter and director of the Corporate Debtor, is a founding member of the Applicant Society along with members of his family¹².

The relevant portion evidencing the said details, already on record, is reproduced below:


MERIDIAN SCHOOL
Connecting the Mind and Heart

List of Members

S.No	Name	Designation
1.	Lalitha Naidu Injoty	President
2.	Mr. P. Vishnu Vardhan	Vice President
3.	B Usha Devi	Secretary
4.	B Dharmendra Kumar	Joint Secretary
5.	Trupti Rao	Treasurer
6.	G Jagadeesh	Member
7.	B Gopal	Member
8.	Mr. B.S. Neelakanta	Member
9.	Mrs. B. Renuka	Member
10.	Mr. D Yugender	Member
11.	Mr. Vijay Bhaskar Reddy	Member
12.	K.Chandrasekhar Reddy	Member
13.	B. Tejaswi	Member
14.	D.Nagamma	Member
15.	B.Pratul	Member
16.	D.Madhusudhan	Member
17.	B.Lakshmi Devi	Member
18.	B.Shivakumar	Member
19.	M.Somnath	Member
20.	B.Chandrasekhar	Member

¹² Page 215 of the Counter



56. The Applicant Society and the Corporate Debtor are closely knit entities, as the shareholders of the Corporate Debtor who are the family members and relatives of Mr. Butta Neelakanta are also members of the Applicant Society, indicating a common sphere of influence in the affairs and decision-making processes of the Applicant Society and the Corporate Debtor.

The Shareholding pattern of the Corporate Debtor, which forms part of the record, is reproduced below:

- ii. The directors of the Corporate Debtor and its shareholders are as follows:

Directors:

S.No.	Name of the Director	DIN
1.	Siva Neelakanta Butta	00258720
2.	Butta Naga Raju	08087094

Shareholders:

S.No.	Name of the Shareholder	No. of Shares	%
1.	Siva Neelakanta Butta	3,20,38,288	51%
2.	Butta Renuka	2,76,40,876	44%
3.	Tejaswi Butta	6,28,202	1%
4.	Pratul Butta	6,28,202	1%
5.	D. Nagamma	6,28,202	1%
6.	Shiva Kumar Butta	6,28,202	1%
7.	Madhusudan Dande	6,28,202	1%
	Total	6,28,20,174	100

57. It is also relevant to note that while the Applicant has contended that the promoters of the Corporate Debtor have not held any executive position in the Applicant Society since the year 2016, the material placed on record indicates that Mr. B.S. Neelakanta, who is a promoter



of the Corporate Debtor and associated with the Applicant Society, issued and signed a No Objection Certificate¹³ dated 21.01.2017 stating that he was a creditor of the partnership firm Butta Infrastructure to the extent of Rs. 22.54 crores and that he had no objection to the said firm being converted into a company under the name “Butta Infrastructure Private Limited”. The said declaration was issued on behalf of Meridian Educational Society. This document, executed subsequent to the year 2016, indicates the continuing association of the promoter of the Corporate Debtor with the affairs of the Applicant Society and further reflects the nexus between the Applicant Society and the Corporate Debtor.

58. Further, it is also observed that the website of the Applicant institution had previously reflected the promoter of the Corporate Debtor as the Founder and Managing Director of Meridian Educational Society¹⁴. In addition, the website of the Butta Group continues to show Meridian as an entity forming part of the group and identifies the promoter of the Corporate Debtor as the founder and Managing Director of the group¹⁵.
59. It is further observed that the Independent Auditor’s Report of the Corporate Debtor for the Financial Year 2019–2020 records the Applicant Society as an entity in which the Directors of the Corporate Debtor are interested¹⁶. Similarly, the Independent Auditor’s Report of the Applicant Society for the Financial Year 2023–2024, as well as for the preceding years, refers to the Corporate Debtor as a “group entity” of the Applicant Society¹⁷. These financial statements were signed by the persons responsible for the management of the respective entities. If such disclosures did not correctly reflect the relationship between the entities, it would have been open to the concerned persons to raise

¹³ Page No. 264 of the Counter

¹⁴ Page No. 265 of the Counter

¹⁵ Butta Group, <https://www.buttagroup.com/team.php> (last visited Mar. 9, 2026, 3:00 PM IST)

¹⁶ Page No. 112 of the Counter

¹⁷ Page No. 207 of the Application



objections at the relevant point of time. No such objection appears to have been raised. The consistent reflection of these disclosures in the audited financial statements of both entities indicates that the association between them was acknowledged by the parties themselves.

60. Apart from the above circumstances, it is observed that the MSME registration certificates of both the Corporate Debtor and the Applicant Society reflect the same email address¹⁸. The use of identical contact details in registrations relating to two purportedly independent entities is a circumstance which cannot be lightly ignored while examining the nature of their relationship and indicates a common management and coordination.
61. A further significant circumstance demonstrating the close nexus between the Applicant Society and the Corporate Debtor is the waiver of lease rentals granted by the Corporate Debtor in favour of the Applicant. The audited financial statements of the Corporate Debtor for the Financial Year 2017–18 record that, pursuant to a registered lease agreement dated 23.02.2017 executed with the Applicant Society, the Corporate Debtor was entitled to receive annual lease rentals of ₹36 crores. However, at the request of the Applicant Society, the Board of Directors of the Corporate Debtor, by resolution dated 05.04.2017, waived the lease rentals for a period of five years ending 31.03.2021, resulting in a total waiver of ₹180 crores. The said waiver is expressly reflected in the audited financial statements¹⁹. While the validity and legality of the said transaction are matters falling for consideration in separate proceedings before this Authority and in appeals pending before the Hon'ble NCLAT, this Authority is not entering into the merits of those disputes in the present proceedings. The fact which assumes relevance herein is that the Corporate Debtor chose to forgo an extraordinarily substantial revenue entitlement in favour of the

¹⁸ Page No. 71 and 76 of the Application

¹⁹ Page 67 of the Counter.



Applicant Society, which strongly indicates the existence of a close relationship and a position of influence exercised by the Applicant over the affairs of the Corporate Debtor. It is also relevant to note that, as stated by the Applicant itself, the school building and premises of the Applicant institution have been constructed over the land belonging to the Corporate Debtor and extend across the said land along with adjoining parcels. This circumstance further demonstrates the intertwined nature of the operations of the Applicant Society and the Corporate Debtor. Such conduct, viewed in the overall factual matrix, lends support to the inference that the decisions of the Corporate Debtor were significantly influenced by the Applicant Society and that the Corporate Debtor functioned under the management and control of the Applicant Society.

The relevant portion of the audited financial statements for the financial year 2017–2018, already on record, is reproduced below:

BUTTA INFRASTRUCTURE PRIVATE LIMITED	
1. SIGNIFICANT ACCOUNTING POLICIES	
xii)	In terms of a registered lease agreement dated 23rd February 2017 entered into between the company and M/s. Meridian Educational Society [MES] in which the directors are interested, the Company is entitled for an annual lease amount of Rs.3600.00 lakhs. However, on the request of MES, the Company vide Board resolution dated 05-04-2017 had waived-off the lease amount for a period of 5 years until 31st March 2021. Accordingly, no income has been recognized in the company's books of account in this regard.
xiii)	Revenue from Operations include Rs.5715.00 lakhs towards providing auxiliary educational services in terms of the 'Cost Plus' Agreement for Auxiliary Educational Services entered on 1st April 2017 with M/s. Meridian Educational Society in which the directors are interested. As Meridian Educational Society allowed the company to use some of its resources free of cost in this regard, no provisions towards any expenses have been made in the books of account for such resources.
xiv)	Related party disclosures as required under Accounting Standard -18 are as enclosed in annexure.

62. When the above circumstances are considered cumulatively, they indicate that the Applicant Society and the promoters of the Corporate Debtor have repeatedly represented themselves as being associated with each other in different contexts. These facts cannot be treated as isolated coincidences but demonstrate a continuing and substantive



connection between the Applicant Society and the promoters of the Corporate Debtor.

63. In view of the aforesaid material, this Authority is satisfied that the Applicant Society falls within the ambit of a “related party” of the Corporate Debtor within the meaning of Section 5(24) of the Code. The sustained managerial, financial and operational nexus between the entities attracts Section 5(24)(f), as the material indicates that the affairs of the Applicant Society have been conducted under the advice, directions and influence of the promoters and persons in management of the Corporate Debtor. Further, the close association and common management between the entities also attracts Section 5(24)(m)(i) and (iii) of the Code, inasmuch as the material indicates participation in policy making processes and interchange of managerial involvement between the Corporate Debtor and the Applicant Society.
64. The Applicant has nevertheless contended that since the promoters of the Corporate Debtor do not presently hold any executive position in the governing body of the Applicant Society and are merely members of the general body, the Applicant cannot be regarded as being under their control. In this context, the Applicant has relied upon the judgment of the Hon’ble Supreme Court in ***Phoenix Arc Pvt. Ltd. v. Spade Financial Services Ltd. and Ors.***²⁰, to submit that the determination of whether an entity is a “related party” must be made *in praesenti*.
65. However, the reliance placed by the Applicant on the aforesaid judgment is incomplete and misplaced. In ***Phoenix Arc (Supra)***, the Hon’ble Supreme Court was examining the interpretation of the expression “*is a related party*” occurring in the first proviso to Section 21(2) of the Code. One of the arguments raised before the Court was that the use of the present tense in the provision indicates that the determination of related-party status must be made with reference to

²⁰ Phoenix Arc Pvt. Ltd. v. Spade Financial Services Ltd. & Ors., (2021) ibclaw.in 03 SC



the present position of the parties. The Court acknowledged that the language of the provision may appear to suggest such an interpretation. However, the Hon'ble Supreme Court did not accept that the provision should be interpreted only in that manner. The Court proceeded to consider the purpose of the exclusion of related parties from participation in the Committee of Creditors and observed that accepting a purely present-tense interpretation would allow related parties to avoid the statutory exclusion by ceasing to be related parties before the commencement of the insolvency process.

66. The Court therefore clarified that where a creditor seeks to participate in the Committee of Creditors on the basis of a debt that was created when it was a related party, the exclusion under the first proviso to Section 21(2) would apply. The Court further observed that a related party cannot remove its label as a related party through commercial contrivances in order to enter the Committee of Creditors.
67. The relevant observations of the Hon'ble Supreme Court are reproduced below:

“90. Hence, we would need to consider the meaning of the first proviso in the light of the context, object and purpose for which it was enacted. The purpose of excluding a related party of a corporate debtor from the CoC is to obviate conflicts of interest which are likely to arise in the event that a related party is allowed to become a part of the CoC....”

“Accepting the submission of Mr Viswanathan would allow the statutory provision to be defeated by a related party of a corporate debtor creating commercial contrivances which have the effect of denuding its status as a related party, by the time that the CIRP is initiated. The true test for determining whether the exclusion in the first proviso to Section 21(2) applies must be formulated in a manner which would advance the object and purpose of the statute and not lead to its provisions being defeated by disingenuous strategies.”

“91. Therefore, it could be stated that where a financial creditor seeks a position on the CoC on the basis of a debt which was



created when it was a related party of the corporate debtor, the exclusion which is created by the first proviso to Section 21(2) must apply. For, it is on the strength of the financial debt as defined in Section 5(8) that an entity claiming as a financial creditor under Section 5(7) seeks a position on the CoC under Section 21(2). If the definition of the expression 'related party' under section 5(24) applies at the time when the debt was created, the exclusion in the first proviso to Section 21(2) would stand attracted."

"94. Thus, it has been clarified that the exclusion under the first proviso to Section 21(2) is related not to the debt itself but to the relationship existing between a related party financial creditor and the corporate debtor. As such, the financial creditor who in praesenti is not a related party, would not be debarred from being a member of the CoC. However, in case where the related party financial creditor divests itself of its shareholding or ceases to become a related party in a business capacity with the sole intention of participating the CoC and sabotage the CIRP, by diluting the vote share of other creditors or otherwise, it would be in keeping with the object and purpose of the first proviso to Section 21(2), to consider the former related party creditor, as one debarred under the first proviso.

"95. Hence, while the default rule under the first proviso to Section 21(2) is that only those financial creditors that are related parties in praesenti would be debarred from the CoC, those related party financial creditors that cease to be related parties in order to circumvent the exclusion under the first proviso to Section 21(2), should also be considered as being covered by the exclusion thereunder. Mr Kaul has argued, correctly in our opinion, that if this interpretation is not given to the first proviso of Section 21(2), then a related party financial creditor can devise a mechanism to remove its label of a 'related party' before the Corporate Debtor undergoes CIRP, so as to be able to enter the CoC and influence its decision making at the cost of other financial creditors."

68. The above observations make it clear that the determination cannot be confined merely to the present status of the parties if such interpretation would defeat the object of the statutory exclusion.



69. When the above principles are considered in the context of the present case, the Applicant's reliance on the judgment to contend that the inquiry must be restricted only to the present status of the Applicant Society cannot be accepted. The materials placed on record, including the disclosures in the audited financial statements of the Corporate Debtor and the association of the promoters of the Corporate Debtor with the Applicant Society, indicate the existence of a substantial relationship between the entities.
70. The bye-laws²¹ of the Applicant Society indicate that the general body of members possesses wide powers relating to the functioning of the society, including review of activities, approval of financial statements, and issuance of instructions to the governing body. The presence of the promoters of the Corporate Debtor and their immediate family members within such a governing structure, and also looking into the historical and operational connections between the entities, clearly demonstrates that the Applicant Society cannot be regarded as a completely independent entity devoid of influence from the promoters of the Corporate Debtor.
71. The Applicant has also argued that mere classification as a "related party" does not automatically attract ineligibility under Section 29A. While the said proposition is correct in principle, the determination under Section 29A does not rest solely upon the nomenclature of "related party". What is required to be examined is whether the Applicant has a connected person who is ineligible under the provisions of Section 29A. In the present case, the material on record indicates that the promoters of the Corporate Debtor, who are themselves ineligible under Section 29A(c), continue to have a substantial relationship and influence over the Applicant Society. Once such relationship is established, the Applicant would fall within the ambit of

²¹ Page 214 of the Counter



Section 29A(j) as a person having a connected person who is ineligible under clause (c).

Whether the Corporate Debtor Qualifies as an MSME:

72. Now that the status of the Applicant Society as a related party of the Corporate Debtor stands established and the ineligibility under Section 29A of the Code has been determined, it becomes necessary to examine the further contention advanced by the Applicant that the Corporate Debtor is a Micro, Small and Medium Enterprise (MSME) and that the disqualification under Section 29A(c) would therefore not apply in view of Section 240A of the Code.
73. The Applicant has contended that the Corporate Debtor holds a MSME registration certificate and that, in terms of Section 240A of the Code, the rigour of clauses (c) and (h) of Section 29A shall not apply to a resolution applicant in respect of the CIRP of an MSME. It is submitted that once the Corporate Debtor qualifies as an MSME, the promoters and connected persons cannot be rendered ineligible and consequently the Applicant's participation in the auction could not have been rejected.
74. The above contention cannot be accepted. Upon commencement of the CIRP, the powers of the Board of Directors of the Corporate Debtor stand suspended and the management of the Corporate Debtor vests with the Resolution Professional. The suspended management is divested of its authority to take decisions or undertake actions having legal consequences on behalf of the Corporate Debtor.
75. Any step affecting the status of the Corporate Debtor during the subsistence of CIRP, including registrations, classifications and declarations having implications, must necessarily be undertaken by the Resolution Professional in consultation with the Committee of Creditors. Such actions cannot be unilaterally carried out by the



erstwhile promoters or suspended directors who no longer retain control over the affairs of the Corporate Debtor.

76. In the present case, the MSME registration relied upon by the Applicant was admittedly obtained after commencement of CIRP. There is no material to show that such registration was obtained by the Resolution Professional or that it was authorised or approved by the Committee of Creditors. On the contrary, it is clear that the registration was procured by the suspended management despite lacking authority to represent the Corporate Debtor. A statutory status obtained in such a manner cannot automatically bind the insolvency process.
77. At this stage, it is also necessary to examine the specific contention advanced by the Applicant regarding the qualification criteria for MSME classification. The Applicant has contended that under Section 7 of the Micro, Small and Medium Enterprises Development Act, 2006, different yardsticks are prescribed for manufacturing and service enterprises and that, in the case of a service enterprise, the value of “equipment” alone is relevant. On that basis, the Applicant attempted to selectively exclude several asset heads and contended that the Corporate Debtor would fall within the prescribed thresholds.
78. The Applicant has, in its written submissions, stated that the maximum value of “equipment” as on 31.03.2020 is Rs.2,49,10,825/- by excluding land, buildings, building - interiors and fixtures, furniture and library books as “not equipment” and by including only computers, electrical equipment, office equipment and vehicles. It is contended that on such computation, the Corporate Debtor would qualify as an MSME even de hors the certificate obtained.
79. The above method of computation is contrary to the MSME classification. Section 7 of the MSMED Act empowers the Central Government to classify enterprises on the basis of notified criteria. In exercise of this power, the Ministry of MSME issued Notification No.



S.O. 2119(E) dated 26.06.2020, which was in force prior to commencement of CIRP and is therefore applicable to the present case.

80. The said notification prescribes a uniform composite criterion based on investment and turnover and does not distinguish between manufacturing and service sectors. It provides that an enterprise shall be classified based on investment in “plant and machinery or equipment” and turnover thresholds. For a medium enterprise, the maximum permissible investment in plant and machinery or equipment is Rs.50 crores and turnover to be less than Rs.250 crores.

81. Clause 4(3) of the notification provides that:

“The expression ‘plant and machinery or equipment’ of the enterprise shall have the same meaning as assigned to the plant and machinery in the Income Tax Rules, 1962 framed under the Income Tax Act, 1961 and shall include all tangible assets (other than land and building, furniture and fittings).”

Thus, the statute permits exclusion only of: (i) land, (ii) building, and (iii) furniture and fittings. No other asset can be excluded.

82. Further, Section 43(3) of the Income Tax Act, 1961 clarifies that:

“Plant includes ships, vehicles, books, scientific apparatus and surgical equipment used for the purposes of the business or profession but does not include tea bushes or livestock or buildings or furniture and fittings.”

This definition is inclusive and therefore expansive.

83. The law is settled that where a term is defined using the expression “means”, the definition is restrictive, whereas where the expression “includes” is used, the definition is extensive. Reliance is placed on the case of **Thalappalam Service Co-operative Bank Ltd. v. State of Kerala, (2013) 14 S.C.R. 475**, wherein the Hon’ble Supreme Court has observed that:

“27....When a word is defined to ‘mean’ something, the definition is prima facie restrictive and where the word is defined to ‘include’ some other thing, the definition is prima facie extensive. But when both the



expressions “means” and “includes” are used, the categories mentioned there would exhaust themselves....”

84. Applying the above principles, and the above statutory provisions, it is clear that the exclusions adopted by the Applicant are legally impermissible. Library books are expressly covered within the definition of “plant”. Similarly, interiors and fixtures are tangible business assets and do not fall within the limited statutory exclusions. The Applicant has therefore adopted an artificial method of computation by excluding asset heads which should be included.
85. Therefore, for determining MSME classification, the following principles apply:
- All tangible business assets must be considered;
 - Land and buildings are excluded;
 - Furniture and fittings are excluded;
 - Interiors & fixtures, vehicles, books, computers, electrical equipment, office equipment and similar business apparatus are included as “plant”.
86. The audited financial statements of the Corporate Debtor for FY 2019-2020, being the financial year immediately preceding commencement of CIRP, disclose the value of tangible assets. The net carrying amounts of assets as on 31.03.2020 are²²:

Sl.No.	Asset Head	Net Carrying Amount as at 31.03.2020
1	Land	Rs. 95,77,49,200/-
2	Buildings	Rs.34,82,41,329/-
3	Buildings – Interiors & Fixtures	Rs.85,69,30,546/-

²² Page 109 of the Counter



4	Computers	Rs.3,11,857/-
5	Electrical Equipment	Rs.1,06,577/-
6	Furniture	Rs.7,35,11,105/-
7	Library Books	Rs.4,87,481/-
8	Office Equipment	Rs.2,29,58,492/-
9	Vehicles	Rs.15,33,899/-
	Total	Rs.2,26,18,30,487/-

87. Upon applying the above principles, the cumulative value of the eligible assets comprising interiors & fixtures, computers, electrical equipment, library books, office equipment, and vehicles amounts to ₹88,23,28,852/-, which is far in excess of the maximum threshold of ₹50 crores prescribed for investment in plant and machinery for classification as a medium enterprise, as on the date of CIRP.
88. Consequently, the Corporate Debtor does not qualify even as a medium enterprise, much less as a micro or small enterprise. The computation furnished by the Applicant is thus contrary to the governing provisions and appears to have been structured only to artificially bring the Corporate Debtor within MSME thresholds.
89. The object of Section 240A of the Code is to grant limited relaxation to genuine MSME enterprises, having regard to their distinctive nature and scale of operations, so as to enable their promoters to participate in resolution in appropriate cases. The provision cannot be interpreted as a mechanism to circumvent the disqualifications under Section 29A through post-CIRP reclassification or unilateral actions of suspended management.



90. This Adjudicating Authority has previously dealt with an identical situation in ***Gajjala Yoganand Vs. Birendra Kumar Agarwal and Anr, in the matter of M/s Manjeera Retail Holdings Private Limited IA No. 726 of 2024*** vide Order dated 18.06.2024,²³ where an MSME registration obtained during CIRP by the suspended management was relied upon to seek exemption under Section 240A. Rejecting the contention, this Authority held that such registration, being obtained without authority and through a self-declaration process, cannot be permitted to defeat the statutory framework of Section 29A.
91. The relevant observations of this Adjudicating Authority are reproduced below:

“18. We find that MSME ‘Udyam’ registration is an online - free, paperless and self-declaration-based process⁶, requiring no verification by any authority. It requires no documents or proof for registering an MSME. Anyone can register any entity by simply providing his Aadhar and Mobile number, which the Applicant has apparently done to get ‘Udyam Registration Certificate’ for the CD.”

“19. If this manoeuvre of registering CD for the ‘Udyam’ certificate during CIRP by the Applicant, who is the suspended Director of the CD, is accepted, then the entire purpose of Section 29A, which aims to prevent ineligible persons from participating in CIRP process, would be defeated. Registering the CD on the MSME ministry portal only to claim exemption under Section 240A of IBC could not have been the legislative intent behind that section, which was introduced to allow former management of only genuine MSMEs to participate in the CIRP process, and not to provide back-door entry to the suspended management of any CD.”

“20. The Applicant being suspended Director of the CD was neither competent nor authorised to make any presentation before the Ministry of MSME on behalf of the CD. The present application filed by the Applicant is also silent on the information submitted

²³ Gajjala Yoganand Vs. Birendra Kumar Agarwal and Anr, I.A. No. 726 of 2024 in CP (IB) No. 296/07/HDB/2022, NCLT, Hyderabad Bench -II (Order dated 18.06.2024)



before the Ministry of MSME to obtain the aforesaid 'Udyam Registration Certificate'. Such a 'Certificate', which has been a product of misrepresentation before a Government Authority cannot be taken into consideration during CIRP and the RP has rightly disregarded the same."

"23. The Applicant's conduct here also is an attempt to become a Resolution Applicant despite being ineligible under Section 29A of IBC. Here too, after the initiation of CIRP, the Applicant has claimed MSME status for the CD based on the 'Udyam Registration Certificate' obtained by him in a questionable manner only to derive benefit from Section 240A of the IBC. The unauthorized acquisition of the 'Udyam Registration Certificate' is clearly an attempt to circumvent the law, which cannot be permitted."

92. The above reasoning applies squarely to the facts of the present case. The MSME certificate relied upon by the Applicant, having been obtained after commencement of CIRP by persons who lacked authority to represent the Corporate Debtor, cannot be treated as a valid basis to claim exemption under Section 240A of the Code.
93. Permitting such a course would allow the suspended management to indirectly influence the process despite statutory divestment of powers, thereby defeating the object of Section 29A and compromising the integrity of the entire framework.
94. Accordingly, in view of the fact that the Corporate Debtor does not satisfy the statutory criteria for classification as a MSME and further did not possess a valid MSME registration prior to the commencement of the CIRP, this Adjudicating Authority holds that the Corporate Debtor cannot be treated as an MSME for the purposes of the present proceedings. Consequently, the Applicant is not entitled to claim any exemption under Section 240A of the Insolvency and Bankruptcy Code, 2016.
95. In view of the foregoing discussion and findings recorded hereinabove, this Adjudicating Authority finds no infirmity in the decision of the



Liquidator in declaring the Applicant ineligible to participate in the auction process.

Whether the Earnest Money Deposit is Refundable:

96. Insofar as the contention of the Applicant regarding refund of the Earnest Money Deposit is concerned, the same is found to be untenable. Clause (5A) of Schedule I of the IBBI (Liquidation Process) Regulations, 2016 mandates that the public notice shall require prospective bidders to furnish an undertaking confirming that they do not suffer from any ineligibility under Section 29A of the Code and further stipulates that if a bidder is found ineligible at any stage, the earnest money deposited shall be forfeited. Further, Clause (12D) of Schedule I specifically provides that where a bidder is found to be ineligible, the earnest money deposit shall be forfeited.
97. The e-auction notice dated 05.06.2025²⁴ issued by the Liquidator also expressly stipulated, at Point No. 3, that the Earnest Money Deposit of the highest bidder shall be forfeited if found to be ineligible during the process. The Applicant participated in the auction process with full knowledge of the said condition.
98. In addition thereto, the Applicant Society had furnished a declaration dated 24.06.2025²⁵, wherein in Clause 3, it is unequivocally stated that if any statement or information furnished by it was found to be incorrect or untrue, the bid would be liable to cancellation and the Earnest Money Deposit and any monies paid would be liable to be forfeited by the Liquidator. Having consciously agreed to the said terms, the Applicant cannot now resile from the consequences flowing therefrom.
99. In view of the statutory mandate contained in the Liquidation Regulations, the express conditions stipulated in the auction notice, and the categorical undertaking furnished by the Applicant itself, the

²⁴ Page 37 of the Application (Annexure A)

²⁵ Page 38 of the Application (Annexure B)



forfeiture of the Earnest Money Deposit upon the Applicant being found ineligible under Section 29A of the Code cannot be said to be arbitrary or illegal.

Conclusion:

100. In view of the foregoing discussion and findings, this Adjudicating Authority is of the considered opinion that the Applicant has failed to make out any case warranting interference with the decision of the Liquidator. No grounds are made out for granting any of the reliefs sought in the present Application. Accordingly, the Application stands dismissed. The interim direction issued vide order dated 10.02.2026, whereby the auction scheduled to be held on 16.02.2026 pursuant to the auction notice dated 24.01.2026 was kept in abeyance, shall stand vacated. No Costs.

Sd/-

**SANJAY PURI
MEMBER (TECHNICAL)**

Sd/-

**RAJEEV BHARDWAJ
MEMBER (JUDICIAL)**