IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH
[Through Physical hearing/ VC Mode (Hybrid)]

ITEM No.09
IA. Nos. 186, 188, 190, 193, 194,197/2021, 250/2023, 253/2021, 275/2021, 298/2021, 570/2022, 502, 638/2024, 645/2025, 414/2026 in C.P.(IB) No. 167/BB/2018

IN THE MATTER OF:

M/s Phoenix Arc Pvt Ltd … Petitioner

Vs.

M/s Soverign Developers & Infrastructure Ltd … Respondent

Petition under Section 7 of IBC, 2016

Order delivered on: 25.06.2026

CORAM:

SHRI. SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI. RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the RP	: Shri Sushanth Belvet
For the Applicant in IA.638/24	: Ms. Aditi Gurjer
For the SRA	: Shri Varun S
For R-3 to R-7 in IA 186/2021	: Shri Akshay J Simha
For Applicant (Phoenix ARC) in IA 502/2024	: Shri Amit Singh Chadha, Sr. Adv. with Shikhar Kumar

ORDER

1. IA Nos. 250/2023, 275/2021, and 298/2021 have been **dismissed vide separate orders.**

2. **List the case on 23.07.2026 for orders on IA.No.638/2024** and hearing on other pending I.As. except PUFE Applications.

-Sd-	**-Sd-**
RADHAKRISHNA SREEPADA	**SUNIL KUMAR AGGARWAL**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

BL

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

(*Exercising powers of Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016)*

(Hearing conducted through Hybrid mode)

I.A. No.275 OF 2021

in

C.P (IB) No. 167/BB/2018

Under Section 60 (5) of I & B Code, 2016 read with I & B Rules, 2016 And applicable Rules of NCLT Rules, 2016

IN THE MATTER OF:

PHOENIX ARC PRIVATE LIMITED,
Trustee of Phoenix Trust FY16-15 (Scheme-B)
5th Floor, Dani Corporate Park
158, CST Road, Kalina
Santacruz (E), Mumbai - 400098 … Applicant

Versus

1. MR. BALAKRISHNAN VENKATACHALAM,
(Resolution Professional of SDIL)
GF 02, Ittina Padma - I Apartments,
5th Main, Ramamurthy Nagar,
Bengaluru - 5600016 … Respondent No.1

2. Sovereign Developers & Infrastructure Limited ,
Having its Registered office at:
No.16, 2nd Floor, Jaladarshini Layout,
New Bel Road Bangalore - 560054 … Respondent No.2

Order delivered on: 25.06.2026

CORAM: 1. Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)
2. Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

COUNSELS PRESENT:

For the Applicants : Shri Amit Singh Chadda, Senior Adv.
For RP : Shri Chintana Chinnapa, Senior Adv.
Ms.Dibyangana, Mr. Chirag, Shri Balakrishna V

<u>O R D E R</u>

1. This Application has been filed on 18.08.2023 by **Phoenix ARC Private Limited** (hereinafter referred as "Applicant") under Section 60 (5) of I & B Code, 2016 read with applicable Rules of the NCLT Rules, 2016 against Mr.Balakrishna Venkatachalam and the Corporate Debtor (hereinafter referred as "Respondents") inter-alia seeking the following reliefs:

    i. *Set-aside and quash all action of Respondent/RP which have been taken in contravention of the scheme of IBC 2016 and also set aside the actions which have been taken by the Respondent/RP without the due approval of CoC and without following the process as required under IBC;*

    ii. *Pass appropriate order (s) and/or directions (s) to Respondent/RP/ Mr.Balakrishnan Venkatachalam to conduct the CIRP proceeding strictly in term of provisions of IBC, 2016 and a direction to take up any step in CIRP with specific approval of CoC as required under IBC and/or alternatively direct IBBI to recommend the alternate RP to take over the CIRP proceedings in place of the present Respondent/RP;*

    iii. *Any other order this Hon'ble Tribunal may deems fit in the interest of justice.*

2. **<u>Facts of the case in the application are as under:</u>**

    a. The Applicant acting in its capacity as Trustee of Phoenix Trust FY 2016-15, Scheme-B is an Asset Reconstruction Company registered under Section 3 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Applicant is the Financial Creditor of CD and is a member of CoC having 11.22% voting share.

    b. Mr. Suresh Variyam, is the Authorized Representative of Phoenix/ Financial Creditor and is holding a Board Resolution in his favour to institute, sign and verify plaints, appeals and claims, to engage lawyers and as such is duly competent and authorized to file the present application and verify the same for and on behalf of Phoenix ARC. He is well conversant with the facts of the present case and the application is being filed/instituted, signed and verified by Mr. Suresh Variyam.

c. The Respondent No. 2/Corporate Debtor was admitted to CIRP on the petition filed by the Applicant vide order dated 16.07.2019 and Mr. Guru Prasad Makam, was appointed as Interim Resolution Professional. On 16.08.2019, during the 1st CoC Meeting, IRP informed that the voting share of CoC could not be determined as claims made by home buyers could not be validated due to lack of data availability.

d. On 27.08.2019, in the 2nd meeting, the CoC by a majority of 68.94% voted against the appointment of Interim Resolution Professional as the Resolution Professional and the name of Respondent No.1 was proposed (by AR of class of Creditors/Homebuyers) to be appointed as the Resolution Professional of the Corporate Debtor. Subsequently, IA No.446 of 2019 was allowed vide Order dated 13.09.2019 to confirm his appointment.

e. Post the appointment of Respondent No. 1 as RP, the CIRP proceedings continued. However, as would be clear from the subsequent developments as well as records of proceedings, he failed to perform his duties in conducting the CIRP of the Corporate Debtor as per the IB Code, 2016. On account of the illegal manner in which CIRP proceedings are being held by Respondent/RP even without the required mandate of CoC, Applicant / Phoenix is constrained to file the present application.

f. The RP is conducting the CIRP/handling the affairs of the Corporate Debtor in a questionable and clandestine manner and even the CoC members are not being apprised of the correct and actual situation of the CIRP of Corporate Debtor. The illegalities and the unsustainable manner in which the CIRP proceedings are conducted by him is clear, inter-alia, from the following:

failed to verify the claims submitted by various Creditors in a timely manner for reasons best known to him;

i. grossly failed to perform his duty to preserve and protect the assets of the CD, by not taking charge of the assets of CD as mandated under IB Code;
ii. failed to take charge of books of accounts of the CD thereby resulting in failure to answer/clarify various queries on admissions of claims submitted by certain class of creditors;
iii. not taken adequate steps to ensure completion of Audit of the accounts of the Corporate Debtor for the year ending 31.03.2019;
iv. It was only after series of reminders and requests, that the Respondent/RP developed and activated the CIRP website of Corporate Debtor, however, Respondent/RP has failed to upload all relevant details on the said website;
v. repeatedly failed to respond to queries of the CoC members;
vi. failed to disclose the status of the Corporate Debtor's accounts, details of operations of the bank accounts, details of expenditures incurred till date etc. before the COC;
vii. failed to share the voting results with CoC as mandated under the Regulations;
viii. failed to discuss on Transactional Audit Report despite numerous requests from the CoC;
ix. grossly failed to inform members of CoC about the change in constitution of CoC i.e. voting share percentage of CoC Members.

RP has completely disregarded the timeline provided under the IB Code

i. Despite his appointment on 13.09.2019, the RP did not conduct a CoC meeting for around 3 months;

ii. failed to take timely action against the suspended directors of CD for their non-compliance of order dated 23.01.2020 (whereby this Hon'ble Tribunal directed the suspended directors to provide information to the RP). It was only after much persuasion by the CoC, that the RP filed contempt application against the suspended directors on 03.03.2021;

iii. failed to take possession of the assets of CD, which has delayed the CIRP process to a great extent;

iv. In spite of availing 90 days extension over and above statutory period of 180 days under CIRP and despite getting an exclusion of 374 days, RP has failed and neglected to take steps for completion of CIRP;

RP on many occasions, has initiated actions or has filed applications without consultation with CoC:

i. RP suo-moto appointed various third-party agencies to conduct transactional audit/verify submitted claims etc without prior approval of the CoC;

ii. suo-moto filed application for extension of CIRP, without consultation with the CoC;

iii. Despite being aware of fraudulent transactions i.e. encashment of certain cheques by suspended directors of CD which were handed over by some of the suppliers, etc. RP, for reasons best known to him, did not take necessary action/file application before appropriate authorities against the said illegal act of suspended directors of CD;

iv. Despite repeated requests, RP has till date not circulated the minutes of meeting of the 5th and 6th CoC;

v. without the consent of CoC, instead of approaching this Tribunal, suo-moto decided to approach police authorities for taking possession of assets of CD.

g. It is pertinent to mention that being aggrieved by the actions / inactions of the RP, even the Homebuyers filed **I.A. Nos. 237 of 2020** & **243 of 2020**, seeking his removal highlighting the illegalities and failures on his part. This Tribunal had disposed of the applications of Homebuyers by giving directions to the RP, vide order dated 22.12.2020.

h. The homebuyers had also filed a complaint against the RP with the IBBI as well as ICAI pointing out the illegalities and inactions on his part which are violative of the provisions of the IBC and Regulations and the provisions of CA Act, 1949.

i. It is clear from the above that Respondent / RP has miserably failed to perform the duties cast upon him but is also conducting the CIRP in an illegal and whimsical manner. The same is highly prejudicial to the interest of all stakeholders and is also serious dereliction of the duty cast upon the RP under section 23 read with Section 25 of the IB Code.

j. Since the Tribunal was already ceased of the applications and issues raised against the RP, the Applicant did not file an application earlier. Applicant states that apart from the present application, Applicant has not filed any other application either before this Tribunal or in any other Tribunal/Court in respect of the present subject matter.

3. **REPLY BY THE RP:**

Reply is filed by the RP to the application vide Dy.no. 3513 dated 10.12.2021 contending as under:

a) Phoenix ARC Private Limited/the Applicant) is a Financial Creditor of the Corporate Debtor and is a member of the Committee of Creditors having 11.22% voting share. The allegations raised by the Applicant in the application are strictly and categorically denied.

b) The Applicant, for reasons best known to them, through its representatives has attempted to obstruct the CIRP process at every stage. The instant application has been filed with the sole intention to mischaracterize and harass the Resolution Professional's conduct of the CIRP and the allegations raised are frivolous and appear to be made with a view to malign the RP's professional reputation.

c) Several grievances raised in the present application have already been considered by this Tribunal in earlier proceedings initiated by homebuyers and appropriate directions had been issued vide order dated 22.12.2020.

d) The Applicant has time and again hampered the CIRP process and has not acted in the interest of all the stakeholders and scuttle proceedings. At the outset, the allegations are not supported by any document. The Applicant has intervened in the working of RP in matters where it has no locus. The Resolution Professional working in the best interest of stakeholders has assessed and placed a plan before the members of the COC and the said plan has been approved by majority. It is pertinent to highlight that the Applicant herein was the sole objector to the Resolution Plan. The Resolution Professional has also filed an application seeking sanction of the Resolution Plan and the same is pending.

e) The Resolution Professional has conducted the CIRP strictly in adherence with the provisions of the Code, the CIRP Regulations and the directions in Order dated 22.12.2020 and has undertaken bona fide efforts to conduct the CIRP in a fair, equitable and transparent manner. In this regard, The Resolution Professional has filed 5 interim reports to provide timely status updates on the CIRP.

f) It is strictly denied that the Resolution Professional failed to verify the claims submitted by various creditors or failed to clarify queries on admission of claims. The Resolution Professional has verified all claims submitted by various creditors and, as directed by this Tribunal, conducted the fresh claims verification process in a fair and transparent manner, as substantiated below:

a. initiated the fresh opportunity claim verification process vide public announcement dated 02.01.2021.
b. uploaded a note for the benefit of homebuyers providing guidance on each line item to be filled under Form-CA.
c. uploaded a comprehensive note on methodology followed in the claim verification process to the website of the corporate debtor. This note described at length the process of accepting claims and also provided the rationale for interest payable to homebuyers.
d. had been in contact with the Authorized Representative of the homebuyers (the "AR") in order to provide regular status reports and maintain an open line of communication.
e. sent email communications to the rejected claimants providing the rationale for rejection of their claims.
f. filed interim reports before the Tribunal on 04/03/2021 seeking directions on verification and accepting claims submitted after the last date of submission (15/01/2021) in the interest of securing the investments of homebuyers.
g. The RP was constrained to publish a final list of claims until all homebuyers' claims were duly considered.

g) It is refuted that the Resolution Professional has failed to take charge of the assets of the Corporate Debtor. Despite the persistent and wilful non-cooperation from the erstwhile management of the Corporate Debtor, the Resolution Professional took charge of the assets of the Corporate Debtor with a view to preserve and protect the same. Upon his appointment, the Resolution Professional promptly convened a meeting with the erstwhile management of the Corporate Debtor to discuss steps to be taken in the CIRP and mandating the erstwhile Directors to handover documents, financial assets, movable assets and all relevant information. The aforesaid meeting was conducted on 20.09.2019 and the Resolution Professional addressed a letter to the erstwhile Directors containing the aforesaid requests. Furthermore, it would be pertinent to mention that the Resolution Professional had appointed a security service agency, namely, ***Knight Cops Security Private Limited*** to provide 24/7 security on the ***Unnathi project*** site with an objective to preserve the assets of the Corporate Debtor. A copy of the minutes of the meeting between the Applicant and the erstwhile Directors was circulated by way of e-mail dated 26.09.2019 to the erstwhile Directors.

h) In order to manage the affairs of the Corporate Debtor as a going concern, the Resolution Professional had also appointed two Government approved Civil Engineering Experts for the purpose of preparing reports to assess the current status of construction and to make a BOQ, i.e. a fair estimate of work and time required to complete the construction of the 'Unnathi' project. The Resolution Professional has conducted site visits and detailed discussions with the Civil Experts with an objective to prepare comprehensive reports to assist the prospective resolution applicants in their due diligence exercise. It is submitted that the allegations raised by the Applicant fail to appreciate the fact that when things stood thus, the Resolution Professional was restrained from undertaking his duties in respect of the Corporate Debtor on account of (i) the stay Order imposed by the Hon'ble NCLAT from 30.09.2019 to 05.03.2020 and (ii) the lockdowns imposed by the Government of India and the State Government of Karnataka due to Covid-19 commencing from 23.03.2020.

i) It is denied that the Resolution Professional had failed to take charge of books of accounts of the Corporate Debtor and the Applicant is put to strict proof. Resolution Professional requested the erstwhile Directors to handover all books of accounts and financial documents pertaining to the Corporate Debtor on 19.09.2019. An application under Section 19 was filed against the erstwhile Directors seeking their cooperation and this Tribunal directed the erstwhile Directors to extend cooperation to the Resolution Professional by providing all necessary documents and information vide its Order dated

23.01.2020. In consideration of the fact that the erstwhile management of the Corporate Debtor did not comply with the aforesaid Order, the Resolution Professional, after due consultation with the COC members, approached the Sadashivanagar Police Station and also wrote to the office of the Commissioner of Police, Bengaluru for the purpose of seeking assistance in gaining access to the office premises of the Corporate Debtor. The RP visited the corporate debtor's office on 11.01.2021 along with the police and a criminal lawyer and took control of the 2nd Floor of the corporate office. However, the access to the third floor and the two floors in the adjacent building (belonging to SDIL) were not handed over to the Resolution Professional. The Resolution Professional further sent an email on 27.01.2021 and visited the corporate office on 28.01.2021 with an intention to take control of the third floor and the two floors in the adjacent building (belonging to SDIL), but did not receive any cooperation from the erstwhile Directors. In view of the foregoing, the Resolution Professional discussed the issue of non-cooperation with the CoC and as directed by CoC members, filed a contempt application before this Tribunal on 03.03.2021.

j) Furthermore, the numerous efforts undertaken by the Resolution Professional has resulted in the recovery of a sum of **Rs. 6 crores** which the suspended Board of Directors were attempting to misappropriate through fraudulent transactions. The Resolution Professional also determined that the Corporate Debtor has been made subject to various fraudulent transactions, in respect of which appropriate applications have been filed. The Resolution Professional has also identified an additional Rs. 3 crores in Kotak Mahindra Bank which are legitimately due to the Corporate Debtor and in respect of which appropriate application has been filed seeking directions from the Tribunal.

k) It is denied that the RP has not operationalized the website of the Corporate Debtor and the Applicant is put to strict proof. In furtherance of the Order 22.12.2020, the Resolution Professional had appointed a dedicated IT member to operationalize and maintain the website of the Corporate Debtor. The website has been functioning properly since 09.01.2021 and the relevant documents and updates are constantly uploaded on the website of the Corporate Debtor to ensure ease of accessibility to various stakeholders.

l) The allegation that the RP has repeatedly failed to respond to the queries of CoC members is strictly denied and the Applicant is put to strict proof of the same. The Resolution Professional has always taken into consideration the views of all the CoC members, has provided prompt responses to any queries raised by them and has undertaken every action solely with the objective of achieving successful resolution of the Corporate Debtor. It would be pertinent to mention that the Resolution Professional has been in constant communication with the CoC members as well as 5 prospective resolution applicants, assisting them in their due diligence activities and providing clarifications to queries raised by all stakeholders.

m) It is hereby strictly denied that the Resolution Professional has failed to disclose the status of the Corporate Debtor's accounts and details of expenditures incurred for the CIRP and the Applicant is put to strict proof. The item-wise CIRP cost incurred were tabled for the consideration of the CoC on numerous occasions as listed below:

Sl. No.	CIRP Costs – UPDATES To CoC
1.	Email dated 25.02.2020
2.	Email dated 30.07.2020
3.	Email dated 16.08.2020
4.	11th COC meeting held on 27.03.2021
5.	Email dated 19.08.2021

n) CIRP expenses incurred till 14.08.2020 were shared and discussed in the 5th CoC meeting held on 19.08.2020. The next circulation of item-wise CIRP cost incurred till end of July, 2021 was circulated to the CoC on 19.08.2021.

It is denied that the gross negligence and inaction of the Resolution Professional has resulted in frustration of the entire CIRP or the Resolution Professional has failed to take steps to complete the CIRP. The efforts of the Resolution Professional have resulted in the approval of a resolution plan in respect of the Corporate Debtor in the face of myriad obstacles and challenges faced in the course of the CIRP. The Resolution Professional has undertaken his best efforts to conduct the CIRP strictly in accordance with the timelines prescribed under the Code and the CIRP Regulations. The CIRP timelines have been affected by various constraints beyond the control of the RP. On the other hand, by seeking directions to quash the actions of the RP, it appears that the Applicant intends to frustrate the CIRP proceedings in its final stage after the CoC approval of a resolution plan to resolve the Corporate Debtor.

o) The allegation of the Applicant that the RP has failed to share the voting results with CoC as mandated under the CIRP Regulations is strictly denied. The Resolution Applicant has circulated the minutes of meetings of the CoC as well as the voting results as per the timelines prescribed under Regulation 24(7). The allegation

p) The allegation that the RP failed to discuss the Transactional Audit Report with the CoC is strictly denied. The Resolution Professional had discussed the issue of fraudulent transactions the Corporate Debtor was made party to, in the course of the 4th CoC Meeting held on 20.04.2020, highlighting the fact the preliminary findings made in the absence of complete documents. As required under Regulation 35 of the CIRP Regulations, the Resolution Professional had appointed ***BDO LLP*** for the purpose of conducting the forensic audit on the Corporate Debtor to determine whether the Corporate Debtor is party to any preferential, undervalued, fraudulent, or extortionate transactions. He had also discussed the transactions and the 6 applications filed before the Tribunal in connection therewith during the 13th CoC meeting held on 19.05.2021.

q) The allegation that the RP has initiated actions or filed applications without due consultation with the CoC is strictly and categorically denied. As required by the Code and the CIRP Regulations, the Resolution Professional has always sought approval of the CoC members prior to filing any extension of time application. Furthermore, the RP had circulated the draft minutes within 48 hours of the respective meetings and there is no deviation from the requirements of Regulation 24(7). The Applicant had previously raised the same query on delay in circulation of minutes to the Resolution Professional which concern the Resolution Professional had satisfied vide email communication dated 12.05.2021 and there has been no revert since then.

r) The allegation regarding appointment of various professionals without prior approval of the CoC is again denied. The Resolution Professional has duly exercised the powers conferred upon him under Section 20(2)(a) of the Code in a bona fide manner to appoint accountants, legal or other professionals for the purpose of management of operations of the Corporate Debtor as a going concern and in order to preserve and protect the assets of the Corporate Debtor.

s) The allegation of RP filing suo-moto applications for extension of the CIRP is also denied as the Resolution Professional has acted strictly in accordance with the mandate of the Code and the CIRP Regulations and has duly obtained prior approval from the CoC for filing any extension application before this Tribunal. In this regard, it is submitted that the Resolution Professional has filed two extension applications under Section 12 of the Code. The Resolution Professional obtained approval from CoC for the extension of further 90 days under Section 12(2) through voting conducted in its 3rd meeting. The CoC, by majority, approved the resolution authorizing the RP to file extension of time application. Thereafter, approval of CoC for filing the extension of time application beyond 270 days was given in the 15th meeting held on 30.08.2021.

t) The allegation that the RP has not taken necessary action against illegal acts of suspended directors viz., encashment of certain cheques by suspended directors, is strictly denied. The Resolution Professional has acted promptly and these actions have resulted in the recovery of a sum of Rs. 6 crores which is deposited in the CIRP account of the Corporate Debtor.

u) The allegation that the RP has failed and neglected to take steps for completion of CIRP is specifically denied. The RP has scrutinized a Resolution Plan and the same has been approved by the members of the CoC. The Applicant has made baseless allegations. The Applicant has also stated that the RP has secured an exclusion of 374 days, it is pertinent to highlight here that the said exclusion was granted by the Tribunal on valid grounds. The instant Applicant has become infructuous as the grounds relied upon by the Applicant have already been adjudicated. The RP has also filed an application bearing I.A No. 291 of 2021 seeking extension which is pending. The instant Application is pre-mature and it is reiterated that the sole intention of the Applicant by way of this application is to harass the RP and scuttle the successful CIRP conducted by the RP.

v) The RP contends that a Resolution Plan has already been approved by the CoC and an application seeking approval of the Resolution Plan has been filed before this Tribunal. The present application is intended to derail the CIRP at its final stage and has therefore become infructuous. The actions of the Applicant are motivated by self-interest and fail to take into consideration that successful resolution is most beneficial for all stakeholders and would result in maximizing the value of the assets of the Corporate Debtor.

4. Rejoinder to the reply is filed by the Applicant vide Dy.No.395 dated 31.01.2022 stating as under:

a. The RP had arbitrarily altered the voting share of the Applicant without furnishing any justification despite repeated requests. The Applicant further relied upon the observations made by this Tribunal in its order dated

22.12.2020 in I.A. Nos. 237/2020 and 243/2020, wherein certain deficiencies in the conduct of the CIRP by the Resolution Professional were recorded.

b. The CIRP period had expired on 06.05.2021 even after accounting for the exclusions granted by this Tribunal and, therefore, the subsequent meetings of the Committee of Creditors and steps taken thereafter, including consideration of the Resolution Plan, were not in accordance with law. The Resolution Professional has failed to provide adequate clarifications regarding claim verification, to take complete possession of the assets and records of the Corporate Debtor, and continued to conduct the CIRP in violation of the timelines prescribed under the Code and the CIRP Regulations.

c. The Applicant accordingly prayed that the Application be allowed and the actions of the Resolution Professional allegedly taken in contravention of the provisions of the Code be set aside.

5. We have heard the Learned Counsels for the Applicant and the Resolution Professional and minutely perused the material available on record.

6. The grievance of the Applicant is essentially that the Resolution Professional has failed to conduct the CIRP in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 and the CIRP Regulations and has failed to comply with the directions issued by this Tribunal vide order dated 22.12.2020 passed in I.A. Nos. 237 of 2020 and 243 of 2020. The Applicant has therefore sought setting aside of the actions undertaken by the Resolution Professional and his replacement.

7. The material placed before us, however, does not support the contention that the Resolution Professional has, as projected, miserably failed to comply with the earlier directions of this Tribunal. It is seen from the record that subsequent to the order dated 22.12.2020, the Resolution Professional initiated a fresh claim

verification process, uploaded the methodology adopted for claim verification, operationalised the website of the Corporate Debtor, pursued proceedings against the suspended management, sought assistance from law enforcement authorities for obtaining possession of records and assets of the Corporate Debtor, conducted transaction audit through professionals and filed applications in relation to transactions identified during the CIRP. The Resolution Professional has also placed on record the recovery of amounts allegedly diverted from the Corporate Debtor and the steps taken for protection and preservation of the assets of the Corporate Debtor.

8. It is true that the Applicant has pointed out certain delays in claim verification, circulation of information, possession of records and completion of the CIRP. It is also evident that this Tribunal had earlier expressed concern regarding certain aspects of the conduct of the CIRP. However, the issue before us is not whether the Resolution Professional conducted the CIRP flawlessly, but whether there has been such non-compliance with the directions of this Tribunal or such dereliction of statutory duties as would warrant interference by this Adjudicating Authority for entire roll-over of CIRP.

9. On consideration of the record as a whole, we are unable to arrive at such a conclusion. The material on record indicates that the Resolution Professional did undertake steps in compliance with the directions issued by this Tribunal, though not always with the expedition expected in a time-bound insolvency process. The allegations raised by the Applicant, at best, point towards procedural deficiencies and delays in the conduct of the CIRP. They do not establish wilful disobedience of the orders of this Tribunal, mala fide conduct, conflict of interest, bias or any misconduct of such gravity as would justify setting aside the actions of the Resolution Professional or directing his replacement.

10. The Applicant has also questioned the continuation of the CIRP beyond the period which, according to it, stood exhausted on 06.05.2021. However, the record discloses that applications seeking exclusion and extension of time were

moved before this Tribunal and the CIRP continued under the supervision of the CoC and Adjudicating Authority. More importantly, the Applicant has failed to demonstrate how the alleged procedural irregularities have caused any material prejudice to the stakeholders or have vitiated the CIRP process itself.

11. We further take note of the fact that during the pendency of the present Application, the CIRP had substantially progressed and a Resolution Plan came to be approved by the Committee of Creditors. The Applicant admittedly holds a minority voting share in the CoC and no material has been placed before us to show that the Committee of Creditors, as a body, had lost confidence in the Resolution Professional or had resolved to seek his replacement. In such circumstances, interference with the CIRP process at the instance of a single creditor would not be justified in the absence of compelling evidence of illegality or misconduct.

12. Accordingly, we are of the considered view that the Applicant has failed to make out a case for setting aside the actions of the Resolution Professional or for directing his replacement. We find that the Resolution Professional has substantially complied with the directions issued to him and has continued to take steps towards completion of the CIRP. No ground is made out for exercise of jurisdiction under Section 60(5) of the Code in the manner sought by the Applicant.

13. In view of the foregoing discussion, I.A. No. 275 of 2021 is **dismissed**.

-Sd-	**-Sd-**
RADHAKRISHNA SREEPADA **MEMBER (TECHNICAL)**	**SUNIL KUMAR AGGARWAL** **MEMBER (JUDICIAL)**