NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-I), CHANDIGARH

I.A. No. 339/2024
In
CP (IB) No. 98/CHD/HRY/2022

(An Application under section 60(5) of the Insolvency and Bankruptcy Code, 2016)

I.A. No. 339/2024:
ESS VEE APARTMENTS HOMEBUYERS ASSOCIATION, PANCHKULA
Represented through its Authorised Representative
Registered Office at 290, GH-1,
Mansa Devi Complex, Sector 5, Panchkula

.... Applicant

Vs.

RAHUL JINDAL, RESOLUTION PROFESSIONAL OF SAMAR ESTATES PVT. LTD.
Regd. No. IBBI/IPA-001/IP-P-02649/2021-2022/14048
Address: 52/24, Ramjas Road,
Karol Bagh, New Delhi- 110005

...Respondent

In the matter of CP (IB) No. 98/CHD/HRY/2022:

PUNJAB AND SIND BANK

......Petitioner

Vs.

SAMAR ESTATE PVT. LTD.

....Respondent

Order delivered on: 13.08.2026

Coram: SH. KHETRABASI BISWAL, HON'BLE MEMBER (JUDICIAL)
SH. SHISHIR AGARWAL, HON'BLE MEMBER (TECHNICAL)

Present: -

For the Applicant in I.A. No. 339/2024	:	Mr. Anand Chibbar, Senior Advocate Mr. Vaibhav Sahni, Advocate
For the Resolution Professional	:	Mr. Aalok Jagga, Advocate Mr. Sahil, Lohan, Advocate

Mr. Aryaman Jagga, Advocate
Mr. Madhav Singhal, Advocate
Mr. Rahul Jindal, RP

ORDER

1. The present I.A. No. 339 of 2024 has been filed in CP (IB) No. 98/CHD/HRY/2022 by Ess Vee Apartments Home Buyers Association (hereinafter referred to as Applicant/Association) under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, (hereinafter referred to as the Code) for inter alia seeking directions declaring the action of the Respondent in arbitrarily admitting and computing the claims of homebuyers as illegal, directing recalculation of the claims in terms of the recovery certificates and the Builder Buyer Agreements including contractual interest and delayed possession charges, directing consideration of payments reflected in receipts and statements issued by the builder, and seeking appropriate directions in relation to the constitution and proceedings of the Committee of Creditors (for short CoC).

2. The Application arises in the Corporate Insolvency Resolution Process (for short CIRP) of Samar Estates Pvt. Ltd., which was initiated pursuant to a Petition under Section 7 of the Code filed by Punjab and Sind Bank, and admitted by this Adjudicating Authority vide order dated 12.01.2024, whereby Mr Rahul Jindal was appointed as the Interim Resolution Professional. It is further noted from the record that during the course of the CIRP, the resolution process progressed and a Resolution Plan approved by the CoC and submitted for consideration before this Adjudicating Authority.

3. It is noted that vide order dated 27.03.2026, this Adjudicating Authority, upon de-reserving the matter which was originally reserved on 19.01.2026, observed that the Applicant had neither placed on record any document evidencing its registration nor furnished particulars of the homebuyers on whose behalf the present application had been instituted. The Applicant was accordingly directed to file a clarificatory affidavit before the next date of hearing. In compliance thereof, the Applicant has placed on record an affidavit sworn by Mr. Raj Kumar Goel, duly authorised by the Applicant vide Resolution dated 24.05.2026, along with the Registration Certificate of the Association issued under the Haryana Registration and Regulation of Societies Act, 2012, and a list of 66 members on whose behalf the present Application has been instituted. The clarification as directed stands complied with.

FACTS AND SUBMISSIONS OF THE APPLICANT/ ASSOCIATION

4. Brief facts of the case, as stated in the application, rejoinder, and written submissions submitted by the Association, and relevant for adjudication of the present application, are summarised as follows:

(i) It is submitted that the CIRP of Samar Estates Pvt. Ltd. commenced pursuant to the admission order dated 12.01.2024, and thereafter a public announcement was issued on 15.01.2024 inviting claims from creditors, including homebuyers. The members of the Applicant submitted their claims along with supporting documents such as allotment letters, Builder Buyer Agreements, payment records, and in several cases, recovery certificates issued by the Real Estate Regulatory Authority (RERA).

(ii) It is submitted that the Respondent, while verifying the claims, arbitrarily admitted the claims of homebuyers by computing the amounts with interest at the rate of 8% per annum, allegedly by invoking Regulation 16A(7) of the CIRP Regulations, without considering the amounts adjudicated in RERA orders, recovery certificates, or the contractual terms contained in the Builder Buyer Agreements. According to the Applicant, this approach has resulted in substantial reduction of the legitimate claims of homebuyers and consequently their voting share in the Committee of Creditors.

(iii) The Applicant further submitted that in several cases the Respondent ignored documentary evidence, including payment receipts, bank statements, and builder-issued statements of account, and in certain cases advised homebuyers to resubmit claims in a different form, thereby delaying or affecting the verification process. It is submitted that such actions have caused grave prejudice to homebuyers at the very initial stage of the CIRP.

(iv) It is further submitted that the Respondent constituted the CoC and convened the first meeting of the CoC on 09.02.2024 on the basis of claims which, according to the Applicant, were wrongly admitted or incompletely verified, thereby affecting the composition and voting share of the homebuyers. It is contended that once the very foundation of the constitution of the CoC is flawed, all consequential actions are liable to be treated as unsustainable in law.

(v) The conduct of the Respondent in allegedly rejecting or reducing claims has disproportionately benefitted the secured financial creditor and reduced the effective participation of homebuyers in the decision-making process of the CoC, which is contrary to the scheme and intent of the Code.

(vi) It was further submitted on behalf of the Applicant that the emails relied upon by the Respondent, purportedly showing disassociation of certain homebuyers, represent only a small fraction of the allottees and cannot be treated as reflecting the will of the class of homebuyers as a whole. It is submitted that the Applicant had been duly authorised in a General Body Meeting to take legal action for protection of the interests of its members and that a substantial number of homebuyers continue to support the proceedings initiated by the Applicant.

(vii) It is further contended that selective reliance on certain communications is misleading and does not negate the locus of the Applicant to approach this Adjudicating Authority, particularly when the issues raised pertain to verification of claims, computation of dues, and constitution of the CoC, which affect the entire class of homebuyers.

(viii) On the basis of the above submissions, the Association prayed that appropriate directions be issued to the Resolution Professional for proper verification and computation of claims in accordance with documents and adjudicated amounts, and that the objections raised by the Respondent regarding locus or representation of the Association be rejected.

<u>SUBMISSIONS ON BEHALF OF THE RESPONDENT</u>

5. The Respondent has made the following submissions:

(i) It is submitted that I.A. No. 339 of 2024 is not maintainable and the Applicant has no locus to file the present proceedings. It is contended that the Insolvency and Bankruptcy Code and the CIRP Regulations recognise financial creditors in a class, but do not recognise an association of homebuyers as a legal substitute for individual creditors. According to the Resolution Professional, the present application has been filed by an association purporting to represent unidentified persons and cannot be treated as an application by the class of creditors within the meaning of the Code.

(ii) It is further submitted that the Corporate Debtor was admitted into CIRP by order dated 12.01.2024 and thereafter the Respondent issued a public announcement in Form A on 15.01.2024 in terms of Section 13 of the Code read with Regulation 6 of the CIRP Regulations, calling upon creditors to submit their claims, the last date being 26.01.2024. It is contended that the process of verification of claims has been undertaken strictly in accordance with the statutory provisions and regulations.

(iii) It is submitted that the constitution of the CoC is a time bound exercise and must be carried out on the basis of claims received and verified within the prescribed timelines. It is further submitted that admission of claims is an ongoing process and claims received subsequently or pending verification are considered in accordance with Regulation 12 and Regulation

13 of the CIRP Regulations, and inclusion of creditors at a later stage does not invalidate decisions already taken by the CoC.

(iv) It is further submitted that the Respondent is entitled, under the CIRP Regulations, to call for additional documents or clarification from creditors for substantiation of their claims, and the verification process undertaken in the present case was in conformity with the statutory scheme. It is contended that claims were not rejected arbitrarily and that many claims were admitted on the basis of records available with the Corporate Debtor or upon submission of further documents.

(v) The first meeting of the CoC was convened on 09.02.2024 after collation of claims received within the stipulated period and in compliance with the directions of this Adjudicating Authority, and that the conduct of the CIRP has been in accordance with the provisions of the Code and the Regulations.

(vi) It is further contended that the allegations of arbitrary reduction of claims or manipulation of voting share are misconceived and premature, as verification of claims is a continuing process and the list of creditors is updated as and when claims are admitted upon verification.

ANALYSIS AND FINDINGS:

6. We have heard the learned counsel for the Applicant/Association as well as the learned counsel for the Resolution Professional and perused the material available on record.

ISSUES

7. In view of the rival submissions and the reliefs sought in the application, the principal issue which arises for consideration is ***whether an application under Section 60(5) of the Code filed by the Applicant Association seeking directions in relation to verification and admission of claims and conduct of the CIRP, is maintainable at the instance of a Home Buyers?***

8. The present application has been filed by the Applicant i.e., Ess Vee Apartments Home Buyers Association raising grievances regarding verification and admission of claims of homebuyers and the consequent constitution of the CoC, which is disputed by the Respondent, in the ongoing CIRP of Samar Estates Pvt. Ltd.

9. To begin with, it is noted from the documents placed on record by the Respondent in compliance with the Order dated 27.03.2026 passed by this Adjudicating Authority in I.A. No. 1175 of 2024, which stands allowed and disposed of, that several emails reflect disassociation of a number of homebuyers from the proceedings in I.A. No. 339 of 2024 and have stated that the said application is not in their interest and is likely to delay the resolution process. These communications, though not determinative of rights by themselves, do indicate that the Applicant Association does not represent the unanimous or collective will of all homebuyers forming part of the class of financial creditors.

10. At this stage, it is pertinent to refer to the judgment of the Hon'ble Supreme Court in **Elegna Co-Op. Housing and Commercial Society Ltd. v. Edelweiss Asset Reconstruction Company Ltd. and Anr., (2026) ibclaw.in 17 SC**, wherein the Hon'ble Court examined the locus of a society or association of homebuyers in insolvency proceedings and observed as under:

> ***"13. Question No. 2 – <u>Rejection of the Intervention Application filed by the Society</u>***
> ***13.1****. While it is undisputed that individual homebuyers are financial creditors within the meaning of the IBC,* ***the core question that arises for determination is whether a society or association of homebuyers possesses locus standi to intervene in proceedings under Section 7 of the Code****, either at the admission stage or at the appellate stage.*
> …………
> ………….
> ***13.22.*** *Accordingly, we hold that*
> • *The right to initiate or participate in insolvency proceedings is statutory, not equitable.*
> • ***A society or Resident Welfare Association, not being a creditor in its own right and not recognised as an authorised representative of allottees under the IBC, has no locus standi to intervene in proceedings arising out a Section 7 petition****.*
> • ***The NCLAT was justified in rejecting the Society's intervention application.***
> • ***No prejudice has been caused to homebuyers, whose interests are adequately safeguarded under the Code****."*

The ratio laid down in the aforesaid judgment makes it clear that while homebuyers are recognised as financial creditors in a class, the right to initiate or participate in proceedings under the Code flows strictly from the statutory framework. An association or society which is not itself a creditor and is not recognised as an authorised representative under the Code and cannot claim an independent locus to maintain proceedings which have the effect of intervening in or impeding the insolvency resolution process.

11. In the present case, the application in I.A. No. 339 of 2024 seeks wide ranging directions relating to verification of claims, recalculation of amounts, and consequential impact on the constitution and functioning of the CoC. Grant of such reliefs at the instance of an association, whose representative character itself is disputed besides being not statutorily recognised under the Code, would amount to permitting interference in the conduct of the CIRP in a manner not contemplated under the statutory scheme.

12. It is also pertinent to note that the Code provides a complete mechanism for protection of the interests of homebuyers, who are recognised as financial creditors in a class and are represented in the CoC through an Authorised Representative. Individual creditors are also at liberty to pursue remedies in accordance with law, wherever available. Therefore, it also cannot be said that dismissal of the present application would result in denial of statutory remedies to homebuyers.

13. It is not in dispute that the homebuyers in the present case are recognised as 'Financial Creditors in a class' in terms of Section 5(8)(f) read with Sections 21(6A)(b) and 25A of the Code,. The statutory scheme clearly provides that such class of creditors shall be represented in the Committee of Creditors through an Authorised Representative, who is required to cast his vote in accordance with the decision taken by the majority of the voting share within that class. In the present case, the Authorised Representative of the homebuyers has participated in the proceedings of the CoC and no objection of the nature now sought to be agitated by the Applicant Association has been raised through the statutorily recognised mechanism.

14. The Hon'ble Supreme Court in ***Jaypee Kensington Boulevard Apartments Welfare Association & Ors. v. NBCC (India) Ltd. & Ors.,***

(2021) ibclaw.in 63 SC, decided on 24.03.2021 has categorically held that once homebuyers as a class have assented to a Resolution Plan, any individual homebuyer or any association of homebuyers cannot maintain a challenge to the Resolution Plan and cannot be treated as a dissenting financial creditor or an aggrieved person. The relevant issue was framed by the Hon'ble Supreme Court in the following terms:

> *"I. As to whether, after approval of the resolution plan of NBCC by the Committee of Creditors, where homebuyers as a class assented to the plan, any individual homebuyer or any association of homebuyers could maintain a challenge to the resolution plan and could be treated as a dissenting financial creditor or an aggrieved person?.....*
>
> The Hon'ble Supreme Court answered the said issue in unequivocal terms as under:
>
> *"175. For what has been discussed above, we hold that the homebuyers as a class having assented to the resolution plan of NBCC, any individual homebuyer or any association of homebuyers cannot maintain a challenge to the resolution plan and cannot be treated as a dissenting financial creditor or an aggrieved person;........ "*

The ratio laid down in the aforesaid judgment makes it abundantly clear that the democratic principle embedded in the Code binds the entire class of homebuyers to the decision taken by the majority within that class. A dissent within the class does not confer an independent statutory status upon an individual allottee or an association to reopen or stall the corporate insolvency resolution process. Their dissatisfaction, however strongly expressed, does not partake of the legal character of a dissenting financial creditor once the class has voted through its Authorised Representative in accordance with law. The aforesaid judgment indeed arose in the specific context of a challenge to an approved Resolution Plan; however, the underlying principle enunciated therein that an association of homebuyers derives no independent statutory standing under the Code and that the class of homebuyers speaks through its Authorised Representative alone is not confined to the post-approval stage and applies with equal force at all stages of the CIRP, including at the stage of verification of claims and constitution of the CoC.

CONCLUSION

15. In view of the foregoing discussion and in light of the law laid down by the Hon'ble Supreme Court in Elegna Co-Op. Housing and Commercial Society Ltd. (supra) and Jaypee Kensington Boulevard Apartments Welfare Association & Ors. v. NBCC (India) Ltd. & Ors. (supra), this Adjudicating Authority is of the considered view that I.A. No. 339 of 2024, filed by the Applicant, i.e., Home Buyers Association, is not maintainable.

16. This Order is subject to any order to be passed by the Hon'ble NCLAT in pending Company Appeal (AT) (Insolvency) No. 830 of 2026 filed by SRV Investments.

17. In the result, **I.A. No. 339 of 2024** in **CP (IB) No. 98/CHD/HRY/2022** is ***dismissed and disposed of***.

SD/-

Shishir Agarwal
Member (Technical)

SD/-

Khetrabasi Biswal
Member (Judicial)