

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
(Disciplinary Committee)

No. IBBI/DC/318/2026

05 May 2026

ORDER

This Order is passed pursuant to the Disciplinary Committee (DC) order dated 30 March 2026 bearing No. IBBI/DC/309/2026, in the matter of Mr. Ajit Kumar, Insolvency Professional (Registration No. IBBI/IPA-003/IP-N00062/2017-2018/10548), who is a Professional Member of the Insolvency Professional Agency of Institute of Cost Accountants of India.

1. A Show Cause Notice (SCN) No. COMP-11015/5/2024-IBBI/878/478 dated 24.07.2024 was issued to Mr. Ajit Kumar. The SCN had alleged five different contraventions by Mr. Ajit Kumar in the CIRP of the CD, Three C Projects Private Limited. The SCN was referred to the Disciplinary Committee comprising of two Whole Time Members of the Board viz., Mr. Jayanti Prasad and Mr. Sandip Garg.
2. The said Disciplinary Committee had examined the five contraventions alleged in the SCN against Mr. Ajit Kumar. The members of the DC had unanimous view on all except one of the contraventions which led to differing punishments being awarded by both the members. Accordingly, the matter was referred to this DC for adjudication on the contravention where both the members have opined differently, which is as follows:

Contravention V - Issuance of work order to Ecodel at the time of plan submission: On this specific contravention, there was division of decision amongst the members of the DC. Mr. Jayanti Prasad opined that the conduct of Mr. Ajit Kumar doesn't seem to be bonafide and vitiated the independent and transparent bidding process and accordingly awarded punishment of suspension of registration of Mr. Ajit Kumar for three years. Whereas Mr. Sandip Garg found that since the awarding of construction contract to Ecodel was already approved by the CoC, the execution of contract could not have influenced the CoC members. He also recommended for re-investigation on the aspect of withdrawal of resolution plan by an earlier PRA. Based on the established contraventions on other counts, he awarded punishment of suspension of registration for a period of two years.

3. The complete record of the DC proceedings in the matter, including the Show Cause Notice (SCN) No. COMP-11015/5/2024-IBBI/878/478 dated 24.07.2024, the responses submitted by Mr. Ajit Kumar to the DC, the Order dated 30.03.2026, and all supporting documents have been placed before this DC for consideration and disposal of the present SCN.
4. This DC provided an opportunity of personal hearing to Mr. Ajit Kumar on 27.04.2026 and Mr. Ajit Kumar attended the personal hearing and appeared with his advocate, Mr. Atul Sharma. Mr. Ajit Kumar also submitted additional written submissions on 26.04.2026 and 29.04.2026.
5. This DC notes that with respect to Contravention V, it is alleged in the SCN that Mr. Ajit Kumar granted the 'Pool and Build Scheme' contract for completion of the pending construction to the

consortium of 'M/s Nanu Ram Goyal & Co. and M/s Ecodel Projects Pvt. Ltd.', and issued the work order on 09.04.2024, despite the fact that necessary approvals from NOIDA and UPRERA were pending. The consortium comprising of M/s Nanu Ram Goyal & Co., Mr. Vikram Tuli, or Mr. Vinit Gupta had submitted the resolution plan. The DC notes that Mr. Vinit Gupta was one of the Directors of M/s Ecodel Projects Pvt. Ltd. Hence the consortium to whom contract was awarded and the consortium who submitted the resolution plan had great commonality. Mr. Ajit Kumar invited the resolution applicants for opening of the resolution plans before the CoC members in the 42nd CoC meeting convened on 17.04.2024. It was noted that Mr. Ajit Kumar not only entered into a Pool and Build contract with M/s Nanu Ram Goyal & Co. and M/s Ecodel Projects Pvt. Ltd. without the necessary approval of NOIDA and RERA but also issued the work order at a time when the plan of the consortium of M/s Nanu Ram Goyal & Co., Mr. Vikram Tuli, or Mr. Vinit Gupta was close to submission, thus influencing the CoC members to vote the consortium of M/s Nanu Ram Goyal & Co., Mr. Vikram Tuli, or Mr. Vinit Gupta.

6. In this regard, this DC has perused the submissions made by Mr. Ajit Kumar and the differing views of both the members of the earlier DC. Since these facts are already mentioned in the DC Order dated 30.03.2026, the same are not reproduced here for the sake of brevity and convenience.
7. **During the hearing, the DC specifically asked Mr. Ajit Kumar whether he had informed or apprised the CoC that there is potential conflict of interest between the consortium of M/s. Nanu Ram Goyal & Co. and M/s Ecodel Projects Pvt. Ltd., to whom the pool and build contract had been awarded and the consortium of M/s Nanu Ram Goyal & Co., Mr. Vikram Tuli, or Mr. Vinit Gupta consortium, who had submitted the resolution plan, due to great commonality between these two entities, to which Mr. Ajit Kumar replied that he did not inform about such conflict of interest, to the CoC.**
8. Since Mr. Ajit Kumar as RP being the Chairman of the CoC, it was incumbent upon Mr. Ajit Kumar to clearly disclose the existence of such conflict of interest and its possible adverse impact on the transparency and competitiveness of the resolution process.
9. This DC further notes that both the Whole-Time Members, in the order dated 30.03.2026, observed that Mr. Ajit Kumar, by allowing the consortium comprising of M/s Nanu Ram Goyal & Co., Mr. Vikram Tuli, or Mr. Vinit Gupta to participate as a prospective resolution applicant, despite the fact that the related consortium comprising of M/s. Nanu Ram Goyal & Co. and M/s Ecodel Projects Pvt. Ltd., had also been awarded the construction contract of the corporate debtor, which compromised the transparency and competitiveness of the resolution process. Such an arrangement places other PRAs at a disadvantage.
10. Such conduct is inconsistent with the obligations imposed on an Insolvency Professional under the Code of Conduct prescribed under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016. In particular, Clause 3 mandates that an Insolvency Professional must act with objectivity in his professional dealings by ensuring that his decisions are made without the influence of any conflicting interests. Clause 14 requires that the Insolvency Professional must not conceal any material information or knowingly make misleading statements.

11. In the present case, the failure of Mr. Ajit Kumar to explicitly identify, disclose, and appropriately mitigate the conflict arising from the dual role of the concerned entity demonstrates a clear breach of the aforesaid provisions. The absence of contemporaneous disclosure coupled with the lack of any documented safeguards to ring-fence the construction activity from the resolution process, reflects a serious deficiency in transparency and due diligence. Such omission not only erodes stakeholder confidence but also impairs the credibility and sanctity of the conduct of CIRP. By allowing a bidder to simultaneously act as a contractor without adequately evaluating and disclosing the attendant risks, Mr. Ajit Kumar failed to exercise the level of professional skepticism, care, and diligence expected of him. The reliance on the commercial wisdom of the CoC and alleged consent of homebuyers does not absolve the Insolvency Professional of his independent statutory duty to ensure fairness, transparency, and absence of bias in the process.
12. This DC is of the opinion that the conduct of Mr. Ajit Kumar has compromised the integrity of the resolution process by allowing a construction contract to be awarded to a consortium led by Nanu Ram Goyal while simultaneously processing a resolution plan from a related consortium involving the same party. This overlapping timeline granted the contractor an unfair competitive advantage over other prospective resolution applicants, effectively undermining the level playing field essential for a transparent bidding process.
13. Mr. Ajit Kumar has argued that these decisions were based on the CoC's commercial wisdom and homebuyer consent. As the Resolution Professional, who also acts as the Chairman of the CoC meetings, he is under a statutory duty to ensure full, fair, and timely disclosure of all material facts, including any potential conflicts of interest. He cannot take shelter behind the CoC's approval when such approval was obtained without placing complete and relevant information before it. The defence of reliance on the CoC's commercial wisdom would have been tenable only if Mr. Ajit Kumar had made a proper and complete disclosure of the potential conflict of interest before the CoC and the CoC, being fully informed, had nevertheless chosen to proceed. In the absence of such disclosure, the integrity and fairness of the process were seriously compromised, attributable to the Resolution Professional's failure to discharge his statutory duty of full, fair, and timely disclosure.
14. Therefore, this DC holds that Mr. Ajit Kumar, in his capacity as Resolution Professional who acts as Chairman of the CoC, failed to discharge his duty to ensure full, fair, and timely disclosure of a manifest conflict of interest arising from the significant commonality between the consortium awarded the construction contract and the consortium submitting the resolution plan. By permitting such overlapping roles without transparent disclosure or adequate safeguards, he compromised the fairness, integrity, and credibility of the CIRP and created an uneven playing field for other prospective resolution applicants. This failure to identify, disclose, and mitigate the conflict constitutes a clear breach of his statutory and professional obligations under the Code and the Code of Conduct. Accordingly, this DC upholds the contravention of section 208(2)(a) and (e) of the Code, Regulations 7(2)(a) and (h) of the IP Regulations read with Clauses 1, 3 and 14 of Code of Conduct by Mr. Ajit Kumar in this aspect.

15. In view of the foregoing and after considering the established contraventions by Mr. Ajit Kumar in the DC Order dated 30.03.2026 this DC hereby concurs with the decision of Mr. Jayanti Prasad and punishment awarded by him.
16. This Order shall come into force after expiry of 30 days from the date of its issuance.
17. A copy of this order shall be forwarded to the Insolvency Professional Agency of Institute of Cost Accountants of India where Mr. Ajit Kumar is enrolled as a member.
18. A copy of this order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal, New Delhi, for information.
19. Accordingly, the show cause notice is disposed of.

Sd/-
(Ravi Mital)
Chairperson
Insolvency and Bankruptcy Board of India

Dated: 05 May 2026
Place: New Delhi

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/309/2026

30 March 2026

ORDER

This Order disposes of the Show Cause Notice (SCN) No. COMP-11015/5/2024-IBBI/878/478 dated 24.07.2024, issued to Mr. Ajit Kumar, an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IPA-003/IP-N00062/2017-2018/10548, who is a Professional Member of the Insolvency Professional Agency of Institute of Cost Accountants of India.

1. Background

- 1.1 The National Company Law Tribunal, New Delhi Bench (AA) vide its Order dated 28.08.2019, admitted an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (Code), filed by Shiv Dayal Sharma & Ors. for initiating corporate insolvency resolution process (CIRP) of Three C Projects Private Limited (Corporate Debtor / CD). Mr. Manish Kumar Gupta (erstwhile RP) was appointed as the Interim Resolution Professional (IRP) vide the said Order and later he was confirmed as the Resolution Professional (RP). Later, Mr. Manish Kumar Gupta was replaced by Mr. Ajit Kumar as the RP of the CD vide AA's Order dated 25.08.2022.
- 1.2 The President of Lotus Zing Flat Owner Welfare Association and some homebuyers vide various complaints, raised certain concerns alleging misconduct by Mr. Ajit Kumar during the CIRP of the CD. The Board vide e-mail dated 21.02.2024 sought Mr. Ajit Kumar's reply on the said allegations. Mr. Ajit Kumar's reply was received by the Board on 27.02.2024. Follow-up emails were sent to Mr. Ajit Kumar for clarifications and additional information, and responses thereto were received.
- 1.3 The Board examined the allegations in the above complaint *vis-a-vis* the replies of Mr. Ajit Kumar and based on such examination, the Board formed a *prima facie* view that Mr. Ajit Kumar had contravened provisions of the Code and Regulations made thereunder and issued the SCN to Mr. Ajit Kumar on 24.07.2024. The SCN alleged contraventions of several provisions of the Code, IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations). Mr. Ajit Kumar submitted his response to the SCN on 12.08.2024. Subsequently, Mr. Ajit Kumar submitted additional response vide email dated 16.07.2025.

- 1.4 The SCN and responses of Mr. Ajit Kumar thereto were referred to the Disciplinary Committee (DC) for disposal. Mr. Ajit Kumar availed an opportunity of personal hearing before the DC through virtual mode on 17.07.2025 wherein he appeared along with his advocate Mr. Pallav Saxena. After the personal hearing, additional submission/documents were also made available by Mr. Ajit Kumar.
- 1.5 The DC has considered the SCN, the reply to the SCN, oral and written submissions of Mr. Ajit Kumar, and proceeds to dispose of the SCN.

2. Alleged Contraventions, Submissions of Mr. Ajit Kumar and Findings of the DC

The contravention alleged in the SCN, submissions by Mr. Ajit Kumar and findings of the DC are summarized as follows:

2.1 I. Awarding of construction contract in absence of valid approvals from NOIDA and RERA.

2.1.1. It was observed that a Lease Deed dated 01.09.2010 was executed by NOIDA in favour of the CD. Further, NOIDA vide its letter dated 20.07.2012 approved the building and layout plan of the Lotus Zing Project of the CD. The RERA registration for the said project expired on 30.06.2021. While applying for the extension of the RERA approval, the erstwhile RP was informed that the layout plan of the project had to be validated through NOIDA. Hence, the erstwhile RP wrote to NOIDA requesting for revalidation of the approved layout plan. The NOIDA however, dismissed the request for approval of the revalidation of the layout plan, stating that any revalidation to the approved layout plan can be considered only after the CD settles the outstanding dues owed to the NOIDA.

2.1.2. Thereafter, on assuming the charge as RP, Mr. Ajit Kumar received a notice from RERA on 24.02.2023 intimating that RERA registration for the said project had expired on 30.06.2021, and that Mr. Ajit Kumar had failed to upload the project details on the RERA website. Mr. Ajit Kumar filed a writ petition before the Hon'ble Allahabad High Court i.e, Writ - C No. - 35615 of 2024, seeking, *inter alia* the issuance of directions to NOIDA to undertake the revalidation of the project map for Lotus Zing Project, thereby enabling him to fulfil the RERA compliances.. Further, Mr. Ajit Kumar submitted that due to unavailability of login details from the suspended directors, he could not update the details of the project on the RERA website, and that he had filed an application under Section 19(2) of the Code, seeking cooperation of

the suspended directors. Mr. Ajit Kumar also failed to execute registered sale deeds for the completed apartments due to non-issuance of No-Objection Certificates by the NOIDA, for which he had filed a writ petition before the Hon'ble Allahabad High Court.

2.1.3. It was alleged in the SCN that Mr. Ajit Kumar was fully conscious and aware of the need for approvals from NOIDA and RERA for revalidation of the Lotus Zing Project. While the approvals from NOIDA and RERA were yet to be received, Mr. Ajit Kumar executed a construction contract with 'M/s Nanu Ram Goyal & Co.' and 'M/s Ecodel Projects Pvt. Ltd.' on 03.04.2024, which primarily focused on completing pending finishing works for undelivered towers. Mr. Ajit Kumar also issued a work order for the same on 09.04.2024. As the RP in the matter, Mr. Ajit Kumar was responsible for understanding that proceeding without the necessary approvals of the authorities and compliances could lead to further complications for the CD. Additionally, Mr. Ajit Kumar was obligated to inform the allottees about the implications of such non-compliances, especially considering their significant investments in the project.

2.1.4. In view of the above, the Board was of the *prima facie* view that Mr. Ajit Kumar had contravened provisions of Section 17(2)(e) of the Code read with Section 23(2) of the Code and Section 208(2)(a) and (e) of the Code, Regulations 7(2)(a) and (h) of the IP Regulations read with and Clause 1 and 14 of the Code of Conduct as specified in the First Schedule of IP Regulations (Code of Conduct).

Submissions by Mr. Ajit Kumar

2.1.5. Mr. Ajit Kumar submitted that the layout plan for the Lotus Zing Project, originally approved by NOIDA, expired on 20.07.2017 and the CIRP of the CD commenced on 28.08.2019. During the CIRP, the erstwhile RP had partially constructed a commercial area at a location not approved by the NOIDA, thereby necessitating revalidation of the layout plan. However, the NOIDA rejected the request for revalidation on the ground that the same would not be permissible without the payment of outstanding dues. But, the payment of the outstanding dues was not feasible during the CIRP period. Furthermore, the UPRERA had already conveyed that a valid and extended layout plan was mandatory to extend the RERA registration of the project. Though a six-month extension was granted by the UPRERA suo-moto in light of the COVID-19 pandemic, the same was not specifically applied for by the erstwhile RP.

- 2.1.6. Mr. Ajit Kumar further submitted that given these constraints, in the capacity of the RP, he approached the Hon'ble Allahabad High Court seeking directions to the NOIDA for revalidation of the layout plan, so as to enable the extension of the RERA registration of the project. The writ petition i.e, Writ - C No. - 35615 of 2024 was filed in accordance with his duties under Section 17(2)(e) of the Code and after obtaining specific approval of the Committee of Creditors (CoC), who were informed about the importance of compliance with applicable laws. Therefore, he submitted that the failure to obtain revalidation of the layout plan and extension of RERA registration was solely due to circumstances beyond the control of the RP, who had taken all the necessary steps to overcome these impediments.
- 2.1.7. Mr. Ajit Kumar submitted that the Lotus Zing Project, being a group housing project, was registered with the UPRERA, as mandated under Section 3(1) of the RERA. Further, Section 3(1) of the RERA makes it evident that a valid and subsisting RERA registration is essential for marketing, advertising, booking, or sale of any apartment or building in the real estate project. However, the current work being undertaken under a contract awarded to the Consortium of Nanu Ram Goyal & Co. and Ecodel Projects Pvt. Ltd. ("Ecodel"), pertains only to interior finishing of Towers 7, 8, 9, 10, 11, 12A, and 14. These works, which were approved by the CoC, do not fall within the ambit of activities requiring RERA registration. The possession of flats is not being handed over without initiating requisite applications for Occupancy Certificate (OC) and without extension of the RERA registration. No registered sale deeds had been executed either, thereby ensuring no legal infraction.
- 2.1.8. Mr. Ajit Kumar further submitted that the sealing order issued by NOIDA was set aside by the Hon'ble Allahabad High Court in Writ Petition No. 35615 of 2024, vide its order dated 03.12.2024, thereby validating the RP's actions.
- 2.1.9. Mr. Ajit Kumar also submitted that Section 3(2)(c) of the RERA Act specifically exempts renovation or redevelopment activities that do not involve marketing or sale. The current scope of work, being a form of self-redevelopment initiated by existing allottees, falls squarely within this exemption. Further, Regulation 5(5)(e) of the NOIDA Building Regulations, 2010 also states that no permit is required for internal additions or alterations, provided they do not affect the structural integrity and are certified by a competent technical person. The finishing works in the existing towers being undertaken by Ecodel fell within this exemption, and were intended only to make the units habitable and preserve the assets of the Corporate Debtor.

2.1.10. Mr. Ajit Kumar submitted that NOIDA had granted in-principle approval for construction vide letter dated 23.01.2023, which in effect amounts to time extension of the layout plan. No objection was raised by any authority including the NOIDA and the UPRERA with respect to the ongoing interior works. Moreover, the NOIDA, being a CoC member, was fully informed and their queries were addressed during the 40th CoC meeting, where the RP emphasized the importance of uninterrupted continuation of operations, especially to safeguard the interests of homebuyers and protect project value.

Analysis and findings.

2.1.11. The DC notes that NOIDA vide its letter dated 16.10.2024 had sealed the Corporate Debtor's property situated at GH-01/A, Sector 168, leased by the NOIDA to the Corporate Debtor on the ground that the period of validity of the sanctioned plan had expired and the builder has not obtained any completion certificate from the Authority so far, but it was reported to be carrying on further constructions. On a Writ Petition preferred by Mr. Ajit Kumar bearing WP No. 35615 of 2024 before the Hon'ble High Court of Allahabad, vide its order dated 03.12.2024, it was observed as follows:-

“8. We are of the opinion that the respondents by proceeding to seal the building without affording opportunity of hearing to the petitioner-company, have committed violation of the principles of natural justice. Accordingly, the direction contained in the impugned communication to seal the building and the action taken in pursuance thereof, is held to be unsustainable in law and is accordingly quashed to the extent it relates to the petitioner-company. The Development Authority is given liberty to issue proper show cause notice to the petitioner-company within a week from today and in such an event, the petitioner-company will have two weeks thereafter to respond to the same. Thereafter, the Authority may pass a fresh speaking order.

9. As undertaken by Sri Shashi Nandan, learned Senior Counsel, appearing for the petitioner-company, the petitioner will not make any structural alternations in the building, nor raise any new constructions in the meantime.”

2.1.12. Further, in compliance with the above directions, NOIDA issued a letter dated 10.01.2025 informing that the sealing order dated 16.10.2024 had been revoked, and the premises had been de-sealed. It was also stated that no new construction or structural alteration should be carried out in the building. The DC further notes that a harmonious reading of the Hon'ble High Court's

order dated 03.12.2024 and the Noida Authority's letter dated 10.01.2025 does not support the interpretation that the Authority had approved the actions undertaken by Mr. Ajit Kumar.

2.1.13. The DC notes that Mr. Ajit Kumar placed reliance on Regulation 5(5)(e) of the NOIDA Building Regulations, 2010 to support his contention that no permit is required for internal additions or alterations, provided they do not affect the structural integrity and are certified by a competent technical person. As per Mr. Ajit Kumar, the finishing works in the existing towers being undertaken by Ecodeel fall within this exemption and are intended only to make the units habitable and preserve the assets of the Corporate Debtor and do not involve marketing or sale.

2.1.14. Regulation 5(5)(e) of the NOIDA Building Regulations, 2010 states as follows:-

“5.0 Application for building permit –

(1)

(2)

(3)

(4)

(5) No application for building permit shall be necessary for the following additions / alterations provided they do not violate any of the provisions regarding general building requirements, structure stability and fire safety requirements specified in National Building Code--

*(a) ******

*(b) ******

*(c) ******

*(d) ******

(e) Internal additions / alterations within the building envelop certified and supervised by a Technical Person ;

*(f) *****.”*

2.1.15. The DC notes from the 'Construction contract' entered by Mr. Ajit Kumar with the consortium of Nanu Ram Goyal and Ecodeel Projects Private Limited ("Ecodeel") that the scope of work included the 'construction' of residential towers which were partially completed work. The relevant excerpts from the 'Construction Contract' is as under:

*“6. **WORK TO BE PERFORMED:** Except as specified elsewhere in the contract, CONTRACTOR shall furnish all plant; Labor; materials; tools; supplies; equipment; transportation; supervision; technical, professional and other services; and shall perform all operations necessary and required to satisfactorily complete the following:*

- The works shall include the construction of 7 Nos. Multi Storied Residential Towers in all respect (Civil, Structural works, Interior works, Facade works, Low-Side and High-Side MEP works, Hard-scaping works, Basement Finishing, Basement MEP*

Works etc.) in all Respect and includes fulfillment of all statutory compliances like construction Laws, Provident fund rules & Workmen Compensation Policy, Occupational Health and Safety Regulations, any and all required insurances and any other regulations/ laws controlling construction industry during the tenure of the above defined contractual scope.

• The contractor understands that this is a partially completed work and different areas are at different stages of work, and has accepted the contract terms and conditions based on its complete checks on the scope of work, condition of site and works done and assess the quantum of work.”

2.1.16. Accordingly, the DC does not accept the submission of Mr. Ajit Kumar that only internal addition work was to be undertaken by the EcodeL. As is clear from the above scope of work, the construction contract was for construction of residential towers in all respects including the civil and structural works. Further, the activities undertaken by Mr. Ajit Kumar were violative of the Hon’ble Allahabad High Court’s directions vide order dated 03.12.2024 in WP No. 35615 of 2024.

2.1.17. Accordingly, the submissions of Mr. Ajit Kumar in this regard are not tenable and the DC holds the contravention.

2.2 II. Deviating from the terms of Builder Buyer Agreement (BBA).

2.2.1. It is observed that in the construction contract granted to the consortium of ‘M/s Nanu Ram Goyal & Co. and M/s EcodeL Projects Pvt. Ltd.’ under the Pool and Build Scheme, certain essential items as essential for having liveable flats viz. Lifts, DG, STP, Boundary wall & security gate, Club, Community Centre and Shops, Road works, Mechanical Ventilation Works, Solar Panel, External Electrification, External Plumbing & Fire Fighting, External RWH, drainage, Fire Alarm System etc. were excluded from the said contract. Mr. Ajit Kumar presented the negotiated bids with the construction contractors in the 39th CoC meeting. As observed from the minutes of 40th CoC meeting, Lift, Diesel Generator (DG) and Sewage Treatment Plant (STP) were included in the budget for construction contract, while other items were excluded. It was further observed that Mr. Ajit Kumar had charged an additional amount of Rs.150 per sq. ft. as interest free interim finance from the allottees. Further, the payment structure to the contractor as envisaged by Mr. Ajit Kumar depends on obtaining Rs.25,000/- from every allotted homebuyer as token amount for their respective flats along with consent

form. The minutes of 40th CoC meeting also implied that Mr. Ajit Kumar could demand for even more interim finance other than the minimum amount of Rs.150 per sq. ft. as interest free interim finance. However, none of these conditions with regards to collection of token money of Rs.25,000/- from the allottees and the payment of interim finance of Rs.150 per sq. ft. have been found in any of the sample BBAs provided by Mr. Ajit Kumar.

2.2.2. Hence, it was alleged in the SCN that Mr. Ajit Kumar deviated from the terms of the BBAs and also failed to hire a construction contractor who would include all the essential items required under the terms of the BBAs. Accordingly, Mr. Ajit Kumar's actions are in violation of provisions of Sections 208(2)(a) and (e) of the Code, Regulations 7(2)(a) and (h) of the IP Regulations read with Clause 1 and 14 of Code of Conduct.

Submissions by Mr. Ajit Kumar:

2.2.3. Mr. Ajit Kumar submitted that the contract awarded to Ecodel was limited strictly to the finishing of interior works of Towers 7, 8, 9, 10, 11, 12A, 13, and 14 of the Lotus Zing Project. Accordingly, certain items were excluded from the contract, although they were provided for in the construction budget, such as lifts, DG sets, and STP. Further, the invitation for Expression of Interest (EOI) and the tender documents, duly approved by the CoC clearly confined the scope of work to interior finishing works alone. Undertaking any exterior work was not feasible due to the absence of building/layout permissions from NOIDA and the limited finances available with the CD.

2.2.4. Mr. Ajit Kumar further submitted that these constraints were duly discussed by the homebuyers and the five-member Project Monitoring Committee, constituted by the CoC. The exclusions were further deliberated upon in the 38th CoC meeting. As such, the bid submitted by Ecodel (and eventually approved by the CoC) explicitly excluded several pending works such as lifts, DG, STP, boundary wall, club, community centre and shops, road works, landscaping, play areas, swimming pools, solar panels, external electrification, plumbing, drainage, metering, alarm systems, and other external or Phase I-related works. Consequently, the contract executed with Ecodel did not include these items.

2.2.5. Mr. Ajit Kumar submitted that although lifts, DG and STP were excluded from Ecodel's contract, the CoC found it necessary to include these items in the final budget to ensure the units were liveable. It was resolved that lifts and DG sets would be procured directly from the Original Equipment Manufacturers (OEMs) to reduce costs. For DG and STP, it was further

resolved during the 40th and 43rd CoC meetings that the materials lying on-site would be utilized, and the proceeds would be deposited into a dedicated current account of the CD.

- 2.2.6. The final budget for the finishing works was prepared with the involvement of the consultant, suggestions of homebuyers, and directions of the CoC. It was presented before and approved by the CoC in its 40th meeting. The budget included costs related to interior works (payable to Ecode), lifts, consultancy, and contingencies. These inclusions and exclusions were commercial decisions approved by the CoC after carefully assessing the project's condition. The tender process, from the Bill of Quantities (BoQ) to contractor selection, was undertaken with complete transparency, including discussions with stakeholders.
- 2.2.7. Mr. Ajit Kumar further submitted that the interior and maintenance works budgeted were solely intended to preserve the assets of the CD and not to initiate new construction, particularly in the absence of necessary approvals. Pending external and civil works are to be undertaken by the Successful Resolution Applicant under the final resolution plan. Therefore, the RP acted prudently, ensuring that only such works were included in Ecode's contract which could legally and feasibly be executed.
- 2.2.8. Mr. Ajit Kumar submitted that raising interest-free interim finance was specifically approved by the CoC. Importantly, homebuyers are not incurring any costs beyond those contemplated in their respective Builder Buyer Agreements (BBAs). The BBAs expressly mention that the total consideration does not include applicable taxes, which must be paid as per government regulations. Due to the difference in GST rates i.e., 12% receivable from buyers and 18% payable for works, a gap of approximately ₹7.90 crores arose, necessitating interim finance. The contribution of ₹150/sq.ft. includes this GST component, effectively amounting to ₹134/sq.ft. for construction cost.
- 2.2.9. Further, as per the BBAs, homebuyers were required to pay until possession and registration, but their units remained incomplete due to fund diversion by the erstwhile management. Avoidance applications have been filed by the RP in this regard. In this context, the CoC approved interest-free interim finance under Section 25(2)(c) of the Code to ensure project viability and asset preservation. Notably, this interim finance would only be raised when 85% tower-wise participation is achieved. As of date, no such finance has yet been raised.
- 2.2.10. It was also explained to the CoC that the precise amount per sq.ft. could only be finalized once tower-wise participation was confirmed. The brownfield nature of the project makes budgeting

and planning unpredictable due to the risk of rework and degradation. To mitigate these risks, the RP suggested a token advance of ₹25,000 per buyer along with consent forms, to cover roughly 60% of the projected initial outflow. This amount was set off against the 4th demand. If a buyer had already made full payment, no additional deposit was sought.

2.2.11. Moreover, the contracts executed during CIRP were finalized at significantly lower rates than projected. For instance, swimming pool maintenance was completed at approximately ₹10.38 lakhs (against an expected ₹20.29 lakhs), and boundary wall construction was completed at ₹21.47 lakhs (GST inclusive) as opposed to ₹27.35 lakhs (GST exclusive). Thus, the RP has consistently endeavoured to ensure completion at minimal cost, with no additional burden on homebuyers.

2.2.12. The RP also relied on the decision in *Shailesh Verma v. Union Bank of India & Ors* [IA 1651 of 2020 in CP (IB) 1765/MB/2018], where the Hon'ble NCLT held that the RP is empowered to raise interim finance to keep the Corporate Debtor as a going concern, protect and preserve its assets, and meet CIRP costs.

Analysis and findings.

2.2.13. The DC notes that the matter of awarding of 'Construction Contract' was discussed in various CoC meetings including the scope of work for such contract, the estimated budget, the proposals of various interested buyers and the additional amount required to be contributed by the home-buyers. The DC notes that the CoC had explicitly excluded external and infrastructure-related items such as lifts, DG, STP, boundary wall, and fire safety systems. These exclusions were discussed and approved by the CoC, as evidenced from the minutes of the 38th, 39th, 40th and 43rd CoC meetings. Further, it was also mentioned that the given receivables include an 8% increased area, as specified in the Builder's Buyer Agreement (BBA) and subsequently discussed with the CoC. The item No.1 regarding the approval of the construction budget of the undelivered towers as deliberated and approved by the CoC in the 40th CoC Meeting held on 23.01.2023 is extracted below:-

***“RESOLVED THAT** the members of the committee of creditors be and hereby approve the construction budget with assumptions presented before them.*

***RESOLVED FURTHER THAT** the committee of creditors members hereby approve the collection of an additional cost of INR 150/sq.ft. in the corporate debtor's current bank account, treated as interest-free interim finance. This collection will be initiated once a*

participation level of 85% from home buyers is achieved during the construction phase across undelivered towers. The recovery of the same will be implemented through the resolution plan of the Successful Resolution Applicant (SRA) in accordance with the provisions of the Insolvency and Bankruptcy Code (IBC).

RESOLVED FURTHER THAT *the members of the committee of creditors hereby approve that any additional expenses or shortfall, if necessary, following the CoC's approval, shall be financed by the home buyers of undelivered towers. This funding will be treated as interest-free interim finance. The recovery of these funds will be executed through the resolution plan of the Successful Resolution Applicant (SRA) in accordance with the provisions of the Insolvency and Bankruptcy Code (IBC).*

RESOLVED FURTHER THAT *the members of the committee be and hereby authorize Mr Ajit Kumar, the Resolution Professional to appoint consultants, professionals or conduct any such audit, survey as may be required for the smooth process of construction.*

RESOLVED FURTHER THAT *Mr. Ajit Kumar, the Resolution Professional, be and is hereby authorized to do all such acts, tasks, deeds, matters, and things as he may, in his absolute discretion, deem fit, necessary, desirable, incidental, and/or consequential to give effect to the resolution.”*

2.2.14. With respect to the interim finance of ₹150 per sq. ft., the DC notes that the CoC under Section 25(2)(c) of the Code had approved the same as interest-free support to bridge the financial gap primarily arising from differential GST treatment. Moreover, the CoC minutes mention that this interim finance would be raised only after achieving 85% buyer participation on a tower-wise basis, and as submitted by Mr. Ajit Kumar he has not collected any interim finance as on his date of his reply to the SCN.

2.2.15. The DC notes that in a situation where the corporate debtor is undergoing insolvency, the funds available to meet the past commitments are going to be inadequate. In such a situation, it is not possible to carry out the commitments in entirety as promised by the ex-management because of lack of funds. Therefore, the stakeholders have to decide what needs to be prioritised within the available funds. In this case, DC finds that matter has been discussed several times by the stakeholders and they have decided by a substantial voting share about the items which need to be prioritised and how the funds for the same will be arranged. This funding of these prioritised works has also been envisaged within the scheme of the Code by treating them as interim finance. In view of the above, the DC accepts the submission of Mr. Ajit Kumar.

2.3. III. Non-disclosures in the Information Memorandum (IM).

2.3.1. It is observed that the IM prepared by Mr. Ajit Kumar does not provide the material details about the towers under the Lotus Zing project. For example; Mr. Ajit Kumar failed to include the details such as :-

- (a) Total land area of the Lotus Zing Project
- (b) Number of units of the Lotus Zing Project yet to be constructed;
- (c) Number of units of the Lotus Zing project already completed and handed over;
- (d) Non-approval of the building layout by NOIDA and the non-compliances under RERA Act;
- (e) The fact that construction of lift as well as DG and STP formed part of the budget for construction contract, instead shown it in the list of items that are excluded from the construction contract; and
- (f) Details of unsold inventory lying on the site of the project.

2.3.2. In view of the above, the Board was of the *prima facie* view that Mr. Ajit Kumar contravened provisions of Sections 208(2)(a) and (e) of the Code, Regulation 36(2)(a) of the IBBI (Insolvency Resolution Process For Corporate Persons), 2016 (CIRP Regulations) and Regulations 7(2)(a) and (h) of the IP Regulations read with Clause 14 of Code of Conduct.

Submissions by Mr. Ajit Kumar.

2.3.3. Mr. Ajit Kumar submitted that the IM prepared for the CIRP of the CD contains all material details about the Lotus Zing project, in compliance with Regulation 36(2) of the CIRP Regulations. The IM, as mandated, contains a comprehensive summary of significant information relating to the CD including, *inter alia*, its assets and liabilities, audited and provisional financial statements, list of creditors, related party transactions, details of guarantees, members holding more than one percent stake, material litigation and ongoing proceedings, and key business information such as contracts, GST credits, utility connections, and other operational elements.

2.3.4. Mr. Ajit Kumar further submitted that the total land area of the Lotus Zing project (17.5 acres) is clearly disclosed on page 33 of the IM. Details regarding the number of completed and pending units are set out on pages 34 to 37. With respect to the steps taken for revalidation of the layout map from NOIDA and ensuring RERA compliance, these details have been made available to resolution applicants via disclosures in the IM on page 25, as well as through copies of writ petitions filed before the Hon'ble Allahabad High Court, which were shared with the

prospective resolution applicants (PRAs). Consequently, the fact that the project lacks NOIDA and RERA approvals was fully disclosed, and PRAs accounted for any associated delay and cost impacts in their resolution plans.

2.3.5. Mr. Ajit Kumar further submitted that lifts, DG sets, and STP were excluded from the contract scope awarded to Ecodel (as noted on page 29 of the IM), the budget nonetheless includes provisions for them. Lifts were deliberately excluded from the tender since they were cheaper to procure directly from the manufacturer, and for DG and STP, the RP planned to utilize the existing construction material inventory of the CD, thereby reducing costs. Accordingly, it does not indicate any discrepancy but rather a strategic and transparent financial decision.

Analysis and findings.

2.3.6. Regulation 36(2) of the CIRP Regulations mandates that the Information Memorandum (IM) must contain relevant material information including assets and liabilities of the Corporate Debtor, financial statements, list of creditors, key contracts, guarantees, litigation, and other essential project-level details, so that the prospective resolution applicants (PRAs) can take informed commercial decisions.

2.3.7. The DC on perusal of the IM and supporting documents submitted by Mr. Ajit Kumar, finds that the critical items alleged to have been omitted from the IM were disclosed either directly in the IM, Virtual data room (VDR) or via additional supporting documents shared with the PRAs. The tabular representation of the alleged omitted items and the reply of Mr. Ajit Kumar for mapping convenience is extracted below:-

Sl. No.	Item missing in the IM as alleged in the SCN	Disclosure Made by Mr. Ajit Kumar / Reference in IM
(a)	Total land area of the Lotus Zing Project	Page 33 of the IM discloses total land area as 17.5 acres. <i>“Lotus Zing ‘The Project’ is spread across 17.5 acres of verdant surroundings.”</i>
(b)	Number of units yet to be constructed	Pages 34–37 provide details of completed vs pending units. <i>“There are 15 towers and 2,454 dwelling units to be constructed. Tower-wise status of the project is as follows:”</i>

(c)	Number of units completed and handed over	<p>Pages 35 contain data regarding completed and handed-over units.</p> <p><i>“The Corporate Debtor had already handed over possession of flats in towers 1,2,15 &16. and also handed over possession for Fit out of flats in Towers 3, 4, 5 & 6 (occupational certificate awaited).”</i></p> <p><i>“As per the unapproved shopping arcade plan (as of date), the total shops are 72 spreads across an area of 47,939 sq. ft. Out of this, 39 shops spreading over an area of 26,238 sq. ft. have been sold and unsold shops list is given below.”</i></p>
(d)	Non-approval of building layout by NOIDA and non-compliances under RERA	<p>Disclosed on Page 25 of the IM; further shared copies of writ petitions filed before the Hon’ble Allahabad High Court.</p> <p><i>“Writ Petition seeking direction against NOIDA for handing over the vacant possession of the entire land allotted to the Corporate Debtor. Prayer has also been made for grant of 'No Objection Certificate' for registering sub-lease deeds in favor of bona fide purchasers and grant of approval for commercial area plan. WRIT – C No. - 3891 of 2024”</i></p>
(e)	Lifts, DG, STP shown as excluded from contract despite being part of the construction budget.	<p>Page 29 of the IM mentions exclusion from Ecodel’s contract but inclusion in the overall project budget.</p> <p><i>“During the 39th CoC meeting, bid of the Consortium of Nanu Ram Goyal & Co and Ecodel Projects Private Limited was approved by the CoC for finishing towers pending works for an amount of INR 99,99,92,420.00. However, following works are not included in the construction bids:”</i></p>
(f)	Details of unsold inventory lying at the site	<p>Inventory details are provided as part of the asset summary and project profile sections of the IM. However, as discussed in the next contravention the details of certain materials lying on the site have not been made part of the IM.</p>

2.3.8. On perusal of the IM and the additional submissions of Mr. Ajit Kumar, the DC is satisfied that the material disclosures required under Regulation 36(2) of the CIRP Regulations were complied by Mr. Ajit Kumar. The disclosures, though some spread across IM pages, annexures and VDR were adequate to inform PRAs of the true state of affairs, except the details of materials lying on the site, as has been dealt in next contravention.

2.4. IV. Sale of the materials lying on the project site of CD.

2.4.1. It was observed that Mr. Ajit Kumar had failed to disclose the details of the material lying on the site of the CD in the IM, and to the CoC during discussion in the 30th CoC meeting. Mr. Ajit Kumar had informed the CoC members that there was a lot of scrap/ useless iron and steel lying at the project location which was getting rusted due to being kept in open area and was also occupying the basement car parking. In addition to this, Mr. Ajit Kumar informed the CoC that the materials posed a risk to the lives of the residents and hence suggested that the scrap materials may be sold. Further, Mr. Ajit Kumar failed to inform the CoC about the proceeds collected from sale of the materials lying on the project site of CD. Section 25(1) of the Code requires a Resolution Professional to preserve and protect the assets of the corporate debtor.

2.4.2. In view of the above, the Board was of the *prima facie* view that Mr. Ajit Kumar has contravened provisions of Sections 25(1), Section 208(2)(a) and 208(2)(e) of the Code, Regulations 7(2)(a) and (h) of the IP Regulations read with Clause 14 of Code of Conduct.

Submissions by Mr. Ajit Kumar.

2.4.3. Mr. Ajit Kumar submitted that the details of the inventory lying at the site of the CD had been duly disclosed in the IM. Upon taking charge, he had discovered inventory worth crores at the site during his initial visit, and the same was duly disclosed to the CoC in the 26th meeting held on 10.10.2022. It was specifically informed that inventory lying in the basement had been earlier valued at Rs. 96.65 lakhs in the Guaranteed Maximum Price Construction Agreement executed by the erstwhile RP with Svarnim, and that a fresh assessment was necessary to ascertain its real value. For this purpose, he deployed employees and later engaged labourers for physical verification, segregation, and consolidation of the inventory. Based on the verification and analysis of records and the excel sheet retrieved from the CD's archives, the RP assessed and incorporated unaccounted materials amounting to Rs. 4.87 crores into the IM. Additionally, a debit note of Rs. 3.63 crores was raised on Svarnim for recovery of materials previously disposed of. Mr. Ajit Kumar concluded that the total value of inventory assessed

and recovered stood at Rs. 8.50 crores, and this was appropriately accounted for in the resolution plans, fetching better value for stakeholders, as also discussed in the 45th CoC meeting.

- 2.4.4. Mr. Ajit Kumar further submitted that certain items categorized as "scrap" were not declared as assets in the IM since they comprised construction waste materials that had already been charged off in the books of the CD in previous financial years. This issue was clarified by the RP upon a query raised after SMV Agencies submitted their revised resolution plan. The sale of scrap was carried out with full transparency and the CoC approval. The issue was first raised in the 30th CoC meeting held on 20.02.2023, where the RP informed members that unused iron and steel scrap was not only occupying the basement parking but also posed risks to the lives of residents. Therefore, to minimize risk and create space, the RP suggested its disposal. The CoC advised the RP to obtain at least two to three price quotes before finalizing the sale. In the 33rd CoC meeting held on 06.05.2023, an agenda was placed for the sale of scrap and utilization of sale proceeds towards the construction of a boundary wall near Towers 7 and 8 and the same was duly approved. Multiple homebuyers had also written to the RP requesting the removal of scrap and construction of the boundary wall using the proceeds.
- 2.4.5. Mr. Ajit Kumar further submitted that the proposed scrap for sale was kept in an open area to facilitate homebuyers inspection. An e-bidding process was conducted, and the highest bidder, M/s A K Real Enterprises, was selected to remove the materials. The entire bidding report was shared with the homebuyers, and the final data regarding sale and proceeds was communicated through emails and also discussed in the 39th CoC meeting.
- 2.4.6. Mr. Ajit Kumar further submitted that, in accordance with Regulation 29 of the CIRP Regulations, the RP is empowered to sell unencumbered assets of the CD with CoC approval, if such sale is necessary for better value realization. In the present case, Mr. Ajit Kumar sold construction scrap and not fixed assets, with CoC's due approval, to optimize value and efficiently manage the affairs of the Corporate Debtor. Reliance is placed on the judgment of the Hon'ble NCLAT in *Jet Aircraft Maintenance Engineers Welfare Association (JAMEWA) vs. Ashish Chhawchharia, RP for Jet Airways (India) Ltd.*, [2022 SCC OnLine NCLAT 278], wherein it was held that the RP is authorized to sell unencumbered assets during CIRP if it helps in value realization.

Analysis and findings.

- 2.4.7. The DC notes that the decision to dispose of the scrap was taken with the CoC approval in the 30th CoC Meeting held on 20.02.2023. The relevant extract of the Resolution No.3 for sale of scrap material kept at the project location along with the voting result is extracted below:-

“Resolution Id: VbjhcFmo5JJJEjh560

Item No.3

SALE OF SCRAP MATERIAL KEPT AT THE PROJECT LOCATION

The Resolution Professional informed the CoC members that there is a lot of scrap/useless iron and steel lying at the project location which is getting rusted due to being kept in the open area and occupies the basement car parking. In addition to this, materials also pose a risk to the lives of the residents. Therefore, in order to minimize the hazardous risk and clean said area, it is suggested by the Resolution Professional to sale these scrap materials.

The CoC discussed on the same and suggested the Resolution Professional to take price quotes from at least 2-3 vendors before finalizing the buyer since the scrap lying on the project site is in huge quantity and any small variation in price shall have a huge impact on the amount realised from the sale of the scrap.

To consider and if deemed fit, to pass with of without modification(S), the Following Resolution:

“RESOLVED THAT the consent of the CoC be and hereby accorded to the sale of scrap material lying at the site of the corporate debtor.

RESOLVED FURTHER THAT Mr. Ajit Kumar, the Resolution Professional be and is hereby authorized to do all such acts, deeds and things and to execute necessary deeds, papers and documents for the said purpose.”

#	Yes	No	Abstain
Total(%)	23.504537081	23.475557235	0.262921973
Count	289	49	4

- 2.4.8. The DC notes that in the 33rd CoC meeting held on 06.05.2023, a formal agenda as Item No. 6 was presented for the sale of scrap and for the utilization of the proceeds towards the construction of a boundary wall near Towers 7 and 8. The said agenda was also approved by the CoC. Consequently, an e-bidding process was conducted, and M/s A K Real Enterprises emerged as the highest bidder. The extract of the minutes of the meeting is as follows:

“Item No. 10

DISCUSSION ON THE CONSTRUCTION OF THE BOUNDARY WALL ADJACENT TO TOWER 7 AND 8

The Resolution Professional apprised the members of the Committee of Creditors that the Home Buyers have been requesting to construct the boundary wall adjacent to tower 7 and 8.

Therefore, the RP suggested that the money for the boundary wall be raised by selling off the scrap materials through an auction which will be utilized for the construction of

the same. The RP also suggested that any monetary shortfall for the construction, if any, to be collected from the Home Buyers as per discussion held on 19th April'2023 zoom meeting. The Resolution Professional informed the Members of the Committee of Creditors that he would invite for quotations for the construction of the said boundary walls and after the approval of the same by the members of the CoC, the construction would be initiated.

The CoC deliberated upon the issue and consented on the construction of the boundary walls.”

2.4.9. The DC further notes that Mr. Ajit Kumar vide email dated 23.06.2023 had shared the report of auction of scrap as received by him from the e-auction platform to the AR and the AR vide email dated 24.06.2023 had acknowledged Mr. Ajit Kumar that he had shared the given information with the homebuyers.

2.4.10. The DC also observes that Mr. Ajit Kumar had shared the complete bidding report with homebuyers and ensured that the final data concerning the sale and proceeds was communicated through emails and discussed in the 39th CoC meeting held on 01.12.2023 as follows:

“A total of 52.745 MT of scraps were auctioned to A.K. Real Enterprises at Rs. 45,300/MT, generating Rs. 28,43,325/-. A transparent system involves stakeholders in collection, segregation, and inspection, with shared photographs for buyer inspection.”

2.4.11. However, the DC also notes that although Mr. Ajit Kumar had found about the materials lying on the site during his initial site visit, just after his appointment on 25.08.2022 and the same was reported to the CoC during its 26th meeting held on 10.10.2022. However, it was not disclosed by him in the updated Information Memorandum prepared by him on 07.02.2023. Further, the DC is not in agreement with the explanation of Mr. Ajit Kumar that since scrap already been charged off in the books of the CD in previous financial years, the same was not required to be shown in the IM. The DC is of the view that if the existence of the material lying on the site was in the knowledge of Mr. Ajit Kumar, through physical site inspections, it became his duty to disclose the same in the Information Memorandum.

2.4.12. In view of the above, the DC notes that although the discussions regarding the scrap and its auction was done with the CoC, the same was not disclosed in the Information Memorandum. Accordingly, the DC holds the contravention in this regard.

2.5. V. Issuance of work order to Ecodel at the time of plan submission.

- 2.5.1. It was observed that Mr. Ajit Kumar granted the 'Pool and Build Scheme' contract for completion of the pending construction to the consortium of 'M/s Nanu Ram Goyal & Co. and M/s Ecodel Projects Pvt. Ltd.', and issued the work order on 09.04.2024, despite the fact that necessary approvals from NOIDA and UPRERA are still pending. The consortium of Ecodel was also one of the resolution applicants. Mr. Ajit Kumar invited the resolution applicants for opening of the resolution plans before the CoC members in the 42nd CoC meeting convened on 17.04.2024. It was noted that Mr. Ajit Kumar not only entered into a Pool and Build contract with Ecodel without the necessary approval of NOIDA and RERA but also issued the work order to Ecodel at a time when the plan of the consortium of Ecodel was close to submission, thus influencing the CoC members to vote the consortium of Ecodel.
- 2.5.2. In view of the above, the Board was of the *prima facie* view that Mr. Ajit Kumar contravened provisions of Section 208(2)(a) and (e) of the Code, Regulations 7(2)(a) and (h) of the IP Regulations read with Clauses 1, 3 and 14 of Code of Conduct.

Submissions by Mr. Ajit Kumar.

- 2.5.3. Mr. Ajit Kumar submitted that the award of contract to Ecodel and the approval of the resolution plan fall squarely within the ambit of the commercial wisdom of the CoC. The advertisement inviting EOI for finishing interior works of the undelivered towers and the Form G inviting EOIs for resolution plans were both issued in May 2023, based on the specific mandate of the CoC. Subsequently, only one resolution plan was received, from the Pragati Group, while four bids were received for the interior finishing works. However, the resolution applicant later withdrew its plan, and this withdrawal was accepted by the CoC during its 39th meeting. Following extensive deliberations and a democratic voting process, the CoC awarded the contract to Ecodel with 68.5% of the votes (364 out of 547) in the e-voting concluded on 07.12.2023. As a result of the resolution plan's withdrawal, the CoC and RP were compelled to reissue Form G, which was done on 01.02.2024 after obtaining NCLT's approval. The new resolution plan submitted by the Consortium of NRG & Co, Vikram Tuli, and Vinit Gupta was then approved by the CoC in the e-voting to the 45th meeting, which concluded on 21.07.2024. It is thus evident that the award of contract to Ecodel preceded the publication of the second Form G and the submission of the new resolution plan, and there was no conceivable way for the RP to have foreseen or influenced the later events, including the submission of the plan by the Consortium.

- 2.5.4. Mr. Ajit Kumar further submitted that the work order to Ecodel, dated 09.04.2024, was issued based on express instructions from the homebuyers communicated during a meeting on 06.04.2024 and through several emails. The contract had already been resolved to be awarded to Ecodel, and the issuance of the work order was a procedural requirement contingent upon the receipt of 60% tower-wise consent from homebuyers. Ecodel had also indicated that failure to comply with agreed timelines would compel it to withdraw, which could have forced the CoC and RP to restart the entire tendering process. Importantly, the contract executed with Ecodel provides in Clause 48.0 of the Special Conditions of Contract that the CoC may, at any stage, abandon or reduce the scope of work without giving rise to any claim for compensation other than those specifically provided. Thus, the CoC retained full authority to replace Ecodel or allow the incoming resolution applicant to do so, and this provision was also reflected in the IM.
- 2.5.5. Mr. Ajit Kumar further submitted that the CoC, consisting primarily of homebuyers, was represented by an Authorized Representative with legal expertise and is assisted in understanding and evaluating proposals discussed in the CoC meetings. All decisions, including the selection of contractors and resolution applicants, were taken by the CoC based on evaluation matrices and informed deliberations. A comparative analysis of resolution plans shows that the plan submitted by the Consortium (NRG & Co, Vikram Tuli, and Vinit Gupta) offered additional charges of Rs. 250/sqft (compared to Rs. 500/sqft by Abhishek Kumar), and proposed a 75% distribution of avoidance application proceeds versus nil by the other applicant. The plan scored 60 on the evaluation matrix compared to 52 scored by Abhishek Kumar's plan.
- 2.5.6. Mr. Ajit Kumar further submitted that there is no legal bar under the Code or any applicable law prohibiting the CoC from awarding a contract to a resolution applicant prior to the approval of the resolution plan. It has been the consistent practice and demand of the CoC to finalize contracts related to finishing works before voting on resolution plans. This was evident even during the consideration of the previous plan submitted by SMV Agencies, where the CoC insisted on executing a contract with its associate entity, Goldstar, before proceeding. The CoC had also deferred agenda items, such as opening of resolution plans, until bid comparisons were presented, as seen before the 37th CoC meeting. This reflects that the CoC, exercising its commercial wisdom, deemed it appropriate to finalize key contracts prior to plan approval, and the RP merely facilitated such decisions. Reliance is placed on the judgment of the Hon'ble

Supreme Court in *K. Sashidhar v. Indian Overseas Bank* [Civil Appeal No. 10673 of 2018], where it was held that the commercial wisdom of the CoC is paramount and non-justiciable.

Analysis and findings.

Per: Javanti Prasad, Whole Time Member

- 2.5.7. It is noted that in the instant matter, the processes of awarding construction contract and approval of resolution plan was contemporaneous. Mr. Ajit Kumar had awarded the 'Pool and Build Scheme' contract for the completion of unfinished towers to the consortium of M/s Nanu Ram Goyal & Co. and M/s Ecodel Projects Pvt. Ltd. by executing a contract on 03.04.2024 and further issued the work order on 09.04.2024. This was done despite the absence of approval from NOIDA and RERA and also in violation of directions of Hon'ble High Court of Allahabad. This issue has already been dealt in Contravention I. Notably, during this time, the process for submission of resolution plans was also underway. The Form G for inviting Expression of Interest for submission of resolution plans was published on 01.02.2024, with the last date for submission being 12.02.2024 and the final list of prospective resolution applicants was published on 12.03.2024. Mr. Ajit Kumar has submitted that he had apprised the CoC in its 42nd meeting held on 17.04.2024 that he has received three resolution plans. One of it was received from the consortium comprising of Nanu Ram Goyal (who was also awarded construction contract as mentioned above). Finally, the resolution plan presented by consortium comprising of Nanu Ram Goyal was approved by the CoC on 21.07.2024.
- 2.5.8. Therefore, in effect Nanu Ram Goyal, through his different consortiums was able to secure the construction contract first and then also obtained approval from the CoC for its resolution plan. Both the processes were guided and carried out by Mr. Ajit Kumar as resolution professional. I am of the view that in real estate cases where an entity is already engaged in carrying out the construction activities, allowing the same entity to be a prospective resolution applicant would be prejudicial to the transparency and competitiveness of the resolution bidding process. Such an entity would be having an obvious upper hand and will be in advantageous position as compared to other PRAs. Therefore, there is a need for greater scrutiny and caution while considering the resolution plans.
- 2.5.9. Mr. Ajit Kumar has submitted that the decision to award the contract and the timing of the work order were rooted in the commercial wisdom of the CoC and was based on express consent of the homebuyers. I am not commenting on the commercial wisdom of the CoC while evaluation

the resolution plans. However, being a resolution professional, Mr. Ajit Kumar was under a statutory obligation to ensure adherence to the principles of fairness, transparency, and fair play for all the resolution applicants while consideration of resolution plans by the CoC. It is observed that although Mr. Ajit Kumar in the 45th CoC meeting had apprised the CoC that the PRA associates (Consortium of Nanu Ram Goyal & Co and Ecodel Projects Private Limited) are currently engaged in construction through an item-rate contract based on the BOQ, it was his greater duty to explicitly inform the CoC members of the possible conflict of interest and the adverse effect it may have on securing a competitive resolution plan from independent PRAs. This would have assisted the CoC while considering the resolution plan and even before that through terms of construction contract, framing of evaluation matrix, etc. In these facts and circumstances, I note that the conduct of Mr. Ajit Kumar in relation to issuance of work order to consortium of Nanu Ram Goyal & Co. and Ecodel Projects and simultaneously allowing the consortium of Nanu Ram Goyal & Co., Vikram Tuli, and Vinit Gupta as a resolution applicant doesn't seem to be bonafide, as it significantly vitiates the independent and transparent bidding process and perturbs the level playing field for other resolution applicants.

2.5.10. In view of the above, I hold the instant contravention against Mr. Ajit Kumar.

Per: Sandip Garg, Whole Time Member

2.5.11. It is noted that the SCN alleges that Mr. Ajit Kumar not only entered into a Pool and Build contract with Ecodel without the necessary approval of NOIDA and RERA but also issued the work order to Ecodel at a time when the plan of the consortium of Ecodel was close to submission, thus influencing the CoC members to vote for the consortium of Ecodel. The contravention regarding awarding of construction contract to the consortium of Nanu Ram Goyal & Co. and Ecodel Projects, without the valid approval from NOIDA and RERA has already been dealt in earlier paragraphs while dealing with Contravention I. As regards, influencing the CoC members to vote for the consortium of Ecodel, the same is examined in following paragraphs.

2.5.12. On perusal of the records, I find that during the CIRP of the CD, starting from 28.08.2019, the EoI was issued 4 times viz., 04.12.2019, 05.07.2021, 25.05.2023. and 01.02.2024. It is observed that for each such EoI, the interests have been received for submission of resolution plan. However, the resolution process could not be completed. In this context, it is observed that during the 39th CoC meeting held on 01.12.2023, one of the PRAs (pursuant to EoI dated 25.05.2023) viz., PRAGATI group withdrew their submission of resolution plan. There remains

a lack of clarity regarding the reasons behind such withdrawal. Mr. Ajit Kumar had apprised to the CoC that the Pragati Group, vide an email dated 23.11.2023 had expressed their intent to withdraw the resolution plan citing the reason that they would be unable to implement the demands raised the homebuyers.

2.5.13. However, it is also observed that the available records do not adequately explain the specific reasons for such withdrawal, particularly what demands or conditions raised by the homebuyers were not acceptable or could not be fulfilled by the said resolution applicant. This assumes significance in light of the fact that the withdrawal was accepted by the CoC without detailed disclosure of the underlying issues. On perusal of the records pertaining to the instant case, it is also observed that allegation regarding allowing withdrawal of the plan without forfeiture of the EMD has not been dealt. I am of the view that the same may be investigated as to how the plan was permitted to be withdrawn without forfeiture of EMD. In fact, it appears from the records that the EMD was furnished by PRAGATI group in form of cheque and not in the form of Demand Draft as stipulated in RFRP. If this was the case, it may be examined whether it was correct on the part of Mr. Ajit Kumar to present the resolution plan before the CoC and open it for discussion, even when the resolution plan was probably not in accordance with the terms of the RFRP. In effect, the withdrawal of the resolution plan by the PRAGATI group is not adequately explained from the facts available on record.

2.5.14. It is also noted that the amount quoted by various bidders for construction contract was in upwards of 100 crores and therefore it appears that the construction contract forms a significant part of the overall resolution of the CD as any successful resolution applicant would also be required to complete the stalled residential units. In such a scenario, any resolution applicant would like to have the right to decide whether the execution of remaining construction at the time of approval of resolution plan should be done by SRA or the entity which has been awarded the construction contract. However, in the instant case, it is observed that Clause 48.0 of the Special Conditions Contract of the Construction Contract vested the power to abandon, reduce, or terminate the construction contract exclusively in the CoC which could be a limiting condition for a PRA, as the PRA does not have the right to decide about the same and therefore making the plan unattractive for any PRA other than the entity to whom the construction contract has been awarded. It may be noted that upon the approval of the Resolution Plan by the AA, the CoC will become *functus officio* and thereafter the clause of termination of Construction Contract (by CoC) might become ineffective.

2.5.15. In these limiting circumstances, any PRA who has also obtained the Construction Contract would naturally have advantage over other PRAs. The financial benefit accruing to any resolution applicant who does not have construction contract will be less than such resolution applicant which is also executing the construction contract and creates a significant advantage for it. This results in limiting the competitive edge in submission of resolution plan by various PRAs and likely loss of value to the stakeholders. It seems that the only way to ensure a level playing field for all PRAs was to vest the powers of termination of construction contract with the successful resolution applicant. Only then, the PRAs can be said to be having a level playing field.

2.5.16. It is further noted that Mr. Ajit Kumar being the Resolution Professional had both the authority and the professional obligation to adequately apprise the CoC against incorporating a clause that vested such critical powers that may give significant advantage to a particular PRA and limit the competition amongst the PRAs. It is not much clear from the records available with this DC that who specifically proposed that the discretion to terminate the construction contract be vested in the CoC rather than reserved for the SRA. This issue needs investigation as it goes to the core issue of whether the resolution process was structured to enable genuine competition or to entrench the position of the incumbent contractor.

2.5.17. As regards the approval of construction contract by CoC, it is seen that the minutes of 39th CoC meeting held on 01.12.2023 following resolution was approved on 07.12.2023 –

“RESOLVED THAT the construction tender submitted by Ecodel Projects Private Limited in consortium with Nanu Ram Goyal & Co, which was duly discussed and agreed to between the bidders and the Committee of Creditors be and is hereby approved by the Committee of Creditors for an amount of INR 99,99,92,420.90.

RESOLVED FURTHER THAT the resolution professional be and is hereby authorized to do all such acts, deeds and things and to execute contract, necessary deeds, papers and documents for the said purpose.”

2.5.18. Further, it is seen that the construction contract was awarded through issuance of Letter of Intent (LoI) on 30.12.2023 which had a termination clause which stated that the LoI would automatically terminate upon either the execution of the Contract agreement or the expiry of 120 days from the date of the LoI, whichever is earlier. Hence, the construction contract was executed on 03.04.2024 near the termination date and could not have been postponed indefinitely, especially in terms of the resolution passed in 39th CoC meeting which authorised

the resolution professional to do all acts necessary to give effect to approval of CoC for the construction contract. The DC is of the view that since the fact of construction contract being awarded to Ecodel consortium was already known to CoC members, the execution of the contract will not materially influence the CoC members. What could have influenced a fair competition between PRAs has already been discussed above and requires further investigation.

2.5.19. In view of the above, it prima facie appears to me that withdrawal of plan by PRAGATI group, structuring of the contract/ plan conditions, give an advantage to the PRA which is already executing the construction contract. However, since the matter is being referred for investigation as mentioned in above paras, no view has been taken regarding this contravention by Mr. Ajit Kumar.

3. **Order.**

Order on Punishment

Per: Javanti Prasad, Whole Time Member

3.1. In view of the foregoing, I find contraventions by Mr. Ajit Kumar on multiple counts. Firstly, he went for undertaking unauthorised construction through a contract that included civil and structural works, violating the directions of Hon'ble High Court of Allahabad. Secondly, despite having personal knowledge of scrap materials lying at the site since his initial visit in August 2022, he failed to disclose the same in the Information Memorandum dated 07.02.2023. Thirdly, he executed the construction contract with a consortium led by Nanu Ram Goyal in April 2024, while simultaneously permitting the same entity to participate as a Prospective Resolution Applicant, whose resolution plan was ultimately approved by the CoC on 21.07.2024 — a conduct that vitiated the transparency and competitiveness of the resolution bidding process and failed to maintain a level playing field to all the PRAs.

3.2. Accordingly, in exercise of the powers conferred under Section 220 of the Code read with Regulation 13 of the Inspection and Investigation Regulations and Regulation 11 of the IP Regulations, I hereby suspend the registration of Mr. Ajit Kumar (Registration No. IBBI/IPA-003/IP-N00062/2017-2018/10548) for a period of three years. I also note that Mr. Ajit Kumar has been replaced by Mr. Rajesh Ramnani as the RP of the Corporate Debtor.

Per: Sandip Garg, Whole Time Member

- 3.3. I find that the construction contract executed with the Ecodel consortium encompassed comprehensive civil and structural works and was therefore violation of the directions issued by the Hon'ble High Court of Allahabad in WP No. 35615 of 2024. Further it is also found that even though Mr. Ajit Kumar had personal knowledge of scrap materials lying at the site discovered by him during his initial inspection on 25.08.2022, he failed to discharge his statutory obligation of disclosure by omitting reference to the same in the updated Information Memorandum dated 07.02.2023. Further, it is observed that the terms of the construction contract were prima facie structured in a manner that conferred an inequitable advantage upon the existing contractor which also had role as PRA. Additionally, the activities revolving the approval of resolution plan requires further investigation as mentioned in earlier paragraphs.
- 3.4. Accordingly, in exercise of the powers conferred under Section 220 of the Code read with Regulation 13 of the Inspection and Investigation Regulations and Regulation 11 of the IP Regulations, I hereby suspend the registration of Mr. Ajit Kumar (Registration No. IBBI/IPA-003/IP-N00062/2017-2018/10548) for a period of two years.

General Order

- 3.5. Since the members of this Disciplinary Committee have differing views pertaining to Contravention V of the SCN, which has consequential impact on the quantum of punishment by the members of this DC, as mentioned in earlier paragraphs, let the matter be placed before the Chairperson, IBBI for appropriate instructions.

Sd/-
(Sandip Garg)
Whole Time Member
Insolvency and Bankruptcy Board of India

Sd/-
(Jayanti Prasad)
Whole Time Member
Insolvency and Bankruptcy Board of India

Dated: 30 March 2026

Place: New Delhi