<u>NATIONAL COMPANY LAW APPELLATE TRIBUNAL</u>
<u>PRINCIPAL BENCH, NEW DELHI</u>

<u>Comp. App. (AT) (Ins) No. 170 of 2025</u>

<u>IN THE MATTER OF:</u>

Ms. Reena **...Appellant**

Versus

Rabindra Kumar Mintri & Anr **...Respondents**

<u>Present</u>:

For Appellant	**:**	Mr. Bishwajit Dubey, Mr. Nipun Gautam, Ms. Udita Singh, Advocates
For Respondents	**:**	Mr. Sunil Fernandes, Sr. Adv. with Ms. Anuja Pethia, Mr. Noor Shergill, Mr. Rishabh Govilla, Mr. Rishabh Nigam, Ms. Kshirja Agarwal, Ms. Mansi, Advs. for R-2. Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

<u>With</u>
<u>Comp. App. (AT) (Ins) No. 357 of 2025</u>

<u>IN THE MATTER OF:</u>

Putti Lal **...Appellant**

Versus

Rabindra Kumar Mintri & Anr **...Respondents**

<u>Present</u>:

For Appellant	**:**	Mr. Bishwajit Dubey, Mr. Nipun Gautam, Ms. Udita Singh, Advocates
For Respondents	**:**	Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

<u>With</u>
<u>Comp. App. (AT) (Ins) No. 359 of 2025</u>

<u>IN THE MATTER OF:</u>

Yashveer Singh,
Through POA Holder **...Appellant**

Versus

Rabindra Kumar Mintri & Anr **...Respondents**

Present:

For Appellant : Mr. Bishwajit Dubey, Mr. Nipun Gautam, Ms. Udita Singh, Advocates

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 361 of 2025

IN THE MATTER OF:

Rajat Bhushan Srivastava **...Appellant**

Versus

Rabindra Kumar Mintri & Anr **...Respondents**

Present:

For Appellant : Mr. Bishwajit Dubey, Mr. Nipun Gautam, Ms. Udita Singh, Advocates

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 362 of 2025

IN THE MATTER OF:

Harnam Singh Hans,
Through POA Holder **...Appellant**

Versus

Rabindra Kumar Mintri & Anr **...Respondents**

Present:

For Appellant : Mr. Bishwajit Dubey, Mr. Nipun Gautam, Ms. Udita Singh, Advocates

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With

<u>Comp. App. (AT) (Ins) No. 408 of 2025</u>

<u>IN THE MATTER OF:</u>

Arjun Singh **...Appellant**

Versus

Rabindra Kumar Mintri,
RP Today Homes Noida Pvt. Ltd. & Ors. **...Respondents**

<u>Present</u>:

For Appellant **:** Mr. Saurabh Jain and Mr. Prayag Jain, Advocates

For Respondents **:** Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

<u>With</u>
<u>Comp. App. (AT) (Ins) No. 460 of 2025</u>

<u>IN THE MATTER OF:</u>

Kiran Pandey **...Appellant**

Versus

Rabindra Kumar Mintri,
RP Today Homes Noida Pvt. Ltd. & Ors. **...Respondents**

<u>Present</u>:

For Appellant **:** Mr. Upinder Singh, Advocate

For Respondents **:** Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

<u>With</u>
<u>Comp. App. (AT) (Ins) No. 468 of 2025</u>

<u>IN THE MATTER OF:</u>

Rani Singh **...Appellant**

Versus

Rabindra Kumar Mintri & Anr **...Respondents**

<u>Present</u>:

For Appellant **:** Mr. Siddharth Garg, Mr. Himanshu Chaubey, Mr. Srijan Sinha, Ms. Lihzu Shiney Konyak Mr. Srajan

Yadav, Ms. Trisha Garimala, Advocates

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 476 of 2025

IN THE MATTER OF:

Ritu Das & Anr. **...Appellant**

Versus

Rabindra Mintri
Resolution Professional Today Homes
Noida Pvt. Ltd. & Ors.
...Respondents

Present:

For Appellant : None

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 494 of 2025

IN THE MATTER OF:

Anuradha Mittal **...Appellant**

Versus

Rabindra Kumar Mintri
Resolution Professional of Today Homes
Noida Pvt. Ltd. & Anr.
...Respondents

Present:

For Appellant : Mr. Prabhunath Ram Chowdhary and Ms. Anuradha Mittal, Advocates

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 505 of 2025

IN THE MATTER OF:

Ritesh Arora & Ors. **...Appellant**

Versus

Today Homes Noida Pvt. Ltd. & Anr. **...Respondents**

Present:

For Appellant : None

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 510 of 2025

IN THE MATTER OF:

Dr. Anubha Varun **...Appellant**

Versus

Rabindra Kumar Mintri & Anr **...Respondents**

Present:

For Appellant : Mr. Ravinder K Rawat, Advocate

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 511 of 2025

IN THE MATTER OF:

Dr. Daud Judas Minj & Anr. **...Appellant**

Versus

Rabindra Kumar Mintri & Anr **...Respondents**
Present:

For Appellant : Mr. Ravinder K Rawat, Advocate

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 529 of 2025
&
I.A. No. 2012 of 2025

IN THE MATTER OF:

Kishore Sindhu & Anr.
(Through Power of Attorney Holder
Satbeer Singh) **...Appellant**

Versus

Rabindra Kumar Mintri & Anr **...Respondents**

Present:

For Appellant : Mr. Abhinav Mukhi, Advocate

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 532 of 2025
&
I.A. No. 2020 of 2025

IN THE MATTER OF:

Surekha Bhandari **...Appellant**

Versus

Rabindra Kumar Mintri & Ors. **...Respondents**
Present:

For Appellant : Mr. Aaditya Vijay Kumar, Mr. Naman Garg and Mr. Chinogel, Advocates

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 575 of 2025
&
I.A. No. 2203 of 2025

IN THE MATTER OF:

Sarita Kishore **...Appellant**

Versus

Rabindra Kumar Mintri & Anr **...Respondents**
Present:

For Appellant : None

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 720 of 2025

IN THE MATTER OF:

Shashi Bala **...Appellant**

Versus

Today Homes Noida Pvt. Ltd. (In CIRP) **...Respondents**

Present:

For Appellant : None

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 722 of 2025
&
I.A. No. 2643 of 2025

IN THE MATTER OF:

Nitya Nand Sharma & Anr. **...Appellant**

Versus

Today Homes Noida Pvt. Ltd. (In CIRP) **...Respondents**

Present:

For Appellant :

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

With
Comp. App. (AT) (Ins) No. 728 of 2025
&
I.A. No. 2668 of 2025

IN THE MATTER OF:

Vijay Kumar Tiwari **...Appellant**

Versus

Today Homes Noida Pvt. Ltd. (In CIRP) **...Respondents**

<u>Present</u>:

For Appellant :

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

<u>With</u>
<u>Comp. App. (AT) (Ins) No. 729 of 2025</u>
<u>&</u>
<u>I.A. No. 2669 of 2025</u>

<u>IN THE MATTER OF:</u>

Jamil Akhtar **...Appellant**

Versus

Today Homes Noida Pvt. Ltd. (In CIRP) **...Respondents**

<u>Present</u>:

For Appellant :

For Respondents : Mr. Harish Taneja, Ms. Manvi Jain, Mr. Anuj Maheshwari, Advocates for RP

<u>J U D G M E N T</u>

(17th October, 2025)

<u>Ashok Bhushan, J.</u>

These Appeals have been filed against the same order passed by the Adjudicating Authority (National Company Law Tribunal) Principal Bench, New Delhi in different IAs filed by the Appellants before the NCLT praying for acceptance of their belated claims with other reliefs. By the impugned order dated 22.01.2025, the Adjudicating Authority has dismissed the IAs filed by the Appellants seeking admission of the claims observing that the Applicants were filed beyond 90 days of Corporate Insolvency Resolution Process (CIRP) commencement date. Aggrieved by the order, these Appeals have been filed.

2. We need to first notice the brief background facts giving rise to these Appeals:

2.1. The Corporate Debtor- 'Today Homes Noida Pvt. Ltd.' is a Real Estate Company which proposed a group housing scheme "Ridge Residency" at Plot No. GH 001, Sector 135 Noida, Uttar Pradesh. The Appellants herein applied for allotment of the residential unit in the said scheme. Company issued an allotment letter dated 29.09.2011 in favour of the Appellant- Ms. Reena allotting a Unit I-1406 on the 14th Floor measuring 1075 sq. ft. on a consideration of Rs.32,25,250/-. After receiving the allotment letter, Appellant- Ms. Reena entered into a Tripartite Agreement dated 10.11.2011 with Company and State Bank of India for extending a loan in favour of the borrower with respect to unit allotted by Company for availing a loan of Rs.27,00,000/-. Appellant- Ms. Reena had made total payment to the Corporate Debtor against the allotted unit of an amount of Rs.31,36,600/- till April 2019. Other Appellants were also made allotment on different dates of the different units against which the consideration were paid by the Appellants. Some of the other Appellants have also entered into Tripartite Agreement with the Bank and the Company for obtaining financial assistance from the Bank. Other Appellants have also paid consideration against the units allotted. With regard to other Appellants, we shall notice the details of date of allotment, consideration and payments subsequently.

2.2. The CIRP against the Corporate Debtor commenced on application filed by certain Financial Creditors in Class (Homebuyers) by order dated 20.08.2019. IRP made public announcement on 24.08.2019 inviting claims from various creditors of the Corporate Debtor on or before 03.09.2019. The case of all the Appellants herein including Appellant- Ms. Reena is that Appellant could not come to know about the initiation of CIRP they being staying outside Delhi NCR/ some are out of the country, hence, could not file the claim within the time allowed. The Respondent No.2, one group submitted a Resolution Plan which came to be approved by CoC on 04.03.2020. The project land was allotted by NOIDA in favour of the Corporate Debtor. The Resolution Professional filed an IA No.2518 of 2021 before the Adjudicating Authority praying for approval of the Resolution Plan. The NOIDA who has allotted the land to the Corporate Debtor for carrying out the project was treated as an Operational Creditor in the Resolution Plan. NOIDA filed an IA No.3615 of 2022 praying for rejection of the Resolution Plan submitted by Respondent No.2. Another IA No.4172 of 2022 was filed by the NOIDA seeking a direction to the Resolution Professional to make payment of amount due and payable towards outstanding dues which have become due during CIRP.

2.3. Appellants came to know about the commencement of the CIRP in the year 2023/2024. Appellant- Ms. Reena came to know about the CIRP in August 2023. Other Appellants also came to know about the CIRP on different dates in 2023 and 2024. Appellant- Ms. Reena filed a claim on 11.08.2023 in Form CA as Financial Creditors in a Class. Other Appellants also filed their claims on different dates which shall be noticed subsequently. The Resolution Professional after receiving the claim on 11.08.2023 of Ms. Reena, on the same day sent a reply by e-mail expressing its inability to admit the claim on the ground of delay. Ms. Reena was advised to approach the Adjudicating Authority and in event the Adjudicating Authority directs only then the claim can be admitted. Other Appellants also filed their claims and their claims were rejected on the ground of delay. All the Appellants thereafter filed their applications under Section 60(5) of the IBC before the Adjudicating Authority praying for acceptance of their claims with other reliefs. Appellant- Ms. Reena filed IA No.4906 of 2023 in August 2023 itself where following prayers were made:-

> *"a) Allow the instant Application;*
>
> *b) Condone the delay of 1438 days in submitting the claim form dated 11.08.2023 by the Applicant,*
>
> *c) Set aside the email communication dated 11.08.2023 addressed by the Resolution Professional to the Applicant;*
>
> *d) Direct the Resolution Professional to admit the claim form dated 11.08.2023 submitted by the Applicant;*
>
> *e) Declare that the Resolution Plan dated 04.03.2020 submitted by M/s One Group and approved by the Committee of Creditors is in contravention of Section*

30(2)(e) of the Insolvency and Bankruptcy Code, 2016 and accordingly, set aside the Resolution Plan;

f) Pass any other order as this Hon'ble Tribunal may be pleased to, in light of the facts and circumstances of the instant case."

2.4. Other Appellants also filed application before the Adjudicating Authority praying for admission of the claim with other reliefs details of which we shall notice hereinafter. Applications IA No.2518 of 2021 (approval of the Resolution Plan) as well as IA No.3615 of 2022 and IA No.4172 of 2022 filed by the NOIDA came for consideration before the Adjudicating Authority on 05.03.2024. The Hon'ble Supreme Court on 12.02.2024 has delivered a judgment in Appeal filed by ***"Greater Noida Industrial Development Authority vs Prabhjit Singh Soni & Anr.- (2024) 6 SCC 767"*** holding the Greater NOIDA as Secured Creditor relying on Section 13A of the U.P Industrial Area Development Act, 1976. In the aforesaid case, the Hon'ble Supreme Court after holding Greater Noida Authority as Secured Creditor has remitted the Resolution Plan before the CoC for fresh consideration. When the IA filed by the NOIDA came for consideration before the Adjudicating Authority on 05.03.2024, Adjudicating Authority relying on the judgment of the Hon'ble Supreme Court in ***Prabhjit Singh Soni*** (supra) sent the plan back before the CoC for re-submission after satisfying the parameters set out by the Code in the light of the observations of the Hon'ble Supreme Court in paragraph 54 (b) & (c), the plan approval application i.e. IA No.2518 of 2021 as well as IA No.3615 of 2022 and IA No.4172 of 2022 of the NOIDA were disposed of accordingly.

2.5. The applications of Appellant- Ms. Reena and other Appellants which were also listed on the same day i.e. 05.03.2024 were directed to be listed on 30.04.2024. Challenging the order dated 30.04.2024, Appeals were filed before this Tribunal. Ms. Reena, the Appellant filed Company Appeal (AT) (Ins.) No.817 of 2024 which was decided along with two other Appeals by judgment of this Tribunal dated 08.05.2024. This Tribunal after considering the submissions of the Appellant as well as the Resolution Professional and the SRA disposed of the Appeals without interfering in the order dated 05.03.2024. Adjudicating Authority was however, directed to consider and dispose of the application as noted in the order dated 05.03.2024. SRA was directed to resubmit the Resolution Plan before the CoC after decision taken by the Adjudicating Authority in the applications filed by the Appellant.

2.6. The SRA also filed an application for being impleaded in the application filed by the Appellants, Adjudicating Authority passed an order dated 13.12.2024 directed impleadment of the SRA in the IA filed by the homebuyers. Appellant- Ms. Reena also filed Company Appeal (AT) (Insolvency) No.54 of 2025 challenging the order of impleadment of SRA which appeal came to be dismissed on 13.01.2025. This Tribunal, however, observed that by impleadment of SRA, there is no expression of merits by the Adjudicating Authority which are still open to be considered and decided in accordance with law. The Adjudicating Authority heard the applications filed by the applicants, Learned Counsel for the Resolution Professional as well as Counsel for the SRA and by impugned order dated 22.01.2025, dismissed the applications. Adjudicating Authority took the view that the order dated 05.03.2024 passed by the Adjudicating Authority by which Resolution Plan was sent back for re-submission, there is no basis for applicants' claim to be considered plan having already approved by the CoC. Adjudicating Authority held that the Resolution Plan submitted is final and binding before the CoC and the SRA and re-submission was directed only for proper treatment of NOIDA and allowing belated claims of the homebuyers is neither mandatory for compliance of Section 30(2) nor it can be allowed in view of the precedent holding that claims filed beyond 90 days of CIRP are entitled to be rejected. The Appellants aggrieved by the said order has filed these Appeals.

2.7. It is also relevant to notice that in the applications which have been filed by the Appellants, Adjudicating Authority directed the Resolution Professional to file an Affidavit giving details of all the applicants. An Affidavit was filed by the Resolution Professional annexing "list as per the order of the Hon'ble NCLT dated 05.03.2024" which list contains the details of claim of all applicants, date of filing of the claim, delay of numbers of days in filing the claim, amount paid and amount outstanding. We also need to notice the details of facts pertaining to other Appellants including date of allotment, amount paid by them and other relevant details which are reflecting from the applications filed by the Appellants as well as Affidavit of the Resolution Professional which is on the record. Details pertaining to other Appellants are as follows:-

Comp. App. (AT) (Ins) No. 357 of 2025

The present appeal has been filed by Putti Lal (Appellant), against the order dated 22.01.2025, passed in I.A. No. 4533 of 2023 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. I- 0607, by allotment letter dated 10.10.2011, having an area of 1075 sq. ft. for consideration of INR 32,03,500. The Appellant made a total payment of INR 29,67,917. The Appellant's reasons for making a delayed claim before the RP were that the process got delayed due to the COVID-19 pandemic situation, and because the Appellant could not become aware of the ongoing CIRP and, accordingly, could not file the claim within the stipulated time. The Appellant filed the claim on 14.08.2023. The date of rejection of the claim by RP was 16.08.2023. Appellant filed I.A. No. 4533 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 359 of 2025

The present appeal has been filed by Yashveer Singh (Appellant), against the order dated 22.01.2025, passed in I.A. No. 5923 of 2023 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. J-0606, by allotment letter dated 06.09.2013, having area 1075 sq. ft. for consideration of INR 41,17,773. The Appellant made total payment of INR 32,11,234. The Appellant's reasons for making a delayed claim before the RP were that at the time of initiation of the CIRP the Appellant was not in India, and was in the USA for work purposes. That later could not come back to India on time due to the COVID-19 pandemic restrictions. That, although the RP had sent an email to the Appellant, the same went into the Spam Folder of the mail box and the Appellant did not get informed about the CIRP proceedings on time. The Appellant became aware of the CIRP only in the month of August, 2023. The Appellant filed the claim on 06.09.2023. The date of rejection of the claim by RP was 09.09.2023. Appellant filed I.A. No. 5923 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 361 of 2025

The present appeal has been filed by Rajat Bhushan Srivastava (Appellant), against the order dated 22.01.2025, passed in I.A. No. 2661 of 2024 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. I-1503, by allotment letter dated 24.05.2014, having area 1720 sq. ft. for consideration of INR 76,41,952.80. The Appellant made total payment of INR 23,62,316. The Appellant's reasons for making delayed claim before the RP were that he was away (with his family) to serve in the different parts of the country due to his official duty as a Group Captain in the Indian Air Force, and also, because his wife, who is a co-allottee was infected with COVID-19 and was admitted in ICU during the Pandemic. The Appellant filed the claim on 10.05.2024. The date of rejection of the claim by RP was 10.05.2024. Appellant filed I.A. No. 2661 of 2024 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 362 of 2025

The present appeal has been filed by Harnam Singh Hans (Appellant), against the order dated 22.01.2025, passed in I.A. No. 2733 of 2024 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. P-0901, by allotment letter dated 07.12.2011, having an area of 1225 sq. ft. for consideration of INR 39,45,725. The Appellant made a total payment of INR 34,35,034. The Appellant's reasons for making a delayed claim before the RP were that the process got delayed due to the onset of the COVID-19 pandemic for a period of two years, and due to the Appellant residing in the United Kingdom, the Appellant was not aware of the ongoing CIRP proceedings and accordingly could not file their claim within the stipulated time. The Appellant filed the claim on 04.03.2024. The date of rejection of the claim by RP was 11.03.2024. Appellant filed I.A. No. 2733 of 2024 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 408 of 2025

The present appeal has been filed by Mr. Arjun Singh (Appellant), against the order dated 22.01.2025, passed in I.A. No. 1509 of 2024 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. J-0708, by allotment letter dated 27.03.2012, having area 1225 sq. ft. for consideration of INR 49,70,150. The Appellant made total payment of INR 46,69,841. The Appellant's reasons for making delayed claim before the RP were that the Appellant had filed his claim with a delay of 73 days, but inadvertently due to a typographical error the claim was sent on an incorrect address. Later due to the onset of the COVID-19 pandemic, and due to several serious health related issues in the family, the Appellant could not follow up with the RP on the said claim. The Appellant filed the claim on 31.01.2020. The said claim was not admitted by the RP as it was not only belated but also because it was not received by the RP as it was sent on a wrong email address. Appellant filed I.A. No. 1509 of 2024 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 460 of 2025

The present appeal has been filed by Kiran Pandey (Appellant), against the order dated 22.01.2025, passed in I.A. No. 685 of 2024 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. A-1006, by allotment letter dated 05.07.2012, having an area of 1075 sq. ft. for consideration of INR 46,72,117. The Appellant made a total payment of INR 46,72,117. The Appellant’s reasons for making a delayed claim before the RP were that she was engaged in managing the healthcare of her spouse and her house, and that she had to move to Manipur with her spouse as he had been transferred there. The Appellant further states that the COVID-19 pandemic situation was also a cause for the delay in filing the claim. Furthermore, the spouse of the Appellant had tried to commit suicide during that phase of time, and she was busy taking care of him and helping him recover as he was fully dependent on her at that time. The Appellant filed the claim on 12.12.2023. The date of rejection of the claim by RP was 05.01.2024.

Appellant filed I.A. No. 685 of 2024 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

<u>Comp. App. (AT) (Ins) No. 468 of 2025</u>

The present appeal has been filed by Rani Singh (Appellant), against the order dated 22.01.2025, passed in I.A. No. 5487 of 2023 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. I-1204, by allotment letter dated 01.06.2013, having area of 1225 sq. ft. for consideration of INR 63,33,125. The Appellant made total payment of INR 26,50,480. The Appellant's reasons for making a delayed claim before the RP were that there was the onset of the COVID-19 pandemic, however, as soon as the fact about submission of claims came to the knowledge of the allottee, he immediately filed his claim with the RP with a delay of 235 days. The Appellant filed the claim on 10.07.2020. The date of rejection of the claim by RP was 11.07.2020. Appellant filed I.A. No. 5487 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

<u>Comp. App. (AT) (Ins) No. 476 of 2025</u>

The present appeal has been filed by Ritu Das (Appellant), against the order dated 22.01.2025, passed in I.A. No. 4242 of 2023 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. I-0005, by allotment letter dated 18.06.2012, having an area of 1125 sq. ft. for consideration of INR 56,20,433. The Appellant made a total payment of INR 56,20,433. The

Appellant's reasons for making a delayed claim before the RP were that that the Appellants are the homemakers and were not aware of the Insolvency proceeding of the Corporate Debtor. That one of the Appellant is the wife of the Government Servant who was posted in Andaman and Nicobar and when they returned backed to Delhi in the year 2023 then they came to know about the commencement of insolvency proceeding against the Corporate Debtor. The Appellant filed the claim on 19.05.2023. The date of rejection of the claim by RP was 19.05.2023. Appellant filed I.A. No. 4242 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 494 of 2025

The present appeal has been filed by Anuradha Mittal (Appellant), against the order dated 22.01.2025, passed in I.A. No. 3401 of 2023 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. G-1401, by allotment letter dated 22.12.2011, having an area of 1720 sq. ft. for consideration of INR 56,33,000. The Appellant made a total payment of INR 52,48,521. The Appellant's reasons for making a delayed claim before the RP were that the Appellant is a senior citizen and a single parent, who came to know about the CIRP from other buyers who were awaiting possession in 2023, and thereafter came across the public notice after searching for the same online. The Appellant filed the claim on 17.05.2023. The date of rejection of the claim by RP was 17.05.2023. Appellant filed I.A. No. 3401 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 505 of 2025

The present appeal has been filed by Ritesh Arora (Appellant), against the order dated 22.01.2025, passed in I.A. No. 1264 of 2024 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. D-0401, by allotment letter dated 14.05.2013, having an area of 1390 sq. ft. for consideration of INR 73,34,790. The Appellant made a total payment of INR 30,48,270. The Appellant's reasons for making a delayed claim before the RP were that the Appellants had been regularly receiving communications from Today Homes Pvt. Ltd. until 2016; however, no intimation regarding the CIRP was ever provided by the RP. Consequently, the Appellants were unable to file their claim within the prescribed timeframe. The Appellant filed the claim on 27.06.2023. The date of rejection of the claim by RP was 26.07.2023. Appellant filed I.A. No. 1264 of 2024 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 510 of 2025

The present appeal has been filed by Dr. Anubha Varun (Appellant), against the order dated 22.01.2025, passed in I.A. No. 2088 of 2023 in C.P. (IB) NO. 923(PB)/2018. Appellant was allotted unit no. Q- 2001, by allotment letter dated 18.04.2013, having an area of 1500 sq. ft. for consideration of INR 64,59,000. The Appellant made a total payment of INR 54,80,960. The Appellant's reasons for making a delayed claim before the RP were that both the Appellant and her husband were doctors and were practicing in govt.

hospitals, working on high alert during the COVID-19 pandemic. That they were both required to stay in isolation as part of the guidelines issued by the govt. That the Appellant and her husband also suffered from severe COVID-19 illness, during this time. Moreover, there was a series of serious medical conditions in the family of the Appellant that prevented her from making the said claim on time. Further, the Appellant came to know about the CIRP only in March 2023. The Appellant filed the claim on 29.03.2023. The date of rejection of the claim by RP was 01.04.2023. Appellant filed I.A. No. 2088 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 511 of 2025

The present appeal has been filed by Daud Judas Minj (Appellant), against the order dated 22.01.2025, passed in I.A. No. 2979 of 2023 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. A-0607, by allotment letter dated 16.07.2013, having an area of 1075 sq. ft. for consideration of INR 49,08,500. The Appellant made a total payment of INR 42,33,114. The Appellant's reasons for making a delayed claim before the RP were that both Appellants were medical practitioners and were posted in hospitals on high alert during the COVID-19 pandemic. That they were both required to stay in isolation as part of the guidelines issued by the govt. That both the Appellants also suffered from severe COVID-19 illness. The Appellant filed the claim on 03.04.2023. The date of rejection of the claim by RP was 03.04.2023. Appellant filed I.A. No. 2979 of 2023 in C.P. (IB) NO.

923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 529 of 2025

The present appeal has been filed by Kishore Sindhu (Appellant), against the order dated 22.01.2025, passed in I.A. No. 5107 of 2023 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. G-0001, by allotment letter dated 18.06.2012, having an area of 1720 sq. ft. for consideration of INR 78,69,182. The Appellant made a total payment of INR 78,69,182. The Appellant's reasons for making a delayed claim before the RP were that the Appellants at the relevant point of time were residing in Kuwait, hence they were unaware of the initiation of the CIRP against the CD, a fact which came to their knowledge in or about the last week of April 2023. Furthermore, with the onset of the COVID-19 pandemic, the Appellants temporarily residing in Kuwait, could not take effective legal steps for recovery of the possession of the flat in question and/ or file their claim with the RP, as they were totally unaware of the same. The Appellant filed the claim on 18.04.2023. The date of rejection of the claim by RP was 26.04.2023. Appellant filed I.A. No. 5107 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 532 of 2025

The present appeal has been filed by Surekha Bhandari (Appellant), against the order dated 22.01.2025, passed in I.A. No. 4177 of 2023 in C.P. (IB) NO.

923/PB/2018. Appellant was allotted unit no. F-202, by allotment letter dated 24.05.2011, having an area of 1500 sq. ft. for consideration of INR 44,23,875. The Appellant made a total payment of INR 37,23,932. The Appellant's reasons for making delayed claim before the RP were that she and her husband were posted out of town, that she was pregnant at that time, and also due to the situation arises out of the COVID-19 pandemic. The Appellant filed the claim on 26.04.2023. The date of rejection of the claim by RP was 28.04.2023. Appellant filed I.A. No. 4177 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 575 of 2025

The present appeal has been filed by Sarita Kishore (Appellant), against the order dated 22.01.2025, passed in I.A. No. 2691 of 2023 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. Q-0502, by allotment letter dated 27.12.2011, having an area of 1500 sq. ft. for consideration of INR 49,29,750. The Appellant made a total payment of INR 41,40,461. The Appellant's reasons for making a delayed claim before the RP were that she is residing in UAE and was therefore not aware of the CIRP, and the process of filing claim was also hindered due to the effects of the COVID-19 pandemic. The Appellant filed the claim on 23.02.2023. The date of rejection of the claim by RP was 28.02.2023. Appellant filed I.A. No. 2691 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 720 of 2025

The present appeal has been filed by Shashi Bala (Appellant), against the order dated 22.01.2025, passed in I.A. No. 3790 of 2023 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. A-0303, by allotment letter dated 03.06.2014, having an area of 1075 sq. ft. for consideration of INR 49,25,650. The Appellant made a total payment of INR 41,52,572. The Appellant's reasons for making a delayed claim before the RP were that the Appellant and her husband are senior citizens who reside in village Faizpur, Uttar Pradesh, having less technological connectivity and knowledge of the usage of modern technology. The appellant and her husband are suffering from multiple medical conditions, and also due to the COVID-19 pandemic, the appellant was unable to follow up with the Project. Further, the members of the project were also not traceable to get any status on the construction of the projects. The Appellant filed the claim on 04.07.2023. The date of rejection of the claim by RP was 04.07.2023. Appellant filed I.A. No. 3790 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 722 of 2025

The present appeal has been filed by Nitya Nand Sharma (Appellant), against the order dated 22.01.2025, passed in I.A. No. 5106 of 2023 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. H-0404, by allotment letter dated 20.09.2011, having an area of 1500 sq. ft. for consideration of INR 47,68,500. The Appellant made a total payment of INR 37,93,003. The

Appellant's reasons for making a delayed claim before the RP were that the Appellant was posted in Jharkhand on official duty from the year 2013 to 2022 and was looking after the movement to curb the Naxalites. During this time, he hardly got any time to come home and look after the other things. He came back in 2021 and came to know of the present case, and he filed for his claim before the RP. Before the appellant could pursue his case further, he was again posted to Jharkhand and came back in 2022, and as such, the Appellant could not file the claim on time. The Appellant filed the claim on 24.08.2021. The date of rejection of the claim by RP was 27.08.2021. Appellant filed I.A. No. 5106 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 728 of 2025

The present appeal has been filed by Vijay Kumar Tiwari (Appellant), against the order dated 22.01.2025, passed in I.A. No. 6268 of 2023 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. Q-1204, by allotment letter dated 26.12.2011, having an area of 1720 sq. ft. for consideration of INR 54,98,840. The Appellant made a total payment of INR 54,98,840. The Appellant's reasons for making a delayed claim before the RP were that the Appellant is senior citizen and retired pensioner of Government of India of 72 years of age and has been under crucial health conditions since 2019. That the Appellant has undergone multiple heart operations and has been under medical confinement since then and did not have access to the news papers of New Delhi/NCR and also could not visit the Corporate Debtor due to health conditions. The Appellant filed the claim on 16.06.2020. The date of rejection of the claim by RP was 24.03.2021. Appellant filed I.A. No. 6268 of 2023 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

Comp. App. (AT) (Ins) No. 729 of 2025

The present appeal has been filed by Jamil Akhtar (Appellant), against the order dated 22.01.2025, passed in I.A. No. 5147 of 2024 in C.P. (IB) NO. 923/PB/2018. Appellant was allotted unit no. I-0806, by allotment letter dated 27.06.2011, having an area of 1075 sq. ft. for consideration of INR 30,59,450. The Appellant made a total payment of INR 28,31,591. The Appellant's reasons for making a delayed claim before the RP were that the Appellant had been working in NTPC, and in 2024, he was transferred to a very remote place at Thana Khaira, Nabinagar, District Aurangabad, Bihar, and he could not get any update regarding the insolvency and other proceedings. That he was not made aware of the commencement of CIRP against the CD as he was residing in Bihar, and the publication was made in Delhi. That is why the Appellant could not file the claim on time. The Appellant filed the claim on 05.07.2023. The date of rejection of the claim by RP was 07.07.2023. Appellant filed I.A. No. 5147 of 2024 in C.P. (IB) NO. 923/PB/2018 before the Adjudicating Authority, seeking direction to the RP to admit their belated claim.

3. We have heard Learned Counsel for the Appellants, Shri Sunil Fernandes, Learned Senior Counsel for the SRA and Shri Harsh Taneja and Ms. Manvi Jain, Learned Counsel for the Resolution Professional.

4. Learned Counsel for the Appellant challenging the impugned order submits that the Adjudicating Authority by the impugned order has rejected the applications filed by the Appellants without considering the claims on merits. It is submitted that the Adjudicating Authority erroneously took the view that after the order dated 05.03.2024 passed by the Adjudicating Authority remitting the Resolution Plan for resubmission the belated claims of the Appellant cannot be considered which is erroneous. Counsel for the Appellant relying on the order dated 08.05.2025 passed by this Tribunal in Appeals filed against the order dated 05.03.2024 submits that this Tribunal has categorically directed the Adjudicating Authority to consider the applications filed by the Appellant for acceptance of their belated claims on merits and has also directed the SRA to await the decision on the application before re-submission of the Resolution Plan. Thus, this Tribunal clearly has directed for consideration of the application on merits and Adjudicating Authority's view in the impugned order that the application filed by the Appellant needs no consideration is contrary to order dated 08.05.2025 of this Tribunal. Observations of the Adjudicating Authority that order of the Adjudicating Authority dated 05.03.2024 sending back the plan was for only consideration of the claim of NOIDA to treat the statutory claim of the NOIDA as Secured Creditor and this occasion does not warrant any other modification of the plan is erroneous. It is submitted that although the

order dated 05.03.2024 was remanding the plan for consideration of the claim of the NOIDA as Secured Creditor but the said order in no manner preclude the consideration of the belated claim filed by the Appellant which were pending consideration. The order dated 08.05.2025 of this Tribunal clearly envisaged the consideration of the belated claim of the Appellant also and the fact that this Tribunal directed the SRA to await the decision was with clear intent that in event the applications are allowed, their claims have also to be reflected in the Resolution Plan. Adjudicating Authority has not considered the application on merits and has rejected the application only on the ground that it is filed beyond 90 days of CIRP commencement date. Counsel for the Appellant submits that from the Affidavit filed by the Resolution Professional before the Adjudicating Authority, it is an admitted case of the Respondent that amounts paid by the Appellant is reflected in the account of the Corporate Debtor. The Affidavit which was filed by the Resolution Professional before the Adjudicating Authority containing a detail chart of all the applications itself has noticed the amount received from the Appellants. When the amount was paid by the Appellants after valid allotment of the units, they are bonafide and genuine homebuyers and their payments being reflected in the account of the Corporate Debtor, the Resolution Applicant was under obligation to give the same treatment to the Appellants which was given to the other homebuyers. Counsel for the Appellant has placed reliance on the judgment of this Tribunal in ***"Puneet Kaur vs. M/s. K.V. Developers Private Limited- Company Appeal (AT) (Insolvency) No.390 of 2022"*** where this Tribunal has directed that the Resolution Professional was obliged to consider the claim of the amount receipt from the Appellant which was reflected in the list prepared by the Resolution Professional and Resolution Plan was required to have consideration of the said claim. It is submitted that the amounts of the Appellants having been paid which is an accepted fact, the Resolution Plan providing for payment of only 50% of the principal amount with cap of Rs.6 Crore is arbitrary and unreasonable. Appellant's claim was entitled to be accepted and the Adjudicating Authority has not even adverted to the factum that the payments made by the Appellants are duly admitted by the Resolution Professional which was reflected in the account. It is submitted that the case of the Appellant is fully covered by judgment of this Tribunal in ***"Puneet Kaur vs. M/s. K.V. Developers Private Limited"*** (supra). Counsel for the Appellant submitted that in the addendum which has been submitted by the SRA there are other clauses apart from clauses dealing with the claim of NOIDA, hence, SRA could very well have included clauses pertaining the Appellants' claim. SRA, thus, was fully aware that apart from claim of NOIDA, other clauses can also be added in the Resolution Plan. Counsel for the Appellant has also relied on Regulation 13(1B) of the CIRP Regulations which has been inserted in the Regulations on 18.09.2023. Counsel for the Appellant has further submitted that the plan approval took place during COVID period and Appellant could not receive any information regarding CIRP progress.

5. Counsel for the SRA refuting the submissions of the Counsel for the Appellant submits that the Appellants in these Appeals had not filed their claim within the time allowed in the publication issued by Resolution

Professional i.e. upto 03.09.2019. The Resolution Plan was approved on 04.03.2020. no claim could have been admitted after approval of the Resolution Plan. It is submitted that the order dated 05.03.2024 which was passed by the Adjudicating Authority remitting the Resolution Plan to the SRA for re-submission only contemplated re-submission of the plan by SRA after taking into consideration of the claim of NOIDA as Secured Creditor as per the judgment of the Hon'ble Supreme Court in ***Prabhjit Singh Soni*** (supra). The order of the Adjudicating Authority dated 05.03.2024 did not contemplate consideration of any other claim. Referring to the order of this Tribunal dated 08.05.2023 passed in Appeal filed against the order dated 05.03.2024, it is submitted that this Tribunal also has clearly observed that the order dated 05.03.2024 only contemplated consideration of the case of the NOIDA and the said order dated 05.03.2024 cannot enure to the benefit of present Appellant to accept their belated claim. It is submitted that after order dated 05.03.2024, the Appellant has submitted addendum to the plan which addendum containing certain revised clauses of the plan are with respect to claim of the NOIDA and consequential amendment. There is no consideration of any new claim in the addendum to the Resolution Plan. Counsel for the SRA has also referred to the 13th and 14th CoC meeting which clearly indicate that apart from treatment of NOIDA as Secured Operational Creditor, no other claims were considered and admitted. Counsel for the SRA relied on the judgment of the Hon'ble Supreme Court in ***"M/s. RPS Infrastructure Ltd. vs. Mukul Kumar & Anr- Civil Appeal No.5590 of 2021"*** which according to the Counsel for the Respondent clearly laid down that no fresh claim can be entertained after approval of the

Resolution Plan. It is submitted that the Resolution Plan itself contemplated refund of 50% of the principal amount to those who could not file their claims within the time under which clause, refund of the claim of Appellant shall be considered.

6. Counsel for the Resolution Professional supporting the impugned order contends that the order dated 05.03.2024 passed by the Adjudicating Authority remitting the Resolution Plan back for re-submission only contemplated consideration of the claim of the NOIDA and the said order cannot be basis for considering any belated claim. It is submitted that the Resolution Professional after publication inviting claims have also sent information to all allottees with regard to whom the e-mail address were on the record of the Corporate Debtor. The Appellants whose e-mail addresses were with the Corporate Debtor were sent information on respective e-mails but the claims were not filed even after intimation sent by the Resolution Professional. Resolution Professional has also made compliance of Regulation 6A of the CIRP Regulations, 2016. Counsel for the Resolution Professional submitted that the Resolution Professional had already filed the Affidavit before the Adjudicating Authority in compliance of the order dated 05.03.2024 and 11.06.2024 bringing on record in tabular form the details of all applicants, the date of allotment, the days of delay in filing the claim, amount received from respective applicants.

7. Counsel for the parties have placed reliance on various judgments of this Tribunal and the Hon'ble Supreme Court which we shall consider while considering the submissions in detail.

8. We have considered the submissions of the Counsel for the parties and perused the record.

9. From the materials brought on the record following are the facts which are undisputed: -

(i) The Appellants were allotted different units in the project of the Corporate Debtor, Ridge Residency, Sector 135 Noida. Allotment letters were issued in favour of the Appellants in the year 2011 and thereafter.

(ii) Appellants after the allotment of different units have made payments to the Corporate Debtor from time to time. The payments made by the Corporate Debtor are reflected in the account of the Corporate Debtor. Affidavit filed by the Resolution Professional after the order dated 05.03.2024 and 11.06.2024 reflects the amount received from the Appellants towards allotment of various units which details were before the Adjudicating Authority.

(iii) All the Appellants had filed their claims before the Resolution Professional after 04.03.2020 i.e. after approval of the plan of the Respondent No.2 by the CoC.

10. The claims of the Appellants were not admitted by the Resolution Professional on the ground that the same has been filed after 90 days of commencement of the CIRP. All the Appellants had filed different applications before the Adjudicating Authority praying for admission of their belated claims which applications were filed in the year 2023 and 2024 prior

to passing of the order dated 05.03.2024. Adjudicating Authority when passed the order dated 05.03.2024 on the plan approval application as well as two applications filed by the NOIDA, application of the Appellants were also listed on the same day and the Adjudicating Authority by the same order directed the applications to be listed on 30.04.2024.

11. Before we enter into submissions of the parties, we need to notice the order dated 05.03.2024 passed by the Adjudicating Authority as well as the order dated 08.05.2024 passed by this Tribunal in the Appeal. The order dated 05.03.2024 was passed by the Adjudicating Authority on three applications namely— IA No.2518 of 2021 filed by the Resolution Professional for approval of the Resolution Plan approved on 04.03.2020, IA No.3615 of 2022 by the NOIDA praying for rejection of the Resolution Plan of Respondent No.2 and IA No.4172 of 2022 seeking a direction to the Resolution Professional to make payment of amount due towards the outstanding dues which has become due during CIRP. The order dated 05.03.2024 decided the above applications. The Adjudicating Authority in order dated 05.03.2024 noticed the judgment of the Hon'ble Supreme Court in ***Prabhjit Singh Soni*** (supra) and the Adjudicating Authority after noticing the above judgment has disposed of the above three applications in following terms:-

> *"Meanwhile, the Hon'ble Supreme Court has passed a judgment in Civil Appeal Nos. 7590-7591/2023 Greater Noida Industrial Development Authority Vs. Prabhjit Singh Soni & Ors. on 12.02.2024. Para Nos. 54 & 55 of the said judgement reads as follows:-*

"54. In our view the resolution plan did not meet the requirements of Section 30(2) of the IBC read with Regulations 37 and 38 of the CIRP Regulations, 2016 for the following reasons:

a. The resolution plan disclosed that the appellant did not submit its claim, when the unrebutted case of the appellant had been that it had submitted its claim with proof on 30.01.2020 for a sum of Rs. 43,40,31,951/-No doubt, the record indicates that the appellant was advised to submit its claim in Form B (meant for operational creditor) in place of Form C (meant of financial creditor). But, assuming the appellant did not heed the advice, once the claim was submitted with proof, it could not have been overlooked merely because it was in a different Form. As already discussed above, in our view the Form in which a claim is to be submitted is directory. What is necessary is that the claim must have support from proof. Here, the resolution plan fails not only in acknowledging the claim made but also in mentioning the correct figure of the amount due and payable. According to the resolution plan, the amount outstanding was Rs. 13,47,40,819/- whereas, according to the appellant, the amount due and for which claim was made was Rs. 43,40,31,951/-This omission or error, as the case may be, in our view, materially affected the resolution plan as it was a vital information on which there ought to have been application of mind. Withholding the information adversely affected the interest of the appellant because, firstly, it affected its right of being served notice of the meeting of the COC, available under

Section 24 (3) (c) of the IBC to an operational creditor with aggregate dues of not less than ten percent of reduced, being a percentage of the dues payable. In our view, for the reasons the debt and, secondly, in the proposed plan, outlay for the appellant got above, the resolution plan stood vitiated However, neither NCLT nor NCLAT addressed itself on the aforesaid aspects which render their orders vulnerable and amenable to judicial review.

b. The resolution plan did not specifically place the appellant in the category of a secured creditor even though, by virtue of Section 13-A of the 1976 Act In respect of the amount payable to it, a charge was created on the assets of the CD. As per Regulation 37 of the CIRP Regulations 2016, a resolution plan must provide for the measures, as may be necessary, for insolvency resolution of the CD for maximization of value of its assets, including, but not limited to, satisfaction or modification of any security interest. Further, as per Explanation 1, distribution under clause (b) of sub-section (2) of Section 30 must be fair and equitable to each class of creditors. Non-placement of the appellant in the class of secured creditors did affect its interest. However, neither NCLT nor NCLAT noticed this anomaly in the plan, which vitiates their order.

c. Under Regulation 38 (3) of the CIRP Regulations, 2016, a resolution plan must, inter alia, demonstrate that (a) it is feasible and viable; and (b) it has provisions for approvals required and the time-line for the same. In the instant case, the plan conceived utilisation of land owned by the appellant. Ordinarily, *feasibility and viability of a plan are economic decisions best left to the commercial wisdom of the COC. However, where the plan envisages use of land not owned by the CD but by a third party, such as the appellant, which is a statutory body, bound by its own rules and regulations having statutory flavour, there has to be a closer examination of the plan's feasibility. Here, on the part of the CD there were defaults in payment of instalments which, allegedly, resulted in raising of demand and issuance of pre-cancellation notice. In these circumstances, whether the resolution plan envisages necessary approvals of the statutory authority is an important aspect on which feasibility of the plan depends. Unfortunately, the order of approval does not envisage such approvals. But neither NCLT nor NCLAT dealt with those aspects.*

Relief

55. As we have found that neither NCLT nor NCLAT while deciding the application/appeal of the appellant took note of the fact that, (a) the appellant had not been served notice of the meeting of the COC; (b) the entire proceedings up to the stage of approval of the resolution plan were ex parte to the appellant, (c) the appellant had submitted its claim, and was a secured creditor by operation of law, yet the resolution plan projected the appellant as one who did not submit its claim; and (d) the resolution plan did not meet all the parameters laid down in sub-section (2) of Section 30 of the IBC read with Regulations 37 and 38 of the CIRP Regulations, 2016, we are of the considered view that the appeals of the appellant are entitled to *be allowed and are accordingly allowed. The impugned order dated 24.11.2022 is set aside. The order dated 04.08.2020 passed by the NCLT approving the resolution plan is set aside. The resolution plan shall be sent back to the COC for re-submission after satisfying the parameters set out by the Code as exposited above. There shall be no order as to costs"*

In the instant case, we are concerned with para nos. 54 (b) and (c) which relates to placing the Appellant in the category of secured creditors and for ensuring that the plan envisages necessary approvals of the statutory authority.

In the light of the relief granted by the Hon'ble Supreme Court enunciated in para 55 above, we deem it appropriate to send the plan back to the CoC for resubmission after satisfying the parameters set out by the Code, in the light of the observations of the Hon'ble Supreme Court's order (para 54 b & c. supra).

Accordingly, IA-2518/2021, IA-3615/2022 and IA-4172/2022 stands disposed of in above terms."

12. It is also relevant to notice in the same order dated 05.03.2024 with regard to the different applications filed by the present Appellants before us following order was passed:-

"IA-IA-2059/2023 IA595/2021, IA-966/2021, IA-4024/2021, IA-4182/2023, IA-2691/2023, IA-2979/2023, IA-2088/2023, IA-3078/2023, IA-4177/2023, LA4533/2023, IA-4711/2023, IA-

3401/2023, 3790/2023, IA3963/2023, IA-4242/2023, IA-4815/2023, RA-62/2023, LA-4879/2023, IA-4906/2023, IA-5106/2023, IA-5107/2023, IA-5487/2023, 1A5837/2023, IA-5923/2023, IA-6268/2023 & IA-685/2024

List all the these IAs on 30.04.2024."

13. From the above order, it is clear that the Adjudicating Authority has sent the plan back to the CoC for re-submission after satisfying the parameters set out by the Code in the light of the observations of the Hon'ble Supreme Court's order in paragraph 54 (b) & (c). Challenging the order dated 05.03.2024, Appeals were filed in this Tribunal. One of the Appeals was Company Appeal (AT) (Insolvency) No.817 of 2024- *"Reena vs. Rabindra Kumar Mintri & Ors."*. This Tribunal decided all the aforesaid Appeals on 08.05.2024. The Appeals were disposed of. It is useful to extract paragraphs 21 & 22 of the judgment which is as follows:-

> *"21. As observed above, Applications by different Applicants including these two Appellant(s) being pending consideration, we are of the view that at this stage, it is not necessary for this Tribunal to express any opinion on the merits of the Applications, which are pending adjudication before the Adjudicating Authority. As observed above, resubmission of the Resolution Plan by the SRA has to await the decision of all other Applications, which was deferred by the Adjudicating Authority for consideration on 30.04.2024, as per order dated 05.03.2024 itself. There is no doubt that claim of the NOIDA has to be considered as per the direction dated 05.03.2024 as*

Secured Creditor, but since other Applications are still pending, we are of the view that ends of justice will be served in disposing of these Appeal(s) with following directions:

> *(I) The order dated 05.03.2024 passed by Adjudicating Authority is not being interfered with.*
>
> *(II) The Adjudicating Authority may consider and dispose of the Applications as noted in the order dated 05.03.2024, which were deferred for consideration on 30.04.2024 at an early date.*
>
> *(III) The SRA, who has to resubmit the Resolution Plan before the CoC for consideration, will await the decision of Adjudicating Authority on the Applications, which are pending and as noted in the order dated 05.03.2024. The Resolution Plan be put before the CoC for consideration and voting after incorporating the directions of Adjudicating Authority in above regard.*
>
> *(IV) We request the Adjudicating Authority to consider the other Applications as noted in the order dated 05.03.2024 at an early date.*

22. All the Appeal(s) are disposed of accordingly. All pending IAs in these Appeal(s) are also disposed of. No order as to costs."

14. The above order of this Tribunal thus has clearly noticed that applications filed by the Appellant- Ms. Reena and other applications are pending consideration. This Tribunal also observed that it is not necessary for this Tribunal to express any opinion on the merits of the applications which are pending adjudication before the Adjudicating Authority. This

Tribunal however, clearly observed that the Adjudicating Authority may consider and dispose of the applications as noted in the order dated 05.03.2024 at an early date. SRA was directed to re-submit the plan before the CoC for consideration only after decision of the Adjudicating Authority on the pending applications.

15. Now we need to consider the reasons given by the Adjudicating Authority in the impugned order dated 22.01.2025 rejecting the application filed by present Appellant. Adjudicating Authority in paragraphs 3 and 4 has noticed the order of this Tribunal dated 08.05.2024. In paragraph 4, NCLT has observed that this Tribunal has acknowledged that the Adjudicating Authority has sent back the plan for re-submission only qua the treatment of the NOIDA as Secured Creditor and left it discretionary with the Adjudicating Authority to deal with these IAs of homebuyers on merits. In paragraph 4, following observations have been made:-

> *"4. It is thus clear that the Hon'ble NCLAT has acknowledged that this AA has sent back the plan for resubmission only qua the treatment of the NOIDA as secured creditor and left it discretionary with this Adjudicating Authority to deal with these IAs of homebuyers on merits. But for the resubmission of plan basis NOIDA's claim, other applicants have no basis to be considered because the plan has been approved by CoC."*

16. By order dated 05.03.2024, the Adjudicating Authority has disposed of two applications filed by the NOIDA and application for Resolution Plan

approval. The order clearly contemplated consideration of the claim of NOIDA in light of the judgment of the Hon'ble Supreme Court in ***Prabhjit Singh Soni*** (supra). The contents and import of the order dated 05.03.2024 are clear and Adjudicating Authority has rightly observed that the plan was sent back for re-submission qua the treatment of the NOIDA. The Adjudicating Authority in paragraph 4 in the end has made following observations:-

> *"4. …………But for the resubmission of plan basis NOIDA's claim, other applicants have no basis to be considered because the plan has been approved by CoC."*

17. The above observation of the Adjudicating Authority cannot be approved. The fact that the Adjudicating Authority by the order dated 05.03.2024 while disposing off the application of NOIDA directed for re-submission of the plan after considering the claim of the NOIDA did not in any manner has affect on the applications of the Appellants which were pending. We have already noticed above that the Adjudicating Authority in the order dated 05.03.2024 in the end of the order has noted all the applications filed by the Appellants as has directed in the said application to come up for hearing on 30.04.2024. The Adjudicating Authority itself has noticed the order of this Tribunal dated 08.05.2024 and the directions given in the said order which have been extracted in paragraph 3 of the order of the Adjudicating Authority. Direction nos. (ii) and (iii) clearly directed the Adjudicating Authority to consider and dispose of the applications and further SRA was directed to resubmit the plan before the CoC for

consideration after the decision of the Adjudicating Authority on the application. In view of the above categorical direction of this Tribunal, Adjudicating Authority is not right in its observation that there is no basis for consideration of the application by the Adjudicating Authority since plan has been approved by the CoC. Adjudicating Authority has failed to notice the observations of this Tribunal in order dated 08.05.2024 wherein paragraph 16 observing *"We are of the view that approval of Resolution Plan by the CoC on 03.03.2020 being no more in operation and the SRA has to resubmit the Resolution Plan, as per direction of the Adjudicating Authority dated 05.03.2024 and has to include the claim of NOIDA as Secured Creditor with respect to other Applications, which are pending consideration, it is appropriate that resubmission of the Plan by SRA should await the disposal of those Applications. Applications, including Applications for acceptance of the claim, which although are belated claims, it is for the Adjudicating Authority to consider the Applications and take a decision as to whether the said claims have to be included or not."* Thus, as per the order dated 05.03.2024 of the Adjudicating Authority itself as well as the order of this Tribunal dated 08.05.2024 as noted above, the applications filed by the Appellant were required to be considered on merits and Adjudicating Authority has to advert to the applications and take a decision as to whether the applicants belated claim can be admitted or not in the facts of the present case.

18. Now we need to notice the judgment of this Tribunal in ***"Puneet Kaur vs. M/s. K.V. Developers Private Limited"*** (supra). Puneet Kaur was a case where in the CIRP, the homebuyers could not file their claims within the

time as was allowed by the Resolution Professional for receiving the claims. The claims were filed with delay. The Resolution Plan was also in the said case was approved by the CoC. Applications filed by the homebuyers were rejected against which the appeals were filed. One of the submissions which was made before this Tribunal in the Puneet Kaur's case is that the payments made by homebuyers is reflected in the records of the Corporate Debtor which ought to have to be included in the Information Memorandum and the Resolution Applicant ought to have taken note of the said liability and appropriately dealt with in the plan. This Tribunal in the said case has accepted the above submission and has directed the Resolution Professional to submit the details of homebuyers whose details are reflected in the records including their claims to the Resolution Applicant on the basis of which Resolution Applicant was to prepare an addendum to the Resolution Plan and place the same before the CoC for consideration. In the judgment of ***"Puneet Kaur vs. M/s. K.V. Developers Private Limited"***, this Tribunal framed four questions for consideration in paragraph 12 which is as follows:-

> *"12. From the submissions of learned Counsel for the parties, following are the questions, which arise for consideration in these Appeal(s):*
>
> *(1) Whether the Adjudicating Authority has rightly rejected the IAs filed by the Appellant(s) seeking direction to include their claims, which was belatedly filed?*

(2) Whether after approval of the Resolution Plan on 20.07.2021 by CoC, the claim of the Appellant(s) stood extinguished?

(3) Whether the Resolution Professional was obliged to include the details of Homebuyers as reflected in the records of the Corporate Debtor in the Information Memorandum, even though they have not filed their claim before the Resolution Professional within time?

(4) Whether Resolution Applicant ought to have also dealt with Resolution Plan regarding Homebuyers, whose names and claims are reflected in the record of the Corporate Debtor, although they have not filed any claim?"

19. On Question No.2, following was held in paragraph 18:-

"18. It is thus clear that extinguishment of claim of the Appellant(s) shall happen only after approval of the Plan by the Adjudicating Authority. The argument of the Respondents that since CoC has approved the Resolution Plan, the claim of the Appellant(s) have been extinguished, cannot be accepted as there is no extinguishment of claim of the Appellant(s) on approval of Plan by the CoC. Question No. (2) is answered accordingly."

20. After noticing relevant provision of CIRP Regulations 2016 and judgments of this Tribunal, answering Question No.3 and 4, it was held that claims which were reflected in the record of the Corporate Debtor ought to have been included in the Information Memorandum and Resolution Applicant ought to have taken note of the said liabilities and should have

appropriately dealt with them in the Resolution Plan. Following was held in paragraph 27:-

> *"27. In the present case there is no denial that details of the Appellant(s) and other Homebuyers, who could not file their claims has not been reflected in the Information Memorandum. There being no detail of claims of the Appellant(s), the Resolution Applicant could not have been taken any consideration of the claim of the Appellant(s), hence, Resolution Plan as submitted by Resolution Applicant cannot be faulted. However, we are of the view that the claim of those Homebuyers, who could not file their claims, but whose claims were reflected in the record of the Corporate Debtor, ought to have been included in the Information Memorandum and Resolution Applicant, ought to have been taken note of the said liabilities and should have appropriately dealt with them in the Resolution Plan. Non-consideration of such claims, which are reflected from the record, leads to inequitable and unfair resolution as is seen in the present case. To mitigate the hardship of the Appellant, we thus, are of the view that ends of justice would be met, if direction is issued to Resolution Professional to submit the details of Homebuyers, whose details are reflected in the records of the Corporate Debtor including their claims, to the Resolution Applicant, on the basis of which Resolution Applicant shall prepare an addendum to the Resolution Plan, which may be placed before the CoC for consideration. The above exercise be completed within a period of three months from today and the addendum along with*

minutes of the CoC be placed before the Adjudicating Authority at the time of approval of Resolution Plan, which is pending consideration before the Adjudicating Authority. The Resolution Applicant may also bring into the notice of the Adjudicating Authority the order of this date, so that the Adjudicating Authority may await the addendum and minutes of the CoC, which may be considered along with approval of the Resolution Plan. We thus, dispose of these Appeal(s) with following directions:

(1) The Resolution Professional shall provide all details of Homebuyers along with their claims as reflected from the record of the Corporate Debtor, who had not filed their claims, including the Appellant(s) to the Resolution Applicant within a period of one month from today.

(2) The Resolution Applicant shall prepare an addendum on the basis of information as submitted by Resolution Professional and place the same before the CoC within a further period of one month.

(3) The CoC shall consider the addendum in its meeting and decision of the CoC on the Information Memorandum and addendum be placed before the Adjudicating Authority. The CoC shall take decision in its meeting within a period of one month from the date of submission of addendum by the Resolution Applicant.

(4) The Adjudicating Authority while considering approval of the Resolution Plan, which is pending consideration in IA No.3447 of 2021

shall consider the addendum and the minutes of the CoC at the time of finalizing the Resolution Plan."

21. Counsel for the Appellant has placed reliance on a Three Member Bench Judgment of this Tribunal in ***"Rahul Jain vs. Nilesh Sharma, Resolution Professional of Dream Procon Pvt. Ltd.- Company Appeal (AT) (Insolvency) No.1662 of 2023"*** which was a case where the claim filed by the Appellant was rejected by the Resolution Professional to be accepted as having been filed beyond the time. Application filed by the homebuyers before the Adjudicating Authority being IA No.4954 of 2022 was rejected on 11.08.2023 against which order the appeal was filed. The case of the Appellant in Rahul Jain's case was that he has been allotted units. The plan was approved by CoC on 07.05.2021 and the claim was filed with a delay of 980 days from the last date of submission of claim. The above fact has been noticed in paragraph 2 which is as follows:-

> *"2. One of the Home buyer in the aforesaid project, namely, Ms. Priyanshi Arora, as a Financial Creditor, filed an application under Section 7 before the Tribunal against the Corporate Debtor which was admitted on 06.09.2019. The Respondent No.2, namely, Victory Ace Social Welfare Society (Association of the Home buyers of the same project) submitted the resolution plan which was approved by the CoC on 07.05.2021. The appellant submitted his claim on Form CA to the RP on 19.09.2022 after a delay of 980 days from the last date of submission of claim and 492 days after the approval of the plan by the CoC. The claim of the appellant was rejected*

by the RP on same day i.e. 19.09.2022 which led to the filing of I.A. No. 4954 of 2022 before the Tribunal. The Tribunal dismissed the application observing that the plan was approved on 07.05.2021 in the 11th meeting of the CoC by 90.66% votes and the claim is highly belated."

22. Submission was raised by the Appellant- Rahul Jain that the Appellant's claim is reflected in the Information Memorandum and the payments of the amount of the Appellant is also reflected. The said submission has been noted in paragraphs 4 and 5 which is as follows:-

"4. Counsel for the appellant has argued that the asset of the appellant has been reflected in the Information Memorandum by the RP and has also drawn our attention to the list of unit holders who had not filed the claim in which name of the appellant is at Sl. No. 52 in which it is reflected that the selling price of the unit is Rs.60,00,300/-, the amount received by the Corporate Debtor is Rs.49,26,674/- and the balance amount is Rs. 10,73,626/-.

5. Counsel for the appellant has relied upon the same decision of this court in the case of Puneet Kaur & Ors. Vs. KV Developers Pvt. Ltd. & Ors. (supra) to contend that even if it is presumed that the appellant has not filed its claim even then this court has held that if the liability have been reflected in the Information memorandum then it is the duty of the RP to submit the detail of the Home buyers to the Resolution Applicant on the basis of which the Resolution Applicant shall prepare the resolution plan and place before the CoC for its consideration."

23. This Tribunal after hearing the parties has held that the homebuyers through details reflected in the records of the Corporate Debtor are required to be considered and Resolution Applicant is to prepare an addendum in the Resolution Plan which may be placed before the CoC for consideration. Paragraph 10 of the judgment is as follows:-

> *"10. There is no dispute that the liability of the CD towards the Appellant is clearly reflected in the IM. The appellant has also filed the claim belatedly and the CoC has approved the plan but the plan has not been approved by the Adjudicating Authority so far as it is pending for its consideration. The appellant has basically relied upon a decision in the case of Puneet Kaur (Supra) in which this court has held that "in the present case there is no denial that details of the Appellant(s) and other homebuyers, who could not file their claims has not been reflected in the IM. There being no detail of claims of the appellant(s), the resolution applicant could not have been taken any consideration of the claim of the appellant(s), hence, resolution plan as submitted by resolution applicant cannot be faulted". However, at the same, in the case of Puneet Kaur (Supra) this Court has held that "however, we are of the view that the claim of those homebuyers, who could not file their claims, but whose claims were reflected in the record of the CD, ought to have been included in the IM and resolution applicant, ought to have been taken note of the said labilities and should have appropriately dealt with them in the resolution plan. Non-consideration of such claims, which are reflected from the record, leads to inequitable and unfair resolution as is seen in the*

present case. To mitigate the hardship of the Appellant, we thus, are of the view that ends of justice would be met, if direction is issued to resolution professional to submit the details of homebuyers, whose details are reflected in the records of the CD including their claims, to the Resolution applicant, on the basis of which resolution applicant shall prepare an addendum to the resolution plan, which may be placed before the CoC for consideration."

24. This Tribunal ultimately issued following direction in paragraph 17:-

"17. Thus, keeping in view the totality of circumstances, we are of the considered opinion that the controversy in hand is covered by the case of Puneet Kaur (Supra) and therefore, while allowing the present appeal and setting aside the impugned order, we direct the RP to submit the detail of the appellant reflected in the record of the CD including their claim to the resolution applicant on the basis of which the resolution applicant shall prepare an addendum to the resolution plan which may be placed before the CoC for consideration. The entire exercise should be completed within a period of three months from today and the addendum and the minutes of the CoC at the time of finalizing the resolution plan shall be considered by the AA at the time of the approval of the resolution plan which is pending consideration before the AA. The Resolution Professional may also bring to the notice of the AA, the order of this date, so that the AA may await the addendum alongwith the minutes of the CoC which may be considered alongwith the approval of the resolution plan.

Pending I.As, if any, are hereby closed."

25. The above judgment fully supports the case of the Appellant. In the present case also the payments made by the Appellants are duly reflected in the records of the Corporate Debtor. Resolution Professional has filed an Affidavit before the Adjudicating Authority after order dated 05.03.2024 which Affidavit contains the details of all the Appellants. For example, at Serial No.21 of the said Affidavit, the name of Appellant- Ms. Reena is mentioned with all details. It is useful to notice the relevant columns along with column No.21 where the details of Ms. Reena has been mentioned which are as follows:-

SI. No.	**IA No. and Filing Date**	**Unit No.**	**Title**	**Date of Claim filed with RP**	**DELAY (as per Regulation 12(2) of CIRP) i.e., from 18.11.2019 (90 days)**	**DELAY (from approval of Resolution Plan i.e., from 03.03.2020)**	**DELAY Text Exempting Covid-19 period i.e. 15.03.2020 till 28.02.2022**	**Reason cited for delay by the Applicants**	**Claim Amount (with interest)**	**Cost of Flat/Amount Received / total outstanding As per Books of Accounts of the Corporate Debtor, In INR (Exclusive of GST)**
21.	4906 of 2023	I-1406	Ms. Reena v. Rabindra Kumar Mintri	11.08.2023	1362 days	1256 days	541 days	The Applicant is a government employee, and at the time of initiation of the CIRP, the Applicant was posted in Agra, UP till 2021 and thereafter, due to Covid-19, the Applicant could not visit the project site physically. Further, no information with regard to the CIRP process was ever received by the	32,11,234 + Interest	Area: 1075 Sq. Ft. Total Cost: 32,25,250 Amount Paid: 3192,661 Outstanding Amount: 32,589

								Applicant. It was only in May 2023, the Applicant got to know about the CIRP proceeding of the Corporate Debtor. Email ID is not registered/available with the Corporate Debtor. Hence, no email sent.		

26. The above clearly indicate that the payment of the Appellant- Ms. Reema of Rs.31,92,661/- out of total cost of Rs.32,25,250/- are admitted facts by the Resolution Professional. The above affidavit of Resolution Professional similarly contains details of all the appellants including payments received.

27. Counsel for the Appellant has relied on the judgment of this Tribunal in ***“Sonia Kapoor vs. Arunava Sikdar, IRP Dream Procon Pvt. Ltd. & Anr.- Comp. Appeal (AT) (Insolvency) No.28 of 2024”*** which was also a case where application filed by homebuyers for acceptance of belated claim was rejected. In the above case, Resolution Plan was approved thereafter the claim was filed by the Appellant. The application was rejected by the Adjudicating Authority against which Appeal was allowed. Appellant in this case has also relied on the judgments of this Tribunal in ***“Puneet Kaur vs. M/s. K.V. Developers Private Limited”*** (supra) and ***“Rahul Jain vs. Nilesh Sharma”*** (supra). This Tribunal after hearing the parties, allowed the Appeal and has directed the Resolution Professional to give details of Resolution Applicant who was directed to include the Appellant’s claim in

addendum and place it before the CoC for consideration. Appeal was allowed in terms of the direction issued in *Rahul Jain's* case (supra).

28. Counsel for the Appellant has placed heavy reliance on the recent judgment of the Hon'ble Supreme Court in ***"Amit Nehra & Anr. Vs. Pawan Kumar Garg & Ors.- Civil Appeal No.4296 of 2025"*** decided on 09.09.2025. It is submitted that the Hon'ble Supreme Court in the above judgment has referred to the judgment of this Tribunal in ***"Puneet Kaur vs. M/s. K.V. Developers Private Limited"*** (supra). In the above case, the Appellant was also allotted residential unit in the year 2011 out of sale consideration of Rs.60,06,368/-. Appellant had paid Rs.57,56,684/-. Section 7 application was admitted on 17.10.2018. Claim was physically filed by the Appellant on 11.01.2019 and again submitted the claim by e-mail on 07.02.2020. The Resolution Plan by the CoC was approved on 23.08.2019 which was subsequently approved by NCLT on 01.06.2021. Application filed by the Appellant was rejected by NCLT and Appeal was also dismissed by this Tribunal. The Respondent in the case has relied on a clause 18.4 (xi) in Resolution Plan which provided refund of 50% principal amount. The Hon'ble Supreme Court allowed the Appeal and held that the claim which was resubmitted on 07.02.2020 and accepted by Resolution Professional, name of the Appellant being included in the list of creditors dated 30.04.2020, the claim could not have been rejected and the case of Appellant could not be held to be covered by Clause 18.4 (xi). The Hon'ble Supreme Court has noted the undisputed position in paragraph 32 which is as follows:-

> *"32. The admitted and undisputed position remains that the Appellants claim was resubmitted on 07.02.2020; that it was duly verified by the Resolution Professional; and that it was incorporated in the published list of creditors dated 30.04.2020. Once such verification and incorporation occurred, the claim acquired full legal recognition within the CIRP process."*

29. In paragraph 33 of the judgment, the Hon'ble Supreme Court has accepted the contention of Appellant- Amit Nehra relying on the judgment of this Tribunal in ***"Puneet Kaur vs. M/s. K.V. Developers Private Limited"*** (supra). In paragraph 33, following was held:-

> *"33. We are unable to countenance the approach of the NCLAT in brushing aside this admitted position, and in treating the Appellants as if they had not filed any claim at all. The publication of the list of financial creditors is an act in discharge of a statutory duty by the Resolution Professional. It cannot be reduced to a meaningless formality. Learned Counsel for the Appellants has rightly placed reliance on Puneet Kaur v. K.V. Developers Pvt. Ltd. & Ors., 2022 SCC Online NCLAT 245, wherein it was observed as follows:*
>
> *"......However, we are of the view that the claim of those homebuyers, who could not file their claims, but whose claims were reflected in the record of the corporate debtor, ought to have been included in the information memorandum and resolution applicant, ought to have taken note of the said liabilities and should have appropriately dealt with them in the*

resolution plan. Non-consideration of such claims, which are reflected from the record, leads to inequitable and unfair resolution as is seen in the present case. To mitigate the hardship of the appellant, we thus, are of the view that ends of justice would be met, if direction is issued to the resolution professional to submit the details of homebuyers, whose details are reflected in the records of the corporate debtor including their claims, to the resolution applicant, on the basis of which the resolution applicant shall prepare an addendum to the resolution plan, which may be placed before the committee of creditors for consideration…..”

In this backdrop, the Resolution Professional rightly admitted the claim of the Appellants to the extent of Rs. 57,56,684/- and reflected it at Serial No. 636 in the list of financial creditors.”

30. The Hon'ble Supreme Court also held that the case of the Appellant which was verified and admitted by the Resolution Professional cannot be held to be covered by Clause 18.4(xi) which provided for refund. Following was held in paragraphs 35, 36 & 37:-

“35. The Appellants case, on admitted facts, does not fall within Clause 18.4(xi). Their claim was filed, verified, and informed to the Successful Resolution Applicant, as is evidenced by the entry at Serial No. 636 in the list of creditors dated 30.04.2020, admitting their claim to the extent of Rs. 57,56,684/. Once so admitted, their case squarely falls within

Clause 18.4(ii) read with Clause 18.4(vi)(a) of the Resolution Plan.

36. The Respondent(s) reliance on Clause 18.4(xi) is misconceived. That clause is intended to apply only to allotees who had defaulted in filing or pursuing their claims. The Appellants cannot be so characterised, having paid nearly the entire consideration, submitted their claim, and had it duly verified and admitted by the Resolution Professional.

37. What is critical to note is that this is not a case of entertaining a fresh claim beyond the Resolution Plan. It concerns an allottee whose claim was verified and admitted by the Resolution Professional and reflected in the list of financial creditors well before approval of the Plan by the Adjudicating Authority. To disregard such an admitted claim and confine the Appellants to the limited benefit under Clause 18.4(xi) is not to preserve the binding effect of the plan but to misapply it. Clause 18.4 itself draws a clear distinction between verified claims and belated or unverified claims; to obliterate that distinction would render the scheme otiose. Relegating bona fide allottees, who have paid substantial consideration years in advance, to the status of mere refund claimants runs contrary to the very object of the legislative framework."

31. The Hon'ble Supreme Court in the above case has held that relegating bona fide allottees, who have paid substantial consideration years in advance, to the status of mere refund claimants runs contrary to the very object of the legislative framework. The Hon'ble Supreme Court in the above

case allowed the appeal, set aside the order of the NCLT and NCLAT and directed for execution of conveyance deed. The above judgment of the Hon'ble Supreme Court fully supports the submission raised by Counsel for the Appellant.

32. Coming to the facts of the present case, the Resolution Plan which was earlier approved on 04.03.2020 has been remitted back by the Adjudicating Authority vide its order dated 05.03.2024 to consider the claim of NOIDA in light of the judgment of the Hon'ble Supreme Court in ***Prabhjit Singh Soni*** (supra) and Appeal was filed against the said order before this Tribunal where this Tribunal categorically held that in view of the order passed by the Adjudicating Authority dated 05.03.2024, the Resolution Plan dated 04.03.2020 is no more in existence. We have already noticed the direction of this Tribunal dated 08.05.2024 directing the Adjudicating Authority to consider the applications of all the Appellants. The most important feature to be noted in the present case is the fact that Resolution professional himself has filed the Affidavit before the Adjudicating Authority containing details of all applicants, including unit no., days of delay in filing the claim and amount outstanding. The aforesaid table, thus, clearly amounts to the verification of the claim and on the verification of the record of the Corporate Debtor, the said chart has been prepared and filed before the Adjudicating Authority in compliance of the order dated 05.03.2024 and 11.06.2024. Adjudicating Authority did not advert to the above Affidavit filed by the Resolution Professional and the fact that payments made by the Appellant against allotment of different units is a fact which is admitted by

the Resolution Professional in its tabular chart. When the amount paid by the unit holders on the basis of valid allotment is reflected in the record of the Corporate Debtor, the judgment of ***"Puneet Kaur vs. M/s. K.V. Developers Private Limited"*** (supra) fully covers the issue and the said payments by unit holders cannot be ignored by Resolution Applicant and such claims were required a due consideration by the Resolution Applicant. We may also notice the clause of the Resolution Plan on which SRA as well as Resolution Professional has referred to which provides for refund of 50% principal amount. Relevant clause regarding refund to those who could not file the claim is as follows:-

> *"xiii. Allottee or decree holder of the Corporate Debtor, who has not filed their claim with the Resolution Professional, or if filed, has not been verified by the Resolution Professional, or if verified, has not been informed to the Resolution Applicant prior to the submission of this plan, till the completion of project, shall be dealt at the sole discretion of the Resolution Applicant according to the merits of the case, by way of proper verification of the documents held by the Allottees. Upon determination of the genuineness of such claim, the principal amount received from such Allottee in corporate debtor's account to the extent of 50% (subject to clause 18.4(xx) shall be refunded at the end of Qtr. 12 from Start date. Any other claim in relation to compensation, interest, penalty, etc by an Allottees received in this period will be written off in full and shall be deemed to be permanently extinguished by virtue of the order of the NCKT approving this Resolution Plan and the Company or*

the Resolution Applicant shall at no point of time be directly or indirectly held responsible or liable in relation thereto.

Any claim by the Allottees received after disposal of refunds in clause 18.4(xx) will be written off in full and shall be deemed to be permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Company or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.

xx. The Plan has envisaged refund to Allottees and Decree Holders at the end of Qtr. 12 to the extent of 50% of the principal amount under various cases such as delay in payment, cancellation of units, filing of claim after submission of this plan, etc, from the Specially designated Compensation and Refund fund of an aggregate sum of INR 6 Crores. The said Compensation and Refund fund shall first be utilised to pay off the claims of the above said Refunds on a pro-rata basis for a maximum of 50% of principal amount. The balance amount from the Compensation and Refund Fund after paying off the Refunds shall be utilised to pay Compensation, interest and penalty to the Allottees on pro-rata basis. The aggregate sum of all refunds or compensation due to allottees and decree holders shall not exceed INR 6 Crores."

33. When the amount paid by the Appellants is duly reflected, allotment was made by the Company in favour of the Appellant which allotment is duly reflected in the records of the Corporate Debtor, we are of the view that the clause providing refund cannot be applied on the Appellant. Appellants

who are bonafide allottees of the Corporate Debtor which allotment were made in the year 2011 and in pursuance of the allotment substantial amount having already been paid by the Appellant which amount is reflected in the records of the Corporate Debtor and has been computed by Resolution Professional which details are already filed before the Adjudicating Authority by means of Affidavit which is part of record being Annexure A-6 to the Company Appeal (AT) (Insolvency) No.170 of 2025. It is true that the claims were filed by the Appellants after the CoC approved the plan on 04.03.2020. The Resolution Plan application was filed before the Adjudicating Authority however, the plan was never approved by the Adjudicating Authority and was remitted back to the CoC on 05.03.2024. Admittedly, the applications by the Appellants were filed before the Adjudicating Authority much before 05.03.2024 and they were pending consideration on 05.03.2024. Applications filed by the Appellants were also taken note in the order dated 05.03.2024 and directed to the listed on 30.04.2024. Thus, the facts and circumstances of the present case and especially, the fact that amount paid by the Appellant and details of their allotments and payment being on record of the Corporate Debtor, the claims were required to be dealt with by the Resolution Applicant. Resolution Professional has further submitted that the claims are reflected in the Information Memorandum of the Appellant. The judgment of the Hon'ble Supreme Court in ***"Puneet Kaur vs. M/s. K.V. Developers Private Limited"*** (supra) and ***"Amit Nehra & Anr. Vs. Pawan Kumar Garg & Ors."*** (supra) fully supports the submissions of the Appellant. We also take note of the fact that in pursuance of the order dated 05.03.2024, the

Resolution Applicant has filed an addendum which has also been placed before the Adjudicating Authority but Resolution Plan as re-submitted by Resolution Applicant has not yet been approved by the Adjudicating Authority and is pending consideration. We are of the view that the Appellants claim shall be treated in the same manner as other Financial Creditors in a Class has been treated in the Resolution Plan. While entertaining Appeals by this Tribunal on 28.01.2025, we passed following interim order:-

> *"In the meantime, process may go on however it shall abide by the result of the appeal."*

34. Learned Counsel for the SRA has placed reliance on judgment of the Hon'ble Supreme Court in ***"RPS Infrastructure Ltd. vs. Mukul Kumar & Anr.- (2023) 10 SCC 718"*** in support of his submission that Resolution Applicant cannot be saddled with new claims. Hon'ble Supreme Court in the above case made following observations in paragraph 21 to 23:-

> *"**21.** The second question is whether the delay in the filing of claim by the appellant ought to have been condoned by Respondent 1. The IBC is a time bound process. There are, of course, certain circumstances in which the time can be increased. The question is whether the present case would fall within those parameters. The delay on the part of the appellant is of 287 days. The appellant is a commercial entity. That they were litigating against the corporate debtor is an undoubted fact. We believe that the appellant ought to have been vigilant enough in the aforesaid*

circumstances to find out whether the corporate debtor was undergoing CIRP. The appellant has been deficient on this aspect. The result, of course, is that the appellant to an extent has been left high and dry.

22. *Section 15 IBC and Regulation 6 of the IBBI Regulations mandate a public announcement of the CIRP through newspapers. This would constitute deemed knowledge on the appellant. In any case, their plea of not being aware of newspaper pronouncements is not one which should be available to a commercial party.*

23. *The mere fact that the adjudicating authority has yet not approved the plan does not imply that the plan can go back and forth, thereby making the CIRP an endless process. This would result in the reopening of the whole issue, particularly as there may be other similar persons who may jump onto the bandwagon. As described above, in Essar Steel [Essar Steel (India) Ltd. (CoC) v. Satish Kumar Gupta, (2020) 8 SCC 531 : (2021) 2 SCC (Civ) 443] , the Court cautioned against allowing claims after the resolution plan has been accepted by the COC."*

35. There are two distinguishing feature of the present case with the case of RPS Infrastructure (supra). The RPS Infrastructure (supra) was litigating with the Corporate Debtor even before start of CIRP hence, Supreme Court observed that they ought to have been vigilant and the RPS Infrastructure (supra) was a commercial entity. In the present case, we are concern with

case or homebuyers whose allotments and payments are duly reflected in the books of accounts and record of Corporate Debtor.

36. Learned Counsel for the SRA has further relied on judgment of this Tribunal and Supreme Court in the case of SP Propbuild LLP who had also filed a belated claim in the CIRP of the Corporate Debtor which was twice rejected up to the Supreme Court. The SP Propbuild has filed a belated claim which came to be rejected by the Adjudicating Authority which was affirmed by NCLAT and the Hon'ble Supreme Court. SP Propbuild again filed an application of admission of its claim on strength of judgment of this Tribunal in ***"Puneet Kaur vs. M/s. K.V. Developers Private Limited"*** (supra) which was dismissed by the Adjudicating Authority and affirmed up to the Hon'ble Supreme Court.

37. The judgment in case of SP Propbuild are clearly distinguishable since twice the application filed by SP Propbuild for accepting the belated claim was rejected up to the Hon'ble Supreme Court whereas the applications filed by Appellants herein were pending consideration which needed to be decided on merit.

38. In view of the foregoing discussions, we are of the view that the judgment of the Adjudicating Authority rejecting applications cannot be sustained. Appellant has made out a case for treatment of their claims in the Resolution Plan as per the details which were submitted by the Resolution Professional before the Adjudicating Authority by means of an Affidavit. In result of foregoing discussions, we allow the Appeals to the following effect:-

(i) The order dated 22.01.2025 passed by the Adjudicating Authority in the IAs filed by the Appellants is set aside.

(ii) IAs filed by the Appellants are allowed to the extent that the claim of the Appellants as reflected in the Affidavit of the Resolution Professional filed in pursuance to order dated 05.03.2024 and 11.06.2024 need to be dealt with by the Resolution Applicant in the Resolution Plan.

(iii) The Resolution Applicant shall prepare an Addendum (Second Addendum) and include the claims of the Appellants as reflected in the Affidavit of the Resolution Professional filed in pursuance of the orders dated 05.03.2024 and 11.06.2024 and treat the Appellant as Financial Creditors in a Class by giving same treatment as has been given in the Resolution Plan to other homebuyers which process be completed within 30 days from today.

(iv) The claim of the Appellants shall not be treated to be covered by clause of the Resolution Plan which provide for refund of 50% of the principal amount. The addendum prepared by the Resolution Applicant shall be placed before the CoC for consideration and after decision of the CoC on the said addendum hereinafter referred to as '2nd Addendum', the same shall be submitted before the Adjudicating Authority by the Resolution Professional for consideration along with the application filed for approval of the Resolution Plan along with the addendum. The Adjudicating Authority shall consider the 2nd Addendum while passing order on the approval of the Resolution Plan.

Parties shall bear their own costs.

[Justice Ashok Bhushan]
Chairperson

[Arun Baroka]
Member (Technical)

New Delhi
Anjali