NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 253-254 of 2024

(Arising out of Order dated 24.01.2024 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench, Court-IV in I.A. No.4173/2023 and I.A. No.5458/2022 in CP (IB) No.983/ND/2020)

IN THE MATTER OF:

Ashish Singh, Resolution Professional
for Vibrant Buildwell Pvt. Ltd. …Appellant

Versus

Raj Kumar Sahani & Ors. …Respondents

Present:

For Appellant : Mr. Abhishek Anand, Mr. Karan Kohli and Mr. Palak Kalra, Advocates.

For Respondents : Mr. Ramji Srinivasan, Sr. Advocate with Mr. Anirban Bhattacharya, Ms. Namrata Saraogi, Mr. Rajeev Chowdhary, Ms. Priyanka Bhatt, Advocates for R-1.

Mr. Ashutosh Gupta, Mr. Gaurav Rana, Mr. Ajitesh Kumar and Mr. Shresth Garg, Advocates for R-2.

Mr. Gurjot Singh, Advocate for R-3.

With

Company Appeal (AT) (Insolvency) No.256 & 257 of 2024

(Arising out of Order dated 24.01.2024 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench, Court-IV in I.A. No.4173/2023 and I.A. No.5458/2022 in CP (IB) No.983/ND/2020)

IN THE MATTER OF:

Bishwanath Traders & Investment Ltd. …Appellant

Versus

Ashish Singh, Resolution Professional
of Vibrant Buildwell Pvt. Ltd. & Ors. …Respondents

Present:

For Appellant : Mr. Krishnendu Datta, Sr. Advocate with Mr. Gurjot Singh, Advocate

For Respondents : Mr. Ramji Srinivasan, Sr. Advocate with Mr. Anirban Bhattacharya, Ms. Namrata Saraogi, Mr.

Rajeev Chowdhary, Ms. Priyanka Bhatt, Advocates for R2.

Mr. Abhishek Anand, Mr. Karan Kohli and Mr. Palak Kalra, Advocates for RP.

Mr. Ashutosh Gupta and Mr. Gaurav Rana, Advocates for R3.

With
Company Appeal (AT) (Insolvency) No. 442 & 443 of 2024
&
I.A. No.2763, 2764 of 2024

(Arising out of Order dated 24.01.2024 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench, Court-IV in I.A. No.4173/2023 and I.A. No.5458/2022 in CP (IB) No.983/ND/2020)

IN THE MATTER OF:

Committee of Creditors of Vibrant Buildwell Pvt. Ltd. ...Appellant

Versus

Raj Kumar Sahani & Ors. ...Respondents

Present:

For Appellant : Mr. Abhijeet Sinha, Sr. Advocate Mr. Ashutosh Gupta, Mr. Gaurav Rana, Mr. Ajitesh Kumar and Mr. Shresth Garg, Advocates.

For Respondent : Mr. Ramji Srinivasan, Sr. Advocate with Mr. Anirban Bhattacharya, Ms. Namrata Saraogi, Mr. Rajeev Chowdhary, Ms. Priyanka Bhatt, Advocates for R1.

Mr. Gurjot Singh, Advocate for R-3.

Mr. Abhishek Anand, Mr. Karan Kohli and Mr. Palak Kalra, Advocates for RP.

Mr. Sunil Fernandes, Sr. Advocate with Ms. Rajshree Chaudhary and Ms. Diksha Dadu, Advocates for Interveners in I.A. No.2763/2024.

J U D G M E N T

ASHOK BHUSHAN, J.

These Appeal(s) by Resolution Professional ("**RP**") of M/s Vibrant Buildwell Pvt. Ltd.; the Committee of Creditors ("**CoC**") of Vibrant Buildwell

Pvt. Ltd. and Successful Resolution Applicant ("**SRA**") of the Corporate Debtor ("**CD**")has been filed against the same order dated 24.01.2024 passed by National Company Law Tribunal, New Delhi Bench, Court-IV in I.A. No.4173 of 2023 filed by Raj Kumar Sahani, Suspended Director and Shareholder of the CD and IA No.5458 of 2022 filed by RP for approval of Resolution Plan. The Adjudicating Authority by the impugned order allowed IA No.4173 of 2023 accepting the objection raised by Raj Kumar Sahni, Suspended Director and shareholder of the CD and consequently rejected IA No.5458 of 2022 filed by the RP for approval of Resolution Plan. Aggrieved by the order dated 24.01.2024, these three sets of the Appeal(s) have been filed.

2. Brief facts of the case necessary to be noticed for deciding the Appeal(s) are:

(i) On an Application filed by a Financial Creditor of the Corporate Debtor – Dilwara Leasing and Investment Ltd., Corporate Insolvency Resolution Process ("**CIRP**") against the CD commenced by order dated 22.02.2022 passed by Adjudicating Authority in C.P.No.(IB)-983 of 2020. In the CIRP, Shri Ashish Singh was appointed as RP, who issued Form-G on 05.05.2022.

(ii) In 4th CoC Meeting held on 20.05.2022, the RP informed the Members of the CoC that RP is considering registering the Corporate Debtor as MSME after contemplating the benefits of the same, which eventually would be beneficial for the CD. The

RP got the CD registered as MSME and a certificate of registration was issued to the CD dated 24.05.2022.

(iii) In pursuance of Form-G, the RP received Expression of Interests ("**EoI**") from eight Resolution Applicants. In the 6th Meeting of the CoC, held on 14.07.2022, i.e., in response to the Form-G, the RP has received Resolution Plans from six prospective Resolution Applicants, which also included Bishwanath Traders & Investment Ltd. In the same Meeting, the CoC discussed the appointment DGA IB Resolution LLP for due diligence of Prospective Resolution Applicants. In pursuance of the 7th CoC Meeting held on 03.08.2022, the due diligence Report received by the RP was placed and discussed. The due diligence Report was duly considered by the CoC. In the 8th CoC Meeting dated 29.08.2022, the Resolution Plans submitted by Resolution Applicants and final Report received regarding status and compliance of six Prospective Resolution Applicants were considered. Comparative Chart of evolution matrix of the six Resolution Plans received were also discussed and Resolution Plans of all Resolution Applicants were considered and voted upon. On result of voting, the Resolution Plan of Bishwanath Traders & Investment Ltd. was approved with 100% votes.

(iv) After approval of Resolution Plan of Bishwanath Traders & Investment Ltd., ("Bishwanath Traders") the RP filed an IA No.5458 of 2022 on 29.10.2022.

(v) Raj Kumar Sahani, the Suspended Director and Shareholder of the CD filed an IA No.4173 of 2023 on 04.08.2023, objecting to the Resolution Plan submitted by Bishwanath Traders. The Applicant contended that Bishwanath Traders is not eligible to submit a Resolution Plan under Section 29A, hence the Application praying for approval of Resolution Plan be rejected. An Application was also filed by Shri Raj Kumar Sahani, for accepting the additional materials, to bring on record, being IA No. 4289 of 2023, which was allowed by order dated 24.01.2024. IA No. 4173 of 2023 was heard by the Adjudicating Authority and orders were reserved on 10.11.2023. The Application, IA No.5458 of 2022 also heard and orders reserved on 11.12.2023. By the impugned order dated 24.01.2024, the Adjudicating Authority allowed IA No.4173 of 2023 filed by Raj Kumar Sahani and held that Bishwanath Traders as ineligible under Section 29A (c) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "**IBC**"). Aggrieved by the aforesaid order, the RP, CoC of the CD as well as SRA have filed these Appeal(s), challenging order dated 24.01.2024.

3. We have heard Shri Abhishek Anand, learned Counsel appearing for RP; Shri Krishnendu Datta, learned Senior Counsel appearing for SRA; Shri Abhijeet Sinha, learned Senior Counsel appearing for Coc; and Shri Ramji Srinivasan, learned Senior Counsel appearing for Raj Kumar Sahani, the Suspended Director and Shareholder of the Corporate Debtor, who had filed IA No.4173 of 2023.

4. The submission advanced by the Appellant(s) in all these Appeal(s) being common, we proceed the note the submission, as submissions on behalf of learned Counsel for the Appellant.

5. Learned Counsel for the Appellant challenging the impugned order submits that Corporate Debtor having registered as MSME, much before submission of Resolution Plan by Bishwanath Traders, no ineligibility shall attach on the SRA by virtue of Section 240A of the IBC. It is submitted that registration of MSME, after initiation of CIRP against the CD is inconsequential and the benefit under Section 240A is also available to Corporate Debtor, who has registered as MSME during the CIRP. It is submitted that law is now well settled by judgment of the Hon'ble Supreme Court in **Hari Babu Thota in Civil Appeal No.4422/2023** decided by Hon'ble Supreme Court on 29.11.2023. It is held by the Hon'ble Supreme Court that even after the CD is registered as MSME after the commencement of CIRP, the benefit of Section 240A, cannot be denied. It is further submitted that the account of Corporate Debtor was not declared by Financial Creditor as NPA at any point of time and there is no concept of automatic declaration of NPA. It is submitted that reliance of Suspended

Director on the Master Circular, i.e. Prudential Norms on Income Recognition, Asset Classification and Provisioning to Advances dated 01.07.2015 issued by RBI and the clarification dated 12.11.2021, does not contemplate automatic declaration of NPA by Non-Banking Financial Companies ("**NBFC**"). The Financial Creditor being not a Bank, no automatic NPA declaration can be contemplated. The learned Counsel for the Appellant has also referred to RBI Circular dated 27.03.2020 and 23.05.2020 by which RBI has granted moratorium period from 01.03.2020 to 31.08.2020, during which period, no declaration of NPA was permitted, due to unprecedented changes posed by the Covid-19 pandemic. The Adjudicating Authority accepted the NPA declaration as 14.06.2020, on the basis of 90 days period from the date of default, which squarely falls within the moratorium period imposed by the RBI. The learned Counsel for the Appellant has also relied on the order of Hon'ble Supreme Court in ***Gajendra Sharma vs. Union of India (Writ Petition (Civil) No.825 of 2020)*** decided on 27.11.2020. It is submitted that Raj Kumar Sahani, the Suspended Director was throughout present in all the Meetings of the CoC and never raised any objection regarding the Corporate Debtor as MSME and further no objection regarding eligibility of Bishwanath Traders was raised by Raj Kumar Sahani. The list of PRAs' was shared with Members of the CoC, including the Suspended Director and no objection has been raised. After approval of the Plan by 100% votes of the CoC, the Plan approval Application filed by the RP on 29.10.2022, it was after more than 10 months period that Raj Kumar Sahani filed IA No.4173 of 2023, raising objection to the eligibility of SRA. It is submitted that Section 240A, which

has been inserted in IBC by legislature, the object and purpose of legislation has to be given effect by all concerned. The benefit, which ensues to a Corporate Debtor under Section 240A, cannot be denied by the. The submission of the Suspended Director that before the Adjudicating Authority benefit of Section 240A was not pleaded, was due to the law, which was holding the field, i.e. judgment of the NCLAT, Chennai Bench in Hari Babu Thota, which could be reversed only on 29.11.2023. The law declared by the Hon'ble Supreme Court in Hari Babu Thota vide order dated 29.11.2023, is binding on all concerned and has to be given due effect.

6. Shri Ramji Srinivasan, learned Senior Counsel appearing for the Suspended Director, refuting the submissions of learned Counsel of the Appellant submits that present is a case where SRA with design to take control of the CD, has got the CD registered as MSME. It is submitted that Shri Birendra Kumar Pasari is a person acting jointly or in consult with the SRA, which clearly attracts the ineligibility under Section 29A(c). Birendra Kumar Pasari is also a person, who manage and control the Corporate Debtor. The NPA of Corporate Debtor was declared on 14.06.2020, whose debts have not been paid off for a period of one year before commencement of CIRP, which makes the SRA ineligible to submit a Resolution Plan. It is submitted that Birendra Kumar Pasari is Managing Director of CD. Shri Pasari along with his other family members and other associated companies holds majority shareholding in the Financial Creditor, CD and SRA. The Resolution Plan is, thus, a mechanism to take control of the CD,

ousting the other shareholders including Raj Kumar Sahani, who had objected to the Resolution Plan. It is submitted that under the Resolution Plan, it is contemplated to set off Rs.12 crores, which was due and payable by Financial Creditor to SRA. The Resolution Plan has contemplated to set off the said due, which is again an illegality, in event the amount of Rs.12 crores is deducted from Resolution Plan value, the Plan value is less than the liquidation value of the Corporate Debtor. It is submitted that commercial wisdom of the CoC is not unlimited, which cannot be exercised arbitrarily and in derogation of the Code and the Regulations framed thereunder. The Adjudicating Authority has rightly rejected the Resolution Plan of the SRA. There was a condition in Resolution Plan, which depended on approval by the Financial Creditor on adjustment of Rs.12 crores due by Financial Creditor to SRA. The MSME registration of the Corporate Debtor is also not in accordance with law *Sine qua non* for classifying any company as micro, small and medium enterprise is that such company should be engaged in the manufacture or production of goods pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951. The CD, who is engaged in real estate business could not have been registered as MSME. The MSME registration could not have been obtained by the CD in the year 2022. The object behind inserting Section 240A was never to defeat the intention of the legislature behind Section 29A(c).

7. As noted above, learned Counsel for the CoC as well as SRA have also made the similar submission as was raised by learned Counsel for the

RP. The learned Senior Counsel appearing for the CoC has submitted that CoC after examining all aspect of the matters, including eligibility of the SRA, has approved the Resolution Plan. It is submitted that due diligence Report was obtained by the RP, which was placed before the Coc and at no point of time Raj Kumar Sahani raised any objection regarding eligibility of the SRA.

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

9. We need to first notice the reasons given by the Adjudicating Authority in the impugned order dated 24.01.2024, by which IA No.4173 of 203 filed by Raj Kumar Sahani has been allowed and SRA had been held to be ineligible. The Adjudicating Authority in the impugned order dated 24.01.2024 after noticing the submission of Application in IA No.4173 of 2023, reply of RP, reply of SRA and the rejoinder submissions of the Applicant in IA No.4173 of 2023, has noted the issue, which came for consideration before the Adjudicating Authority in paragraph 39 of the judgment. Paragraph 39 of the judgment is as follows:

> "39. This Adjudicating Authority has carefully heard the arguments advanced by Learned Counsels for the parties and minutely perused the averments made in the application, reply, rejoinder and written submissions filed by the parties. The relevant documents annexed with the respective submissions have also been meticulously perused. In view of the facts and averments made on behalf of the parties, the issue which arises for this Adjudicating Authority's consideration: **"Whether M/s. Bishwanath Traders and Investment Limited i.e., the Successful Resolution Applicant**

(hereinafter "SRA"/ "BTIL") is ineligible as per Section 29-A (c) of the IBC, to submit the Resolution Plan in the matter of the Corporate Insolvency Resolution Process of M/s. Vibrant Buildwell Private Limited („Corporate Debtor")?""

10. From the above, it is clear that only issue, which was considered by the Adjudicating Authority was as to whether SRA was ineligible as per Section 29A (c) of the IBC, to submit the Resolution Plan in the CIRP of the Corporate Debtor. The Adjudicating Authority has held that Birendra Kumar Pasari, who is Managing Director of the SRA is also the Promoter and in control and management of the CD, hence, he shall be deemed to be in management and control of the SRA. It was also noted and observed that Birendra Kumar Pasari and his family members are also in management and control of the Financial Creditor. After considering the RBI Circular dated 01.07.2015; clarification dated 12.11.2021; provisions of Section 29A and judgment of the Hon'ble Supreme Court in **Arcelormittal India (P) Ltd. Vs. Satish Kumar Gupta (2019) 2 SCC 1**, the Adjudicating Authority has come to the conclusion in paragraph 48 that account of CD having become Non-Performing asset on 14.06.2020, whose debt could not have been paid for a period of at least one year before commencement of CIRP, by virtue of Section 29A, the SRA becomes ineligible to submit the Resolution Plan. The conclusion of Adjudicating Authority as contained in paragraph 48 of the judgment is as follows:

"**48.** In the case before us, referring the interpretation of Section 29A (c) of the Code, 2016, we observe that Bishwanath Traders and Investment Limited, Successful Resolution Applicant in this case, who wishes to submit a resolution plan, wherein one Mr. Birendra

Kumar Pasari is the person who in his capacity of Director happens to manage, control as well as promoters of a corporate debtor Vibrant Buildwell Pvt. Ltd and the Successful Resolution Applicant. The account of the Corporate Debtor had become Non Performing Asset on 14.06.2020 in this case and whose debts have not been paid off for a period of at least one year before commencement of CIRP on 22.02.2022, therefore in the considered view of this Adjudicating Authority, in view of Section 29A of the Code, 2016, the Successful Resolution Applicant becomes ineligible to submit the resolution plan."

11. After declaring the SRA as ineligible under Section 29A(c), the Adjudicating Authority proceeded to dismiss IA No.5458 of 2022 and directed for liquidation of the CD. Paragraphs 50 and 51 of the order are as follows:

"**50.** The present application i.e., I.A.(IBC) No. 5458/2022 has been filed under Section 30(6) read with Section 31(1) of the Insolvency & Bankruptcy Code, 2016 (‗the Code') read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (‗Regulations') on behalf of Mr. Ashish Singh, Resolution Professional (RP) of M/s. Vibrant Buildwell Private Limited (Corporate Debtor'), seeking approval of the Resolution Plan submitted by M/s. Bishwanath Traders and Investment Limited.

51. In view of the fact that this Adjudicating Authority had rejected the Resolution Plan submitted by M/s. Bishwanath Traders and Investment Limited, therefore, consequently, in exercise of its powers under Section 33(1)(b) of the Insolvency & Bankruptcy Code, 2016, this Adjudicating Authority hereby directs the Resolution Professional that appropriate application for initiation of liquidation of the Corporate Debtor may be filed before this Adjudicating Authority within two weeks."

12. We, thus, first need to notice the grounds given by the Adjudicating Authority for declaring SRA as ineligible to submit a Resolution Plan under Section 29A(c) of the IBC. Section 29A(c) provides as follows:

> "**29A. Persons not eligible to be resolution applicant. -** A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person—
>
> (c) at the time of submission of the resolution plan has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949) or the guidelines of a financial sector regulator issued under any other law for the time being in force, and at least a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor:
>
> Provided that the person shall be eligible to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to nonperforming asset accounts before submission of resolution plan:
>
> Provided further that nothing in this clause shall apply to a resolution applicant where such" applicant is a financial entity and is not a related party to the corporate debtor.
>
> *Explanation* I.- For the purposes of this proviso, the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares 1 [or completion of such transactions as may be prescribed], prior to the insolvency commencement date.

Explanation II.— For the purposes of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code;]

13. Sub-clause (c), thus, makes a person ineligible, who has an account, or an account of a Corporate Debtor under the management or control of such person or of whom such person is a promoter, classified and non-performing asset, in accordance with the guidelines of Reserve Bank of India. The Adjudicating Authority has returned a finding that the account of the Corporate Debtor was automatically declared as NPA on 14.06.2020, after 90 days of the default and the SRA, who has filed Resolution Plan was under the management and control of such person. The applicability of Section 29A (c) is thus, depended on a person or other person, acting jointly, who has submitted a Resolution Plan, who has an account of Corporate Debtor under the management and control of such person, it is classified as non-performing asset. The present is a case, where the eligibility has sought to be attached on the ground that account of CD has been declared as NPA on 14.06.2020, and the CD, who was under the management and control of SRA and its family members, who are majority shareholder of the SRA. There cannot be any dispute to the legal position and embargo imposed by Section 29A, to keep the Promoters and Directors, who led the CD, so as to declare its account non-performing asset. Such

persons, were held to be ineligible, which was the object and purpose of introduction of Section 29A. The Hon'ble Supreme Court in **Arcelormittal India (P) Ltd. Vs. Satish Kumar Gupta (2019) 2 SCC 1** had occasion to examine the provisions of Section 29A. In paragraph 44 of the judgment, lays down following:

> "**44.** In Daiichi Sankyo Co. Ltd. v. Jayaram Chigurupati [Daiichi Sankyo Co. Ltd. v. Jayaram Chigurupati, (2010) 7 SCC 449] , this Court referred to the concept of "persons acting in concert" and held that there must be a shared common objective for substantial acquisition of shares of a target company under the SEBI Regulations. A fortuitous relationship coming into existence by accident or chance obviously cannot amount to "persons acting in concert". This Court held : (SCC p. 472, para 49)
>
> > "49. The other limb of the concept requires two or more persons joining together with the shared common objective and purpose of substantial acquisition of shares, etc. of a certain target company. There can be no "persons acting in concert" unless there is a [Ed. : The matter between double asterisks has been emphasised in original.] shared common objective or purpose [Ed. : The matter between double asterisks has been emphasised in original.] between two or more persons of substantial acquisition of shares, etc. of the target company. For, dehors the element of the [Ed. : The matter between double asterisks has been emphasised in original.] shared common objective or purpose [Ed. : The matter between double asterisks has been emphasised in original.] the idea of "person acting in concert" is as meaningless as a criminal conspiracy without any agreement to commit a criminal offence. The idea of "persons acting in concert" is not about a fortuitous relationship coming into existence by accident or chance. The relationship can come into being only by design, by meeting of minds between two

> or more persons leading to the shared common objective or purpose of acquisition or substantial acquisition of shares, etc. of the target company. It is another matter that the common objective or purpose may be in pursuance of an agreement or an understanding, formal or informal; the acquisition of shares, etc. may be direct or indirect or the persons acting in concert may cooperate in actual acquisition of shares, etc. or they may agree to cooperate in such acquisition. Nonetheless, the element of the shared common objective or purpose is the sine qua non for the relationship of "persons acting in concert" to come into being."
>
> (emphasis supplied)
>
> When coming to the presumption created by the provision, this Court held that the deeming provision is left open to rebuttal as indicated by the words "unless the contrary is established" (see para 54 of Daiichi [Daiichi Sankyo Co. Ltd. v. Jayaram Chigurupati, (2010) 7 SCC 449]). Finally, this Court held that whether a person is or is not acting in concert would depend upon the facts of each case (see para 57 of Daiichi [Daiichi Sankyo Co. Ltd. v. Jayaram Chigurupati, (2010) 7 SCC 449])."

14. The submissions, which have been pressed by learned Counsel for the Appellant is on the basis of Section 240A, where by virtue of Section 240A, ineligibility which is attached by Section 29A(c) is not applicable, which in the present case, is a question which need to be answered. Section 240A was inserted in the IBC by Act No.26 of 2018 with effect from 06.06.2018. Section 29A was inserted by the Act No.8 of 2018 w.e.f. 23.11.2017. Section 240A is a provision, which makes certain provisions of Section 29A not applicable on a Resolution Applicant in respect of CIRP of a micro, small and medium enterprises. Section 240A is as follows:

"**240A. Application of this Code to micro, small and medium enterprises.** – (1) Notwithstanding anything to the contrary contained in this Code, the provisions of clauses (c) and (h) of section 29A shall not apply to the resolution applicant in respect of corporate insolvency resolution process or pre-packaged insolvency resolution process] of any micro, small and medium enterprises.

(2) Subject to sub-section (1), the Central Government may, in the public interest, by notification, direct that any of the provisions of this Code shall—

(a) not apply to micro, small and medium enterprises; or

(b) apply to micro, small and medium enterprises, with such modifications as may be specified in the notification.

(3) A draft of every notification proposed to be issued under subsection (2), shall be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions.

(4) If both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or shall be issued only in such modified form as may be agreed upon by both the Houses, as the case may be.

(5) The period of thirty days referred to in sub-section (3) shall not include any period during which the House referred to in sub-section (4) is prorogued or adjourned for more than four consecutive days

(6) Every notification issued under this section shall be laid, as soon as may be after it is issued, before each House of Parliament.

Explanation.— For the purposes of this section, the expression "micro, small and medium enterprises" means any class or classes of enterprises classified as such under sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006)."

15. Section 240A was inserted subsequent to insertion of Section 29A in the IBC. The clear intendment of Section 240A was to take out applicability of Section 29A, clauses (c) and (h) for micro, small and medium enterprises. The Report of the Insolvency Law Committee, March 2018 recommended the Central Government to exempt MSME from application of certain provisions of the Code, including Section 29A. Following part of the recommendation of the Insolvency Law Committee, March 2018 is as follows:

> "(i) in recognition of the importance of Micro, Small and Medium Enterprises (MSMEs) to the Indian economy and the unique challenges faced by them, it has been recommended to allow the Central Government to exempt MSMEs from application of certain provisions of the Code. Illustratively, since usually only promoters of an MSME are likely to be interested in acquiring it, applicability of section 29A has been restricted only to disqualify wilful defaulters from bidding for MSMEs;"

16. In the present case, CD was registered as MSME, which registration was issued on 24.05.2022. The Resolution Plan was submitted by Bishwanath Traders & Investment Ltd. in the CIRP of the Corporate Debtor on 11.07.2022. The Hon'ble Supreme Court in **Arcelormittal India (P) Ltd.** (supra) has settled the law regarding relevant date for ascertaining the eligibility of a Resolution Applicant. It was held by the Hon'ble Supreme Court that ineligibility attaches when the Resolution Plan is submitted by a Resolution Applicant. Following was held by the Hon'ble Supreme Court in paragraph 46 of the judgment:

> "**46.** According to us, it is clear that the opening words of Section 29-A furnish a clue as to the time at which clause (c) is to operate.

> The opening words of Section 29-A state: "a person shall not be eligible to submit a resolution plan…". It is clear therefore that the stage of ineligibility attaches when the resolution plan is submitted by a resolution applicant. The contrary view expressed by Shri Rohatgi is obviously incorrect, as the date of commencement of the corporate insolvency resolution process is only relevant for the purpose of calculating whether one year has lapsed from the date of classification of a person as a non-performing asset. Further, the expression used is "has", which as Dr Singhvi has correctly argued, is in praesenti. This is to be contrasted with the expression "has been", which is used in clauses (d) and (g), which refers to an anterior point of time. Consequently, the amendment of 2018 introducing the words "at the time of submission of the resolution plan" is clarificatory, as this was always the correct interpretation as to the point of time at which the disqualification in clause (c) of Section 29-A will attach. In fact, the amendment was made pursuant to the Insolvency Law Committee Report of March, 2018. That Report clearly stated:
>
> > "In relation to applicability of Section 29-A(c), the Committee also discussed that it must be clarified that the disqualification pursuant to Section 29-A(c) shall be applicable if such NPA accounts are held by the resolution applicant or its connected persons at the time of submission of the resolution plan to the RP."

17. The facts of the present case as noted above, clearly indicate that the Corporate Debtor was registered as MSME much prior to the submission of the Resolution Plan by Bishwanath Traders & Investment Ltd. Thus, the eligibility of SRA has to be seen on the date of submission of Resolution Plan. A perusal of the judgment of the Adjudicating Authority indicate that Adjudicating Authority has not adverted to Section 240A of the IBC and declared the SRA ineligible on the strength of Section 29A(c). We have noticed above that hearing in IA No.4173 of 2023 was concluded and orders

were reserved on 10.11.2023. When the orders were reserved on 10.11.2023, the law which was holding the field was judgment of this Appellate Tribunal of Chennai Bench in **Hari Babu Thota**. Hence, it appears that argument on the basis of Section 240A was neither pressed, nor considered before the Adjudicating Authority. the judgment of this Appellate Tribunal of Chennai Bench in **Hari Babu Thota** came to be challenged before the Hon'ble Supreme Court in Civil Appeal No.4422 of 2023. The question, which arose to be examined by the Hon'ble Supreme Court in **Hari Babu Thota** has been noticed in paragraph 4 of the judgment, which is as follows:

> "**4.** There are two aspects to be examined out of the contours of the submissions:
>
> Firstly: Whether the resolution applicant was disqualified under the primary conditions as specified under Section 29 A of the Code;
>
> and Secondly: Whether the corporate debtor not having an MSME status at the time of commencement of CIRP proceedings would disqualify the Resolution applicant under Section 29A of the Code as benefit of Section 240A would not be available.
>
> It is the say of learned Amicus that if the MSME certificate is obtained prior to the presentation of the plan such disqualification would not be incurred and benefit of the provision would be available.""

18. The Hon'ble Supreme Court in context of the above issue noted the provisions of Section 29A and its objective. The Appellate Tribunal, Chennai Bench has relied on an earlier judgment in **Digamber Anand Rao Pingle vs. Shrikant Madanlal Zawar & Ors. – Company Appeal (AT) (Ins.)**

No.43-43A of 2021, where a view was taken by this Tribunal that Application for MSME certificate made after commencement of CIRP, is unauthorized and cannot be considered and cannot tide over ineligibility under Section 29A of the IBC. The Hon'ble Supreme Court in **Hari Babu Thota** in paragraphs 12 and 13 noticed the judgment of this Tribunal in **Digamber Anand Rao Pingle**. The provisions of Section 240A was noticed and Hon'ble Supreme Court has noted with emphasis that Section 240A begins with a "*notwithstanding clause*". In paragraph 14, following was laid down:

> "**14.** The aforesaid provision also was introduced as an Amendment in 2018 effective from 06.06.2018. It begins with a "*notwithstanding clause*". Clauses (c) and (h) of Section 29-A which apply to the promoters and exempts them to apply for a plan is not applicable qua any micro, small and medium enterprises. The objective obviously was to due to the nature of business carried out by such entities."

19. The Insolvency Law Committee Report of March 2018 was also referred to in paragraphs 16 and 17 of the judgment of the Hon'ble Supreme Court, which are as follows:

> "**16.** Under the heading "*exemption of Micro, Small and Medium Enterprises from Section 29-A*" the discussion begins. It is referred to the ILC report of March, 2018 and its finding that Micro, Small and Medium Enterprises form the foundation of the economy and are key drivers of employment, production, economic growth, entrepreneurship and financial inclusion. The ILC report 2018 exempted these industries from Section 29-A (c) and (h) and the rationale for the same was contained in para 27.4 of the report which reads as under:

> "27.4 Regarding the first issue, the Code is clear that default of INR one lakh or above triggers the right of a financial creditor or an operational creditor to file for insolvency. Thus, the financial creditor or operational creditors of MSMEs may take it to insolvency under the Code. However, given that MSMEs are the bedrock of the Indian economy, and the intent is not to push them into liquidation and affect the livelihood of employees and workers of MSMEs, the Committee sought it fit to explicitly grant exemptions to corporate debtors which are MSMEs by permitting a promoter who is not a wilful defaulter, to bid for the MSME in insolvency. The rationale for this relaxation is that a business of an MSME attracts interest primarily from a promoter of an MSME and may not be of interest to other resolution applicants ."

> 17. The aforesaid thus, makes it clear as opined in the said judgments also, that excluding such industries from disqualification under 29A (c) and (h) is because qua such industries other resolution applicants may not be forthcoming which thus would inevitably lead not to resolution but to liquidation."

20. In paragraphs 20, 21, 22, 23 and 24, the Hon'ble Supreme Court laid down following:

> "**20.** The common submission thus, is that while interpreting Section 240A, the reason for carving out an exception in micro, small and medium industries is set out on the date of application for making the bid as the crucial date. The submission is that while for some other aspects the initiation of the CIRP proceedings would be the cut off date, the same would not apply in the case of Section 240A, in view of the statement by the Minister themselves while introducing the amendment Bill.

> **21.** We are inclined to accept the aforesaid plea as it is quite obvious that while seeking to protect this category of industries, the disqualification is not to be incurred, especially in view of the "notwithstanding clause".

> **22.** We certainly can look to the statement of the Minister for purposes of a cut off date that "*there is no other specific provision providing for cut off date*" which submits that it should be the date of application of making a bid. Thus, to opine that it is the initiation of the CIRP proceedings which is the relevant date, cannot be said to reflect the correct legal view and thus, we are constrained to observe that the law laid down in *Digambar Anand Rao Pigle (supra)* case by the Tribunal is not the correct position in law and the cut off date will be the date of submission of resolution plan.
>
> **23.** Thus, even on this count, the plan submitted in question will not incur the disqualification. We may also note that the aforesaid intent is reflected in the statutory provision itself that in Section 29A (c) which begins with "*at the time of submission of the resolution plan*".
>
> **24.** It is also pointed out that even if it was an NPA, the defect can be cured as set out in proviso (1) before submission of the plan, making the submission of the plan the crucial date."

21. The Hon'ble Supreme Court taking the view that provisions of Section 29A (c) shall not be attracted, set aside the order passed by NCLT and NCLAT. The law declared by the Hon'ble Supreme Court in **Hari Babu Thota** (supra) clearly support the submissions of the Appellant that no ineligibility shall attach to the SRA by virtue of Section 240A.

22. The learned Counsel for the Respondent – Suspended Director has contended that the RP has not relied on Section 240A before the Adjudicating Authority and in the grounds of Appeal of Company Appeal (AT) (Insolvency) Nos.253-254, ground (B) stated in the Appeal as follows:

> "**B.** BECAUSE Ld. Adjudicating Authority whilst passing the Impugned Order failed to consider that the Successful Resolution Applicant was not disqualified under Section 29A(c) of the Insolvency and Bankruptcy Code, 2016 as at no

point of time the account of the Corporate Debtor had been declared as NPA by any financial institutions including any banks."

23. Although, it is true that RP as well as SRA have been pleading that the account of Corporate Debtor having not been declared as NPA by any financial institutions, ineligibility under Section 29A(c) shall not apply. However, the grounds (H) and (I) taken in the Appeal, relies on judgment of the Hon'ble Supreme Court in **Hari Babu Thota**'s case decided on 29.11.2023. Grounds (H) and (I) of the Appeal are as follows:

> "**H.** BECAUSE the Ld. Adjudicating Authority whilst passing the Impugned Order placed reliance on the judgment passed by the Hon'ble NCLAT, Chennai bench in *Hari Babu Thota RP of Shree Aashraya Infracon Ltd*" Company Appeal(AT) (CH) (Ins) No. 110 of 2023. However, the said judgments stand set aside recently by the judgment dated 29.11.2023 passed by the Hon'ble Supreme Court in in Civil Appeal bearing No. 4422/2023.
>
> **I.** BECAUSE issue with respect of attachment of ineligibility under Section 29A of the Code viz a viz Section 240A of the Code is not *res integra* as the Hon'ble Supreme Court recently in Civil Appeal bearing No. 4422/2023 in the matter titled as ***Hari Babu Thota***, vide judgment dated 29.11.2023 held that if the MSME Certificate is obtained by the Resolution Applicant prior to submission of Resolution Plan, the Resolution Applicant does not incur any ineligibility in terms of Section 29 A(c) of the Code. The relevant extracts from the above said judgment dated 29.11.2023 have been reproduced below for the ready reference of this Hon'ble Appellate Tribunal:-
>
> > "…
> >
> > *20. The common submission thus, is that while interpreting Section 240A, the reason for carving out an exception in micro, small and medium industries is set out on the date of application for making the bid as the crucial date. The submission is that while for some other aspects the initiation of the CIRP proceedings would be the cut off date, the same would not apply in the case of Section 240A, in view of the statement by the Minister themselves while introducing the amendment Bill.*
> >
> > *21. We are inclined to accept the aforesaid plea as it is quite obvious that while seeking to protect this category of industries, the disqualification is not to be*

incurred, especially in view of the "notwithstanding clause".

22. We certainly can look to the statement of the Minister for purposes of a cut off date that "there is no other specific provision providing for cut off date" which submits that it should be the date of application of making a bid. Thus, to opine that it is the initiation of the CIRP proceedings which is the relevant date, cannot be said to reflect the correct legal view and thus, we are constrained to observe that the law laid down in Digambar Anand Rao Pigle (supra) case by the Tribunal is not the correct position in law and the cut off date will be the date of submission of resolution plan.

23. Thus, even on this count, the plan submitted in question will not incur the disqualification. We may also note that the aforesaid intent is reflected in the statutory provision itself that in Section 29A (c) which begins with "at the time of submission of the resolution plan".

24. It is also pointed out that even if it was an NPA, the defect can be cured as set out in proviso (1) before submission of the plan, making the submission of the plan the crucial date.

25. We are thus, setting aside the impugned orders of the NCLT dated 28.02.2023 and NCLAT dated 02.06.2023 and allow the appeal leaving parties to bear their own costs."

24. We have noticed above that IA No.4173 of 2023 was heard on 10.11.2023, by which time, judgment of NCLAT Chennai Bench was holding the field. Hence, the submissions on the basis of Section 240A was not pressed. But when the law was declared by the Hon'ble Supreme Court on 29.11.2023, the statutory benefit extended to MSME cannot be denied. As noted above in the Appeal(s) the RP, CoC as well as SRA are relying on the provisions of Section 240A and the registration of Corporate Debtor as MSME on 22.05.2022.

25. When the legislative enactment, i.e. 240A was inserted to give relief to the MSME for the purpose and object, as noted above by the Insolvency

Law Committee Report, denying the benefit of Section 240A to a Corporate Debtor, which is a MSME, shall be against the intendment and purpose of legislative enactment. We have further noticed that list of eligible PRAs was circulated to the Members of the CoC as well as the Suspended Director – Raj Kumar Kumar Sahani and at no point of time, any objection was raised. It is further relevant to notice that the RP has appointed DGA IB Resolution LLP to submit a Report regarding status of six Resolution Plans received, which Report was also taken note by the CoC in 7th Meeting of the CoC held on 03.08.2022. It is contended by learned Counsel for the RP that in due diligence Report, Resolution Applicants were found eligible and Resolution Plans were placed before the CoC in the 7th CoC Meeting and no issue of eligibility was raised at any point of time. It is further on the record that list of PRAs was also circulated in the CoC Meeting and no objection regarding ineligibility of any of the PRAs was ever raised. In any view of the matter, we having found that the Corporate Debtor having been registered as MSME on 22.05.2022, the benefit of Section 240A shall be extended and ineligibility under Section 29A(c) cannot be relied for declaring the SRA ineligible. The law in this case has already been settled by the Hon'ble Supreme Court in **Hari Babu Thota**'s, which fully covers the issue raised in the present Appeal. In view of the law laid down by the Hon'ble Supreme Court in **Hari Babu Thota**'s case, we are of the view that submissions of the Appellant that ineligibility under Section 29A(c) shall not be applicable, since account of Corporate Debtor was never declared as NPA, need no consideration.

26. The learned Counsel for the Suspended Director also contended that the Resolution Plan of the SRA did not deserve to be approved , since the SRA proposed set off of debt of Rs.12 crores, which was due by the Financial Creditor to the SRA and when the set off of Rs.12 crores is deducted from the Resolution Plan value, the Resolution Plan value comes below the liquidation value. The learned Counsel for the SRA, referring to the relevant clauses of the Resolution Plan has submitted that Financial Creditor owed Rs.12 crores to the SRA and adjustment of Rs.12 crores in the amount to be paid to the SRA as per the Resolution Plan, cannot be faulted. In any view of the matter, the CoC has approved the Resolution Plan, which contained the said clause.

27. The learned Counsel for the Appellant has referred to judgments of the Hon'ble Supreme Court in ***K. Sashidhar vs. Indian Overseas Bank – (2019) 12 SCC 150***; ***Committee of Creditors of Essar Steel India Ltd. through Authorised Signatory vs. Satish Kumar Gupta & Ors. – (2020) 8 SCC 531;*** and judgment of the Hon'ble Supreme Court in ***Kalpraj Dharmashi and Anr. vs. Kotak Investment Advisors Ltd. and Anr. – Civil Appeal Nos.2943-2944 of 2020***, where the Hon'ble Supreme Court referring to earlier judgments has held that it is not open to the Adjudicating Authority or Appellate Authority to reckon any other factor other than specified in Sections 30(2) or 61(3) of the I&B Code. We may refer to paragraph 142, 143, 144, 145, 146 and 147 of the judgment of the Hon'ble Supreme Court, which are as follows:

> "**142.** This Court has held, that it is not open to the Adjudicating Authority or Appellate Authority to reckon any other factor other

than specified in Sections 30(2) or 61(3) of the I&B Code. It has further been held, that the commercial wisdom of CoC has been given paramount status without any judicial intervention for ensuring completion of the stated processes within the timelines prescribed by the I&B Code. This Court thus, in unequivocal terms, held, that there is an intrinsic assumption, that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. It has been held, that the opinion expressed by CoC after due deliberations in the meetings through voting, as per voting shares, is a collective business decision. It has been held, that the legislature has consciously not provided any ground to challenge the "commercial wisdom" of the individual financial creditors or their collective decision before the Adjudicating Authority and that the decision of CoC's 'commercial wisdom' is made non-justiciable.

143. This Court in ***Committee of Creditors of Essar Steel India Limited through Authorised Signatory*** (supra) after referring to the judgment of this Court in the case of ***K. Sashidhar*** (supra) observed thus:

> "**64.** Thus, what is left to the majority decision of the Committee of Creditors is the "feasibility and viability" of a resolution plan, which obviously takes into account all aspects of the plan, including the manner of distribution of funds among the various classes of creditors. As an example, take the case of a resolution plan which does not provide for payment of electricity dues. It is certainly open to the Committee of Creditors to suggest a modification to the prospective resolution applicant to the effect that such dues ought to be paid in full, so that the carrying on of the business of the corporate debtor does not become impossible for want of a most basic and essential element for the carrying on of such business, namely, electricity. This may, in turn, be accepted by the resolution applicant with a consequent modification as to distribution of funds, payment being provided to a certain type of operational creditor, namely, the electricity distribution company, out of upfront payment offered by the proposed resolution applicant which may also result in a consequent reduction of amounts payable to other financial and operational creditors. **What is important is that it is the commercial wisdom of this majority of creditors which is to determine, through negotiation with the prospective resolution applicant, as to how and in what manner the corporate resolution process is to take place."**
>
> (emphasis supplied)

144. This Court held, that what is left to the majority decision of CoC is the "feasibility and viability" of a resolution plan, which is required to take into account all aspects of the plan, including the manner of distribution of funds among the various classes of

creditors. It has further been held, that CoC is entitled to suggest a modification to the prospective resolution applicant, so that carrying on the business of the Corporate Debtor does not become impossible, which suggestion may, in turn, be accepted by the resolution applicant with a consequent modification as to distribution of funds, etc. It has been held, that what is important is, the commercial wisdom of the majority of creditors, which is to determine, through negotiation with the prospective resolution applicant, as to how and in what manner the corporate resolution process is to take place.

145. The view taken in the case of ***K. Sashidhar*** (supra) and ***Committee of Creditors of Essar Steel India Limited*** through Authorised Signatory (supra) has been reiterated by another three Judges Bench of this Court in the case of ***Maharashtra Seamless Limited*** (supra)

146. In all the aforesaid three judgments of this Court, the scope of jurisdiction of the Adjudicating Authority (NCLT) and the Appellate Authority (NCLAT) has also been elaborately considered. It will be relevant to refer to paragraph 55 of the judgment in the case of ***K. Sashidhar*** (supra), which reads thus:

> "55. Whereas, the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan "as approved" by the requisite per cent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements. Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides: (i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or ought not to exercise their commercial wisdom during the voting on the resolution plan under Section 30(4) of the I&B Code. The subjective satisfaction of the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may

> have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to vote on the resolution plan under Section 30(4) of the I&B Code."
>
> **147.** It has been held, that in an enquiry under Section 31, the limited enquiry that the Adjudicating Authority is permitted is, as to whether the resolution plan provides:
>
> **(i)** the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor,
>
> **(ii)** the repayment of the debts of operational creditors in prescribed manner,
>
> **(iii)** the management of the affairs of the corporate debtor,
>
> **(iv)** the implementation and supervision of the resolution plan,
>
> **(v)** the plan does not contravene any of the provisions of the law for the time being in force,
>
> **(vi)** conforms to such other requirements as may be specified by the Board."

28. The Hon'ble Supreme Court after considering its earlier judgments has held that appeal is a creature of statute and that the statute has not invested jurisdiction and authority either with NCLT and NCLAT, to review the commercial decision exercised by CoC of approving the resolution plan or rejecting the same. In paragraphs 149 and 150 the Hon'ble Supreme Court has held following:

> **149.** It will therefore be clear, that this Court, in unequivocal terms, held, that the appeal is a creature of statute and that the statute has not invested jurisdiction and authority either with NCLT or NCLAT, to review the commercial decision exercised by CoC of approving the resolution plan or rejecting the same.
>
> **150.** The position is clarified by the following observations in paragraph 59 of the judgment in the case of ***K. Sashidhar*** (supra), which reads thus:
>
> > "**59.** In our view, neither the adjudicating authority (NCLT) nor the appellate authority (NCLAT) has been endowed with

> the jurisdiction to reverse the commercial wisdom of the dissenting financial creditors and that too on the specious ground that it is only an opinion of the minority financial creditors…..”

29. The present is not a case where any argument is raised that Resolution Plan is not in conformity with the provisions of Section 30, sub-section (2) of the IBC.

30. The learned Counsel for the Suspended Director has also put much emphasis on the fact that Birendra Kumar Pasari, Managing Director of the CD was also a majority shareholder in the Bishwanath Traders & Investment Ltd., who was the SRA. When we look into the scheme of Section 29A(c), which is relied by the Suspended Director, the scheme itself contemplate ineligibility on the ground that Resolution Applicant is a person under whose management or control the Corporate Debtor’s account has become non-performing. Thus, when Section 240A is applied, ineligibility in the Resolution Applicant, under whose management and control, the account of the CD was declared non-performing, cannot be reckoned. No other ineligibility of the SRA has been pointed out or pressed, we are thus satisfied that SRA Bishwanath Traders & Investment Ltd. did not suffer from any ineligibility from submitting the Resolution Plan on 11.07.2022, on which date Plan was submitted. The Adjudicating Authority committed error in allowing IA No.4173 of 2023 filed by the Suspended Director and rejecting IA No.5458 of 2022 filed by the RP for approval of the Resolution Plan.

31. In result, all the Appeal(s) are allowed. The order dated 24.01.2024 impugned in these Appeal(s) are set aside. IA No.4173 of 2023 is dismissed and IA No.5458 of 2022 is allowed, approving the Resolution Plan. Consequential order with respect to approval of Resolution Plan may be passed by the Adjudicating Authority within a period of 60 days from the date of copy of the order is produced before the Adjudicating Authority. Pending IAs, if any, are also disposed of. Parties shall bear their own costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

NEW DELHI

25th October, 2024

Ashwani