

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 215 of 2026

[Arising out of the Impugned Order dated 01.12.2025 passed by the Adjudicating Authority, National Company Law Tribunal, Mumbai Bench, in I.A. No. 2767 of 2025 in C.P. (IB) No. 1164/MB/2021]

In the matter of:

Goldendreams Buildcon Private Limited

Golden Dreams, D-5. M.L.D.C. Chikalhana,
Aurangabad, Maharashtra, 431110
ajantaroc@gmail.com

.... Appellant

Versus

1. Snehal Arvind Kamdar

(Resolution Professional of Somerset)

301-302, Poonam Pearl, Next to Himachal
Society, Opposite New India Colony,
Andheri West, Mumbai,
Maharashtra, 400058
sehal.kamdar@jkkandco.com

... Respondent No.1

2. CFM Asset Reconstruction Private Limited

Block No. All 003, West Gate, Near YMCA Club,
Sur No.835/13, S.G. Highway, Makarba,
Ahmedabad, Gujarat, India, 380051
infor@cfmarc.in

.... Respondent No.2

3. Unity Small Finance Bank Limited

Office No. 4 & 5, 3rd Floor, Dreams Mall,
LBS Marg, Bhandup (West), Mumbai
Maharashtra, India 400078
pravinchopra@unitybank.co.in

.... Respondent No.3

Present:

For Appellant : Mr. Himanshu Satija, Mr. Ajay Kanojia, Mr. Harsh Saxena
and Mr. Anshul Rao, Advocates.

For Respondent : Mr. Rohit Gupta, Advocate for R1/ RP.
Mr. Krishnendu Datta, Sr. Advocate with Mr. Aman Varma,
Mr. Prateek Katewa, Ms. Riya Wasade, Mr. Harsh Gurbani,
Mr. Minal Mishra, Ms. Pratiksha Udeshi and Mr. Harshit
Chaudhary, Advocates for R2.

J U D G M E N T
(Hybrid Mode)

Per: Barun Mitra, Member (Technical)

The present appeal filed under Section 61 of Insolvency and Bankruptcy Code 2016 ('**IBC**' in short) by the Appellant arises out of the Order dated 01.12.2025 (hereinafter referred to as '**Impugned Order**') passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench-IV) in I.A. No. 2767 of 2025 in C.P. (IB) No. 1164/MB/2021. By the impugned order, the Adjudicating Authority has dismissed the IA No. 2767 of 2025 in which I.A. the Appellant had challenged the rejection of his resolution plan by the Committee of Creditors ("**CoC**" in short). Assailing the impugned order, the present appeal has been preferred by the Appellant.

2. Coming to the brief factual matrix of the case, Somerset Construction Pvt. Ltd.-Corporate Debtor was admitted into Corporate Insolvency Resolution Proceeding ("**CIRP**" in short) on 25.07.2023. The Resolution Professional ("**RP**" in short), with the approval of the single-member CoC, issued Form-G inviting EoI from Prospective Resolution Applicants ("**PRAs**" in short). In pursuance of the EoI, four PRAs including the present Appellant-Goldendreams Buildcon Pvt. Ltd. submitted their resolution plans. The Appellant had submitted their original resolution plan on 01.03.2024 alongwith EMD, and on the specific request of the RP and the CoC, further improved their resolution plans admittedly on five subsequent occasions viz. 03.06.2024, 17.06.2024, 03.07.2024, 29.08.2024 and 07.09.2024. Before the resolution plans of the PRAs could be considered by the CoC, the Financial Creditor/Respondent No.3-Unity Small Finance Bank Ltd.

entered into an Assignment Agreement on 29.03.2025 with Respondent No.2-CFM Asset Reconstruction Pvt. Ltd. ("**CFM**" in short) whereby Respondent No.3 assigned its debt to Respondent No.2. Since there was delay in the consideration of the plans by the CoC, on 19.04.2025, the Appellant filed IA No. 1800 of 2025 before the Adjudicating Authority seeking directions to be issued to the CoC to take a decision on the proposed resolution plans. The Adjudicating Authority heard the matter on 25.04.2025 and recorded the statement made by the RP that the CoC would consider the resolution plan within 10 days. On 14.05.2025, the RP sent an e-mail to the present Appellant informing him that the CoC had not voted in favour of the resolution plan submitted by them and had rejected the same. The Appellant thereafter filed IA No. 2767 of 2025 under Section 60(5) of the IBC before the Adjudicating Authority challenging the voting conducted by the CoC and for rejecting their plan without assigning any reason or providing them a copy of voting results and for not having followed the RFRP and IBBI (Insolvency Resolution Process for Corporate Person) Regulation 2016 ("**CIRP Regulations**" in short). The voting results of the 14th CoC meeting on the resolution plans submitted by the PRAs was placed before the Adjudicating Authority on 27.05.2025. Thereafter the RP, on 09.06.2025, filed IA No. 3091 of 2025 seeking extension and continuation of the CIRP while the CoC filed IA No. 3054 of 2025 on 30.06.2025 seeking re-issuance of Form-G and for taking further steps in the resolution process. The Adjudicating Authority, on 01.12.2025, dismissed IA No. 2767 of 2025 filed by the Appellant. Aggrieved by the impugned order, the present appeal has been filed by the Appellant.

3. Making submissions on behalf of the Appellant, the Ld. Counsel submitted that the Appellant having submitted a resolution plan which was successively improved five times at the request of the RP and the CoC, it was incumbent on the part of the CoC to have acted in terms of Section 30(4) of the IBC and CIRP Regulation 39(3)(a) and (b) of IBBI which entailed evaluation of the resolution plans and deliberations on the feasibility and viability of the resolution plan followed by voting, if so warranted. The RP and the CoC were also required to adhere to the terms of the RFRP, which in consonance with CIRP Regulation 39(1A)(a) and (b), had clearly laid down a step-by-step sequential process for consideration and approval of the resolution plan which included the evaluation of the resolution plan; shortlisting of the PRAs; discussions with the PRAs and conduct of the challenge mechanism to find the resolution plan with the highest value. It was asserted that only upon completion of the challenge mechanism that the resolution plan with the highest value was to be placed before the CoC for voting. However, in the present case, the steps outlined under the RFRP and the CIRP Regulations were not followed and the resolution plan submitted by the Appellant was rejected in a mechanical manner. The rejection of their plan by the CoC was conveyed by the RP by way of an e-mail dated 14.05.2025 which was a cryptic e-mail which neither assigned any reason for rejection nor provided any details of the evaluation of the plan nor contained the minutes of the relevant CoC meetings. It was also asserted by the Appellant the voting which had been purportedly conducted in the 14th CoC meeting was also not shared with the Appellant. Thus, a well-structured process which is outlined both under the CIRP Regulations and the RFRP were not adhered to. It was vehemently asserted

that the Appellant was not given any opportunity by the CoC to present its plan before it or tender any clarifications thereof before the CoC which is clearly provided for in Section 30(5) of IBC. In support of their contention that the participative rights of the resolution applicant to attend the meeting of the CoC is envisaged under Section 30(5) as a substantive safeguard and not as an empty formality, reliance was placed on the judgement of this Tribunal in ***Rajputana Properties Pvt. Ltd. Vs Ultra Tech Cement Ltd. & Ors.*** in ***CA(AT)(Ins) No. 188 of 2018***. It was also asserted that this principle that resolution applicants are not mere spectators and that they may express their views to assist the CoC in arriving at a conclusion one way or the other and that the CoC should record reasons, at least briefly, while approving or rejecting a plan was reiterated by this Tribunal in ***NG Industries Ltd. Vs Shah Brothers Ispat Pvt. Ltd. & Anr*** in ***CA(AT)(Ins) No. 109 of 2018***. It was also submitted that the reissue of Form-G as requested by the CoC was not in accordance with CIRP Regulation 36B(7) as the CIRP process cannot be reset without properly concluding with reasons that the resolution plans received from the PRAs were unsatisfactory. Moreover, as CIRP had already crossed the statutory limit of 330 days, in such circumstances, restarting of the CIRP process was uncalled for. Moreover, the CoC had justified the rejection of the resolution plan of the PRAs on the basis of unsolicited third party offers received outside the structured CIRP process. All this when seen together, clearly shows that the CoC had colourably exercised its commercial wisdom and hence the decision of the CoC rejecting their plan which has been wrongly affirmed by the Adjudicating Authority deserves to be quashed.

4. Refuting the contentions raised by the Appellant, Shri Krishnendu Datta, Ld. Sr. Counsel for Respondent No. 2-CoC submitted that the Appellant being an unsuccessful Resolution Applicant has no locus to challenge the decision taken by the CoC in the exercise of its commercial wisdom which is paramount. Placing reliance on the judgment of the Hon'ble Supreme Court in ***Arcelor Mittal India Pvt. Ltd. Vs Satish Kumar Chandra (2019) 2 SCC 1***, it was contended that it is well settled that an unsuccessful Resolution Applicant has no vested right that its resolution plan must be considered by the CoC. In any case, the Appellant having already withdrawn his EMD from the CIRP cannot now seek reconsideration of its resolution plan or object to the restarting of the CIRP process. It was stoutly denied that there was any non- adherence to the statutory provisions of IBC or the CIRP Regulations or the RFRP by the RP and CoC in the conduct of the resolution process and consideration of the resolution plans. All the PRAs had been invited to attend the CoC meetings and all the resolution plans submitted by the PRAs had not only been presented to the CoC for deliberation but also subjected to negotiations. This is also evidenced by the fact that the Appellant as well as the other PRAs were given multiple opportunities to revise and improve their plans in accordance with the framework contemplated under the RFRP and CIRP Regulations so as to ensure value maximisation. However, inspite of repeated opportunities given to the PRAs including the Appellant, to revise the plans, their plans fell short of the liquidation value of the Corporate Debtor as noted in the minutes of the 17th meeting of the CoC. It was asserted that though the value of the plan offered by some of the PRAs was higher than the Appellant, none of the other PRAs had

challenged the re-running of the CIRP or the rejection of their plan by the CoC. Furthermore, when the terms of the RFRP clearly reserved the right to the CoC to annul the bid process and reject any or all resolution plans at any time without assigning any reason, the decision of CoC to reject the plans cannot be questioned as this decision fell squarely within the domain of commercial wisdom of the CoC and it is well established that commercial decisions of the CoC are not subject to judicial review except on limited grounds. It was vehemently asserted that the CoC enjoys the discretion and prerogative to undertake any evaluation and negotiation method while considering the resolution plans and there can be no fetter on the power of the CoC to cancel or modify any negotiation with the PRAs including the challenge process. In support of their contention, reliance was placed on the judgment of this Tribunal in the case of ***Jindal Stainless Ltd. Vs Shailendra Ajmera in CA(AT)(Ins) No. 1058 of 2022*** and ***Vistra ITCL (India) Ltd. Vs. Torrent Investment Pvt Ltd in CA(AT)(Ins) No.132, 133 & 134 of 2023.***

5. Submissions were also made by Shri Rohit Gupta, Ld. Counsel for the Respondent No.3-RP. While supporting the arguments made by the Respondent No.2 that there was no violation of the IBC framework or the RFRP in the conduct of the resolution process, it was emphatically asserted that the CoC was effectively engaged in discussions with the PRAs in respect of their resolution plans and had been given ample opportunity to revise their respective plans. Rebutting the argument of the Appellant that the CoC had not duly considered the resolution plans of the PRAs as unfounded, it was submitted that the Appellant having filed IA No. 1800 of 2025 seeking the directions of the

Adjudicating Authority for the CoC to consider the plans and this prayer having been accepted by the Adjudicating Authority leading to the RP making a submission before the Adjudicating Authority that the CoC would consider all the resolution plans of the PRAs within 10 days as recorded by the Adjudicating Authority in its order dated 25.04.2025, there was no room for any further complaint by the Appellant. It was also submitted that the 14th CoC had voted upon the plan and rejected all the plans which rejection was communicated to the Appellant. It was also added that the CoC in the 17th meeting had duly recorded the reason for rejection of the plans submitted by the PRAs.

6. We have duly considered the arguments advanced by the Learned Counsel for the parties and perused the records carefully.

7. The short question that requires to be answered by us is whether the decision of the CoC to reject the plans of the PRAs including the Appellant and annulment of the resolution process was impermissible and violative of the RFRP stipulations and the relevant CIRP Regulations.

8. When we look at the prayers contained in IA No. 2767 of 2025 which has been reproduced in the impugned order at para 1 therein, it is the primary prayer of the Appellant that the voting results pursuant to the 14th CoC meeting be set aside as it was conducted in deviation of the RFRP clauses and to give an opportunity to the Appellant to present its resolution plan in terms of CIRP Regulations 39(3)(a) and 39(3)(b) and by following the RFRP stipulations. It was also prayed that during the pendency of the above IA, the Adjudicating Authority may stay the entire CIRP process of the Corporate Debtor including stay on

issuance of any new Form G or any step towards liquidation of the Corporate Debtor.

9. It is the case of the Appellant that the rejection of their plan was done in a manner which was in direct violation of Section 30(4) of the IBC read with CIRP Regulations 39(1A)(a) and (b) and 39(3)(a) and (b). Further the CoC had short-circuited the IBC framework by resorting to invoking CIRP Regulation 36B(7) without exhausting the precedent steps outlined under CIRP Regulations. Pointing out at the procedural irregularity in the conduct of CIRP, it was submitted that voting was carried out by the reconstituted CoC without interacting with the Appellant and other PRAs on the terms of their respective plans which violated the principles of fairness and natural justice and cannot be treated as a valid exercise of commercial decision making by the CoC. In the absence of any evaluation having been done as per the evaluation matrix and without recording deliberation on the feasibility or viability of the resolution plan coupled with the fact that the rejection of the resolution plan was communicated to them without placing the minutes of CoC's deliberation on record clearly shows that the rejection of the resolution plan was opaque, arbitrary and incapable of judicial scrutiny. All resolution plans of the PRAs were rejected without providing for challenge mechanism stipulated under the RFRP or offering any reasons for such rejection.

In such circumstances, simply because a third-party entity who was not part of the final list of PRAs had indicated a higher plan value could not be a valid ground for annulling the structured process which was outlined under the RFRP and prematurely invoking CIRP Regulation 36B(7). The RP and the CoC are

taking refuge under the cloak of commercial wisdom to cover up the breach of mandatory statutory and regulatory provisions of the IBC and the RFRP clauses to justify rejection of the plan which tantamount to unbridled exercise of the supremacy of commercial decision which needs to be shunned.

10. Per contra it is the contention of the Respondents that the procedure for consideration of the resolution plan had been duly followed by the CoC in accordance with the RFRP clauses as well as the statutory provisions of IBC and relevant CIRP Regulations. It is also evident from material on record that all the PRAs including the Appellant was given opportunity to negotiate and submit revised plans. All the PRAs including the Appellant had revised their plans based on feed-backs received from the CoC and RP in the 5th, 6th, 7th, 8th, 9th and 12th CoC meetings. The minutes of the CoC meetings clearly indicate that there was continued participation of the PRAs including the Appellant with the CoC which led to continuous modification and revision of their offers before the CoC. However, the CoC in its commercial wisdom was constrained to reject all the plans finding them to be financially non-viable as they offered values lower than the liquidation value. The reason for rejecting the plans was also clearly recorded in the 17th CoC meeting. Even the resolution plan of other PRAs who had offered higher plan value was also rejected and hence the Appellant cannot claim any prejudice on this count. Furthermore, when Clause 12 of the RFRP equipped the CoC to accept, reject or annul the bid process, this process could be truncated midway or reset by invoking this clause. Hence, non-implementation of the challenge mechanism by the CoC before rejecting the resolution plan of the PRAs was not beyond the authority and jurisdiction of the CoC and could not have

been interfered with by the Adjudicating Authority. It was also added by Respondent No.2-CoC that in case they succeed in getting the approval of the Adjudicating Authority to re-run the process by reissue of Form-G, it will still remain open to the Appellant to participate in the process. On the contention raised by the Appellant that the CoC minutes were not shared on the voting of the resolution plan, the Ld. Counsel for the RP repelled this argument by clarifying that the CoC minutes had been shared with the Ld. Counsel for the Appellant across the bar during the hearing before the Adjudicating Authority.

11. When we look at the impugned order, we find that the Adjudicating Authority at para 5.4 of the impugned order has taken note of clauses 4, 12, 16 and 35 of the RFRP and thereafter come to the conclusion at para 5.5 thereof that the RFRP provided for a Challenge Mechanism to find out which resolution plan offered the best value of the Corporate Debtor. Concurrently the Adjudicating Authority has also noted that Clause 12 reserved the right for the RP/COG to annul the bid process and reject any and all resolution plans at any time and without assigning any reasons, notwithstanding anything contained in the RFRP, including the Challenge Mechanism. More importantly when we look at the impugned order, we find that the Adjudicating Authority while noticing the right reserved for the CoC to annul the bid process, it has also looked into the argument canvassed by the Appellant that the CoC had committed procedural irregularity for voting on the resolution plans without holding any Challenge Mechanism or negotiations. For this purpose, the Adjudicating Authority has belaboured to take notice of the circumstances that led to the rejection of resolution plans in the 12th, 13th, 14th and 15th CoC meetings at para

5.6 of the impugned order and after relying on judicial precedents laid down by this Tribunal in **Jindal Stainless** and **Vistra ITCL judgements supra** held that that there can be no fetter on the power of the CoC to cancel or modify any negotiation with the resolution applicant including a challenge process and that it was the commercial wisdom of the CoC to take a decision in this regard.

12. Coming to our analysis, when we look at Clause 4 of the RFRP, which has been placed on record at page 99 of the Appeal Paper Book (“**APB**” in short) it clearly provides that for the purpose of holding negotiations between CoC and the PRAs, challenge mechanism as contemplated under CIRP Regulation 39(1A) was required to be followed. The same is as extracted below:

“4. Bidding Process

Brief Snapshot of the Process is as follows (“Bid Process”)

.....

Negotiations between CoC and the Shortlisted Resolution Applicant(s) with using a challenge mechanism under Regulation 39 (1A) of CIRP Regulations.”

Also, in terms of Clause 16 of the RFRP which has been placed on record at page 118 of the APB, a step-by-step sequential process for consideration and approval of the resolution plan was required to be followed. However, it is the contention of the Appellant that their resolution plan was rejected without complying with the steps contained in Clause 16 of the RFRP and in disregard of Clause 4 of the RFRP which provides for conforming to CIRP Regulation 39(1A)(a) and (b) by entering into negotiations with PRAs to find the resolution plan with the highest value and that these clauses could not have been bypassed without recording reasons for not adhering to the same before rejecting the plan.

13. It is equally pertinent to note that certain other clauses of the RFRP fortified and empowered the CoC to take a business decision to reject the plans submitted by the PRAs. The first thing to be noted is that the RFRP in the opening Disclaimer Remarks which appears at page 86 of the APB clearly states that the RFRP is not to be viewed as an offer by the RP or CoC to the PRAs. The same is as reproduced below:

“.....This Request for Resolution Plan is neither an agreement nor an offer by the Resolution Professional or the members of CoC to the Applicant or any other person. The purpose of this Request for Resolution Plan is to provide Applicant with information that may be useful to it in submitting their Resolution Plans (defined hereinafter)...”

Yet another significant clause is Clause 12 of the RFRP appearing at page 114 of the APB which clearly provides a general right to the RP/CoC to accept, reject or annul the bid process and is as reproduced hereunder:

"9(c)-Right to accept or reject any or all Resolution Plans: Notwithstanding anything contained in this Bid Document, the Resolution Professional/COC reserves the right to accept or reject any Resolution Plan(s), if the Resolution Plan(s) are not in compliance with this Bid Document and/or the provisions of the IB Code 2016 or CIRP Regulations. The Resolution Professional/COC also reserves the rights to annul the Bid Process and reject any or all Resolution Plans, at any time, without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. Notwithstanding anything in this Bid Document, the Successful Resolution Applicant shall be considered and approved by the COC at the sole discretion of the COC.”

14. On a plain reading of the above Clause 12 of the RFRP, we have no doubts in our mind that the RFRP categorically provided a general right to the RP/CoC to accept, reject or annul the bid process. It armed the RP/CoC with wide

discretionary powers to annul the bid process and reject all resolution plans without assigning any reasons. It is therefore clear that the bid process could be truncated midway or reset by invoking this clause. Hence, to our minds the RFRP clauses read conjointly does not put any definitive embargo on the CoC from rejecting a resolution plan prior to implementation of the challenge mechanism by the CoC.

15. This brings us to the issue of tenability of certain other contentions raised by the Appellant in respect of various shortcomings on the part of the CoC. One such contention is denial of opportunity for the PRAs to participate, engage and interact with the CoC. It is an indisputable fact that after the Appellant submitted their original resolution plan on 01.03.2024, they further improved their resolution plans on various occasions on the specific request of the RP and the CoC. This goes to show that there was no impediment placed in the constructive participation and engagement by the Appellant with the CoC with respect to their plan. The 7th CoC minute which has been placed on record by Respondent No.2 illustratively shows that the Appellant availed earlier opportunities to improve their plans until in 7th CoC meeting held on 10.07.2024, the Appellant when asked to improve his offer indicated that the offer placed by him was the last offer. The 7th CoC minutes are reproduced below to buttress this factual position:

“...IV. Fourth RA- Golden Dream Buildcon Private Limited. The Representative of the Said RA Mr. Santosh Muthiyan joined the meeting along with his accountant Mr. Akhilesh Singh. Mr. Muthiyan shared the password, and the revised financial bid was opened. The Plan was valued at Rs. 126cr to be given over in 18 months. The FC is offered Rs. 124crs with CIRP cost of Rs. 1cr and payment to other Creditors to the

tune of Rs. 1 Cr. He was asked to improve the offer, to which he said that the these is his last offer & would not be changing it..”

(Emphasis supplied)

The above minutes are a clear pointer that the Appellant had continuously participated in the negotiations with the CoC. All the PRAs had been invited to attend the CoC meetings and all the resolution plans submitted by the PRAs had not only been presented to the CoC for deliberation but also subjected to negotiations. In such circumstances, placing reliance on the judgement of this Tribunal by the Appellant in **Rajputana Properties Pvt. Ltd.** is misplaced as the Appellant’s participative rights before the CoC cannot be said to have been curtailed or stalled or obstructed in any manner either by the RP or the CoC which reduced them to the role of a mere spectator.

16. Further when we look at the minutes of the 11th meeting of the CoC it also becomes clear that the RP had informed the CoC that four PRAs had submitted their resolution plans with whom negotiations had already been conducted, and that the CoC may finalize the preferred resolution plan as soon as possible so that the resolution plan could be put to vote for approval. The minutes of the said 11th meeting is also extracted below:

“...3) To discuss on finalization of a Resolution Plan out of the 4 received from the FPRAs. (Agenda No. 3)

The Resolution Professional (RP) informed the Committee of Creditors (CoC) that four Final Prospective Resolution Applicants (FPRAs) had submitted their resolution plans. Although negotiations with these applicants had been conducted, the process has taken longer than originally anticipated.

The RP has now requested the CoC to finalize the preferred resolution plan as soon as possible. Once a final decision is made, the RP will proceed to put the resolution plan to a vote for approval. This step is crucial to ensure

timely progress and completion of the corporate insolvency resolution process (CIRP)...”

From the above minutes, we have no reasons to entertain any doubts in our minds that the Appellant was unaware of the fact that their plans was to be put to vote.

17. More significantly, the Appellant had themselves pressed for consideration of their plan by the CoC before the Adjudicating Authority by filing IA No. 1800 of 2025 in which the RP informed the Adjudicating Authority that the CoC will consider all the plans within 10 days. The relevant orders are as reproduced below:

ORDER

DATED 25.04.2025

IA 1800(MB)2025

Counsel for the RP submits that within 10 days, the CoC will consider all the Resolution Plans received by the RP. In view of the above, list on 27.05.2025.

18. Finally, the plans were put to vote before the CoC in its 14th meeting in which all the plans were rejected. On the complaint that the voting results of the 14th CoC was not made available to them by the RP, it was submitted by the Ld. Counsel for the RP that the 14th CoC minutes had been shared with the Ld. Counsel for the Appellant across the bar during the hearing before the Adjudicating Authority.

When we see the pleadings made in the appeal at page 20 of the APB, we are persuaded by the veracity of the statement made by the Ld. Counsel for the RP

that the 14th CoC meeting had in fact been shared with the Appellant. The said pleadings are as extracted below:

“7.16 Thereafter, I.A. No. 1800/MB/2025 came up for hearing before the Hon’ble Adjudicating Authority on 27.05.2025. During the course of the hearing, the Appellant brought to the notice of the Hon’ble Adjudicating Authority that it had not been furnished with a copy of the voting results purportedly arising out of the 14th meeting of the CoC. Upon such submission being made, a copy of the voting results was tendered across the Bar to the advocate appearing for the Appellant during the course of the hearing. Hereto annexed and marked as EXHIBIT-A-10 are the voting results pertaining to the 14th meeting of the CoC, as made available to the Appellant on 27.05.2025, during the course of hearing.”

Furthermore, there is no scope for doubt that voting results were available with the Appellant as the voting results have been placed on record at page 81-85 of the APB showing that all the plans were rejected.

19. It is also the case of the Appellant that the CoC had undertaken voting on the resolution plans without following the route of challenge mechanism or negotiations and that their plans were rejected by the CoC without assigning any reason as the minutes of the relevant 17th CoC meeting was not shared with them. This was refuted by the RP by submitting that the 17th CoC meeting had deliberated on the issue before rejecting the plans. The RP however admitted that he had not placed on record the said minutes before this Tribunal and hence was allowed liberty by this Tribunal to quote the minutes of all relevant CoC meetings while submitting their short notes of submission. We find that alongwith relevant CoC minutes, the 17th CoC meeting minutes have been placed on record by the Respondent No.2 alongwith their short notes of submission

wherein the reasons for rejecting the plans have been deliberated upon and duly reflected in the proceedings. The said minutes are as extracted below:

“...C. ANY OTHER MATTERS BY THE CHAIR

The Committee of Creditors (CoC) informed the Resolution Professional that all four resolution plans were rejected on the grounds of financial non-viability, as each plan offered a value lower than the liquidation value. The CoC also highlighted they have one investor whose LOI is approx. 200 crore which be noted in the meeting...”

(Emphasis supplied)

20. When we glance through the above minutes of the 17th CoC meeting we find that all aspects of the plan including the plan value of the Appellant and other PRAs were in the knowledge of the CoC. After deliberations, the CoC was not satisfied with the plan value either offered by the Appellant or the plan value offered by other PRAs which shows that the CoC was well aware of the objective to ensure maximisation of the value of assets which in turn testifies the exercise of commercial wisdom by the CoC. Clearly therefore the CoC in the exercise of its commercial wisdom had rejected all the plans including that of the Appellant on finding them to be financially non-viable as they offered values lower than the liquidation value. Thus, the reason for rejecting the plans stood unambiguously recorded in the 17th CoC meeting. When the resolution plans failed to meet the legitimate expectation of fetching their desired value, the CoC had after due discussion in the 17th meeting had decided to close the resolution process. Such opinion to reject all the plans of all the PRAs including the Appellant as expressed by the CoC in the 14th CoC meeting through voting is the collective business decision and constitutes an expression of the CoC’s commercial wisdom which enjoys place of primacy as has been reaffirmed time

and again by the Hon'ble Supreme Court including ***K. Sashidhar v. Indian Overseas Bank (2019) 12 SCC 150*** ; ***Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta (2020) 8 SCC 531***; ***Maharashtra Seamless Limited v. Padmanabhan Venkatesh (2020) 11 SCC 467***; ***Kalpraj Dharamshi v. Kotak Investment Advisors Limited, (2021) 10 SCC 401*** to name a few. Ultimately it is the commercial wisdom of the CoC which operates to decide on whether the plans submitted before it is optimally the best resolution plan or not. The commercial wisdom of CoC in approving or rejecting a resolution plan is essentially based on the business decision which lies within the exclusive domain of the CoC. There is no such mechanism or provision under the IBC which gives the unsuccessful resolution applicant the right to question or challenge the business decision of the CoC without being able to show that there is violation of Section 30(2) of the IBC.

21. This brings us to yet another argument canvassed by the Appellant that the CoC had undertaken voting on the resolution plans without following the route of challenge mechanism or negotiations which was a violation of CIRP Regulation 39(1A) and hence the voting deserves to be quashed. When we look at the impugned order we find that the Adjudicating Authority has considered this contention and held that there can be no fetter on the power of the CoC to cancel or modify any negotiation with the resolution applicant including a challenge process for it is the wisdom of the CoC to take a decision in this regard and has relied on the judgement of this Tribunal in ***Vistra ITCL (India) Ltd judgement supra*** wherein it has been held that even after completion of the challenge mechanism under Regulation 39(1A)(b), the CoC still retains its

jurisdiction to annul the resolution process and chose to re-issue RFRP. At this stage we may advert our attention to the relevant excerpts of the said judgement which is as reproduced below:

“39.Clause 4.2.4 of the RFRP of the present case provides that "notwithstanding anything contained in the RFRP, the CoC reserve the absolute right" and clause 4.2.4(c) provides "annul the resolution plan process and reject all the resolution plans and/or combined resolution plans and call for submission of new resolution plans from any person". The above clause is wide enough to empower the CoC to annul the resolution process including the challenge process. Further clauses of the RFRP of the present case clearly reserve the power of the CoC to call the applicants for negotiations or improving their resolution bid. Hence, the CoC is not denuded of its power to take action under the RFRP in the present case and the law laid down by this Tribunal in Jindal Stainless Ltd. v. Shailendra Ajmera (2023) 23 Comp Cas-OL 388 (NCLAT) that there can be no fetter on the power of the CoC to cancel or modify any negotiation with the resolution applicant including a challenge process is fully attracted in the present case. The Adjudicating Authority itself in its judgment has noticed that challenge process can be cancelled if any fraud is found in the challenge process. The power to cancel a challenge process is not confined only to the cases of fraud detected, but there may be other circumstances also, when challenge process may be annulled by the CoC with right to initiate fresh challenge process or a revised challenge process....”

22. The reliance placed by the Adjudicating Authority on the aforesaid judgement is squarely applicable in the facts of the present case as that CIRP Regulation 39(1A) cannot be read as a fetter on the powers of the CoC. In this case too, Clause 12 of RFRP clearly provides for annulling the resolution process even prior to entering the negotiation or challenge mechanism phase without assigning any reason notwithstanding anything contained in the bid document. The Adjudicating Authority has therefore rightly held that under clause 12 of RFRP, the CoC in the exercise of its commercial wisdom could annul the resolution process within the framework of the RFRP. When the Appellant had

submitted their EoI basis the RFRP, they cannot now turn around to question any of the clauses of the RFRP. Having submitted their EoI in terms of the RFRP tantamount to subscribing to the clauses of the RFRP and that having been done, applicability of Clause 12 cannot be questioned at this stage when the plan has been rejected.

23. We therefore do not find any cogent ground for the Appellant who is an unsuccessful resolution applicant to interfere with this decision of the CoC to annul the resolution process. Insofar as the process of approval or rejection of resolution plan is concerned, it is now beyond the pale of doubt that this lies within the purview of the commercial wisdom of CoC and the scope of judicial review remains circumscribed within the four corners of Section 30(2) of the IBC for the Adjudicating Authority. The scope of interference with the commercial wisdom of the CoC in approving or rejecting a resolution plan by the adjudicatory or appellate authority has been made minimal by law as laid down by the Supreme Court in a catena of judgments which have already been noted above. In such circumstances, the Adjudicating Authority with the limited powers of judicial review available to it has not committed any infirmity in interfering with the commercial wisdom of the CoC to reject the plan of the Appellant and annul the resolution process. We are of the considered view that the Adjudicating Authority has not committed any error in rejecting IA No 2767 filed by the Appellant.

24. For the above reasons, we do not find any infirmity in the impugned order which warrants any interference thereof in the exercise of our appellate

jurisdiction. The Appeal is found to lack merit. The Appeal is dismissed with no costs.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

Place: New Delhi

Date: 24.03.2026

Abdul