

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 456/2024
(IA No. 1244/2024)

In the matter of:

S2 Tech.com India Pvt. Ltd.

#2-40/MSL/POLARIS/801,
Meenakshi Sky Lounge, Hitec City,
Kondapur, Hyderabad,
Telangana – 500084

... Appellant

V

Mr. Birendra Kumar Agarwal,
Resolution Professional,

M/s. Manjeera Constructions Limited,
711, Manjeera Trinity Corporate,
Beside Manjeera Mall,
JNTU - Hitech City Road,
Kukatpally, Hyderabad,
Telangana – 500072

... Respondent No.1

The Committee of Creditors

For Manjeera Constructions Limited,
Represented by Lead Creditor,
Catalyst Trusteeship Limited,
Registered office at GDA House,
Plot No. 85, Bhusari Colony (Right),
Paud Road, Pune – 411038

... Respondent No.2

Present :

For Appellant : Mr. Sam Jayraj Houston, Advocate

For Respondents : Mr. VVSN Raju, Advocate for R1
Mr. Palash Taing & Mr. Mayank Kumar,
Advocates for R2

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

Per : Jatindranath Swain, Member (Technical):

The Appellant herein, that is, S2tech.com India Private Limited is a Financial Creditor to the Corporate Debtor (CD), Manjeera Constructions Limited (MCL). It has 3.3% voting share in the Committee of Creditors (CoC) of the CD. It had filed an application IA (IBC) 1565/2024 in CP(IB) 320/7/HDB/2022, praying for rejection of the resolution plan furnished by Valentis Laboratories Private Limited on the ground of various regularities and non-compliance of the provisions of Law. Aggrieved by the said order, the appellant has preferred the instant appeal.

2. Brief facts of the case are that the CD was the corporate guarantor (CG) to Manjeera Retail Housing Private Limited (MRHPL), who is the Principal Borrower. MRHPL defaulted in its dues to Catalyst Trusteeship Private Limited, the financial creditor and CIRP was initiated by the said financial creditor against MRHPL, (the principal borrower) and its Corporate Guarantor, MCL, the CD in the instant case. Both the companies were admitted into CIRP under section 7 of I&B Code (to be referred to as Code hereafter) on application moved by Catalyst Trusteeship Limited vide order of Ld. Adjudicating Authority dated 18.07.2023. By the same order, Mr. Vamsi Khambamettu was appointed as Interim Resolution Professional (IRP) who was subsequently replaced by Mr. Virendra Kumar Agrawal

(Respondent-1) as Resolution Professional (RP) on 14.09.2023. Claims were invited as against CD by public announcement and based on the claims received, the CoC was constituted. Further Form-G was published on 22.09.2023, inviting Expression of Interest (EOI) and the last date of submission of EOI after two extensions was fixed as 16.12.2023. Final list of the Prospective Resolution Applicants (PRA) was published on 18.12.2023. Subsequently, RFRP was issued by the RP on 10.01.2024 with the last date of submission of the resolution plan fixed as 09.02.2024. In response to RFRP, resolution plans were submitted by 4 Resolution Applicants, namely, *Vasavi Reality Private Limited, Valentis Laboratories Private Limited (in Consortium with Surya Treasure Island Private Limited, Boorugu Infra Projects Private Limited (in Consortium with Viswanath Projects) and Mr. Gajala Yoganand (member of the Suspended Board)*. The same were opened on 14.02.2024 in the 8th CoC meeting and presentation of the said plans were scheduled to be done on 16.02.2024. However, Valentis Laboratories could not present its Resolution Plan on the said date due to an emergency as stated by RP and that the resolution plan of Valentis Laboratories was finally approved on 10.06.2024 in the 12th COC meeting. The appellant by email dated 26.06.2024, enquired about the delay in submission of Earnest Money Deposit (EMD) by Valentis after the last date of submission of plan and the resolution professional replied that the deposit was credited only on

12.02.2024 and not on 09.02.2024 and it was due to technical issues. Thereafter, Appellant herein filed IA No. 1565/2024 before Ld. NCLT on 18.07.2024 seeking rejection of the resolution plan of Valentis and to consider the resolution plans submitted by other PRAs on 18.07.2024, which was dismissed by the Adjudicating Authority on 30.07.2024 vide the impugned order.

Submissions of the Appellant:

3. The case of the appellant is that the EMD submitted by Valentis was received after the due date, that is, on 12.02.2024 as against the deadline of 09.02.2024, which was the last date for submission of the resolution plan and this makes it ineligible for participation in the resolution process and that acceptance of the said bid is in gross violation of regulation 36B of CIRP regulations, 2016, and that this fact was not brought before the CoC during 12th meeting of CoC held on 10.06.2024 when resolution plans were discussed and voted upon.

4. He had submitted further that even though the other Resolution Applicants, namely, Boorugu and Gajala had offered ₹230.12 crore and ₹271.26 crore respectively, selection of Valentis by CoC as SRA who had offered only ₹83.54 crore is arbitrary and contrary to the principles of value maximisation of the CD and it violates the objectives of the code as

enumerated in its preamble and reiterated by Supreme Court in Para 11 of its Judgment in the matter of *Swiss Ribbons Pvt. Ltd. & Anr. v. Union of India & Anr. in WP (Civil) No. 99 of 2018*. He has further stated that the majority of CoC, that is, Catalyst and Fedbank having a total voting share of 74.19% will be fully recovering their claim amount from the SRA of MRHPL, who is the principal borrower and therefore they should not have continued to play any role in the CIRP proceedings of MCL and that, they have acted to the detriment of the CD with no regard to the interests of the CD and its stakeholders, and that the RP should have revised the voting share of CoC as the resolution plan of MRHPL had already been approved by CoC on 22.03.2024 and it was already known that the debt extended by these 2 FCs were being fully recovered, and therefore, they should not have been allowed to vote on the resolution process of the present CD, that is, MCL.

5. Further, he has submitted that the amount allotted to the Operational Creditors as per the approved Resolution Plan of Valentis was in contravention to section 30(2) of the code, and hence it should have been rejected.

6. He has further contended that the scores allotted by RP during the evaluation process was arbitrary which can be seen from the marks awarded against the parameter “amount offered to secured creditors”. Here,

even though other two Resolution Applicants, Vasavi Reality and Gajjala Yoganand, offered more or less similar amounts, that is, Rs.63.30 Crore & Rs.63.46 Crore to be paid to Secured Financial Creditors within 30 days, they got only 49.75 and 49.95 marks while the SRA got a disproportionately high 55 marks, even though, it had offered Rs.63.57 Crore which was marginally higher. Further, under the parameter “experience score”, the SRA, who is in the business of manufacturing APIs and speciality chemicals and its partner, Surya treasure Island Private Limited, who had undergone CIRP in 2018 and who is primarily a logistics company, were given 7.38 while other RAs (Vasavi & Boorugu) who had long experience in real estate got only 7.07 and 5.22 respectively and no reasons were given for such apparent discrepancy in scoring. He has contended that such arbitrary award of marks has led to Valentis being declared as H1 bidder.

7. He has further stated that the failure to adjudicate the application on its merits and non-assignment of reason by the Adjudicating Authority while dismissing his application is contrary to the principle of natural justice as reiterated in a number of judgements by this Appellate Tribunal, such as *Gandhar Oil Refinery (India) Ltd. v. City Oil Pvt. Ltd. [Company Appeal (AT) (INS) No. 915 of 2022]*, *Canara Bank v. Manoj Kumar Sharma [Company Appeal (AT) (INS) No. 922 of 2020]* and *Pani Trading*

Corporation V. Mr. Jagadish Chandra B. Mistry IRP of Sona Alloys Pvt. Ltd. [Company Appeal (AT) (INS) No. 858 of 2021].

8. He has further contended that he is not a party to the application filed by the RP for approval of the resolution plan submitted by Valentis, even though he is a member of CoC and therefore, he has a right to air his grievances as against the decision of COC, especially when the said decision was arbitrary, the bid of Valentis was admitted despite EMD having been submitted after the due date and when the majority CoC have already been assured of recovery of the dues and when he is convinced that the CoC is working against the objective of the code and its commercial wisdom is restricted to recovery of the dues of the secured creditors alone rather than resolving the insolvency of the CD and addressing the concerns of other stakeholders and therefore he will be a necessary party to challenge the resolution plan which has been approved by the COC by majority.

Submissions of the Respondents:

9. Respondent -1 (RP) in his counter stated that the appeal is not maintainable due to non-existence of a prima facie case by the appellant, that the appellant was present in the CoC meetings and his objections were considered before the decision was taken, that he is a dissenting financial creditor and thereby holds no right to challenge the resolution plan once it

has been duly approved by majority in CoC as held in the case of ***India Resurgence ARC Pvt. Ltd. v. Amit Metaliks Limited & Anr.*** by Hon'ble Supreme Court in para-14 of the said judgement, that resolution plan cannot be challenged merely on grounds of individual dissatisfaction, particularly when mandatory legal requirements have been complied with, that the appellant cannot question the commercial wisdom of CoC as held in several landmark judgements of Supreme Court, such as ***K. Shashidhar v. Indian Overseas Bank & Ors. (2019) 12 SCC 150; Committee of Creditors, Essar Steel India Limited v. Satish Kumar Gupta & Ors. (2020) 8 SCC 531 and Maharashtra Seamless Limited v. Padmanabhan Venkatesh & Ors. (2020) 11 SCC 467.***

10. He has further stated that in 12th meeting of CoC on 10.06.2024, RP had clearly explained how the resolution amount in the instant case will be distributed in the event of Catalyst and Fedbank getting full recovery of their debt from the resolution amount of MRHPL & that until the plan of MRHPL is approved by the Adjudicating Authority and the amount received by creditors, their claim will not be considered as recovered and therefore Catalyst and Fedbank will remain to be members of CoC till that point of time and that the appellant failed to mention this in his application in order to mis-represent the factual situation.

11. He has further stated that though the other Resolution Applicants Boorugu and Yoganand had offered higher amount, such amount were proposed to be secured by mortgage of the assets of CD or sale of assets of CD to make the payments to stakeholders, whereas the plan of SRA (Valentis) was backed by sanction letter from their bank, by providing collateral of the assets of their own group of companies. Therefore, the CoC by majority of 94.25% approved the plan of SRA using its commercial wisdom.

12. He has further stated that there is no contravention of section 30(2) of the Code in respect of payment to operational creditors and the judgement of *Greater Noida Industrial Development Authority v. Prabhji Singh Soni & Anr.* will not be applicable to the facts of the present case. He had relied upon decision of this tribunal in the matter of *PNC Infratech Ltd. v. Deepak Maini (2022) ibclaw.in 612 NCLAT* that the score granted as per evaluation matrix prepared by the RP and the CoC as per CIRP regulations cannot be challenged, and that in view of absence of any mechanism under the code to challenge the score granted as per evaluation matrix, the contention of appellant challenging the same is liable to be rejected.

13. He had further stated that the SRA has processed the EMD on 09.02.2024 and due to a technical issue with the processing bank, the same

could not be remitted on the same day and the next two days being second Saturday and Sunday respectively, the transaction did not get settled and ultimately the transaction was completed on 12.02.2024 during banking hours. He had further submitted that since the issue was with the banking channel and the amount was debited from the bank account of the SRA on 09.02.2024, which was the due date, the same was considered as a normal course of transaction and therefore, non-crediting of EMD amount into the account of CD on 09.02.2024 will not form any valid ground for rejection of the resolution plan as proposed by the said SRA and therefore, the contention of the appellant that acceptance of the resolution plan of SRA is in violation of regulation 36B of CIRP regulations 2016 and section 30(2) of the code is false and misleading, and appeal is liable to be dismissed.

14. Respondent-2 (CoC) has submitted that the appellant was present in the CoC meeting and his objections were heard while approving the resolution plan, and hence he has no locus standi to challenge approval of the resolution plan by CoC, that all RAs were given fair opportunity to present their proposed resolution plans, on 10.06.2024 the resolution plans were put to vote and the plan of the SRA was approved with a majority of 94.52%, and the commercial wisdom of CoC in approving the plan cannot be questioned as held by Supreme Court of India in the matters of *DBS*

Bank Limited Singapore v. Ruchi Soya Industries Limited & Anr. (2024)
3 SCC 752.

15. Respondent-2 has further submitted that appellant requested in the 12th CoC meeting as to whether some marks could now be allotted to the resolution applicants that propose payments to unsecured financial creditors and that RP informed that the scoring was done as per RFRP and that the evaluation of the respective plans has been done based on their wisdom (Valentis Laboratories has proposed for payment to secured financial creditors in the shortest timeframe and has also provided sanction letter of ₹250 crore from HDFC Bank), that the resolution plan was voted in terms of the provisions of I&B Code 2016, and the relevant regulations and that commercial wisdom of CoC cannot be questioned in the light of judgements in the matter of ***Committee of Creditor of Essar Steel India Ltd. v. Satish Kumar Gupta (2020) 8 SCC 531, Rajesh Kumar & Ors. v. Rabindra Kumar Mintri & Anr. 2022 SCC OnLine NCLAT 1604 and K. Shashidhar. v. Indian Overseas Bank (2019) 12 SCC 150.*** Respondent-2 has also stated that entertaining this appeal will derail the entire resolution process and will be in complete contravention to objectives of time-bound resolution and value-maximisation as enshrined in the preamble of the Code and reaffirmed by a catena of judgements such as ***State Bank of India & Ors. v. The Consortium of Murari Jalan and Florian Fritsch &***

Anr. Civil Appeal No. 5023-5024 of 2024 (the Jet Airways Liquidation Order) and *Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Limited (2022) 2 SCC 401*. He has further stated that resolution plan as observed by Supreme Court in *Ebix Singapore Pvt. Ltd.*, is akin to a contract between CoC and SRA, and once concluded, it cannot be challenged by a minority member of the CoC on the grounds that its objections were not considered during approval of the plan.

16. It has further stated that a fair opportunity of hearing was given to the appellant because order of Adjudicating Authority was passed in its presence, that the voting percentage of CoC could not have been revised by the RP because resolution plan of MRHPL was yet to be approved by Ld. Adjudicating Authority and therefore the concerned FCs, that is, Catalyst, and Fedbank were yet to get their dues, that CIRP proceedings can be held simultaneously both against the principal borrower and the corporate guarantor as per the judgement of this tribunal in the matter of *State Bank of India v. Athena Energy Ventures Private Limited Company Appeal (AT) (INS) No. 633 of 2020* for the same set of debt and default and hence the RP could not have revised the constitution of voting shares, that even after Catalyst and Fedbank are taken out from CoC, the votes in favour will still cross the statutory threshold of 66% and so the decision of CoC will still stand, that compliance under section 30(2) was duly certified by

respondent-1(RP) and that the scoring was conducted by RP and the CoC will not have any say in this matters.

17. It has further submitted that the allegation of unilateral modification to RFRP and acceptance of EMD beyond the stipulated date is in the domain of RP and that the appellant has failed to establish how non-inclusion of the Khanamet property will, in any manner affect the resolution plan and that, if the relief is granted to the appellant, the CoC will face difficulties as the process of resolution of the CD will be derailed and delay will be caused in the completion of resolution process.

Findings:

18. It is to be seen that both unsecured financial creditors, S2tech and Avante Garde had proposed during CoC meetings to consider plans that provide substantial payments to the unsecured creditors, which was not considered by the majority, which is Catalyst. Though the commercial wisdom of CoC (as formulated by the majority within it) is not to be questioned, the said wisdom should have been demonstrated in form of elaborate discussions in the minutes of CoC deliberations which is absent in the instant case.

19. It is an admitted fact that both Boorugu and Gajala have offered higher resolution value compared to Valentis whose plan has been accepted by CoC. CoC has concluded that the higher amount offered by the first two

Resolution Applicants was because of inclusion of Khanamet property in their respective plans. However, the CoC has not elaborated on the same during its deliberations.

20. It is an admitted fact that the EMD amount was actually received by the RP on 12.02.2024 beyond the stipulated date of 09.02.2024. CoC has stated in the Counter that this has to be answered by RP. RP has stated that the amount was debited from the account of Valentis on 09.02.2024 and because of technical issues, it could be credited to the account of CD only on 12.02.2024 and that since it is not a fault of Valentis, the bid was accepted. However, this goes against the RFRP, which had mandated in Clause 12 of the said document that non-submission of the EMD by the RA, along with the submission of resolution plan, shall lead to rendering of that particular resolution plan as non-responsive by the RP and/or the CoC, and accordingly the RP and the CoC shall have the right to reject and/or not evaluate such resolution plan. Relevant portions of the said Clause 12 is extracted below:-

12. BID BOND GUARANTEE/ EARNEST MONEY DEPOSIT

“All the Resolution Applicants shall provide a refundable Bid Bond Bank Guarantee of INR 1 Cr (Indian Rupees One Crore only) from a scheduled commercial bank in favour of the Corporate Debtor ("Bid Bond Guarantee" or "BBG") substantially in the format as

provided in Annexure1 hereto, which shall be submitted along with the Resolution Plan. The Bid Bond Guarantee shall be valid for the Resolution Plan Validity Period (as may be extended from time to time), with an additional 30 days for making claims and shall be renewed / extended by the Resolution Applicant (not later than 15 days prior to the expiry of the Resolution Plan Validity Period) for such period as may be required by the Resolution Professional / CoC ("Bid Bond Guarantee Validity Period"). Alternatively, the Resolution Applicant shall provide Earnest Money Deposit of INR 1 Cr (Indian Rupees Once Crore only) by way of Demand Draft / RTGS or such other means as approved by Resolution Professional and Committee of Creditors in favour of the Corporate Debtor.

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It is hereby clarified that non-submission of the Bid Bond Guarantee or Earnest Money Deposit by the Resolution Applicant, along with the submission of the Resolution Plan, shall lead to rendering of that particular Resolution Plan as non-responsive by the Resolution Professional and/or the CoC, and accordingly, the Resolution Professional and the CoC shall have the right to reject and/or not evaluate such Resolution Plan.’’

21. The language of said Clause as above makes it crystal clear that EMD has to be submitted along with the Resolution Plan within the stipulated time. Mere debiting of the account of the bidder by the bank will not amount to submission of EMD within the time limit. The amount should have been deposited in the account of the CD before the due date and time in order to make the bidder eligible to submit the bid. This principle is universally and invariably followed unless there are stipulations to the contrary in the RFRP, which were not there in any case. The CoC in its reply has washed off its hands stating that the issue of acceptance of the bid of Valentis is in the domain of RP and it has nothing to say on the said matter. In light of the above, the bid submitted by Valentis has to be held as non-responsive and further it has to be held that the RP has grossly erred in accepting the said bid in contravention of the provisions of RFRP and his conduct is reprehensible, especially when he already had three Resolution Plans to consider and there was no such pressing circumstances warranting such an extraordinary action of accepting a bid where EMD was submitted belatedly by modifying the RFRP.

22. It is seen both from the evaluation matrix as well as the submission of the CoC and the RP that the CoC or at least the majority CoC has placed excessive reliance on how quickly the secured creditors get back their amount and have given very less attention to the claims of unsecured

creditors and the operational creditors, and accordingly, they have given lesser weightage to those plans which offered more payout to these categories, which manifestly goes against the spirit of value maximisation as enshrined in the Code.

23. Further, it is seen that the CoC or at least the majority of CoC has very cavalierly dealt with the CD, MCL. MCL was only a Corporate Guarantor (CG) to MRHPL (the Principal Borrower); it was put under CIRP only because MRHPL could not pay its dues and defaulted. Simultaneous initiation of CIRP for MRHPL and MCL was done, understandably on the ground that resolution amount received from MRHPL may not be sufficient to cover the dues of the lenders who had taken the corporate guarantee from MCL. The lenders who had taken the corporate guarantee were Catalyst and Fedbank. Resolution Plan of MRHPL stood approved on 22.03.2024 by CoC and as per the approved Plan, these two Lenders got back their full dues, or at least they had been assured of getting back their full dues. At that point of time, resolution plans for MCL were still being evaluated and deliberated upon. In such a situation, propriety demands that these two financial creditors should have withdrawn from the CoC as they had no claims as against the corporate guarantor(MCL) on 22.03.2024 and thereafter. Even if the plea of non-receipt of the amount because of pendency of Plan Approval Application before Ld.

Adjudicating Authority is accepted, as a matter of prudence, they should have at least kept the resolution process of MCL on hold till the resolution plan in respect of MRHPL attained finality with approval of Adjudicating Authority in keeping with the objective of the Code. We fully agree that commercial wisdom of CoC should not be questioned, however that view will hold as long as it is exclusively confined to resolution of insolvency of the CD for the purpose of value maximisation as expounded by Hon'ble Apex Court in Para 47 of its Judgment in the matter of *M.K. Rajagopalan v. Dr. Periasamy Palani Gounder & Anr. in Civil Appeal Nos. 1682-1683 of 2022*. In the instant case, the CoC or to be more precise, the two majority lenders have unnecessarily dragged on the CIRP proceedings, using their brute majority even when their dues against the principal borrower has been fully satisfied and even after their action was being politely questioned by the minority creditors. What is even more surprising is that, when the CD was placed under CIRP only on account of default in payment of dues by MRHPL and when the said dues are committed to be cleared through the resolution plan in respect of MRHPL, these two lenders have continued with CIRP proceedings against MCL and precipitated the same for no apparent reason except for a lame explanation that the assured dues have not been received and till the same is received they have the right to continue pursuing the CIRP process. It is not clear what value maximisation of the Corporate Debtor has been done by them except for

approving a Resolution Plan which offered a lower payout and which was a non-responsive plan in the first place and as a consequence, literally closing down a Company that was a solvent company, even when their own dues were getting settled from the Resolution Plan of MRHPL.

24. The role played by the RP appears even more questionable. CoC has stated that marks in the evaluation matrix was awarded by RP and they had consented to it by majority. From that angle, award of 5 extra (10% more) marks to Valentis in the category of ``upfront cash recovery to FCs`` when two other Resolution Applicants had offered marginally lower amount (the difference being less than 1%), is inexplicable, especially when final score was Valentis (84.81), Gajjala (82.87) and Vasavi (79.51). It is clear that this 5 additional marks enabled Valentis to become H1 Bidder. Though, commercial wisdom of CoC in selecting Valentis is not be questioned, this anomalous situation along with extra indulgence shown to Valentis in accepting their Bid despite EMD not coming in time raises doubts as to whether Valentis was being given a preferential treatment and rightly so, because the RP had failed to bring the subject of late submission of EMD to the knowledge of CoC in 12th meeting. He disclosed the same to the Appellant by mail on 23.06.2024 only after the Appellant specifically inquired about the same.

25. The Duties of Resolution Professionals are to preserve and protect the Assets of the Corporate Debtor, including continued business operations of the CD as per Section 25(1) of the Code. However, in the instant case, the RP has instead gone ahead with the Resolution process and approval process of the Resolution Plan knowing fully well that the Secured Financial Creditors who moved Section 7 Application in the first place by invoking Corporate Guarantee against MCL have already been assured of their dues in full from MRHPL CIRP process. He is also the RP of MRHPL; when he obtained Valuation Report of Assets of MRHPL, he would have very well known that the dues of two Secured Financial Creditors were more than fully covered by MRHPL assets. As a prudent man, committed to value maximisation of MCL, he should have advised the CoC to wait till approval of MRHPL Resolution Plan by Ld. NCLT or, could have moved an Application before Ld. NCLT seeking for directions to proceed further with the matter. He as a custodian of CD could have got the subject discussed in CoC meeting instead of dissenting FCs raising the subject. Thus, it is clear that he has not discharged his duties diligently.

26. Ld. Adjudicating Authority has not considered the points raised by the appellant regarding various irregularities and non-compliance of law in detail. For example, it has brushed aside the serious allegation of the resolution plan not accompanied by EMD, when the said resolution plan is

rendered invalid on account of not being accompanied by EMD. The continuance of the majority lenders in the CoC of MCL who had already been assured of their dues in full, is a question that has not been answered satisfactorily by the respondents and it has also not been dealt in depth by Ld. Adjudicating Authority, even though, the Application seeking approval of Resolution Plan of MRHPL was pending before it. In fact the impugned order is in the nature of a summary dismissal of the application without considering the merits of the contentions raised which are quite serious in nature and fundamental to the sanctity of CIRP process, as enshrined in the Code.

27. Finally with respect to the locus of the appellant to question the resolution plan which has been vehemently questioned by the Respondents, it is to be stated that the appellant is a dissenting financial creditor and he has significant stake in revival of CD through the CIRP process and in maximisation of its value and therefore he has every right to raise question when in his perception the principles of the Code are being violated to the detriment of the objective of the value maximisation of the CD. It is not that he raised the said issues for the first time before Ld. NCLT. He had raised the very same issues during the meetings of CoC and on finding no response he has filed the application before NCLT. In his perception, the value of CD was not being maximised through actions of RP and CoC and

therefore, he has raised the said issue before NCLT. Therefore, we will have no hesitation in holding that he has the locus to raise the aforesaid issues before NCLT by filing the said application.

28. Therefore, we are of the opinion that the impugned order has been passed without application of mind and hence has to be set aside, and the Resolution Plan of Valentis is to be declared as invalid. Further, the RP is directed to take up the evaluation of the remaining Resolution Plans. He will also examine in accordance with law as to whether CIRP as against the Corporate Debtor is still subsisting in view of the fact that the lenders who had initiated CIRP against the Corporate Debtor in the first place have been paid their dues in full, from out of the Resolution Plan of the Principal Borrower MRHPL and to file an appropriate application before Ld. NCLT for directions. Connected pending Interlocutory Applications, if any, will stand closed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

19/03/2026

SR / MS / AK