

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 211 of 2026

[Arising out of Order dated 08.12.2025 passed by the Adjudicating
Authority (National Company Law Tribunal, Court V, Mumbai Bench), in
IA/1505/2021 in C.P. (IB)/2803(MB)2019]

IN THE MATTER OF:

S.M. Kamal Pasha and Anr.

...Appellants

Versus

**S. Rajendran
Resolution Professional of
TD Toll Road Pvt. Ltd. and Ors.**

...Respondents

Present:

For Appellant : Mr. Abhijeet Sinha, Sr. Advocate with Mr. Chirag Kamdar, Mr. Bhanu Chopra, Mr. Deepak Deshmukh, Ms. Heena Kochar, Mr. Mohd. Shahyan Khan, Mr. Ashwin Hirulkar and Mr. Devashish Tiwari, Advocates.

For Respondent : Mr. Arvinth Pandian, Sr. Advocate with Yajura Devi R.V. and Mr. Anant Pavgi, Advocates for R-1/RP.

Mr. Vijay Narayan, Sr. Advocate with Mr. T. Ravichandran, Advocates for R-2 to R-7.

Mr. Rohit Gupta, Mr. Aditya Panda and Mr. Agoni Som, Advocates for R-8.

J U D G M E N T

ASHOK BHUSHAN, J.

This appeal by a Successful Resolution Applicant (SRA) has been filed challenging the order dated 08.12.2025 passed by the adjudicating authority (National Company Law Tribunal, Court V, Mumbai Bench), by which order adjudicating authority permitted the Resolution Professional (RP) to withdraw

I.A. 1505/2021 filed by the RP for approval of the resolution plan of the appellant. Appellant aggrieved by the impugned order has come up in this appeal.

2. Brief facts of the case necessary to be noticed for deciding the appeal are:

- i. The corporate debtor TD Toll Road Private Limited was admitted into Corporate Insolvency Resolution Process (CIRP) vide order dated 25.11.2019. The corporate debtor was implementing National Highway Authority of India (NHAI) Project in NH – 45 from Trichy to Dindigul for four laning.
- ii. The RP after collating the claims published an advertisement in ‘Form-G’ to invite Expression of Interest (EOI) on 03.07.2020.
- iii. The Request for Resolution Plan (RFRP) was issued by the RP on 11.01.2021 in response to which the resolution plan was submitted by the appellant. The Committee of Creditors (CoC) consisting R-2 to R-7 unanimously approved the resolution plan of the appellant on 07.05.2021. Appellant submitted a Performance Bank Guarantee (PBG) of Rs. 8,62,75,000/-.
- iv. On 29.06.2021, RP filed I.A.1505/2021 before the NCLT Mumbai seeking approval of the appellant’s resolution plan. The order of admission of the corporate debtor in CIRP was challenged by the suspended director of the corporate debtor in this Tribunal and

thereafter before the Hon'ble Supreme Court being Civil Appeal No.4799/2021 in the matter of 'Sameer Singh' Vs. 'Bank of India & Ors'. Hon'ble Supreme Court by interim order dated 03.0.1.2022 stayed the further proceeding in CIRP.

- v. R-8 the holding company of the corporate debtor had submitted One Time Settlement OTS proposal on 18.05.2023 to the CoC. Hon'ble Supreme Court modified the interim order permitting the CoC to convene Meetings. CoC appropriated Rs. 106 crore from fixed deposit of the corporate debtor towards OTS proposal.
- vi. On 09.12.2024 Hon'ble Supreme Court dismissed the Civil Appeal filed by the suspended director of the corporate debtor. Hon'ble Supreme Court in its order dated 09.12.2024 has also noticed that resolution plan submitted by appellant was approved and Letter of Intent (LoI) 10.05.2021 was also issued to the appellant.
- vii. Hon'ble Supreme Court further directed the Members of the CoC to forthwith refund the money appropriated from fixed deposits of corporate debtor. Hon'ble Supreme Court while dismissing the appeal gave liberty to the parties including the appellant to raise all pleas and contentions before the NCLT who will examine the same in accordance with law.
- viii. After order of the Hon'ble Supreme Court R-8 filed I.A.1679/2025. Appellant has also filed an I.A. 4423/2025 praying for direction to

restrain the CoC from entertaining/approving of any OTS proposal in relation to the corporate debtor.

- ix. 22nd Meeting of the CoC was held on 04.11.2025, where discussion was made with regard to withdrawal of the resolution plan already approved in May 2021. RP informed the CoC that as per Regulation 18 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (for short the 'CIRP Regulations, 2016'), CoC cannot take any decision which would affect the resolution plan already approved.
- x. Subsequently another 23rd CoC Meeting was held on 02.12.2025, where CoC noticed the views of the Member of the CoC where all CoC Members have agreed to file a necessary application before the NCLT for withdrawal of the resolution plan already approved in May 2021, due to lapse of more than 4 years in the change circumstances and to maximise the value of the corporate debtor.
- xi. The application for approval of the resolution plan I.A.1505/2021 came for consideration before the adjudicating authority on 08.12.2025. The RP appeared through VC and requested that I.A.1505/2021 praying for approval of the resolution plan be permitted to be withdrawn. CoC Members having vote share of 74% also submitted before the adjudicating authority that due to lapse of substantial time the implementability and feasibility of the plan has come to change, hence CoC members have authorised the RP to withdraw the IA.

xii. The above submissions were objected by the counsel for the appellant stating that resolution plan having been already approved by the CoC, CoC has no jurisdiction to withdraw the plan. Learned counsel for the appellant relied on the judgement of the Hon'ble Supreme Court in **[(2022) 2 SCC 401]** in the matter of '**Ebix Singapore Private Limited**' **Vs. 'Committee of Creditors of Educomp Solutions Limited & Anr.'**. Adjudicating authority permitted withdrawal of the application by impugned order and an application I.A.4423/2025 filed by the appellant was disposed of as infructuous in view of the order passed by I.A.1505/2021, appellant aggrieved by the order has come up in this appeal.

3. We have heard learned Sr. counsel Mr. Abhijeet Sinha appearing for the appellant, learned Sr. counsel Mr. Arvinth Pandian appearing for the RP as well as learned Sr. counsel Mr. Vijay Narayan appearing for the R-2 to R-7 (Members of the CoC) and Mr. Rohit Gupta appearing for the R-8.

4. Learned Sr. counsel for the appellant Mr. Abhijeet Sinha challenging the impugned order submits that resolution plan of the appellant having been approved by the CoC on 07.05.2021, in pursuance of which application had already been filed by the RP, I.A.1505/2021 on 29.06.2021, neither the RP nor the CoC have any jurisdiction to pray for withdrawal of the approved resolution plan. It is submitted that there was no occasion for permitting withdrawal of the application I.A.1505/2021 on oral request made by the RP. It is submitted that resolution plan approved by the CoC is binding on SRA

as well as the CoC and CoC cannot be allowed to withdraw the resolution plan. The present is the case where SRA is fully eligible to implement the plan, the appellant has raised objection on the prayer made by RP to permit withdrawal of the application. It is submitted that approval of the resolution plan was towards resolution of the corporate debtor, which was achieved by approval of the resolution plan and the same cannot be allowed to be throttled by CoC on any reason including any prospect of getting some more amount. It is submitted that the adjudicating authority committed error in permitting withdrawal of the application which is clear violation of judgement of the Hon'ble Supreme Court in '***Ebix Singapore Private Limited***' (**supra**). It is submitted that appellant has offered resolution plan for Rs.172.5 crore and has already deposited the PBG and has been waiting to implement the plan. It was on account of challenge by suspended management that CIRP proceeding could not proceed further after approval of the plan. Suspended directors had been approaching the CoC for acceptance for an OTS proposal which was impermissible after plan having been approved no OTS proposal can be considered. The plan having been approved by the CoC unanimously, no Meeting of the CoC could be held thereafter which may affect decision of approving the resolution, which is clearly prohibited by Regulation 18(2) of the CIRP Regulations, 2016. It is submitted that delay was caused in considering the plan approval application on account of the interim order obtained by the suspended directors with respect to the CIRP of the corporate debtor. Hon'ble Supreme Court ultimately having dismissed appeal filed by

suspended directors on 09.12.2024, adjudicating authority was required to consider the application and approve the resolution plan.

5. Learned Sr. counsel Mr. Arvinth Pandian appearing for the RP submitted that RP had made request for withdrawal of the plan approval application having been authorised by the CoC in its 23rd CoC meeting held on 04.11.2025. It is submitted that corporate debtor was run as a going concern by the RP and during the period when corporate debtor has run as a going concern, huge amount has been accumulated to the credit of corporate debtor due to lapse of considerable time and huge accumulation of amount, corporate debtor has generated cash surplus of more than Rs.120 crore as on date after meeting all operational expenses. The resolution plan submitted by appellant was no more viable and feasible. The corporate debtor is now profitable going concern with significant cash surplus. The CoC has decided to re-initiate the CIRP by issuing a fresh 'Form-G', which process shall ensure a transparent process for value maximization. It is submitted that in peculiar circumstances to the present case, adjudicating authority has not committed error in permitting withdrawal of the plan approval application. Learned counsel for the RP has placed reliance on the various judgements of this Tribunal, which we shall notice hereinafter.

6. Learned counsel for the CoC opposing the submissions of the appellant submits that present is the case where as on the date when CIRP commenced and as on date the corporate debtor has earned huge profit. As per resolution plan, appellant was to bring Rs.172.5 crore towards the settling creditors of

the corporate debtor and as on date the corporate debtor has amount of Rs.165 crore, hence the plans submitted by the appellant is no more feasible and viable. Learned counsel for the CoC further submitted that matter can be remitted back to adjudicating authority to find as to whether plan is viable or not.

7. Learned counsel for the R-8 the promoter of the corporate debtor has submitted that withdrawal of the plan is not correct. It is submitted that Hon'ble Supreme Court vide order dated 09.12.2024 has directed the adjudicating authority to hear all parties including the promoters. Promoters have paid the amount of Rs. 119 crore. CoC has also agreed and consent terms was place before the Hon'ble Supreme Court. As per order, the application I.A.1679/2021 which has been filed by the promoter which has not yet been adjudicated and the lenders were required to file application under Section 12A for withdrawal of the CIRP.

8. Learned counsel for the parties in support of their submissions placed reliance on the various judgements which we shall notice hereinafter.

9. We have considered the submissions of the counsel for the parties and perused the records.

10. From the facts on the record following facts and events are undisputed:

- I. The resolution plan submitted by the appellant in the CIRP of the corporate debtor was unanimously approved by the CoC on 07.05.2021. LoI was issued in favour of the appellant who submitted PBG of Rs.

8,62,75,000/- and the I.A.1505/2021 was filed by the RP on 29.06.2021 for approval of the resolution plan.

- II. On an appeal filed by the suspended director of the corporate debtor challenging the initiation of CIRP process against the corporate debtor, the interim order was passed on 03.01.2022 by the Supreme Court staying the further proceeding, which order was subsequently modified permitting the CoC to consider certain specific subject.
- III. On 09.12.2024, Hon'ble Supreme Court dismissed the Appeal No.4799/2021. Hon'ble Supreme Court by its order dated 09.12.2024 has noted the developments including the approval of the resolution plan in favour of appellant, LoI dated 10.05.2021 issued in favour of the appellant.

11. It is useful to notice paragraphs 1, 2 & 3 of the order of the Hon'ble Supreme Court which is as follows:

"1. The present appeal, preferred by a suspended Director of the corporate debtor, Sameer Singh, impugns the judgment dated 22.05.2020 passed by the National Company Law Appellate Tribunal, New Delhi, on the question/factum of default.

2. On relevant consideration, we do not find any good ground and reason to interfere with the impugned judgment.

3. However, certain developments have occurred since then:

⇒ On 03.04.2021, the Committee of Creditors² approved a resolution plan filed by Mr. S.M. Kamal Pasha, proprietor of M/s. Golden Hatcheries, in consortium with Mr. Syed Fahad, proprietor of M/s. Standard Farms, in terms of

Section 30(4) to the Insolvency and Bankruptcy Code, 2016.

⇒ On 10.05.2021, a Letter of Intent was issued in favour of Mr. S.M. Kamal Pasha and Mr. Syed Fahad. ⇒ On 16.06.2021, per Mr. S.M. Kamal Pasha and Mr. Syed Fahad, a bank guarantee of 8.62 cores was executed by ₹ them as a security deposit.

⇒ By order dated 03.01.2022, this Court directed a stay on further proceedings before the adjudicating authority, including on the application filed by respondent No. 4, S. Rajendran, the Resolution Professional, for approval of the resolution plan submitted by Mr. S.M. Kamal Pasha and Mr. Syed Fahad.

⇒ Accordingly, the resolution plan was kept in abeyance and was not put up before the adjudicating authority for approval.

⇒ A subsequent order dated 14.03.2022 clarified that the Resolution Professional cannot continue conciliation proceedings with the National Highways Authority of India till further orders.

4. During the pendency of proceedings, the holding company of the corporate debtor and the erstwhile director(s), who had earlier moved an application for a One Time Settlement, gave a further proposal. This was accepted by the CoC, including the lead Bank, Canara Bank, subject to certain conditions, including payment of 225 crores.”

12. Hon’ble Supreme Court has further noticed in its judgement that during pendency of the proceeding, holding company has moved an application for OTS and gave certain proposals. Under the order of the Hon’ble Supreme Court CoC Meeting was held and payments due to M/s. EKK Infrastructure Ltd. was approved. Hon’ble Supreme Court while dismissing the appeal made following observation in paragraphs 14, 15 & 16:

“14. Given the legal position and regulations, it is clear to us that, all issues which are required to be

adjudicated, including the facts, have to be raised and decided before the adjudicating authority, that is, the National Company Law Tribunal.

15. In light of the above, we dismiss the present appeal. However, we give liberty to the parties, including Mr. Kamal Pasha, Mr. Syed Fahad, and the holding company, to raise all pleas and contentions before the NCLT, who will examine the same in accordance with the law.

16. We clarify that the observations made in this order are for the purpose of disposal of the present appeal. They would not be treated as an expression of opinion, either way, on the merits of the case.”

13. Hon’ble Supreme Court further has directed the banks/financial institutions who were Members of the CoC to refund the money received from the corporate debtor, which was then to be converted into interest bearing fixed deposits. Appeal was dismissed in the above term.

14. Learned counsel for the RP and the CoC have relied and referred to the 22nd CoC Meeting and 23rd CoC Meeting. 22nd CoC meeting was held on 04.11.2025 and under Agenda Item No. 8 “any other matter with the permission of the Chair”, following was noticed:

“08 Any other matter(s) with the permission of the Chair

Further course of action Update after internal approvals by CoC members:

RP recalled that during the last CoC meeting held on 6th October 2025, the CoC members discussed the following items proposed by BOI and expressed their views.

- a. Withdrawal of resolution plan already approved by CoC in May 2021.*
- b. Initiating fresh CIRP from issuing Form G stage.*
- c. Distribution of cash surplus funds to the financial creditors.*

He added that some of the CoC members needed time to discuss for submission to NCLT in the hearing scheduled on 11th November 2025.

However, the RP made it clear that as per Reg. 18 of CIRP Regulations, the CoC cannot take any decision which would affect the resolution plan already approved by CoC and filed with NCLT and pending for their approval. Accordingly, the RP requested the CoC members to take due note of the provisions.

All the CoC members expressed their views as listed below and also requested the RP to record their views:...

15. Subsequently 23rd CoC Meeting was held on 02.12.2025 where the CoC on Agenda Item No.8 has noted the views of the Members of the CoC in following words:

“08 Further course of action - Update after internal approvals by CoC members:

RP briefed the CoC Members that in the last five CoC meetings, the members discussed on the following items proposed by BOI and as discussed in the previous CoC meeting and reported in the JLM also, the following views emerged:

a. Taking note of failure of OTS- All CoC members (except Canara Bank) have already filed a reply for withdrawal of the OTS proposal submitted by Reliance Infra. Canara Bank has filed a separate reply in support of the application filed by Reliance Infra.

b. Withdrawal of resolution plan already approved by CoC in May 2021 - All CoC members agreed to proceed with filing necessary application with NCLT for withdrawal of resolution plan already approved by CoC in May 2021 in view of lapse of more than four years in the changed circumstances and to maximise the value for the Creditors.

c. Initiating fresh CIRP from issuing Form G stage - All CoC members agreed to initiate fresh CIRP from the EOI stage subject to the approval of

NCLT and to file necessary application in this regard.

d. Distribution of cash surplus funds to the financial creditors - All CoC members agreed to proceed with filing necessary application with NCLT for distribution of surplus funds available with Corporate Debtor to the financial creditors.

CoC members present took note of the above.”

16. Although views expressed by the Members of the CoC in 23rd Meeting were noted as above, but CoC did not take any steps thereafter and when the application I.A.1505/2021 came for consideration before the adjudicating authority, the RP orally submitted that the RP has been mandated by the CoC to seek withdrawal of the I.A. which facts have been noted in paragraph 2 of the impugned order:

“2. He submits that post the approval of the Resolution Plan, substantial time of nearly 5 years have passed and during this time the Corporate Debtor is being run as a going concern by the Resolution Professional and substantial cash generated is in the accounts of the Corporate Debtor. He submits that due to this factor and various other factors which affect the valuation together with implementation of the Plan were considered by the CoC and with 100% approval of the CoC he has mandate to seek withdrawal of this IA. The Resolution Professional having made such submission, request that this IA may be allowed to be withdrawn.”

17. Objection raised by the appellant that I.A.1505/2021 cannot be permitted to be withdrawn has also been noticed in paragraph 3. Judgement of the Hon’ble Supreme Court in **‘Ebix Singapore Private Limited’ (supra)** was relied, which has also been noticed in paragraph 3. Submission of the CoC representing 74% of the voting share was also noticed that Canara Bank

has authorised RP to withdraw the I.A., in paragraph 4 of the order following has been noticed:

“4. Learned counsel for the CoC representing 74% of the voting share submits that due to the lapse of substantial time the implementability and feasibility of the Resolution Plan has come to challenge and accordingly, the CoC members that he represents and the other CoC member which is Canara Bank have authorised the Resolution Professional to seek withdrawal of this IA.”

18. Adjudicating authority in paragraph 5 has expressed its views in following words:

“5. We have considered the facts of the case, submission of the learned counsel for the SRA, RP in person and counsel for the CoC members having voting power to the extent of 74%. It is the fact that the present IA 1505/2021, is pending before this Court for over last four years for various reasons which we are not inclined to deliberate upon. It is also not under dispute that Resolution Professional does have the mandate of 100 % CoC members to seek withdrawal of this IA and so much so, the learned counsel representing the CoC members having voting power to the extent of 74% even submits so.”

19. Judgement of the Hon’ble Supreme Court in **‘Ebix Singapore Private Limited’ (supra)** was noticed and was distinguished observing that judgement nowhere directs that resolution plan once filed, which may have lost its utility obliterated with efflux of time would still have effect of binding contract. Judgement relied of this Tribunal were also noticed and distinguished. Adjudicating authority ultimately permitted withdrawal of the I.A.1505/2021. The law with respect to effect and consequences of resolution plan approved by the CoC which is awaiting approval by the adjudicating authority has been laid down by the Hon’ble Supreme Court in **‘Ebix**

Singapore Private Limited’ (supra). Hon’ble Supreme Court has categorically held that resolution plan approved by the CoC is binding inter se the CoC and the Resolution Applicant. It is useful to notice paragraph 115 and 116 of the judgement:

“115. While the above observations were made in the context of a scheme that has been sanctioned by the court, the resolution plan even prior to the approval of the adjudicating authority is binding inter se the CoC and the successful resolution applicant. The resolution plan cannot be construed purely as a “contract” governed by the Contract Act, in the period intervening its acceptance by the CoC and the approval of the adjudicating authority. Even at that stage, its binding effects are produced by IBC framework. The BLRC Report mentions that “when 75% of the creditors agree on a revival plan, this plan would be binding on all the remaining creditors” [3.3.1, The Report of the Bankruptcy Law Reforms Committee, Vol. I : Rationale and Design (November 2015), p. 13, available at <https://ibbi.gov.in/BLRCReportVol1_04112015.pdf> last accessed 20-8-2021.] . The BLRC Report also mentions that, “the RP submits a binding agreement to the adjudicator before the default maximum date” [Id, p. 92.] . We have further discussed the statutory scheme of IBC in Sections I and J of this judgment to establish that a resolution plan is binding inter se the CoC and the successful resolution applicant. Thus, the ability of the resolution plan to bind those who have not consented to it, by way of a statutory procedure, indicates that it is not a typical contract.

116. The BLRC Report, which furnished the first draft of IBC and elaborated on the aims behind the overhaul of the insolvency regime, refers to a CoC-approved resolution plan as a “binding contract” in one instance and refers to it as a “binding agreement” in other instances. The report also refers to a CoC-approved resolution plan as a “financial arrangement” [Id, p. 21.] , “revival plan” [3.3.1, The Report of the Bankruptcy Law Reforms Committee, Vol. I : Rationale and Design (November 2015), p. 13, available at <https://ibbi.gov.in/BLRCReportVol1_04112015.pdf> last accessed 20-8-2021.] or a “solution” [Id, pp. 21, 75

and 76.] . The interchangeability of the terms — “agreement”, “contract”, “financial arrangement”, “revival plan” and “solution” indicates that there is no clear intention of the BLRC in characterising the nature of the resolution plan as a contract. The binding effect of the resolution plan has the consequence of preventing the CoC or the resolution applicant to renege from its terms after the plan has been approved by the CoC through a voting mechanism. The fleeting mention of a “binding contract” on one occasion in the BLRC Report (which was a pre-legislative text that underwent subsequent modifications by the legislature) to indicate the binding nature of the resolution plan and the finality of negotiations once it is approved by the CoC, does not establish the legal nature of the document, especially when it is not complemented by the text and design of IBC.”

20. Hon’ble Supreme Court had occasion to again reiterate the same proposition in **‘State Bank of India & Ors.’ Vs. ‘Consortium of Murarilal Jalan and Florian Fritsch & Anr.’** reported in [(2025 4 SCC 354)], where in paragraph 125 following was laid down:

“125. In light of the aforesaid, it is clear that the existing insolvency framework does not provide any scope for effecting further modifications or withdrawals of the resolution plan approved by the CoC, at the behest of the successful resolution applicant, once the plan has been submitted to the adjudicating authority. The submitted resolution plan is binding and irrevocable as between the CoC and the successful resolution applicant in terms of the provisions of IBC and the 2016 Regulations as well. In other words, once a CoC approved resolution plan is submitted to the adjudicating authority i.e. NCLT, it immediately becomes binding on the CoC and the SRA, even if the adjudicating authority has not yet given its stamp of approval on the same. While deciding so, this Court re-emphasised the object under Section 31(1) IBC and observed that once the adjudicating authority has approved the plan under Section 31(1) IBC, the resolution plan is binding on all the stakeholders including those stakeholders who are not direct participants of CIRP. Therefore, there is absolutely no

scope for modification of the terms of a resolution plan which has received the imprimatur of the adjudicating authority, be it by the adjudicating authority itself, the CoC or the SRA.”

21. The resolution plan approved by the CoC on 07.05.2021 was clearly binding on the CoC and the CoC had no jurisdiction to authorise the RP to withdraw the plan. RP and CoC has referred to 22nd CoC Meeting held on 04.11.2025 and 23rd CoC Meeting held on 02.12.2025. In the 22nd CoC Meeting in Agenda Item No.8, the view of the RP was clearly noticed that as per the Regulation 18 of the CIRP Regulations, 2016, CoC cannot take any decision which would affect resolution plan already approved by the CoC. In this reference, we may refer to the Regulation 18 of the CIRP Regulations which deals with the meetings of the committee. Regulation 18(2) provides as follow:

“18. Meetings of the committee.

(2) A resolution professional may convene a meeting, if he considers it necessary, on a request received from members of the committee and shall convene a meeting if the same is made by members of the committee representing at least thirty three per cent of the voting rights.

[Explanation: For the purposes of sub- regulation (2) it is clarified that meeting (s) may be convened under this sub-regulation till the resolution plan is approved under sub-section (1) of section 31 or order for liquidation is passed under section 33 and decide on matters which do not affect the resolution plan submitted before the Adjudicating Authority.]”

22. There is a clear prohibition in Regulation 18(2) of the CIRP, Regulations, 2016 on the CoC even if it holds meeting after approving of the resolution plan from taking any decision which do not affect the resolution plan submitted

before the adjudicating authority. In the present case, resolution plan approved on 07.05.2021 was already submitted before the adjudicating authority on 29.06.2021.

23. Learned counsel for the appellant has placed reliance on the judgement of this Tribunal in [**Comp. App. (AT) (Ins.) No.1876/2025**] in the matter of **‘M/s. Mehar Bhoomi Bhawan Pvt. Ltd. (formerly known as Mehar Footwear Pvt. Ltd.)’ Vs. ‘Mr. Shashi Bhushan Prasad Resolution Professional of Angad Infrastructure Private Limited’** which was an appeal filed by the SRA challenging the order by which adjudicating authority remanded the resolution plan of the appellant for consideration of the CoC. In the above case also after approval of the resolution plan, CoC held meeting and decided to direct the RP to file an application for withdrawal of the plan approval application. This Tribunal in the above context relied on Regulation 18(2) of the CIRP Regulations, 2016, has held that CoC has no jurisdiction to convene a meeting or to take a decision to withdraw the resolution plan. In paragraphs 13, 14 & 15 of the judgement, following was laid down:

“13. The reconstituted CoC took a decision on 16.08.2024 in its 15th CoC meeting directing the Resolution Professional to file an application for withdrawal of the plan approval application and seeking permission to allow the CoC to issue fresh Form G. The Resolution Professional sent a letter dated 13.06.2025 terminating the LoI of the Appellant which was objected by the Appellant by detailed communication dated 25.06.2025. CoC in its 20th CoC meeting held on 28.05.2025 has taken a decision to cancel the LoI.

14. The first question which need to be noticed is as to whether after plan approval application which plan

was approved with 100% vote share and plan approval application having filed on 03.01.2020, CoC could have held 15th CoC meeting on 16.08.2024 and 20th CoC meeting on 28.05.2025 affecting the plan approval application pending for approval. In this context, we may refer to Regulation 18(2) in which an explanation has been added by Notification dated 16.09.2022 w.e.f. 16.09.2022. Regulation 18(2) along with the explanation is as follows:-

“18. Meetings of the committee.- (2) A resolution professional may convene a meeting, if he considers it necessary, on a request received from members of the committee and shall convene a meeting if the same is made by members of the committee representing at least thirty three per cent of the voting rights.

[Explanation: For the purposes of sub- regulation (2) it is clarified that meeting (s) may be convened under this sub-regulation till the resolution plan is approved under sub-section (1) of section 31 or order for liquidation is passed under section 33 and decide on matters which do not affect the resolution plan submitted before the Adjudicating Authority.]”

15. Regulation clarified that the CoC meeting be convened till the resolution plan is approved under sub-section (1) of section 31 and the CoC can decide on matters which do not affect the resolution plan submitted before the Adjudicating Authority. Both the decision came to be taken by the CoC in 15th CoC meeting on 16.08.2024 and 20th CoC meeting on 28.05.2025 are clearly affecting the Resolution Plan submitted before the Adjudicating Authority. Both the above decisions of the CoC were in excess of authority and in clear breach of Regulation 18(2) explanation. Learned Counsel for the Appellant is also right in his submission that after approval of the plan by the CoC, the said Resolution Plan is binding on CoC and CoC cannot be allowed to withdraw the Resolution Plan in any manner.”

24. This Tribunal ultimately allowed the appeal, set aside the order of the adjudicating authority and revived the application for fresh consideration. In paragraphs 43 & 44, following was held:

“43. In view of the foregoing conclusion, we are of the view that none of the reasons given by the Adjudicating Authority in paragraph 14 has any substance which can be ground to not consider the application for approval of the Resolution Plan in accordance with law. There was no ground to remand the Resolution Plan to the CoC for reconsideration. We further of the view that there was no jurisdiction of the Resolution Professional to file an application to recall the Resolution Plan and IA No. 4424 of 2024 was also not maintainable nor Indo Jatalia Holdings Limited could have filed an IA No.5555 of 2024 praying for remand of the Resolution Plan for reconsideration. The Adjudicating Authority committed error in passing order in the aforesaid three applications.

44. In view of the foregoing discussions and conclusions, we allow the Appeal, set aside the order passed by the Adjudicating Authority dated 14.10.2025. CA (IBC)/240/PB/2020 is revived before the Adjudicating Authority for passing fresh order in accordance with law. IA No.4424 of 2024 and IA No.5555 of 2024 are rejected. The Resolution Plan approval application had been pending before the Adjudicating Authority from 03.01.2020, we request the Adjudicating Authority to consider and decide CA (IBC)/240/PB/2020 expeditiously preferably within a period of three months from the date copy of this order is produced.”

The above judgement fully supports the submissions of the counsel for the appellant.

25. Learned Sr. counsel Mr. Arvinth Pandian appearing for the RP has placed reliance on the judgement of this Tribunal in the matter of **‘Jubilee Metal Private Limited’ Vs. ‘Mr. Surendra Raj Gang Resolution Professional of Metenere Ltd. & Anr.’** in **[Comp. App. (AT) (Ins.) Nos.1550-1551 & 1552/2023]**. Mr. Pandian submits that this Tribunal in the above case has upheld the decision of the CoC, where the order of the adjudicating authority allowing withdrawal of the application for approval of the resolution

plan was upheld. In the above case, plan was approved after approval of the resolution plan, SRA sent an email to the RP that Gaurav Gupta ceased to be director or stakeholder in the entity namely Shoora Minerals Pvt. Ltd., Jubilee Metal Pvt. Ltd. and Jubilee Metal Holding Pvt. Ltd. The resolution plan of Jubilee Metal Pvt. Ltd. is approved with 92.45% voting shares. The RP immediately replied to Mr. Gaurav Gupta that there appears to be major deviation from the terms of the approved plan. The CoC in the above case took the decision that undertaking in the resolution plan has been breached by Resolution Applicant, hence in the said circumstances, decision was taken to withdraw the resolution plan application. This Tribunal has noted the entire sequence of the event and the email received from the Resolution Applicant regarding change of the shareholding of the Resolution Applicant. This Tribunal in the above case took the view that it was the applicant who himself have breached the terms and conditions and undertaking which was given by him, hence the said was the case of sale of the resolution plan approved by the CoC. The Resolution Applicant having violated the addendum of the resolution plan as well as undertaking, adjudicating authority has rightly permitted withdrawal of the application. Judgement of the Hon'ble Supreme Court in '**Ebix Singapore Private Limited**' (supra) was also noticed by this Tribunal in the above case. It was held that resolution plan is binding between the CoC and the SRA. However, in the above case the resolution plan was permitted to be withdrawn on the ground that Resolution Applicant has himself breached the addendum of the resolution

plan as well as the undertaking as given in the LoI. In paragraphs 28 & 29 of the judgement, following was laid down:

“28. The discussion of the Hon’ble Supreme Court from paragraphs 155 to 162 indicated the said discussions were under heading ‘J. withdrawal of the Resolution Plan by the Successful Resolution Applicant’ under the IBC”. Thus, Court has laid down the above proposition in reference to withdrawal of the Resolution Plan by the Successful Resolution Applicant. However, what has been held in paragraph 115, as noted above also, has to be kept in mind where Hon’ble Supreme Court has laid down that the Resolution Plan even prior to the approval of the Adjudicating Authority is binding inter se between the CoC and the Successful Resolution Applicant. The law is well settled and clear that even CoC cannot go back and pray for withdrawal of the Resolution Plan since the plan is clearly binding on the CoC but the above legal position and situation may not apply in a case where after approval of the Resolution Plan by the CoC, the Resolution Applicant himself has breached the terms and conditions and undertaking which was given by him as in the present case. The very basis and substratum of the Resolution Applicant which led the CoC to approve the Resolution Plan has been knocked out by changing the shareholding and directorship of the Resolution Applicant. In the present case, Mr. Gaurav Gupta who was controlling 100% shareholding in ‘Shoora Capital’ has withdrawn and transferred its shareholding to third party i.e. Mr. Sandeep Parwal.

29. Present is a case where in essence we may say it is a case of sale of Resolution Plan approved by the CoC to third party. CoC approves the Resolution Plan looking to the credentials of the Resolution Applicant and its credibility and finances. When very basis of Resolution Applicant is knocked out and it changes its constitution substantially the CoC cannot be faulted in view of breach of the conditions by the Resolution Applicant, application for approval of the Resolution Plan be withdrawn. We, thus, conclude that the Resolution Applicant has violated the addendum of the Resolution Plan as well as undertaking as given in the LoI and the Adjudicating Authority has rightly returned the finding as noted above.”

26. The present is not a case where there is any allegation that appellant, SRA has breached any condition of resolution plan or its undertaking. The said judgement relied by the counsel for the RP was on its own fact and does not help the appellant.

27. Another judgement relied by the respondent is judgement of this Tribunal in the matter of '**Sanjay Dave' Vs. 'Andhra Bank Ltd. & Ors.'** in **[Comp. App. (AT) (Ins.) No.1128/2024]** decided on 29.10 2024. The above was case where after approval of the resolution plan the CoC have decided to liquidate the corporate debtor. In the above case the EMD of the SRA was forfeited the SRA has filed the application seeking direction from the adjudicating authority to the RP, CoC to issue unconditional LoI and refund the EMD. In the above facts and circumstances in the paragraph 28, this Tribunal laid down following:

*"28. In the given circumstances the Adjudicating Authority has correctly relied on the decision of this Tribunal in **Gulab Chand Jain Vs RP of Vijay Timber Industries in CA(AT)(Ins) No. 142 of 2021** wherein it was held that after approval of the resolution plan by the CoC, the CoC can always change its mind and pass a resolution liquidating the Corporate Debtor as long as the resolution plan is not approved by the Adjudicating Authority. The Adjudicating Authority had not committed any error in arriving at the above finding since there was no approved resolution plan available with the RP to be placed before the Adjudicating Authority. The Adjudicating Authority was also of the view that with further delay, the assets of the Corporate Debtor would have suffered from economic depreciation as the liquidation value goes down with the efflux of time. A long time had elapsed since commencement of insolvency on 09.08.2018 and we are inclined to agree with the Adjudicating Authority that Corporate Debtor*

*should go into liquidation forthwith in the interest of all stakeholders. The Adjudicating Authority also was of the view that it had limited powers of judicial review in matters of commercial wisdom of CoC as has been held by the Hon'ble Supreme Court in the matter of **K. Sashidhar Vs Indian Overseas Bank (2019) 12 SCC 150.***

28. The above was not a case where resolution plan was permitted to be withdrawn due to decision of the CoC to liquidate the corporate debtor. The above judgement thus in no manner helps the appellant.

29. Learned counsel for the R-8 has also contended that adjudicating authority was to consider all applications including the I.A.1679/2025 filed by the R-8, where R-8 has prayed for withdrawal of the CIRP on basis of the OTS. We have already noticed the order of the Hon'ble Supreme Court dated 09.12.2024 where Hon'ble Supreme Court has noticed the approval of the plan in favour of the appellant. Hon'ble Supreme Court has in the said case has given liberty to the appellant and the holding company to raise all pleas and contentions before the NCLT who was to examine the same in accordance with the law. In paragraph 15 of the Hon'ble Supreme Court, the said order was passed:

“15. In light of the above, we dismiss the present appeal. However, we give liberty to the parties, including Mr. Kamal Pasha, Mr. Syed Fahad, and the holding company, to raise all pleas and contentions before the NCLT, who will examine the same in accordance with the law.”

30. We have noticed above that the adjudicating authority in the impugned order has observed in paragraph 5 “it is the fact that present I.A.1505/2021 is pending before this Court for over last 4 years for various reasons, we are

not inclined to deliberate upon”. We are of the view that adjudicating authority committed error in permitting withdrawal of the resolution plan on oral request of the RP as authorised by the CoC. The CoC has no jurisdiction to take any decision to withdraw the resolution plan. The reasons which are being sought to content by CoC and the RP before us is that during running of the corporate debtor as a going concern, huge amount has been accumulated to the corporate debtor and the resolution plan which was only for an amount of Rs.172.5 crore cannot be approved at this stage, which shall lead the SRA to take the company almost free. Learned counsel for the RP and the CoC have submitted that plan is no more viable and feasible. When we look into the order of the adjudicating authority, adjudicating authority has not entered into any consideration as to whether plan is viable or feasible. Adjudicating authority by the impugned order has permitted withdrawal of the I.A.1505/2021 on the request made by the RP on behalf of the CoC. We had already held that CoC was not authorised to take any decision affecting the resolution plan which is mandate of the Regulation 18(2) of the CIRP Regulations, 2016. The decision and discussion of the CoC in 23rd CoC meeting was not in accordance with mandate of the Regulation 18(2) of the CIRP Regulations, 2016. The judgement of this Tribunal in **‘M/s. Mehar Bhoomi Bhawan Pvt. Ltd. (formerly known as Mehar Footwear Pvt. Ltd.)’ (supra)** fully supports the submission of the appellant.

31. We have already noticed the judgement of the Hon’ble Supreme Court where in paragraph 15 liberty was given to the appellant including the holding company to make all their pleas before the adjudicating authority.

Adjudicating authority was thus to examine all pleas and decide the matter a fresh. The appeal of the suspended director having been dismissed on 09.12.2024, there was no impediment or embargo on the adjudicating authority to proceed and examine the I.A.1505/2021 on merits.

32. In result of the foregoing discussions, we are of the view that impugned order of the adjudicating authority dated 08.12.2025 cannot be sustained. Order dated 08.12.2025 is set aside. I.A.1505/2021 is revived. It shall also be open for the adjudicating authority to consider the I.A.1679/2025 filed by R-8 in accordance with law.

33. Appeal is accordingly allowed as indicated above.

Parties shall bear their own costs.

**[Justice Ashok Bhushan]
Chairperson**

**[Indevar Pandey]
Member (Technical)**

NEW DELHI

20th April, 2026

himanshu