



**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

IA No. 588/2025 IN CP(IB) No.04/ALD/2019

(An application filed under Section 60(5) of the Insolvency and Bankruptcy Code read with Rule 11 of NCLT Rules, 2016).

IN THE MATTER OF:

IFCI Ltd.

IFCI Tower, 61 Nehru Place,
New Delhi-110019

Email: khetsingh.yadav@ifcilt.com.

.....Applicant/Financial Creditor

Versus

1. MR. PARAMJEET SINGH BHATIA

(IBBI Reg. No. IBBI/IPA-001/IP-P00961/2017-2018/11582)

Address: C-39, Surya Nagar, Ghaziabad, Uttar Pradesh-201011

Email ID: bhatiaparam.s@gmail.com

.....Respondent No.1/ Resolution Professional

2. COMMITTEE OF CREDITORS (COC)

of Hind Agro Industries Ltd.

(Through the lead bank Punjab National Bank)

Plot No 4, Sector -10 Dwarka New Delhi -110075

Email: honclt@pnb.co.in

.....Respondent No. 2/CoC

3. M/s G.S.W. ENTERPRISES PVT. LTD.

(Successful Resolution Applicant)

A-24, Sector II, Tala Nagri, Ramghat Road Aligarh-202001

Email: gswaligarh@gmail.com

.....Respondent No. 3/SRA

AND IN THE MATTER OF:

BANK OF BARODA

.....Applicant/ FC

Versus

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IA No. 588/2025 IN CP (IB) No.04/ALD/2019

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

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M/s Hind Agro Industries Limited

.....Respondent/ CD

Order Pronounced on: 11.06.2026

Coram:

Sh. Praveen Gupta : Member (Judicial)
Sh. Ashish Verma : Member (Technical)

Appearances:

Sh. Amish Tandon with Ms. Anushree Kulkarni, Ms. Akanksha Mishra & Ms. Swankit Nanda, Adv. : For the Applicant/IFCI Ltd. in IA No.588/2025
Sh. Shubham Agarwal, Adv. : For the RP
Sh. Gopal Jain, Sr. Adv. Assisted by Sh. Apoorv Sarvaria with Ms. Yashika Sarvaria & Ms. Manavi Dhingra, Adv. : For the Res. No.2/CoC through PNB in IA No.588/2025

ORDER

1. The instant Application has been filed on 10.07.2025 by IFCI Limited ("Applicant") under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("IBC/Code") read with Rule 11 of NCLT Rules, 2016 seeking to set aside the resolution of the Committee of Creditors ("CoC") approved in the 31st COC Meeting dated 27.06.2025 regarding the manner of distribution of the payment under the resolution plan.
2. The Applicant herein has sought the following reliefs in this application:
 - i. *Allow the present application and set aside the resolution of the COC approved in the 31st COC Meeting dated 27.06.2025 regarding the manner of distribution of the payment under the resolution plan, in view of the arbitrariness being followed.*

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- ii. *Set aside the resolution plan of M/S G.S.W. Enterprises Private Limited (approved by the COC in the 31 st COC Meeting dated 27.06.2025);*
- iii. *Direct a distribution mechanism for the Applicant/IFCI Ltd. at par with the other secured financial creditor of the CD and, based on the voting shares of the COC members (as explained in Paragraph 16 in the instant application);*
- iv. *Direct that no further steps be carried out in respect of the distribution of amounts under the resolution plan among the secured financial creditors until the disposal of the present application.*
- v. *Pass such other and further orders or directions, as may be deemed fit and proper by this Hon'ble Court in the facts and circumstances of the present case.*

3. The Applicant submits that the CoC in the present case comprises of only one class of creditors i.e. secured financial creditors, the voting share of the all the CoC members as averred in the Application is as follows:

S. No.	Name of the Financial Creditor	Voting Percentage
1.	Punjab National Bank	37.65%
2.	Bank of Baroda	28.29%
3.	India Bank	14.94%
4.	Central Bank of India	6.66%
5.	IFC/ Ltd	12.46%
	Total	100%

4. The Applicant further submits that it is aggrieved by the distribution pattern of proceeds under the resolution plan among the secured financial creditors of the Corporate Debtor, Hind Agro Industries Limited (hereinafter

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referred to as “Corporate Debtor/CD”) which has been approved by the other COC members (comprising approximately 88% of voting share) pursuant to the voting concluded in the minutes of the 31st CoC Meeting dated 27.06.2025.

5. The Applicant submits that it is further aggrieved by the resolution plan of M/s G.S.W. Enterprises Private Limited (Respondent No. 3) which has been approved by the CoC members on 27.06.2025 as in this process it has been deprived of its appropriate/fair share of the total amount allocated to the financial creditors. It is also submitted that the other majority CoC members of the CD have discriminated against the Applicant by arbitrarily creating a subclassification within the class of the secured financial creditors based on the priority of charges of the secured financial creditors of the CD (other lenders having first charge and the Applicant/IFCI having second charge on all movable and immovable assets of the CD) and thereby providing a higher entitlement/share to the other lenders by reducing the entitlement/share of the Applicant (within the same class of secured creditors).
6. The Applicant states that the distribution pattern decided by other CoC members, now merged with the resolution plan, is unjust, arbitrary, and discriminatory as the Applicant's status as a secured creditor in respect of all the movable and immovable assets of the CD has been deliberately

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overlooked/ignored in the present case without any rational basis/logic for the said discrimination.

7. It is submitted that the Applicant granted a loan of Rs. 50 crores to Hind Agro Industries Limited ("Corporate Debtor/CD") on the terms and conditions contained in the Loan Agreement dated 22.06.2015 entered between the CD and the Applicant ("Loan Agreement") for shoring up of working capital and refinancing of existing loans. For the said loan the CD, inter alia, created second pari-passu charge on all the movable and immovable fixed assets of the CD in favour of the Applicant vide a Deed of Hypothecation dated 29.06.2015.
8. It is further submitted that the Applicant filed its FORM C dated 22.03.2023, as a secured financial creditor, along with the supporting documents including the documents pertaining to charge of the Applicant IFCI, in the CIRP of the CD wherein the Applicant filed its claim amount to the tune of Rs. 1,17,69,38,600.56 The Applicant in its FORM C specifically mentioned that the subject loan amount was secured by way of second pari-passu charge of the Applicant on all the movables and immovables fixed assets of the CD.
9. Further, as averred the Applicant has submitted requisite documentation in respect of the charge held by the Applicant on the movable and immovable assets of the CD. Among other securities, a property situated at G-21,

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Maharani Bagh, New Delhi was also exclusively mortgaged to the Applicant by one AI-Mashriq Exports Pvt. Ltd in its capacity of the Corporate Guarantor of the Corporate Debtor. The said property has been sold by the Applicant under the provisions of SARFAESI Act (Section 13(5A)) vide sale certificate dated 28.02.2020 for Rs. 40.51 crores).

10. It is submitted that pursuant to claim verification and admission process, the claim of the Applicant was admitted to the tune of Rs.117.69 crores as a secured financial creditor of the CD. Thereafter, the CoC of the CD was constituted wherein among other lenders the Applicant was a secured financial creditor.
11. The Applicant submits that in so far as the other lenders are concerned, the loan advanced to the CD was through the consortium of all the remaining lenders namely PNB, BOB, CBI and that in connection with this loan amount, the other CoC members had a first charge on the Aligarh Unit of the CD, excluding Sikandar Rao property. During the course of the CIRP, a separate Joint Lenders' Meeting ("JLM") comprising of the other CoC members came to be held to internally deliberate and decide upon the distribution of funds among the secured creditors/lenders/financial creditor excluding the Applicant. The Applicant became aware of the final decision of the other lenders on the distribution mechanism only during the 31st CoC Meeting and during the previous such JLM, a draft sharing pattern was

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shared with the Applicant, however, the Applicant became aware of the impugned distribution manner only during the 31st CoC meeting.

12. It is submitted that during the course of CIRP of the CD, various JLMs were held between the CoC members for various purposes, including for discussing the mode/manner of distribution of monies between the CoC members. In this regard, advance notices were issued to all CoC members to participate, including to the Applicant. In fact, the Applicant also participated in these JLMs. However, in so far as the JLM is concerned where the distribution mechanism (under question in the instant application) was decided by the other CoC members, no advance notice/intimation was provided to the Applicant by the other CoC members. It is in this JLM that a decision was arrived at to the detriment of the Applicant.
13. It is submitted that the assets of the CD were categorised into charged and uncharged categories and as per the valuation carried out by the Resolution Professional, the average Fair Valuation of the CD was Rs. 100.79 crores and average Liquidation Value was Rs. 87.28 crores, excluding the FD of Rs. 37.03 crore (made out of GCC compensation). The liquidation value of the uncharged assets, specifically, the land parcels located in Sikandra Rao was approximately Rs. 6.64 crores. Additionally, an amount of Rs. 37.03 crores from the Short-Term Deposit, received from the Greater Chennai

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Corporation ("GCC") and available until April 2025, was proposed to be utilized by the Financial Creditors in addition to the valuation and settlement amount.

14. It is submitted that the resolution plan submitted by one M/s G.S.W. Enterprises Private Limited ("GSW") provided for a distribution based on voting share, however the final distribution was left on the discretion of COC. The total financial outlay provided under the resolution plan for the secured financial creditors was Rs. 130.53 crores (comprising of Total settlement amount: Rs. 93.50 crores; and GCC compensation: Rs. 37.03 crores). As submitted, the Resolution Plan provided for a non-discriminatory manner of distribution among the secured financial creditors. The distribution manner proposed under Clause 5(b) of the resolution plan is given below:

S. No.	Name of the Financial Creditor	Voting Percentage	Total Settlement (in crores)	Out of GCC Compensation (In crores)	Total amount (In crores)
1.	Bank of Baroda	28.29%	25.1	10.48	35.58
2.	Punjab National Bank	37.65%	33.41	13.94	47.35
3.	India Bank	14.94%	13.08	5.5	18.61
4.	Central Bank of India	6.66%	5.5	2.47	7.97
5.	IFCI Ltd	12.46%	11.41	4.61	16.02
	Total	100%	88.5	37.03	125.53

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15. It is submitted that the liquidation value of the uncharged assets was purposed to be distributed among all five COC members (including the Applicant). However, the remaining values obtained (through the other secured assets of the CD over which there was a first charge of the other lenders and second charge of the Applicant) under the Resolution Plan was proposed to be distributed among the other lenders only, excluding the Applicant, in light of the Applicant's "second charge status".
16. It is submitted that the Applicant has been provided its share as per the voting percentage only on the value of the uncharged assets of the CD, whereas, on the charged movable and immovable assets of the CD, the Applicant was provided with "nil" amount.
17. The Applicant's entitlement/share from the total amount allocated to the financial creditors of the CD based on the charged movable and immovables assets of the CD (which have a liquidation value at Rs. 124.31 crores including FD of Rs. 37.03 crore) has been completely ignored/overlooked, despite the Applicant being a secured financial creditor.
18. It is submitted that during the 31st CoC meeting held on 29.05.2025, the RP commenced the discussion on the proposed distribution pattern (as tabulated above) and the Applicant raised various objections to the distribution pattern pre-determined by the other lenders members.

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19. In the 31st COC Meeting the resolution for manner distribution of the amounts already decided by the other lenders were put up for voting. Inter alia, the following resolutions were placed for voting during the 31st COC Meeting:

"RESOLVED THAT Committee of Creditors (CoC) hereby approved the resolution plan received from RA-M/s G. S. W Enterprises Private Limited in the matter of Mis Hind Agro Industries Limited.

RESOLVED FURTHER THAT as decided by the PNB, BoB, IB and CBo/, the amount to be distributed as per the following distribution pattern subject to change as per the actual figures:

Banks	Admitted Claim	% Share in CoC	Distribution of Liquidation value of uncharged land of CD	Admitted Claim	Revised share % in CoC	Distribution of Balance (93.50+37.03 -6.64)	Total Distribution
PNB	355.79	37.65	2.50	355.79	43.01	53.29	55.79
BOB	267.29	28.29	1.88	267.29	32.31	40.03	41.91
IB	141.20	14.94	0.99	141.20	17.07	21.15	22.14
CBI	62.97	6.66	0.44	62.97	7.61	9.43	9.87
IFCI	117.69	12.46	6.64				0.83
	944.94	100.00	6.64	827.25	100.00	123.89	130.53

RESOLVED FURTHER THAT, the Resolution Professional be and is hereby authorized to issue the Letter of Intent as per the terms of RFRP after the approval of resolution plan by AA to RA-Mis G. S. W Enterprises Private Limited.

RESOLVED FURTHER THAT, the Resolution Professional be and is hereby authorised to submit the Resolution Plan approved by the members of the committee before the Adjudicating Authority."

20. The e-voting on the resolutions was concluded on 26.06.2025 and the Applicant (having 12.46% of share in CoC) abstained from voting on the resolutions. The resolutions, including the manner of distribution of the

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proceeds under the resolution plan were approved with majority by the other CoC members (comprising of 87.54% of the CoC).

21. It is submitted that the resolution pertaining to the manner of distribution which has been approved as per the minutes of the 31st CoC Meeting has been unilaterally decided by the other lenders, excluding the Applicant. The Applicant is aggrieved by the manner in which the other members of the CoC have unilaterally decided upon and put up the resolution for distribution manner for voting without any rationale, basis or plausible explanation for the sub-classification carried out (against the Applicant).

Reply on behalf of the Respondent / Resolution professional.

22. The Respondent Resolution Professional ('RP') has filed a reply in response to the aforesaid application wherein the following averments have been made: -

- i. It is submitted that the IFCI Ltd. (Applicant herein) being one of the financial creditors filed its claim of Rs.117,69,38,601/- on 22nd March, 2023 which was duly acknowledged by the RP and informed to the Applicant vide email dated 30th March, 2023.
- ii. It is submitted that in the 30th CoC meeting, the Committee of Creditors deliberated on the agenda, with particular focus on the proposed distribution of funds in the resolution plan amount among the creditors, noting that IFCI Ltd. holds a second pari-passu charge on movable and immovable fixed assets of the Corporate Debtor, rather than a primary charge. It is further submitted that the RP also clarified that under the Code, no distinction has been made between

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exclusive charge, first charge and second charge, and therefore he is not in a position to comment on this aspect.

- iii.** Further, as submitted that the Resolution Professional further stated that, as per the terms of the Resolution Plan, the CoC may determine or revise the distribution in accordance with the powers granted under Section 30(4) of the Code. Hence, any revision in the distribution is at the discretion of the CoC.
- iv.** As per the RP, after detailed discussions, the CoC members mutually agreed to adjourn the meeting to a later date to allow time for an internal joint lenders' meeting to be held, during which they would further deliberate and arrive at a consensus on the distribution of the resolution amount.
- v.** As submitted, thereafter, on 29.05.2025 in the 31st CoC meeting, discussion took place on the distribution pattern and during the discussion the representative of IFCI raised certain objections and requested the RP to share his views on the proposed distribution pattern, to which as submitted, the RP responded that he would refrain from commenting.
- vi.** It is further submitted that during deliberations on the Resolution Plan, the representatives of Central Bank of India (CBoI) and Indian Bank sought clarification from IFCI regarding the present value of recoveries made by them under the SARFAESI Act, with a view to assessing equitable treatment among all financial creditors. In response, as submitted, the IFCI representative explained that the present value of such recoveries could not be ascertained, as the amount is recorded in IFCI's books at cost,

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amounting to approximately Rs. 40.5 crores and remains outside the purview of this account.

- vii.** Following this, the representative of Central Bank of India observed that, in that case, it should also be recognized that IFCI was also having security with first and exclusive charge in their favour on certain assets which they have already realized for Rs. 40.5 crore, and that, and no recoveries have been made by the other CoC members after the classification of the Corporate Debtor's account as a Non-Performing Asset (NPA). Further, the representative of IFCI stated that, in light of their concerns, they would not be in a position to vote in favour of the Resolution Plan. The RP acknowledged their position, stating that it is within IFCI's prerogative to take such a decision.
- viii.** Hence, it is submitted that the distribution pattern, as assailed by the Applicant/IFCI Ltd. has been duly discussed and deliberated upon in different CoC meetings with the CoC members and that the Resolution Professional has acted in accordance with the provisions of the Code. As averred, the decision to approve the plan and the distribution pattern therein is a commercial decision of the CoC and the RP has merely facilitated the process.

Reply on behalf of the Respondent No. 2/CoC

23. In compliance thereof, the Committee of Creditors ('CoC') filed a reply and made the following submissions:

- a.** It is submitted that the Applicant challenges the commercial decision of the Committee of Creditors of Hind Agro Industries Ltd (hereinafter referred to as "CoC") regarding approval and distribution under a resolution plan, which are matters falling

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squarely within the CoC's domain and outside judicial review except on limited grounds under Section 30(2) of the Code.

- b.** It is submitted that once a resolution plan is approved by the CoC under Section 30(4) of the Code, the Adjudicating Authority's scrutiny is confined to statutory compliance and re-appreciation of commercial wisdom is impermissible as held in *K. Sashidhar v. Indian Overseas Bank* (2019) 12 SCC 150 and *CoC of Essar Steel India Ltd. v. Satish Kumar Gupta* (2020) 8 SCC 531.
- c.** It is further submitted that the Applicant IFCI voluntarily abstained from voting on the resolution plan despite full participation in the CoC and that the Applicant cannot now impeach the majority decision (Ref: *Jaypee Kensington v. NBCC (India) Ltd.*, 2021 SCC OnLine SC 253).
- d.** As submitted, the approved resolution plan satisfies Section 30(2) of the Code and Regulations 37 to 39 of the CIRP Regulations, and the dissenting/abstaining creditors receive not less than their liquidation entitlement. Hence, as stated, there is no violation of Section 30(2)(b) or Regulation 38(1)(b).
- e.** It is submitted that the Applicant was afforded complete opportunity to voice its objections on the distribution pattern, which were duly recorded in the minutes of the 31st CoC meeting. Thereafter, the matter was put to e-voting, and the plan, together with the distribution mechanism, was approved with an overwhelming majority of 87.54% voting share, far above the statutory threshold under Section 30(4) of the Code.
- f.** It is denied that the CoC created any arbitrary sub-classification. The differentiation in distribution arises from distinct charge rankings among secured creditors. IFCI holds a second-pari-passu

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charge, whereas other lenders have first charge security on the Aligarh Unit—the principal value generating asset. As stated, distribution therefore reflects legal priority, not discrimination.

- g.** As submitted, it was noted that the Applicant IFCI had already realised more than its principal outstanding by disposing exclusive third-party security charged with it. The minutes of JLM dated 28.05.2025 also note that the Applicant IFCI was 2nd Charge holder on plant and machinery only outside the consortium lending, that is why the consortium lenders took a decision that only liquidation value of uncharged security of the Corporate Debtor shall be offered to IFCI and balance amount of the Resolution Plan including the FDR will be distributed among the consortium lenders. It is submitted that the Applicant IFCI had already realised more than its principal outstanding by disposing exclusive third-party security charged with it.
- h.** As regards the distribution of the compensation amount received from the Greater Chennai Corporation (GCC) to the tune of approximately Rs. 37 crores, it is submitted that Punjab National Bank had exclusively financed the setting up of the plant/Modern Slaughterhouse of the Corporate Debtor in Chennai for which a term loan of Rs. 18.50 crores was granted to the Corporate Debtor and as security for the finance of the Chennai Project, 1st Charge by way of hypothecation/mortgage of project assets i.e. land and building, plant and machinery, fixture and furniture etc. pertaining to the Chennai project had been created in favour of the Punjab National Bank. The compensation amount received from the Greater Chennai Corporation (GCC) to the tune of approximately

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Rs. 37 crores as stated in the Application is in relation to the said Chennai project.

- i. It is submitted that the differentiation in distribution arises solely from the ranking of security interests, a legitimate and legally recognised basis for apportionment under the Code. Reliance has been placed on the judgment of the Hon'ble Supreme Court in *Essar Steel India Ltd. v. Satish Kumar Gupta* [(2020) 8 SCC 531] wherein it has been clarified that “equitable treatment” does not mean equal payout, and creditors within the same broad class may be treated differently if there exists a rational basis, such as security priority or realisability of assets. Hence, as per the Respondents, the Applicant’s argument of “discrimination” is wholly untenable.
- j. It is submitted that the CoC has evaluated multiple parameters: security coverage, asset valuation, and realizable value before approving the distribution and that such evaluation is quintessentially commercial.
- k. It is also submitted that the distribution formula which was based on asset-specific security coverage adopted by the CoC and priority of charge under law, was the outcome of detailed commercial deliberations, as recorded in the 31st CoC meeting minutes wherein each lender’s admitted claim, security coverage, and expected recovery under liquidation were discussed before finalising the matrix.
- l. It is submitted that the allegation that IFCI’s charge position has been misrepresented is false and misleading. The records, including the common security documents and Form-C submissions, establish that IFCI holds a second charge on the same pool of

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assets. This is accurately reflected in the Information Memorandum and the Resolution Plan placed before the CoC.

- m. It is averred that IFCI was a member of all CoC meetings, received agendas and minutes, and had opportunity to raise objections. Its claim of exclusion from a Joint Lenders' Meeting has no basis as JLM was held between the consortium lenders and the Applicant IFCI was admittedly outside consortium lending; even otherwise, internal deliberations among lenders do not vitiate CoC resolutions.
- n. As submitted, the Applicant's share of Rs. 0.83 crore represents its liquidation entitlement from uncharged assets of the Corporate Debtor which satisfies the statutory minimum requirement. The Hon'ble Supreme Court in *India Resurgence ARC v. Amit Metalics Ltd.* [(2021) 7 SCC 474] held that a dissenting secured creditor is entitled only to the liquidation value and cannot claim equal or higher payout than majority creditors.
- o. Lastly it is submitted that the instant application is misconceived, and Section 60(5) cannot be used to challenge the merits of a CoC-approved Resolution Plan.

Rejoinder on behalf of the Applicant

- 24. The Applicant filed rejoinder and also filed additional notes in compliance with the order dated 08.05.2026, which have been taken on record and not reproduced herein for the sake of brevity.

Written Submissions

- 25. The Respondent No. 1/RP filed written submissions which have been taken on record and not reproduced herein for the sake of brevity. The

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Respondent No. 2/CoC also filed written submissions and made the following submissions:

- a. It is submitted that IFCI seeks to portray the approved distribution mechanism as "discriminatory", while deliberately ignoring the settled position under IBC that creditors with different security positions are not similarly situated; inter-se distribution amongst secured financial creditors may validly consider charge ranking, value of underlying security, and realisable security interest; and dissenting/abstaining creditors are only entitled to the statutory minimum contemplated under Section 30(2)(b) read with Regulation 38.
- b. It is submitted that IFCI's principal submission is fundamentally flawed because it wrongly assumes that all secured creditors constitute one homogenous class for all purposes irrespective of security ranking.
- c. It is submitted that IFCI has deliberately suppressed that the liquidation value attributable to the Aligarh charged assets was substantially exhausted by the claims of first-charge lenders themselves and IFCI's second-charge rights could arise only after satisfaction of superior secured interests.
- d. As stated, the decision in *Technology Development Board v. Anil Goel* arose in a liquidation context involving relinquishment under Sections 52 and 53 of the IBC. The said decision does not lay down any universal proposition prohibiting CoC from considering security ranking while approving a resolution plan.
- e. It is submitted that the IFCI incorrectly attempts to characterize the GCC compensation amount as an entirely unsecured and free-floating asset as the compensation arose directly out of the project financed by PNB and was therefore commercially linked to the underlying secured lending. As stated, the GCC amount formed part of the overall commercial settlement considered by CoC, and allocation thereof falls squarely within CoC's commercial domain.

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26. During the course of hearing on 10.12.2025 the Ld. Counsel representing the CoC members submitted that the banking institutions are ready to give an undertaking to the effect that amount would be refunded to the extent if at all so ordered for the purpose of redistribution, the relevant excerpts from the order dated 10.12.2025 are as follows:

“3. Ld. Counsel representing the CoC has fairly stated that all the financial/ banking institutions are ready to give an undertaking subject to the outcome of the application i.e. IA No.588/2025, they would be in a position to give undertaking to the effect that the amount would be refunded to the extent, if at all so ordered for the purpose of redistribution amongst all the creditors including the IFCI Ltd. accordingly.

4. Ld. Counsel representing the Applicant also fairly states that subject to what the undertakings may be furnished by the financial institutions, he would be taking instructions from the financial creditor to that effect.”

27. In compliance thereof the Secured Financial Creditors (Banks) furnished an undertaking filed on 12.12.2025 and submitted as follows:

“That we have no objection to the acceptance and approval of the Resolution Plan submitted in IA (Plan) No. 8 of 2025, subject to the directions of this Hon’ble Tribunal. That we further undertake to raise no objection if the distribution pattern amongst the Financial Creditors under the approved Resolution Plan is made subject to the final outcome of IA No. 588 of 2025 filed by IFCI Ltd.

That in the event IFCI Ltd. succeeds in IA No. 588 of 2025, we undertake to refund the excess amount, if any, received by us under the Resolution Plan, to IFCI Ltd., in accordance with the directions of this Hon’ble Tribunal.

That the above undertaking shall not be construed as any waiver of our right to appeal against any order passed in the IA No. 588 of 2025 being a statutory right of appeal under the I&B Code.”

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FINDINGS AND ORDER

- 28.** We have heard the Ld. Counsels of both the parties and perused the documents and materials submitted on record. The limited issue for consideration before us is whether the distribution mechanism approved by the Committee of Creditors in the 31st CoC Meeting dated 27.06.2025, whereby the Applicant-IFCI Ltd. has been allocated only Rs.0.83 Crores against the claim admitted for an amount of Rs. 117.69 Crores, out of the total distributable amount, is consistent with the provisions and scheme of the Code.
- 29.** At the outset, it is not disputed that the Applicant is an admitted secured financial creditor of the Corporate Debtor with an admitted claim of Rs.117.69 Crores. It is also not in dispute that the Applicant holds a second pari-passu charge over the movable and immovable assets of the Corporate Debtor. The other members of the CoC admittedly hold first charge over substantial assets of the Corporate Debtor.
- 30.** The principal contention of the CoC is that the Applicant, being a second-charge holder, is not similarly situated to the consortium lenders holding first charge and therefore the CoC was justified in allocating substantially the entire distributable value amongst the first-charge lenders while restricting the Applicant substantially to the liquidation value of the uncharged Sikandra Rao land only.

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31. The question, therefore, is whether such distinction finds support under the framework of the Code. While it is well settled that the commercial wisdom of the CoC is ordinarily non-justiciable, it is equally settled that such commercial wisdom must operate within the confines of the Code and cannot be exercised in a manner contrary to its statutory scheme.
32. We find that the Applicant and the other members of the CoC constitute a single class of creditors, namely secured financial creditors. The distinction sought to be drawn by the CoC is not between secured and unsecured creditors but amongst secured financial creditors themselves on the basis of inter se charge ranking.
33. Section 53 of the Code, which lays down the provisions regarding distribution of value amongst stakeholders, places secured creditors who have relinquished their security interests in the same category. The provision does not create separate tiers amongst secured creditors based upon first charge, second charge or subordinate charge. Likewise, the provisions governing resolution under the Code do not expressly recognise a separate class of first-charge secured financial creditors distinct from second-charge secured financial creditors for the purpose of distribution under a resolution plan. Any such distinction sought to be drawn will therefore, create an artificial classification within the same set of claimants.

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34. It is true that the Hon'ble Supreme Court in *CoC of Essar Steel India Ltd. v. Satish Kumar Gupta* (2020) 8 SCC 531 has recognised that equitable treatment does not necessarily mean equal payment. However, differential treatment must be founded upon an intelligible and legit sustainable basis.
35. In the present case, the impugned distribution mechanism allocates substantial amount out of the total distributable amount exclusively amongst four lenders while excluding the Applicant from participation in the value realised from the charged assets of the Corporate Debtor. The Applicant has been allotted only Rs.0.83 Crores representing its share from the uncharged assets of the Corporate Debtor.
36. Significantly, no material has been placed before this Adjudicating Authority demonstrating that the value of the charged assets would stand entirely exhausted upon satisfaction of the claims of the first-charge lenders so as to completely extinguish any economic value attributable to the Applicant's admitted second-charge security interest. The impugned distribution, therefore, appears to proceed on the assumption that the Applicant is not entitled to participate at all in the distribution of value derived from the charged assets, notwithstanding its admitted status as a secured financial creditor.
37. We further find merit in the Applicant's contention regarding the treatment accorded to the GCC compensation amount. The said amount formed part

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of the assets available during CIRP and constituted a component of the overall distributable pool. Except for a general assertion that the compensation related to a project financed by Punjab National Bank, no cogent basis has been demonstrated on record to justify exclusion of the Applicant from participation therein, particularly when the amount ultimately stood vested in and formed part of the assets of the Corporate Debtor available for resolution.

- 38.** The CoC has also sought to justify the distribution by relying upon the independent recovery of approximately Rs.40.51 Crores made by the Applicant through enforcement of third-party security. In our considered view, such recovery cannot by itself furnish a legal basis to deny the Applicant participation in the distribution of value under the resolution plan as the same has been a process outside of the CIRP throughout. The Code does not contemplate exclusion of a secured financial creditor from resolution proceeds merely because such creditor has independently enforced separate security available to it.
- 39.** Accordingly, the resolution approving the distribution mechanism as contained in the 31st CoC Meeting dated 27.06.2025, to the extent it provides for distribution amongst the financial creditors, cannot be approved as the same would not abide by the explicit provisions of the

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Code. The approval of the Resolution Plan submitted by the Successful Resolution Applicant shall not be affected by the present order.

40. The CoC is therefore, directed to reconsider and re-determine the inter se distribution of the amounts payable to the secured financial creditors in accordance with the provisions of the Code, keeping in view the principles underlying Section 53. In view of the undertaking furnished by the secured financial creditors on 12.12.2025, consequential adjustments and redistribution of the resolution proceeds shall thereafter be carried out, including with respect to the entitlement of the Applicant, IFCI Ltd and all other claimants to the extent of their respective voting share.
41. Accordingly, the present application, I.A. No. 588 of 2025 is hereby disposed of.

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(Ashish Verma)
Member (Technical)

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(Praveen Gupta)
Member (Judicial)

Date: 11.06.2026