



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

IA No.722/2025 IN CP (IB) No.04/ALD/2019

*(An application filed under Section 60(5) of the Insolvency and Bankruptcy Code
R/w Rule 11 of the NCLT Rules, 2016).*

IN THE MATTER OF:

M/S MODERN OVERSEAS PRIVATE LIMITED

Registered Office At: 11027 Idgah Road,
Motia Khan, New Delhi-110055.

.....Applicant

Versus

1. MR. PARAMJEET SINGH BHATIA

(Resolution Professional)
C/O ARCK Resolution Professionals LLP
409, 4th Floor, Ansal Bhawan
16 KG Marg Connaught Place
NEW DELHI 110001

Also At: - C-39, Surya Nagar, Ghaziabad,
Uttar Pradesh-201011
Email: hindagroinsolvency2023@gmail.com

.....Respondent No.1/ RP

2. M/S G.S.W. ENTERPRISES PRIVATE LIMITED

Add: A-24, Sector-II, Tala Nagri, Ramghat Road
Aligarh, Uttar Pradesh 202001

.....Respondent No.2

3. PUNJAB NATIONAL BANK

1st Floor, 7, Bhikaji Cama Place
New Delhi-110066
Email: zs8343@pnb.co.in

.....Respondent No.3

4. BANK OF BARODA

Sam Branch, 4th Floor,
Rajendrabhawan, Rajendra Place,

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New Delhi-110008
Email: samdel@bankofbaroda.com

.....Respondent No.4

5. IFCI LIMITED

IFCI Tower, 61, Nehru Place
New Delhi-110019
Email: pooja.singla@ifcilt.com
Emmanuel.joseph@ifcilt.com
Kanwaljit.singh@ifcilt.com, nclt.ifci@ifcilt.com

.....Respondent No.5

6. INDIAN BANK

First Floor, 17, Parliament Street
Connaught Place, Delhi-110001
Email: armbdelhi@indianbank.co.in

.....Respondent No.6

7. CENTRAL BANK OF INDIA

Stressed Asset Management Branch
5, Jeevan Tara Building
Parliament Street, New Delhi-110001
Email: samdelhi@centralbank.co.in

.....Respondent No.7

AND IN THE MATTER OF:

BANK OF BARODA

.....Applicant/ FC

Versus

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)

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Appearances:

Sh. Brijesh Kumar Tamber with Sh. Prateek Kushwaha, Sh. Dhimaan Dutta, Advs. : For the Applicant in IA No.722/2025
Sh. Shubham Agarwal, Adv. : For the Res. No.1/RP
Sh. Tanmay Sadh, Adv. : For the Res. No.2/SRA

ORDER

1. This present application is filed on 25.10.2025, by M/s Modern Overseas Private Limited (hereinafter referred as “Applicant”) under section 60(5) of the Insolvency and Bankruptcy Code, 2016 (“IBC/Code”) read with Rule 11 of National Company Law Tribunal Rules, 2016 against the Resolution Professional (hereinafter referred as “Respondent No.1/RP”) of M/s Hind Agro Industries Limited i.e., Corporate Debtor and GSW Enterprises Private Limited (hereinafter referred as “Respondent No.2/SRA”). The Applicant inter alia seeks the following prayers:

“a) Dismiss the I.A. No. 08 of 2025 filed by the Resolution Professional for seeking approval of the resolution plan of GSW Entreprises Pvt. Ltd.;

b) Direct the Resolution Professional to admit the claim of the Modern Overseas Private Limited for an amount of Rs. 241.29 Crores being an Operational Creditor;

c) Direct the Resolution Professional to reconstitute the CoC and give notice to the Operational Creditor in terms of Section 24 (3) (c) of the Insolvency and Bankruptcy Code, 2016;

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d) Direct the Resolution Professional to conduct the valuation of all the assets of the Corporate Debtor in accordance with Regulation 35 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 including of the amount of compensation received from Greater Chennai Corporation;

e) Direct the Resolution Professional to take all the steps for the recovery of amount of Rs. 59 Crores from Greater Chennai Corporation so that the same can also be included in the assets of the Corporate Debtor for determination of fair and liquidation value of the corporate debtor;

f) Direct the IBBI to take appropriate disciplinary action against the Resolution Professional for conducting the Corporate Insolvency Resolution Process against the Regulations specified by the Insolvency and Bankruptcy Board of India; and

g) Pass such other order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.”

2. The brief facts as submitted by the Applicant are as follows:

- a.** Upon initiation of the CIRP vide order dated 03.03.2023, the Respondent No.1/RP issued Public Announcement, wherein the Applicant filed a claim to the tune of Rs. 29,21,20,250/- in Form-B, which was admitted by the Respondent No.1/RP. However, after the admission of the claim, the Applicant modified their claim for an amount of Rs. 241.29 crore in terms of interest prescribed under the Micro Small Medium Enterprise Development Act, 2006 (hereinafter referred to as “MSME Act”).

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- b.** Thereafter, the above revised claim was kept pending by the Respondent No.1/RP and only vide an email dated 19.02.2025 the Applicant was informed to approach this Tribunal for seeking modification in his claim.
- c.** Meanwhile, the resolution process of the Corporate Debtor was undergoing wherein the resolution plan submitted by Respondent No.2/SRA along with other PRAs was placed before the Committee sCoC. Upon detailed consideration of plans, the CoC subsequently approved the plan submitted by Respondent No.2/SRA in its 31st meeting held on 28.05.2025 and 29.05.2025.
- d.** Consequently, the Applicant further objects to the approved resolution submitted by Respondent No.2/SRA on the grounds as follows:
- i.** The CIRP process of the Corporate Debtor suffers from various material irregularities and subsequently the approved resolution plan is also not in accordance with the provisions of the Code, especially including Section 29A , Section 30(2)(e).
 - ii.** The Resolution plan has been drafted with the sole intent to take over the Corporate Debtor and to defraud the creditors of the Corporate Debtor.
 - iii.** The Respondent No.2/SRA is ineligible to submit a Resolution Plan as he does not meet the eligibility criteria of minimum net worth of Rs. 25 crores and is engaged in other business activities further making him ineligible to submit the Resolution plan.

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- iv. The financial viability of the Resolution plan has also been in doubt and alleges that no proper explanation as to the source of funds is provided under the Resolution plan. Applicant further alleges that the Respondent No.2/SRA is circulating Letter of Intent (“LOI”) in the market for selling the units of the Corporate Debtor, to raise funds for the settlement of creditors of the Corporate Debtor.
 - v. The Applicant further alleges that Respondent No.1/RP has given preference to the Respondent No.2/SRA by disclosing confidential information beforehand, including the liquidation value of the Corporate Debtor.
 - vi. The approved resolution plan does not provide for payment of CIRP costs, and it is considered as NIL, which is in gross violation of Section 30(1)(a) of the Code. The Applicant also submits that the performance bank guarantee submitted by the Respondent No.2/SRA is not in the format given by the Respondent No.1/RP.
3. The Applicant also alleges that the Respondent No.1/RP is involved in unfair trade practices and is not acting in the true letter and spirit in the best interests of the Corporate Debtor, and is taking advantage of the trust reposed in him by the CoC. The Applicant further alleges that complete details of the assets have not been disclosed by the Resolution Professional in the Information Memorandum.

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4. The Applicant lastly objects to the conduct of the Respondent No.1/RP with regard to keeping his revised claim pending, thereby curtailing his legal right to receive value in terms of Section 30(2) of the Code. The Applicant further submits that the CoC has not been constituted in a fair manner by not including the modified claim of the Applicant.

REPLY OF RESPONDENT NO.1

5. Respondent No.1 /RP, in its reply filed vide diary no. 58 dated 07.01.2026, denies all the allegation made in the present application and submits that:

- a. Respondent No.1/ RP contends that the Applicant has no locus to challenge the Resolution plan which has been duly approved by applying the commercial wisdom of the COC. In support of his contention, the Respondent No.1/ RP has placed reliance on the judgment of the Hon'ble Supreme Court in *Committee of Creditors of Essar Steel India Ltd. vs. Satish Kumar Gupta and ors.* (2020) 8 SCC 531, wherein the commercial wisdom of COC was reaffirmed as non-justiciable and cannot be reopened at the behest of any creditors, including Operational Creditor.
- b. Respondent No.1/ RP further contends that Applicant has not challenged his decision of not accepting its revised, claim submitted for almost 21 months and initial admission of the Applicant's claim. Thus, the Applicant is now making a belated attempt to reagitate a stale claim, and is an abuse of the process of law.

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- c. With regard to the denial of the Applicant's modified claim, the Respondent No.1/ RP submits that the modified claim of the applicant could not be admitted in terms of Regulation 14(2) of the CIRP Regulation as the applicant failed to furnish the additional information, clarification and supporting documents to him. In support of his objection, Respondent No.1/ RP has placed reliance on the judgement of Hon'ble NCLAT in the case of *M/s Vedic Projects Pvt. Ltd. vs Shri Sutanu Sinha, Resolution Professional (Company Appeal (AT)(Insolvency) No. 1927 of 2024)* relevant excerpts have been reproduced as follows:

“10. With regard to claim under the MSME, the Adjudicating Authority has observed that NCLT is not appropriate Forum to consider the issue pertaining to the interest, claimed by the Appellant under Section 16 of the MSMED Act. The RP has admitted the entire principal amount, which was due to the Corporate Debtor and admission of principal amount of Rs. 10,36,47,148/- is not under dispute. The RP has to consider the claim and verify the claim as per the claim submitted by an Operational Creditor. The Sub-contract Agreement and other materials, which have been submitted by Appellant, were examined and RP could admit the claim only to the principal amount. There being no clause in the Agreement to include the interest on the delayed payment, we do not find any error in the order of the Adjudicating Authority, refusing to accept the claim of the Appellant towards interest on the operational debt, which was claimed by the Appellant.”

- d. Respondent/RP denies the contention of the Applicant that he is the third largest creditor, as his admitted claim was much below

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10% of the total debt and consequently no right of representation was conferred upon them under section 24(3)(c) of the Code.

- e. The Respondent No.1/ RP further submits that the alleged revised claim of the Applicant was received much after the period prescribed under regulation 12(2) of the CIRP Regulations and after the verification of claims had been completed.
- e. The Respondent No.1/RP vehemently submits that the present application is not maintainable as the COC has already approved the resolution plan by a majority vote of 87.54%.
- f. Concerning irregularities in the conduct of CIRP, Respondent No.1/ RP submits that he conducted the entire CIRP in accordance with the Code and its Regulations framed thereunder. All key documents including Request For Resolution Plan (“RFRP”), evaluation of plans and COC deliberations were conducted transparently and in consultation with the COC. Thereafter, all the statutory compliances under section 30(2) of the Code read with Regulation 37 and 38 of the CIRP regulation were also verified by the him before the plan was placed, evaluated and approved by the requisite majority of COC under section 30(4) of the Code.
- g. As regards the maintainability of this application, Respondent No.1/ RP contends that the present application is not maintainable as the powers of this Tribunal under section 60(5) of the Code are limited and cannot be used to entertain every grievance or challenge raised by the Operational Creditor including a challenge to the commercial wisdom of COC. In support of his contention Respondent No.1/ RP has relied on the

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judgment of Hon'ble Supreme Court in *Gujarat Urja Vikas Nigam Ltd. vs Amit Gupta(2021) 7 SCC 209* .

- h.** With regard to the eligibility of the Respondent No.2/SRA in terms of Section 29A of the code, Respondent No.1/ RP submits that Respondent No.2/ SRA was found to be duly eligible and compliant in terms of documents submitted under Regulations 36A(8) of the CIRP Regulations. Respondent/RP further submits that SRA need not be from the same business line and no such restriction has either been imposed by Code or RFRP.
- i.** With respect to financial Viability and source of funds, Respondent No.1/RP submits that such allegations regarding non-disclosure or uncertainty are baseless. Respondent No.1/ RP submits that the Respondent No.2/SRA has furnished a fund infusion plan, term sheet and financial commitments in compliance with Regulation 39(1) and the same was approved by a COC after duly examination under Regulation 39(3).
- j.** Respondent No. 1/RP denies the allegations of favouritism, preference, and unfair practices. It is submitted that the Respondent No.2/SRA had submitted its Expression of Interest within the prescribed period and was included in the final list of Prospective Resolution Applicants (PRAs) in terms of Regulation 36A(10). It is further submitted that all actions undertaken by him were duly approved by the CoC and that the Resolution Plan clearly provides for and prioritises payment of CIRP costs in accordance with Section 30(2) of the Code, which were separately defined and segregated in the financial matrix of the Plan.

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- k. With regard to the allegations of non-disclosure of assets and the issuance of the LOI, Respondent No. 1/RP submits that all material particulars relating to the assets of the Corporate Debtor, including the compensation receivable from the Greater Chennai Corporation, were duly disclosed in the Information Memorandum as a contingent asset. It is further submitted that the allegations concerning the LOI and any purported attempt to sell the Corporate Debtor outside the insolvency proceedings are vague, unsubstantiated, and beyond the purview of the Respondent No.1/ RP.

REPLY OF RESPONDENT NO.2

6. Respondent No.2 / SRA has filed his reply dated 15.11.2025, in which it denies the contentions raised by the Applicant and submits the following:
- a. Respondent No. 2/SRA submits, at the outset, that the present application filed by the Applicant is not maintainable in law, as the Applicant has no right to object to the approval of the Resolution Plan. It is further submitted that the revised claim made by the Applicant is wholly baseless and misconceived, and that the Applicant slept over his rights and belatedly filed his claim after the approval of the Resolution Plan.
 - b. Respondent No. 2/SRA further submits that the Applicant has obtained confidential documents, including the Resolution Plans and sanction ticket relied upon in the present application, through unfair and illegal means, and therefore the application is liable to be dismissed. It is further submitted that the Resolution Plan is in conformity with the provisions of the Code and that the present

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application has been filed merely with a view to derail the approval of the Resolution Plan.

7. In compliance with order dated 08.05.2026, all the parties have filed their respective written submissions. The same has been taken on record and not repeated herein for the sake of brevity.

FINDINGS AND ORDER

8. We have heard the learned counsel for the Applicant and the Respondents and have perused the pleadings, documents, replies, and written submissions placed on record. The limited issues that arise for consideration are: (i) whether the Resolution Professional was required to admit the modified claim filed by the Applicant after the prescribed period; and (ii) whether the Applicant has the locus standi to challenge the Resolution Plan approved by the CoC.
9. From the record, it is evident that the Applicant had initially submitted its claim on 22.03.2023 pursuant to the public announcement, which was duly verified and admitted by the RP on 30.03.2023. Subsequently, the Applicant sought to revise its claim by enhancing the same from Rs. 29.21 crore to Rs. 241.29 crore, by submitting modified claim form on 14.12.2024, primarily on account of interest claimed under the provisions of the MSME Act. The said revised claim was submitted after a

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substantial lapse of time of 561 days and long after completion of the claim verification process undertaken during the CIRP.

10. We find merit in the contention of the RP that the revised claim was filed at a highly belated stage. The Insolvency and Bankruptcy Code contemplates a time-bound resolution process and does not permit reopening of the claims process at the instance of a creditor who seeks to substantially alter its claim after completion of verification and collation of claims. Entertaining such claims at an advanced stage of the CIRP would defeat the very objective of timely resolution envisaged under the Code.

11. We further find that the additional amount sought to be claimed by the Applicant pertains to interest allegedly payable under the MSME Act. The claim towards such interest was neither adjudicated nor crystallised by any competent forum prior to commencement of the CIRP. The RP, while performing his statutory duties under the Code, is only required to receive, verify and collate claims. The Resolution Professional is not vested with adjudicatory powers to determine disputed liabilities or to quantify claims requiring adjudication. Therefore, the Resolution Professional could not have mechanically admitted the enhanced claim

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merely because the Applicant asserted entitlement to interest under the MSMED Act.

12. We are also of the considered view that this Tribunal, while exercising jurisdiction under the Code, cannot adjudicate upon the applicability, computation, or entitlement of interest under the MSME Act. Such issues fall within the domain of the competent forum empowered under the relevant statute. In the absence of any prior adjudication or crystallisation of the alleged interest liability, neither the RP nor this Tribunal can determine the same within the CIRP framework. Therefore, once the revised claim itself is found to be belated and based upon an unadjudicated interest component, the consequential reliefs sought by the Applicant cannot survive.
13. As regards the challenge to the approved Resolution Plan, we find that the Applicant lacks the necessary locus to challenge the commercial decisions taken by the CoC. The Resolution Plan has already been approved by the requisite majority of the CoC, having 87.54% of voting share in favour, after due consideration.
14. In view of the foregoing discussion, we find that the only relief to which the Applicant was entitled to be considered by us is the acceptance/rejection of the modified claim, which, as per the records

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available, is hopelessly barred and is primarily founded upon an unadjudicated claim for interest under the MSME Act, which could neither have been determined by the RP nor by this Tribunal in the present proceedings.

15. Accordingly, the present application, I.A. No. 722 of 2025 is hereby dismissed.

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**(Ashish Verma)
Member (Technical)**

Date: 11.06.2026

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**(Praveen Gupta)
Member (Judicial)**