

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

1. IA/2411/2025 C.P. (IB)/1154(MB)2023

IN THE MATTER OF

Immix Trade Private Limited

Vs

Sunrise Properties Pvt Ltd

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 25.06.2026

CORAM:

MS. LAKSHMI GURUNG
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the RP: Adv. Rakesh Gupta (VC)

For the Respondent:

ORDER

IA/2411/2025: - The above IA is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
//ZAKIR//

Sd/-
LAKSHMI GURUNG
Member (Judicial)

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, COURT – V

IA 2411 of 2025 in CP (IB) 1154 of 2023

Order under Section 60(5) of the
Insolvency and Bankruptcy Code, 2016

Mr. Shouvik Kumar Roy

**Resolution Professional of Sunrise
Properties Private Limited**

Having address at:

106, 1st Floor, Kanakia Atrium 2, Cross
Road A, Behind Courtyard Marriott,
Chakala, Andheri East, Mumbai – 400 093

... Applicant/RP

Versus

Swan Finance Limited

Having Registered Office at:

802, NRK Business Park, Vijaynagar,
Square, A B Road, Indore, Madhya
Pradesh - 452010

...Respondent No. 1

Mr. Harishankar Khandelwal

Having Office at:

802, NRK Business Park, Vijaynagar,
Square, A B Road, Indore, Madhya
Pradesh - 452010

...Respondent No. 2

Indira Securities Private Limited

**Depository Participant of Central
Depository Services (I) Ltd**

Having Office At:

204, Amar Darshan Building, 3rd Floor,
28/2 Old Palasia, Anand Bazar Road,
Indore, Madhya Pradesh – 452018

...Respondent No. 3

In the Matter of:

Immix Trade Private Limited

...Operational Creditor

Versus

Sunrise Properties Private Limited

...Corporate Debtor

Order Pronounced on: 25.06.2026

Coram:

Ms. Lakshmi Gurung

Member (J)

Sh. Charanjeet Singh Gulati,

Member (T)

Appearances:

For the Applicant : Adv. Dhruvad Vaghani a/w Adv. Gayatri
Mohite, Adv. Ashwath Reddy i/b
Anchorstone Legal (PH)

For the Respondent : Adv. Ashwini Chindarkar i/b Asahi Legal
(VC) (R1 & R2)

ORDER

1. The present Interlocutory Application has been filed by the Applicant, Mr. Shouvik Kumar Roy, the Resolution Professional (“RP”) of Sunrise Properties Private limited (“Corporate Debtor”) under Section 60(5) and Section 74 of the Insolvency and Bankruptcy Code, 2016 (“Code”) read

with Rule 11 of the NCLT Rules, 2016 (“NCLT Rules”) seeking the following reliefs:

- a. *This Hon’ble Tribunal be pleased to declare that the invocation of the Pledged Securities by Respondents under the Loan Agreement dated 4th October 2024 executed between the Corporate Debtor and Respondent No. 1, as illegal, null and void;*
- b. *This Hon’ble Tribunal be pleased to pass an order restraining the Respondents from selling, transferring alienating, or in any manner creating any third party rights or interest in respect of the Pledged Securities under the Loan Agreement dated 04th October 2024 executed between the Corporate Debtor and Respondent No. 1; and*
- c. *This Hon’ble Tribunal be pleased to direct the Respondents to disclose on oath the current status and complete particulars of the Pledged Securities;*
- d. *This Hon’ble Tribunal be pleased to direct restoration of status quo ante as on the date of commencement of the Corporate Insolvency Resolution Process of the Corporate Debtor with respect to the Pledged Securities, and for that purpose, to pass such further or consequential orders as may be deemed just and proper;*
- e. *This Hon’ble Tribunal be pleased to hold that Respondent Nos 1 and 2 have knowingly and wilfully contravened the provisions of the moratorium under Section 14 of the Code, 2016 and impose fine as stipulated under Section 74 of the Code;*
- f. *This Hon’ble Tribunal be pleased to hold that Respondent No. 2 has knowingly and wilfully contravened the provisions of the moratorium under Section 14 of the Code, 2016, and initiate penal proceedings under Section 74 of the Code*

g. This Hon'ble Tribunal be pleased to pass such other or further order(s) and/or directions as this Hon'ble Tribunal deems fit in the interest of justice.

Brief Facts of the Case

2. On 04.10.2024, the Corporate Debtor and Respondent No. 1 entered into Loan cum Pledge Agreement pursuant to which Respondent No. 1 agreed to disburse a sum of Rs. 3,00,00,000/- to the Corporate Debtor. To secure the Repayment, the Corporate Debtor pledged 3,62,000 equity shares of Flexituff Ventures International Limited having an aggregate value of Rs 3,22,18,000/- (“**Pledged Securities**”), in favour of Respondent No. 1.
3. This Tribunal, Vide Order dated 24.10.2024 initiated the Corporate Insolvency Resolution Process (“**CIRP**”) of the Corporate Debtor and imposed a moratorium under Section 14 of the IBC, 2016, prohibiting inter alia, any action to foreclose, recover, or enforce any security interest created by the Corporate Debtor in respect of its property.
4. On 26.10.2024, Applicant issued a Public Announcement in Form A, inviting claims from stakeholders of the Corporate Debtor on or before 07.11.2024.
5. The Applicant was appointed as the interim resolution professional, and was subsequently confirmed as the Resolution Professional by the Committee of Creditors (“**CoC**”) in its first meeting held on 22.11.2024.
6. Respondent No. 1 submitted its claim before the RP in Form C dated 08.02.2025 claiming Rs. 3,00,00,000/- together with interest @24% per annum, which claim was received by the RP on 14.02.2025. The claim was

belated and well beyond the deadline of 07.11.2024 as mentioned in Public Announcement in Form A.

7. The Applicant sent an email to Respondent No. 1 on 21.02.2025 requesting to furnish several documents for verification of its claim. In response to which Respondent No. 1 provided certain documents on 07.03.2025 and 11.04.2025.
8. During the subsistence of the moratorium on 20.05.2025, the Applicant received an email from Respondent No. 3 informing him that the Pledged Securities had been “debited” from the demat account of the CD.
9. On 22.05.2025, the Applicant issued a Letter to Respondent No. 1 and 2 calling upon them to:
 - a. Forthwith reverse the unlawful invocation of the Pledged Securities within 3 days;
 - b. Refrain from selling, transferring or creating any third-party interest in respect of the pledged securities and
 - c. Forthwith disclose the current status and particulars of the pledged securities
10. Respondent No. 2 being director of Respondent No. 1 vide Reply dated 27.05.2025 failed to address the issue of unlawful invocation and instead raised an objection regarding non-representation in the CoC, seeking 2 weeks’ time to furnish a detailed response.
11. Respondent No. 1 vide letter dated 02.06.2025 offered to reverse the transfer of shares subject to conditions, including the admission of its claim and its inclusion in the CoC.

Submissions of the Applicant

12. Pursuant to the Insolvency Commencement Order dated 24.10.2024, a moratorium under Section 14 of the Code was declared, prohibiting, inter alia, any action to foreclose, recover, or enforce any security interest created by the Corporate Debtor in respect of its property, and that the said moratorium continues to subsist as on date.

13. It is submitted that the pledge created by the Corporate Debtor in favour of Respondent No. 1 under the Loan Agreement dated 04.10.2024 being an arrangement whereby the Corporate Debtor conferred upon Respondent No. 1 a right over its property to secure repayment of the loan constitutes a security interest within the meaning of Section 14(1)(c) of the Code, the enforcement or invocation of which during the subsistence of moratorium is expressly barred by the said provision.

14. The term "security interest" is defined under Section 3(31) of the Code to include any right, title, or interest of any kind, including a pledge, created in favour of a secured creditor, and that the pledge created by the Corporate Debtor in favour of Respondent No. 1 under the Loan Agreement dated 04.10.2024 falls squarely within this definition.

15. Respondent No. 1 submitted its claim before the Applicant in Form C dated 08.02.2025 (Exhibit-B), which was received by the Applicant on 14.02.2025 after the last date prescribed in the public announcement i.e. 07.11.2024.

16. Applicant submits that by submitting the said Form C, Respondent No. 1 has unequivocally acknowledged the subsistence of the moratorium under Section 14 of the Code in the CIRP of the Corporate Debtor, as on 14.02.2025 which is over three months prior to the date of invocation.

17. It is further submitted that the invocation of the Pledged Securities by Respondent No. 1 evidenced by the email dated 20.05.2025 issued by Respondent No. 3 (Exhibit-D) took place during the subsistence of the moratorium, and is accordingly ex facie illegal, void ab initio, and non-est in law and amounts to a wilful breach of the moratorium and undermines the integrity of the CIRP.
18. Applicant submits that the conduct of Respondent Nos. 1 and 2 in invoking the pledge despite such knowledge attracts penal consequences under Section 74(1) of the Code, which provides that any person who knowingly and wilfully contravenes the provisions of the moratorium shall be punishable with imprisonment for a term extending up to five years, or with fine of not less than Rs. 1,00,000/- extending up to Rs. 1,00,00,000/-, or with both.
19. The Applicant by letter dated 22.05.2025 (Exhibit-E), called upon Respondent No. 1 to not take corrective steps and reverse the invocation of the Pledged Securities within three days of receipt of the letter to refrain from selling, transferring, or otherwise dealing with the Pledged Securities, and also to disclose the current status and particulars thereof.
20. Applicant submits that Respondent No. 2, by reply dated 27.05.2025 (Exhibit-F), sought further two weeks to furnish a detailed response, without reversing or rectifying the invocation, which conduct is submitted to demonstrate not only absence of bona fides but also to avoid reversing of the unlawful, illegal and arbitrary invocation of Pledge Securities.
21. Applicant submits that Respondent No. 2, as Managing Director of Respondent No. 1, was under a fiduciary and statutory duty to ensure

compliance with the moratorium under Section 14 of the Code, and that his failure to do so renders him personally liable for the consequences arising from such contravention of Section 14 of the Code.

22. The Applicant filed an Affidavit of Rejoinder dated 10.10.2025 to the Reply of Respondent Nos. 1 and 2. It is noted that the said Rejoinder substantially reiterates the submissions already recorded in above paragraphs namely, the subsistence of the moratorium under Section 14 of the Code, the timeline of invocation of the Pledged Securities on 20.05.2025, and the denial of the Answering Respondents' contentions in the Reply.

23. Additionally, the Applicant contended that the Answering Respondents' specific plea that invocation of the Pledged Securities was a "mechanical consequence of a pre-CIRP event" is contrary to the admitted factual position, since the documents on record establish that the invocation occurred only on 20.05.2025, well after the insolvency commencement date of 24.10.2024, and that the said plea is accordingly an afterthought.

24. It is further submitted that, having itself sought to participate in the CIRP by filing its claim, Respondent No. 1 is estopped from resorting to unilateral enforcement of security in violation of Section 14 of the Code, and that, by virtue of the overriding effect of Section 238 of the Code, the terms of the Loan-cum-Pledge Agreement dated 04.10.2024 must yield to the statutory moratorium.

25. The Applicant also filed an Additional Affidavit dated 10.10.2025 for the limited purpose of placing on record certain correspondence exchanged between the parties during the verification of Respondent No. 1's claim,

contending that the same was necessary to demonstrate the absence of bona fides on the part of the Answering Respondents.

26. It is submitted that it was on account of the invocation of pledged shares that the Applicant was constrained to file the present Application, and that such invocation is illegal, void ab initio, and unsustainable in law.

Reply of the Respondent No. 1 and 2

27. The Respondent No. 1 and Respondent No. 2 (hereinafter referred to as “Answering Respondents”) filed their joint reply dated 28.07.2025 wherein it is submitted that the relationship between the Corporate Debtor and the Respondents was not one of equity shareholding or directorship but that of lender and borrower arising from a Loan-cum-Pledge Agreement dated 04.10.2024, pursuant to which 3,62,000 shares of Flexituff Ventures International Limited were pledged by the Corporate Debtor as security for the loan facility extended.

28. Answering Respondents further submit that, upon default by the Corporate Debtor, the pledge was invoked and the said shares were transferred to the demat account of Swan Finance Limited on 20.05.2025. It is contended that this transfer was not in violation of the moratorium. The transfer was a mechanical consequence of pre-CIRP invocation of pledge, and the shares have not been sold, alienated or enforced in breach of the moratorium under Section 14 of the Code. It was emphasised that the shares continue to be held by the Respondent No. 1 solely in its capacity as pledgee, and have at no point been sold or otherwise disposed of to any third party.

29. It is contended by the Answering Respondents that on the one hand, the Applicant in its application is admitting to the fact that the respondents are

Financial Creditors and on the other hand, is not admitting the claim in the CIRP, which has been filed on 08.02.2025 that is pending verification since last 5 months. In the meanwhile, the CIRP has been allegedly concluded by the illegal Committee of Creditors and an application for liquidation has been allegedly filed by the Applicant. The admission of claim of Respondent No. 1 as financial creditor will have direct impact on the CoC formation and all the decisions taken by the earlier CoC shall be invalid and unenforceable.

30. Reliance is placed on the Letter dated 02.06.2025 addressed by the Respondent No. 1 to the Resolution Professional, whereby the Respondents offered:

- a. To reinstate the pledge arrangement as it stood on the insolvency commencement date i.e. 24.10.2024, by executing a fresh pledge form;
- b. To reverse the transfer of shares from their demat account to that of the Corporate Debtor; and
- c. To have the present application withdrawn upon confirmation of such reversal.

31. The Answering Respondent submit that there has been no interference with the assets of the Corporate Debtor and there is no extinguishment of the Corporate Debtor's rights. The shares are intact and unencumbered except for the pledge and remain available to the CIRP estate.

32. It is further submitted that the instant application filed by the Applicant is premature since the Answering Respondent have never denied or refused reversal of the pledged shares as it existed on the date of the same i.e. 20.05.2025. Furthermore, the application has become infructuous in view of the subsequent correspondence dated 02.06.2025, whereby the

Respondent no. 1 has categorically agreed for the reversal of the pledged shares by creating fresh pledge.

33.It is submitted that no element of mala-fide intent, wilful default, or unlawful gain attributable to the Answering Respondents is made out on the record and that, consequently, no case for invocation of Section 74 of the Code is established. It was urged that the conduct of the Answering Respondents has throughout been bona fide and consistent with cooperation in the CIRP Process.

34.It is submitted that the reliefs sought by the Applicant are not warranted in light of the above facts, and should be dismissed.

Analysis and Findings

35.We have heard the learned counsel for both the parties and perused the pleadings, documents, and correspondence placed on record.

36.It is the case of the Applicant that the invocation of the Pledged Securities by Respondent No. 1 took place on 20.05.2025, after the commencement of CIRP and imposition of moratorium on 24.10.2024, and is accordingly illegal, void and in breach of Section 14(1)(c) of the Code, warranting restoration of status quo ante together with action under Section 74 of the Code.

37.Per Contra, it is the case of the Respondents that the invocation was a mechanical consequence of pre-CIRP event, that the Pledged Securities have at no point been sold or alienated to any third party and continue to be held by Respondent No. 1 solely as pledgee, and that the Respondents have shown bona fide willingness to reverse the transfer and reinstate the pledge rendering the Application infructuous.

38. At the outset, we note that the fact regarding Securities, being 3,62,000 equity shares of Flexituff Ventures International Limited, pledged by the Corporate Debtor in favour of Respondent No. 1 under the Loan-cum-Pledge Agreement dated 04.10.2024, is not in dispute. It is also an admitted fact that the Pledged Securities continue, as on date, lie in the demat account of Respondent No. 1 and have admittedly not been sold, transferred, or otherwise alienated to any third party.

39. This Tribunal, by order dated 24.10.2024, admitted the Company Petition and declared a moratorium under Section 14 of the Code. The Respondent No. 1 was aware of the subsistence of the moratorium under Section 14 of the Code which is evident from Respondent No. 1's own conduct in filing its claim in Form C dated 08.02.2025 in the CIRP of the Corporate Debtor. Also, it is evident from a fact recorded by this Tribunal in its order(s) dated 09.06.2025, the relevant portion is reproduced below:

Ld. Counsel for the RP also submitted that during the interim period they should be protected and in respect of the shares no third-party right should be created. Ld. Counsel for the Respondent No.1 has no objection to it. However, we note that a letter dated 02.06.2025 has been tendered by Ld. Counsel for the Applicant herein. It is signed by the director of the Respondent No.1 wherein, it has been noted as under:

“It may be noted that the shares have not been sold by us to any third party to comply with the moratorium conditions.”

Accordingly, we note that the Respondent No.1 is aware of the moratorium and is willing to comply with it and as such no further directions are required to be given by this Court.

40. The consequence of moratorium under Section 14 of the Code can be better appreciated by referring to Section 14 which stipulates as follows:

14. Moratorium

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: -

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;

*(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the **Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002)**;*

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

(Bold for Emphasis)

41. On a plain reading of Clause (c) of Section 14(i) of the Code, it is clear that even when a security interest has been created by the Corporate debtor in respect of its property, any action to foreclose, recover or enforce such security interest during the subsistence of moratorium is prohibited.

42. The invocation of pledge and transfer of the Pledged Securities to the demat account of Respondent No. 1 on 20.05.2025 after imposition of the moratorium on 24.10.2024 was an act of enforcement of that security interest and falls squarely within the bar imposed by Section 14(1)(c) of the Code as the contractual right of invocation available to Respondent No. 1 under the Loan-cum Pledge Agreement does not override the Statutory Bar under Section 14 of the Code.

43. In view of facts and circumstances and the discussion hereinabove we find that Prayer Clause (d), seeking restoration of status quo ante, in respect of pledged shares as it existed on 24.10.2024 is liable to be granted and therefore, Respondents No. 1 to 3 are directed to transfer Pledged Securities of 3,62,000 equity shares of Flexituff Ventures International Limited to the demat account of the Corporate Debtor. Respondents Nos. 1 to 3 are further directed to ensure transfer of the Pledged Securities to the demat account of the Corporate Debtor within **15 days** of this order. Prayer (d) is allowed accordingly. The reliefs sought under Prayer (a), (b) and (c) stand subsumed in grant of prayer clause (d) and therefore do not warrant separate consideration.

44. As regards prayers (e) and (f), seeking imposition of costs and initiation of proceedings under Section 74 of the Code, we note that Respondent has stated that the Pledged Securities have at no point been sold, in order to comply with the moratorium. Respondent No. 1 in his reply dated 28.07.2025 has also expressed its willingness to reverse the transfer and restore the pledge arrangement. In these circumstances, we are of the considered view that no case is made out for imposition of cost under Section 74 of the Code. Prayers (e) and (f) are accordingly rejected.

45. Accordingly. IA 2411 of 2025 is **partly allowed** and **disposed** of in the above terms.

Sd/-

CHARANJEET SINGH GULATI

Hon'ble Member (T)

/Smeet Talati, LRA/

Sd/-

LAKSHMI GURUNG

Hon'ble Member (J)