IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT- IV

I.A. No.3289 of 2024
In
C.P (IB) No. 3402 of 2019
[Under Section 60 (5) Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016]

<u>In the matter of</u>

M/s. Hinganghat Infrastructure Private Limited

…Applicant

Vs.

Mr. Jagdish Kumar
(Resolution Professional of Deegee Orchard Private Limited)

…Respondent No. 1

Committee of Creditors of Deegee Orchards Private Limited

…Respondent No. 2

Insolvency and Bankruptcy Board of India

…Respondent No. 3

<u>In the matter of</u>

UCO Bank

…Financial Creditor

Vs.

Deegee Orchards Private Limited

…Corporate debtor

Pronounced: 14.07.2026

CORAM:

SHRI ANIL RAJ CHELLAN	**SHRI K. R. SAJI KUMAR**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Appearance : Hybrid

For the Applicant: Adv. Nausher Kohli a/w Adv. Abdullah Qureshi.

For the Respondent: Adv. Bilal Ali

For UCO Bank: Adv. Prakash Shinde a/w Ruchita Jain.

ORDER

1. The present application has been filed by Hinganghat Infrastructure Private Limited (Applicant) under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (IBC/Code) read with Rule 11 of the National Company Law Tribunal Rules, 2016 (NCLT Rules) seeking the following reliefs:

   i. *"To direct Respondent No.1 & 2 to refund the PMD amount of INR 5 Lakhs and EMD amount of INR 25 Lakhs paid for the purpose of the Resolution Plan to the Applicant along with interest at the rate of 12% thereon for the delay.*

   ii. *To direct IBBI/Respondent No.3 to investigate the conduct of the Respondent No.1 and the manner in which the Respondent No.1 has conducted the CIRP Process in the present circumstance;*

   iii. *To direct IBBI/Respondent No.3 to take appropriate actions against the Respondent No.1 given the breach of duties committed by the Respondent No.1 in the present circumstance;*

   iv. *To take actions against Respondents for non-compliance for rules and regulations led down in the Code;*

v. *To pass such further orders and other reliefs as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case;."*

2. **Brief Facts**

2.1 The Corporate Insolvency Resolution Process (CIRP) in respect of Deegee Orchards Private Limited (Corporate Debtor) was initiated on 03.03.2023 in Company Petition No. 3402 of 2019 filed by UCO Bank under Section 7 of the Code. The Respondent No.1 was appointed as the Interim Resolution Professional and subsequently as the Resolution Professional (RP) of the Corporate Debtor.

2.2 The Respondent No.1 issued Expression of Interest (EoI) on 28.09.2023 in *Navshakti* (Marathi) and *Free Press Journal* (English), specifying 13.10.2023 as the last date for submission. The Applicant submitted the EoI by email dated 12.10.2023, followed by the dispatch of hard copies and the submission of the Participation Money Deposit (PMD) amounting to Rs. 5 Lakh through banking channels, as per the Request for Resolution Plan (RFRP). The Respondent No. 1, *vide* email dated 26.10.2023, informed the Applicant that its name has been included in the final list of Prospective Resolution Applicants (PRAs). The Applicant was also provided with the Evaluation Matrix, RFRP, and Information Memorandum by Respondent No. 1 by email dated 27.10.2023.

2.3 The Applicant submitted its Resolution Plan on 26.11.2023 within the period specified for submission of the Resolution Plan and transferred to the account of the Corporate Debtor the Earnest Money Deposit (EMD) amount of Rs. 25 Lakhs vide RTGS dated 26.11.2023. Thereafter, the Applicant and Respondent No. 1 exchanged emails regarding certain queries raised and clarifications given by the Respondent No. 1.

2.4 Further, the Respondent No.1 *vide* email dated 27.12.2023, requested the Applicant to submit the hard copy of the final Resolution Plan (with final improved Resolution Plan amount) in terms of observation shared and discussed in the Committee of Creditors (CoC) meeting, on or before 30.12.2023 at 7:00 pm. The Applicant was informed that if no revised Resolution Plan is submitted, the already submitted Resolution Plan would be placed before the CoC. In response to the email, the Applicant first emailed a password-protected copy of its final Resolution Plan on 30.12.2023 and subsequently couriered a copy to Respondent No 1 on the same day. In another email, the Applicant requested the Respondent No.1 to open both the electronic and hard copies in front of the CoC and only in their presence.

2.5 On 02.01.2024, the Respondent No.1 requested the Applicant to provide an undertaking confirming the submission of the final and revised plan to ensure that a fair opportunity to revise and submit a compliant Resolution Plan was given to each PRA. The Respondent No.1 further informed that he is in the process of evaluating the Resolution Plans and ensuring their compliance. In this regard, the Respondent No. 1 requested that the Applicant share the password by the end of the next day. It was further stated that if the Applicant failed to provide the password for the Resolution Plan, the same would not be provided to the CoC or put before the CoC for approval.

2.6 While the Applicant had never shared the password, the Respondent No.1 went ahead and proceeded with opening the physical copy submitted by the Applicant. Aggrieved by this Act, the Applicant filed IA.No.437/2024 seeking a direction to scrap the entire CIRP of the Corporate Debtor and direct the Respondent No.1 to issue fresh Form G as per the provisions of the Code. This Tribunal, *vide* order dated 08.02.2024, directed the Respondent No. 1 to call for fresh bids from all PRAs and table the same before the CoC for taking a considered decision on the Plan.

2.7 Aggrieved by the order dated 08.02.2024, another PRA (i.e., Shrinivas Spintex Pvt Ltd.) preferred an appeal before the Hon’ble NCLAT. The Hon’ble NCLAT, *vide* order dated 22.02.2024, set aside the order and permitted the Respondent Nos. 1 and 2 to take further steps in the CIRP in accordance with law.

2.8 The Respondent No. 1 and 2 proceeded with the voting on the Resolution Plan, and finally, the Resolution Plan submitted by the SRA was approved by this Tribunal by order dated 16.05.2024.

2.9 The Applicant, *vide* email dated 02.05.2024, requested Respondent No. 1 to refund the PMD and EMD deposited in the bank account of the Corporate Debtor along with interest at 12% per annum for the delay period from 15.04.2024. The Applicant followed up on its request vide emails dated 08.05.2024; 10.05.2024; 11.05.2024; 13.05.2024; and 14.05.2024.

2.10 After multiple reminder emails, the Respondent No. 1 by email dated 21.05.2024 informed that the 15th meeting of the CoC decided to file an IA before the NCLT to seek directions on the forfeiture of the PMD/EMD and a resolution was passed by the CoC in this regard. Subsequently, Respondent No.1 filed IA.No.4996/2024 for seeking direction to forfeit the EMD and PMD amount. This Tribunal, *vide* order dated 21.10.2024, did not interfere with the CoC's decision to forfeit the said amounts.

2.11 The Applicant preferred this application seeking refund of the amounts deposited by him along with EoI and Resolution Plan.

3. **<u>Submissions of Applicant</u>**

3.1 The Applicant submits that the action of the Respondent No.1 in requesting the submission of the final Resolution Plan and hard copy/courier was in breach of the ‘Procedure of Submission of Plans’ as envisaged by the RFRP of the Corporate Debtor. Further, the Respondent No. 1 ignored the Applicant's request to open both the electronic and hard copies of the Resolution Plan in the presence of Respondent No. 2 and the Applicant.

3.2 The Applicant states that the Respondent No.1 has not acted in a fair manner as per Section 208(2) of the Code and the duties enlisted in Clause 13 of the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016. The Applicant submits that Respondent No.3 needs to take disciplinary action against Respondent No.1 and also investigate the conduct of Respondent No.1 based on the written complaint lodged by the Applicant. However, no action has yet been taken, and no reply to the complaint has been received by the Applicant.

3.3 As per Clause 7 of the RFRP, the Applicant is entitled to receive the refund of PMD and EMD deposited in the Bank account of the Corporate Debtor after the rejection of the Resolution Plan submitted by it. Further, as per regulation 36B (4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 (CIRP Regulations), the RFRP shall not require any non-refundable deposit for submission of or along with the Resolution Plan. It also provides that any such deposit taken at the time of submission of the Resolution Plan from the PRAs must be refunded if their Resolution Plan is not approved. Thus, the act of Respondent No. 1 in failing to refund the EMD furnished at the time of submission of the Resolution Plan is in contravention of the CIRP Regulations.

4. **<u>Submissions of Respondent No.1</u>**

4.1 The Respondent No.1 submitted its affidavit in reply dated 11.03.2025. While denying the allegations made against him, the Respondent No.1 states that the Resolution Plan in respect of the Corporate Debtor was approved by the Tribunal by order dated 03.03.2023, and the office of the Resolution Professional has become functus officio. The approved Resolution Plan of the Corporate Debtor was also successfully implemented on 14.11.2024. The Respondent No.1 states that the Applicant had participated in the CIRP of the Corporate Debtor and had created havoc in the process due to which an IA bearing No. 4996/2024 was filed in the capacity as RP of the Corporate Debtor for seeking a forfeiture of PMD/EMD deposited by the Applicant for the reason that in the garb of participating in the CIRP of the Corporate Debtor as PRA by submitting a Resolution plan, the Applicant was working at the clear behest of the ex-management of the Corporate Debtor. The Applicant had committed numerous acts to derail and obstruct the CIRP of the Corporate Debtor and to force the Corporate Debtor into liquidation. Further, the Applicant has hidden their family relationship with the ex-management of the Corporate Debtor and have also obtained orders by misrepresenting the factual and legal position from this Tribunal and have levelled numerous unfounded allegations against the Respondent Nos. 1 and 2 thereby forcing them to unnecessary litigation which have resulted in increased litigation as well as CIRP cost, amongst other reasons, due to which the Respondent No.2 had decided to move application IA.No.4996/2024 for seeking permission of forfeiting the PMD/EMD deposited in the capacity of PRA.

4.2 The CoC at its 15th meeting held on 15.05.2024 resolved to forfeit the amount deposited by the Applicant on account of its deceitful and mala fide conduct, and that the amount be distributed amongst CoC members according to their voting share. The said I.A. No. 4996/2024 was disposed of by this Tribunal on 21.10.2024, holding that this Tribunal has no jurisdiction to interfere with the commercial decision of the CoC. Accordingly, the Monitoring Committee, at its 3rd meeting held on 14.11.2024, distributed the forfeited amount among the CoC members. The Respondent No.1 submits that the act of forfeiture, as well as the distribution of PMD/EMD, by and between members of the CoC, was duly communicated to the Applicant through email dated 14.11.2024.

4.3 The Respondent No. 1 submits that the forfeiture and distribution of EMD / PMD falls within the exclusive jurisdiction of the members of the CoC and the same cannot be challenged in the present Application.

5. **Submissions of Respondent No.2**

5.1 The Respondent No.2 filed its reply dated 11.08.2025 denying all the allegations submitted by the Applicant. In addition to the contentions raised by the Respondent No. 1, the Respondent No. 2 submits that Clause 18 of the RFRP provides for the forfeiture of PMD/EMD in the event the PRA engages in unethical and fraudulent practices. Therefore, the forfeiture of PMD/EMD is in accordance with the provisions of the RFRP.

5.2 The Respondent No.2 further submits that the Applicant was using the premises of the Corporate Debtor from May 2014 till Feb,2023 i.e., eight years and ten months. The Applicant was contesting and defending the litigation for eviction from the premises with one of the Corporate Debtor's creditors. However, the Applicant neither disclosed the relationship with the Corporate Debtor during the CIRP nor when submitting the Resolution Plan for the Corporate Debtor. Since the Applicant has suppressed the true and material facts and documents from the CoC and this Tribunal, the present Application is liable to be dismissed.

6. **Analysis and Findings**

6.1 We have heard the Ld. Counsel appearing for the parties and perused the documents placed on record.

6.2 It is an admitted fact that the Applicant is one of the PRAs in the CIRP of the Corporate Debtor and has deposited the PMD of Rs. 5 Lakh and EMD of Rs.25 Lakh on 12.10.2023 and 26.11.2023, respectively, in accordance with the provisions of the RFRP. The Respondent No. 1, *vide* email dated 27.12.2023, advised the Applicant that the hard copy of the final Resolution Plan, including the final improved resolution plan amount, would be provided on or before 30.12.2023 at 7.00 pm. In response to the email, the Applicant submitted a password-protected copy of its final Resolution Plan on 30.12.2023 and also couriered a physical copy on the same day. The Applicant also requested the Respondent No.1 to open both the electronic copy and the hard copy in front of CoC and in their presence only. Although the Applicant had never provided the password, the Applicant proceeded to open the physical copy submitted. Aggrieved by this Act, the Applicant filed IA.No.437/2024 seeking a direction to scrap the entire CIRP of the Corporate Debtor and direct the Respondent No.1 to issue fresh Form G as per the provisions of the Code. This Tribunal, *vide* order dated 08.02.2024, directed the Respondent No. 1 to call for fresh bids from all PRAs and table the same before the CoC for taking a considered decision on the Plan. Another PRA preferred an appeal before the Hon'ble NCLAT against the said order, and the order dated 08.02.2024 was set aside on 22.02.2024, thereby allowing the Respondents to take further steps in the CIRP. The appeal preferred against the order of the Hon’ble NCLAT was also dismissed by the Hon’ble Supreme Court on 15.03.2024. Against this background, Respondents 1 and 2 proceeded to vote on the resolution plans and approved a resolution plan submitted by another PRA. The Resolution Plan has also been approved by this Tribunal *vide* order dated 16.05.2024 and is now fully implemented.

6.3 The Applicant contends that the Respondent No.1 requested the submission of the final Resolution Plan both in electronic form and hard copy by courier, which is in breach of the Procedure of Submission of Plans set out in the RFRP of the Corporate Debtor. Further, despite the specific request to open both the electronic and hard copies of the Resolution Plan in the presence of Respondent No.2/CoC and the Applicant, Respondent No.1 proceeded on the basis of the hard copy, thereby acting unfairly.

6.4 In order to consider this contention, it is necessary to notice the procedure set out in the RFRP. Clause 4 of the RFRP, i.e. *“Procedure of Submission of Resolution Plans,”* provides as under:

> *“Resolution Plan accompanied by undertakings, information, documents and records shall be submitted to the resolution professional electronically in accordance with Regulation 39 of CIRP Regulations along with Earnest money Deposit of Rs. 25 lakhs. Password protected*

resolution Plan along with supporting documents shall be e mailed to the following- E Mail given below:

E mail ID: Deegee.orchards@truproinsolvency.com

Prospective Resolution ***Applicants shall also submit printed set of Resolution Plan and supporting documents in original in sealed cover envelope to the Resolution Professional. The envelope should be superscribed as Resolution Plan for Deegee Orchards Private Limited The delivery address for hand delivery or dispatched through speed/registered post is as follows:***

Mr. Jagdish Kumar, Resolution Professional, Deegee Orchards Private Limited, GS-2, CSIDC Commercial Complex, Raipura Chowk, Raipur -492001*.*

Prospective Resolution Applicants are required to submit resolution plan to resolution professional/Committee of Creditors before the last date notified for submission of Resolution Plan. Resolution Plan along with supporting documents should be emailed before the last date notified for submission of resolution plan. ***It should be followed by dispatch of printed document to the delivery address within next working day. The dispatch of print documents within next working day from the last date notified for submission of resolution plan will be considered as timely submission of the Resolution Plan.****"* (Emphasis added)

6.5 Thus, it is clear that the direction to the Applicant to submit the hard/printed copies (sealed) after sending the password-protected electronic version of the Resolution Plan is in accordance with the RFRP. As regards the procedure followed by the Respondent No.1 in opening the Resolution Plan submitted by the Applicant, it is observed that the same was raised by the Applicant in I.A 437 of 2024. On appeal against the order passed by this Tribunal, the Hon'ble NCLAT vide order dated 22.02.2024 held that:

"9. Regulation 39 of the CIRP Regulations, 2016 also requires the Resolution Professional to look into the Resolution Plan submitted by the Applicants and to place the plan before CoC which is in compliance with Section 30(2). ***The opening of Resolution Plan by Resolution Professional is essential for further process in the CIRP. The Resolution Professional without opening the plan cannot come to any opinion whether the plan is complaint to Section 30(2) or not. There is no regulation or law which provide that the Resolution Professional should open the plan in presence of CoC and PRAs. Learned counsel for the Respondent No.1 has been unable to show any provision of law which require that the Resolution Professional shall open the plan in presence of CoC and PRAs.***

10. It is further submitted by the Appellant that in the application the Applicant has not disclosed the fact that voting has commenced on 03.01.2024 and the application was fiIed only on 02.02.2024.

11. We are of the view that order passed by the Adjudicating Authority is unsustainable. In result, Appeal is allowed. Order dated 08.02.2024 is set aside. It will be open for the Resolution Professional and the CoC to take further steps in the CIRP, in accordance with law."

(Emphasis added)

6.6 The aforesaid order of the Hon'ble NCLAT has attained finality on account of the rejection of the appeal preferred by the Applicant before the Hon'ble Supreme Court. In the circumstances, it is evident that the Applicant is only re-agitating the same issue which has attained finality and hence deserves to be rejected. Further, the Applicant has failed to demonstrate that the Respondent No.1 has acted unfairly by the *suo motu* opening of the Resolution Plan.

6.7 This brings us to the issue as regards the refund of the PMD amount of Rs.5 Lakh and the EMD amount of Rs.25 Lakh deposited by the Applicant. The Applicant contends that since the rejection of its Resolution Plan, the

Applicant is a non-successful Resolution Applicant, thus is entitled to receive the refund of its EMD & PMD amount as per Clause 7 (d) of the RFRP, which says:

"7… (d) Earnest Money Deposit will be refunded to non-successful Resolution Applicants within one month of rejection of the Resolution Plan by Committee of Creditors."

6.8 Further, the Applicant has relied on Regulation 36B(4) of the CIRP Regulations, which provides that the request for resolution plans shall not require any non-refundable deposit for submission of or along with the Resolution Plan. The Ld. Counsel for the Applicant also placed reliance on the judgement passed by the Co-ordinate Bench of NCLT at Chennai in *Jayaram Chowdhary v. V. Venkata Sivakumar (IA 829/IB/2020, IA 275/CHE/2021 in CP/1307/IB/2018) along with Company Appeal (AT) (CH) (INS.) No. 326/2026); and the judgement of NCLT, Ahmedabad in Shree Yash Stainless Private Limited v. Mr. Udayraj Patwardhan RP of Nami Steel Private Limited & Anr. (IA 348/(AHM) 2024 in CP (IB) 236 (AHM) 2021).*

6.9 On the contrary, the Respondents submit that, during the whole CIRP period of the Corporate Debtor i.e., from the day of submitting the EoI till the submission of the final Resolution Plan, the Applicant has never disclosed that the management of the Applicant consists of the same "Goyanka Family" members who were living as tenants in the property of the Corporate Debtor at a highly subsidised rate. The Applicant has not disclosed the relationship of its management and KMPs, consisting of the Goenka Family, with the ex-management of the Corporate Debtor. It is contended that the Applicant was working at the behest of the ex-management of the Corporate Debtor and, in the garb of offering a resolution plan for the Corporate Debtor, sought to obstruct the Corporate Debtor's CIRP. The Respondents further contended that the concealment of the aforesaid facts at the time of submission of the Resolution Plan regarding the tenancy of the Corporate Debtor's asset and the relationship between the Applicant's management and the ex-management attracts

Clause 18 of the RFRP. It is also contended that the Applicant obtained orders by misrepresenting the factual and legal position before this Tribunal and levelled numerous unfounded allegations against the Respondent Nos. 1 and 2. This has resulted in increased litigation and CIRP costs, as a result of which members of the CoC were constrained to decide to forfeit the amounts. Additionally, the forfeiture and subsequent distribution among the CoC members are within the CoC's exclusive commercial judgment. The 15th CoC meeting held on 15.05.2024 discussed the matter regarding the refund of the PMD & EMD of the Applicant and resolved with 92.88% approval that an application was to be filed seeking directions from the Tribunal regarding the forfeiture and the distribution of the forfeited amount on account of deceitful and mala fide conduct of the Applicant. Consequently, the Respondent No. 1 filed I. A No. 4996 of 2024 on 17.05.2024. The Respondents also relied on Clause 18 of the RFRP, which states as follows:

"18. UNETHICAL AND FRAUDULENT PRACTICES

The Prospective Resolution Applicant and its representatives are expected to participate in the process for submission of Resolution Plan and during its subsequent negotiation and implementation with fair and ethical means. ***Notwithstanding anything to the contrary contained in this RFRP, and/or in the any other communication, if the Committee of Creditors and/or the Resolution Professional, at their respective discretion, determine or it is found that the prospective Resolution Applicant(s) has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice or has colluded with other prospective Resolution Applicants during the process for submission of Resolution Plan, the Committee of Creditors and/or the RP (on the instructions of the Committee of Creditors) without prejudice to the any other rights of the Resolution Professional and Committee of Creditors, shall have a right to reject the Resolution Plan(s) submitted by such***

applicant(s), as the case may be, without being liable in any manner whatsoever to any Resolution Applicant. In such an event, the RP (on the instructions of the Committee of Creditors) shall be entitled to encash/invoke and forfeit the EMD/Financial Bank Guarantee or Standby LC submitted by such applicant(s), without prejudice to any other right or remedy that may be available to the Committee of Creditors and/ or the RP under any law for the time being in force.” (Emphasis added)

6.10 The Respondents have also drawn our attention to certain definitions contained in the RFRP, which are given below:

“28) ***Coercive practice*** *shall mean impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence participation of any person or its action in the Corporate Insolvency Resolution process.*

“29) ***Corrupt practice*** *shall mean, (a) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Corporate Insolvency Resolution Process. Offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Resolution Professional, who is or has been associated or dealt in any manner, directly or indirectly with the Corporate Insolvency Resolution Process, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Resolution Professional, shall be deemed to constitute influencing the actions of a person connected with the Corporate Insolvency Resolution Process; or*
(b) engaging in any manner whatsoever, whether during the Corporate Insolvency Resolution Process, any person in respect of any matter relating to the Corporate Debtor, who at any time has been or is a legal, financial or technical adviser of the Resolution Professional in relation to any matter connected with the Resolution Plan;”

*30) **Fraudulent practice** shall mean a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Corporate Insolvency Resolution Process;*

*31) **Restrictive practice** shall mean forming a cartel or arriving at any understanding or arrangement with or among Prospective / Selected Resolution Applicants with the objective of restricting or manipulating a free and fair competition in the Corporate Insolvency Resolution Process*

*32) **Undesirable practice** shall mean (c) establishing contact with any person connected with or employed or engaged by the Resolution Professional with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Corporate Insolvency Resolution Process; or (d) having a conflict of interest."*

6.11 We have weighed the rival contentions of the parties. It is observed that the present application has been filed by the Applicant through its authorised person Mr. Alok Goenka, who was occupying the premises owned by the Corporate Debtor. The Annual Report of the Applicant for the financial year 2022-2023 also shows that Mr. Alok Goenka is a related party of the Corporate Debtor. However, the Applicant had not at any time disclosed its relationship with the ex-management of the Corporate Debtor. The fraudulent practice as defined in the RFRP means misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the CIRP. As per clause 18 of the RFRP, if the CoC and/or the RP, at their respective discretion, determine or it is found that the prospective resolution applicant has, directly or indirectly engaged, *inter alia,* in fraudulent practice during the CIRP, the RP, on the instructions of the CoC shall be entitled to forfeit the EMD. In accordance with the above clause, CoC, at its meeting held on 15.05.2024, resolved with 92.88% to file an application seeking directions from the Tribunal regarding the forfeiture and distribution of the forfeited amount. Consequently, the Respondent No. 1 filed I. A No. 4996 of 2024 on 17.05.2024. which was disposed of on 21.10.2024 as under:

“3. Heard the Counsel and perused the records. On perusal of the documents on record, it was noticed that the amount deposited by the R-1 was already forfeited and it is the commercial wisdom of the CoC to distribute the amount as per their percentage sharing ratio. Therefore, this Bench is of the opinion that the Bench does not have jurisdiction to interfere in the decision of the CoC, accordingly, the present Application is rejected as non-maintainable. 4. In view of above, the captioned Application is dismissed.”

6.12 Thus, we are of the view that non-disclosure of relation and arrangement with the ex-management of the Corporate Debtor amounts to fraudulent practice as defined in Clause 18 of the RFRP, and in such circumstances, it is within the commercial wisdom of the CoC to take a decision on the forfeiture of PMD and EMD. As there are materials to show that the Applicant suppressed material facts, the judgements in *Jayaram Chowdhary* (supra) and *Shree Yash Stainless* (supra) have no application in the facts of the present case. Additionally, the Tribunal has already considered the forfeiture of the PMD/EMD in IA. No. 4996 of 2024. It is also pertinent to note that the Resolution Plan in respect of the Corporate Debtor has already been implemented and the Respondent No. 1 has demitted his office on 14.11.2024. The PMD & EMD amounts of the Applicant have also been distributed among the CoC members in proportion to their voting shares.

6.13 For all the aforesaid reasons, we are of the considered view that there are no justifiable reasons to interfere with the commercial decision of CoC at this stage. Accordingly, we **dismiss** this Application with no order as to costs.

Sd/-	**Sd/-**
ANIL RAJ CHELLAN	**K. R. SAJI KUMAR**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

/JJ/