NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

09.09.2026

Present: JUSTICE N. SESHASAYEE, MEMBER (JUDICIAL)
INDEVAR PANDEY, MEMBER (TECHNICAL)

Company Appeal (AT) (Insolvency) No. 1699 & 1700 of 2025

(Arising out of Order dated 17.09.2025 passed by the Adjudicating Authority (National Company Law Tribunal, New Delhi Bench–VI, New Delhi) in I.A No.3629 of 2022 and I.A No.1221 of 2025 in C.P. (IB) No. 176 (PB) of 2020)

IN THE MATTER OF:

ARUN KUMAR SINGH
(Proprietor of Ak Singh & Company)
Sole Scc Member of
Genius Exports Private Limited
204, D-248/10, Balaji Complex,
(Near Metro Gate-1),
Laxmi Nagar, Delhi - 110 092. **...Appellant**

Vs

GENIUS EXPORTS PRIVATE LIMITED
Through Liquidator
Mr. Ruchir Batra
IBBI/IPA-003/IPA-ICAI-N-00225/2019 -2020/12626
P-15A, Jangpura Extension,
New Delhi – 110 014.

Mr. NRIPENDRA KUMAR TRIPATHI
Flat No. 323, Guru Apartment, Sector 6,
Dwarka, New Delhi - 110 075. **...Respondents**

Present:

For Appellant : Mr. Deep Bisht and Mr. Astitwa Kumar, Advocates.

For Respondents : Mr. Sujal Bhatt, Advocate for R-2

WITH

Company Appeal (AT) (Insolvency) No. 1701 & 1702 of 2025

(Arising out of Order dated 17.09.2025 passed by the Adjudicating Authority (National Company Law Tribunal, New Delhi Bench–VI, New Delhi) in IA No.3629/2022 and order dated 08.10.2025 passed in IA No.4924/2025 in C.P. (IB) No. 176 (PB) of 2020)

IN THE MATTER OF:

PARAG SINGHAL
Erstwhile Resolution Professional of
Genius Exports Pvt. Ltd.
1002-B, ELDECO Apartments, Plot No.11,
Sector – 4, Vaishali, Ghaziabad,
Uttar Pradesh – 201 010. **...Appellant**

Vs

ARUN KUMAR SINGH
(Proprietor of AK Singh & Company)
Sole SCC Member of Genius
Exports Pvt. Ltd.
204, D-248/10, Balaji Complex,
(Near Metro Gate -1),
Laxmi Nagar, Delhi – 110 092.

GENIUS EXPORTS PRIVATE LIMITED
Through Liquidator
Mr. Ruchir Batra
IBBI/IPA-003/IPA-ICAI-N-00225/2019 -2020/12626
P-15A, Jangpura Extension,
New Delhi – 110 014. **...Respondents**

Present:

For Appellant **:** Mr. Shubham Budhiraja, Advocate

For Respondents **:** Mr. Deep Bisht and Mr. Astitwa Kumar, Advocates

J U D G M E N T
(Hybrid Mode)

Per: Justice N. Seshasayee, Member (Judicial)

There are in effect four appeals, two are filed by the operational creditor (C.A.1699 of 2025 and 1700 of 2025) and the other two by the resolution professional of the corporate debtor (C.A.1701 of 2025 and C.A.1702 of 2025). In both these set of appeals, both the operational creditor and the resolution professional separately challenge an order of the Adjudicating Authority ordering liquidation, dated 17.09.2025, passed in I.A.3629 of 2022, but for different reasons. In addition, the operational creditor challenges another Order I.A.1221 of 2025 which the resolution professional had filed for withdrawing the CIRP under Sec.12A of the Code in C.A.1699 of 2025 and 1700 of 2025.

1.2 Besides his challenge to the Order in I.A.3629 of 2022, the resolution professional has on his part challenged another order passed in I.A.4924 of 2025 in C.A 1701 of 2025 and C.A.1702 of 2025. His grievance is that while passing the Order of liquidation, the Adjudicating Authority has appointed a liquidator of its choice and not him. It may however, be stated, that the need for deciding the appeals preferred by the resolution professional depends on the outcome of C.A.1699 of 2025 and C.A.1700 of 2025.

2. The facts are uncomplicatedly pointed and they run as below:

a) the insolvency proceeding of the corporate debtor was heading for a successful resolution, when on 22.05.2022, the resolution plan of certain Shri. Digvijay Nath Tripathi was approved by the CoC, which was comprised only of the operational creditor. This operational creditor is the appellant in one set of appeals. Pursuant to the same, the resolution professional has taken out I.A.3629 of 2022 for obtaining the approval of the Adjudicating Authority to the said plan under Sec.31 of the Code.

b) Even as the plan of Digvijay Nath Tripathi was pending consideration of the Adjudicating Authority, on 03.09.2024, he passed away. This fact was placed before the Adjudicating Authority by the resolution professional. While the matter stood thus, the suspended director of the corporate debtor and the operational creditor (the appellant in C.A.1699 of 2025 & 1700 of 2025) have engaged in a negotiation for the settlement of the debt.

c) On 25.01.2025, the operational creditor sent an e-mail to the resolution professional about the settlement arrived. And in the 25th meeting of the one-member CoC, a resolution came to be passed for the withdrawal of the CIRP and the resolution professional was authorized to file a petition under Sec.12A of the Code. Accordingly, on 20.02.2025, the resolution professional filed I.A.1221 of 2025 under Sec.12A of the Code.

d) Both I.A.3629 of 2022 filed for the approval of the resolution plan, and I.A.1221 of 2025 filed under Sec.12A came up for the consideration of the Adjudicating Authority. So far as the application filed for approval of the plan goes, the Adjudicating Authority has held that the office and the obligations of the resolution applicant are neither transferable nor heritable, consequent to which the plan was rendered non-implementable under the proviso to Section 31(1) of the Code and proceeded to reject the plan and ordered liquidation of the corporate debtor under Sec.33(1) of the Code, and appointed Shri. Yudhishter Sharma as the liquidator.

e) In view of the Order in I.A.3629 of 2022, it dismissed I.A.1221 of 2025 filed under Sec.12A as having become infructuous.

Arguments

3. As indicated earlier, since the outcome of C.A.1699 of 2025 and C.A.1700 of 2025 would determine whether we need to discuss the C.A.1701 of 2025 and C.A.1702 of 2025, we choose to consider the former set of appeals first.

4. The pointed submission of the learned counsel for the appellant is that when once the plan was rejected by the Adjudicating Authority, not because the resolution plan was bristled with illegalities or material irregularity, but on grounds of perceived unimplementability of the plan owing to the demise of the resolution applicant, the best option open to the tribunal was to order issuance of fresh Form G, and not liquidation. And, having chosen to reject the plan he should not have mechanically dismissed I.A.1221 of 2025 filed under Sec.12A. When a settlement has been reached between the suspended director of the corporate debtor and the operational creditor, who constitute the one member the CoC, the Adjudicating Authority should have seized the opportunity to keep alive the corporate debtor rather than ordering liquidation.

Discussion and Decision

5. Before considering the issue required to be resolved in this case, an ancillary issue makes compelling demands for an engagement in the deeper layers of insolvency jurisprudence as designed by the Code. The Adjudicating Authority, in our view, has over-simplified it, while the appellant is unconcerned about it as it has little relevance to his current pursuit. Hence this judgement is divided into two parts: Part A will deal with the issue on the effect of the death of the resolution applicant on the insolvency resolution process, and Part B will deal with the point required to be decided in this appeal. And to borrow the suggestion of Hon'ble V. Ramasubramanian J (as His Lordship then was) in ***Consim Info Pvt., Ltd., Vs Google India Pvt., Ltd., and others*** [2010(6) CTC 813], those who are interested in Part A *"are welcome to join us*", and *"others are free to stay back, relax and come on board at the stage where the discussion*" on Part B begins from paragraph 21. It is still advised to read at least up to paragraph 7 and 8 since they provide the pivot for the conclusion to be arrived in Part B.

Part A

Effect of the Death of the Resolution Applicant

6. The heart of the issue lies in the reasoning of the Adjudicating Authority that where a resolution applicant is an individual, he holds an '*office*' with '*obligations'* attached thereto, and that this *office* and the *obligations* are not heritable, and consequently on the death of the resolution applicant, his resolution plan becomes incapable of being implemented, or plainly

unimplementable. Then on this basic premise, the Adjudicating Authority proceeded to reject the plan as if it is a situation that falls within Sec.33(1) of the Code, and ordered liquidation. And, when it ordered liquidation, curiously enough an application under Sec.12A is pending consideration, but sadly it was overlooked. Now, when the claim of the sole member of the CoC, the petitioning operational creditor, is satisfied through settlement, for whose benefit has the liquidation been ordered?

7. If the approach of the Adjudicating Authority is analysed, it can be divided into three parts: (a) It's understanding that resolution applicant is an *office* and hence not heritable; (b) rejection of his plan for its unimplementability owing to the death of the resolution applicant; and (c) ordering liquidation under Sec.33(1) of the Code. The fundamental error in the approach of the Adjudicating Authority is that unlike a resolution professional or a liquidator, resolution applicant is not an '*office*' with *obligation* attached to it, and his is more in the nature of a promisor in a contract through an invitation to offer as in an auction. Moving further, in ordering liquidation in the contextual setting of this case, few legal aspects are very evidently overlooked:

a) Liquidation under Sec.33(1) can be ordered only under two circumstances: (a) where within the CIRP period no resolution plan is received; and (b) where, even though plans have been received and one of which has been approved by the CoC yet has been rejected by the Adjudicating Authority under Sec.31. There is no third situation provided for ordering liquidation under Sec.33(1) on the death of the resolution applicant. It may not therefore, be appropriate to read a condition that is not statutorily provided into Sec.33(1). This would imply that the order of liquidation cannot be made or sustained under Sec.33(1).

b) Under the scheme of the Code, if liquidation is still contemplated as the only leftover choice, then it may be, and can be attempted only under Sec.33(2), but this provision is CoC enabled. Therefore, the Adjudicating Authority may not have too many choices left with it than to send the plan back to the CoC with its observations, if felt necessary. Accordingly, any situation where a resolution applicant dies pending approval of the resolution plan by the Adjudicating Authority, the plan may have to be re-send to the CoC.

8. The Adjudicating Authority ought to have paused, no matter how it has chosen to deal with the resolution plan, for liquidation is amputation of the corporate assets for free sale in the market whereas CIRP requires preserving the soul of the corporate debtor by saving its body and life - the business of the corporate debtor. And, the Code stands for the latter and it recommends liquidation only when it has become imminent and unavoidable, a feature of the Code that frequently gets echoed through the judgements in this genre.

9.1 The significance of the issue as to how to deal with the death of the resolution applicant at a certain stage of the insolvency resolution process lies not in the reasoning of the Adjudicating Authority but what it holds for an insolvency resolution process. There is no provision either in the Code or in the Regulation that backs its working, for negotiating a situation involving the death of resolution applicant, even as the Code approves a natural person to be a resolution applicant. Indeed, the gyrating force behind the working of the Code are the human failures and their default in and during the insolvency resolution process, and it whispers in silence in addressing any *force majeure* or *vis majeure*[1] events intervening or threatening to sabotage its prescription for insolvency resolution.

9.2 If a plan is not implemented, the Code has a solution. If a resolution applicant dies midway through the implementation of the resolution plan and thereby rendering it difficult to implement the plan, the Code has no solution to secure the continued implementation, but only tends to treat the situation as 'plan not implemented', which may now pave way for liquidation of the corporate debtor. But liquidation is not a ready-reckoner solution as it does not align with the underlying philosophical structure of the Code which puts premium on the sale of corporate debtor as a going concern as the first-option-solution. However, despite this not-so-evident conflict, working of the Code must still align with its objective.

9.3 When a resolution plan is approved, it is not just an aspect or a stage in the statutory model for insolvency resolution, but is an expression of a resolution applicant's assessment that the business of the corporate debtor

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[1] The only provision in the Code that deals with death of a natural person in the IBC scenario is Sec.169. It reads: *If a bankrupt dies, the bankruptcy proceedings shall continue as if he were alive".* But what is significant here is that it is in the bankruptcy proceedings where only the personal estate of the bankrupt will be sold for which existence of the bankrupt is irrelevant. At any rate it will not have any application in a CIRP situation involving the death of the resolution applicant.

is still viable despite its indebtedness. It aligns with the objective of the Code. However, if the successful resolution applicant fails to implement the plan in the manner he has undertaken, it will be his default. And the Code responds with two options to deal with it: either to restart the CIRP or to opt for liquidation, but both are time consuming, and the Code is acutely impatient and will be painfully restless. This is understandable. Even if it is compromised, still there is no assurance that when the CIRP restarts, someone might still show interest to buy the corporate debtor as a going concern. Therefore, why should it be believed that if the successful resolution applicant dies midway through the implementation, it will necessarily render the resolution plan unimplementable in all circumstances?

9.4 Whether the sustainability of a resolution plan is served by its inherent strength or the survival of its maker? Should it be presumed that where a resolution applicant is a natural person, his existence is an indispensable pre-requisite for the implementation of the plan? If ever it is believed any such presumption exists, its absurdity does not deserve any elaboration. The legislature that has enacted the Code symbolizes the collective wisdom of the citizens to lead the nation to light and not to lay the road to absurdity.

9.5 Is it not then necessary to explore the possibility of engaging with the plan for its continued relevance even post the death of the resolution applicant? In other words, like reducing liquidation as the last option, should not abandoning a plan, not due to the fault of the resolution applicant but due to his death, must be the last option? And, here in this case, the resolution applicant has died during the interregnum between the approval of his plan by the CoC and that of the Adjudicating Authority. Now, if a resolution plan has its inherent strength to demonstrate its sustainability, why should it be abandoned without a scrutiny for no fault of the plan but due to the death of its maker? When death is an inevitable and inescapable incidence of every life, should the objective of the Code to keep alive the business of the corporate debtor be sacrificed merely because the Code has left a blank space in negotiating the death of the resolution applicant? It will be a startling, if not a baffling experience, in law and logic if the Code were to be understood as enabling any such extravagant interpretation.

9.6 There is therefore, a blind spot in the Code; a jurisprudential quagmire in the IBC terrain. It is hence, we consider that the issue deserves a degree of attention despite the mask of innocence veiling it, since this statutorily overlooked but critical aspect of insolvency resolution process cannot be reduced to a kindergarten story of an 'Elephant and Five blindmen'.

9.7 A long preludial statement, but we consider that it is justly necessary. When faced with, what may not be the right approach, it will be disquieting to stay silent and to waste an opportuning beckoning us to provide a blueprint for a better approach. It is necessary.

10. Now, returning to the issue, as underscored in paragraph 7(b) above, on the death of the resolution applicant, even if the Adjudicating Authority resends the resolution plan to CoC, what would the latter do with the plan? Is the CoC expected to resolve that the resolution plan has become unimplementable, something which the Adjudicating Authority itself has

attempted but without requisite statutory support? One easy route to the issue is to hold it in the affirmative. But as already stated a couple of times earlier, this course will have an antithetical effect on the prominence of Code's design to sell the corporate debtor as a going concern. It is true that time is of the essence in the conclusion of the insolvency resolution process, but it cannot be more important than the attempt to preserve the corporate debtor as a going concern and its sale in a CIRP, though this may vary with the facts of individual cases. Sec.12(3) signifies it. Sec.33(1A) inserted vide IBC (Amendment)Act (Central Act 6 of 2026), which enables a reversal from liquidation to CIRP, reflects it. The unassailable basic premise therefore is, and should be, to pursue CIRP since the situation has arisen not due to human default but due to act of nature.

11. The point is, should the CIRP commence *de novo* from the stage of invitation of Expression of Interest, or is it possible to proceed with the resolution plan already approved by the CoC but within the statutory framework? This now leads to two issues: (a) Does the insolvency resolution framework under the Code depends on the heritability of the right of the resolution applicant; and (b) where to obtain the statutory support for it.

12. Dealing with the second aspect first, if there is no immediate solution in general principles of jurisprudence to deal with it, this tribunal cannot plead helplessness and resign, but to engage with it to develop a meaningful concept in aid of its working till the legislature steps in with its fillers. If the Code has a unique structure of its own, it should be matched with new tools in the

forensic kit to negotiate the challenges it throws up[2]. Therefore, where a statute is silent, then requisite power can be drawn from the inherent authority of the tribunal for advancing and balancing the working of the Code.

13.1 Turning to the point on the heritability of the right of the resolution applicant, in ***EBIX Singapore Pvt. Ltd., Vs CoC of Educomp solutions Ltd., & another*** [(2022)2 SCC 401], while dealing with the issue of the right of the resolution applicant to withdraw or modify his resolution plan after the plan has successfully crossed the first stage filtering by the CoC for its plan-offer coupled with its viability, feasibility and implementability, the Hon'ble Supreme Court has held that it is impermissible for the resolution applicant to resile from it as the approval to the plan cannot be equated to the formation of a contract. It reasoned that an approved resolution plan is a product of a statutory process sans any consensus ad idem between the CoC and the resolution applicant, and hence the successful resolution applicant will not have any of the remedies available under the Contract Act.

13.2 This ratio only emphasis the binding character of an approved resolution plan, yet it should also be added that that a resolution applicant is not doing any charity, since he invests his funds in return for an advantage, which necessarily is an aspect of right to property. But this advantage may not constitute a heritable right till the resolution plan is approved by the Adjudicating Authority, and perhaps till it is fully implemented. What then is

[2] In ***CoC of Think & Learn Pvt. Ltd., Vs Riju Ravindran and others***, [(2026) ibclaw.in.222 NCLAT], this tribunal has held that CoC, an assorted group of financial creditors, as a juristic entity for the purpose of working of the Code, even though it may not be considered as one in terms of general principles of jurisprudence.

the nature of the advantage which the resolution applicant acquires after the plan is approved by the CoC, except perhaps a legitimate expectation of his plan being approved by the Adjudicating Authority? After all, approval by the CoC is but a stage in the statutory process and not a stage in the formation of a contract[3]. A mere legitimate expectation that the resolution plan might be approved by the Adjudicating Authority does not confer any advantage on the resolution applicant as to constitute a right to property, to be precise, a heritable right to property.

14. That the jurisprudential conceptualization of a heritable right may not also be made applicable for a different reason. If the purpose behind an insolvency resolution process is to mobilize funds through preservation of business of the corporate debtor, then it is mandatory that such resolution applicant must have adequate knowledge, skill and experience in such business. This is also factored in while approving a plan. Therefore, the corporate debtor is made available in the resolution process, not to the one who opts to pay the maximum value but to the one who also has the greater prospects of running the said business, more so where the resolution applicant is a natural person.

15. However, here arises another issue. If suppose, a successful resolution applicant dies midway through the implementation of the resolution plan, and his heirs are willing to complete the implementation of the plan, and his estate

[3] Even cases involving conclusion of a contract through auction but subject to confirmation by another, judicial views are conflicting as to the nature of right a successful a bidder acquires but before its confirmation. See: ***Motilal Vs Sadabai*** [AIR 1970 Bombay 67].

is capable of supporting it, will the plan be recalled? The Code is silent on it. The Code that insists hard in running the corporate debtor as a going concern, does not provide for any mechanism to monitor if the successful resolution applicant holds on to his or its promise and runs the corporate debtor as a going concern after its implementation. Therefore, that which is an indispensable criterion before the two-tier approval of the plan is no longer relevant after the plan has been implemented. This is paradoxical yet real. Therefore, if the successful resolution applicant dies after the resolution plan is implemented, then it will be only about right to property and its heritability.

16. The point is why not the incidence that attaches to a resolution plan post its approval under Sec.31 be telescoped backwards to meet a situation where the resolution applicant dies, a *vis majeure* contingency, as in the present case? The inherent strength of the plan has already been tested once by the CoC, and now the plan is searching for the one who will bear the responsibility to implement it, subject however, to the concurrence of the Adjudicating Authority under Sec.31 of the Code. Why not the heirs of the deceased resolution applicant be considered? After all, there is no specific embargo in the Code that prohibits it. This course of action will save time which may be lost in a *de novo* resolution process (with its inherent risk of failing without none showing any interest in submitting a plan) and also advancing the goal of the Code to sell the corporate debtor as a going concern.

17. Here, it needs to be re-emphasized that giving the heir of the deceased resolution applicant an opportunity to stay with the plan and its implementation cannot assume the character of right to property, for no right

or interest has vested absolutely in the latter for it be inherited by the former. If the contract route is considered as to whether the advantage which the resolution applicant has obtained after the CoC has approved his plan can be treated as a property and hence heritable post his death, it is not free from difficulty either. To repeat, in ***EBIX Singapore case*** it is held that a resolution plan, despite the fact that it conforms to the basic features necessary for the formation of a contract through an invitation to offer, yet it cannot be termed as a contract *stricto sensu.* Consequently, it forecloses any possibility of vesting a heritable contractual right on the deceased resolution applicant, more so in situations where the process of insolvency resolution is incomplete. Therefore, a middle path has to be charted out within the framework of the Code:

a) Focus may at the first instance be on the RFRP. If the RFRP provides for any contingency arising from the death of the resolution applicant, then such term of RFRP will automatically govern the situation.

b) If, however, the RFRP is silent, then any term of the resolution plan will come for scrutiny. If the plan has made any provision for dealing with the death of a resolution applicant, and if the CoC has approved the resolution plan, then it may prevail.

c) Where both the RFRP as well as the resolution plan do not provide for meeting a situation arising out of the death of a resolution applicant, then necessarily, inherent powers under Rule.11 have to be exercised to direct the CoC to consider if the plan can be sustained within the statutory framework even after the demise of the resolution applicant.

18. Allowing the heir of the resolution applicant to participate in the resolution process, however, cannot be absolute, for it has to still pass the test which the resolution applicant has established. Accordingly, once the resolution plan is send back to the CoC, it is required to ensure that (a) such heir of the deceased resolution applicant has the requisite knowledge, skill and experience in running the business of the corporate debtor; (b) that he or she does not suffer any personal disqualification under Sec.29A; and (c) if such heir is willing to implement the plan with all the strings attached to the implementation of the plan.

19. To make the reappraisal of the plan in cases of death of resolution applicant broad based, other plans which have been submitted earlier may also be reconsidered. The idea is to avoid forced-liquidation of the corporate debtor and to re-engage in CIRP.

Part B

C.A.1699 of 2025 and C.A.1700 of 2025

20. For those who may have chosen to skip Part A, they are told that the order of the Adjudicating Authority rejecting the resolution plan as having become unimplementable owing to the death of the resolution applicant and ordering liquidation under Sec.33(1) of the Code is erroneous since this approach cannot be fitted within the straight-jacketed provision in Sec.33(1). Please go to paragraphs 7 and 8 above.

21. Irrespective of the outcome on the rejection of the resolution plan, even if it is considered as sustainable, then the Adjudicating Authority ought not to have mechanically proceeded to order liquidation when I.A.1221 of 2025 under Sec.12A is pending before it. It is puzzling as to why the legal process providing an exit route to Sec.12A must be denied to the parties[4]. It is already explained why the order of liquidation cannot be sustained and the possible course that might have to be adopted when the resolution applicant dies in the interregnum between the approval of the resolution plan by the CoC and that of the Adjudicating Authority is already explained. Necessarily, the order of the Adjudicating Authority ordering liquidation vide its Order in I.A.3629 of 2022 cannot be sustained and must be set aside, and by default CIRP of the corporate debtor is revived. Necessarily, I.A.1221 of 2025 filed under Sec.12A must be pursued.

C.A.1701 of 2025 and C.A.1702 of 2025

22. Since the CIRP has now been revived, there is hardly any need to consider C.A.1701 and C.A.1702 of 2025, which the resolution professional has filed, even though we do not appreciate resolution professionals and liquidators believing that they have a vested right to continue in their office, when in law they have none. He may now continue to pursue I.A.1221 of 2025.

[4] In ***Babu Manoharan Jaikumar Christhurajan Vs Umesh Garg, Liquidator of Jeppiaar Cements Pvt. Ltd***, [C.A.(AT)(CH)(Ins) 358 oof 2022, dated 24.08.2026], this tribunal has held that Sec.12A route is integral to insolvency resolution process alongside Sec.31 route

The Result

23. To conclude, C.A.1699 of 2025 is and C.A.1700 of 2025 are allowed and the Order of the Adjudicating Authority in I.A.3629 of 2022 is set aside and the CIRP is directed to be revived. The Adjudicating Authority is further required to consider I.A.1221 of 2025 filed under Sec.12A of the Code as per law. C.A.1701 of 2025 and C.A.1702 of 2025 are closed. No costs.

[Justice N. Seshasayee]
Member (Judicial)

[Indevar Pandey]
Member (Technical)

VG