NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1591 of 2026
&
I.A. No. 6099 of 2026

IN THE MATTER OF:

Indian Bank **...Appellant**

Versus

Nimitaya Hotel & Resorts Ltd.
Through RP Mr. Navneet Gupta **...Respondent**

Present:

For Appellant	**:**	**Mr. Rajesh Kumar Gautam, Mr. Anant Gautam, Mr. Aman Gahlot and Mr. Rishi Chauhan, Advocates.**
For Respondent	**:**	**Mr. Abhishek Anand, Mr. Karan Kohli, Ms. Palak Kalra, Mr. Manoj and Ms. Ridhima Mehrotra, Advocates for RP.** **Mr. Sumesh Dhawan, Mr. Ajay Kumar, Mr. Pankaj Sethi, Mr. Vijayant Goel, Mr. Sagar Thakkar and Ms. Kavya Tekriwal, Advocates for SRA.**

WITH

Company Appeal (AT) (Insolvency) No. 1592 of 2026
&
I.A. No. 6103 of 2026

IN THE MATTER OF:

Indian Bank **...Appellant**

Versus

Nimitaya Hotel & Resorts Ltd.
Through RP Mr. Navneet Gupta **...Respondent**

Present:

For Appellant	**:**	**Mr. Rajesh Kumar Gautam, Mr. Anant Gautam, Mr. Aman Gahlot and Mr. Rishi Chauhan, Advocates.**
For Respondent	**:**	**Mr. Abhishek Anand, Mr. Karan Kohli, Ms. Palak Kalra, Mr. Manoj and Ms. Ridhima Mehrotra,**

Advocates for RP.

Mr. Sumesh Dhawan, Mr. Ajay Kumar, Mr. Pankaj Sethi, Mr. Vijayant Goel, Mr. Sagar Thakkar and Ms. Kavya Tekriwal, Advocates for SRA.

<u>WITH</u>

<u>Company Appeal (AT) (Insolvency) No. 1593 of 2026</u>

<u>IN THE MATTER OF:</u>

Indian Bank **...Appellant**

Versus

Nimitaya Hotel & Resorts Ltd.
Through RP Mr. Navneet Gupta **...Respondent**

<u>Present</u>:

For Appellant	**:**	**Mr. Rajesh Kumar Gautam, Mr. Anant Gautam, Mr. Aman Gahlot and Mr. Rishi Chauhan, Advocates.**
For Respondent	**:**	**Mr. Abhishek Anand, Mr. Karan Kohli, Ms. Palak Kalra, Mr. Manoj and Ms. Ridhima Mehrotra, Advocates for RP.** **Mr. Sumesh Dhawan, Mr. Ajay Kumar, Mr. Pankaj Sethi, Mr. Vijayant Goel, Mr. Sagar Thakkar and Ms. Kavya Tekriwal, Advocates for SRA.**

<u>O R D E R</u>
<u>(Hybrid Mode)</u>

<u>02.09.2026:</u> **<u>I.A. No. 6099/2026 & I.A. No. 6103/2026</u>**

1. *I.A. No.6099/2026* is filed praying for condonation of 11 days delay in filing of the appeal and *I.A. No. 6103/2026* is filed praying for condonation of 3 days delay in filing of the appeal.

2. Considering the grounds for delay as stated in the IAs, we condone the delay of 11 days and 3 days in filing of the appeals.

3. *I.A. No. 6099/2026* and *I.A. No. 6103/2026* are allowed.

I.A. No. 6098/2026, I.A. No. 6102/2026 and I.A. No. 6106/2026

1. These applications are filed seeking exemption from filing typed copies of dim annexures.

2. *I.A. No. 6098/2026, I.A. No. 6102/2026* and *I.A. No. 6106/2026* are allowed subject to just exceptions.

Company Appeal (AT) (Insolvency) Nos.1591, 1592 & 1593/2026

1. These *3* appeals are filed against the impugned orders dated *07.07.2026, 16.07.2026* and *14.08.2026* passed by the Ld. National Company Law Tribunal, Special Bench, Court No. V, New Delhi.

2. It is submitted in the year 2019, an application was filed by the appellant under Section *7* of the Insolvency and Bankruptcy Code, 2016, (For short the **"IBC"**) against the corporate debtor. The said application was allowed and on 24.12.2021, the corporate debtor was admitted into Corporate Insolvency Resolution Process (**"CIRP"**).

3. On 08.01.2023, the resolution plan was approved by the Committee of Creditors (**"CoC"**). On 19.01.2023, *I.A. No.987/2023* was filed for approval of the plan before the Ld. Adjudicating Authority.

4. The said application remained pending for more than *2* years and then on 20.11.2025, the appellant filed *I.A. No. 5724/2025* before the Ld. Adjudicating Authority seeking dismissal of the resolution plan and further an *I.A. No. 5725/2025* was filed to seek permission to file fresh 'Form-G'. No issues were raised by the Resolution Professional then against such applications.

5. On 24.11.2025, the Ld. Adjudicating Authority passed an order stating *inter alia* firstly the *I.A. No. 5724/2025* and *I.A. No. 5725/2025* shall be heard and then *I.A. No.987/2023* shall be heard later.

6. On 26.11.2025, the appellant requested the Resolution Professional to convene a meeting for the replacement of the RP, but the RP expressed its inability due to his pre-occupation and on 29.11.2025, *I.A. No. 5880/2025* was filed for replacement of the said RP. The said application was disposed of on 02.12.2025 with an observation, the appellant must file an application for direction to the Resolution Professional to convene the CoC Meeting.

7. On 04.12.2025, the arguments were heard and the orders were reserved on *I.A. No. 5724/2025* and *I.A. No. 5725/2025.* Again on 04.12.2025, an email was sent to the Resolution Professional to convene a meeting for the CoC for his replacement as CoC lost its confidence upon him. Since nothing was going on, hence on 08.12.2025, *I.A. No. 5980/2025* was filed before the Ld. Adjudicating Authority for replacement of the Resolution Professional.

8. Later the 27th Meeting of the CoC was held on 11.02.2026 and the result of its voting was declared on 20.02.2026. Thereafter *I.A. No. 1222/2026* was filed along with the voting result seeking replacement of the Resolution Professional and giving the name of a new Resolution Professional. The appellant was directed to file an affidavit as to which of the I.A. i.e., *I.A. No. 5980/2025* or *I.A. No. 1222/2026* they intend to pursue.

Because of the subsequent events, the appellants also felt the need to file an affidavit for bringing on record the subsequent events, but on 15.04.2026, the Ld. Adjudicating Authority declined to take such affidavit on record and directed the senior officer of the bank should be present on the next date and certain observations were made against senior lawyer(s) and bank official(s) which were later expunged in appeal. Later the bank filed a short affidavit on 29.04.2026 stating *inter alia* they wish to pursue *I.A. No.1222/2026.*

9. On 20.05.2026, the Deputy General Manager (**"DGM"**) appeared before the Ld. Adjudicating Authority but was asked to show his authorisation and certain remarks were made against him but in *Company Appeal (AT) (Insolvency) No. 1167/2026,* such remarks made were expunged *vide* order dated 06.07.2026 of this Tribunal.

10. On 07.07.2026, yet again the senior officer of the Appellant – Bank i.e., the DGM appeared before the Ld. Adjudciating Authority and it was recorded, on the earlier date, Mr. Sanjeev Kumar, DGM of the Stressed Asset Management, Branch New Delhi appeared without proper authorisation, which was later taken on record and it was observed *I.A. No.1222/2026* was moved after a gap of *2-1/2* years since the approval of the plan by the CoC members. Certain queries were also put to Mr. Sanjeev Kumar to find out genuine reasons justifying the belated move to replace the Resolution Professional and the Ld. Adjudicating Authority found Mr. Sanjeev Kumar was ignorant of certain facts leading to his application and was rather looking for assistance from his associates and could only say, the reason was *"loss of trust".* However, on further queries, he was unable to explain the purported *"loss of trust".*

11. It was observed since he was ignorant of the real reasons for replacement, the copy of the order be sent to the Chairman of the Indian Bank to examine the matter at their level and to take necessary action against Mr. Sanjeev Kumar.

12. Later on, *16.07.2026* yet again an order was passed, wherein it was observed since the Resolution Professional objected to his removal and attributed *mala fide* objectives in passing the resolution for replacement of the Resolution Professional after *2-1/2* years after the approval of the resolution plan by the CoC and further enumerated the number of facts for the chain of events to demonstrate the objectives that the application against him was not *bona fide;* the notice of I.A. No. 1222/2026 was issued to the Resolution Professional and *2* weeks' time was granted to him to file the reply.

13. Lastly on, *14.08.2026* yet another impugned order was passed wherein it was recorded, no leave was obtained to file an affidavit dated 11.08.2026 *qua* certain subsequent developments and yet again the copy of the order dated *07.07.2026* was directed to be sent to the Chairman of the Indian Bank for taking necessary action against Mr. Sanjeev Kumar and even a report was called.

14. It is the grievance of the appellant, firstly there was no need to issue the notice to the Resolution Professional *per* Section *27* of the IBC, as the said Section does not contemplate such notice as the procedure prescribed under Section *27* is; **(a)** there should be voting of more than 66% of the members of the CoC for replacement of the Resolution Professional and; **(b)** the Ld. Adjudicating Authority be intimated about this fact. It is submitted *per* the settled law, no notice was required to be given to the Resolution Professional on an application for his replacement. Even otherwise, the existing Resolution Professional was later put on suspension *vide* suspension order dated *21.08.2026* of the IBBI for a period of *1* year. Thus on 28.08.2026 the voting for the new Resolution Professional was conducted and its result was declared after *3* days.

15. Now, Section *27* of the IBC is as under:

> ***"27. Replacement of resolution professional by committee of creditors.***
>
> *(1) Where, at any time during the corporate insolvency resolution process, the committee of creditors is of the opinion that a resolution professional appointed under* section 22 *is required to be replaced, it may replace him with another resolution professional in the manner provided under this section.*
>
> *(2) The committee of creditors may, at a meeting, by a vote of sixty-six per cent. of voting shares, resolve to replace the resolution professional appointed under section 22 with another resolution professional, subject to a written consent from the proposed resolution professional in the specified form.*
>
> *(3) The committee of creditors shall forward the name of the insolvency professional proposed by them to the Adjudicating Authority.*
>
> *(4) The Adjudicating Authority shall forward the name of the proposed resolution professional to the Board for its confirmation and a resolution professional shall be appointed in the same manner as laid down in section 16.*
>
> *(5) Where any disciplinary proceedings are pending against the proposed resolution professional under*

> *sub-section (3), the resolution professional appointed under section 22 shall continue till the appointment of another resolution professional under this section."*

16. It is argued a bare glance to the section above would show the Ld. Adjudicating Authority is not required to ask the officials of the bank to state reasons as to why the Resolution Professional is proposed to be changed, as according to Section 27 *(supra),* such reasons are not important, but in any case, the DGM had rather stated *"loss of trust"* which could have been treated as sufficient reason to replace the Interim Resolution Professional. It was argued *per* Section *27* of the IBC, it was within the power of the CoC to move an application for replacement of the Resolution Professional *at any stage* of the proceedings, hence if it had taken such a decision, in the manner as is stated in Section *27* of the IBC, no further enquiry ought to have been made.

17. In ***'Sumat Kumar Gupta Insolvency Professional, Formerly Resolution Professional M/s. Vallabh Textiles Company Ltd.' Vs. 'Committee of Creditors of M/s. Vallabh Textiles Company Ltd., Through Punjab National Bank'*** reported in ***[2022 SCC OnLine NCLAT 3973],*** it was held:

> ***"10.*** *From the decisions of this Tribunal, as noted above, it is clear that replacement of Resolution Professional is complete when required decision is taken by the CoC in its meeting with requisite majority. The submission of learned counsel for the Appellant that Section 27 does not exclude applicability of principles of natural justice does not commend us. When we look into the scheme of Section 27 it by implication exclude the principles of natural justice, it is clear from the scheme of Section 27 that the scheme nowhere provides for any opportunity to the Appellant for hearing. Therefore, it cannot be said that the erstwhile Resolution*

Professional is entitled to be heard by the Adjudicating Authority before taking decision."

18. Further in ***'Bank of India' Vs. 'Nithin Nutritions Pvt. Ltd.'*** reported in ***[2020 SCC OnLine NCLAT 1055],*** this Tribunal held as under:

> ***"5.*** *Having gone through the Impugned Order, what appears is that the Adjudicating Authority has proceeded on the basis that if in the first meeting of COC, the COC does not replace the IRP with another RP, the COC cannot do so subsequently. Like statement of question of law is stated by the the Adjudicating Authority that "The COC having not resolved to replace IRP in its first meeting could not be allowed to replace him by a resolution in any of its subsequent meetings". It appears to us that this is clearly a wrong legal proposition considering the provisions of IBC. There is not merely Section 22 Sub-Section (2) which is relevant but also Section 27. Section 22(1) and (2) read as under:—*
>
> > *"**22. Appointment of Resolution Professional**.— (1) The first meeting of the committee of creditors shall be held within seven days of the constitution of the committee of creditors.*
> >
> > *(2) The committee of creditors, may, in the first meeting, by a majority vote of not less than [sixty-six] percent of the voting share of the financial creditors, either resolve to appoint the interim resolution professional as a resolution professional or to replace the interim resolution professional by another resolution professional."*
>
> *Section 27 reads as under:—*
>
> > *"**27. Replacement of resolution professional by committee of creditors**.— (1) Where, at any time during the corporate insolvency resolution process, the committee of creditors is of the opinion that a resolution professional appointed under section 22 is required to be replaced, it may replace him with another resolution professional in the manner provided under this section.*
> >
> > *(2) The committee of creditors may, at a meeting, by a vote of sixty-six per cent of voting shares, resolve to replace the resolution professional appointed under section 22 with another*

resolution professional, subject to a written consent from the proposed resolution professional in the specified form.]

(3) The committee of creditors shall forward the name of the insolvency professional proposed by them to the Adjudicating Authority.

(4) The Adjudicating Authority shall forward the name of the proposed resolution professional to the Board for its confirmation and a resolution professional shall be appointed in the same manner as laid down in section 16.

(5) Where any disciplinary proceedings are pending against the proposed resolution professional under sub-section (3), the resolution professional appointed under section 22 shall continue till the appointment of another resolution professional under this section."

6. *In both the above provisions, the law nowhere says that the COC is required to give reasons. This appears to be also right. The reason is that relationship between the IRP/RP and the COC is that of confidence. If there is loss of confidence and combination is continued, the Corporate Debtor would be put to loss because of the bad relationship between IRP/RP with COC.*

9. *Considering these provisions, we have no doubt that the COC has the requisite powers to propose change of the Interim Resolution Professional even in meeting/s subsequent to the first meeting mentioned in Section 22(2) of IBC. There is no requirement that they should give particular reasons for the change.*

10. *In the present matter, these Appeals have come up today for the first time for admission. The Respondents in the Appeals are only the Corporate Debtors who are represented through the same IRP - Pavan Kankani. The Applications filed by the COC (Appellant) does not in any manner attribute any motives against the present IRP and this being so, there is no necessity for issuing Notices in these Appeals. It is purely a question of law and as we find that the Adjudicating Authority has clearly erred in its approach, we are dispensing with issuing of Notices to the Respondents. The IRP who is representing the Respondents is even otherwise expected to be dispassionate. IRP is not supposed to be having any personal interest in any given matter and is expected* *to discharge duties as required under the provisions of IBC and its Regulations. As there are no personal allegations against the IRP and the Appellants as COC, has in the five respective matters exercised their discretion under the law and this being so, we are not issuing Notices in these Appeals. Issuing of Notices to the Respondents would only further prolong the Corporate Insolvency Resolution Process which would not be in the interest of the concerned Corporate Debtor as the effort of law is to find resolution in favour of the Respondents."*

19. And lastly in ***'Subrata Roy & Ors.' Vs. 'Rajiv Mohan & Ors.',*** reported in ***[2026 SCC OnLine NCLAT 442],*** this Tribunal held as under:

> ***"10.*** *From a plain reading of the above statutory provision which provides for the manner and modality of replacement of RP, it becomes clear that Section 27(1) empowers the CoC to replace the current RP with another RP at any stage during the CIRP process. Section 27(2) of the IBC however clearly lays down that for the CoC to succeed in replacing the existing RP, the resolution for replacement must have the support of 66% vote share. The same sub-section also clearly mandates that obtaining of the written consent from the newly proposed RP as another pre-requisite to be met by the CoC while proposing the replacement. Sections 27(3) and (4) when read conjointly further provides that the name of the proposed RP is to be forwarded by the CoC to the adjudicating authority which in turn shall forward the name to the IBBI for its confirmation. Section 27(5) when read along with Section 16 of the IBC envisages that the RP proposed by the CoC should not have any disciplinary proceeding pending against him.*
>
> ***11.*** *Having gone through Section 27 of the IBC, it is quite clear that as long as the decision of the CoC to propose the replacement of the current RP enjoys more than 66% vote-share and the new RP's written consent has been obtained, the name of the proposed RP is to be forwarded by the adjudicating authority to the IBBI for confirmation and appointment provided no disciplinary proceeding should be pending against the RP. It is also more than crystal clear that the statutory scheme does not envisage any manoeuvring room for the adjudicating authority to change the name of the RP proposed by the CoC with its own nominee. We also notice that the Appellant has*

adverted our attention to the judgment of this Tribunal in Venus India Asset-Finance judgment supra wherein it has held that "….when the CoC contemplates change of resolution Professional, the adjudicating authority in terms of the statutory construct has to merely look into two basic check boxes which is whether the CoC has resolved to that effect with 66% vote share and whether the proposed resolution Professional has given his written consent and not look at anything beyond."

25. *Having said that, we would also like to add that the adjudicating authority should have exercised greater caution in according seriousness to the conjectural and unsubstantiated allegations raised by a miniscule minority of 4 allottees out of 2149 home-buyers allottees that the choice of the proposed RP suggested by the CoC suffered from bias. The adjudicating authority in the present case by substituting the RP proposed by the CoC with its own nominee has therefore clearly usurped the jurisdiction of the CoC. The adjudicating authority does not have any jurisdiction to substitute the wisdom of the CoC in the appointment of a replacement RP. This interference on the part of the adjudicating authority in not accepting the CoC's choice of the RP and substituting with a RP nominated by them is wholly unwarranted and legally impermissible in terms of Section 27 of the IBC. The adjudicating authority's substitution of the wisdom of CoC with its own wisdom is strongly deprecated as it not only runs counter to the statutory provisions of IBC but also overlooks the caution expressed by the Supreme Court in a catena of judgments to respect the supremacy of the commercial wisdom of the CoC.*

26. *When the statutory provisions are unambiguous and fully empowers the CoC to replace the RP by following the prescribed procedure and parameters laid down under Section 27 of the IBC, the decision of the CoC cannot be interfered with by the adjudicating authority or by this Tribunal in the exercise of its appellate jurisdiction unless and until the decision of the CoC disturbs the foundational principles of IBC which is not the case here. The adjudicating authority is required to apply its mind within the four corners of law and cannot over-reach its assigned role by assuming the role of being a moral guardian. Since the adjudicating authority has chosen to exercise a jurisdiction not vested on it by law, the impugned*

> *order passed by the adjudicating authority is held by us to be coram non judice."*

20. Thus, it appears the Ld. Adjudicating Authority's substitution of the wisdom of the CoC with its own wisdom has always been deprecated as it runs counter to the statutory provisions of the IBC which also holds precaution expressed by the Hon'ble Supreme Court in a catena of judgments. Further, the law as is settled by the judgments above is the CoC is fully empowered to replace the Resolution Professional by following the prescribed procedure and parameters laid down under Section *27* of the IBC and such decision of the CoC cannot be interfered with by the Ld. Adjudicating Authority or by this Tribunal unless and until the reason of the CoC disturbs the foundational principles of the IBC. Nothing has been discussed in the order as to what had disturbed the foundational principles in the facts except such an application for replacement was moved after *2-1/2* years. This cannot be treated as a foundational principle since Section *27* of the IBC itself empowers the CoC to replace the Resolution Professional *at any time* during the pendency of the process.

21. Thus, to our mind, the indulgence of the senior officer(s) of the Appellant – Bank was uncalled for as also the observations made against him and hence such remarks to the prejudice of the officers are expunged in impugned orders. The party's rights and contentions are protected *qua IAs No. 5724/2025* and *IAs No. 5725/2025* for dismissal of earlier resolution plan and issuance of fresh 'Form – G' and also *qua I.A. No.987/2023* for approval of initial resolution plan.

22. Thus, leaving all the contentions open for the parties before the Ld. Adjudicating Authority, we expunge the remarks against the official(s) of the Appellant – Bank in all the *3* orders *viz.* orders dated *07.07.2026, 16.07.2026* and *14.08.2026* and we direct the application *I.A. No. 1222/2026* or subsequent IAs, if any, for bringing on record the new Resolution Professional be considered first by the Ld. Adjudicating Authority and thereafter *per* its earlier order dated *24.11.2025, I.A. No. 5724/2025* and *I.A. No. 5725/2025* be taken up and then *I.A. No. 987/2023,* if the *I.A. No. 5724/2025* is dismissed, be considered. To this extent, the impugned orders are modified.

23. With the observations above, the appeals are disposed of. Pending applications, if any, are also disposed of.

[Justice Yogesh Khanna]
Officiating Chairperson

[Barun Mitra]
Member (Technical)

[Ajai Das Mehrotra]
Member (Technical)

himanshu/md