NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

2. IA/5387/2024 C.P. (IB)/2946(MB)2019

IN THE MATTER OF

Bank of India
VS
Wadhwa Buildcon LLP

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

Order Delivered on 11.09.2026

CORAM:

SH. VINAY GOEL
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Petitioner:

For the Respondent:

ORDER

IA/5387/2024: The above IA is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-
VINAY GOEL
Member (Judicial)

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)

//Rahul//

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, V

IA (IBC) No. 5387 of 2024
IN
CP (IB) No. 2946 of 2019

IN THE MATTER OF
Shailendra Kataria
Authorised Representative of Creditors in Class (Homebuyers) being member of the Committee of Creditors
44, Prem Niwas, 3rd Floor, Room No. 15, Kamathipura Lane No. 3, Nagpada, Mumbai, 400008

… Applicant

Versus

Manish Lalji Dawda
Resolution Professional of Wadhwa Buildcon LLP
Hiren Light Industrial Estate, Bhagoji Keer Marg, Near Paradise Cinema, Mahim, Mumbai 400016.

… Respondent

IN THE ORIGINAL MATTER OF
Bank of India

… Financial Creditor

Versus

Wadhwa Buildcon LLP

… Corporate Debtor

Order Delivered on: 11.09.2026

Coram:

Sh. Vinay Goel Member (Judicial)

Sh. Charanjeet Singh Gulati Member (Technical)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant: Adv. Rohan Agrawal a/w Adv. Yahya Batatawala, Adv. Krushi Shah (PH)

For the Respondent: Sr. Adv. Sunil Fernandes a/w Adv. Maulik Chokshi, Adv. sayali patil, Adv. Jay Botadara (VC)

ORDER

IA (IBC) No. 5387 of 2024

1. The present Interlocutory Application dated 23.10.2024 has been filed by Mr. Shailendra Kataria, Authorised Representative of Creditors in Class (Homebuyers) ('**the Applicant**') under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ('**IBC/the Code**') with the following prayers:

> ***"Interim Reliefs***
>
> *A. Pending the hearing and adjudication of the present Application, this Hon'ble Tribunal be pleased to restrain the Respondent/Resolution Professional from conducting CoC of the Corporate Debtor,*
>
> *B. Pending the hearing and adjudication of the present Application, this Hon'ble Tribunal be pleased to restrain the Respondent/ Resolution Professional from placing the Resolution Plan submitted for approval before the CoC.*
>
> *C. Pending the hearing and adjudication of the present Application, this Hon'ble Tribunal be pleased to grant stay on execution of all the resolutions passed in 20th Committee of Creditors meeting held and*

any meeting of Committee of Creditors to be held after the illegal reconstitution of the Committee of Creditors by the Resolution Professional.

Final Relief

A. *To declare the re-verification of claims or Homebuyers carried out by the Respondent as illegal, fraudulent, null and void;*
B. *To quash and set aside the CoC Re-Constitution Report filed by the Respondent with Hon'ble NCLT, Mumbai Bench and on IBBI Portal;*
C. *To reinstate all the Homebuyers with their true voting share in the Committee of Creditors, whose claim were already admitted and have been illegally removed from the Committee of Creditors by keeping their claim under verification.*
D. *To set aside and declare null and void all resolutions passed in any meetings of the Committee of Creditors held and to be held after the illegal reconstitution of the Committee of Creditors by the Resolution Professional.*
E. *Pass such further and other orders and directions as this Hon'ble Tribunal may deem fit and proper"*

Brief facts as per the Application:

2. The Corporate Insolvency Resolution Process ('**CIRP**') of the Corporate Debtor was commenced vide order dated 28.07.2020 passed by this Tribunal. Pursuant thereto, the Mr. Rakesh Kumar Tulsyan was appointed as the Interim Resolution Professional ('**IRP**') of the Corporate Debtor. Thereafter, Public announcement in Form A was issued on 30.07.2020 inviting claims from the creditors of the Corporate Debtor.

3. In 1st meeting of Committee of Creditors ('**CoC**') on 27.08.2020 replaced the IRP was replaced with Mr. Vishal Ghisulal Jain as the Resolution Professional ('**RP**') of the Corporate Debtor, which was confirmed by this Tribunal vide order dated 14.10.2020.

4. The Applicant submits that the Mr. Vishal Ghisulal Jain filed the updated list of Creditors as on 16.01.2023 with the IBBI which is as follows:

Sr. No.	Claimant	% of Vote in CoC
1.	Financial Creditors belonging to any class of creditors (Homebuyers)	66.42%
2.	Secured Financial Creditors (Bank of India)	33.58%

5. The Applicant submits that the Resolution Plan submitted and approved by the CoC submitted by the Promoter/ Suspended Director of the Corporate Debtor was not approved and was set aside by this Tribunal vide order dated 20.03.2024 in IA No. 828/2023 which was filed by the Bank of India and thereby granting 180 days extension to invite fresh expression of interest (**‘EoI’**)

6. Thereafter, the Bank of India filed an application bearing IA No. 2265/2024 seeking replacement of Mr. Vishal Jain as RP of Corporate Debtor. Vide order dated 02.07.2024, this Tribunal replaced the RP and appointed the Mr. Manish Lalji Dawda (IBBI/lPA001/IP-P-02506/2021-2022/13797) as the RP of the Corporate Debtor (hereinafter referred to as the ‘**Respondent**’).

7. Pursuant to his appointment as the Resolution Professional, the Respondent convened the 19th CoC meeting on 07.08.2024. In the said meeting, the Respondent placed on record steps taken and activities undertaken by him from the date of his appointment until the date of the meeting.

8. It is submitted that despite repeated emails from AR of the Homebuyers to the Respondent requesting him to convene meeting of the CoC and take necessary steps to progress the CIRP, including in relation to the issuance

of Form G and invitation of EoI, the Respondent neither responded to the said communications nor convened any further meeting of the CoC.

9. It is submitted that the Applicant, along with the other Homebuyers, received emails dated 17.08.2024 and 11.09.2024 from the Respondent, stating that since the erstwhile Resolution Professional had not shared the requisite documents, each Homebuyer was required to furnish the same afresh within the stipulated timelines, including duly filled and signed Form CA, KYC documents (PAN Card and Aadhaar Card), bank statement of the account from which the margin money was paid to Wadhwa Buildcon LLP with the relevant transaction duly highlighted, and, where housing finance had been availed, the NOC from the Bank of India, sanction letter, and disbursement advice/loan statement evidencing the payments made by the bank to Wadhwa Buildcon LLP.

10. The Applicant submits that in response to the above email of the Respondent, on 19.09.2024, the Applicant raised serious objection of illegal act committed by the Respondent. Further, the copy of Additional Affidavit submitted in IA 828/2023 by the erstwhile RP before this Tribunal that he had examined the documents for the admission of claims for Homebuyers: Agreements, Allotment Letters, Receipts of Payments furnished by Homebuyers, Bank Statement of Homebuyers, Bank Statements of the Corporate Debtor, Books of Account of the Corporate Debtor, which was taken on record vide order dated 20.03.2024.

11. The Applicant submits that, vide emails dated 17.09.2024 and 26.09.2024, the Respondent unlawfully reclassified various Homebuyers' claims, which had already been admitted, under the category of "documents awaited" and kept them under verification. It is further pertinent that all

communications regarding such claims were addressed directly to the Homebuyers without including the Authorised Representative.

12. The Respondent filed the updated list of creditors as on 26.09.2024 with the IBBI wherein the Respondent has re-constituted the CoC, details of which are as under:

Sr. No.	Claimant	% of Vote in CoC
1.	Financial Creditors belonging to any class of creditors (Homebuyers)	30.48%
2.	Secured Financial Creditors (Bank of India)	69.01%

13. The Applicant submits that the Respondent has adopted a selective and inconsistent approach in dealing with the claims. Assuming, without admitting, that the Respondent was entitled to re-verify the claims, there is no justification for placing claims already admitted by the erstwhile Resolution Professional under "documents awaited" and re-verification, while claims not admitted by the erstwhile RP have also remained unadmitted without similar scrutiny. If the Respondent was unable to authenticate claims for want of documents, the basis for determining that certain claims ought not to be admitted is unclear.

14. The Applicant submits that such differential treatment of claims is arbitrary and contrary to the principles of fairness and transparency governing the CIRP, thereby prejudicing the Homebuyers and undermining the integrity of the insolvency process.

15. The Applicant submits that upon reconstitution of the CoC the voting share of the Homebuyers was reduced from 70% to 30%. Despite the Homebuyers holding 70% voting share as on 07.08.2024, the Respondent did not convene any CoC meeting thereafter and, following reconstitution, abruptly convened the 20th CoC Meeting on 04.10.2024. The notice was

issued on 02.10.2024, a public holiday, providing the Homebuyers only 24 hours to consider the agenda, in violation of Regulation 19(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which requires at least 48 hours' notice. This conduct demonstrates an attempt to curtail the Homebuyers' participation and voting rights.

16. The Applicant submits that the Respondent is deliberately delaying the CIRP by initiating an unwarranted re-verification of claims, despite the claims having already been admitted by the Adjudicating Authority. There is no requirement under the Code for such re-verification at this stage.

17. The Applicant, vide email dated 19.09.2024, sought the basis for such re-verification, particularly when this Tribunal had already directed reconstitution of the CoC vide its orders dated 20.02.2023 in IA 612/2023 and 19.04.2024 in IA 1778/2024.

18. The Applicant submits that the email dated 19.09.2024 reiterated that the claims, along with supporting documents, had already been filed by the erstwhile RP in IA 828/2023. Further, the Respondent's failure to convene the CoC when the Homebuyers held 70% voting share, coupled with his delay in initiating action against the erstwhile RP for non-handover of crucial CIRP and Corporate Debtor records, reflects negligence and lack of transparency in discharge of his duties.

19. The Homebuyers, through the Applicant, issued a Legal Notice dated 13.09.2024 highlighting the Respondent's non-compliances. However, the Respondent neither responded nor comply with the legal notice.

20. The Applicant, by way of the present submissions, is aggrieved by the following acts and omissions of the Respondent:

i. Respondent/ Resolution Professional has jeopardized the interests of the Homebuyers by unlawfully and without jurisdiction carried out re-verification of claims and put the claims "under verification" which has substantially reduced the voting % of the Homebuyers.
ii. Intentionally and fraudulently did not convene CoC Meeting between 08.08.2024 to 03.10.2024.
iii. Intentionally and fraudulently conducted CoC Meeting after expiry of 180 days i.e., 19.09.2024
iv. Misguided, misrepresented and deceived about obtaining pre-approval from Tribunal for issuing Form G.
v. Arbitrary approach in conducting the CIRP of the Corporate Debtor.
vi. Delay in conducting CIRP of the Corporate Debtor
vii. Intentionally and fraudulently circulated Notice of 20th Meeting of CoC on a public holiday i.e., 02.10.2024

21. The Applicant relied upon the following judgments of the Hon'ble NCLAT and Hon’ble Supreme Court:

i. *Union Bank of India Vs. M/s Rajdeep Clothing & Advisory Pvt Ltd. and Ors* (Company Appeal (AT) (Insolvency) No. 399 of 2021)
ii. *K.N. Rajakumar v. V. Nagarajan & Ors.,* Company Appeal (AT) (CH) (Ins) No. 48 of 2021
iii. *Prasad Gempex v. Star Agro Marine Exports Pvt. Ltd.* Company Appeal (AT) (Ins) Nos. 291 & 591 of 2018
iv. *Swiss Ribbons Pvt. Ltd. & Anr. v Union of India & Others.* REED 2019 SC 01504

<u>Affidavit in Reply by Respondent, in brief:</u>

22. The Respondent submits that CIRP was initiated vide order dated 28.07.2020, with Mr. Rakesh Kumar Tulsyan appointed as IRP. Thereafter,

Mr. Vishal Jain was appointed as RP and confirmed vide order dated 14.10.2020. During the CIRP, RP constituted/reconstituted the CoC based on the claims admitted by him, including Homebuyers' claims. Further, a resolution plan from the Promoter was approved by the CoC on 11.11.2022.

23. Subsequently, IA No. 402 of 2023 was filed seeking approval of the resolution plan, which was opposed by Bank of India through IA No. 823 of 2023. Thereafter, the Tribunal, vide order dated 20.03.2024 in IA No. 823 of 2023, set aside the resolution plan.

24. The Respondent states that that Bank of India filed IA No. 2265 of 2024 seeking replacement of the erstwhile RP. Vide order dated 02.07.2024, the Tribunal appointed the Applicant as the RP of the Corporate Debtor.

25. The Respondent submits that, aggrieved by the order dated 02.07.2024, Mr. Vishal Jain preferred an appeal Comp. App. (AT) (Ins) No. 1613 of 2024 before the Hon'ble NCLAT and, in the course of the said proceedings, filed an additional affidavit. In the said additional affidavit, it was found that all the claims of 169 Homebuyer, including that of the Applicant, were not notarised and lacked documents establishing eligibility under Section 5(8) of the Code. The Respondent states that these discrepancies necessitated verification of the claims.

26. Upon the Respondent appointment as RP on 02.07.2024, the Respondent examined the records received from Mr. Vishal Jain, the orders of the Tribunal and the material available with statutory authorities. It is stated that only after repeated follow-ups and the Respondent filing a contempt petition did Mr. Vishal Jain commence handing over the documents and the Corporate Debtor's process email credentials. He also states that the emails dated 15.08.2024, 23.08.2024, 30.08.2024, 04.09.2024 and

07.09.2024 were issued by Mr. Prabhat Jain (not AR of the Homebuyer), who had already been declared a stranger by the Tribunal vide order dated 20.03.2024.

27. The Respondent submits that, upon scrutiny of the records, several claims admitted by Mr. Vishal Jain were found to be incomplete, unnotarized and unsupported by documents evidencing the Homebuyers' status under Section 5(8) of the Code. Subsequently, emails dated 17.08.2024 and 11.09.2024 were issued seeking the requisite documents. The Applicant was also called upon to furnish the supporting documents but failed to do so despite reminders dated 17.09.2024 and 26.09.2024. The claim was consequently marked "documents awaited" and kept under verification.

28. The Respondent submits that, based on the material received and corroborated, including the forensic signature verification report, he was prima facie of the view that the CoC had been constituted on the basis of incomplete and forged claims. The issue was accordingly placed before the CoC in its 20th Meeting held on 04.10.2024. The Respondent further states that the issue regarding appointment of Mr. Vishal Jain was also placed before the CoC and was ultimately rejected.

29. The Respondent submits that, under Section 23 of the Code read with Regulation 12 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, (**'CIRP Regulation, 2016'**) the RP is required to verify claims where proof has not been furnished. Thereby, the Respondent sought documents from the concerned Homebuyers. The Homebuyers subsequently furnished the requisite documents and their claims were admitted upon verification, Following the verification of the claims, the CoC was reconstituted for the third time on 27.11.2024, and the Respondent filed IA No. 165/2025 before this Tribunal in respect thereof.

The Report of Reconstitution of the CoC as on 27.11.2024 was thereafter taken on record by this Tribunal vide order dated 14.01.2025.

30. The Respondent submits that Mr. Vishal Jain had issued Form G on 11.05.2024, pursuant to which four EoIs were received, but no further steps were taken. Thereafter, upon his appointment and after obtaining the requisite legal opinion, the Respondent issued Form G on 22.10.2024, pursuant to which 11 EoIs were received and the list of Prospective Resolution Applicants was prepared.

31. The Respondent submits that, in email dated 19.09.2024, the Applicant claimed to be the Power of Attorney holder representing 51% of the Homebuyers. However, upon perusal of the Power of Attorney dated 13.06.2024, it was observed that the same pertained to the Wadhwa Buildcon Rhodesia Project at Bhiwandi, where the Applicant is a Homebuyer, whereas 25 of the signatories to the said Power of Attorney belonged to the Kalyan Project.

32. The Respondent submits that, as RP and an officer of the Court, he could not mechanically accept claims admitted by the erstwhile RP where material discrepancies and forgery had emerged. The verification was undertaken in discharge of his statutory duties and to ensure that only duly substantiated claims formed part of the CoC. The Applicant’s allegation that the Respondent acted beyond his powers is therefore denied.

33. The Respondent relied upon the following judgment of the Hon’ble NCLAT:

   i. *Umesh Kumar versus Narendra Kumar Sharma* Company Appeal (AT)(Insolvency) No. 100 of 2024

Analysis and Findings

34. We have heard the Ld. Counsels for the parties and perused the documents placed on record.

35. Through the present Interlocutory Application, the Applicant seeks a declaration that the re-verification of the claims of the Homebuyers undertaken by the Respondent is illegal, fraudulent, null and void, and consequently, setting aside the reconstitution of the CoC pursuant to which the voting share of the Homebuyers was substantially reduced.

36. *Per contra,* the Respondent contends that, upon assuming charge as the Resolution Professional on 02.07.2024, he found several claims admitted by the erstwhile Resolution Professional, Mr. Vishal Jain, to be incomplete and unsupported by requisite documents, while certain Homebuyers' claims and signatures appeared to be forged. In terms of Section 23 of the Code read with Regulation 12 of the CIRP Regulations, 2016, the Respondent undertook verification of the claims to ensure that only duly substantiated claims formed part of the CoC. Pursuant to such verification, the CoC was reconstituted, whereby the voting share of the Homebuyers stood reduced to 30.48% and that of Bank of India increased to 69.01%.

37. In order to address the issue on hand, following relevant and undisputed facts are noted:

i. The CIRP against the Corporate Debtor was initiated vide order 28.07.2020 and Mr Rakesh Kumar Tulsyan was appointed as the IRP.

ii. The CoC appointed Mr. Vishal Jain as RP of the Corporate Debtor which was confirmed by Tribunal vide order 14.10.2020

iii. Mr. Vishal Jain filed the updated List of Creditors as on 16.01.2023, wherein the Homebuyers held 66.42% voting share, while Bank of India held 33.58% voting share.

iv. The resolution plan submitted by the Promoter/Suspended Director was approved by the CoC on 11.11.2022 but was subsequently set aside by this Tribunal vide order dated 20.03.2024.

v. Bank of India filed IA No. 2265 of 2024 seeking replacement of the erstwhile RP, pursuant to which this Tribunal, vide order dated 02.07.2024, appointed the Respondent as RP. The erstwhile RP challenged the said order before the Hon'ble NCLAT in Comp. App. (AT) (Ins) No. 1613 of 2024, which was disposed of vide order dated 28.08.2024.

vi. The Applicant, along with other Homebuyers, received emails dated 17.08.2024 and 11.09.2024 from the Respondent seeking submission of documents, including Form CA, KYC documents, NOC, sanction letter, and disbursement/loan statements evidencing payments made to the Corporate Debtor.

vii. The Applicant, by email dated 19.09.2024, informed the Respondent that the requisite documents had already been examined by the erstwhile RP for the purpose of admission of the Homebuyers' claims.

viii. The Homebuyers, through the Applicant, issued a Legal Notice dated 13.09.2024 highlighting the Respondent's non-compliances.

ix. The Respondent, vide emails dated 17.09.2024 and 26.09.2024, reclassified several Homebuyers' claims.

x. Upon verification of the claims and receipt of supporting documents from certain Homebuyers, the CoC was again reconstituted on 27.11.2024.

38. It is the contention of the Applicant that the Respondent had no jurisdiction to re-verify the Homebuyers' claims already examined and admitted by the erstwhile RP, as the Code does not contemplate such re-verification, and that the Respondent's unlawful re-verification resulted in a substantial reduction of the Homebuyers' CoC voting share from 66.42% to 30.48%. In this regard, it is relevant to reproduce the Section 25(2)(e) of the Code and Regulation 13 of CIRP Regulations 2016:

> *"**Section 25: Duties of resolution professional***
> *(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely: —*
> *...*
> *(e) <u>maintain an updated list of claims</u>;*
>
> ***Regulation 13: Verification of claims.***
> *(1) The interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the insolvency commencement date, within seven days from the last date of the receipt of the claims, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, <u>and update it</u>."*

39. Upon a plain reading of Section 25(2)(e) of the Code, it is clear that the Resolution Professional has a statutory duty to maintain an updated list of claims. Further, Regulation 13(1), the Resolution Professional is statutorily required to verify every claim within seven days from the last date of the receipt of the claims and thereafter maintain and update the list of creditors.

40. In the present case, after the Respondent was appointed as the Resolution Professional of the Corporate Debtor vide order dated 02.07.2024, he examined the records received from the erstwhile Resolution Professional, Mr. Vishal Jain, as well as the material available with the statutory authorities. Upon scrutiny of the records, the Respondent found that several claims of the Homebuyers, as admitted by the erstwhile Resolution Professional, were incomplete, unnotarized and unsupported by the requisite documents, thereby not establishing claims so filed by the Homebuyers as financial creditors under Section 5(8) of the Code. Further, it is an undisputed fact that the Respondent, vide emails dated 17.08.2024 and 11.09.2024, called upon the Applicant to furnish the requisite documents, including Form CA, KYC documents, NOC, sanction letter, and disbursement/loan statements evidencing payments made to the Corporate Debtor. Thereafter, reminder emails dated 17.09.2024 were also issued seeking the requisite documents from the Applicant. The email dated 17.08.2024, 11.09.2024 and 17.09.2024 is reproduced hereinbelow for ready reference, respectively:

> *"On Sat, Aug 17, 2024 at 4:18 PM MANISH DAWDA <cirpwbl@gmail.com> wrote:*
>
> *Dear Sir*
> *With respect to your claim form CA is incomplete as you have not filled in the basic details of your bank account and hence request you to please insert the same and submit the signed CA form and along with the same. The documents which are not available from the folder shared by Erstwhile RP Mr Vishal Jain, hence request you to share the same.*
> *1. Please give your KYC i.e. PAN Card and Aadhar Card*
> *2. I need the Bank Statement from which account you have paid margin money to the builder Wadhwa Buildcon LLP which should be also highlighted*
> *3. If you have taken housing loan for the same then have you taken NOC from Bank of India then share the Copy of NOC, also share the Sanction Letter and disbursement advice or loan statement for payment made by your bank to the Wadhwa Buildcon LLP*

Please send all the above details latest by 25.08.2024

Thanks & Regards

RP MANISH DAWDA in the matter of Wadhwa Buildcon LLP
IBBI/IPA-001/IP-P-02506/2021-2022/13797
AFA Certificate No.: AA1/13797/02/300628/107198 (Valid up to - 30.06.2025)
205 A, 2nd Floor, Hiren Light Industrial Estate, Behind Johnson & Johnson, Mogul Lane, Bhagoji Kheer Marg,
Mahim West, Mumbai 400016
Mobile Number 8767645419"

"On Wed, Sep 11, 2024 at 11:28 AM MANISH DAWDA <cirpwbl@gmail.com> wrote:
Dear Sir
Greetings for the day
I have emailed you on 17.08.2024 and asked for pending documents related to your claim which is there in the trailing email, but till date no documents have been provided by you.
I am giving you the last opportunity to give the pending documents on or before 16.09.2024, and if you are not sending the documents then your claim will be not accepted and your name will be removed from the list of creditors.

Thanks & Regards

RP MANISH DAWDA in the matter of Wadhwa Buildcon LLP
IBBI/IPA-001/IP-P-02506/2021-2022/13797
AFA Certificate No.: AA1/13797/02/300628/107198 (Valid up to - 30.06.2025)
205 A, 2nd Floor, Hiren Light Industrial Estate, Behind Johnson & Johnson, Mogul Lane, Bhagoji Kheer Marg, Mahim West, Mumbai 400016
Mobile Number 8767645419"

"On Tue, 17 Sept 2024 at 14:11, MANISH DAWDA <cirpwbl@gmail.com> wrote:
Dear Sir
Greetings for the day
I have emailed you on 17.08.2024 & again on 11.09.2024 seeking for additional documents related to the claim submitted by your goodself. Till date no documents have been received by us. The last date for submission of additional data for claims was extended to16.09.2024 i.e. 30 days from the first email dated 17.08.2024.

In view of non receipt of data to authenticate your claim we are reclassifying it under category is "Awaiting documents" and reconstitution of coc, your claim is not considered as of now. Once we receive said documents we will re constitute the coc.

Thanks & Regards

RP MANISH DAWDA in the matter of Wadhwa Buildcon LLP
IBBI/IPA-001/IP-P-02506/2021-2022/13797
AFA Certificate No.: AA1/13797/02/300628/107198 (Valid up to - 30.06.2025)
205 A, 2nd Floor, Hiren Light Industrial Estate, Behind Johnson & Johnson, Mogul Lane, Bhagoji Kheer Marg, Mahim West, Mumbai 400016
Mobile Number 8767645419"

41. Upon perusal of the above mails sent by the Respondent to the Applicant, it is evident that the Respondent did not reject the Applicant's claims, but merely kept the same under "documents awaited" and kept under verification. The Respondent had expressly communicated that upon receipt of the requisite documents, the CoC would be reconstituted accordingly. Instead of complying with the Respondent's request, the Applicant has raised objections and thereafter have instituted the present proceedings.

42. Further, upon perusal of the report dated 18.10.2024 issued by the Forensic Document Examiner, Mr. Hiral A. Mehta, it is evident that out of 19 claim forms examined, 18 were found to be forged, including the claim form of the Mr. Shailendra Kataria, who has filed this application in the capacity of AR of such homebuyers. Accordingly, the Respondent identified material discrepancies in the claims and serious concerns regarding the authenticity of the documents furnished in support thereof, and undertook re-verification of the claims on the basis of the material and documents available and thereafter, the Committee of Creditors was reconstituted as

on 27.11.2024. The report of such reconstitution was thereafter taken on record by this Tribunal vide order dated 14.01.2025 in IA No. 165/2025.

43. It is well settled that the powers and duties of the IRP/RP are administrative in nature and are bounded by the provisions of the Code and the Regulations framed thereunder. In this regard, the Hon'ble Supreme Court in case of ***Swiss Ribbons Pvt. Ltd. & Anr. vs. Union of India & Ors***. (2019) 4 SCC 17 held that Resolution Professional has no adjudicatory power and that he is "*really a facilitator of the resolution process, whose administrative functions are overseen by the Committee of Creditors and by the Adjudicating Authority*."

44. Therefore, in terms of Section 25(2)(e) of the Code read with Regulation 13(1) of the CIRP Regulations, 2016, the Respondent, upon assuming charge as the Resolution Professional, was statutorily responsible for maintaining and updating the list of creditors on the basis of the latest information, records and material available with him. The mere fact that the claims had earlier been examined and admitted by the erstwhile Resolution Professional did not preclude the Respondent from examining the records and verifying the correctness and authentication of such claims. Accordingly, the Respondent could not be expected to mechanically rely upon the claims admitted by the erstwhile Resolution Professional, particularly where the records disclosed deficiencies or discrepancies in such claims.

45. In this regard, reliance is placed on the Judgement of Hon'ble NCLAT (Principal Bench, New Delhi) in ***Somani Worsted Ltd. v. Amit Aggarwal RP of Celebration City Projects Pvt. Ltd***., (2026) ibclaw.in 1008 NCLAT, dated 01.09.2026, wherein it was held as under:

*"**51**. Once the RP, during the process of verification, found that the Appellant had failed to establish an independent financial debt against the Corporate Debtor, he was justified in revisiting the earlier admission of the claim. **The RP is required to verify the genuineness of every claim on the basis of the material available on record and cannot mechanically continue an incorrect admission.***

***52**. In this regard, we take note of Regulation 13 of CIRP Regulations, which is extracted below:*

> ***Regulation 13: Verification of claims.***
> *13. (1) The interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the insolvency commencement date, within seven days from the last date of the receipt of the claims, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it.*

***53**. **It can be seen from the Regulation 13(1) that it is the responsibility of RP to regularly update the claims in respect of various creditors based on latest information available with him. Accordingly, we are of the view that the RP has rightly rejected the Appellant's claim upon verification, and the Adjudicating Authority rightly declined to interfere with the said finding of RP**.*

...

56**. The Appellant has also relied upon **Rajnish Jain v. Manoj Kumar Singh & Ors.** [(2020) ibclaw.in 409 NCLAT], Company Appeal (AT) (Ins.) No. 519 of 2020 and **Byju Raveendran v. Aditya Birla Finance Limited & Ors**. [(2025) ibclaw.in 610 NCLAT], Company Appeal (AT) (CH) (Ins.) No. 120 of 2025, to contend that the Resolution Professional had no jurisdiction to review an admitted claim. There is no dispute with the settled principle that a Resolution Professional does not exercise adjudicatory powers. However, **in the present

> ***case, the Resolution Professional did not adjudicate any disputed rights, but merely verified the claim on the basis of the material available on record and found that the Appellant had failed to establish an independent financial debt against the Corporate Debtor. The rejection of the claim was thus an exercise of the Resolution Professional's statutory duty of verification and updation of claims, and not an adjudication of rights***. *Accordingly, the decisions relied upon by the Appellant are distinguishable on facts and do not apply to the present case."*

[**Bold for Emphasis**]

46. Thus, as per the above judgment of the Hon'ble NCLAT, the Resolution Professional is not required to blindly continue an earlier admission of a claim if, upon reverification, the claim is found to be unsupported or not established. Such verification is part of the RP's duty to verify and update claims under Regulation 13(1) of the CIRP Regulations 2016 and does not amount to adjudication of the claims.

47. Therefore, in the facts of the case and in view of the Judgement of the Hon'ble NCLAT in in ***Somani Worsted Ltd. (Supra),*** we are of the considered opinion that the reverification by the Respondent of the claim which is admitted by erstwhile RP cannot be said unlawful.

48. For purpose of completeness, we also note the judgment cited by the Applicant. In case of ***Union Bank of India Vs. M/s Rajdeep Clothing & Advisory Pvt Ltd. and Ors*** (Company Appeal (AT) (Insolvency) No. 399 of 2021) dated 29.03.2023, the Hon'ble NCLAT held that a Financial Creditor already forming part of the CoC could not be removed from CoC by the RP without prior approval of the Adjudicating Authority. In ***K.N. Rajakumar v. V. Nagarajan & Ors***., Company Appeal (AT) (CH) (Ins) No. 48 of 2021 (2021) ibclaw.in 223 NCLAT dated 30.04.2021, the Hon'ble NCLAT dealt with a case where the CIRP had originally commenced in

2017 and the CoC was accordingly constituted. Subsequently, the CIRP was set aside and thereafter restored, following which the RP sought to constitute the CoC afresh. However, the Adjudicating Authority directed the RP to convene the CoC comprising the members who had originally constituted it in 2017. Therefore, the Hon'ble NCLAT held that the Resolution Professional does not possess adjudicatory powers to alter or determine disputed rights. In ***M/s Prasad Gempex v. Star Agro Marine Exports Pvt. Ltd. & Ors***., Company Appeal (AT) (Ins.) Nos. 291 & 591 of 2018 dated 01.02.2019, the Hon'ble NCLAT dealt with the case where the claims of the concerned parties had been rejected by the Resolution Professional and, by the time the matter came before the Hon'ble NCLAT, the Resolution Plan had already been approved by the CoC and placed before the Adjudicating Authority for approval under Section 31 of the Code.

49. The present case stands on a different footing and is distinguishable from the aforementioned judgements of Hon'ble NCLAT. In the present case, the Respondent/RP, vide emails dated 17.08.2024 and 11.09.2024, called upon the Applicant to furnish the requisite documents to substantiate its claim. As the requisite documents were not furnished, the Applicant's claim was placed under "Documents Awaited" for verification Further, the Respondent obtained verification of the signatures on the claim forms through Mr. Hiral A. Mehta, Forensic Document Examiner, whose report dated 18.10.2024 recorded that 18 out of 19 claim forms examined were found to be forged. Thereafter, the Respondent undertook re-verification of the claims admitted by the erstwhile RP on the basis of the records and material available with him and, pursuant thereto, the Respondent revised the list of creditors and reconstituted the CoC as on 27.11.2024.

50. In view of the facts and circumstances of the present case and the discussions hereinabove, the re-verification of the claims of the Applicant undertaken by the Respondent, insofar as it seeks to alter claims already admitted by the erstwhile Resolution Professional was done as per the provision of the Code and CIRP Regulation, 2016. Therefore, the prayer sought in this IA, cannot be granted, and accordingly, IA No. 5387 of 2024 is **dismissed** and **disposed of**.

Sd/- **Sd/-**

Vinay Goel
Member (Judicial)

Charanjeet Singh Gulati
Member (Technical)

Saumya, LRA