IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT- IV

I.A. No.4530 of 2025

In

C.P (IB) No. 725 of 2023

[Under Section 60 (5) Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016]

Kotak Mahindra Bank Limited

…Applicant/Intervener

Vs.

Manoj Kumar Babulal Agarwal

(Resolution Professional of Galore Developers Private Limited)

…Respondent

In the matter of

VSJ Investments Private Limited

…Financial Creditor

Vs.

Galore Developers Private Limited

…Corporate Debtor

Pronounced: 18.11.2026

CORAM:

SHRI ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

SHRI K. R. SAJI KUMAR
MEMBER (JUDICIAL)

Appearance : Hybrid

For the Applicant : Adv. Deep Padachh i/b Zastriya.

For the Respondent: Adv. Belal Ahmed i/b Adv. Saksham Ahuja,
Adv. Utsav Mukherjee, Adv. Bhaskar

ORDER

Per: Anil Raj Chellan, Member (Technical)

1. The present application has been filed by Kotak Mahindra Bank Limited, against Mr. Manoj Kumar Babulal Agarwal, the Resolution Professional (Respondent/RP) of Galore Developers Pvt. Ltd. (Corporate Debtor/CD), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (IBC/Code)*, inter alia,* seeking the following reliefs:

    a. *This Hon'ble Tribunal be pleased to pass an order setting aside the Impugned Rejection dated 20th February 2025;*
    b. *This Hon'ble Tribunal be pleased to allow the present Application and pass necessary orders to direct the Resolution Professional to approve and admit the claim of the Applicant as a Secured Financial Creditor;*
    c. *Pending the final hearing and disposal of the Petition, this Hon'ble Tribunal be pleased to allow the Applicant to file on record its claim and/or pleadings along with documents as may be necessary for the Applicant to defend its interest in the matter;*
    d. *The costs of this Application be provided for;*
    e. *Any other reliefs as may be deemed fit and proper in the circumstances of the above case, be granted;*

2. **BACKGROUND**

2.1 State Bank of India Home Finance Ltd. (SBIHFL) advanced loan amounting to Rs. 1,00,00,000/- (One Crore Rupees) to the Corporate Debtor (formerly known as Mantri Chandak Developers Pvt. Ltd. (MCDPL)), for construction of a residential project comprising flats for Maharashtra State Police Housing &

Welfare Corporation Ltd. (MSPHWCL). The said loan was to be repaid within 24 months, with interest at 22% p.a., compounded monthly. SBIHFL communicated the sanction of the aforesaid construction loan to MCDPL *vide* Letter of Offer dated 18.07.1996, which MCDPL and the Guarantors accepted. Thereafter, SBIHFL and MCDPL entered into a loan agreement on 20.09.1996, setting out the terms under which SBIHFL advanced the loan, which MCDPL accepted. Pursuant to the loan agreement, securities were granted to SBIHFL by executing certain documents, such as:

(a) Memorandum of Equitable Mortgage by deposit of title deeds was created over land, i.e., Plot No. 48/1A & 48/1B, Samrat Chowk, Ring Road, (previously known as Budhwar Peth) situated within Solapur Municipal Corporation, Maharashtra, together with all structures, premises, constructed and to be constructed (Project Land). This deposit was even confirmed by a Confirmation Letter executed by MCDPL, dated 20.09.1996.
(b) Charge on receivables of Rs. 2,65,66,000/- from sale value of the flats in the project. MCDPL issued a Special Power of Attorney dated 28.09.1996 in favour of SBIHFL, empowering it to collect the amount receivable directly from MSPHWCL along with the Personal guarantees executed by Mr. Sushil Mantri, Mrs. Vinita Mantri and Mr. Kishore Chandak, the erstwhile promoters of MCDPL, all dated 17.09.1996.
(c) Corporate Guarantee dated 17.09.1996, provided by Mantri Housing & Constructions Ltd.
(d) General Power of Attorney dated 20.09.1996 whereby MCDPL appointed SBIHFL as a constituted attorney to do specified acts and create a mortgage over the immovable properties of MCDPL.

2.2 MCDPL also registered the charge created in favour of SBIHFL over the Project Land with the Registrar of Companies, Pune (RoC, Pune) by filing Form 8 and Form 13. Since the said loan amount, disbursed by the Applicant to MCDPL, was payable within 24 months, it was due before the end of 1998. Further, the said rate of interest was subject to revision so as to maintain a rate of 6% above the ruling prime lending rate of State Bank of India (SBI), and subject to a minimum rate of 22% p.a.

2.3 Since MCDPL was unable to comply with the repayment conditions and defaulted in its payment, SBIHFL filed a Recovery Suit before the Civil Judge (S.D.) Solapur, being Special Suit No.119 of 2000 (Suit) for recovery of the principal and interest amount, against MDCPL (Defendant No. 1), Mr. Sushil Mantri (Defendant No. 2), Mrs. Vinita Mantri (Defendant No. 3), Mr. Kishor Chandak (Defendant No. 4) and Global Infrastructure & Technologies Ltd. (in liquidation) (Defendant No. 5).

2.4 Thereafter, *vide* Deed of Assignment and Transfer dated 17.02.2004, SBIHFL transferred and assigned all its rights, interests, privileges, entitlements, and benefits to institute suits; actions; and continue the suits and actions already filed by it to SBI. Post the said assignment, SBI filed an application to transfer the suit to the Debt Recovery Tribunal (Ld. DRT), Pune, *vide* application dated 16.03.2006. Thereafter, SBI assigned the debt owed by the MDCPL to the Applicant *vide* Deed of Assignment dated 23.03.2006, whereby all the monies owed by MDCPL under the Loan Agreement and the charge created over the Project Land were assigned to the Applicant. MCDPL filed Form 8 dated 23.03.2006 to register the modification of charge in favour of the Applicant.

2.5 After the transfer and assignment by SBI to the Applicant, it filed an application on 22.11.2006 before the Ld. Civil Judge (S.D.) to transfer the suit to the Ld. DRT, Pune. The Applicant was substituted as Plaintiff in the suit *vide* order dated 15.09.2012, and the suit was transferred to the Ld. DRT, Pune *vide* order dated 02.02.2013, renumbered as O.A. No. 268 of 2013. MCDPL and its promoters were regularly prosecuting the said O.A. until 30.05.2023.

2.6 MCDPL changed its name to Galore Developers Private Limited, the Corporate Debtor. The Applicant became aware of the name change when the Corporate Debtor filed an application dated 12.04.2017 before the Ld. DRT, Pune, in O.A. 268 of 2013. The Applicant promptly filed I. A No. 624 of 2017 before the Ld. DRT, Pune, seeking an amendment to reflect the name change, which was also allowed *vide* order dated 31.05.2017.

2.7 In the interregnum, this Tribunal, by order dated 09.02.2024, admitted the Corporate Debtor into the Corporate Insolvency Resolution Process (CIRP) *vide* order of this Tribunal dated 09.02.2024 under the captioned Company Petition, and a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 (IBC) was declared. Mr. Ravindra Chaturvedi was appointed as Interim Resolution Professional (IRP) and later replaced by the Respondent/RP. Resultantly, the Ld. DRT, Pune, stayed the said Suit/O.A. by order dated 25.11.2024.

3. SUBMISSIONS OF APPLICANT

3.1 The Applicant filed its claim in Form C for Rs. 296,08,40,112/- (Two Hundred Ninety-Six Crore Eight Lakh Forty Thousand One Hundred and Twelve Rupees) with the Respondent/RP, *vide* email dated 12.11.2024. However, by emails dated 20.12.2024 and 14.02.2025, the Respondent/RP stated that the debt of the Applicant/SBI was not recorded in the Corporate Debtor's financials since 2005 and sought certain clarifications/documents from the Applicant. In response, the Applicant provided appropriate responses vide email dated 20.02.2025.

3.2 The Applicant submits that, even after providing all the requisite information/documents, the Respondent/RP, without even considering the same, rejected its claim vide the impugned rejection email dated 20.02.2025 citing the following reasons:

(a) The financials of the Corporate Debtor between the years 2005 and 2015 indicate no instance of any acknowledgment of debt to SBIHFL/Applicant;

(b) There was no acknowledgment of such debt by Mr. Amit Thepade, Ms. Monali Thepade or any other director/promoter of the Corporate Debtor;

(c) The Applicant had failed to provide any documentation/communication demonstrating any agreement between the Applicant and Mr. Amit Thepade, Ms. Monali Thepade or any other director/promoter of the Corporate Debtor in relation to such debt;

(d) *There was no communication addressed by the Applicant to Mr. Amit Thepade, Ms. Monali Thepade or any other director/promoter of the*

Corporate Debtor regarding the proceedings against the Corporate Debtor before the Ld. DRT;

(e) The Applicant took no action against Mr. Sushil Mantri and Mrs. Vinita Mantri, the erstwhile promoters of the Corporate Debtor.

3.3 The Applicant further submits that the impugned rejection is erroneous, arbitrary and bad in law, as the same was processed without application of mind. The Respondent/RP has failed to understand that not only did the debt exist, but a charge was also created in favour of SBIHFL over the Project Land, which was assigned to SBI and then to the Applicant, and information about the same was in the public domain. The charge and its modifications were also filed with the RoC, Pune. It is submitted that the Respondent/RP has failed to appreciate the position that the registration of charge with ROC in favour of the Applicant is 'conclusive evidence' of the Applicant's debt.

3.4 It is submitted that though the financials of the Corporate Debtor may not reflect the amounts owed to the Applicant, the debt existed as it is supported by the documents; Suit filed before the Court at Solapur by the Applicant and before the Ld. DRT, Pune since 2013. It is further submitted that the amounts owed to the Applicant have perpetual legal existence and are distinct from its directors/promoters; thus, there was no requirement to obtain any separate acknowledgment from the present directors/promoters after the change in management of the Corporate Debtor, as the change in control/management of the Corporate Debtor does not alter any of its past liabilities. Furthermore, MCDPL, now the Corporate Debtor, is bound by the terms of the Letter of Offer and Loan Agreement; hence, separate acknowledgement from the present management is not required to enforce the same. The Corporate Debtor is aware of the proceedings before Ld. DRT, Pune, as they were regularly represented in such proceedings; thus, there is no requirement to issue any other communication to the present director/promoters of the Corporate Debtor informing them of the same.

3.5 The Applicant states that the right to take any action against Mr. Sushil Mantri or Mrs. Vinita Mantri or the erstwhile management of the Corporate Debtor by

the Applicant is separate and mutually exclusive of the Applicant's claim against the Corporate Debtor, being the principal debtor. Nevertheless, action has been taken against the aforesaid, as they have been made party to the Suit and the OA pending before Ld. DRT, Pune.

3.6 It is also submitted that, upon being aware of the CIRP of the Corporate Debtor, the Applicant promptly lodged its claim, and if the impugned rejection communicated to it by the Respondent by his email dated 20.02.2025 is not set aside, and the claim of the Applicant is not admitted, the same will cause grave and irreparable harm to the Applicant.

4. SUBMISSIONS OF RESPONDENT

4.1 The Respondent submits that the public announcement in Form A was published on 14.02.2024 in *Financial Express* (English Newspaper) and *Navshakti* (Marathi Newspaper), whereby the last date for submission of claims from the creditors of the Corporate Debtor was 26.02.2024. After verifying and collating the claims received till 04.03.2024, the IRP prepared the list of creditors and constituted the Committee of Creditors (CoC) on 06.03.2024.

4.2 The Applicant, by email dated 11.11.2024, intimated the Respondent/RP of its willingness to submit the claim, and vide email dated 12.11.2024, the claim of Rs. 296,08,40,112/- (Two Hundred Ninety-Six Crores Eight Lakhs Forty Thousand One Hundred Twelve Rupees) was submitted in Form C. During the 11th CoC meeting held on 14.11.2024, the Respondent informed the CoC members that he had received the Applicant's claim on 12.11.2024 and that the same was kept under verification.

4.3 Upon inquiring about the status of the claim *vide* email dated 26.11.2024, the Respondent informed the Applicant by email dated 29.11.2024 that the claim was kept under verification. Subsequently, the Respondent, vide email dated 02.12.2024, informed the Applicant that, based on the preliminary verification of the claim, the Respondent/RP was unable to trace the debt amount or details regarding the loan facility extended to the Corporate Debtor from the supporting documents filed with the claim or the documents of the Corporate Debtor

accessible by the Respondent/RP. Accordingly, the Respondent/RP requested the Applicant to confirm the steps taken in respect of its claim or whether any documents were available reflecting the Corporate Debtor's acknowledgment of debt. The Respondent/RP also requested to provide copies of the orders passed in O.A. No. CS 200119 of 2000 and C.S 100119 of 2000.

4.4 The Respondent sought further clarifications and supporting documents from the Applicant *vide* email dated 20.12.2024, since the Corporate Debtor's financial records from 2005-2015, available with the Respondent/RP, did not reflect any loan facility granted either by SBIHFL or the Applicant. A copy of the OA filed by the Applicant before the Ld. DRT, Pune, along with a copy of the reply, was also requested by the Respondent/RP. The Applicant was also informed that I.A. No. 1270 of 2025 under Section 19(2) was filed against the erstwhile management of the Corporate Debtor as they were not cooperating in providing any information or documents relating to the Corporate Debtor. The Respondent/RP sent reminder emails on 26.12.2024, 14.02.2025, and 20.02.2025 to the Applicant to provide the aforesaid information/documents for verification of the claim received. On 26.12.2024, the Applicant replied, stating that the DRT documents would be shared once received by them, and on 20.02.2025, the Applicant responded to the queries as well as provided a copy of the order dated 31.05.2017 in 0.A No. 268/2013 passed by the Ld. DRT, Pune, along with certain pages of the assignment deed between SBIHFL and the Applicant. The Applicant even admitted that they did not possess acknowledgement of the purported claim amount from the Corporate Debtor in their records.

4.5 The Respondent states that, after careful perusal of the documents submitted by the Applicant with its claim form, the clarifications and documents provided by the Applicant, the claim of the Applicant was rejected by the Respondent/RP by email dated 20.02.2025.

4.6 The Respondent No. 1 submits that the contention of the Applicant that on filing of the O.A. relating to the alleged debt before DRT, the amounts to the alleged debt get crystallised is false as the said O.A. was still pending at the time of commencement of the CIRP process of the Corporate Debtor. It is submitted

that without proper adjudication of the said OA, the purported debt cannot be deemed to have crystallised solely by virtue of the filing the said O.A. Further, it is submitted that the definition of “creditor” under Section 3(10) of the Code specifically includes a “decree holder”. Therefore, only when the adjudication of an application is complete and a recovery certificate is issued by the DRT authorising the creditor to realise its dues, the debt is considered crystallised.

4.7 It is also submitted that, other than filing of OA before DRT, the Applicant admitted that no acknowledgement of the debt was available, and hence the Respondent/RP rejected the Applicant’s claim.

4.8 The Ld. Counsel for the Respondent placed reliance on the judgment of the Hon’ble NCLAT in *Mr. Umesh Kumar v. Mr. Narendra Kumar Sharma* [Company Appeal (AT) (Insolvency) No. 100 of 2024], wherein it is held that the resolution professional is not expected to function like a "rubber stamp" and the claimant must provide further evidence if sought by the resolution professional and the claimant cannot take refuge of the ground that the resolution professional lacks powers to adjudicate claims.

4.9 The Ld. Counsel for the Respondent also relied on the judgement in *Babulal Vardharji Gurjar v. Veer Gurjar Aluminium Industries Pvt. Ltd. & Anr.* [(2020)15 SCC 1], wherein the Hon'ble Supreme Court held that the period of limitation for an application seeking initiation of CIRP under Section 7 of the Code is three years from the date when the right to apply accrues. It is thus submitted that acknowledgement of the debt by the Corporate Debtor becomes relevant as the Applicant has relied on documents from 1996; hence, upon producing acknowledgement of liability within the period of limitation, the said period of limitation gets extended further by 3 years from the date of acknowledgement of the same. The Respondent/RP has also placed reliance upon the judgement in *Laxmi Pat Surana vs. Union Bank of India & Anr.* [(2021) 8 SCC 481] while considering the issue of extension of limitation, wherein the Hon’ble Supreme Court held that an admission from the borrower would have the effect of extending the period of limitation by another period of three years. Moreover, as per the order dated 26.05.2023 in the Order No. IBBI/DC/174/2023 dated 26.05.2023 of the Disciplinary Committee of the Insolvency and Bankruptcy

Board of India, the Resolution Professional cannot admit claims that are time-barred in nature.

4.10 The Respondent also submits that the Memorandum of Mortgage by deposit of title deeds dated 20.09.1996 relied by the Applicant, whereby the Corporate Debtor had purportedly mortgaged property described in Schedule-B of the said Mortgage Deed, is absent from the financial statements of the Corporate Debtor upon perusal by the Respondent/RP. Mere registration of charge cannot serve as a sufficient basis for admitting the Applicant's claim, particularly in light of the other facts. Therefore, since the loan facility purportedly given by the Applicant is absent from the Corporate Debtor's records and the Applicant's admission of non-possession of acknowledgement of the loan amount from the Corporate Debtor, this sufficiently shows that the Applicant has failed to establish the existence of a loan granted in favour of the Corporate Debtor.

4.11 The Respondent states that the Applicant had denied having received any reply from the Corporate Debtor or its management in the O.A. filed before the DRT, Pune; however, contrary to this, the Applicant in the states that the Corporate Debtor and its management had filed replies and sought permission from this Tribunal to produce copies of the same. This inconsistency underscores that the Applicant has failed to submit complete documentation supporting its claim for verification by the Respondent/RP.

5. SUBMISSIONS OF THE APPLICANT IN AFFIDAVIT IN REJOINDER

5.1 The Applicant, *vide* Affidavit in Rejoinder dated 01.12.2025, submits that, only because the proceedings before the Ld. DRT never reached its logical conclusion, it cannot be said that no debt exists. The DRT proceedings were prevented from being prosecuted only in view of the moratorium under section 14 of the IBC. Hence, this contention of the Respondent/RP is devoid of merit.

5.2 It is further submitted that Rule 6 of the Companies (Registration of Charges) Rules, 2014 provides that registration of charge with the Registrar of Companies is conclusive evidence of a creditor's security interest. Furthermore, the Respondent/RP's reply ignores the sanction letters, loan agreements, the

charge created over the mortgaged assets, the ROC-recorded documents and the relevant orders which establish the Applicant's claim. Hence, the Respondent/RP has, without application of mind, rejected the Applicant's claim. Moreover, since a registered charge exists, the Respondent/RP is wrong to contend that other acknowledgment in the Corporate Debtor's financial records is required to establish the existence of a debt.

5.3 The Applicant further submits that, as per the terms of the Sanction Letter and the Loan Agreement, the Corporate Debtor was required to repay the entire loan amount along with interest due thereupon within a period of 24 months from the date of disbursement, i.e. by the end of 1998. In view of the default by the Corporate Debtor, MCDPL filed the Suit in 2000, within 3 years from the date of default. Subsequently, this Suit was transferred to the DRT, Pune, which is still pending adjudication. Such an objection was not raised by the Respondent/RP in any of the earlier communications; thus, it is an afterthought to frustrate the Applicant's claim.

6. ANALYSIS AND FINDINGS

6.1 We have duly considered the arguments advanced by the Ld. Counsel for the parties and perused the records carefully.

6.2 On perusal of the records, we find that the present Application has been filed challenging the rejection of the Applicant's entire claim dated 20.02.2025 of Rs. 296,08,40,112/- as a Financial Creditor, by the Respondent/RP of the Corporate Debtor. As per the Applicant, its predecessor-in-interest, SBIHFL, advanced a loan of Rs.1,00,00,000/- to the Corporate Debtor. Under the terms of the loan, interest was chargeable at a minimum rate of 22% p.a., compounded monthly, and was repayable within 24 months from the date of the last disbursement. Several documents and securities, including the Loan Agreement, Memorandum of Mortgage by deposit of title deeds, and Personal Guarantees by promoters, were also executed at the relevant time. A Civil Suit before the Ld. Civil Judge (S.D.), Solapur, was also filed to recover the principal and interest amounts due from the Corporate Debtor and its Guarantors. Subsequently, SBIHFL assigned the Corporate Debtor's debt to State Bank of

India and then to the Applicant. After the assignment, and in view of the establishment of the Debt Recovery Tribunal and the change in jurisdiction of civil courts, the Suit was transferred to DRT, Pune, and the OA was regularly pursued against the Corporate Debtor and its promoters until initiation of CIRP.

6.3 The RP has sought to resist the claim of the Applicant on the grounds that no loan transaction attributable to the Applicant or SBIHFL was found in the books of the Corporate Debtor available with the RP; the adjudication of the OA filed for recovery of debt is pending and hence the claim has not crystallised, and there is no acknowledgement of the debt by the erstwhile management of the Corporate Debtor.

6.4 We have carefully considered the rival contentions of the parties. The Respondent contends that the Applicant's debt is not recorded in the Corporate Debtor's financials between 2005 and 2015. However, this assertion cannot be regarded as definitive, as the Respondent also states that the erstwhile management has not extended co-operation; hence, an application was filed under Section 19(2) seeking co-operation from the erstwhile management of the Corporate Debtor. Further, the Respondent has neither stated whether he possesses all relevant documents related to the loan transaction period of 1996, nor has he explained the significance of the financial records for the period between 2005 and 2015 in relation to the initiation of CIRP on 09.02.2024.

6.5 It is observed that there is no disagreement concerning the pendency of OA No.268/2013 filed for recovery of debt, which is the subject matter of the claim filed by the Applicant. Nevertheless, the Respondent contends that the claim remains uncrystallised and that the Applicant has not produced any acknowledgment of debt, in any form, made by the erstwhile management of the Corporate Debtor. It is further argued that the said O.A. pending before the Ld. DRT at the time of commencement of the CIRP of the Corporate Debtor, without proper adjudication of the said application, cannot be considered crystallised solely based on the filing of this O.A. Moreover, it is submitted that even the definition of “creditor” under Section 3(10) of the Code specifically includes a “decree holder” in the following terms:

"Section 3(10) "creditor" means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree-holder;"

Consequently, only when the adjudication of an application is complete, and a recovery certificate is issued by the Ld. DRT authorising the creditor to realise its dues, the debt is considered crystallised. However, in the present situation, the O.A. No. 268/2013 was pending adjudication before the Ld. DRT, crystallisation of any debt has not occurred. Hence, the RP, who bears the responsibility to 'verify' the claim, has effectively been tasked with adjudicating a claim that has not been adjudicated by any judicial authority, despite the loan being availed 30 years earlier, in 1996.

6.6 If we look at the statutory construct and the regulatory framework of the Code, it becomes apparent that the mandate of the resolution professional encompasses receiving, collating, and verifying the claims received by him during CIRP. Regulation 13 of the CIRP Regulations also expressly mandates the IRP/RP to verify the claims. This verification exercise requires the RP to review the supporting proof/documents to ascertain the accuracy and validity of the information presented in support of the claim filed. If, upon verification, the RP finds that the evidence supporting a claim is weak and unconvincing, the RP may ask for additional proof to substantiate the claim. If the creditor does not provide credible and satisfactory evidence, despite adequate opportunity, the RP may keep the decision to accept/reject the claim in abeyance. It is, however, well settled law that the RP is not vested with adjudicatory powers, as decided by the Hon'ble Apex Court in *Swiss Ribbons Pvt. Ltd. & Anr. v. Union of India & Ors.* [(2019) ibclaw.in 03, SC].

6.7 It was also strenuously contended by the Respondent that when the adjudication of the OA filed for recovery of debt is pending, the claim has not crystallised, and hence, without an acknowledgment of debt by the Corporate Debtor, the debt has become time-barred and cannot be admitted. Before we dwell on the sustainability of this contention, it may be useful to look at the definition of "claim" under Section 3(6) of the Code:

‘(6) "claim" means--
(a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;
(b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured;’

This breadth is deliberate — it prevents a corporate debtor’s obligations from escaping the resolution process merely because a claim is contingent, disputed, or yet to mature.

6.8 Now that we have noted the definition of the ‘claim’ which includes *a right to payment, whether or not such right is reduced to judgment,* we proceed to analyse the contention of the Respondent as regards limitation. Section 238A provides as follows: -

“238A. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to the proceedings or appeals before the Adjudicating Authority, the National Company Law Appellate Tribunal, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be.”

6.9 The language and tenor of Section 238A is significant. This Section stipulates that the provisions of the Limitation Act, 1963 shall, as far as may be, apply to proceedings or appeals*, inter alia,* before the NCLT/NCLAT. It is important to note that the claim filed by the creditor before the resolution professional does not constitute a proceeding, and the resolution professional lacks authority to adjudicate upon the limitation while discharging the administrative function of verifying the accuracy of the information/documents provided by the creditor. Furthermore, with regard to the issue of limitation, it is necessary to note that Section 14 of the Limitation Act excludes the time during which the Applicant was diligently and in good faith pursuing another proceeding. Therefore, when considering the claim filed in CIRP, the debt sought to be recovered and

pursued diligently before DRT should not be treated as barred by limitation even in the absence of acknowledgement by the Corporate Debtor after filing of the OA.

6.10 At this stage, we may examine whether the Respondent had properly rejected the claim filed by the Applicant. The Applicant submitted its claim on 12.11.2024 along with various documents, including the Sanction Letter dated 18.07.1996, copy of the Board Resolution passed by the Corporate Debtor dated 14.08.1996 accepting the Sanction Letter, Loan Agreement dated 20.09.1996 executed between the Corporate Debtor and SBIHFL, Form Nos.8 & 13 filed with the RoC regarding registration of mortgage by deposit of title deeds, deed of personal guarantees executed by the promoters, copy of Civil Suit filed by SBIHFL and stated pendency of recovery application before DRT, Pune. Subsequently, by email dated 20.12.2024, the Respondent requested the Applicant to provide clarifications and issued a reminder on 26.12.2024. In response to the clarifications sought by the Respondent, the Applicant provided relevant pages of the deed of assignment in its favour, a copy of the order dated 31.05.2017 passed by the DRT amending the name of the Corporate Debtor, by email dated 20.02.2025. Upon reviewing the clarifications provided by the Applicant, the Respondent, on the same day, rejected the Applicant's claim.

6.11 The Respondent contends that the role of a Resolution Professional is not merely to verify all claims filed before it, but to consider the claims carefully before admitting them. In support of this argument, reliance is placed upon the judgement of Hon'ble NCLAT in *Mr. Umesh Kumar v. Mr. Narendra Kumar Shanna* [Company Appeal (AT) (Insolvency) No. 100 of 2024], wherein it was held as under:

"24. After going through the invoices, the RP was of the view that there were no underlying records and hence undertook to verify the genuineness of the claims. We are of the considered opinion that the RP is not expected to rubber stamp the claims filed by the creditors without exercising due diligence while examining the invoices. By merely filing their claims, the creditor cannot rest on its oars and refrain from providing further evidence if it so sought by the RP by

taking shelter on the ground that the RP lacks adjudicating powers. If such basic verification is not done, the logical corollary is that the Information Memorandum is likely to be defective and flawed thereby having consequential adverse impact on the CIRP process. Allowing such perfunctory submission of invoices without proper examination has the potential to defeat the objectives of the IBC. ……..”

6.12 There is no quarrel with the proposition laid down by the Hon’ble NCLAT that the resolution professional is expected to conduct basic verification of the claims filed by the creditors rather than simply endorsing them without adequate scrutiny. In the process of verifying the claims, it is essential for the RP to recognise that this function is administrative and facilitative, not adjudicatory. The Hon’ble Supreme Court settled this point in *Swiss Ribbons* (supra), holding that the RP has no adjudicatory powers of its own; the role is to collate and verify claims on the basis of the records and documents placed before it. Any genuine disputes regarding facts or law must be referred to the Adjudicating Authority.

6.13 From the materials available on record, it is evident that the Applicant has produced documents substantiating the loan transaction availed by the Corporate Debtor. Additionally, the Applicant has produced public records available with the RoC to establish the existence of a charge created by the Corporate Debtor as security for the loan availed by it, along with the ongoing recovery proceedings in respect of the loan debt before the DRT. However, instead of confining himself to verifying the claim, the Respondent opted to engage in an adjudication process that includes assessing the limitation period for matters pending before a competent forum. Furthermore, the Respondent disregarded the public record available with RoC that pertains to an existing charge created by the Corporate Debtor, merely on the ground that the financial records from 2005 to 2015 do not reflect the debt in question. Notably, the Respondent appears to have chosen to act beyond verification of the claim, which ultimately impedes resolution of the debt through the resolution process envisaged under the Code. Upon reviewing the documents and the rationale

stated for rejection of the claim, we have no hesitation in concluding that the rejection of the claim filed by the Applicant is improper.

6.14 We, therefore, direct the Respondent to verify the claim of the Applicant, after reducing the amounts paid by the personal guarantors, in accordance with law. Accordingly, the Application is **partly allowed** and disposed of. No order as to costs.

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

/JJ/